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

Minutes of: Township Council Regular Meeting  
Date of Meeting: August 6, 2008  
Time of Meeting: 7:30 P.M.  
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The Regular Meeting of the West Milford Township Council was called to order by Mayor Bettina Bieri.

**Adequate Notice Statement**

Mayor Bieri 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 issue of January 6, 2008; 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**

Mayor Bieri led all in attendance in a salute to the flag.

**Roll Call**

Present: Councilmembers Philip Weisbecker, Joseph Smolinski, Salvatore Schimmenti, Marilyn Lichtenberg, Carmelo Scangarello. Mayor Bettina Bieri.  
Absent: Councilman Robert Nolan  
Also Present: Interim Township Administrator/Township Clerk Antoinette Battaglia, Township Attorney Frederick Semrau.

**Reading of or Approval of Unapproved Minutes**

None.

Agenda No. II

**Presentations**

None.

Agenda No. III

**Proclamations**

None.

Agenda No. IV

**Unfinished Business, Final Passage of Ordinances**

Agenda No. IV 1

~ Ordinance 2008-035 ~

**AN ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY TO AMEND AND SUPPLEMENT CERTAIN PORTIONS OF CHAPTER 500 ENTITLED "ZONING", ARTICLE IV, ENTITLED "COMMERCIAL DISTRICTS" AND IN PARTICULAR THE PERMITTED AND CONDITIONAL USE STANDARDS OF THE LAKE COMMERCIAL (LC) ZONE DISTRICT AND CERTAIN PROVISIONS OF THE REGULATIONS PERTAINING TO FENCES, WALLS AND SIGHT TRIANGLES AND CHAPTER 470, ARTICLE XI, ENTITLED "ZONING PERMITS" TO CLARIFY THE REQUIREMENTS FOR ISSUANCE OF SAID PERMITS**

**WHEREAS**, the Township of West Milford has duly adopted land use and zoning regulations in conformance with a Master Plan, consistent with the standards set forth in the Municipal Land Use Law and in particular with regard to N.J.S. 40:55D-62; 65; and

**WHEREAS**, the Township's Planning Board has determined upon analysis and discussion that greater clarity is required with respect to the range of permitted and conditional uses within the Lake Commercial Zone District and has likewise determined that certain activities and operations are inappropriate proximate to the waters and environs of Greenwood Lake; and

**WHEREAS**, the Planning Board does further find it necessary and appropriate to modify the standards provided in §470-44 so as to clarify the point that fences, walls and sheds are considered structures and shall be subject to review and obligation to secure a Zoning Permit in accordance with the provisions of Article XI in Chapter 470 with concurrent modifications to §500-68 in Chapter 500 to reiterate and reinforce said findings; and

**WHEREAS**, the Township's Planning Board does recommend to the Township Council of West Milford that the modifications and supplements described herein will advance the purposes of zoning as set forth in N.J.S. 40:55D-2 in promoting the public health, safety, morals, and general welfare and to provide in appropriate locations a variety of land use activities according to their respective environmental requirements, and will further the objectives of the West Milford Master Plan in general and its Land Use Element in particular; and

**WHEREAS**, the Township Council of the Township of West Milford does concur with the recommendations of the Planning Board with respect to such modifications to the various chapters of the Township's Land Development Ordinance.

**NOW, BE IT ORDAINED** by the Township Council of the Township of West Milford, County of Passaic, State of New Jersey, that the Land Development Ordinance shall be amended and supplemented as provided herein.

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**Section 1.** Chapter 470, Article XI, §470-44 entitled “Zoning Permits”, subsection A (1) is hereby revised as follows:

1. No person shall commence the construction, reconstruction, alteration, conversion or installation of a structure or building, including but not limited to signs, fences, walls, and sheds without first obtaining a zoning permit.

Subsection A (2) through (5): No change.

Subsection B (1) through (3): No change.

A new subsection (4) shall read as follows:

- (4) The structure or use is in compliance with the standards set forth in Chapter 500, Article IX, §500-68, A through D, as applicable.

Subsections C through E: No change.

**Section 2.** Chapter 500, Article IV, entitled “Commercial Districts” is amended and supplemented as follows:

- i. §500-25 “Purpose” shall read:

- C. The purpose of the LC District is to maximize the potential of Greenwood Lake with regard to both recreational and commercial opportunities and to protect the waters and environs of the lake from certain land use activities which are not consistent with such objectives.

- ii. §500-26 “Principal permitted uses on the land and in the buildings”, subsection C “Permitted uses in the LC Zone shall be as follows” shall read:

- (1) Retail sale of goods and services including but not limited to craft and specialty shops such as art galleries, antique shops, bakery shops, book and stationery stores, delicatessens, craft stores, wearing apparel shops, florist shops and boating and specialty sporting goods stores in keeping with the commercial and recreation development permitted in the LC District. The permitted range of retail sale of goods and services shall not include car wash facilities, Laundromats, dry cleaners, body repair shops, service stations, and dealerships of automobiles, trucks or other on or off-road vehicles. Further, no retail sale of goods and services will be permitted which involves the use and/or storage of industrial, toxic, or hazardous materials or wastes. The approving authority may waive this restriction for piers, boathouses and marinas subject to review and approval of same pursuant to Article XI in Chapter 500.

- (2) Restaurants, bars, taverns and nightclubs excluding drive-in business.

Subsections (3) and (4): No change.

- (5) Active recreational facilities including but not limited to those activities and facilities oriented towards health and physical fitness such as tennis or racquetball facilities and health clubs.

- (6) Marinas which may include boat sales, dealerships and the sale of related sporting goods, as well as ancillary uses such as restaurants, taverns and boat repair facilities in accordance with the standards set forth in Article XI of this Chapter.

Subsections (7) through (9): No change.

- iii. §500-35 “Conditional uses”, subsection C “Conditional uses in the LC Zone shall be as follows” shall read:

- C. Conditional uses in the LC Zone shall be as follows:

Subsections (1) through (3): No change.

- (4) Outdoor storage of boats and boat trailers as principal and accessory uses in accordance with §500-103 of this Chapter.

- (5) Boat storage buildings and boat trailer storage as principal and accessory uses in accordance with §500-104 of this Chapter

**Section 3.** Chapter 500, Article IX, entitled “General Provisions and Design Standards”, §500-68 “Fences, walls and sight triangles” is revised to read as follows:

- A. A Zoning Permit pursuant to §470-44 of Chapter 470 shall be required prior to the installation of any fence or wall unless said fence or wall is part of an approved site plan or subdivision. For any fence or wall proposed for a corner lot and/or at a location within one hundred (100) feet from the intersection of centerlines of intersecting streets no Zoning Permit shall be issued without authorization by the Township Engineer that the structure in question does not create an obstruction within the sight triangle. All permitted fences shall be situated on a lot in such a manner that the finished side of the fence shall face adjacent properties. No fence shall be erected of barbed wire, topped with metal spikes, or constructed of any material or in any manner which may be dangerous to persons or animals, except that these provisions shall not apply to farms or where necessary for the keeping of farm animals as provided in §500-90 and except further that fences permitted for commercial and industrial uses may be topped by a bared wire barrier. Moreover, notwithstanding any other provisions of this section, retaining walls may be constructed as approved by the Construction Code Official upon submission of a request for approval to the administrative officer. Any township review of the submitted request shall consider the safety and aesthetic aspects of the proposed retaining wall.

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Subsections B through D: No change.

**Section 4.** All ordinances of the Township of West Milford which are inconsistent with the provisions of the ordinance are hereby repealed to the extent of such inconsistency.

**Section 5.** If any section, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect the remaining portion of this ordinance.

**Section 6.** This Ordinance may be renumbered for purposes of codification.

**Section 7.** This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

INTRODUCED: July 9, 2008

Mayor Bieri advised that this Ordinance was introduced on July 9, 2008 and is scheduled for public hearing tonight. Notice of public Hearing was published in the Herald News on July 13, 2008. She opened the meeting to the public to speak on this issue only.

Andrew Gargano, Apshawa Crossroad – stated that he was presently Chairman of the Planning Board. He said that he has received a phone call the evening prior and clarified that the intent was to take the Lake Commercial zone Ordinance and better the existing by adding verbage that would eliminate vague conditions that existed in the Ordinance. It was approved by both the Ordinance Committee and the full Planning Board. This is an improvement while not a reinvention of the wheel. The Council has had to wrestle with the Adult Community concept as well as other verbage.

Richard Ashley, 14 Orange Road – said that he appreciates what Mr. Gargano had mentioned. Certain Ordinances in the Master Plan need revision. He has an acre and a half in this zone. He has had car dealers asking him to lease his space. Professionally, he is a chemist and has written numerous environmental reports for the FDA. He wishes to reduce development in West Milford. This Ordinance proposes excluding car washes and laundromats. He wishes to not exclude them by allowing conditional uses that are environmental friendly. Body repair shops are different today from those of the past. He opposes taking out off road and commercial vehicles. The biggest issues with gas stations are not ground water. He explained how to remediate ground water contamination. Drive in businesses should not be eliminated. He thanked the Council and Mayor for their time.

Don Partington, Snake Den Road – Changed fences to be designated as a structure. He has had a situation with an adjoining property owner and the judge who heard the case had a problem as to whether or not it was a structure. He requested that the Fence Ordinance be changed. He expressed that there are several things of major issue. The yellow capping in the ball fields is not appropriate anywhere. It should be the color of the fence. Adjoining property owners do not always have the availability to oppose permits issued by the Zoning Board. They must address spite fences. The property maintenance code is worthless. The Fence Ordinance must be defined.

Doris Aaronson, 19 Bearfort Road – asked if the fences are defined precisely in terms of height, size etc.

Sar Beff, 188 Lincoln Avenue – asked if there is a change in the line of the zone. She agreed with Mr. Partington regarding spite fencing. She has had a neighbor put up a spite fence. She asked that it be looked into. She asked if she has to take out a building permit each time she replaces a section of the fence.

After comments from the public, Councilman Scangarello made a motion, seconded by Councilman Weisbecker, to close this public portion of the meeting. Approved by unanimous roll call.

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Moved: Weisbecker Seconded: Scangarello  
Voted Aye: Weisbecker, Smolinski, Schimmenti, Lichtenberg, Scangarello.  
Voted Nay: Motion carried.

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Councilman Smolinski – began by saying that a lot of work went into this Ordinance. When this was presented last year he was confused why it combined two issues. Combining these issues became confusing. He requested that the Planning Board re-format the Ordinance and when making changes to present the changes before and after. There are contradictions in the businesses being exempted. Spite fencing has been addressed. Gas stations and paint stores should not be allowed in lake zones. He recommends that the Council table this Ordinance. Every business does have some amount of hazardous waste on the premises. He would like to have to planner come before Council to discuss this.

Mayor Bieri – stated that many of the issues brought up by Councilman Smolinski were discussed at the Planning Board level. She explained the “drive-through” language. Gas stations are currently listed as not being allowed. She agrees that having the Planner come before Council would be beneficial.



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**BE IT ORDAINED** by the Municipal Council of the Township of West Milford, County of Passaic, State of New Jersey, as follows:

**SECTION 1.** Chapter 470, Subdivision of Land and Site Plan Review, Article XIII, Affordable Housing, of the aforesaid Revised General Ordinances is hereby amended and supplemented with the addition of Section 470-69.1, Municipal Housing Liaison, to read as follows:

**§470-69.1. Purpose.**

The purpose of this article is to create the administrative mechanisms needed for the execution of West Milford Township's responsibility to assist in the provision of affordable housing pursuant to the Fair Housing Act of 1985.

**§470-69.2. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**MUNICIPAL HOUSING LIAISON** – The employee charged by the governing body with the responsibility for oversight and administration of the affordable housing program for West Milford Township.

**ADMINISTRATIVE AGENT** – The entity responsible for administering the affordability controls of some or all units in the affordable housing program for West Milford Township to ensure that the restricted units under administration are affirmatively marketed and sold or rented, as applicable, only to low- and moderate-income households.

**§470-69.3. Establishment of Municipal Housing Liaison position and compensation; powers and duties.**

- A. Establishment of position of Municipal Housing Liaison. There is hereby established the position of Municipal Housing Liaison for West Milford Township.
- B. Subject to the approval of the Council on Affordable Housing (COAH), the Municipal Housing Liaison shall be appointed by the Governing Body and may be a full or part time municipal employee.
- C. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for West Milford Township, including the following responsibilities which may not be contracted out:
  - (1) Serving as West Milford Township's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents, and interested households;
  - (2) Monitoring the status of all restricted units in West Milford Township's Fair Share Plan;
  - (3) Compiling, verifying, and submitting annual reports as required by COAH;
  - (4) Coordinating meetings with affordable housing providers and Administrative Agents, as applicable;
  - (5) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH;
  - (6) If applicable, serving as the Administrative Agent for some or all of the restricted units in West Milford Township as described in F. below.
- D. Subject to approval by COAH, West Milford Township may contract with or authorize a consultant, authority, government or any agency charged by the Governing Body, which entity shall have the responsibility of administering the affordable housing program of West Milford Township. If West Milford Township contracts with another entity to administer all or any part of the affordable housing program, including the affordability controls and Affirmative Marketing Plan, the Municipal Housing Liaison shall supervise the contracting Administrative Agent.
- E. Compensation. Compensation shall be fixed by the Governing Body at the time of the appointment of the Municipal Housing Liaison.
- F. Administrative powers and duties assigned to the Municipal Housing Liaison.
  - (1) Affirmative Marketing
    - (a) Conducting an outreach process to insure affirmative marketing of affordable housing units in accordance with the Affirmative Marketing Plan of West Milford Township and the provisions of N.J.A.C. 5:80-26.15; and
    - (b) Providing counseling or contracting to provide counseling services to low and moderate income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
  - (2) Household Certification
    - (a) Soliciting, scheduling, conducting and following up on interviews with interested households;

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- (b) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
  - (c) Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
  - (d) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et. seq.;
  - (e) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and
  - (f) Employing the random selection process as provided in the Affirmative Marketing Plan of West Milford Township when referring households for certification to affordable units.
- (3) Affordability Controls
- (a) Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
  - (b) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
  - (c) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the appropriate county's register of deeds or county clerk's office after the termination of the affordability controls for each restricted unit;
  - (d) Communicating with lenders regarding foreclosures; and
  - (e) Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.
- (4) Resale and rental
- (a) Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or rental; and
  - (b) Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or re-rental.
- (5) Processing request from unit owners
- (a) Reviewing and approving requests from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership;
  - (b) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the cost of central air conditioning systems; and
  - (c) Processing requests and making determinations on requests by owners of restricted units for hardship waivers.
- (6) Enforcement
- (a) Securing annually lists of all affordable housing units for which tax bills are mailed to absentee owners and notifying all such owners that they must either move back to their unit or sell it;
  - (b) Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;
  - (c) The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent can be made;
  - (d) Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
  - (e) Establishing a program for diverting unlawful rent payments to the municipality's affordable housing trust fund or other appropriate municipal fund approved by the DCA;
  - (f) Establishing a rent-to-equity program;

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- (g) Creating and publishing a written operating manual, as approved by COAH, setting forth procedures for administering such affordability controls; and
  - (h) Providing annual reports to COAH as required.
  - (7) The Administrative Agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
- SECTION 2.** All ordinances of the Township of West Milford which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.
- SECTION 3.** If any section, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any court or competent jurisdiction, such decision shall not affect the remaining portion of this ordinance.
- SECTION 4.** This Ordinance may be renumbered for purposes of codification.
- SECTION 5.** This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

INTRODUCED: July 9, 2008  
ADOPTED: August 6, 2008  
EFFECTIVE DATE: August 26, 2008

Mayor Bieri noted that this Ordinance was introduced on July 9, 2008 and is scheduled for public hearing tonight. Notice of Public Hearing was published in the Herald News on July 13, 2008. She opened the meeting to the public to speak on this issue only.

Daniel Jurkovic, Seymour Drive – stated that this position must be a staff position. However, no one currently has the required certificates. He asked who will fill the role.

There being no comments from the public, Councilman Weisbecker made a motion, seconded by Councilman Scangarello, to close this public portion of the meeting. Approved by unanimous roll call vote.

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Moved: Weisbecker Seconded: Scangarello  
Voted Aye: Weisbecker, Smolinski, Schimmenti, Scangarello.  
Voted Nay: Councilwoman Lichtenberg.  
Motion carried.

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Discussion:

Councilwoman Lichtenberg – said that she is concerned about a number of things. She has spoken with COAH and this must be a municipal employee. The Ordinance says that the Township can have an Administrative Agent. The former Planner did have the certificates required. She feels the Township will be hiring one more employee unless this is included in the Land Use Administrators duties. She is also looking at an Administrative Agent being hired as well. She interprets this Ordinance as having a lot of potential positions. She would like this to be included in the Land Use Administrators position.

Township Attorney Semrau – said that this is a model set forth by COAH. Any contracting out is subject to COAH approval. If this Ordinance is adopted, it is part of compliance. This Ordinance does not authorize any salary. The Township must employ these positions. The position in time will become more critical. This is part of COAH compliance. An Administrative Agent would be needed primarily in communities with large affordable housing developments.

Mayor Bieri – stated that the need for this position would be part of the Land Use Administrators qualifications. There would be no additional cost to the Township.

Interim Township Administrator Battaglia – stated that this position is not a matter of choice of a decision by the municipality to create a position. After the Township reformatted the Planning/Building and Construction Department, the State mandated a Municipal Housing Liaison position be established in every community. All townships are struggling with COAH. Right now, she does not perceive the need for an agent but this is still unknown. This is new for every municipality. She furthered by saying that if the Ordinance is adopted at this meeting, it would become effective in 20 days. During this timeframe she would hope to be poised to make a recommendation to the Council for a Land Use Administrator.

Councilman Smolinski – asked if there are additional costs associated with this.

Councilwoman Lichtenberg – said that she will vote no on this.

Agenda No. V

**Public Comments**

Mayor Bieri opened the meeting to the public advising that each person wishing to be heard will be given five minutes to speak.

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Daniel Jurkovic, Seymour Drive – suggested hiring a contract planner with the Streetscape Grant Funds to ensure that the project moves along before the Grant expires. He is concerned about this. Passaic County recently lost a one million dollar federal grant. It may be wise to hire a contract planner. He said that two weeks ago he approached the Council with the idea of organizing volunteers to make repairs to the Wallisch Estates. He has a group of volunteers available, including Boy Scouts. He is seeking Council consent. He expressed that the will of Lou Wallisch asks that the property be maintained.

Don Partington, 572 Snake Den Road – stated that he acquired that property in 1989. He borders the Camp Wyanokie property on two sides. When he moved in, the hill was washed out and he organized residents to approach the Council. The Council directed to pave part of the hill and eventually the Township paved the entire road. The Township has done a good job of sanding and salting that hill. However, there are a number of dangerous situations with the roadway. Recently a car on that road hit a small child. The problem is the excessive speed of traffic and ATV's and motorcycles on that hill. That road and hill is still dangerous. Nothing has been done about the hill. There is no sight distance and a lot of small children on the road. He asked that speed bumps be installed at specific locations on this road and on this hill. He asked that engineering be directed to look at this road. Camp Wyanokie is owned by 5 wealthy towns. The Township maintains the camp's ½ mile of road. The Township should get some reimbursement from these towns for the maintenance.

Andrew Gargano, Apshawa Crossroad – began by expressing that he was unable to hear an earlier explanation of Interim Township Administrator Battaglia. He said that he knew she likes being in the background and asked that she speak into the microphone when she talks. He then replied regarding Mr. Jurkovic that he has discussed the Streetscape Grant with the Township Planner. The Grant runs out in August of 2009. The Planner is on top of the issue. Responding to volunteers wanting to work at the Wallisch property. He said that when he was on the Council; his biggest concern was that leaving the house would allow deterioration. Now volunteers want to help rectify this. It is a two-story home. There could be liability. He asked Township Attorney Semrau to weigh in on this and to address waivers and liability. If someone is hurt, who would be responsible? We must protect the Townships interests. The Board of Education must approve this as well. They, with the Township are tenants in common. This should be discussed with the Board of Education at their next meeting. The Ordinances that were scheduled for adoption were discussed at the Workshop Meeting and why weren't questions addressed then. Councilman Weisbecker is the liaison to the Planning Board and clarifications were provided at the Planning Board level. He said that he would try to advertise such discussions of such ordinances by the Planning Board. The intent of the Planning Board was to make the Ordinance much better.

Barry McCann, 85 Dunn Road, Hewitt – stated that he called to have speed control on his street for two weeks. He has been directed to different officers within the department and no one has responded. There is constant speeding on his road. The last time there was an enforcement issue; the police department sat in a visible location.

Jim Novack, Larchmont Drive – stated that in the past the SLAP program helped clean the Wallisch. Perhaps the Freeholders can help with that. He reminded the Council that the Garbage and Recycling contract comes due next month. He offered to help with forming a task force. He said that at the Workshop meeting, two weeks ago Council authorized for the grant application for sidewalks from Lincoln Hill to ShopRite. He said that the public should know what the cost is and the maximum grant to be expected; and who would be paying the remaining expenses. He asked if the Township has County approvals to do this. The people asking for a sidewalk are not taxpayers. The Township supplies them with services. He agreed with Mr. Partington that the owners of Camp Wyanoki should be paying for maintenance to their portion of Snake Den Road.

Maria Grant, Yearling Trail – expressed concerns and difficulties about Ordinance 2008-019 that address notice to Property Owners Association's of permitting process. She has encountered problems. She said that the Ordinance is unfair and improper. She recently applied for a permit to replace an existing bathroom. She said that she cannot understand how this affects the Property Owners Association and why she would need their approval for an interior project. The Township Building Department stated that this project would not require that notification because the work is interior. The Ordinance however, is not specific. She applied for the permit and was approved the following day and notified the Property Owners Association. She is seeking to have the Ordinance revoked because she feels that this Ordinance gives non governing bodies power to influence another property owner. It gives one person, who is not elected or in public office a lot of power over a neighbor. She asked why create special notification processes for certain communities.

Martin O'Shea, 10 Lakeshore Rd., East, Stockholm – congratulated the Council on their vote and insistence that the Stelmach settlement must be a public record. This has been developing over a two-year period. There is a bill that would make in mandatory that lawsuit involving public money be made available to the public. The West Milford Board of Education fought him for two years on a similar matter. Just today he received a letter for the Township Clerks Office advising that the July 23<sup>rd</sup> CD is incomplete. The Council has never returned from Executive Session properly. He ordered the CD expressly to find

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out what happened during Executive Session. The public will not be able to get the action off the official record. Failure to record the meeting is against the law. He wants a refund. An earlier speaker said that there is difficulty understanding the Clerk Battaglia. He stated tacitly that the problem may not be the microphone and paraphrased George Bernard Shaw comparing the Irish and the Americans.

Jim Foody, 2 Kashaqua Trail North, Hewitt – spoke to the Council because he wants the Township to take over private roads in his community. He has called the DEP and has gone to the Bi-State Committee. He was told that the Township must enforce a storm water management plan. The Township must do something. He filed an OPRA request for information on the Association. He got a lot of information. Roads were dedicated between 1931 and 1949. They are dedicated. He spoke about dedicated/paper streets and explained that the Township does not necessarily accept them. He distributed an article to the Council and reviewed the deeding in this community. He distributed literature to Mayor Bieri. He requested that the Council send a letter to the Lakeside Road Community.

Mr. Koestler, 15 Dogwood Lane, spoke in follow-up to Mr. Foody and said that the work done in Gordon Lake was not done in accordance with plans. He contacted the Township Engineer and who could not promise that anything could be done. He said that the elevation of drains and pits is such that water cannot run up hill. He wants the Township to take over these roads.

Doug Hert, Terracotta Road, Hewitt – said that he had spoken to the Council in the past regarding hydro electric energy. He has email a presentation and distributed more information about the company who provides such hydro electricity. He asked that the Council schedule time that they would come and perform a proper presentation.

James Warden, 199 Highcrest Drive – The day reckoning is coming in about two weeks. He had listed to discussion of many things late into the evening. The big decision is coming. He has sensed that not all Council members were in favor of the budget. There may be a tie among Council members on the budget. If Council votes for the budget the taxpayers are getting mistreated. If you do not vote for this budget, you will prove you have not done your job. It is nice to rally around a cause and Wallisch is one of them. Rather than putting a coat on Wallisch, perhaps we should look at the real problem. The Council should address structural problems first. He would like to see discussion regarding this first. In closing he said that some reasons given by the Council to deny a second public comment portion of Town Council meetings were not considerate of the need for debate. He said that it was interesting that some Council members won't stay at meetings past 12:30 but will go to diners until 1 or 1:30am.

Richard Randazzo, 278 Wooley Road – said that he was disappointed with the Planning Board. He said that the Planning Board allows things to happen. When the Planning Board doesn't allow things to happen, a developer will have his lawyers go to Paterson to secure judgment that differs. He has a problem with Valley Ridge. The Council fast-tracked an Ordinance to protect water rights. What is Council going to do about the 100 home development. There is no water in this area. He would like the Ordinance enforced.

Doris Aaronson, 19 Bearfort Road – began by saying that Valley Ridge has come awake from the dead. The newspaper, Suburban Trends had an article in today's paper that said Trammel Crowe is developing in Riverdale. Valley Ridge would be very problematic for West Milford. West Milford is 30% over developed in terms of well capacity. Valley Ridge may not have enough water to support the units on this property. There are many abandoned wells there. She hopes that the Council will authorize Township Attorney Semrau to continue to go to bat to get rid of Valley Ridge. They are applying for a renewal of their Highlands exemption. She suggests that Mr. Semrau address a letter to the Department of Environmental Protection, the DEP Commission, the Highlands Council and the Attorney General. She has compiled backup information that Mr. Semrau may wish to attach to such a letter. She gave the information to Mr. Semrau. The current well Ordinance applies to developments with preliminary approval. However, if they have final approval, it does not apply. She suggests an amendment to apply to those who have received final approval with well testing being done in compliance with the DEP. She also advised that the Sheriffs Department has a program whereby offenders perform clean up duties and perhaps they would take on the Wallisch property.

There being no further comments from the public, Councilman Weisbecker made a motion seconded by Councilman Scangarello to close the public portion of the meeting.

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Moved: Weisbecker Seconded: Scangarello  
Voted Aye: Weisbecker, Smolinski, Schimmenti, Lichtenberg, Scangarello.  
Voted Nay: None.  
Motion carried.

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Mayor Bieri – advised that Council comments are to address issues raised by the public. She was generous this evening with regards to Public Comments time limits. She asked for future adherence from the public to time limits.

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

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Agenda No. VI

**Council Comments**

Councilman Weisbecker – began by saying that he supports having volunteers working particular public properties. Regarding the Wallisch property, the Board of Education does not respond to the Township Council. He complimented Mayor Bieri for doing a great job of addressing the Ordinances that were discussed this evening. He encouraged residents to keep abreast of issues that come before the Planning Board. There were persons at this meeting tonight and were noticed by the Township. Regarding setting up a speed trailer, there is a constant speeding issue in West Milford. He would like to see something done about it. He asked Mayor Bieri if it is possible to discuss recycling at the next Council Workshop session. He would like to have members of the Beautification and Recycling Committee present. He said that additionally, possibly a committee should be set up to secure a contract for garbage and recycling. He asked that representatives be invited to the next workshop meeting and that selling of metals should also be discussed. He said that he would like to see the Storm Water Ordinance enforced. He ended by saying that he was no stranger to working at Town Hall until very late at night.

Councilman Smolinski – encouraged residents to reach out to the Council if they wish to have questions posed to professionals. Regarding working at the Wallisch property, he feels that if the Township really wants it to happen, it will happen. He said that he will look into the POA issue.

Councilman Schimmenti – thanked everyone for their comments and insight this evening. Volunteers did work on Jungle Habitat. Boy Scouts are insured. As far as he knows, there is no liability to the Township. The Township Council can set rules set as to age limits for various projects. Many parents are required to be there and they are professionals, bringing expertise to the volunteer project. He welcomes the start.

Councilwoman Lichtenberg – replied to Mrs. Grant and said that she voted “no” to the POA Ordinance. She feels that it has flaws. She mentioned information on Ordinance 2008-37 tonight because she did not have the information at the Workshop Meeting. She has concerns and feels that she has a right to speak based on the information she received. She said if Hydrocoil wants to make a presentation to the Council that they should contact the Clerks office to request a presentation.

Councilman Scangarello – recognized Freeholder Duffy in the audience. He said that the POA Ordinance was intended to oversee a large addition to a house and that it may need amending. It should not apply to bathroom refurbishment. He said that time is wasting when it comes to the Wallisch estates. An inspection was performed two years ago. Most of the problem is cosmetic. One pipe has burst when the heating system was shut down. He said it would be great to have volunteers work on this.

Interim Township Administrator Battaglia – responded to Councilman Weisbecker regarding garbage and recycling that the Township Engineer was doing research and she hopes he will have something to present to the Council in the early fall. Regarding the Storm Water Ordinance she said that the Township is ahead of the curve with regards to the regulations of the State. She conveyed to Council that the Township is compliant. She said that she will have the Township Engineer review the situation of the roadway that was discussed earlier. She said that she had no indication that the Township had broached in any fashion. Regarding the concerns expressed over the Streetscape Grant, she said that she has been assured by a State representative that they will not lose funding and that Rob Sparkes, Township GIS Specialist is aware and on top of it.

Township Attorney Semrau – responded to Councilman Scangarello that the POA Ordinance states that notifying the POA is all that is required. The Ordinance does not state that approvals are required of the Association. The Building Department has asked for procedures which he will draft to provide that clarification. The intent is that the association be notified if a permit is taken out. He said that with regards to volunteer projects, if the Township endorses such an effort it is part of Township coverage. He would verify this with JIF. He thanked Ms. Aaronson for the documents she provided during her comments. He reviewed what has happened and the filings by the Township. Valley Ridge has a number of things they must do. Their approvals are being contested in a number of different ways and are going to expire later in the year. The case, for all intents and purposes may be over with. His concern is that with litigation hanging around, it could become dangerous. There are a number of hurdles left. The Township will still need to meet its affordable housing requirements. He said with regards to the settlement that was voted upon, that settlements are a matter of public record. He asked for a contact number for Mr. Foody.

Mayor Bieri – said that she did start the wheels in motion several weeks ago regarding the Wallisch property and has a volunteer group willing to help. She has asked Interim Administrator Battaglia to do the groundwork. Prep work, answers to questions, paint color and other details will need attention prior to getting volunteers involved. Insurance issues have also been discussed and are being looked into. The project must be coordinated properly and safely. She has asked Township Attorney Semrau and Interim Administrator Battaglia to research and address Mr. Foody’s concerns. She said that Valley Ridge is scheduled for discussion during Executive Session this evening. She will not let it fall by the wayside.

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She said that several residents have expressed the desire to have speed bumps installed on their road or have their road widened. She said that Township Administrator Battaglia will address this at the next Department Head meeting. She finished by thanking everyone for attending this meeting and expressed that she appreciates everyone's input.

Agenda No. VII

**New Business, Introduction of Ordinances, Resolutions**

Agenda No. VII 1

~ Ordinance 2008 - 040 ~

**BOND ORDINANCE APPROPRIATING \$3,342,360, AND AUTHORIZING THE ISSUANCE OF \$3,175,242 BONDS OR NOTES OF THE TOWNSHIP, FOR VARIOUS IMPROVEMENTS OR PURPOSES AUTHORIZED TO BE UNDERTAKEN BY THE TOWNSHIP OF WEST MILFORD, IN THE COUNTY OF PASSAIC, NEW JERSEY**

**BE IT ORDAINED** by the Township Council of the Township of West Milford, in the county in the County of Passaic, New Jersey (not less than two-thirds of all the members thereof affirmatively concurring), as follows:

**Section 1.** The several improvements described in Section 3 of this bond ordinance are hereby respectively authorized as general improvements to be made or acquired by The Township of West Milford, in the County of Passaic, New Jersey. For the said several improvements or purposes stated in said Section 3, there are hereby appropriated the respective sums of money therein stated as the appropriations made for said improvements or purposes, said sums being inclusive of all appropriations heretofore made therefore and amounting in the aggregate to \$3,342,360 including the aggregate sum of \$167,118, as the several down payments for said improvements or purposes required by law and more particularly described in said Section 3 and now available therefore by virtue of provision in a previously adopted budget or budgets of the Township for down payment or for capital improvement purposes and including also, in the case of the improvement or purpose described in paragraph (b) of said Section 3, the sum of \$300,000 received or expected to be received by the Township from the New Jersey Department of Transportation, as a grant-in-aid of financing said improvement or purpose.

**Section 2.** For the financing of said improvements or purposes and to meet the part of said \$3,342,360 appropriations not provided for by application hereunder of said down payments and said grant, negotiable bonds of the Township are hereby authorized to be issued in the principal amount of \$3,175,242 pursuant to the Local Bond Law of New Jersey. In anticipation of the issuance of said bonds and to temporarily finance said improvements or purposes, negotiable notes of the Township in a principal amount not exceeding \$3,175,242 are hereby authorized to be issued pursuant to and within the limitations prescribed by said Local Bond Law.

**Section 3.** The improvements hereby authorized and the several purposes for the financing of which said obligations are to be issued, the appropriation made for and estimated cost of each such purpose, and the estimated maximum amount of bonds or notes to be issued for each such purpose, are respectively as follows:

	<b>IMPROVEMENT OR PURPOSE</b>	<b>APPROPRIATION AND ESTIMATED COST</b>	<b>ESTIMATED MAXIMUM AMOUNT OF BONDS AND NOTES</b>
(a)	Acquisition by purchase of new and additional vehicular equipment, including two (2) dump trucks with plows and sanders for use by the Department of Public Works of the Township, one (1) pick-up truck for use by the Parks and Recreation Department of the Township and (1) ambulance for use by the First Aid Squad of the Township, together with the reconditioning and rehabilitation of existing ambulances as necessary and all equipment, attachments and accessories necessary therefore or incidental thereto, all as shown on and in accordance with the specifications therefore on file or to be filed in the office of the Township Clerk and hereby approved	\$402,360	\$382,242
(b)	Improvement of various streets and locations in and by the Township by the construction or reconstruction therein of roadway pavements at least equal in useful life or durability to a roadway pavement of Class B construction (as used or referred to in Section 40A:2-22 of said Local Bond Law), including without	2,609,250	2,478,787

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IMPROVEMENT OR PURPOSE	APPROPRIATION AND ESTIMATED COST	ESTIMATED MAXIMUM AMOUNT OF BONDS AND NOTES
limitation, Warwick Turnpike, Ardena Road, Bearfort Road, Buck Mountain Court, Burnt Meadow Road, Circle Drive, Cozy Lake Road, Delaware Road, Gold Lane, Longview Road, Mallory Road, Mountain Circle East, Mountain Circle North, Mountain Circle South, Mountain Circle West, Oak Drive, Papscoe Road, Paradise Road, Reigler Road, Risley Road, Silver Lane, Upper High Crest Road and Wooley Road, together with all sidewalks, curbing, structures, appurtenances, milling, drainage improvements, equipment, work and materials necessary therefore or incidental thereto, all as shown on and in accordance with the plans and specifications therefore on file or to be filed in the office of the Township Clerk and hereby approved, the \$2,609,250 appropriation hereby made therefore being inclusive of the amount of \$300,000 received or expected to be received by the Township from the New Jersey Department of Transportation as a grant-in-aid of financing said improvement to Warwick Turnpike		
(c) Improvement of municipally-owned facilities and grounds in and by the Township, including the Department of Public Works Building by the renovation of the roof thereof and various athletic fields (including Farrell Field) by the rehabilitation thereof, together with for all the aforesaid all structures, equipment, work and materials necessary therefore or incidental thereto, all as shown on and in accordance with the plans and specifications therefore on file or to be filed in the office of the Township Clerk and hereby approved	68,250	64,837
(d) Acquisition by purchase and installation, as necessary, of new and additional equipment, including computer and communication equipment for use by the Administration and Police Departments of the Township, together with all appurtenances, attachments and accessories necessary therefore or incidental thereto, all as shown on and in accordance with the specifications therefore on file or to be filed in the office of the Township Clerk and hereby approved	68,250	64,838
(e) Acquisition by purchase and installation, as necessary, of new and additional equipment, including one (1) photocopier for use by the Finance Department of the Township, fuel maintenance and security equipment for use by the Department of Public Works of the Township, sixty (60) breathing air apparatus with masks and three (3) thermal imaging cameras for use by the Volunteer Fire Companies, one (1) generator for use by the Office of Emergency Management of the Township, and an archive file system and furniture for use by the Police Department	194,250	184,538

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IMPROVEMENT OR PURPOSE	APPROPRIATION AND ESTIMATED COST	ESTIMATED MAXIMUM AMOUNT OF BONDS AND NOTES
of the Township, together with all appurtenances, apparatus and accessories necessary therefore or incidental thereto, all as shown on and in accordance with the specifications therefore on file or to be filed in the office of the Township Clerk and hereby approved.		
<b>TOTALS</b>	<b>\$3,342,360</b>	<b>\$3,175,242</b>

The excess of the appropriation made for each of the improvements or purposes aforesaid over the estimated maximum amount of bonds or notes to be issued therefore, as above stated, is the amount of the said down payment for said purpose.

**Section 4.** The following additional matters are hereby determined, declared, recited and stated:

- a) The said purposes described in Section 3 of this bond ordinance are not current expenses and each is a property or improvement which the Township may lawfully acquire or make as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.
- b) The average period of usefulness of said purposes within the limitations of said Local Bond Law and taking into consideration the respective amounts of the said obligations authorized for the several purposes, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is 9.27 years.
- c) The supplemental debt statement required by said Local Bond Law has been duly made and filed in the office of the Township Clerk and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey, and such statement shows that the gross debt of the Township as defined in said Local Bond Law is increased by the authorization of the bonds and notes provided for in this bond ordinance by \$3,175,242, and the said obligations authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.
- d) Amounts not exceeding \$500,000 in the aggregate for interest on said obligations, costs of issuing said obligations, engineering costs and other items of expense listed in and permitted under Section 40A:2-20 of said Local Bond Law may be included as part of the costs of said improvements and are included in the foregoing estimate thereof.

**Section 5.** The funds from time to time received by the Township on account of the \$300,000 grant referred to in Section 1 of this bond ordinance shall be used for financing the improvement or purpose described in paragraph (b) of Section 3 of this bond ordinance by application thereof either to direct payment of the costs of said improvements or purposes, or to payment or reduction of the authorization of the obligations of the Township authorized therefore by this bond ordinance. Any such funds so received may, and all such funds so received which are not required for direct payment of the costs of said improvements or purposes shall, be held and applied by the Township as funds applicable only to the payment of obligations of the Township authorized by this bond ordinance.

**Section 6.** All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer, provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with the notes issued pursuant to this bond ordinance, and the Chief Financial Officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of N.J.S.A. §40A:2-8. The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the dates of delivery thereof. The Chief Financial Officer is directed to report in writing to the governing body of the Township at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the principal amount, interest rate and maturities of the notes sold, the price obtained and the name of the purchaser.

**Section 7.** The full faith and credit of the Township are hereby pledged to the punctual payment of the principal of and interest on the said obligations authorized by this bond ordinance. Said obligations shall be direct, unlimited obligations of the Township, and the Township shall be obligated to levy ad valorem taxes upon all the taxable property within the Township for the payment of said obligations and interest thereon without limitation of rate or amount.

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Section 8. The capital budget or temporary capital budget of the Township is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith and the resolutions promulgated by the Local Finance Board showing all detail of the amended capital budget or temporary capital budget and capital program as approved by the Director, Division of Local Government Services, are on file with the Township Clerk and are available for public inspection.

Section 9. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by said Local Bond Law.

INTRODUCED: August 6, 2007

Mayor Bieri advised that this ordinance is being introduced tonight. Second reading and public hearing for this ordinance is scheduled for September 3, 2008. Notice of this public hearing shall be published in the Herald News on or about August 10, 2008.

Moved: Scangarello Seconded: Smolinski
Voted Aye: Smolinski, Schimmenti, Lichtenberg, Scangarello, Weisbecker.
Voted Nay: None.
Absent: None.
Motion carried.

Discussion: Councilman Smolinski asked that a list of the roads be posted on the Township website.

Agenda No. VII 2
~ Ordinance 2008 - 041~

ORDINANCE PROVIDING FOR VARIOUS IMPROVEMENTS OR PURPOSES TO BE UNDERTAKEN IN AND BY THE TOWNSHIP OF WEST MILFORD, IN THE COUNTY OF PASSAIC, NEW JERSEY, AND APPROPRIATING \$89,413 THEREFOR FROM THE CAPITAL IMPROVEMENT FUND OF THE TOWNSHIP

BE IT ORDAINED by the Township Council of the Township of West Milford, in the County of Passaic, New Jersey, as follows:

Section 1. The improvements described in Section 2 of this ordinance are hereby authorized as general improvements to be made or acquired by The Township of West Milford, in the County of Passaic, New Jersey. For the said improvements or purposes stated in said Section 2, there is hereby appropriated the sum of \$89,413 from moneys available in the Capital Improvement Fund of the Township.

Section 2. The improvements hereby authorized and the several purposes for which said appropriation is made are as follows: for the Administration and Finance Departments of the Township, acquisition by purchase of computer equipment; for the Volunteer Fire Companies of the Township, acquisition by purchase of various fire fighting equipment; for the Parks and Recreation Department of the Township, acquisition by purchase of furniture; for the Police Department of the Township, acquisition by purchase of body armor; for the First Aid Squads of the Township, acquisition by purchase of sanitary equipment, including, for all of the foregoing, all necessary and appurtenant equipment, accessories, attachments, work and materials, and all engineering, legal, advertising and other costs associated therewith, and all as shown on and in accordance with the plans and specifications therefore on file or to be filed in the office of the Township Clerk and hereby approved.

Section 3. The capital budget or temporary capital budget of the Township is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith and the resolutions promulgated by the Local Finance Board showing all detail of the amended capital budget or temporary capital budget and capital program as approved by the Director, Division of Local Government Services are on file with the Township Clerk and are available for public inspection.

Section 4. This ordinance shall take effect after publication after final adoption, as provided by law.

INTRODUCED: August 6, 2007

Mayor Bieri advised that this ordinance is being introduced tonight. Second reading and public hearing for this ordinance is scheduled for September 3, 2008. Notice of this public hearing shall be published in the Herald News on or about August 10, 2008.

Moved: Scangarello Seconded: Smolinski
Voted Aye: Weisbecker, Schimmenti, Lichtenberg, Scangarello.
Voted Nay: None.
Recuse: Smolinski First Aid Squad only
Motion carried.

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

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**~ Ordinance 2008 - 042 ~  
(AMENDED)**

**AN ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 226, NOISE, OF THE REVISED GENERAL ORDINANCES**

**BE IT ORDAINED** by the Municipal Council of the Township of West Milford, County of Passaic, State of New Jersey, as follows:

**Section 1.** Chapter 226, Noise, of the aforesaid Revised General Ordinances is hereby amended and supplemented to read as follows:

**§ 226-1. Definitions.**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Terms not defined in this chapter have the same meanings as those defined in N.J.A.C. 7:29.

**CONSTRUCTION** — Any site preparation, assembly, erection, repair, alteration or similar action, including demolition of buildings or structures.

**DEMOLITION** — Any dismantling, destruction or removal of buildings, structures, or roadways.

**DEPARTMENT** — The New Jersey Department of Environmental Protection.

**EMERGENCY WORK** — Any work or action necessary to deliver essential public services, including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, dredging navigational waterways, or abating life-threatening conditions.

**IMPULSIVE SOUND** — Either a single pressure peak or a single burst (multiple pressure peaks) that has a duration of less than one second.

**MOTOR VEHICLE** — Any vehicle that is propelled other than by human or animal power on land.

**MUFFLER** — A properly functioning sound-dissipative device or system for abating the sound of escaping gasses on equipment where such a device is part of the normal configuration of the equipment.

**MULTI-DWELLING-UNIT BUILDING** — Any building comprising two or more dwelling units, including, but not limited to, apartments, condominiums, co-ops, multiple-family houses, townhouses, and attached residences.

**MULTI-USE PROPERTY** — Any distinct parcel of land that is used for more than one category of activity. Examples include, but are not limited to:

- A. A commercial, residential, industrial or public service property having boilers, incinerators, elevators, automatic garage doors, air conditioners, laundry rooms, utility provisions, or health and recreational facilities, or other similar devices or areas, either in the interior or on the exterior of the building, which may be a source of elevated sound levels at another category on the same distinct parcel of land; or
- B. A building which is both commercial (usually on the ground floor) and residential property located above, behind, below or adjacent.

**NOISE CONTROL OFFICER** — An employee of:

- A. A local, county or regional health agency which is certified pursuant to the County Environmental Health Act (N.J.S.A. 26:3A2-21 et seq.) to perform noise enforcement activities; or
- B. A municipality with a Department-approved noise control ordinance and the employee has received noise enforcement training and is currently certified in noise enforcement. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a summons in order to be considered a noise control officer.

**PLAINLY AUDIBLE** — Any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. The noise control officer need not determine the title, specific words, or the artist performing the song.

**PRIVATE RIGHT-OF-WAY** — Any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a nongovernmental entity.

**PUBLIC RIGHT-OF-WAY** — Any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.

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

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**PUBLIC SPACE** — Any real property or structures thereon that are owned, leased, or controlled by a governmental entity.

**REAL PROPERTY LINE** — Either:

- A. The imaginary line including its vertical extension that separates one parcel of real property from another;
- B. The vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling-unit building; or
- C. On a multi-use property, the interface between the two portions of the property on which different categories of activity are being performed (e.g., if the multi-use property is a building which is residential upstairs and commercial downstairs, then the "real property line" would be the interface between the residential area and the commercial area).

**WEEKDAY** — Any day that is not a federal holiday, and beginning on Monday at 7:00 a.m. and ending on the following Friday at 6:00 p.m.

**WEEKEND** — Beginning on Friday at 6:00 p.m. and ending on the following Monday at 7:00 a.m.

**§ 226-2. Applicability.**

- A. This chapter applies to sound from the following property categories:
  - (1) Industrial facilities;
  - (2) Commercial facilities;
  - (3) Public service facilities;
  - (4) Community service facilities;
  - (5) Residential properties;
  - (6) Multi-use properties;
  - (7) Public and private rights-of-way;
  - (8) Public spaces; and
  - (9) Multi-dwelling-unit buildings.
- B. This chapter applies to sound received at the following property categories:
  - (1) Commercial facilities;
  - (2) Public service facilities;
  - (3) Community service facilities;
  - (4) Residential properties;
  - (5) Multi-use properties; and
  - (6) Multi-dwelling-unit buildings.
- C. Sound from stationary emergency signaling devices shall be regulated in accordance with N.J.A.C. 7:29-1.3, except that the testing of the electromechanical functioning of a stationary emergency signaling device shall not meet or exceed 10 seconds.

**§ 226-3. Declaration of findings and policy.**

- A. Whereas excessive sound is a serious hazard to the public health, welfare, safety, and the quality of life; and whereas a substantial body of science and technology exists by which excessive sound may be substantially abated; and whereas the people have a right to, and should be ensured of, an environment free from excessive sound;
- B. Now therefore, it is the policy of Township of West Milford to prevent excessive sound that may jeopardize the health, welfare, or safety of the citizens or degrade the quality of life.
- C. This chapter shall apply to the control of sound originating from sources within the Township of West Milford.

**§ 226-4. Enforcement by Police Department and Noise control officers.**

- A. The provisions of this chapter shall be enforced by **the West Milford Township Police Department and the** noise control officers. A person shall be qualified to be a noise control officer if the person meets the criteria set forth in the definition above and completes, at a frequency specified by the Department in N.J.A.C. 7:29-2.11, a noise certification and recertification course which are offered by the Department of Environmental Sciences of Cook College, Rutgers, the State University of New Jersey or any other noise certification or recertification course which is offered by an accredited university and approved by the Department.
- B. Sound measurements made by the West Milford Police Department (who may also be qualified as noise control officers) shall conform to the procedures set forth at N.J.A.C. 7:29-2, except that interior sound level measurements shall also conform to the procedures set forth in § 226-5B and C of this chapter and with the definition of "real property line" as contained herein.
- C. Noise control officers shall have the power to:
  - (1) Coordinate the noise control activities of all departments in Township of West Milford and cooperate with all other public bodies and agencies to the extent practicable;
  - (2) Review the actions of Township of West Milford and advise of the effect, if any, of such actions on noise control;

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

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- (3) Review public and private projects, subject to mandatory review or approval by other departments or boards, for compliance with this chapter;
- (4) Investigate and pursue possible violations of this chapter for sound levels which equal or exceed the sound levels set forth in Tables I and II, Editor's Note: Tables I and II are located at the end of this chapter. when measured at a receiving property located within the designated jurisdiction of the noise control officer, in accordance with § 226-7 below; and
- (5) Cooperate with noise control officers of adjacent municipalities in enforcing one another's municipal noise ordinances.

**§ 226-5. Maximum permissible sound levels.**

- A. No person shall cause, suffer, allow, or permit the operation of any source of sound on any source property listed in § 226-2A above in such a manner as to create a sound level that equals or exceeds the sound level limits set forth in Tables I and II when measured at or within the real property line of any of the receiving properties listed in Tables I and II, except as specified in Subsection B below.
- B. When measuring total sound or residual sound within a multi-use property, or within a residential unit when the property line between it and the source property is a common wall, all exterior doors and windows shall be closed and the measurements shall be taken in the center of the room most affected by the noise. Residual sound shall be measured in accordance with N.J.A.C. 7:29-2.9(b)2. When measuring total sound or residual sound, all sound sources within the dwelling unit must be shut off (e.g., television, stereo). Measurements shall not be taken in areas which receive only casual use such as hallways, closets and bathrooms.
- C. Indoor measurements shall only be taken if the sound source is on or within the same property as the receiving property, as in the case of a multi-use property (e.g., sound generated within a commercial unit of a multi-use property building and received within a residential unit of the same building) or multi-dwelling-unit building. In addition, indoor measurements shall be taken if the property line between the receiving property and the source property is a common wall, such as in a multi-dwelling-unit building. The allowable sound level standards for indoors are as shown in Tables I and II. Editor's Note: Tables I and II are located at the end of this chapter.
- D. Impulsive sound. Between 7:00 a.m. and 10:00 p.m., impulsive sound shall not equal or exceed 80 decibels. Between 10:00 p.m. and 7:00 a.m., impulsive sound which occurs less than four times in any hour shall not equal or exceed 80 decibels. Impulsive sound which repeats four or more times in any hour shall be measured as impulsive sound and shall meet the requirements as shown in Table I.

**§ 226-6. Restricted uses and activities.**

- A. Except as provided in Subsection C below, the provisions of this chapter shall not apply to the exceptions listed at N.J.A.C. 7:29-1.4.
- B. Construction and demolition activities are exempt from the sound level limits set forth in Tables I and II, except as provided for in Subsection C below.
- C. Notwithstanding the provisions of Tables I and II, the following standards shall apply to the activities or sources of sound set forth below:
  - (1) Noncommercial or nonindustrial power tools and landscaping and yard maintenance equipment shall not be operated between the hours of 8:00 p.m. and 8:00 a.m., unless such activities can meet the applicable limits set forth in Tables I and II. All motorized equipment used in these activities shall be operated with a muffler. At all other times, the limits set forth in Tables I and II do not apply to noncommercial or nonindustrial power tools and landscaping and yard maintenance equipment.
  - (2) Commercial or industrial power tools and landscaping and yard maintenance equipment, excluding emergency work, shall not be operated on a residential property or within 250 feet of a residential property line when operated on commercial or industrial property, between the hours of 6:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. on weekends or federal holidays, unless such activities can meet the limits set forth in Tables I and II. In addition, commercial or industrial power tools and landscaping and yard maintenance equipment, excluding emergency work, utilized on commercial or industrial property shall meet the limits set forth in Tables I and II between the hours of 10:00 p.m. and 7:00 a.m. All motorized equipment used in these activities shall be operated with a muffler. At all other times, the limits set forth in Tables I and II do not apply to commercial or industrial power tools and landscaping and yard maintenance equipment.
  - (3) Construction and demolition activity, excluding emergency work, shall not be performed between the hours of 6:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. on weekends and federal holidays, unless such activities can meet the limits set forth in Tables I and II. All motorized equipment used in construction and demolition activity shall be operated with a muffler. At all other times, the limits set forth in Tables I and II do not apply to construction and demolition activities.
  - (4) Motorized snowblowers, snow throwers, and lawn equipment with attached snow plows shall be operated at all times with a muffler.

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

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- (5) An exterior burglar alarm of a building or motor vehicle must be activated in such a manner that the burglar alarm terminates its operation within five minutes for continuous airborne sound and 15 minutes for impulsive sound after it has been activated.
- (6) Personal or commercial vehicular music amplification or reproduction equipment shall not be operated in such a manner that it is plainly audible at a residential property line between the hours of 10:00 p.m. and 8:00 a.m.
- (7) Personal vehicular music amplification equipment shall not be operated in such a manner as to be plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m.
- (8) Self-contained, portable, hand-held music or sound amplification or reproduction equipment shall not be operated on a public space or public right-of-way in such a manner as to be plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m., sound from such equipment shall not be plainly audible by any person other than the operator;
- (9) Sound levels exceeding the limits set forth in Table I and Table II shall be prohibited between residential units within the same multi-dwelling-unit building. Measurements shall be taken indoors as per § 226-5B and C.

**§ 226-7. Enforcement; violations and penalties.**

- A. Violation of any provision of this chapter shall be cause for an enforcement document to be issued to the violator by the **Township Police Officer** or the noise control officer according to procedures set forth at N.J.A.C. 7:29-1.6. The recipient of an enforcement document shall be entitled to a hearing in Municipal Court having jurisdiction to contest such action.
- B. Any person who violates any provision of this chapter shall be subject to a civil penalty for each offense of not more than \$3,000. If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate, and distinct offense.
- C. No provision of this chapter shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this chapter or from other law.

**Section 2.** All ordinances of the Township of West Milford which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

**Section 3.** If any section, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any court or competent jurisdiction, such decision shall not affect the remaining portion of this ordinance.

**Section 4.** This Ordinance may be renumbered for purposes of codification.

**Section 5.** This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

INTRODUCED: August 6, 2008

Mayor Bieri advised that this ordinance is being introduced tonight. Second reading and public hearing for this ordinance is scheduled for September 3, 2008. Notice of this public hearing shall be published in the Herald News on or about August 10, 2008.

Motion by Councilman Weisbecker and seconded by Councilman Scangarello to amend the language in the Ordinance. Approved by unanimous roll call vote.

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Moved: Weisbecker Seconded: Scangarello  
Voted Aye: Smolinski, Schimmenti, Lichtenberg, Scangarello.  
Voted Nay: Weisbecker.  
Motion carried.

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Discussion: Mayor Bieri pointed out that on Page 3 226.4 of the Ordinance the West Milford Police Department was inserted. Township Attorney Semrau explained that this was so that the police department can enforce this. He said that he understands that officers will be trained and have certification. Mayor Bieri asked if the language should be consistent throughout the Ordinance. Township Attorney suggested that verbage be added that will clarify this. Councilwoman Lichtenberg asked if the Township owned the equipment for this. Interim Administrator Battaglia explained that acquiring the equipment was being researched. Township Attorney Semrau expressed that the equipment can sometimes be borrowed from another community. Councilman Weisbecker asked how these matters fare in court. Township Attorney Semrau said that these cases fare well. Councilman Weisbecker asked if this will cause problems with parties at private homes. He asked if permits would be required by these residents. Township Attorney Semrau said that he didn't believe that any permit or waiver would be required providing that the hours were observed. He furthered by saying that he felt that the decibel levels were liberal. Interim Administrator Battaglia stated that this Ordinance is currently on the books and that one of the problems with it is that it directs complaints to the Town Hall between the hours of 8:30am and 4:30pm. This amendment would allow for the Police Department to receive the calls when they have been placed.

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

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Agenda No. VII 4  
~ Resolution 2008 – 288 ~  
**A RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY  
OF PASSAIC AND STATE OF NEW JERSEY OPPOSING SENATE BILL 1455**

**WHEREAS**, Senate Bill 1455 calls for a referendum to send municipal functions and services such as tax assessor, municipal tax collector, municipal health services and municipal animal control services to the County level; and

**WHEREAS**, Senate Bill 1455 does not give the municipality any option if the County voters cast a majority to consolidate, it becomes binding on all municipalities in the County; and

**WHEREAS**, consolidation would cause unnecessary hardship on citizens who rely on the municipal tax office for information and assistance, for example: community's senior citizens who depend on tax offices for assistance in completing tax freeze and rebate forms; residents who need local assistance on emergent basis for animal control will have to contact the County offices in Paterson for assistance; residents that want to review and discuss their tax assessments will no longer have the ability to review such information in Town Hall, they will likely have to travel to the County Tax Board office in Wayne; and

**WHEREAS**, without a proper study there is no proof that consolidation will save any public money and while such familiarity with local services will no longer be provided to residents, the costs of such services will likely just be added to the County portion of residents' tax bills; and

**WHEREAS**, Senate Bill 1455 calls for a "master plan" for the consolidation of tax assessment and tax collection functions after enactment of the proposal thus failing to provide voters with a factual basis on which to make a decision on the referendum; and

**WHEREAS**, current State Statutes place responsibility for tax assessment and tax collection at the local level to provide residents with such services and information; and

**WHEREAS**, it is the municipalities' responsibility to collect all property taxes due and distribute same to the other taxing authorities, as well as enforcing laws as to delinquencies, review assessments, senior applications, disability applications and changes in assessments.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Township Council of the Township of West Milford, County of Passaic, State of New Jersey that for the reasons set forth in this Resolution, the Township does hereby oppose the passage and enactment of Senate Bill 1455 as it does not provide any proof of cost savings and it will diminish accessible services to residents.

**BE IT FURTHER RESOLVED** that the Township of West Milford shall direct the Township Administrator to transmit a copy of this Resolution to Governor Jon Corzine, Senate President Richard Codey, Senator Ronald Rice, Chairman of the Community and Urban Affairs Committee and to the representatives for the Township of West Milford in the State Assembly and State Senate.

Adopted: August 6, 2008

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Moved: Lichtenberg Seconded: Weisbecker  
Voted Aye: Weisbecker, Smolinski, Schimmenti, Lichtenberg, Scangarello.  
Voted Nay: None.  
Motion carried.

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Discussion: Councilman Smolinski thanked the Council for supporting this Ordinance. Councilwoman Lichtenberg explained that this Ordinance opposes the State for the possible County takeover of employment positions currently held within the Township.

Agenda No. VII 5  
~ Resolution 2008 – 289 ~  
**A RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY  
OF PASSAIC AND STATE OF NEW JERSEY IN SUPPORT OF  
ASSEMBLY BILL NO. 2838 REGARDING OCCUPANCY PREFERENCES  
FOR AFFORDABLE HOUSING**

**WHEREAS**, Assembly Bill No. 2838 provides for those municipalities that have received Substantive Certification may provide preference for Affordable Housing to those households in flood zones or homes contaminated with toxins that vacate and/or sell their house provided that such households shall otherwise meet the income limits established by the Council on Affordable Housing; and

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**WHEREAS**, the goal of Affordable Housing should be to find safe and affordable housing in a residence not subjected to flooding, toxins or other such hazards; and

**WHEREAS**, this legislation provides for preference for individuals who are in emergent need for housing that have been encountered such unsafe conditions.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Township Council of the Township of West Milford, County of Passaic, State of New Jersey that they hereby support Assembly Bill No. 2838 for the reasons stated herein.

**BE IT FURTHER RESOLVED** that the Township of West Milford shall direct the Township Administrator to transmit a copy of this Resolution to all legislative representatives for the Township of West Milford in the State Assembly.

Adopted: August 6, 2008

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Moved: Weisbecker Seconded: Smolinski  
Voted Aye: Weisbecker, Smolinski, Schimmenti, Lichtenberg, Scangarello.  
Voted Nay: None.  
Motion carried.

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Discussion: Mayor Bieri asked if this would allow residents of Wayne Township to get affordable housing in West Milford before the Township residents were eligible. Township Attorney Semrau explained that in an emergency situation, this would be so.

Mayor Bieri asked for Council consent to move resolutions 290 through 293 and 302 as one group. Councilman Weisbecker made a motion seconded by Councilman Scangarello to move all the resolutions as one from 290 through 293 and 302.

Agenda No. VII 6  
~ Resolution 2008-290 ~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY TO REQUEST THAT SENATE RESOLUTION #88 THAT PROVIDES FOR A CONSTITUTIONAL AMENDMENT TO DEDICATE REVENUE FOR OPEN SPACE AND FARMLAND PRESEVATION BE AMENDED TO DEDICATE SUCH REVENUE TO MUNICIPALITIES LOCATED WITH THE HIGHLANDS PRESERVATION AREA**

**WHEREAS**, the Senate Concurrent Resolution 88 was introduced to the New Jersey Legislature proposing to amend the State Constitution and provide that revenue from a water consumption and user fee be dedicated for the purpose of acquisition and development of lands throughout the State of New Jersey for recreation and conservation purposes for the preservation of agricultural and horticultural uses and production; and

**WHEREAS**, municipalities such as the Township of West Milford that are solely located within the Highlands Preservation Area, are the stewards of such watershed lands; and

**WHEREAS**, the proposed Constitutional Amendment as set forth in Senate Concurrent Resolution 99 provides for the benefit of such revenue from a water consumption tax to be dedicated for lands throughout the State of New Jersey; and

**WHEREAS**, in the interest of equity and fairness, a portion of a Water Consumption and User Fee should be dedicated to those communities that provide for and protect the natural resource of public drinking water; and

**WHEREAS**, the Township of West Milford, dedicates municipal resources and by virtue of the thousands of acres of watershed lands that have been acquired by the State of New Jersey, has permanently foregone significant tax revenue on an annual basis so that other residents throughout the State of New Jersey are provided with safe and clean public drinking water.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Township Council of the Township of West Milford, County of Passaic, State of New Jersey that the Township of West Milford requests that the proposed Constitutional Amendment to dedicate revenue solely for Open Space and Farmland Preservation be amended to allow for those communities such as West Milford and other similarly situated municipalities who have made a significant commitment to preserve the scarce natural resource of drinking water, to be included in any direct benefit from a Water Consumption and User Fee.

**BE IT FURTHER RESOLVED**, that the Township requests that the Constitutional Amendment is modified or amended to provide that a certain portion of the Water User Fee be solely dedicated for those communities in the Highlands Preservation Area where such revenue can provide tax relief and financial

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

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support for the commitment that the communities have made for residents and water consumers throughout the State of New Jersey.

**BE IT FURTHER RESOLVED** that a copy of this Resolution shall be sent to the representatives for the Township of West Milford of the State Assembly and State Senate as well as to Governor Corzine, the Highlands Council and those communities identified in the Highlands Planning and Preservation Act as being entirely located within the Highlands Preservation Area.

Adopted: August 6, 2008

Agenda No. VII 7  
~ Resolution 2008-291 ~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN PROFESSIONAL SERVICE CONTRACT TO ARTHUR J. SCHAPPELL, JR. FOR SURVEY SERVICES IN CONNECTION WITH THE GREENWOOD LAKE STORMWATER IMPLEMENTATION PROJECT IN AN AMOUNT NOT TO EXCEED \$3,500**

**WHEREAS**, the NJDEP Division of Watershed Management awarded the Township of West Milford a grant with an amount of \$12,000 budgeted for topographic and property boundary surveys entitled "Section 319h NPS Pollution Control and Management Implementation Grant: Initiate Stormwater Implementation Projects for Greenwood Lake"; and

**WHEREAS**, these grant funds are to be used to initiate stormwater implementation projects to reduce the phosphorus load entering Greenwood Lake; and

**WHEREAS**, the West Milford Township governing body adopted Resolution 2008-086 on February 13, 2008 for surveying services from Arthur J. Schappell, Jr. in the amount of \$8,500; and

**WHEREAS**, Arthur J. Schappell, Jr. has completed the work associated with Resolution 2008-086 and Princeton Hydro has recommended that additional surveying services are necessary; and

**WHEREAS**, Robert Sparkes, GIS Specialist/Grant Administrator has recommended that Arthur J. Schappell, Jr. be retained again to perform this work in accordance with the Princeton Hydro's recommendation; and

**WHEREAS**, the Local Public Contracts Law (N.J.S.A. 40A:11-1, et. seq.) requires that the Resolution authorizing the award of contracts for Professional Services without competitive bids and the contract itself must be available for public inspection; and

**WHEREAS**, Arthur J. Schappell, Jr. has submitted a Business Entity Disclosure Certification which certifies that their firm has not made any reportable contributions to a political or candidate committee in the Township of West Milford with the elected officials in the previous one year, and that the contract will prohibit Arthur J. Schappell, Jr. from making any reportable contributions through the term of the contract, and

**WHEREAS**, the Chief Financial Officer has certified as to the availability of funds said funds to be encumbered from account # G-02-41-755-755; and

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Township of West Milford, County of Passaic and State of New Jersey as follows:

1. The Township of West Milford hereby awards and authorizes the Mayor and Township Clerk to execute an agreement with Arthur J. Schappell, Jr., to perform all required topographic and property boundary surveys In connection with the Greenwood Lake Stormwater Implementation Projects in accordance with their proposal for same in an amount not to exceed \$3,500.00.
2. This contract is awarded without competitive bidding in accordance with the provisions of the Local Public Contracts Law.
3. The total fee authorized for this contract shall not exceed \$3,500.00 without the prior written approval of the Township Council.
4. Notice of this action shall be published once in the Township's official newspaper as required by law.

Adopted: August 6, 2008

Agenda No. VII 8  
~ Resolution 2008-292 ~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE SUBMITTAL AND ACCEPTANCE OF A COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)**

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

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**WHEREAS**, the County of Passaic has made \$691,500 available to the nine communities of the County and to eligible non-profit agencies under the Community Development Block Grant (CDBG); and

**WHEREAS**, the Township Council of the Township of West Milford has determined that there is a need for these grant funds in order to construct the Marshall Hill Road sidewalk.

**NOW, THEREFORE, BE IT RESOLVED** that the Township Council of the Township of West Milford hereby authorizes the submittal of a grant application entitled Community Development Block Grant (CDBG) for \$431,225 with a Township contribution of \$100,000 for the construction of the Marshall Hill Road sidewalk.

**BE IT FURTHER RESOLVED** that the Mayor or the Township Administrator be authorized and directed to approve the acceptance of said grant should it be awarded.

Adopted: August 6, 2008

Agenda No. VII 9  
~ Resolution 2008-293 ~

**A RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY TO AUTHORIZE THE DISPOSAL OF MUNICIPAL PROPERTY NO LONGER NEEDED BY THE TOWNSHIP**

**WHEREAS**, the Township of West Milford has obsolete equipment that is of no value to the Township in storage at the Johner building; and

**WHEREAS**, a list of such equipment has been compiled and is on file in the Township Clerk's Office; and

**WHEREAS**, pursuant to N.J.S.A. 40A:11-36, the governing body may auction of its personal property not needed for public use.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Township Council of the Township of West Milford, County of Passaic, State of New Jersey that the Administration is hereby authorized to set a date, time and place together with a description of the items to be sold. A list of such items are on file in the Township Clerk's Office.

**BE IT FURTHER RESOLVED**, that such items are of no value to the Township and are not needed for any further public use and the Administration estimates that the fair market value, which includes the offset of the costs to continue the storage and maintenance of such equipment, is of no value to the Township.

**BE IT FURTHER RESOLVED**, that if any of such equipment is not sold at a public sale, then the Administration is authorized to dispose of same.

Adopted: August 6, 2008

Agenda No. VII 10  
~ Resolution 2008-302 ~

**Resolution of the Township of West Milford, county of passaic, state of new jersey to Execute an Rededication of a Recreation Trust Account (T-15-56-850-711) Sub-Titled "Farrell Field Tree Planting" to a Capital Trust Account (C-04-55-900-623) Sub-Titled "Streetscaping"**

**WHEREAS**, authorization is requested of the Township of West Milford Council to rededicate a recreation trust account sub-titled "Farrell Field Tree Planting" to the capital trust account sub titled "Streetscaping", and;

**WHEREAS**, N.J.S.A. 40A: 4-39 that the Director of Local Government Services has previously approved expenditures of monies by dedication by rider for the Recreation Trust,

**NOW THEREFORE BE IT RESOLVED**, by the Township of West Milford, County of Passaic, State of New Jersey, that all amounts in the aforementioned trust sub account captioned "Farrell Filed Tree Planting" will be rededicated to a capital trust sub account captioned "Streetscaping" and certain expenditures relating to the forthcoming Township of West Milford "Streetscaping " project shall be charged to the rededicated capital trust sub account.

Adopted: August 6, 2008

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Moved: Weisbecker Seconded: Scangarello  
 Voted Aye: Weisbecker, Smolinski, Schimmenti, Lichtenberg, Scangarello.  
 Voted Nay: None.  
 Motion carried.

Agenda No. VII 11  
 ~ Resolution 2008-303 ~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING THE RENEWAL OF PLENARY RETAIL CONSUMPTION LICENSES FOR THE 2008 - 2009 LICENSE YEAR WITH CONDITIONS**

**WHEREAS**, applications for renewal of Plenary Retail Consumption Licenses for the 2008 - 2009 License year have been received and reviewed; and

**WHEREAS**, the Mayor and Township Council has conducted a public review of the applications as stipulated in the guidelines of the Director of the Division of Alcoholic Beverage Control dated April 14, 1980; and

**WHEREAS**, as a result of that review the Township Council has determined as follows:

1. The submitted application is complete in all respects.
2. The applicant is qualified to be licensed according to all statutory, regulatory and local governmental A.B.C. laws and regulations.
3. The applicant has disclosed to the issuing authority the source of all additional financing obtained in the previous license year (July 1, 2007 - June 30, 2008).

**WHEREAS**, The Township Council was advised by the Police Department of investigation on this license; and

**WHEREAS**, the Police Department has recommended that the licenses be renewed to the current owners with conditions as noted below.

**NOW, THEREFORE, BE IT RESOLVED** that the Township Clerk is directed to issue and deliver the license certificate for the Mayor and Township Council of the Township of West Milford with conditions as follows:

LICENSE/LICENSEE/T/A	CONDITIONS
<b>BEARFORT PLAZA INC.</b> t/a Valley View Pub 1612 Union Valley Road West Milford, NJ 07480 1615-33-007-003	1. The room in the basement to be used for storage only. 2. No alcoholic beverages shall be located behind the dry bar in the basement room. 3. Tables and chairs shall not be set up in the basement room.
<b>LA ROCCA INC.</b> t/a 23 Grill 3219 Rt. 23 Oak Ridge, NJ 07438 1615-33-034-006	1. Premise must be inspected and approved after renovations are complete.

Adopted: August 6, 2008

Moved: Weisbecker Seconded: Scangarello  
 Voted Aye: Weisbecker, Smolinski, Schimmenti, Lichtenberg, Scangarello.  
 Voted Nay: None.  
 Motion carried.

Mayor Bieri asked for Council consent to move resolutions 304 through 307 as one group. Councilman Weisbecker made a motion seconded by Councilman Scangarello to move all the resolutions as one from 304 through 307.

Agenda No. VII 12  
 ~ Resolution 2008-304 ~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE AWARD OF A PROFESSIONAL SERVICES CONTRACT WITHOUT COMPETITIVE BIDDING TO DYKSTRA ASSOCIATES, INC. FOR THE PERFORMANCE OF SURVEY WORK ASSOCIATED WITH THE GALLMANN PROPERTY IN AN AMOUNT NOT TO EXCEED \$8,500.00**

**WHEREAS**, with the creation of a dedicated source of tax revenue ("Open Space Trust Fund") for the acquisition of open space, the Township has worked hard in attempting to obtain various parcels of land throughout the Township for open space purposes; and

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**WHEREAS**, as a result, the Township recently authorized the purchase of certain parcel of land for open space, designated as Block 5301, Lots 34 and 38 (Gallmann property); and

**WHEREAS**, with this potential acquisition, there is a need for professional survey work to be performed at the property; and

**WHEREAS**, the Township wishes to retain Dykstra Associates, Inc. for the purpose of assisting the Township in its potential acquisition with the performance of survey work as outlined in its proposal dated August 4, 2008 associated with the property designated as Block 5301, Lots 34 and 38 (Gallmann property); and

**WHEREAS**, the total amount of the contract shall not exceed \$8,500.00; and

**WHEREAS**, funds are available for this purpose; and

**WHEREAS**, Dykstra Associates, Inc. has completed and submitted both a Political Contribution Disclosure Form and a Business Entity Disclosure Certification which certifies that the firm has not made any reportable contributions to a political or candidate committee in the Township of West Milford with the elected officials in the previous one year, and that the contract will prohibit Dykstra Associates, Inc. from making any reportable contributions through the term of the contract, and

**WHEREAS**, the Local Public Contracts Law (N.J.S.A. 40A:11-1, et seq.) requires that the resolution authorizing the award of contracts for "professional services" without competitive bid and the contract itself must be made available for public inspection.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Township of West Milford, County of Passaic and State of New Jersey as follows:

1. The Township of West Milford hereby awards and authorizes the Mayor and Township Clerk to execute an agreement with Dykstra Associates, Inc. with offices located at 11 Lawrence Road, Newton, NJ, to assist the Township with the performance of survey work for the property designated as Block 5301, Lots 34 and 38 (Gallmann property), in an amount not to exceed \$8,500.00, and in accordance with its proposal dated August 4, 2008 attached hereto.
2. This contract is awarded without competitive bidding as the work being performed is considered a professional service as defined in the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.
3. The total fee authorized for this contract shall not exceed \$8,500.00 without the prior written approval of the Township Council.
4. The Political Contribution Disclosure Form, Business Disclosure Entity Certification and the Determination of Value shall be placed on file with this resolution.
5. Notice of this action shall be published once in the Township's official newspaper as required by law.
6. A copy of this resolution shall be provided to Arthur Magnotti, Treasurer, and Dykstra Associates, Inc., P.O. Box 1047, Sparta, NJ 07871, for their information and guidance.

Adopted: August 6, 2008

Discussion: Township Attorney Semrau apologized that this Ordinance was not in the Council packets on Friday. The Council has authorized the purchase of the Gallman Tract and the Random Woods property. He reviewed the need for these resolutions and outlined the process.

Agenda No. VII 13  
~ Resolution 2008-305 ~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE AWARD OF A PROFESSIONAL SERVICES CONTRACT WITHOUT COMPETITIVE BIDDING TO DYKSTRA ASSOCIATES, INC. FOR THE PERFORMANCE OF SURVEY WORK ASSOCIATED WITH THE RANDOM WOODS PROPERTY IN AN AMOUNT NOT TO EXCEED \$10,845.00**

**WHEREAS**, with the creation of a dedicated source of tax revenue ("Open Space Trust Fund") for the acquisition of open space, the Township has worked hard in attempting to obtain various parcels of land throughout the Township for open space purposes; and

**WHEREAS**, as a result, the Township recently authorized the purchase of certain parcel of land for open space, designated as Block 8001, Lot 1 (Random Woods property); and

**WHEREAS**, with this potential acquisition, there is a need for professional survey work to be performed at the property; and

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

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**WHEREAS**, the Township wishes to retain Dykstra Associates, Inc. for the purpose of assisting the Township in its potential acquisition with the performance of survey work as outlined in its proposal dated August 4, 2008 associated with the property designated as Block 8001, Lot 1 (Random Wood property); and

**WHEREAS**, the total amount of the contract shall not exceed \$10,845.00; and

**WHEREAS**, funds are available for this purpose; and

**WHEREAS**, pursuant to the Local Public Contracts Law, specifically, N.J.S.A. 40A:11-3, when the cost or price of any contract awarded by the contracting agent in the aggregate does not exceed in a contract year the total sum of \$17,500, the contract may be awarded by the contracting unit without public advertising for bids; and

**WHEREAS**, Dykstra Associates, Inc. has completed and submitted both a Political Contribution Disclosure Form and a Business Entity Disclosure Certification which certifies that the firm has not made any reportable contributions to a political or candidate committee in the Township of West Milford with the elected officials in the previous one year, and that the contract will prohibit Dykstra Associates, Inc. from making any reportable contributions through the term of the contract, and

**WHEREAS**, the Local Public Contracts Law (N.J.S.A. 40A:11-1, et seq.) requires that the resolution authorizing the award of contracts for "professional services" without competitive bid and the contract itself must be made available for public inspection.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Township of West Milford, County of Passaic and State of New Jersey as follows:

1. The Township of West Milford hereby awards and authorizes the Mayor and Township Clerk to execute an agreement with Dykstra Associates, Inc. with offices located at 11 Lawrence Road, Newton, NJ, to assist the Township with the performance of survey work for the property designated as Block 8001, Lot 1 (Random Wood property), in an amount not to exceed \$10,485.00, and in accordance with its proposal dated August 4, 2008 attached hereto.
2. This contract is awarded without competitive bidding as the work being performed is considered a professional service as defined in the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.
3. The total fee authorized for this contract shall not exceed \$10,485.00 without the prior written approval of the Township Council.
4. The Political Contribution Disclosure Form, Business Disclosure Entity Certification and the Determination of Value shall be placed on file with this resolution.
5. Notice of this action shall be published once in the Township's official newspaper as required by law.
6. A copy of this resolution shall be provided to Arthur Magnotti, Treasurer, and Dykstra Associates, Inc., P.O. Box 1047, Sparta, NJ 07871, for their information and guidance.

Adopted: August 6, 2008

Agenda No. VII 14  
~ Resolution 2008-306~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE AWARD OF A PROFESSIONAL SERVICES CONTRACT WITHOUT COMPETITIVE BIDDING TO PK ENVIRONMENTAL FOR THE WORK ASSOCIATED WITH AND THE PREPARATION OF A PHASE 1 ENVIRONMENTAL SITE ASSESSMENT/PRELIMINARY ASSESSMENT REPORT ASSOCIATED WITH THE RANDOM WOODS PROPERTY IN AN AMOUNT NOT TO EXCEED \$3,500.00**

**WHEREAS**, with the creation of a dedicated source of tax revenue ("Open Space Trust Fund") for the acquisition of open space, the Township has worked hard in attempting to obtain various parcels of land throughout the Township for open space purposes; and

**WHEREAS**, as a result, the Township recently authorized the purchase of certain parcel of land for open space, designated as Block 8001, Lot 1 (Random Woods property); and

**WHEREAS**, with this potential acquisition, there is a need for a Phase 1 Environmental Site Assessment (ESA)/Preliminary Assessment (PAR) Report in accordance with NJDEP Green Acres requirements; and

**WHEREAS**, the Township wishes to retain PK Environmental for the purpose of assisting the Township in its potential acquisition with the performance of work and preparation of a Phase 1 Environmental Site Assessment (ESA)/Preliminary Assessment (PAR) Report as outlined in its proposal dated July 31, 2008 associated with the property designated as Block 8001, Lot 1 (Random Wood property); and

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

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**WHEREAS**, the total amount of the contract shall not exceed \$3,500.00; and

**WHEREAS**, funds are available for this purpose; and

**WHEREAS**, pursuant to the Local Public Contracts Law, specifically, N.J.S.A. 40A:11-3, when the cost or price of any contract awarded by the contracting agent in the aggregate does not exceed in a contract year the total sum of \$17,500, the contract may be awarded by the contracting unit without public advertising for bids; and

**WHEREAS**, PK Environmental has completed and submitted both a Political Contribution Disclosure Form and a Business Entity Disclosure Certification which certifies that the firm has not made any reportable contributions to a political or candidate committee in the Township of West Milford with the elected officials in the previous one year, and that the contract will prohibit PK Environmental from making any reportable contributions through the term of the contract, and

**WHEREAS**, the Local Public Contracts Law (N.J.S.A. 40A:11-1, et seq.) requires that the resolution authorizing the award of contracts for "professional services" without competitive bid and the contract itself must be made available for public inspection.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Township of West Milford, County of Passaic and State of New Jersey as follows:

1. The Township of West Milford hereby awards and authorizes the Mayor and Township Clerk to execute an agreement with PK Environmental with offices located at 205 Main Street, P.O. Box 1066, Chatham, New Jersey, 07928, to assist the Township with the performance of work and preparation of a Phase 1 Environmental Site Assessment (ESA)/Preliminary Assessment (PAR) Report for the property designated as Block 8001, Lot 1 (Random Wood property), in an amount not to exceed \$3,500.00, and in accordance with its proposal dated July 31, 2008, attached hereto.
2. This contract is awarded without competitive bidding as the total price of the contract shall not exceed the \$17,500 bid threshold in accordance with the provisions of the Local Public Contracts Law, specifically N.J.S.A. 40A:11-3.
3. The total fee authorized for this contract shall not exceed \$3,500.00 without the prior written approval of the Township Council.
4. The Political Contribution Disclosure Form, Business Disclosure Entity Certification and
5. the Determination of Value shall be placed on file with this resolution.
6. Notice of this action shall be published once in the Township's official newspaper as required by law.
7. A copy of this resolution shall be provided to Arthur Magnotti, Treasurer, and PK Environmental, 205 Main Street, P.O. Box 1066, Chatham, New Jersey, 07928, for their information and guidance.

Adopted: August 6, 2008

Agenda No. VII 15  
~ Resolution 2008 - 307 ~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE AWARD OF A PROFESSIONAL SERVICES CONTRACT WITHOUT COMPETITIVE BIDDING TO PK ENVIRONMENTAL FOR THE WORK ASSOCIATED WITH AND THE PREPARATION OF A PHASE 1 ENVIRONMENTAL SITE ASSESSMENT/PRELIMINARY ASSESSMENT REPORT ASSOCIATED WITH THE GALLMANN PROPERTY IN AN AMOUNT NOT TO EXCEED \$3,500.00**

**WHEREAS**, with the creation of a dedicated source of tax revenue ("Open Space Trust Fund") for the acquisition of open space, the Township has worked hard in attempting to obtain various parcels of land throughout the Township for open space purposes; and

**WHEREAS**, as a result, the Township recently authorized the purchase of certain parcel of land for open space, designated as Block 5301, Lots 34 and 38 (Gallmann property); and

**WHEREAS**, with this potential acquisition, there is a need for a Phase 1 Environmental Site Assessment (ESA)/Preliminary Assessment (PAR) Report in accordance with NJDEP Green Acres requirements; and

**WHEREAS**, the Township wishes to retain PK Environmental for the purpose of assisting the Township in its potential acquisition with the performance of work and preparation of a Phase 1 Environmental Site Assessment (ESA)/Preliminary Assessment (PAR) Report as outlined in its proposal dated August 4, 2008 associated with the property designated as Block 5301, Lots 34 and 38 (Gallmann property); and

**WHEREAS**, the total amount of the contract shall not exceed \$3,500.00; and

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

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**WHEREAS**, funds are available for this purpose; and

**WHEREAS**, pursuant to the Local Public Contracts Law, specifically, N.J.S.A. 40A:11-3, when the cost or price of any contract awarded by the contracting agent in the aggregate does not exceed in a contract year the total sum of \$17,500, the contract may be awarded by the contracting unit without public advertising for bids; and

**WHEREAS**, PK Environmental has completed and submitted both a Political Contribution Disclosure Form and a Business Entity Disclosure Certification which certifies that the firm has not made any reportable contributions to a political or candidate committee in the Township of West Milford with the elected officials in the previous one year, and that the contract will prohibit PK Environmental from making any reportable contributions through the term of the contract, and

**WHEREAS**, the Local Public Contracts Law (N.J.S.A. 40A:11-1, et seq.) requires that the resolution authorizing the award of contracts for "professional services" without competitive bid and the contract itself must be made available for public inspection.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Township of West Milford, County of Passaic and State of New Jersey as follows:

1. The Township of West Milford hereby awards and authorizes the Mayor and Township Clerk to execute an agreement with PK Environmental with offices located at 205 Main Street, P.O. Box 1066, Chatham, New Jersey, 07928, to assist the Township with the performance of work and preparation of a Phase 1 Environmental Site Assessment (ESA)/Preliminary Assessment (PAR) Report for the property designated as Block 5301, Lots 34 and 38 (Gallmann property), in an amount not to exceed \$3,500.00, and in accordance with its proposal dated August 4, 2008, attached hereto.
2. This contract is awarded without competitive bidding as the total price of the contract shall not exceed the \$17,500 bid threshold in accordance with the provisions of the Local Public Contracts Law, specifically N.J.S.A. 40A:11-3.
3. The total fee authorized for this contract shall not exceed \$3,500.00 without the prior written approval of the Township Council.
4. The Political Contribution Disclosure Form, Business Disclosure Entity Certification and the Determination of Value shall be placed on file with this resolution.
5. Notice of this action shall be published once in the Township's official newspaper as required by law.
6. A copy of this resolution shall be provided to Arthur Magnotti, Treasurer, and PK Environmental, 205 Main Street, P.O. Box 1066, Chatham, New Jersey, 07928, for their information and guidance.

Adopted: August 6, 2008

Moved: Weisbecker Seconded: Scangarello  
 Voted Aye: Weisbecker, Smolinski, Schimmenti, Lichtenberg, Scangarello.  
 Voted Nay: None.  
 Motion carried.

Agenda No. VII 16  
 ~ Ordinance 2008 – 043 ~

**AN ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY CONCERNING SALARIES AND COMPENSATION FOR ADMINISTRATIVE, CONFIDENTIAL AND UNAFFILIATED EMPLOYEES**

**BE IT ORDAINED**, by the Township Council of the Township of West Milford, in the County of Passaic, New Jersey that pursuant to Chapter 33 entitled Personnel of the Revised General Ordinances of the Township of West Milford, New Jersey, 2007, the following Officers and Employees here below stated shall be classified by job title with the corresponding pay ranges;

JOB TITLE	MINIMUM	MAXIMUM
<b>Department and Office Heads</b>		
Land Use Administrator	\$50,000	\$80,000

1. The aforelisted Officers and Employees shall be compensated in accordance with the preceding Salary Range.
2. **BENEFITS:** Benefits relating to vacation, sick days, personal days, longevity, holidays, bereavement leave and medical insurance shall be those as contained in the contract between the West Milford

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

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Municipal Employees Guild and the Township of West Milford and any employment agreement consistent with applicable law.

3. **OVERTIME:** If not otherwise eligible for overtime compensation by contract or law, each full-time department and division head, in lieu of overtime compensation as provided in the Guild contract, shall receive three (3) vacation days and up to 35 compensatory hours annually, the latter earned hour for hour for hours worked above forty per week. All other full-time employees listed in this ordinance if not otherwise eligible for overtime compensation by contract or law, shall receive 21 compensatory hours annually, plus one half hour for each hour worked above thirty-five or forty hours per week depending on the applicable contract for the employee's department. Vacation and compensatory time may be used or accumulated as follows: vacation days may be carried for up to one year from January 1 following the year earned, and compensatory hours may be taken no later than April 1 of the year following the year earned.
4. This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.
5. Any ordinance or parts thereof in conflict or inconsistent with the provisions of this ordinance are hereby repealed to such extent as they are in conflict or inconsistent.

INTRODUCED: August 3, 2008

Mayor Bieri announced this Ordinance was being introduced tonight. Second reading and public hearing for this ordinance is set for the Workshop Meeting scheduled for August 20, 2008. Notice of this public hearing shall be published in the Herald News on or about August 10, 2008.

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Moved: Weisbecker Seconded: Scangarello  
Voted Aye: Weisbecker, Smolinski, Schimmenti, Lichtenberg, Scangarello.  
Voted Nay: None.  
Motion carried.

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Agenda No. VIII

**Consent Agenda**

The following resolutions were included in the consent agenda.

~ Resolution 2008-294 ~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC,  
STATE OF NEW JERSEY AUTHORIZING PASSAGE OF CONSENT AGENDA**

**WHEREAS**, the Mayor and Township Council of the Township of West Milford has reviewed the Consent Agenda consisting of various proposed Resolutions and Applications; and

**NOW, THEREFORE, BE IT RESOLVED**, that the following Resolutions and Applications on the Consent Agenda are hereby approved:

**Resolutions:**

- a. **Resolution 2008-294** - Refund Of A Raffle License Fee
- b. **Resolution 2008-295** - Refund Of Other Liens
- c. **Resolution 2008-296** - Refund Of Performance Guarantee
- d. **Resolution 2008-297** - Refund Of Recreation Fees
- e. **Resolution 2008-298** - Authorizing a Canvasser License for New Jersey Environmental Federation

**Applications:**

- (a) **Application to Extend Licensed** Premise – Big John's Pub – Labor Day BBQ Sept. 1, 2008 (Rain Date Sept. 2) (with conditions)
- (b) **Application for Special Permit for Social Affair** – Association for Special Children and Families, Inc. for October 25, 2008
- (c) **Application to Amend Raffle License No. RL 2008-28** – from Off Premise 50/50 to On Premise 50/50 Raffle License by the West Milford Midget Football Association.
- (d) **Application for On Premise 50/50 Raffle License** – Association for Special Children and Families, Inc. for September 20, 2008
- (e) **Application for On Premise 50/50 Raffle License** – Association for Special Children and Families, Inc. for October 25, 2008

Adopted: August 6, 2008

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Moved: Weisbecker Seconded: Lichtenberg  
Voted Aye: Weisbecker, Smolinski, Schimmenti, Lichtenberg, Scangarello.

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

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Voted Nay: None.  
 Motion carried.

Agenda No. VIII a.  
 ~ Resolution 2008-295 ~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING REFUND OF A RAFFLE LICENSE FEE**

**BE IT RESOLVED**, by the Township Council of the Township of West Milford that, upon the report and request of the Township Clerk's Office, the following Raffle License fee be refunded:

<u>Name &amp; Address</u>	<u>License No.</u>	<u>Amount Refunded</u>
West Milford Midget Football Assoc. P.O. Box 481 West Milford, NJ 07480	RL 2008-28	\$ 120.00

Adopted: August 6, 2008

Agenda No. VIII b.  
 ~ Resolution 2008-296 ~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING REFUND OF OTHER LIENS**

**WHEREAS**, the Collector of Taxes has reported receiving the amounts shown below for the redemption of the respective lien.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the Township of West Milford that the proper officers be and are hereby authorized and directed to pay the indicated amount to the holder of the lien certificate as hereinafter shown below:

Certificate No.	Certificate Date	Block/Lot/Qual	Reimbursement Amt	Pay to the Lien Holder
05-104		13704-006	\$58,449.37	MICHAEL MASTELLONE PO BOX 109 CEDAR KNOLLS, NJ 07927
07-035	04/03/2007	03602-001	\$7,746.69	AMERICAN TAX FUNDING; LLC PO BOX 862658 ORLANDO, FL 32886-2658
08-006	04/08/2008	00601-008	\$15,236.60	AMERICAN TAX FUNDING LLC PO BOX 862658 ORLANDO, FL 32886-2658
08-023	04/08/2008	01811-016	\$22,461.27	CRUSADER LIEN SERVICES 179 WASHINGTON LANE JENKINTOWN, PA 19046
08-049	04/08/2008	04107-007	\$1,826.75	PAM INVESTORS C/O PATRICK CARABELLESE 127 SOUTH WASHINGTON AVE BERGENFIELD, NJ 07621
08-054	04/08/2008	05005-007	\$125,208.01	USBANK-CUST/SASS MUNI V DTR 2 LIBERTY PLACE 50 SOUTH 16 <sup>TH</sup> ST. STE 1950 PHILADELPHIA, PA 19102
08-064	04/08/2008	06201-015	\$1,383.64	AMERICAN TAX FUNDING LLC PO BOX 862658 ORLANDO, FL 32886-2658
08-073	04/08/2008	07801-033.01	\$2,957.64	PAM INVESTORS C/O PATRICK CARABELLESE 127 SOUTH WASHINGTON AVE BERGENFIELD, NJ 07621
08-075	04/08/2008	07801-049.08	\$1,501.67	AMERICAN TAX FUNDING LLC PO BOX 862658 ORLANDO, FL 32886-2658
08-080	04/08/2008	09706-013	\$1,635.69	JN PROPERTIES ASSOCIATES 175 MARKET STREET #301 PATERSON, NJ 07505
08-081	04/08/2008	09711-011	\$20,268.10	EDISON TAX SERVICE LLC 1350 LIBERTY AVE HILLSIDE, NJ 07202
		<b>Grand Total</b>	<b>\$258,675.43</b>	

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

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Adopted: August 8, 2008

Agenda No. VIII c.  
 ~ Resolution 2008-297 ~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING REFUND OF PERFORMANCE GUARANTEES**

**BE IT RESOLVED**, by the Township Council of the Township of West Milford that, upon the report and request of the Township's Engineering Department, the following Performance Guarantees be refunded:

<u>Name &amp; Address</u>	<u>Block &amp; Lot</u>	<u>Amount Refunded</u>	<u>Pg. No.</u>
Araldo F. Luccioni 707 East Shore Road Hewitt, NJ 07421	4301/14	\$1,150.00	77

Adopted: August 6, 2008

Agenda No. VIII d.  
 ~ Resolution 2008-298 ~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING REFUND OF RECREATION FEES**

**BE IT RESOLVED**, that the following Recreational fees upon the report of the Director of Community Services and Recreation be refunded:

<b>Name &amp; Address</b>	<b>Reason</b>	<b>Amount Refunded</b>
Inga Koeppe 55 Van Orden Road Newfoundland, NJ 07435	Refund for withdrawal of enrollment in Bubbling Springs Swim Lessons	\$35.00
Kathy Clark 34 Riskey Road Hewitt, NJ 07421	Refund for cancellation of enrollment of Standing Ovation Theater Camp	\$125.00
Dara Treptow 54 Aspen Lane West Milford, NJ 07480	Refund of enrollment in Bubbling Sports Squirts Camp	\$80.00
Patricia Keller 1 Lancaster Lane West Milford, NJ 07480	Refund for withdrawal of enrollment in Bubbling Springs Swim Lessons	\$90.00
Lori Ryan 9 Chris Terrace Ringwood, NJ 07456	Refund for cancellation of Summer Golf Camp	\$125.00
Kate Burns 45 Dogwood Lane Hewitt, NJ 07421	Refund for cancellation of Summer Golf Camp	\$115.00
Lori-Ann Donahoe 43 Brush Hill Road Kinnelon, NJ 07405	Refund for cancellation of Summer Golf Camp	\$125.00
Elizabeth Zdanowski 751 Westbrook Road West Milford, NJ 07480	Refund of overpayment of enrollment in Ponyshare Camp	\$30.00

Adopted: August 6, 2008

Agenda No. VIII e.  
 ~ Resolution 2008-299 ~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY APPROVING THE ISSUANCE OF A CANVASSER LICENSE NO. 1 FOR LICENSE YEAR 2008**

**WHEREAS**, application has been made by Eric Benson of the New Jersey Chapter of Clean Water Action a subsidiary of New Jersey Environmental for a Canvasser License for the year 2008; and

**WHEREAS**, the purpose of the current campaign is to protect our waterways and drinking water supplies from toxins, ensure that citizens know what is in their water, reduce pesticide use, and to elect "green" candidates through door-to-door education and fundraising to disseminate information and gain citizen support; and

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**WHEREAS**, a report of recommendation with conditions dated July 28, 2008 has been received from West Milford Police Chief Paul Costello;

**NOW, THEREFORE, BE IT RESOLVED** that the Township Council of the Township of West Milford does hereby approve the issuance of a Canvasser License for 2008 as listed below:

Canvasser License No.	Applicant Name	Address
2008 – 01 With Conditions	New Jersey Environmental Federation	Eric Benson, Canvass Director 559 Bloomfield Avenue Montclair, New Jersey 07042 973-744-3005

Adopted: August 6, 2008

Agenda No. IX

**Approval of Expenditures**

~ Resolution 2008-300 ~  
**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:

Acct #	Account Name	Amount
1	Current Account. . . . .	\$386,832.19
2	Reserve Account . . . . .	
3	Animal Control Trust	665.50
6	Capital. . . . .	152,855.43
7	Grants. . . . .	6,211.24
8	Refuse. . . . .	116,228.67
9	Refunds. . . . .	259,160.43
12	General Ledger. . . . .	5,105,542.31
16	Heritage Trust. . . . .	150.00
14	Open Space Trust	
17	Trust . . . . .	7,522.00
18	Development Escrow. . . . .	5,379.00
19	LOSAP	
20	Special Reserve	
	Total	\$6,040,546.77
	Less Refund Resolution	(259,160.43)
	<b>Actual Bill List</b>	<b>\$5,781,386.34</b>
	Other Payments	
	Less Refund Resolution	
	<b>Total Expenditures</b>	<b>\$5,781,386.34</b>

Moved: Weisbecker Seconded: Scangarello  
 Voted Aye: Weisbecker, Smolinski, Schimmenti, Lichtenberg, Scangarello.  
 Voted Nay: None.  
 Motion carried.

Discussion: Councilwoman Lichtenberg asked when the cutoff was put in place for the Wallisch Estates. Councilman Schimmenti asked regarding dumpster rental if the local providers had been check with. Interim Administrator conveyed that Township officials had been asked to contact those companies.

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

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Councilman Weisbecker reviewed the tax payments to Passaic County. Mayor Bieri clarified that the County costs approximately 20% of the tax bill.

Agenda No. X

**Reports of Administrator, Mayor and Council Members**

Councilman Scangarello – asked about protective housing for the generator at Hillcrest. Interim Administrator explained that an Eagle Scout had been contact with the proposal to research what materials would be needed and the costs for same. Councilman Scangarello reminded everyone about the fundraiser for Alexander Petrowski and explained that family's situation. He said that tickets are available for \$35.00 The Apshawa wet down is Saturday, August 9. He asked for support from 4-8pm. Fire Company 3 received a donated truck in 2003 from Hohokus, NJ. It is a 1963 MAC. At the time, it had to be titled in the Towns name. He asked for a motion for a title transfer. Councilman Weisbecker moved it and Councilwoman Lichtenberg seconded. Township Attorney Semrau asked for a Resolution for the next meeting. Councilman Weisbecker withdrew the motion and second.

Councilman Weisbecker – commented regarding the Greenwood Lake user fee and a memo from Mr. Zarillo. He asked that the Council discuss this at the September 10, 2008 workshop meeting. He asked that they invite Assembly people and involved parties. Mayor Bieri stated that she had spoken to Interim Administrator Battaglia regarding that this be placed on the 8/20 workshop meeting because they need the Resolution in September. Councilman Weisbecker said that this would be fine and asked again to invite interested parties. He encouraged residents to come out.

Councilman Smolinski – no report

Councilman Schimmenti – spoke regarding the West Milford Midget Football starts on August 29<sup>th</sup> at 6pm. He encouraged support for this league.

Councilwoman Lichtenberg – asked to discuss Bill 2046 regarding the casino revenue fund to be increased. She asked for Council support of that bill. There are many in ground oil tanks in West Milford. She said that people don't think about these tanks leaking until a resident tries to sell the property. She suggested that residents with in ground tanks consider removing them properly. She said that Friday, August 8 is Family Fun Night at Bubbling Springs. August 12 is the Jimmy Buffet Music on the Beach and on the 19<sup>th</sup>, a rain date from a prior concert takes place. Autumn Lights Festival committee is seeking volunteers and the High School Cheerleaders are holding a car wash.

Interim Township Administrator and Clerk Battaglia – announced that the Board of Education will be holding their next meeting on August 26 at 7pm. The Council has accepted their invitation to be present. The Autumn Lights Festival committee has requested a meeting with Council members and she asked that Councilmen Scangarello and Schimmenti attend this meeting. Regarding Magnolia Road, the Township Engineer asked that she approach Council regarding improving the entire length, with assessments, as opposed as a partial improvement as initially thought. She asked for an increase to the Bond Ordinance. Council agreed to this because of the condition of the road. She reminded everyone of the 7pm meeting with Mr. Giacobbe regarding the Police contract on 9/3.

Township Attorney Semrau – spoke regarding the Hollowbrook Estates acquisition. The closing is near and calls for \$360,000. He hopes for these monies to be reimbursed from the State as an Open Space grant within 120 days.

A motion by Councilman Weisbecker and seconded by Councilman Scangarello to begin the September 3, 2008 Regular Council meeting at 7:00 pm was moved. Approved by unanimous roll call.

Mayor Bieri – explained that the Council is likely to take action after Executive Session.

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Moved: Weisbecker Seconded: Scangarello  
Voted Aye: Weisbecker, Smolinski, Schimmenti, Lichtenberg, Scangarello.  
Voted Nay: None.  
Motion carried.

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Township Attorney Fred Semrau - explained that there are pending matters regarding Captain Hardin and that discussion is reserved for Executive Session.

Agenda No. XI

**Appointments and Resignations**

None.

Agenda No. XII

**Executive Session**

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Township Council Regular Meeting
Date of Meeting: August 6, 2008
Time of Meeting: 7:30 P.M.
Minute Page No: Page 33 of 34

~ Resolution 2008 - 301 ~
MOTION FOR EXECUTIVE SESSION

BE IT RESOLVED by the Township Council of the Township of West Milford on the 6th day of August, 2008, that:

- 1. Prior to the conclusion of this Regular 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.
[ ] Potential Property Acquisition: Valley Ridge
( ) 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.
[ ] Potential Litigation: Tax Appeals for 2009
[ ] O'Shea v. Township of West Milford Docket # PAS-L-000825-08
[ ] O'Shea v. Township of West Milford GRC Complaint #2007-237
[ ] Potential Litigation: Dennis San Filippo
(X) b. (8) Personnel matters.
[ ] Personnel: Captain Hardin
( ) 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: August 6, 2008

Moved: Smolinski Seconded: Lichtenberg
Voted Aye: Weisbecker, Smolinski, Schimmenti, Lichtenberg, Scangarello.
Voted Nay: None.
Motion carried.

The Council went into Executive Session at 10:30 p.m.

The Council returned from Executive Session at 11:13 pm and Mayor Bieri returned the meeting to order to move Resolution 2008-308

~ Resolution 2008 - 308 ~
RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AMENDING THE NON-FAIR AND OPEN PROFESSIONAL SERVICE CONTRACT AWARDED TO FRED KNAPP, ESQ., SUCH AMENDMENT TO AUTHORIZE A CHANGE ORDER IN THE AMOUNT TO BE APPROPRIATED FOR LEGAL SERVICES

WHEREAS, the Township of West Milford appointed Fred Knapp, Esq. to represent the Township in pending labor matters that remain outstanding from 2007 and the matter known as O'Shea v. West Milford filed in the Superior Court on December 14, 2007 as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.4 or 20.5 as appropriate; and

WHEREAS, by virtue of resolutions 2008-033, 2008-056 and 2008-129 \$22,500 was appropriated to compensate for these legal services; and

WHEREAS Mr. Knapp's services were subsequently engaged to represent the Township in defense of additional suits and complaints; and

WHEREAS, it is anticipated that an additional \$25,000 will be needed to proceed with these matters; and

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

Minutes of: Township Council Regular Meeting  
Date of Meeting: August 6, 2008  
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**WHEREAS**, the Local Public Contracts Law (N.J.S.A. 40A:11-1, et. seq.) requires that the Resolution authorizing the award of contracts for Professional Services without competitive bids and the contract itself must be available for public inspection; and

**WHEREAS**, the term of a contract for this service is until the completion of the above referenced legal matters; and

**WHEREAS**, the Chief Financial Officer has certified as to the availability of funds pursuant to N.J.A.C. 5:30-5.4, said funds to be encumbered from account number 8-01-20-155-202.

**NOW THEREFORE, BE IT RESOLVED** that the Mayor and Township Council of the Township of West Milford, County of Passaic, State of New Jersey authorizes the Mayor and the Municipal Clerk to amend the contract with Fred Knapp, Esq. of the firm Laufer Knapp, LLC for an amount not to exceed \$47,500.00; and

**BE IT FURTHER RESOLVED** that the contract, resolution and all other pertinent documents shall remain on file in the office of the Township Clerk; and

**BE IT FURTHER RESOLVED** that a notice of this action shall be printed once in the Township's legal newspaper.

Adopted: August 6, 2008

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Moved: Weisbecker Seconded: Scangarello  
Voted Aye: Weisbecker, Smolinski, Schimmenti, Lichtenberg, Scangarello.  
Voted Nay: None.  
Motion carried.

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A motion by Councilman Weisbecker seconded by Councilman Scangarello to file for stay of the GRC decision relating to complaint # 2007-237

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Moved: Weisbecker Seconded: Scangarello  
Voted Aye: Weisbecker, Smolinski, Schimmenti, Lichtenberg, Scangarello.  
Voted Nay: None.  
Motion carried.

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Township Attorney Semrau – explained that the Mayor and Council had filed for an involuntary disability retirement for Captain Hardin and that it was filed. He is not at liberty to discuss this further.

Agenda No. XIII

**Adjournment**

There being no further business to come before the Council, the Township Council adjourned the meeting at 11:15 p.m.

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Moved: Weisbecker Seconded: Scangarello  
Voted Aye: Weisbecker, Smolinski, Schimmenti, Lichtenberg, Scangarello.  
Voted Nay: None.  
Motion carried.

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Approved: October 8, 2008

Respectfully Submitted:  
Judy Manning, Part time Secretary

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MAYOR BETTINA BIERI  
PRESIDING OFFICER

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ANTOINETTE BATTAGLIA  
TOWNSHIP CLERK