
TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Township Council Workshop
Date of Meeting: October 7, 2009
Time of Meeting: 7:30 p.m.
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Ella Fillipone, Executive Director of the Passaic River Coalition and Member of the Green Committee Supporting the November Ballot Question stated that there will be a question on November's ballot which would dedicate funding to open space. This is an important issue especially in West Milford which is part of the head-waters of the Passaic River basin. The goal of this funding is to protect the watershed and West Milford has received press on their position opposing this question. She stated that West Milford received funding in 2008 to preserve land and she stated that a significant amount of Green Acres funding has been dedicated to land acquisitions in West Milford. She asked the Council how West Milford plans to fund future acquisitions and stated that prior Councils favored providing assets to the community. Green Acres programs are a funding mechanism for such uses. She stated that Random Woods would be a potential candidate for Green Acres funding and West Milford should consider a selfish interest in acquiring this property. The *Keep It Green Committee* who supports the ballot question does so because they are looking for a sustainable source of funds for open space. She stated that she supports a water surcharge but also believes that the ballot question should be approved by the voters.

Mayor Bieri apologized to the Council for not requesting that Ms. Fillipone be recognized earlier in the meeting as a presentation. She asked for Council consideration at this time to view this as a presentation rather than part of public comments and asked if Council has any questions for Ms. Fillipone. Councilman Nolan thanked Ms. Fillipone for being here tonight and stated that the West Milford Council is concerned that the water surcharge that has been discussed for years does not make provisions to set aside funding to come back to watershed communities. Ms. Fillipone replied that West Milford receives payments in lieu of taxes for open space properties on a decreasing sale. These funds offset lost ratables for land purchased by non-profit entities, the State of New Jersey or the County of Passaic. She urged the Council to develop a formula for specific watershed lands so that the Township would receive dedicated funding for such properties as long as the property is a dedicated water supply. She has had such discussions on numerous occasions with East Orange who has similar issues with watershed land. She also encouraged West Milford officials to consider a conservation zone concept which has worked in East Orange. She stated that she serves on the Water Supply Council and these matters and initiatives should be addressed through the Council for incorporation into their master plan. Councilman Nolan stated that the sponsor of the ballot question, Senator Smith, has said that the money in the fund, the \$400 million, will be used only to purchase land. Ms. Fillipone confirmed that to be true for this particular legislation but encouraged the Council to lobby the Water Supply Council for consideration for long-term financial relief.

Ed Harkey, Oak Ridge asked for an update on the fate of the Davenport Bridge. He stated that throughout the years he has unfortunately had many occasions to require emergency room visits. Oak Ridge Road is very dangerous especially at the Davenport intersection. There have been many accidents which cause frequent road closings and closing the bridge will have a negative impact on the ability of emergency vehicles to access residents without this route as an option. He asked the Council to consider possible alternatives to keep this route accessible to emergency vehicles and for emergency purposes only. He stated that the bridge could possibly be limited to one-way traffic, reduced to one-lane, or only available for use to emergency vehicles. He stated that it is often difficult to navigate up the hill on this road when it is snowing and, if one must get out, the bridge is necessary.

Kathleen Caren, West Milford stated that she is here tonight to speak as a resident of the Township. She asked the Council to respectfully reconsider their resolution in opposition to the November ballot question. She stated that open space is often the best use for certain properties and having open space lands increases the surrounding property values. For each dollar in ratables realized from a housing unit, there is a greater cost to provide related services. All development, residential or commercial, creates COAH obligations for the municipality, even senior housing. All ratables, she said, require services. She asked Council to have the Administrator call ANJEC and request that they make a presentation to the Council to explain the advantages of the funding to be allocated if the ballot question is approved by the voters. In her professional role she recognizes that Green Acres and SADC funds are used for historic preservation. The proposed \$4 million bond is beneficial for the entire state and will help fund park development and redevelopment. West Milford, she said, has received a substantial amount of Green Acres funding and Newark has no improvements on their property. It is unfair to seek to tax a piece of property that does not have any improvements. She stated that she has spoken with Ralph Segal from the Garden State Trust Fund who told her that all entities make capital improvements by virtue of borrowing the funding. This is no different. It is estimated that this public question will cost the average household between \$10 to \$12 annually. She stated that Newark pays West Milford \$1.6 million in taxes and Green Acres has assured her that they will not purchase lands on which they have existing easements with these funds.

Michael Ramaglia, Bunker Hill Road, West Milford expressed appreciation that tonight's agenda indicates that the Council will discuss re-establishing an Economic Development Committee. This will benefit the Township. He asked that the Council finalize the Hillcrest lease post haste and if this cannot be done soon consideration should be considered to having this question on the April ballot.

Gary Oppenheimer, 24 Clover Road, West Milford stated that he supports the ballot question. He recalled prior Council discussions about possible zoning changes for energy conservation. He urged the

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Council to postpone such decisions until detailed engineering surveys have been conducted to determine if specific sites can be used for such projects. For example, if wind turbines were to be considered, tree lines must be at least 1,000 away from the wind turbine and there are specific wind speed measurements that are warranted for such uses. The tree clearings would equate to approximately one Shop Rite parking lot around each wind turbine. Experienced professionals should survey proposed sites before any measure is enacted. Mayor Bieri asked Mr. Oppenheimer if he would like to use his remaining time to update Council on Ample Harvest. Mr. Oppenheimer stated that ampleharvest.org evolved from the Sustainable West Milford program and it is intended to get excess produce from the fields and community markets to food banks. The program has gained nationwide approval and support and ANJEC will be recognizing the program by presenting Sustainable West Milford with an award for their work on the Ample Harvest program. He commended Laura Danielson and Laura Slot for their efforts to make this program the success it has become.

Doris Aaronson, 19 Bearfort Road, West Milford stated that she was shocked when at the last meeting at 1:30 a.m., the Council adopted a resolution opposing the ballot question. She urged the Council to retract their resolution because, she said, it conveys a message to Green Acres that West Milford does not want their funding. It is also a fear tactic to imply that Newark will want to sell their land and stop paying taxes to the Township. Newark, she said, will not want to sell their land to the State and thus lose control. Of the \$400 million to be bonded if the ballot question is approved by the voters, \$124 million will be dedicated to farmland preservation, \$203 million will go to Green Acres and the remaining funds will be used for programs. Much of the funding will be used to finance acquisitions already approved by Green Acres. She stated that the Council contends to be pro-environment which appears to be lip service. The Township has a septic ordinance to protect the lakes and we need money to buy Random Woods, Eagle Ridge and Valley Ridge. If Highlands rules become more relaxed, the Township could be subject to development. She questioned what has happened to the pro-environment rhetoric from the Council.

James Warden, 199 Highcrest Drive, West Milford stated that he has been listening to various speakers trying to make points as to why the Township should support open space. West Milford, he said, has suffered during the last five years because of politics, poor decisions, campaign promises that were never kept, and escalating taxes. He stated that all elected officials during that period, himself included, are responsible. He stated that Mr. Jurkovic campaigned over two years ago on the concept of re-zoning the Newark watershed property and Mr. Smolinski has supported this concept. Newark has been portrayed as a big bad monster. West Milford is now paying a price for this as a result of the legal costs fighting the tax appeals filed by Newark. Now these elected officials are implying that Newark will send its land to the State and stop paying taxes to the Township. At the last meeting, he said, the Council adopted a meaningless resolution that only serves to give the impression that West Milford is opposed to open space and may ultimately result in an inability to obtain open space funding. He urged the Council to rescind their resolution and publically support the ballot question.

Ada Erik, Macopin Road, West Milford gave a thumbs up to Marilyn Lichtenberg and the West Milford Rotary for donating benches at various locations throughout town. This act inspired an Eagle Scout who has donated benches to Veterans Park. She gave a thumbs up to the Eagle Scout and everyone who helped with this project.

There being no more comments from the public Council President Smolinski moved to close the public portion of the meeting.

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

Motion Ella Filipone

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

Agenda No. VII

Council Comments

Council President Smolinski concurred with Ms. Erik that the benches are great. He stated that open space matters and the ballot question are not clear cut. He believes each member of the Council supports open space. However, enough is enough. West Milford taxpayers should not assume the burden of open space when the entire state reaps the benefits. Certain elected officials in Trenton speak about a water tax to protect the infrastructure that provides their constituents water. However, nobody

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gives consideration to to the watershed communities who protect the water supply. Trenton has a history of giving blind support to Newark. While statements have been made that the State will not use this bond money to purchase land on which they have easements, the Township has received no such commitment from the State. He verified that the Township does receive funding in lieu of taxes for certain open space properties, he stated that such funding is provided on a sliding scale for thirteen years. After that time, there is no compensation to offset the lost ratables and West Milford taxpayers assume the entire burden. He stated that he has been listening to residents who have clearly conveyed that their primary concern is taxes. The Township Council was unified on this matter and understand the need to be recognized. Trenton cannot continue to take West Milford land without compensating West Milford residents. Newark received \$25 million of State tax money for conservation rights to their property. Then Newark appealed their taxes in 1998 failing to fulfill their obligations. We must demand support from Trenton and become the purveyors of our own destiny. As one voice the Township Council elected not to support the ballot question because there are no guarantees in this proposed legislation that will protect West Milford or any other watershed community. West Milford has consistently proven a commitment to open space and has been rewarded with a consistent disregard for the cost of that commitment. We need compensation. But, instead Trenton consistently cuts aid to West Milford even that aid that was guaranteed us. He has promised to make taxes his priority and he plans to fulfill that commitment.

Councilman Jurkovic stated that he was surprised by some of Ms. Phillipone's comments. He imagined that she of all people would understand the Council's position on this matter. In the past, Ms. Phillipone has stood before this Council lamenting both the State of New York and the State of New Jersey for their failure to fund their mandates. She has detailed the impact this has had on Greenwood Lake and has sought support from the West Milford Township Council when seeking to have her voice heard. West Milford is in the same position and this \$4 million bond question comes with no assurances for watershed communities. He would like to see proof positive that open space increases land value. Prior to the Highlands Act the Asbury Park press ranked West Milford as one of the highest-ranking places to live in the State. Since 2006, West Milford has been consistently at the opposite end of this ranking and we are now in last place. While there has been Council discussion about the potential of re-zoning the watershed, such action is never taken on a whim. He is advocating zoning that permits use for energy efficiency to increase the value of the land. Everyone should be paying a fair share of taxes including the largest land holder in town. Without Newark, 17% of the property owners in West Milford are responsible for the tax burden of 100% of the town. Open space in West Milford equates to lost revenue which prohibits West Milford from meeting obligations and complying is mandates that always carry a cost. He does not oppose open space but he is demanding that West Milford receive recognition for what is being done to protect the land and the water supply for millions of people. If West Milford is to continue protecting the land and the water supply for so many other towns, we need to be compensated. Mr. Jurkovic stated that 45% of essential funding comes from property taxes. Until property taxes are eliminated throughout the state, West Milford is assuming an unfair burden. 83% of land in West Milford is set aside for open space or watershed and it appears from preliminary numbers that West Milford can sustain nineteen units before achieving build out capacity. Nineteen units is the only sustainable revenue that can be realized for development. Elected officials in Trenton must recognize that there is a cost to West Milford residents who protect the water supply and the land. Without funding we cannot continue to provide services. The Newark property is comprised of 16,000 acres and they pay only \$1.5 million in taxes. There are businesses in West Milford and throughout the State that pay close to that for a fraction of the property. This is about fairness. The Township cannot and does not intend to spot-zone but re-zoning must be considered in the master plan process. With that in mind, he has requested that consideration be given to potential green uses to increase the value of that property. This is not an open space issue it is an issue of revenue and equity. He would support the ballot question if the legislation contained language that protects West Milford; it does not. West Milford and Ringwood bear the brunt of protecting land and water sources for the entire State. In addition to protecting the environment, we must protect the residents and taxpayers.

Councilwoman Lichtenberg stated that she asked the Township Planner to look at re-zoning several areas and she also mentioned several green concepts that might be considered. Ringwood is host to watershed land which is assessed at a much greater value than the Newark watershed in West Milford. The current zoning for that property must be reconsidered and the time to consider that is during the master plan process. Ringwood realizes twice to quadruple the revenue from its watershed property because it is a conservation zone. She asked the Township Administrator to check the feasibility of suggestions made to allow for continued use of the Davenport bridge.

Councilman Schimmenti stated that he has always wanted open space, clear air, a good education and positive environment for children. Unfortunately, West Milford residents are paying a high cost to provide this for the entire State and we need to be recognized in Trenton. The old adage, the squeaky wheel gets the oil, comes to mind and West Milford must have a voice.

Township Attorney Semrau stated that he was directed to prepare a resolution for Council consideration but at no time did the Council convey that they oppose open space. There is a deficiency in the Green Acre bond act. West Milford has a positive relationship with both Green Acres and the Passaic County

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Open Space Committee which has resulted in open space acquisitions that benefit West Milford residents. However, West Milford residents and officials do not receive notice when properties are removed from the tax rolls due to open space designations. When the State purchased conservation easements from Newark watershed for \$27 million, the Township was not notified and was not provided an opportunity to weigh in on the impact this would have on the municipality. When the declining balance is depleted, there are lost ratables that affect West Milford taxpayers. West Milford is simply seeking to be notified of such transactions and to receive compensation for lost ratables. He commended the Passaic County Open Space Committee who does include the municipality in the process.

Councilman Nolan stated that the millions of people who use West Milford clean water must be aware that there is a cost that should not be borne solely by the residents of West Milford. He was flabbergasted by Senator Smith's comments because moratorium aid was cut significantly after the Highlands Act was passed. The municipality is compelled to provide services that have been subject to increased costs each year. The Council adopted a resolution which seeks fairness for West Milford and have never voiced any opposition to open space. He does not believe that the State of New Jersey should borrow money for open space. This is a repetitive cycle and State officials should ensure that there is a stable source of funding. This \$400 million will simply add to State debt. He reviewed potential funding initiatives being proposed by Chris Daggett the independent candidate for Governor in the November election. West Milford needs watershed aid. He invited Senator Smith to West Milford to learn about the challenges facing watershed communities.

Councilman Weisbecker asked Administrator Boyle for an update on the status of the Davenport bridge. Mr. Boyle stated that he has sent letters out to area residents and he will present a resolution for Council consideration in November. Councilman Weisbecker asked Mr. Boyle to review and provide feedback on Mr. Harkey's comments. He also asked that the Administrator advise Council as to who would pay for repairs and what the liability would be to the Township. Mr. Boyle stated that he has conferred with the Morris County Engineer who has advised that they cannot continue to operate this bridge which is now a liability. He stated that they do not have funding for repairs and Passaic County does not wish to assume ownership and the cost of repairs. If West Milford were to assume ownership, the Township would assume liability and repair costs. Councilman Weisbecker recalled a number of occasions where the State acquired West Milford properties and the Township was never notified. West Milford lost aid when Governor McGreevey assumed office and the Township's state aid has been reduced to \$700,000 which he said is a joke. He voted affirmatively for the resolution opposing the ballot question and he stands behind that vote. He was an active proponent of the West Milford open space referendum but the resolution adopted at the last meeting has nothing to do with open space, it is about fairness. West Milford's voice must be heard in Trenton where they make decisions to take West Milford land without even the courtesy of notifying the local officials. While he believes that the question will be approved by the voters, West Milford must fight to have our voice heard.

Mayor Bieri stated that the Council has made their position very clear. He asked Mr. Boyle to confirm that letters went out to residents in the vicinity of the Davenport bridge. Mr. Boyle stated that a second batch of letters went out today seeking resident opinions. Mayor Bieri asked Mr. Boyle to research all possible options for this bridge stating that the concerns of West Milford residents are paramount. She commended all those involved in making the Ample Harvest such a success. They provide fresh produce to food pantries and this, in turn, prevents that food from going to waste.

Council President Smolinski asked if the Township could draft a formula to be sent to the State providing a basis for protecting West Milford and ensuring that there is permanent funding to offset lost ratables for land purchased with State funding in West Milford. He distributed suggested language and asked Administrator Boyle to schedule a discussion for the next workshop meeting. Mr. Semrau advised that the text distributed by the Council President would provide for permanent tax revenue for any property that is purchased by the State. There would be a set-aside in a trust for West Milford. Council President Smolinski stated that there are three categories for the expenditure of the \$400 million being proposed in the ballot question. He is proposing a fourth category that would set aside 10% from each category to provide tax relief to the host municipality. He stated that West Milford is not seeking a hand-out but rather wants equity. He urged the environmental groups who support the ballot question to recognize this need and support West Milford's position.

Ms. Ella Fillipone requested to be afforded another opportunity to address the Council. By unanimous roll call vote the Council authorized Ms. Fillipone to address the Council.

Ella Fillipone agreed with the Council that there should be a benefit to communities that support the watershed. However, the ballot question has been written and that cannot now be changed. She encouraged the Council to explore other avenues to achieve their goals. She suggested considering conservation zones within the municipality. She stated that if the ballot question is approved by the voters the process for drafting the rules will begin. She volunteered to work with West Milford officials to draft and submit a proposal so that the rules recognize and incorporate the needs of the watershed communities. She also stated that she would lend her voice to make the case for supporting such a

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proposal which would contain the facts. It is important to outline the benefits for the entire State and the 3-4 million people who use the water that originates in watershed communities. The Township must be prepared to present a rational argument to the Commissioner and the Governor. Previous discussions did not include representation from West Milford and this is the time to ensure that future discussions provide an opportunity for such inclusion. She stated that she would like to work with West Milford and seek support from *Keep It Green* asking for equity. She stated that she also serves on the Water Supply Advisory Council and they are currently working on the water supply master plan. She suggested that the plan could include a provision which would address the inequity facing watershed communities. Council President Smolinski stated that objections were vocalized during the comment period and construction phase of the Highlands Act. Seven years have passed and no action has been taken to resolve the deficiencies. Now, voters are being asked to support a question that again fails to address the burden being borne by West Milford. Ms. Fillipone agreed that the equity issues must be addressed and stated that she now understands the West Milford is simply seeking fairness. She stated that the Council must clarify the message. Councilman Jurkovic stated that funding that was previously guaranteed to West Milford that has been taken away. The State of New Jersey must establish an annuity trust to protect the funding source for host communities. Ms. Fillipone stated that she will serve with Township officials on a committee and Mayor Bieri asked Administrator Boyle to work on that. Council President Smolinski agreed to serve with Mayor Bieri, Administrator Boyle and Ms. Fillipone on this committee. He stated that the resolution adopted by the Council at the last meeting contained a very clear message spelling out the Council's opinion.

Agenda No. VIII

Discussion Items

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| 1) MICCOM Agreement – Administrator Boyle invited Chief Costello to address the Council on this matter and he directed the Council to a memo the Chief sent to them. Chief Costello stated that his opinion about engaging this contract for emergency medical dispatch has not changed since he spoke at the July meeting. He stated that there are times when he does not have a certified dispatcher available to work and other times when there is an overload to the system and dispatchers cannot handle the volume of incoming calls. Councilman Nolan asked if it would be reasonable to simply use the services of MICCOM for all EMD calls rather than engage their services and train our police officers. Chief Costello stated that he is not opposed to proceeding in that manner. Administrator Boyle stated that the officers are half-way through the training process. Council President Smolinski recalled that the Council was led to understand that all officers will be completely trained by the end of this year thus negating the need to continue with MICCOM. If the Township were to execute the agreement with MICCOM and have them handle all EMD calls, we will exceed the minimum number of calls required thereby increasing the cost to the Township. He stated that the Township committed to the training of officers and are halfway through that process now. Chief Costello recommended executing the contract and evaluating the services after six months. Council President Smolinski asked what it is costing the Township to train all the officers to which Chief Costello that the salaries cost between \$40 to \$80 per hour and then there are costs associated with the back filling of the shifts when officers are in class. However, he recommends proceeding with the training. Mayor Bieri stated that when Chief Costello first appeared before Council to discuss this matter, twenty officers already had begun the basic training and Council believed at that time that there were no options but to proceed with training. The Township has not been in compliance since 2000 and now it would appear that we are going from non-compliance to having trained dispatchers and officers with a request to also engage the services of MICCOM. A significant amount of funding is being allocated to train officers in-house and the Chief continues to recommend a contract with MICCOM for the same services. Chief Costello stated that he recommends proceeding with training officers but without having to adhere to the strict timeline discussed in July. He stated that MICCOM is a backup service and likened having such a contract to the contracts executed for snow plowing services. Council President Smolinski stated that, by his calculations, it will cost an additional \$40,000 to \$50,000 to finish training the police officers without calculating the cost of fill-ins to cover those shifts. He stated that he favors proceeding with MICCOM and stop training the police officers now that he knows the cost. Discussion ensued as to the circumstances under which the police department dispatches ambulances to a call. |
| 2) Uses of Municipal Properties + Police Department Renovations – Administrator Boyle stated that since the bid opening for this project there has been some discussion about the potential use of the current library for use by the police department. There has also been discussion of the need for an outside storage facility to store ancillary supplies for the communications project. He stated that the problem with storage is that the Township proceeded without a specific game plan, started the communications project and did not account for existing facilities. The Johner building was intended as a storage site for the excess equipment in the police department because the current area is too small to facilitate the new dispatch area and store the equipment. Chief Costello stated that the original plan was that excess equipment would be stored in the Johner building. However, as the project evolved it was determined that this would not be productive as much of the equipment is needed onsite. It was also discovered during the process that the Township was considering the Johner building for other purposes thus causing a storage problem. He sought direction in 2008 from the Interim Administrator |

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	<p>to no avail and thus he came up with a plan for outside storage. Discussion ensued about utilizing the lower floors of town hall if the staff currently housed in that space are relocated in the future. Chief Costello stated that his needs could be met if that space were available but there is an immediate need for the storage space to proceed with the renovation. He described the proposed storage facility which is portable and can be used for other purposes if inhouse space becomes available in the future. He stated that it would take about eight weeks to order the shelter and have it installed at a cost of about \$27,000. The renovation of the police dispatch center will take about four weeks. He expects the entire project to be completed by the end of January 2010. He stated that there is funding available in the communications project funding due to savings realized in other areas. Mayor Bieri commended the members of the Facilities Assessment Committee and stated that much has changed since they began contemplating possible uses for the Johner building. Initially it was thought that the recreation department would be moved to Johner along with other departments. She asked Council to delay action on a resolution listed later in the agenda to proceed with specifications for the Johner building because plans have changed since the conceptual plans were drafted. The Library building may become an option for municipal use and that was not an option when the Johner building was first discussed. She suggested that the Facilities Assessment Committee consider the feasibility of renovating the current library building to make a municipal complex and sell the Johner building. Council President Smolinski asked if the Township can seek RFPs for the Johner building renovation to which Mr. Semrau answered in the negative advising that this project would be over the bid threshold. Councilman Jurkovic stated that he would like to make sure that renovating the library is a viable option and he stated that there is a pressing need to move the staff in the lower levels of town hall. He asked Mayor Bieri to attend the next Facilities Assessment Committee meeting to discuss various options and ideas. In response to Council President Smolinski, Mr. Boyle advised that he is having staff determine if the Township abated all environmental concerns at the Johner building. The Council gave consensus to proceed with the shed and dispatch renovations.</p>
3)	<p>Cable TV Franchise Renewal - Hometown Online – Mr. Boyle advised that the process to renew this franchise for Hometown Cable which serves the Upper Greenwood Lake area of town must begin. The process will mirror that which is currently ongoing with Cablevision. Councilman Weisbecker stated that he will reach out in the Upper Greenwood Lake area to find volunteers to serve on this committee and report back. He stated that this company covers Vernon, a portion of West Milford and Greenwood Lake, NY.</p>
4)	<p>Resident Request for Property Acquisition – Block 13808, Lot 2 – Mr. Semrau advised that when Mr. Gill first approached the Township about this property, he proposed donating the land to the Township. After each department had reviewed the proposed donation, it became apparent that Mr. Gill anticipated selling the property to the Township for between \$12,000 and \$15,000. Mr. Semrau advised that the related costs to close on such an acquisition would be between \$2,500 and \$3,500. The Council instructed Mr. Semrau to reject Mr. Gill's offer to sell to the municipality adding that he acquired this property through foreclosure and should have performed due diligence at that time.</p>
5)	<p>Ordinance Amending Permit Notification in Lake Communities – Mr. Semrau stated that the proposed amendments to this ordinance emanated from concerns expressed by lake communities. The amendments will clarify the notification process whereby renovations that do not expand on the boundaries of an existing structure will not require notification to the respective property owners association. The Council asked that the Lakes Committee be provided an opportunity to review these proposed amendments prior to Council action. They further instructed Mr. Semrau to work with staff to determine if septic repairs and alterations should be compelled to notification requirements.</p>
6)	<p>Economic Development Commission (EDC) – Mr. Boyle stated that the Council discussed the re-establishment of this commission earlier this year at which time he reached out to various organizations within the community. He only received responses from prior commission members and the Chamber of Commerce was split on this issue. Councilman Weisbecker recalled that the former Commission had a charter which was removed in 2002. He suggested that the process begin anew with attention given to the specifics of the charter so that prior issues do not become problematic. Councilman Jurkovic stated that an EDC would benefit the community because the only commercial ratables to be realized in this town are those that currently exist. He stated that it is imperative that vacant space in the Township be filled noting that other municipalities have benefitted from granting tax abatements for improvements to existing commercial space. Councilman Weisbecker stated that a systematic approach would be best whereby a committee of the Council would determine the expectations for such a commission and draft the charter. From there, the Council could consider reinstating the commission. Council President Smolinski agreed that it is important to redefine the goals and objectives of the EDC. The Council instructed the Administrator to work on a committee meeting to work on the charter. They asked him to contact the Passaic County EDC for guidance and advised that Councilman Weisbecker, Council President Smolinski and Mayor Bieri will work with Administrator Boyle on this committee. Councilman Nolan stated that he would like to see a workshop discussion about a road assessment program. He stated that the municipality expends considerable sums repairing private roads that become washed out in inclement weather. An assessment program would bring private roads up to Township standards and ultimately result in cost savings to the taxpayers.</p>
7)	<p>Agreement – Professional Services Tom Geminario – Highlands Conformance Grant Work – the Council agreed to defer discussion of this matter so that Mr. Semrau can review the invoice in</p>

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	question with Mr. Geminario.
8)	Bid – Snow Plowing Services – the Council gave consensus to proceed with this contract award and Mr. Boyle advised that he will provide a bid tabulation.
9)	Bid – Beam Guiderail and Safety Ends – the Council gave consensus to proceed with this contract.
10)	Bid – Tub Grinder Services – Mr. Boyle advised that the daily rate is down from last year for these services. The Council gave consensus to proceed.
11)	NJLM Resolution – Open Space Acquisitions – the Council gave consensus to proceed.
12)	NJLM Resolution – Amend Highlands Act to Allow Municipal Exemptions – the Council gave consensus to proceed.
13)	NJLM Resolution – Amend Binding Arbitration Regulations - the Council gave consensus to proceed. Councilman Jurkovic commended Mr. Semrau for drafting fine resolutions that clearly reflect the will of the Council.

Agenda No. IX

Action Items

The Township Council took action on the following items:

Agenda No. IX 1

~ Resolution No. 2009- 360~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE PURCHASE OF ONE BANDIT 250 XP CHIPPER THROUGH STATE CONTRACT # A69872 FROM CHERRY VALLEY TRACTOR SALES

WHEREAS, the State of New Jersey has awarded Contract #A69872 to Cherry Valley Tractor Sales for the purchase of certain equipment; and

WHEREAS, the Township of West Milford, seeks to purchase from Cherry Valley Tractor Sales located in Marlton, New Jersey one (1) Bandit 250XP Chipper – Perkins 142 HP Diesel, Hydraulic lift Cylinder, Hand Crank on Discharge Chute, Automatic Plus Feed System, Electric Brakes, Aluminum Step Tread Fenders, Hydraulic Winch Less Cable, Rear Stabilizer and all Standard Model 250 Features for the Department of Public Works in the amount of \$31,137.30; and

WHEREAS, The Chief Financial Officer has certified as to the availability of funds for this purchase, said funds to be encumbered from account C-04-06-941-500.

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

1. The Township Council hereby authorizes the purchase one (1) Bandit 250XP Chipper in an amount not to exceed \$31,137.30 and in accordance with State Contract #A69872.
2. The Township’s Chief Financial Officer has certified the availability of funds for same.

Adopted: October 7, 2009

Discussion: Councilman Nolan asked if these funds are being encumbered from an old capital account. Mr. Boyle replied in the affirmative stating that the Township Engineer has stressed the need to obtain this equipment. He stated that he has instituted a policy whereby capital funds will be used in a timely fashion going forward. Councilman Nolan asked for an update on the fuel security system. Mr. Boyle advised that the specifications are being drafted and he is in the process of executing the purchase of the new tanks. He fully expects to have this project completed by the end of the year.

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

Agenda No. IX 2

~ Resolution No. 2009- 361 ~

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 GSM ARCHITECTURAL SERVICES, LLC TO DRAFT BID

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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SPECIFICATIONS ASSOCIATED WITH RENOVATIONS TO THE JOHNER BUILDING IN AN AMOUNT NOT TO EXCEED \$2,250

Discussion: Mr. Boyle stated that despite the prior contract with the architect for this project, GSM has advised that the cost to draft specifications for the renovations in the Johner building will be \$2,250. Based on the earlier discussions of Council, Councilman Weisbecker made a motion to table this resolution indefinitely.

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

Agenda No. IX 3

~ Resolution No. 2009- 362~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING PUBLIC SALE OF MUNICIPALITY-OWNED PERSONAL PROPERTY AT A PUBLIC AUCTION TO BE HELD IN THE TOWNSHIP OF SPARTA PURSUANT TO N.J.S.A 40A:14-157

WHEREAS, pursuant to the provisions of N.J.S.A. 40A:14-157, the Township of West Milford may sell any municipality-owned personal property at a public auction; and

WHEREAS, Sparta Township has secured the services of a Professional Auctioneer to organize and conduct all aspects of the Surplus Vehicle and Equipment Auction.

WHEREAS, Resolution No. 2009 – 342 adopted September 23, 2009 authorized the sale of municipality-owned personal property on Schedule A at a public auction; and

WHEREAS, the Police Department wishes to add items to the municipality-owned personal property Schedule; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of West Milford as follows:

1. The items added to the sale by the West Milford Police Department are herewith attached as Schedule "B".
2. The Sparta Municipal Clerk be and is hereby authorized to publish the notice of public sale of the property shown on the attached Schedule "B" with the items on Schedule "A" included on Resolution No. 2009 – 342 adopted September 23, 2009.
3. All property shall be offered in an "as is" condition, without any express or implied warranties of any nature whatsoever.
4. The terms of sale shall be as set forth on the notice of public sale.

BE IT FURTHER RESOLVED by the Mayor and Council of the Township of West Milford that the terms, fees and costs of sale remain as stipulated in Resolution No. 2009 – 342 adopted September 23, 2009.

Adopted: October 7, 2009

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

Agenda No. IX 4

The following resolutions were moved as one 2009-363, 2009-364, 2009-365 and 2009-366.

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

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~ Resolution 2009 - 363 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY APPROVING THE SUBMITTAL AND ACCEPTANCE OF A GRANT APPLICATION BY THE MUNICIPAL ALLIANCE COMMITTEE FOR SCHOOL AND COMMUNITY BASED DRUG AND ALCOHOL PREVENTION PROGRAMS

WHEREAS, in March 1989, the Governor's Council on Alcoholism and Drug Abuse was established to coordinate all State Departments' efforts with regard to the planning and provision of prevention, education, treatment, research and evaluation serviced for, and public awareness of, alcoholism and drug abuse; and

WHEREAS, in addition, the legislation created an Alliance to Prevent Alcoholism and Drug Abuse, comprised of all the communities in New Jersey, which is dedicated to a comprehensive and coordinated effort against alcoholism and drug abuse by providing funds to member municipal communities to support appropriate county and municipal based alcohol and drug abuse education and public awareness activities.

NOW, THEREFORE, BE IT RESOLVED that the Township Council of the Township of West Milford will contractually adhere to all conditions and obligations as sub-grantee to the State of New Jersey and the County of Passaic as set forth in the Letter of Agreement between the Governor's Council on Alcoholism and Drug Abuse and Passaic County, for the grant administration of the 2010 Alliance to Prevent Alcoholism and Drug Abuse, for a grant amount of \$45,800.00, from the Governor's Council on Alcoholism and Drug Abuse, with a cash amount of \$11,450.00 which is assumed by CASA, and an in-kind match of \$34,350.00; and

BE IT FURTHER RESOLVED that the Municipal Alliance Chairperson and the Mayor or Township Administrator be and are hereby authorized to execute the proposed application.

Adopted: October 7, 2009

Agenda No. IX 5

~ Resolution No. 2009- 364 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY FOR SUBMITTAL TO THE NEW JERSEY LEAGUE OF MUNICIPALITIES (NJLM)

A RESOLUTION BY THE NEW JERSEY LEAGUE OF MUNICIPALITIES REQUESTING THE LEGISLATURE ADOPT APPROPRIATE AND NECESSARY AMENDMENTS TO GREEN ACRES OPEN SPACE ACQUISITIONS RULES AND REGULATIONS AS THEY PERTAIN TO THE ACQUISITION OF LANDS

WHEREAS, the State of New Jersey, through its Green Acres Program, has funded the acquisition of Open Space and preservation of lands for thousands of acres of property throughout the State of New Jersey; and

WHEREAS, the acquisitions provide protection of the State's most environmentally sensitive lands as well as the preservation of natural resources; and

WHEREAS, however Open Space acquisitions can also be awarded to purchase private lands from developers, local governments and other non-profit entities; and

WHEREAS, presently the State of New Jersey, through its Green Acres Program, may acquire property from a developer or private land owner without ever notifying or receiving input from the public and/or local municipality or governing body in which the land is located; and

WHEREAS, the acquisition of such land should involve input from the public and the local governing body notwithstanding that a municipality is required by law to provide for a Master Plan and Reexamination Report and set forth goals and objections for appropriate planning considerations throughout a community; and

WHEREAS, the goals of Open Space Funding should be addressed in conjunction with the goals of a municipality to avoid conflict whenever possible; and

WHEREAS, the failure to include the governing body and members of the community in the Open Space Acquisition process may circumvent the planning process and precludes a community from participating in the expenditure of such Open Space Trust Funds; and

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WHEREAS, it is critical to this process that a municipality and its residents are made aware of and have had an opportunity to provide comment relevant to the funding of Green Acres money, the preservation of land and the removal of said property from the municipal tax ratables; and

NOW, THEREFORE, BE IT RESOLVED that in order to achieve the goals of Open Space funding, the League of Municipalities calls for the Legislature to amend the laws of the State of New Jersey so that when funding is being considered for the purchase, acquisition, lease or easements of land, the State of New Jersey shall first notify the local governmental entity where the land is located of the consideration of such acquisition.

BE IT FURTHER RESOLVED, that under such circumstances, the State of New Jersey shall also be required to provide adequate notice to all residents within 200 feet of such properties and conduct a public hearing in order to gather any and all comments from members of the public as well as to the governing body of said local community prior to making a determination whether to proceed with the acquisition of such land.

Sponsor (Motion): Councilman Philip Weisbecker, 36 Racetrack Drive, Hewitt, NJ 07421
Co-Sponsor (Second): Councilman Robert Nolan, One Winding Way, West Milford, NJ 07480
Co-Sponsor Mayor Bettina Bieri, 17 Bearfort Road, West Milford, NJ 07480

Adopted: October 7, 2009

Agenda No. IX 6

~ Resolution No. 2009- 365 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY FOR SUBMITTAL TO THE NEW JERSEY LEAGUE OF MUNICIPALITIES (NJLM)

**A RESOLUTION OF THE LEAGUE OF MUNICIPALITIES
IN SUPPORT OF AN AMENDMENT TO THE HIGHLANDS WATER PROTECTION AND PLANNING
ACT TO PROVIDE MUNICIPALITIES WITH AN EXEMPTION FROM THE HIGHLANDS RULES
AND REGULATIONS FOR PUBLIC IMPROVEMENTS**

WHEREAS, the Highlands Water Protection and Planning Act provides for protection and appropriate planning in order to protect drinking water for over 5.4 million people to help preserve New Jersey's critical watershed lands; and

WHEREAS, as part of the Act, there are specific activities that are exempt from meeting Highlands Regulatory standards as implemented by the Department of Environmental Protection; and

WHEREAS, the exemptions range from the construction of single family homes, extension of trails, improvements to houses of worship, public or private schools or hospitals in existence on August 10, 2004; and

WHEREAS, municipalities in the Highlands Preservation Area continue to serve the needs and provide essential municipal services and recreational opportunities for residents of their communities; and

WHEREAS, despite the development restrictions of the Highlands Preservation Area, the needs of these municipalities will continue to expand and evolve, as will the services offered to their residents; and

WHEREAS, however the Highlands Act does not provide for an exemption for municipalities to either relax or provide relief for projects that are for the benefit of the public; and

WHEREAS, it is urged that the New Jersey Legislature amend the Highlands Act to include an exemption for activities that are initiated, owned and operated by municipalities or public entities and such exemption shall include but not be limited to libraries, recreational facilities and structures, community centers, senior citizen centers, accessory structures, fields and outdoor recreational facilities and municipal complexes; and

NOW THEREFORE, BE IT RESOLVED, by the New Jersey League of Municipalities that the New Jersey Legislature is urged to act and amend the Highlands Water Protection and Planning Act to include an appropriate exemption for municipalities or public entities and such exemption shall include but not be limited to libraries, recreational facilities and structures, community centers, senior citizen centers, accessory structures, fields and outdoor recreational facilities and municipal complexes.

Sponsor (Motion): Councilman Philip Weisbecker, 36 Racetrack Drive, Hewitt, NJ 07421
Co-Sponsor (Second): Councilman Robert Nolan, One Winding Way, West Milford, NJ 07480
Co-Sponsor Mayor Bettina Bieri, 17 Bearfort Road, West Milford, NJ 07480

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~ Resolution No. 2009- 366 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY FOR SUBMITTAL TO THE NEW JERSEY LEAGUE OF MUNICIPALITIES (NJLM)

A RESOLUTION OF THE NEW JERSEY LEAGUE OF MUNICIPALITIES REQUESTING LEGISLATIVE ACTION TO REFORM THE CURRENT BINDING INTEREST ARBITRATION LAWS

WHEREAS, the State of New Jersey and all 566 municipalities therein are facing unprecedented financial challenges associated with budgets, labor units, employee benefits and overall increases to operating expenses; and

WHEREAS, personnel and personnel related costs account for approximately 70% on average of municipal budgets and have been increasing at greater rates than other goods and services used by local governments; and

WHEREAS, binding arbitration rules and regulations have had an adverse impact on local governments; and

WHEREAS, for more than three years the New Jersey League of Municipalities (NJLM) has continuously studied, made recommendations and encouraged the Governor and Legislature to modify the binding arbitration requirements to protect the public interest; and

WHEREAS, arbitration should consider the fiscal realities of local government and that all other municipal employees and the taxpayers are negatively impacted by certain awards; and

WHEREAS, local governments cannot effectuate changes to the system without the legislature supporting the goals.

NOW, THEREFORE, BE IT RESOLVED; that the New Jersey League of Municipalities strongly urges the Governor and the Legislature to place the reform of binding arbitration on its agenda for 2010.

Sponsor (Motion): Councilman Philip Weisbecker, 36 Racetrack Drive, Hewitt, NJ 07421
Co-Sponsor (Second): Councilman Robert Nolan, One Winding Way, West Milford, NJ 07480
Co-Sponsor Mayor Bettina Bieri, 17 Bearfort Road, West Milford, NJ 07480

Adopted: October 7, 2009

Agenda No. X

Consent Agenda

~ Resolution No. 2009- 367 ~

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.

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

- a. **Resolution 2009-368** – Refund Escrow Fees

Applications:

- a. Application for On Premise 50/50 Raffle License by the West Milford Rotary Club.

Adopted: October 7, 2009

Moved: Weisbecker Seconded: Nolan
Voted Aye: Weisbecker, Smolinski, Schimmenti, Nolan, Lichtenberg, Jurkovic.
Voted Nay: None.
Abstain: Councilwoman Lichtenberg abstain Rotary only.
Motion carried: Motion carried.

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The following resolutions were included in the consent agenda:

~ Resolution No. 2009- 368 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING REFUND OF ESCROW MONIES

BE IT RESOLVED, by the Township Council of the Township of West Milford that, based upon the report and request of the Township Planning Department, the following Escrow monies be refunded:

Name & Address	Application No.	Amount of Escrow	Amount Refunded
John & Nanacy McGrath 30 Longsteak Road Newfoundland, NJ 07435	0730-0795	\$750.00	\$499.26

Adopted: October 7, 2009

Agenda No. XI

Approval of Expenditures

~ Resolution No. 2009- 369 ~

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.	\$349,037.59
2	Reserve Account	0.00
3	Animal Control Trust	0.00
6	Capital.	130,186.19
7	Grants.	4,964.37
8	Refuse.	130,396.29
9	Refunds.	465.00
12	General Ledger.	0.00
16	Heritage Trust.	0.00
14	Open Space Trust	0.00
17	Trust	1,403.00
18	Development Escrow.	1,635.00
19	LOSAP	0.00
20	Special Reserve	0.00
Total		\$618,087.44
Less Refund Resolution		465.00
Actual Bill List		\$617,622.44
Other Payments		0.00
Less Refund Resolution		
Total Expenditures		\$617,622.44

Adopted: October 7, 2009

Discussion: Councilman Nolan stated that there is a payment on page 2 in the amount of \$22,322 for repairs to a bus that was involved in an accident. He asked the Administrator to ensure that Council is notified of such occurrences in the future as there is an impact to the municipality. While the claim will be

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paid by the insurance carrier, the accident will have an impact on future insurance rates. He asked Mr. Boyle to give Council a report indicating how the accident occurred and what measures are being taken to prevent future incidents. Council President Smolinski agreed stating that, based on the cost, the damage must be significant. Councilman Weisbecker asked if the payment of \$12,445 for cameras in town hall is part of the communications project. Mr. Boyle replied that it is not but rather is a security measure for the building and he reminded Council that he has broached this subject in his reports in the past. Councilman Weisbecker asked for a report on expenditures and balances for the communications project.

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

Agenda No. XII

Reports of Mayor, Administrator, Council Members, Attorney and Clerk

Councilman Nolan stated that the Insurance Committee is scheduled to meet on October 20, 2009. He asked Administrator Boyle to ensure that the members are notified about the meeting. He stated that the Committee will be reviewing a proposal the Administrator received from PIA and instructed Mr. Boyle to seek a proposal from the Vozza Agency. He stated that he would also like Mr. Vozza to provide the Committee with a current loss report. He stated that on September 24th, he, Mayor Bieri, Messrs. Boyle, Knudsen and Dank attended the hearing at the Passaic County Open Space Committee in Totowa where Township officials made presentations on the applications submitted this year. He commended the staff for the quality of those presentations. He stated that there was correspondence in the Council packets regarding West Milford Lake. Mr. Boyle advised the he, Mayor Bieri and Councilman Weisbecker met with Mr. Patire to discuss various options including the possibility of an assessment program. The Tax Assessor will be issuing a memorandum on that subject. He stated that Mr. Patire did contact his office regarding possible venture with Tennessee Gas Pipeline to use the West Milford Lake property as a wetland mitigation site. He stated that he has talked to Mr. Moyle at the DEP and confirmed that the DEP is drafting a plan to breach the dam at West Milford Lake. Councilman Nolan stated that the Council had a letter in their packets from Ms. Janice Sangle advising the the Township must take steps to become ADA compliant. Mr. Boyle stated that Mrs. Sangle serves on the Facilities Assessment Committee and she understands that the Township is reviewing various options. He stated that he has issued a reply to her letter. Councilman Nolan stated that the Township received \$116,000 from the municipal employees benefit fund and he asked how those funds will be reflected in the municipal budget. Mr. Boyle stated that those funds will be incorporated into the general fund and will eventually become part of the surplus. Mayor Bieri asked Mr. Boyle to ascertain if those funds can be used to offset future costs for employee benefits because other municipalities have dedicated funds for this purpose. Councilman Nolan stated that the Council received a memorandum from Chief Costello advising that the Township has been approved for grant funding for equipment. He asked Mr. Boyle to obtain additional information from the Chief which specifies what equipment will be purchased and what the future cost will be to the Township.

Councilwoman Lichtenberg advised that the annual Autumn Lights Festival will be held on Saturday and the museum is having a reminisce series on the same day at 1:00 p.m. She thanked Mr. Oppenheimer for his work on Ample Harvest adding that the food pantries are in dire need of donatins. There will be a 5K race at Macopin school on Saturday monring. She gave a thumbs up to Donny Glatz for assisting with mulch spreading and bringing wheel barrows at the creative playground. She thanked Ed Bailey for bringing his kids to help spread mulch.

Councilman Weisbecker asked for an update on the letter in Council packets about 104 Dockerty Hollow Road. Mr. Boyle advised that the matter pertains to an applicant who contested the process and escrow funds. In accordance with municipal land use laws the applicant can appeal the process and he is working with the Township Attorney on this matter. Councilman Weisbecker stated that Verizon is obligated to maintain the other side of Dockerty Road because they have a cell tower there. He asked Mr. Boyle to follow up on the maintenance because the conditions are deplorable. He stated that he read an article in the *Trends* prior to tonight's meeting wherein it would appear that the Board of Education (BOE) is issuing an ultimatum to the Council about the Hillcrest lease. Councilman Jurkovic stated that he has not read the article but expressed dismay that the BOE would communicate to the Council on such an important matter through the media. The Council, he said, proposed expending a half million dollars on Hillcrest with an annual rent of \$68,000 indexed to the rate of inflation, while continuing with current standards of maintenance. The Council agreed to all the terms asked for by the BOE and the attorneys were to work out all the details. The BOE then came back with a demand for a definition of capital improvements and determined that any improvement that costs less than \$10,000 will not be considered a capital improvement and will become a maintenance expenditure for the Township. They also demanded a \$20,000 annual commitment for such maintenance expenditures. This, he said, is in

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addition to all the other terms already agreed to. When you add up the \$500,000, \$68,000 annual rent, plus the annual maintenance, it equates to about \$2.2 million. If you add their definition change it equates to an additional \$600,000 with a cost of living adjustment adding \$200,000 to \$400,000 to the contract. This does not appear to be negotiating in good faith. There was a deal on the table to which all parties were in agreement. It is inappropriate to change the definition of capital repairs at the eleventh hour demanding a \$3 million commitment from the Township for a building that the municipality will never own. To top it off, they then issue an ultimatum in the Suburban Trends. That, he said, is further evidence of bad faith on the part of the BOE. This, he said, comes from a school board that already takes 60% of taxpayers dollars. Councilman Nolan agreed stating that the BOE insists on continued ownership of a building despite the fact that enrollment has been on a constant decline. He stated that they should simply donate the building to the Township for use as a community center. Mr. Semrau advised that he received a faxed letter this evening from the BOE which is in conformance with the Council's understanding of the newspaper article. Councilman Weisbecker commended the Council for keeping this discussion public and stated that the news article ranked him because it accuses the Council on backing out of negotiations. Council President Smolinski stated that he is recused from this discussion and asked to be heard from the podium as a member of the public.

Councilman Schimmenti made a motion to allow Mr. Smolinski to be heard.

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

Joseph Smolinski, 28 Camelot Drive, West Milford stated that he has been recused from discussions about Hillcrest because his wife works for the BOE. However, as a resident, he views the current situation as an embarrassment to the Township. Both entities believe they are doing the right thing and have lost sight of who is paying the tab. The money is coming from the taxpayers who fund both the BOE and the Township. Before the school election in April, this was a done deal. West Milford residents deserve a community center at Hillcrest and if the BOE and the Council cannot come to a mutually agreeable decision, place this matter on the April ballot as a binding referendum. He stated that residents will reflect their dissatisfaction with this process by virtue of their votes and he does not want to see the voters upset with either the Board or the Council.

Council President Smolinski stated that the Township is sending a resolution to the NJLM which seeks to compel notification to municipalities when Green Acres funds are to be used for the acquisition of property. He commended Mr. Semrau on the quality of the resolution.

Councilman Schimmenti stated that he favors a referendum question on Hillcrest. He suggested that the schools maintain their buildings in a manner comparable to that being demanded of the Township.

Mayor Bieri stated that she attended the Passaic County Open Space presentations and has sent them a letter thanking them for their time and effort. The West Milford Animal Shelter will be having their annual walkathon on October 18th and she encouraged participation in this fundraiser. She conveyed that the Animal Shelter funded the spaying or neutering of 25 cats since the last meeting and have handled 46 incoming animals during that period. She attended two ribbon cutting ceremonies since the last meeting and just recently conducted her 24th wedding ceremony since taking office.

Township Administrator Boyle stated that he and members of his staff have met with the Chamber of Commerce about signs. They hope to standardize signs in town and will work together to that end. He will be reporting back to Council. He received a letter from Marilyn Bender requesting that the Council honor Derek Jeter of the NY Yankees for breaking Lou Gehrig's record and for being a positive role model. The Council gave consensus. He stated that the Director of Community Services & Recreation is researching the feasibility of connecting to the MUA facility to replace the septic at Bubbling Springs. He will continue to determine if this is feasible and report back to Council. He advised that he and Councilwoman Lichtenberg met with the Awosting POA about ownership issues and dedicated versus accepted roads. He asked for and received Council consensus to allow Alcoholics Anonymous to use Town Hall on Christmas Day and New Year's Day.

Township Clerk Battaglia stated that she provided calendars to the Council with proposed meeting dates for 2010. She advised that she followed the schedule established in 2009 and asked for Council direction for the reorganization meeting. The Council instructed that the reorganization meeting be scheduled for January 6, 2010 at 7:30 p.m.

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Township Attorney Semrau advised that he sent Council a memorandum updating them on his meeting with the County Board of Taxation about the revaluation process. He asked that this be scheduled for a future workshop discussion.

Agenda No. XIII

Appointments and Resignations

Planning Board Alternate #2

Councilman Weisbecker nominated Thomas Harraka to the Planning Board Alternate #2, seconded by Councilman Smolinski. Councilman Weisbecker made a motion to close and confirm.

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

Agenda No. XIII

Executive Session

~ Resolution No. 2009- 370 ~

MOTION FOR EXECUTIVE SESSION

BE IT RESOLVED by the Township Council of the Township of West Milford on the 7th day of October, 2009 that:

1. Prior to the conclusion of this **Workshop Meeting**, the Township Council shall meet in Executive Session, from which the public shall be excluded, to discuss matters as permitted pursuant to N.J.S.A. 10:4-12, sub-section (s):
 - () b. (1) Confidential or excluded matters, by express provision of Federal law or State statute or rule of court.
 - () b. (2) A matter in which the release of information would impair a right to receive funds from the Government of the United States.
 - () b. (3) Material the disclosure of which constitutes an unwarranted invasion of individual privacy.
 - () b. (4) A collective bargaining agreement including negotiations.
 - (X) b. (5) Purchase, lease or acquisition of real property, setting of banking rates or investment of public funds, where it could adversely affect the public interest if disclosed.
 - Potential Property Acquisitions –Block 8001, Lot 1 Random Woods
 - Potential Property Acquisition – Block 9302, Lot 6 – CYO Property
 - () 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.
 - Contract Negotiations – Alternate Sites for Community Center
 - Litigation – Lanza t/a Environmental Construction Company v. Township of West Milford et. al (Docket No. PAS-L-925-09)
 - Cable TV Franchise
 - () 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: October 7, 2009

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

