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**TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY**

Minutes of: Township Council Workshop  
Date of Meeting: July 12, 2006  
Time of Meeting: 7:30 P.M.  
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The Workshop Meeting of the West Milford Township Council was called to order by Council President Gervens.

**Adequate Notice Statement**

Council President Gervens read the following statement:  
Please note that in accordance with Chapter 231, Public Laws of 1975 of New Jersey, adequate advance notice of this Regular meeting was advertised in the Herald News in its issues of December 26, 2005 and January 8, 2006; copies were provided to the Suburban Trends, the Record, Star Ledger, and Greenwood Lake News and posted continuously on the bulletin board in the main corridor of the Town Hall and on file in the Office of the Township Clerk.

**Pledge of Allegiance**

Council President Gervens led all in attendance in a salute to the flag.

**Roll Call**

Present: Councilmembers Joseph Smolinski, William Gervens, Robert Nolan,  
James Warden, Carmelo Scangarello.  
Absent: Mayor Joseph DiDonato, Councilman Philip Weisbecker.  
Also Present: Township Administrator Richard Kunze, Township Clerk Antoinette Battaglia,  
Township Attorney Frederick Semrau

Council President expressed condolences on behalf of the Council to Councilman Weisbecker and his family who recently lost their father. He asked all to join him in a moment of silence for Mr. Weisbecker, Sr.

**Reading of or Approval of Unapproved Minutes**

Councilman Nolan moved to adopt the minutes of the June 14, 2006 Executive Session Meeting as presented.

Moved: Nolan Seconded: Warden  
Voted Aye: Smolinski, Gervens, Nolan, Warden, Scangarello.  
Voted Nay: None.  
Abstained: None.  
Motion carried.

**Meetings**

Council President Gervens noted the future meeting schedule:

July 26, 2006 Regular Meeting  
August 9, 2006 Workshop Meeting  
August 23, 2006 Regular Meeting  
September 6, 2006 Workshop Meeting  
September 13, 2006 Regular Meeting  
September 27, 2006 Workshop Meeting

**Proclamations**

None.

**Public Comments**

Council President Gervens opened the meeting to the public after advising that there is a five-minute limit for each speaker. He invited interested parties to raise their hand and come forward when called upon.

Ada Erik, 1693 Macopin Road, West Milford told the Council that there is a law titled "Give us a brake". Under this statute, if a motorist sees a rider on horseback, that motorist must slow down to 25 mph. She stated that this is a big problem in West Milford and she would like to see this law enforced. She thanked the Administrator for having the bike path swept. She asked who is responsible when a street is starting to collapse as a result of roadwork and repaving. She stated that on Awosting Road a trench was dug across the road by the MUA and it was repaved. It is now starting to sink in.

Gale Barth, 11 Circle North, West Milford, resident and Deputy Tax Assessor stated that she has worked for West Milford for many years. She stated that her work in conjunction with the Planning Department has been very important. The Planning Department is an integral component in assessments and determining

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property values. The Tax Assessor's office often seeks explanations from the Planning Department who have been a great source of information especially on issues relating to the Highlands Act. She stated that she cannot imagine working on the Township's revaluation without input from our Planning Department and a GIS specialist. Therefore, she stated, the proposed layoffs would be a detriment to the Township of West Milford. She stated that, in her opinion, the part-time nurse runs great health programs. She noted that our Registrar, Ed Rodda, celebrated his fiftieth anniversary as a Township employee nine years ago at Bubbling Springs. She stated that one cannot place a price on Mr. Rodda's fifty-nine year commitment to this town.

Doris Aaronson, 19 Bearfort Road, West Milford stated that she is testifying tonight on behalf of the Pinecliff Lake Board of Trustees. She thanked the Planning Board for denying the Valley Ridge application. She also thanked the chairman for allowing for ample time for residents to testify during this process. She stated that the proposed plan would have numerous negative impacts on this community and she outlined some of those impacts. She cautioned that the proposed sewerage plan to connect these homes to the Old Milford Sewage Treatment Plant will cause pollution because that plant discharges into Belchers Creek. She stated that she took a water sample at the outlet and that the bacteria report of that sample from a licensed laboratory shows that the bacteria count from the MUA outflow is 47,000 when the allowable amount according to the State of New Jersey is 200. She stated that Pinecliff Lake would suffer tremendously if that development were to proceed.

Martin O'Shea, 22 Greenbrook Drive, West Milford stated that, at the last meeting, the chairmen of two township boards stood at the podium and misrepresented a situation. Mr. O'Shea recalled that he previously distributed a timeline to the Council and recalled comments made from the Council. However, he stated, none of this changes that fact that we must follow proper procedures when hiring attorneys. He advised that the resolution appointing Mr. Glatt to the Zoning Board differs from his contract. In that instance, the resolution should rule. He stated that Mr. Glatt has never been properly hired by the Planning Board to represent West Milford and that his contract with the Zoning Board is not valid. He stated that he is not criticizing the volunteers but urged the Council to investigate these matters.

Frank Hannan, 83 Krattiger Court, West Milford stated that he will be out of town on July 26<sup>th</sup> when the Council is scheduled to take action on a resolution to investigate Weiner Lesniak. He stated that he agrees that an investigation is now warranted, not because of any wrongdoing, but because the two democratic councilmen have made statements from the dais. If what they say is true, they should give the facts to the prosecutor's office. He stated that all parties, the Township Attorney, Administrator, Planning Department, Court, Township Clerk, and everyone else who had knowledge of this matter, should be subpoenaed. We will then have to hire people to replace those people when they are testifying. We should be forced to bid for these services and hire the lowest bidder rather than the most qualified and be sure to have the certification of funds to cover the costs for all the special meetings the resolution calls for.

Doris Osterhoudt, 2 Richmond Road, West Milford stated that the Highlands Act is being changed and we will be doomed by the associated decisions. She urged the Council to listen to their professionals. She stated that the municipal budget is in a bad way because of lawsuits and asked how much lawsuits cost the taxpayers in 2005 and 2006. She recalled that at one meeting, the Council said we would send busloads of people to Trenton to fight the Highlands. She asked when that will happen. She stated that Mr. Rodda is a very competent, dedicated person and he should remain in his position.

Andrew Gargano, 45 Apshawa Cross Road, West Milford stated that, were it not for the Highlands Act, we would have Eagle Ridge and Valley Ridge. We would probably have to build an elementary school. He encouraged the Township to embrace the Highlands Act noting that it is here to stay. He stated that he recently attended an ANJEC meeting where the DEP representatives stated that, those communities in the core area who embrace the Act can use the State Attorney General's office to defend them on cases pertaining to the Highlands Act. He stated that the Republicans should be seeking support from Republicans in the Senate and Assembly before asking Democrats to support a water surcharge tax.

Daniel Jurkovic, 24 Seymour Drive, West Milford agreed with the former speaker that Highlands is here to stay and we should embrace it. However, if you read it and the DEP literature, you will find repeated references to local involvement in the decision making process. We have two people who, at our expense, have learned more about these issues than almost anyone else in the State. He stated that Bill Drew and Linda Lutz are two of the finest professionals he has ever encountered. He stated that laying these people off would be a critical mistake at this time. He stated that we, as a municipality, must give this act 'meat' and make it worthwhile. To do that, we need a Planning Department. He stated that planners actually plan land use. He stated that what one cannot see is the development that did not happen because of these professionals. He stated that Mr. Glatt is very knowledgeable and is a tremendous benefit to the Board. If his contract is deficient, it must be fixed. However, he stated, he had a part in approving the contract and he did so because of Mr. Glatt's eighteen years of experience, excellent reputation, and continued service to West Milford.

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Gladys Tacinelli, 31 Leonard Avenue, West Milford, stated that she is the Water Administrator for her community. She stated that the Planning Department was instrumental in helping her community get a grant. They spent many hours helping and attended many meetings. Bill Drew, she said, worked hard, answered questions, and got answers to questions posed.

Marilyn Lichtenberg, 37 Hudson Drive, West Milford urged the Council to keep the planning department intact. She stated that it is imperative to the Township because, without them, the State will take over our planning and we will lose control.

Councilman Nolan moved to close the Public Comments portion of the meeting.

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Moved: Nolan Seconded: Scangarello  
Voted Aye: Smolinski, Gervens, Nolan, Warden, Scangarello.  
Voted Nay: None.  
Motion carried.  
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**Council Comments**

Councilman Smolinski thanked everyone who spoke on behalf of the Planning Department tonight. He stated that he agrees with all those positive comments. He asked the Administrator to look into the road situation Ms. Erik spoke about. He confirmed that Mr. Rodda has served West Milford for fifty-nine years and commended his dedication.

Councilman Nolan, noting that we will be discussing the Planning Department later in the evening, reserved his comments until that time. He asked the Administrator about the road problem. Administrator Kunze advised that he will contact the MUA for an explanation noting that the Township always demands that roads be restored when there is any road-opening project.

Councilman Warden stated that he is glad that Mr. Hannan agrees with the proposed resolution to investigate Weiner Lesniak. He stated that this could have been avoided if Weiner Lesniak simply provided information as requested by the Council. He advised that the Council has subpoena power and can conduct an investigation at no cost to the taxpayer.

Councilman Scangarello stated that everyone agrees that the Highlands is here to stay. He stated that the Council will consider all the comments made tonight about the Planning Department.

Council President Gervens noted that some people mentioned the part-time Nurse and the Registrar tonight. He recalled that consideration of these positions was laid to rest some meetings ago and stated that those people are not being considered for layoffs. The Planning Department will be discussed later. He stated that the Council takes the MUA situation very seriously and they will review all the data and deal with all the issues.

Township Attorney, Fred Semrau stated that the Highlands Act is a component of the Eagle Ridge litigation and that we will be hearing more about this. He stated that the Highlands Act does contain provisions for defenses of the State. We can, in certain circumstances, get representation from the Attorney General, but this representation applies to specific cases only. He noted that, with respect to litigation this year, he is involved with Eagle Ridge, the litigation with Your Home Team has been resolved, there are some tax appeals, and there is some old litigation still on-going.

**Presentations**

Council President Gervens noted that application has been made for a liquor license transfer from Thomas McGurr to George Industries. He invited both parties to come forward to speak with the Council. Mr. McGurr and Mr. George Pitrou introduced themselves. Mr. Pitrou advised that he is planning to open a steakhouse and restaurant. Mr. Semrau read the conditions contained in the resolution and asked Mr. Pitrou if he understood those conditions. Answering in the affirmative, Mr. Pitrou explained how each condition will be met. Council President wished Mr. Pitrou success on behalf of the Council and thanked him for opening a business in West Milford.

**Action Items**

The Township Council took action on the following items:

Agenda No. VIII 1



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Moved: Nolan Seconded: Scangarello  
 Voted Aye: Smolinski, Gervens, Nolan, Warden, Scangarello  
 Voted Nay: None.  
 Motion carried.  
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Agenda No. IX

**~ Resolution 2006-255 ~**

**RESOLUTION APPROVING THE PAYMENT OF BILLS**

**WHEREAS**, the Township Treasurer has submitted to the members of the Township Council a report listing individual disbursement checks prepared by his office in payment of amounts due by the Township.

**NOW, THEREFORE, BE IT RESOLVED** that the Township Treasurer's report of checks prepared by him be approved and issued as follows:

<b>Acct #</b>	<b>Account Name</b>	<b>Amount</b>
1	Current Account. . . . .	\$303,470.58
2	Reserve Account . . . . .	4,219.83
3	Animal Control Trust	
6	Capital. . . . .	16,418.00
7	Grants. . . . .	6,341.00
8	Refuse. . . . .	102,987.50
9	Refunds. . . . .	240.00
12	General Ledger. . . . .	
16	Heritage Trust. . . . .	836.19
14	Open Space Trust	
17	Trust . . . . .	2,862.99
18	Development Escrow. . . . .	804.00
19	LOSAP	
20	Special Reserve	
	<b>Total</b>	<b>438,180.09</b>
	Less Refund Resolution	<u>-240.00</u>
	<b>Actual Bill List</b>	<b>437,940.09</b>
	Other Payments	6,056.22
	Less Refund Resolution	
	<b>Total Expenditures</b>	<b>443,996.31</b>

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Discussion: Councilman Nolan questioned a payment to Tilcon for \$9,168 noting that we are still awaiting payment from them for funds they owe to us. He opined that we should not pay them until we receive their payment to us. Mr. Semrau advised that the General Manager for Tilcon contacted him this week and asked that we prepare an invoice which he will process upon receipt and then send us their check for \$418,000. Councilman Nolan noted that this bill list includes a second payment to Percepture for the Tourism newsletter. He stated that, although the paper is already out, this is not a good value for our money. He asked if the \$246,000 to the New Jersey Employee Benefits is a one-month payment, noting that employees pay nothing towards this bill. Mr. Semrau suggested that the Council approve the Tilcon bill but that the CFO be instructed to hold the check pending receipt of their payment to us. Councilman Scangarello noted that the utility bills for the Johner building seem high especially as we only use three small offices in that building. He asked Administrator Kunze to look into this. Councilman Warden calculated that the employee benefits,

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based on this monthly bill, account for 11% of our budget. He noted that we must anticipate those costs at about 15% next year.

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 Moved: Nolan Seconded: Scangarello  
 Voted Aye: Smolinski, Gervens, Nolan, Warden, Scangarello  
 Voted Nay: Councilmen Nolan and Warden voted no on the Percepture bill only.  
 Abstained: None.  
 Motion carried as amended.  
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**Items For Discussion**

The Township Council discussed the following items:

1)	Pay-to-Play Ordinance – Township Attorney, Fred Semrau, reminded the Council of the number of times they discussed this ordinance. Noting that most relevant issues have been resolved at the State level and that more regulations have been issued by the State, he prepared a draft ordinance which would require all prospective vendors to disclose contributions to any political candidate of \$300 or more, including candidates at the County level. This would close the loophole that exists in the State’s legislation. Councilman Smolinski asked for an explanation about in-kind services. Mr. Semrau explained in-kind services and advised that he could include a provision in the ordinance to address in-kind services. He noted that we cannot make this legislation retroactive and that the ordinance should include a notice period. The Council gave Mr. Semrau consensus to proceed and he will modify the current version and get a copy out to Council before it is scheduled for introduction.
2)	Gordon Lakes Homeowner’s Association Agreement – Administrator Kunze advised that the Township has been working with the State and the Homeowner’s Association on the Gordon Lakes Dam rehabilitation project. Mr. Semrau advised that we have adopted the assessment ordinance and the Association was kept well informed throughout that process. Now we are working with Trenton to finalize the grant agreement. The design work is proceeding but the bidding and award of contracts will only come after all the agreements are signed.
3)	Municipal Alliance Grant – Administrator Kunze advised that we apply for this grant annually. Councilman Nolan asked where the carry-over amount comes from. Mr. Kunze responded that this is our proportional share of funds that remained unspent throughout the County. The Council gave consent to proceed with the grant application.
4)	Passaic County Cultural Heritage Grant – Administrator Kunze advised that we also apply for this grant annually and that we generally get \$5,000 from Passaic County to fund cultural events which include concerts and children’s theatre. There is a cash match and an obligation for in-kind services. He noted that these grants are considered mini-grants. The Council gave consent to proceed with the grant application.
5)	Award of Mason Dump Truck Bid – Administrator Kunze noted that this purchase is being funded through last year’s capital funds. He advised that we received one bid in response to the sixty notices that were mailed and the advertisements that were placed. The responsive bid was within the Engineer’s estimate and the Engineer has recommended awarding the bid to Beyer Brothers. Councilman Smolinski noted that there is a discrepancy in the description of the vehicle between the bid tabulation sheet and the bid specifications. The Clerk advised that this may be an error from her office rather than an error from Engineering. The Council expressed concern that only one bid was submitted and they questioned why. Administrator Kunze noted that we sent out sixty notices to vendors and that eight vendors had called with inquiries. He stated that the specifications were purposely drafted to allow for more competitive bidding. Councilman Smolinski asked if we can send an employee out to price this truck with vendors and determine what it would cost if one were to purchase it off the lot. Administrator Kunze noted that we could send an employee on a fact-finding mission but we cannot purchase in that manner. He notice that the Council can reject the bid twice with a valid reason and then one can negotiate a price. However, one needs valid reasons to reject a bid.
6)	Department Fees – Administrator Kunze stated that he had provided the Council with a draft of proposed fee increases. However, he would like to review the septic inspection fees further and will have a recommendation for Council before introduction of the ordinance. Councilman Nolan questioned the costs for composting and he asked if the Council wishes to allow commercial vehicles to dispose of brush at the Recycling Center. Council President Gervens stated that commercial landscapers should not be allowed to dispose of brush and Administrator Kunze added that there is a private entity in town that can take brush but not grass and leaves. Therefore, the proposed ordinance eliminates commercial entities from disposing of brush. Councilman Warden expressed concern that, if we cease to allow commercial entities from disposing of brush at our facility, they will

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	<p>begin dumping on the side or the road or even on private property. Councilman Gervens stated that these commercial entities charge their customers for the disposal of brush and we then pay for the tub grinder. Councilman Warden suggested that we should make the option available to them but charge them appropriately. Administrator Kunze advised that we now charge \$75 for brush, leaves and grass. The proposed ordinance proposes charging \$125 for just leaves and grass. Councilman Scangarello asked who would be monitoring this. Administrator Kunze advised that recycling aides are present when the Recycling Center is open. Councilman Scangarello proposed leaving the fee at \$125 but exclude commercial entities from disposing of brush. Councilman Warden stated that we still pay the costs of the tub grinder and recommended charging \$250 to commercial entities for the disposal of brush. The Council gave consensus to try the \$250 rate for one year and then revisit this matter. They further instructed the Administrator to speak with the Engineer and Recycling Coordinator about this matter.</p>
<p>7)</p>	<p>Open Space and Recreation Trust Fund Developments – Administrator Kunze advised that he met with County officials last week and directed the Council to a memo he sent to them outlining the specifics of that meeting. He advised that Mr. Mueller, the County Engineer, indicated that the County wants West Milford to remove the skate park from the Mount Laurel project before July 18<sup>th</sup>. Mr. Mueller also stated that the Council does not plan to approve the Township’s request to transfer the \$300,000 grant award to Eagle Ridge. They want us to assign our funds to the Morris Land Conservancy who is contemplating partnering with the non-profit group to purchase the Sheridan property. If we agree to that, the County (according to Mr. Mueller) will commit up to 25% of the cost to purchase Eagle Ridge. Administrator Kunze stated that West Milford believed we were getting a grant for \$255,000 for the Westbrook Tennis Court Rehabilitation project. Mr. Mueller indicated that half of that funding was actually a loan but that we can apply by July 27<sup>th</sup> to have the loan converted to a grant. Council President Gervens advised that he spoke with the County Administrator today and that he also sent him a copy of the Administrator’s memo. He asked the County Administrator if Mr. Mueller had the authority to make these statements and he advised that the County Administrator instructed him to ignore these statements until it is determined from whence they truly came. Councilman Scangarello asked the Administrator to reach out to the County Administrator, Anthony DiNova, tomorrow and get clarification in writing about these matters. Councilman Nolan recommended that we proceed with the grant application so that it is ready before the deadline.</p>
<p>8)</p>	<p>Budget – Administrator Kunze advised that he and the CFO are hoping for direction to prepare amendments to the budget for next week and then to proceed to adoption of the budget on July 26<sup>th</sup>. He advised that there is a technical amendment in the document presented tonight which is a grant that has been added. The Council must decide if they wish to make an appropriation in the budget for experts for Eagle Ridge and noted that the Council has agreed on approximately \$250,000 in cuts to the budget since its introduction. Councilman Nolan, referring to the Administrator’s report about the Planning Department, asked the Administrator to explain his notation that grant funds often offset staff costs in the Planning Department. Administrator Kunze explained that statement and its intent. He stated that anything that is related to development is paid through escrow. Any studies done on behalf of the Township are not paid for through escrow. Councilman Nolan asked if a consultant can work with us on the master plan when the Highlands Council presents their master plan. Administrator Kunze answered in the affirmative but noted that there is a value in having someone who knows our particular issues when it is time to work on our master plan. Councilman Nolan asked if we will need a Planning Department at that time. Administrator Kunze stated that he understood that the Council is considering a reduction in the Planning Department, not eliminating the department altogether. He stated that the Highlands Act has not caused a reduction in the workload in this department. Councilman Nolan commented that the Administrator’s survey indicates that no surrounding towns have planners on staff and Councilman Warden noted that the survey does not indicate how much these towns spend on an annual basis for their consultants. Administrator Kunze advised that the Township did seek that information but the other municipalities were non-responsive. Councilman Smolinski stated that our Planning Department is aggressive in obtaining grants for this town where other municipalities pay grant writers 10% plus a retainer for grants. He advised that he attended the recent Valley Ridge hearing here at Town Hall and he commended our Planning Department without whom, in his opinion, that hearing would not have gone so well. He stated that this is a bad time to make cuts in the Planning Department. Councilman Nolan stated that, without cuts in the Planning Department, he will not vote for the budget. Councilman Scangarello stated that we need a Planning Department in tact to help us deal with issues in our town. However, at this time, maybe we don’t need two full time planners. Councilman Warden stated that the Council is not talking about eliminating the Planning Department but is discussing downsizing. He stated that the Council must make hard decisions and take control of this or they will be forced to make even tougher decisions next year. Councilman Nolan stated that, when you eliminate positions, there is obviously a trade-off. He does not see the</p>

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necessity for two planners in the Township. Councilman Warden stated that, based on the Administrator's survey, surrounding towns pay a lot less for consultants than we pay for our Planning Department. Councilman Warden stated that he does not see the need for two planners and he thinks we should retain our GIS specialist. Councilman Smolinski expressed concern that, without our planners, we will experience problems similar to those Vernon Township has experienced as a result of development in their town. He stated that we have dedicated people on our staff who will fight for our town. Mr. Semrau noted that the employees being discussed here tonight did receive Rice notices and chose to allow this discussion in a public format.

Council President Gervens asked the Council to make a decision on this matter tonight so that these employees can know their fate. He expressed concern about making a hasty decision because the Township does not have a plan for how the work will be done without the benefit of a staff member. Councilman Nolan stated that the writing has been on the wall since 2004. He stated that he is in favor of eliminating the Planning Director and the principal planner and hiring consultants in their stead. Councilman Smolinski stated that he has listened to everything that was said here tonight. In an effort to achieve consensus, he proposed consideration of outsourcing the Principal Planner position. Councilman Warden asked the Council to agree to downsize by outsourcing the Principal Planner position and give the remaining staff in the Planning Department an opportunity to be involved in the ultimate decision. The Council agreed. Council President Gervens called for a ten-minute recess at 9:58 p.m.

Council President Gervens called the meeting back to order and the Council reconvened at 10:07 p.m. with all present as before.

Councilman Nolan stated that the Council must appropriate funds to hire an hydrologist for Eagle Ridge. He recommended appropriating \$30,000 out of surplus for this purpose noting that, if we don't spend the money, we can put it back into surplus. Councilman Scangarello noted that previously the Council had found \$257,000 in cuts. He proposed using these funds to restore some services that were cut from the initial budget document. He listed some of the items he would like to see restored, most of which were safety related. He recommended purchasing four instead of six police cars this year, increase the appropriations for fire and the office of emergency management to previous year's funding, and restore the line item for special events. The total cost to restore these items would be \$207,000 which would leave us with \$57,000 which could be appropriated to Eagle Ridge and thus the surplus funds would remain the same. Councilman Nolan requested that the Council have a special meeting next week to look at all those numbers on paper before taking action. The Council agreed to meet on Tuesday July 18<sup>th</sup> at 7:30 p.m. to adopt amendments and schedule the public hearing for the amendments for the July 26, 2006 regular meeting. If there are any conflicts, Council members will call the office tomorrow and advise the staff.

**Township Attorney**

Administrator Kunze advised that the Wanaque Valley Regional Sewerage Authority should be discussed in open session rather than in closed session as indicated on the agenda. Mr. Semrau noted that the Council had asked him to look into our continued membership in the Wanaque Valley Regional Sewerage Authority. He provided a brief overview of our membership and that history. Mr. Semrau advised that the Township can adopt an ordinance to withdraw from the Authority and that Wanaque and Ringwood would each have to adopt similar ordinances in the same year. We would then have no responsibilities and our rights would be distinguished. He advised that he spoke with the Township Planner who sees no benefit to remaining in the Authority. Administrator Kunze spoke with the Ringwood Administrator who advised that they would follow West Milford's lead on this matter. If Council desires it, Mr. Semrau would draft an ordinance similar to Wanaque's and in conformance with State regulations. Council President Gervens interjected that we will never use this facility, which affects our bond rating and our debt. He stated that, if we get out now, we have no liability. Councilman Nolan concurred. Councilman Warden stated that he had just been handed a note from former Councilman Gargano advising that West Milford paid \$300,000 in fees to this Authority as the result of a lawsuit. He asked if we would get our money back if we opted out. Mr. Semrau asked for Council's permission to speak with the Counsel who represented West Milford in that matter, Mr. Murphy, to seek clarification on the specifics. The Council agreed and instructed him to draft the ordinance at the same time.

Councilman Nolan made a motion to permit Mr. Gargano to speak. Councilman Warden seconded the motion.

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Moved: Nolan Seconded: Warden  
Voted Aye: Smolinski, Gervens, Nolan, Warden, Scangarello  
Voted Nay: None.  
Motion carried.

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Mr. Gargano advised that he met with Mr. Mueller from Wanaque in 2002 to discuss getting out of the Wanaque Valley Regional Sewerage Authority. He advised that the Authority began with a handshake agreement between West Milford, Ringwood and Wanaque. However, Wanaque took West Milford and Ringwood to court and West Milford was forced to pay \$300,000. The Council at that time decided, on the advice of legal counsel, that they would want the \$300,000 back before they would ever agree to separate from the Authority. Council President Gervens thanked Mr. Gargano for his input.

**Township Administrator's Report**

Administrator Kunze advised that Highcrest Lodge recently approached the Township to advise that they had encountered problems with the septic system in their community center. There is a Township-owned storm line encroaching on their property. He met with them today and agreed to realign one section of pipe to remove it from their property. They agreed to a cost sharing relationship where West Milford would provide the material and Highcrest the labor. The Administrator advised that our costs are estimated to be about \$8,500 and he recommended that we cap it at no more than 50% of the entire project. Mr. Semrau recommended that the Mayor and Councilman Warden recuse themselves from this discussion because they reside in that area. The Council instructed the Administrator to prepare an agreement and resolution for the next meeting.

Administrator Kunze advised that the Engineering Department had received proposals for inspection and evaluation of the Highcrest Drive Bridge. He noted that this will be the basis of a capital request to do the work next year. The Council gave consent to prepare a professional services resolution for the next meeting.

**Township Council Reports**

Councilman Nolan conveyed his condolences to the Weisbecker family. He asked if there were any funds from the \$350,000 grant we received through Congressman Garrett's office to install a sidewalk on Lincoln Avenue as requested by the seniors who live in that area. Administrator Kunze advised that the original plan was for sidewalks in a different area. However, the plans have not been finalized as yet and he will have the Engineer prepare a cost estimate for sidewalks on Lincoln Avenue. Councilman Smolinski asked if the bus schedule can be increased in and out of Lincoln Avenue. Councilman Nolan asked if we had received the estimates for Hillcrest School yet. Administrator Kunze advised that he is still working on that. We have received estimates on asbestos removal and are refining the scope to obtain more reasonable estimates in other areas. Councilman Nolan advised that the West Milford Museum will be open this Sunday from 1:00 p.m. to 4:00 p.m. in conjunction with the monthly Blood Drive. They will also open on Sunday August 20<sup>th</sup> and September 19<sup>th</sup>, which dates are also timed to coincide with the monthly Blood Drive. He further advised that the Historic Preservation Commission will meet at the Museum on July 29<sup>th</sup> from 9:00 a.m. to noon. He applauded the Planning Board on their decision on the Valley Ridge application and stated that the MUA is not on the same page. He said that they are already preparing to run sewer lines over the mountain. He stated that the MUA is at cross-purposes with the residents and noted that Mr. Elcavage continues to serve as secretary/treasurer of the MUA. Councilman Nolan stated that he continues to be disturbed by the level of communication between the Planning Director and the Council. He stated that he attended a recent Environmental Commission meeting where Dr. Les Lynn spoke. He said that Dr. Lynn told the Commission that the water sample that Dr. Aaronson took from Belchers Creek was taken by an adversary and that the results were a lie. He stated that the Environmental Commission should be fair and balanced and should invite Dr. Aaronson to a meeting to present her findings. This issue should not be politicized.

Councilman Warden told the Council that he had supplied them with a packet regarding his field trip with Dr. Aaronson. He finds Dr. Lynn's comments at the Environmental Commission meeting very disturbing. He questioned why the Council is not looking at the MUA's pollution of Belchers Creek. Having walked there recently, he advised that the weeds are growing strong and, in his opinion, there is no way that this is coming from septic alone. He stated that the MUA's Executive Director discounted the results of Dr. Aaronson's sampling, and advised that they were not made up. He stated that he and Dr. Aaronson took their own sample from the Old Milford Plant outflow and had it tested. Old Milford tested at 47,000 while the State allows for results of 200. He stated that the MUA's record is dismal and their finances are bleak. He stated that the MUA was in concert with the developer for Valley Ridge because they need the customers. He stated that we must investigate the MUA and private STP's to stop pollution.

Councilman Scangarello thanked the volunteers who made Thunder in the Highlands successful again this year. He thanked the Governor for including fire inspectors as essential employees during the government shutdown, thus allowing the event to proceed. He asked the Administrator to

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**TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY**

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research the speeding problem on Melrose Avenue. He noted that the work recently done on Warwick Turnpike is excellent and asked the Administrator to determine if the reflectors on the guardrails meet DOT standards.

**Township Attorney**

Mr. Semrau reported that the Farrell Field remediation is in progress. He notified the attorney in the Paff v. Byrnes matter that the Council consensus is to resolve the matter by turning over documents and entering into a dismissal agreement. He notified the court this morning that no further litigation is needed. He will discuss attorney fees with the other attorney. He advised that the Township was served a complaint in US District Court in the matter of Shortway v. West Milford. He advised that this complaint will be sent to the JIF for a coverage determination. He recommends that the Council not comment on this matter because it is in litigation. He advised that he received a response from Weiner Lesniak indicating that they commenced representation of Trammel Crow on May 11, 2006. They have been providing legal counsel to the Planning Board since March 2004. The firm, in their letter, reiterated that they had acted responsibly. He stated that he received a request from the MUA attorney that all the documents substantiating Councilman Warden's statements be sent to them. Councilman Warden advised that he provided the information in response to an OPRA request filed by Mr. Elcavage and that the lab report should be ample evidence of the MUA pollution of Belchers Creek.

**Township Clerk's Report**

None.

**Executive Session**

Agenda No. XII

~ Resolution 2006-256 ~

**MOTION FOR EXECUTIVE SESSION {AMENDED}**

**BE IT RESOLVED** by the Township Council of the Township of West Milford on the 12<sup>th</sup> day of **July**, 2006, that:

1. Prior to the conclusion of this **Workshop Meeting**, the Township Council shall meet in Executive Session, from which the public shall be excluded, to discuss matters as permitted pursuant to N.J.S.A. 10:4-12, sub-section (s):
  - ( ) b. (1) Confidential or excluded matters, by express provision of Federal law or State statute or rule of court.
  - ( ) b. (2) A matter in which the release of information would impair a right to receive funds from the Government of the United States.
  - ( ) b. (3) Material the disclosure of which constitutes an unwarranted invasion of individual privacy.
  - ( ) b. (4) A collective bargaining agreement including negotiations.
  - (X) b. (5) Purchase, lease or acquisition of real property, setting of banking rates or investment of public funds, where it could adversely affect the public interest if disclosed.
    - Apple Acres
  - ( ) b. (6) Tactics and techniques utilized in protecting the safety and property of the public, if disclosure could impair such protection. Investigation of violations of the law.
  - (X) b. (7) Pending or anticipated litigation or contract negotiations other than in subsection b. (4) herein or matters falling within the attorney-client privilege.
    - ~~Wanaque Valley Regional Sewerage Authority~~
  - ( ) b. (8) Personnel matters.
  - ( ) b. (9) Deliberations after a public hearing that may result in penalties.
2. The time when the matter(s) discussed pursuant to Paragraph 1 hereof can be disclosed to the public is as soon as practicable after final resolution of the aforesaid matter(s).

Adopted: July 12, 2006

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Moved: Nolan Seconded: Scangarello  
Voted Aye: Smolinski, Gervens, Nolan, Warden, Scangarello.  
Voted Nay: None.  
Motion carried.  
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**TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY**

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The Council went into executive session at 11:05 p.m.

Present: Councilmembers Joseph Smolinski, William Gervens,  
Robert Nolan, James Warden, Carmelo Scangarello.

Absent: Mayor Joseph DiDonato, Councilman Philip Weisbecker.

Also Present: Township Administrator Richard Kunze, Township Clerk Antoinette Battaglia,  
Township Attorney Frederick Semrau

Items for discussion at Executive Session were as follows:

- Apple Acres

Executive Session adjourned at 11:11 p.m.

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Moved: Scangarello Seconded: Nolan  
Voted Aye: Unanimous Voice Vote.  
Voted Nay: None.  
Motion carried.  
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**Adjournment**

There being no further business to come before the Council, the Township Council adjourned the meeting at 11:13 p.m.

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Moved: Scangarello Seconded: Nolan  
Voted Aye: Unanimous Voice Vote.  
Voted Nay: None.  
Motion carried.  
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Approved: August 9, 2006

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COUNCIL PRESIDENT WILLIAM GERVENS  
PRESIDING OFFICER

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ANTOINETTE BATTAGLIA  
TOWNSHIP CLERK