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

Minutes of: Township Council Special Meeting  
Date of Meeting: August 26, 2008  
Time of Meeting: 7:00 P.M.  
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Mayor Bieri called this Special Meeting of the West Milford Township Council to order. Meeting was held at the Westbrook School Media Center 55 Nosenzo Pond Road, West Milford, NJ 07480.

**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 special meeting was published in the Herald News on August 17, 2008; copies were provided to the Record, Star Ledger, Suburban Trends 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 Joe Smolinski, Salvatore Schimmenti, Robert Nolan, Marilyn Lichtenberg, Carmelo Scangarello. Mayor Bettina Bieri.  
Absent: Councilman Phillip Weisbecker  
Also Present: Acting Township Administrator and Township Clerk Antoinette Battaglia; Township Attorney Fred Semrau

**Purpose**

Mayor Bieri advised that the purpose of this joint meeting with West Milford Board of Education is to discuss a lease for the Hillcrest School. Councilman Smolinski recused from the Hillcrest portion of the meeting.

Noting that the Board President could not attend tonight, a member from the West Milford Township Board of Education (BOE) opened the meeting. He stated that the Board of Education and the Town Council, with Mayor Bieri had met previously and were meeting this evening to discuss the terms of the proposed one-year lease of Hillcrest School. He deferred to Mayor Bieri asking that all parties stay focused and respectful at all times.

Mayor Bieri stated that at the last meeting the Council listened to public concerns regarding a proposed short-term lease coupled with a financial commitment to capital projects at the facility. At that meeting, the Board of Education expressed concerns regarding the condition of the building and noted that they believed that code violations exist at Hillcrest. She has since confirmed with Township officials that no such violations exist. Hillcrest School has historically received the same level of care as other Township buildings. In an effort to balance the concerns of the public and the Board of Education and in consideration of the fiscal responsibility to the taxpayers, the Council has a proposal which they feel to be fair to all parties.

The Council thanks the Board of Education for offering the Township a one-year lease. Currently, the Township expends \$240,000 annually on maintenance of the Hillcrest facility. After reviewing a list of proposed capital projects from the BOE the Township proposes budgeting an additional \$80,000 for certain capital projects. They are proposing repairing or replacing emergency lighting for exit signs, ensuring exterior doors are fire code compliant, ensuring that the main entrance is ADA compliant and repairing or replacing downspouts throughout the facility. Because of this significant investment, the Council is seeking the option to renew the lease for a second year.

In reply to a query from a member of the BOE, Mayor Bieri provided a breakdown of the annual expenses related to Hillcrest. Township Attorney Semrau listed additional expenditures incurred by the Township in recent years. He reviewed the expenses for new heating and air-conditioning, cleaning supplies and hardware supplies. The Board's attorney asked if the Township had bonded for any of these capital expenditures to which Mr. Semrau indicated that the Township did bond in 2007 and, to the best of his knowledge, there are fourteen years remaining on the bond. Discussion ensued about bid thresholds, the local public contracts law and the Township's policy regarding major expenditures.

Mayor Bieri stated that the one-year proposed lease would commit the Township to continuing its current maintenance programs and adherence to all existing terms and conditions. However, because of the proposed capital expenditures in addition to regular maintenance costs, the Township is requesting an option for a second one-year term. Discussion ensued about the budget process and the timeframes in which the Township can budget for the capital repairs which could potentially cost up to \$80,000. Noting that the capital repairs require time in addition to money, certain BOE members agreed that a two-year lease would be more appropriate than the proposed one year. A member of the BOE stated that, if the Township were to enter into a two-year lease with the BOE for Hillcrest, the terms should include roof repairs and repairs to the parking lots. The BOE asked the

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Council to decide if a two-year lease is preferred. The Council and BOE members agreed that each group should convene separately into executive session to discuss the proposals and continue this discussion when they return to the public portion. Both the BOE and Mayor Bieri read their executive session resolutions and took their respective votes.

**Executive Session**

~ Resolution No. 2008- 316 ~

**MOTION FOR EXECUTIVE SESSION**

**BE IT RESOLVED** by the Township Council of the Township of West Milford on the 26<sup>th</sup> day of August 2008, that:

1. Prior to the conclusion of this **Special 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.
    - Hillcrest lease
  - ( ) 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.
  - ( ) b. (7) Pending or anticipated litigation or contract negotiations other than in subsection b. (4) herein or matters falling within the attorney-client privilege.
  - ( ) b. (8) Personnel matters.
  - ( ) b. (9) Deliberations after a public hearing that may result in penalties.
2. The time when the matter(s) discussed pursuant to Paragraph 1 hereof can be disclosed to the public is as soon as practicable after final resolution of the aforesaid matter(s).

Adopted: August 26, 2008

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

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The Council went into executive session at 7:40 p.m. and reconvened in public at 7:45 p.m. with all present as before.

Mayor Bieri advised that the Council wishes to enter into a one-year lease with an option for a second year. In addition to the current contractual conditions, the Township will expend up to \$80,000 to effectuate specific repairs as outlined earlier. This could ultimately equate to the Township spending \$320,000 in one year on this building and she stated that this is a significant commitment. However, the purpose of this investment would be to afford the Township the ability to research all facility options available and make a determination for the long-term benefit of the entire municipality and all the programs offered to residents. The Council cannot commit to repairing the roof at the facility as that would require extreme efforts that are more suitable to a longer arrangement. She stated that this offer commits the Township to an investment in Hillcrest that is far greater than any commitment being made to municipally-owned facilities. In response to a BOE member, Mayor Bieri stated that all Township buildings are used to provide public services. Other facilities will take the back burner so that \$320,000 can be invested into Hillcrest. A Board member stated that they would like six months notice if the Township intends to vacate the property and the Council said that this would be agreeable. The Board of Education needs to understand and recognize that both parties are on a bare bones budget, struggling to meet the demands of the facilities.

One BOE member stated adamantly that the Township should commit to repairing the roof and that, in his opinion, any lease agreement that extends beyond one-year would require that the roof and

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parking lots be repaired. Another BOE member expressed shock that the Township is seeking to limit the lease to a one-year term. She stated that such a short-term arrangement would barely allow for the commitments to be met and makes no allowance for the potential of a need to negotiate for the future. The BOE members agreed that any lease arrangement that extends beyond one-year will be contingent upon roof and parking lot repairs. Again, both parties agreed that they had a need to convene in executive session and both read their respective resolutions and took their roll call votes.

~ Resolution No. 2008- 318 ~

**MOTION FOR EXECUTIVE SESSION**

**BE IT RESOLVED** by the Township Council of the Township of West Milford on the 26<sup>th</sup> day of August 2008, that:

3. Prior to the conclusion of this **Special 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.
    - Hillcrest lease
  - ( ) 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.
  - ( ) b. (7) Pending or anticipated litigation or contract negotiations other than in subsection b. (4) herein or matters falling within the attorney-client privilege.
  - ( ) b. (8) Personnel matters.
  - ( ) b. (9) Deliberations after a public hearing that may result in penalties.
  
4. 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 26, 2008

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Moved: Nolan Seconded: Scangarello  
Voted Aye: Schimmenti, Nolan, Lichtenberg, Scangarello.  
Voted Nay: None.  
Abstained: Smolinski  
Motion carried.  
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The Council went into executive session at 8:05 p.m. and reconvened in public at 8:14 p.m. with all present as before.

Mayor Bieri advised that, based on the Board's decision to demand roof and parking lot repairs, the Council has agreed not to enter into an agreement that extends beyond one year. The Council will work to address the needs of the community in an expeditious manner.

**Public Comments**

Mayor Bieri opened the meeting to the public.

Don Schweitzer, 4 Richmond Road – spoke on behalf of senior citizens. He is the president of the Golden Age club and on the Senior Advisory Committee. He said that the Council says the same thing each year and it is not fair. He is close to seniors in town. Many have expressed concerns about losing the building as their senior center.

Maryann Vecher, Landing Road, Upper Greenwood Lake – thanked everyone for the opportunity to speak. She asked what the other options are and asked for the truth.

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Suzanne Hart, Woodridge Drive, Oak Ridge – said that she teaches at Hillcrest in the PRIDE group. It is a wonderful situation with youth and seniors in the same building. It is a positive influence. If separated, it would not be advantageous. It would help no one.

Doris Osterhoudt, Ridge Road – said that she knows how upset the seniors would be. She spoke at a recent Council meeting, but words don't mean anything. The time will come when the Council will wish they hadn't done this. She said, "don't deceive anyone." She thought the Council would ask for a three year lease. The Board of Education showed concern to seniors. To people familiar with Hillcrest, this is important. A new situation is rough on seniors. Taxes will go up because it will cost the Township more in the end.

Maryanne Terracino, Richmond Road – agrees with Ms. Osterhoudt. A one year lease is disgusting, \$80,000 is disgusting. With seniors it is very hard. They depend on each other. For handicapped kids, change is difficult. The council needs to walk in those people's shoes. She asked what they will do now. If they continue for another year it will cost more. The Council needs to consider all who come to Hillcrest and why they come there. She is concerned if all services would be available at a new building.

Elizabeth Riggio, Seymour Drive, Lindy Lake – stated that she works with seniors through the nutrition program. She conveyed a story about change and how many seniors cannot cope with changes to their lives and routines. She urged the Council to negotiate a lease with the BOE to keep the programs at Hillcrest.

Ginny Cibenko, Hewitt – said that she has 6 children and works with the Association for Special Children and Families. That organization would be affected by change. She said that she has witnessed Council meetings where no agreement can be reached and now expend the Town is proposing spending an additional \$80,000 to stay at Hillcrest for one year. She feels that March will come quickly and all departments need to be apprised of any change. Hillcrest meshes together nicely. She wants to be certain everything is being executed thoughtfully and judiciously.

Tom Cibenko, Hewitt – said that he is upset to see a senior citizen who had spoken earlier cry. The Council should be ashamed of themselves. The Council has no foresight and is not planning. To dump back on the community is disgraceful. People have not been given a vision. He senses that the Council has no vision. They should consider a three year lease. The focus needs to be on those they serve.

With there being no further comments further from the public, Councilman Nolan made a motion to close the public portion of the meeting.

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

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Mayor Bieri approached the podium to face the public and asked Councilman Scangarello to join her. She advised the public that the Council had formed a facilities assessment committee in April to review all Township facilities to determine the best and most efficient way to provide all services to the community. She stated that the Council is committed to continuing all programs and services that this community has come to rely on and is entitled to. She stated that they are most especially committed to the programs currently offered to our seniors and our youth. The facilities assessment committee has been working very hard and diligently to make educated and sound recommendations to the entire governing body. As yet, they have not fully completed their charge. However, it has become apparent that the Township does have resources that are not being fully utilized and that could potentially meet the needs of all our residents without the on-going uncertainty that has plagued the Township for some time now. The two properties that appear to have the greatest potential right now are the Johner building and Westbrook Park. However, it is premature to say where the programs will be housed. The committee first looked at the Johner building and will be providing the Council with an update very soon. She assured the public that every effort is being made to address all the needs of the community and she urged residents not to fall prey to scare tactics being used by certain factions.

Councilman Scangarello told the attendees at the meeting that he has been working on the facilities assessment committee since it was established in April. He is very proud of this committee and it is comprised of respected and talented people from this community. They have met several times, sometimes twice in one week, to review options available using existing Township facilities to house the recreation department and to continue to provide quality programs and services to our residents. He took exception to statements that the Council does not care about individual segments of this community. He is determined that residents not only continue to receive the services currently offered, but that they get more and better from the municipality. He believes that this can be

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accomplished and he will continue to work on making it happen. He stated that, while he may not be a seasoned orator, he considers himself to be a doer and is committed to making this happen for all our residents. He assured the residents, young and senior, that consideration will be given to all the programs and every possible option will be considered. He conveyed some of his visions for more appropriate ways to provide services in better, improved environments for everyone.

Mayor Bieri and Councilman Scangarello resumed their seats. The BOE stated that they will have their attorney draft an agreement to be submitted to Mr. Semrau for his review. The lease will be for one year from September 1, 2008 through August 31, 2009.

Mayor Bieri stated that the Council had one item of business to attend to before adjourning.

**~ Resolution No. 2008- 317 ~**

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING FRED KNAPP, ESQ. TO FILE A MOTION FOR RECONSIDERATION IN THE MATTER ENTITLED MARTIN O'SHEA v. WEST MILFORD TOWNSHIP, BEARING DOCKET NO. PAS-L-1843-08**

**WHEREAS**, on August 8, 2008, Judge Brogan issued an Order against the Township of West Milford in the matter entitled Martin O'Shea v. Township of West Milford, Superior Court of New Jersey Passaic County Law Division bearing Docket No. PAS-L-1843-08; and

**WHEREAS**, Fred Knapp, Esq., attorney who is representing the Township in this matter, has recommended that the Township file a Motion for Reconsideration, a Notice of Appeal and a Request to Stay on the Court's aforesaid Order.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Township of West Milford, County of Passaic and State of New Jersey that Fred Knapp, Esq. is hereby authorized to file a Motion for Reconsideration, Notice of Appeal and a Motion to Stay Judge Brogan's August 8, 2008 Order with respect to the matter entitled Martin O'Shea v. Township of West Milford, Superior Court of New Jersey Passaic County Law Division bearing Docket No. PAS-L-1843-08.

Adopted: August 26, 2008

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

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Mayor Bieri thanked the BOE for this meeting tonight. The BOE conveyed their appreciation to the Council. They have a regular meeting scheduled for tonight and agreed to take a recess.

**Adjournment**

There being no further business to come before the Council, the Township Council adjourned the meeting at 8:50 p.m.

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

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Approved: November 5, 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