
TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Township Council Regular
Date of Meeting: October 20, 2010
Time of Meeting: 7:30 P.M.
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**AMENDED
ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW
JERSEY AMENDING AND SUPPLEMENTING CHAPTER 332, STREETS AND SIDEWALKS,
ARTICLE V, SNOW AND ICE REMOVAL FROM SIDEWALKS, 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 332, Streets and Sidewalks, Article V, Snow and Ice Removal from Sidewalks, of the aforesaid Revised General Ordinances is hereby amended and supplemented to read as follows:

ARTICLE V Snow and Ice Removal from Sidewalks

§ 332-35 Duty of owner, occupant or tenant.

The owner of commercial premises abutting or bordering upon any street in the Township shall remove all snow and ice from the abutting sidewalks of such streets, or in the case of ice, which may also be so frozen as to make removal impractical, shall cause the same to be fairly covered with sand or de-icing material, within 12 hours after the conclusion of the storm.

§ 332-36 Depositing of snow or ice on streets or sidewalks prohibited; handicapped parking

- A. No person shall throw, place or deposit any snow or ice into or upon any street in the Township, it being the intent purpose of this provision to prohibit all persons from throwing, casting, placing or depositing snow and ice which accumulated within the private property belonging to such person, upon the sidewalks or streets of the Township.
- B. Handicapped parking spaces. No person, firm, corporation or partnership or the owner, tenant, lessee or occupant of any premises having parking spaces reserved for handicapped drivers or any contractor employed for the removal of snow and ice shall block access to parking spaces reserved for handicapped drivers by the plowing, piling or placement of snow and ice in such reserved spaces.

§ 332-37 Enforcement of article.

- A. Any resident of the township, all members of the department of police, all special officers, all members of the department of public works and the Zoning Officer are authorized to file complaints for violations of this article and shall be certified by a Township "Enforcement Official" as further set forth in this Article.
- B. Investigation and enforcement of this article will normally occur after the storm event. Complaints must be issued within 30 days of the violation.

§ 332-38. Removal by Township; payment.

- A. In case any such owner of any commercial premises abutting or bordering on any street in the Township of West Milford shall fail to remove such ice and snow from such sidewalks as provided in § 332-35 of this Article, the Enforcement Official or such other officer of the Township as the Township Council may have designated may cause said ice and snow to be removed from said sidewalk by township employees or contractors, and the cost and expense incurred or paid for such removal shall be certified by the Enforcement Official and submitted to the Township Council of the Township of West Milford, and, upon approval of said amount by the Township Council, the same shall be certified to the Tax Collector and shall thereupon become and be a lien upon said premises as of the date of such certification by the Township Council and shall be added to, recorded and collected with and in the same manner as real estate taxes assessed and levied upon said premises.
- B. The cost and expense of removal of such ice and snow provided for in this section shall be separate and distinct from any fines and court costs which may be imposed and collected under § 332-38 of this Article.

§ 332-39 Violations and penalties.

Any person who violates any provision of this article shall, upon conviction thereof, be liable for a penalty as set forth in Chapter 1, Article III, General Penalty, of the Township Code.

§ 332-40 Exceptions.

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The regulations set forth under § 332-35 of this Article shall not be applicable when the National Weather Service, Governor or the Mayor has declared a snow emergency throughout the Township.

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: September 15, 2010
ADOPTED: October 20, 2010
EFFECTIVE DATE: November 9, 2010

This ordinance was introduced on September 15, 2010 and the Notice of Public Hearing was published in the Herald News on September 19, 2010. The Mayor opened the meeting to the public to speak on this ordinance only.

Jim Novack, Larchmont Drive, West Milford expressed hope that this will be adopted tonight. Once passed, enforcement must become a priority and he urged the Council to encourage staff to be vigilant.

Councilman Weisbecker moved to close public discussion seconded by Councilman Ramaglia and approved by unanimous roll call vote.

Discussion:

Councilwoman Lichtenberg expressed concerns about the enforcement language which authorizes citizens to instruct the DPW to remove snow. Mr. Semrau stated that the language will allow a citizen to file a complaint with the municipal court but it would also require that there be probable cause. He stated that he can add language that enforcement would be certified by a Township Official.

Motion to adopt the ordinance as amended.

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

Agenda IV 2

~ Ordinance No. 2010-012 ~

ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 321, SOLID WASTE; RECYCLING, SECTION 321-3, STORAGE OF GARBAGE AND REFUSE, OF THE REVISED GENERAL ORDINANCES AS AMENDED

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 321, Solid Waste; Recycling, Section 321-3, Storage of Garbage and Refuse, Subsection (G) of the aforesaid Revised General Ordinances is hereby amended and supplemented to read as follows:

§ 321-3. Storage of garbage and refuse.

- G. (1) Bulk items, such as furniture, mattresses and rugs, will be collected on regular scheduled garbage collection day, with a limit of 1 bulk item, 3 cans and 1 bundle of construction material every garbage collection.
- (2) No one shall attempt to recover or remove any of the RECYCLING items left at curbside intended for bulk pick up, including items intended for metal pick up and recycling without the consent of the Township Recycling Coordinator, as stated in Section 321-21 of this Chapter. Such items left at curbside become the property of the Township of West Milford and therefore, cannot be removed without THE CONSENT OF THE TOWNSHIP OR THE PROPERTY OWNER.

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Failure to obtain said consent shall result in a violation of this Chapter and shall subject the violator to the penalties provided for in Section 321-11.

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: September 15, 2010

This ordinance was introduced on September 15, 2010 and the Notice of Public Hearing was published in the Herald News on September 19, 2010. The Mayor opened the meeting to the public to speak on this ordinance only.

Jim Novack, Larchmont Drive, West Milford stated that this ordinance does not address additional items and associated costs for extra bulky items. Mr. Boyle advised that these matters will be addressed in the fee ordinance. Mr. Novack stated that he is not happy that this ordinance will allow for strangers to knock on a resident's door. If people are not home, the unknown person will then know that no one is home and he suggested that the police should weigh in on this provision.

Harry Clark, Risley Road, Upper Greenwood Lake stated that this ordinance should be abandoned. We are regulating garbage on the curb which is ridiculous.

Councilman Weisbecker moved to close public discussion seconded by Councilman Ramagila and approved by unanimous roll call vote.

Councilman Nolan recalled that this was discussed at a workshop meeting at which time he expressed the same concerns Mr. Novack voiced tonight. The recyclable items should become the Township's property when they are placed on the curb. He stated that the Township will lose revenue and we are now allowing people to knock on resident's doors. This is a matter of revenue and safety and as such he will vote no on this ordinance. Mr. Semrau stated that there was discussion to add language about obtaining the consent of the Township or the consent of property owners. The only issue that has not been discussed is that if a violation is issued the defendant may pressure the property owner to give consent. Mayor Bieri asked the Council if they would like to remove the words "or the property owner" in G2.

Councilman Jurkovic stated that the Council has not seen proof that there is the potential loss of revenue.

Council President Smolinski stated that the Council is reading too much into this. When items are placed at the curb they become the Township's property.

Motion to table to November 10 with discussion on November 3.

Moved: Weisbecker Seconded: Smolinski
Voted Aye: Weisbecker, Smolinski, Ramaglia, Nolan, Lichtenberg.
Voted Nay: Jurkovic.
Motion carried.

Agenda IV 3

~ Ordinance No. 2010-013 ~

ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY REPEALING CHAPTER 256, SECTION 13, "FIREWORKS AND EXPLOSIVES", OF THE REVISED GENERAL ORDINANCES

WHEREAS the Administrative Office of the Courts has advised that Chapter 256, Section 13, "Fireworks and Explosives", of the Township Code is preempted by State law rendering this local legislation ineffective and unenforceable; and

WHEREAS enforcement standards for such an activity is in no way relaxed or impeded as same is governed by State law.

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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 256-13, Fireworks and Explosives, of the aforesaid Revised General Ordinances is hereby repealed.

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: September 15, 2010
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This ordinance was introduced on September 15, 2010 and the Notice of Public Hearing was published in the Herald News on September 19, 2010. The Mayor opened the meeting to the public to speak on this ordinance only.

Councilman Weisbecker moved to close public discussion seconded by Councilman Ramaglia and approved by unanimous roll call vote.

Motion to move ordinance.

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

Agenda No. V

Public Comments

Mayor Bieri opened the meeting to the public after advising that there is a five-minute limit for each speaker.

Luke Slott, 10 Ponderosa Place, West Milford invited everyone to the High School auditorium for the first candidates night which will provide residents with a forum to learn where candidates stand on issues. There is a suggested \$5 donation which will be used to support the UN and DECA programs.

Todd Thiese, candidate for Congress stated that he is here tonight to thank West Milford residents for their support. Election day is fast approaching and he is looking forward to getting down to work. One of the first issues he will tackle when elected is the return New Jersey gets on Federal tax dollars. New Jersey does not get its fair share of return on federal funding. Compared to other states like Alaska, Mississippi and Pennsylvania, New Jersey only gets a small percentage back. 39 cents of our tax dollars goes to other states. Sometimes it would seem as if New Jersey is America's ATM. This continues despite the fact that our state is in a crisis. We have cut everything to the bone because we are out of money in New Jersey. He urged his constituency to keep this critical issue in mind. We need to bring this money back to our state; we must fight for our taxpayers.

Robert Nicholson, 20 Hyde Road, Stockholm thanked everyone for the Autumn Lights Festival. He objected to the donation being sought for the debates mentioned by Master Slott stating that debates should be free to all residents.

Lou Signorino, 3 Redbarn Lane, West Milford advised that residents have contacted him about a school bus stop in West Milford that is located in front of a sex offender's home. Parents have expressed their concerns to the Board of Education but have received no practical response. This is a concern. There are less than a dozen sex offenders in this town and this should not be an issue.

Jim Novack, Larchmont Drive, West Milford advised that there are test borings being done at various gas stations in town. Because residents in West Milford drink ground water, our health and construction officials should be involved in this process and know what is going on in town. This is a serious matter and can

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received cooperation from the bus company or the BOE. Councilman Ramaglia asked Administrator Boyle to follow up tomorrow morning and follow up with Council so that they can also call.

Agenda No. VII

New Business, Introduction of Ordinances, Resolutions

Agenda VII 1

~ Ordinance No. 2010-014 ~

ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY GRANTING MUNICIPAL CONSENT FOR THE OPERATION OF A CABLE TELEVISION SYSTEM WITHIN THE TOWNSHIP OF WEST MILFORD, NEW JERSEY TO CABLEVISION OF WARWICK, LLC

WHEREAS, the governing body of the Township of West Milford (hereinafter referred to as the "Township") determined that Cablevision of Warwick, LLC, (hereinafter referred to as "the Company" or "Cablevision") had the technical competence and general fitness to operate a cable television system in the Township, and by prior ordinance granted its municipal consent for Cablevision to obtain a non-exclusive franchise (the "Franchise") for the placement of facilities and the establishment of a cable television system in the Township; and

WHEREAS, by application for renewal consent filed with the Township and the Office of Cable Television on or about June 15, 2009, Cablevision has sought a renewal of the Franchise; and

WHEREAS, the Township having held public hearings has made due inquiry to review Cablevision's performance under the Franchise, and to identify the Township's future cable-related needs and interests and has concluded that Cablevision has substantially complied with its obligations under the Franchise and applicable law and has committed to certain undertakings responsive to the Township's future cable-related needs and interests;

WHEREAS, the governing body of the Township has accordingly concluded that the consent should be renewed subject to the requirements set forth below; and that, provided Cablevision's proposal for renewal embodies the commitments set forth below, the Township's municipal consent to the renewal of the Franchise should be given; and

WHEREAS, imposition of the same burdens and costs on other competitors franchised by Township is a basic assumption of the parties;

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

SECTION 1. DEFINITIONS

For the purpose of this Ordinance the terms defined above shall have the meanings there indicated, and the following additional terms shall have the following meanings:

- (a) "Act" or "Cable Television Act" shall mean that statute of the State of New Jersey relating to cable television, known as the Cable Television Act, N.J.S.A. 48:5A-1 et seq.
- (b) "Application" shall mean Cablevision's application for Renewal of Municipal Consent, which application is on file in the Township Clerk's office and is incorporated herein by reference and made a part hereof, except as modified, changed, limited or altered by this Ordinance.
- (c) "Board" shall mean the Board of Public Utilities of the State of New Jersey or its successor agency.
- (d) "Township" shall mean the governing body of the Township of West Milford in the County of Passaic, and the State of New Jersey.
- (e) "Company" shall mean Cablevision of Warwick, LLC, ("Cablevision") the grantee of rights under this Ordinance.
- (f) "FCC" shall mean the Federal Communications Commission.
- (g) "Federal Act" shall mean that federal statute relating to cable communications commonly known as the Cable Communications Policy Act of 1984, 47 U.S.C. Section 521 et seq. and the Telecommunications Act of 1996, or as those statutes may be amended.
- (h) "Federal Regulations" shall mean those federal regulations relating to cable television services, 47 C.F.R. Section 76.1 et seq. (and, to the extent applicable, any other federal rules and regulations relating to cable television, including but not limited to, those described in 47 C.F.R. Section 76.3), or as such regulations may be amended.
- (i) "Standard installation" shall mean the installation of drop cable to a customer's premise where the distance from the point of entry into the building being served is less than 150 feet from the active cable television system plant.

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- (j) "State" shall mean the State of New Jersey.
- (k) "State Regulations" shall mean those regulations of the State of New Jersey Board of Public Utilities relating to cable television. N.J.A.C. 14:17-1.1 et seq. and N.J.A.C. 14:18-1 et seq., or as such regulations may be amended.

SECTION 2. STATEMENT OF FINDINGS

A public hearing concerning the consent herein granted to Cablevision was held after proper public notice pursuant to the terms and conditions of the Act. Said hearing having been held and fully open to the public, and the municipality having received all comments regarding the qualifications of Cablevision to receive this consent, the Township hereby finds Cablevision possesses the necessary legal, technical, character, financial and other qualifications to support municipal consent, and that Cablevision's operating and construction arrangements are adequate and feasible.

SECTION 3. GRANT OF AUTHORITY

The Township hereby grants to Cablevision its non-exclusive consent to place in, upon, along, across, above, over, and under its highways, streets, alleys, sidewalks, public ways, and public places in the municipality poles, wires, cables, and fixtures necessary for the maintenance and operation in the Township of a cable television system or other communications facility, and for the provision of any communication service over such facilities as may be authorized by federal or State regulatory agencies. Operation and construction, pursuant to said consent, is conditioned upon prior approval of the Board of Public Utilities.

SECTION 4. DURATION OF FRANCHISE

This consent granted herein shall be non-exclusive and shall be for a term of fifteen (15) years from the date of issuance of a Certificate of Approval by the Board.

SECTION 5. EXPIRATION AND SUBSEQUENT RENEWAL

If Cablevision seeks successive consent, it shall, prior to the expiration of this consent, apply for a municipal consent and certificate of approval in accordance with N.J.S.A 48:5A-16, and applicable state and federal rules and regulations. In accordance with N.J.S.A. 48:5A-25.1, both the Township and Cablevision shall be bound by the terms of this municipal consent until such time as Cablevision converts the municipal consent (and any certificate of approval) into a system-wide franchise.

SECTION 6. FRANCHISE TERRITORY

The consent granted under this Ordinance to Cablevision shall apply to the entirety of the Township and any property hereafter annexed.

SECTION 7. SERVICE AREA

Cablevision shall be required to proffer video programming service along any public right-of-way to any person's residence within the portion of the Franchise territory, as described in the Application for municipal consent, at Cablevision's schedule of rates for standard and nonstandard installation.

SECTION 8. EXTENSION OF SERVICE

Cablevision shall extend service along any public right of way outside its service area to those residences within the Franchise territory which are located in areas that have a residential density of twenty-five (25) homes per mile or greater, or areas with less than twenty-five (25) homes per mile where residents agree to share the costs of such extension in accordance with the line extension formula as provided by the Company in its Application for municipal consent.

SECTION 9. FRANCHISE FEE

Pursuant to the terms and conditions of the Cable Television Act, Cablevision shall pay to the Township, as an annual franchise fee, a sum equal to two (2%) percent of the actual gross revenues received from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception services in the Township. In the event applicable law hereinafter permits a larger franchise fee to be collected, but does not fix the amount thereof, the Township and Cablevision shall negotiate in good faith with respect to the amount thereof; provided, however, that nothing herein shall be construed to permit the Township to require payment of a franchise fee by Cablevision that is higher than the fee paid by all other cable television service providers offering service in the Municipality.

SECTION 10. FREE SERVICE

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Cablevision shall, upon written request, provide free of charge, one (1) standard installation and monthly cable television reception service to all State or locally accredited public schools and all municipal public libraries, as well as municipal buildings located within the Township.

Upon written request from the Township, the Company shall provide to state and locally accredited elementary and secondary schools and municipal public libraries in the Township, without charge, the following: (1) one standard installation per school or library; (2) one cable modem per installation; and, (3) basic cable modem service for the term of this Ordinance for each installation. This offer shall be subject to the terms, conditions and use policies of the Company, as those policies may exist from time to time.

Upon written request from the Township, the Company shall provide to a municipally owned facility, without charge at one designated location, the following: (1) one standard installation; (2) one cable modem; and (3) basic cable modem service for the term of this Ordinance. This offer shall be subject to the terms, conditions and use policies of the Company as those policies may exist from time to time.

SECTION 11. CONSTRUCTION/SYSTEM REQUIREMENTS

Cablevision shall perform construction and installation of its plant and facilities in accordance with applicable State and federal law. The Company shall be subject to the following additional construction requirements with respect to the installation of its cable plant and facilities in the Township:

- (a) In the event that the Company or its agents shall disturb any pavement, street surfaces, sidewalks, driveways or other surfaces, the Company shall at its sole expense restore and replace such disturbances in as good a condition as existed prior to the commencement of said work.
- (b) If at any time during the period of this consent, the municipality shall alter or change the grade of any street, alley or other way or place, the Company, upon reasonable notice by the Township shall remove or relocate its equipment, at its own expense.
- (c) Upon request of a person holding a building or moving permit issued by the Township, the Company shall temporarily move or remove appropriate parts of its facilities so as to permit the moving or erection of buildings or for the performance of other work. The expense of any such temporary removal or relocation shall be paid in advance to the Company by the person requesting the same. In such cases, the Company shall be given not less than fourteen (14) days prior written notice in order to arrange for the changes required.
- (d) During the exercise of its rights and privileges under this consent, the Company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of the Township so as to prevent the branches of such trees from coming in contact with the wires, cables, conduits and fixtures of the Company. Such trimming shall be only to the extent necessary to maintain proper clearance for the Company's facilities.

SECTION 12. TECHNICAL AND CUSTOMER SERVICE STANDARDS

Cablevision shall comply with the technical and customer service standards established for the cable industry under applicable federal and State laws, rules and regulations.

SECTION 13. LOCAL OFFICE OR AGENT

Cablevision shall establish and maintain during the entire term of this consent a local area business office or agent for the purpose of receiving, investigating and resolving complaints regarding the quality of service, equipment malfunctions and similar matters. Said office shall be open daily during normal business hours, and in no event less than 9:00 a.m. to 5:00 p.m., Monday through Friday, with the exception of holidays.

SECTION 14. DESIGNATION OF COMPLAINT OFFICER

The Office of Cable Television is hereby designated as the complaint officer for the Township pursuant to the provisions of N.J.S.A. 48:5A-26. All complaints shall be reviewed and processed in accordance with N.J.A.C. 14:17-6.5.

SECTION 15. LIABILITY INSURANCE

Cablevision agrees to maintain and keep in force and effect at its sole cost at all times during the term of this consent, sufficient liability insurance naming the Township as an additional insured and insuring against loss by any such claim, suit, judgment, execution or demand in the minimum amounts of five hundred thousand dollars (\$500,000) for bodily injury or death to one person, and one million dollars (\$1,000,000) for bodily injury or death resulting from any one accident or occurrence stemming from or arising out of the Company's exercise of its rights hereunder.

SECTION 16. PERFORMANCE BOND

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Cablevision shall obtain and maintain, at its sole cost and expense, during the entire term of this Agreement, a bond to the municipality in the amount of twenty-five thousand dollars (\$25,000.00). Such bond shall be to insure the faithful performance of its obligations as provided in this Franchise.

SECTION 17. RATES

- A. The rates of the Company for cable television services shall be subject to regulation to the extent permitted by federal and State law.

SECTION 18. EMERGENCY USES

Cablevision shall be required to have the capability to override the audio portion of the system in order to permit the broadcasting of emergency messages by the Township pursuant to state and federal requirements. The Company shall in no way be held liable for any injury suffered by the Township or any other person, during an emergency, if for any reason the municipality is unable to make full use of the cable television system as contemplated herein. The Township shall utilize the state-approved procedures for such emergency uses.

SECTION 19. EQUITABLE TERMS

In the event that the service of another multi-channel video program provider not subject to the Township's regulatory authority within the Township creates a significant competitive disadvantage to Cablevision, the Company shall have the right to request from the Township lawful amendments to its Franchise that relieve it of burdens which create the unfair competitive situation. Should the Company seek such amendments to its Franchise, the parties agree to negotiate in good-faith appropriate changes to the Franchise in order to relieve the Company of such competitive disadvantages. If the parties can reach an agreement on such terms, the Township agrees to support the Company's petition to the Board for modification of the consent in accordance with N.J.S.A 48:5A-47 and N.J.A.C. 14:17-6.7.

If the parties are unable to reach an agreement on appropriate amendments to the franchise, the Township acknowledges that the Company shall have the right to petition the Board directly for such amendments in accordance with N.J.S.A. 48:5A-47 and N.J.A.C. 14:17-6.7; provided, however, the Township shall be under no obligation to support Cablevision's request for such relief from the Board.

In any subsequent municipal consent, Township shall require, at a minimum, the same terms and conditions of any other provider of multi-channel video programming subject to the Town's regulatory authority as those contained in the instant consent. In the event such subsequent consent does not contain the same terms and conditions as the instant consent, Township agrees to support the Company's petition to the Board for modification of the consent in accordance with NJSA 48:5A-47 and NJAC 14:17-6.7 to relieve the Company of competitive disadvantages identified in the Company's petition.

SECTION 20. REMOVAL OF FACILITIES

Upon expiration, termination or revocation of this Ordinance, Cablevision at its sole cost and expense and upon direction of the Board, shall remove the cables and appurtenant devices constructed or maintained in connection with the cable services authorized herein, unless Cablevision, its affiliated entities or assignees should, within six (6) months after such expiration, termination or revocation obtain certification from the FCC to operate an open video system or any other federal or state certification to provide telecommunications.

SECTION 21. PUBLIC, EDUCATIONAL, AND GOVERNMENTAL ACCESS

- A. Cablevision shall continue to make available non-commercial public, educational and governmental (PEG) access services available to the residents of the Township as described in the Application for municipal consent. All Cablevision support for PEG access shall be for the exclusive benefit of Cablevision's subscribers.
- B. The Township agrees that Cablevision shall retain the right to use the PEG access channel, or portion thereof, for non-PEG access programming, during times when the Township is not utilizing the channel for purposes of providing PEG access programming. In the event that the Company uses said PEG access channel for the presentation of such other programming, the PEG programming shall remain the priority use and the Company's rights with respect to using the channel for non-PEG programming shall be subordinate to the Township's provision of PEG access programming on such channel.
- C. Cablevision shall have discretion to determine the format and method of transmission of the PEG access programming provided for in this Section 21.
- D. Cablevision shall provide the Township with a one-time technology grant of ninety thousand dollars (\$90,000.00). Cablevision shall provide an initial grant payment of twenty two thousand and eight hundred dollars (\$22,800.00) within (90) days of the issuance of the Certificate of

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Approval by the Board of Public Utilities. The remaining grant of sixty-seven thousand and two hundred (\$67,200.00) shall be provided in annual installments of four thousand and eight hundred dollars (\$4,800.00), within (90) days of receipt of the written request by the Township (the "Annual Grant"). The Township may utilize the grant for any cable and/or other telecommunications purposes, provided: (a) such uses are lawful and consistent with the terms of this Ordinance; and (c) if used to purchase communications services, the Township shall seek to purchase such services from the Company or its affiliates, if offered. Cablevision shall not be obligated to make any additional payments beyond year fifteen of the franchise. The Annual Grant shall be payable to the Township within sixty (60) days from receipt of the Township's written request.

Notwithstanding the foregoing, should Cablevision apply for a system-wide certification or otherwise convert its municipal consent to a system-wide certification in accordance with N.J.S.A. 48:5A-25.1, it shall be relieved of any payments due and owing after the date of such conversion or award of a system-wide franchise.

- E. Upon written request from the Township, Cablevision will install a fiber access return feed to a municipally designated building, provided it is a standard installation, to allow for the origination of PEG access programming from the Township.

SECTION 22. INCORPORATION OF APPLICATION

All of the commitments contained in the Application and any amendment thereto submitted in writing to the Township by the Company except as modified herein, are binding upon Cablevision as terms and conditions of this consent. The Application and any other written amendments thereto submitted by Cablevision in connection with this consent are incorporated in this Ordinance by reference and made a part hereof, except as specifically modified, changed, limited, or altered by this Ordinance, or to the extent that they conflict with State or federal law.

SECTION 23. CONSISTENCY WITH APPLICABLE LAWS

This consent shall be construed in a manner consistent with all applicable federal, State and local laws; as such laws, rules and regulations may be amended from time to time.

SECTION 24. SEPARABILITY

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

SECTION 25. NOTICE

Notices required under this Ordinance shall in writing and shall be mailed, first class, postage prepaid, to the addresses below. Either party may change the place where notice is to be given by providing such change in writing at least thirty (30) days prior to the time such change becomes effective. The time to respond to notices under this Ordinance shall run from receipt of such written notice.

Notices to the Company shall be mailed to:
Cablevision Systems Corporation
638 Route 10
Randolph, NJ 07869
Attention: Vice President for Government/Public Affairs, New Jersey

With a copy to:
Cablevision of Warwick
1111 Stewart Avenue
Bethpage, NY 11714
Attention: Legal Department

Notices to the Township shall be mailed to:
Township of West Milford
1480 Union Valley Road
West Milford, New Jersey 07480
Attention: Township Administrator

SECTION 26. EFFECTIVE DATE AND BOARD OF PUBLIC UTILITY APPROVAL

This Ordinance shall take effect upon issuance of a Certificate of Approval as issued by the Board of Public Utilities that incorporates the material terms of this Ordinance. Nothing herein shall alter the right of the Company to seek modification of this Ordinance in accordance with N.J.S.A 48:5A-47 and N.J.A.C. 14:17-6.7.

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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BE IT FURTHER ORDAINED that this Ordinance shall take effect upon the passage, and publication as required by law.

INTRODUCED: October 20, 2010

Mayor Bieri advised that this ordinance is being introduced tonight. Second reading and public hearing for this ordinance is scheduled for November 10, 2010 and it shall be advertised as required by law.

Discussion: Councilman Nolan stated that there was an article in Saturday's record stating that Paterson got greater concessions when renewing their membership including a 10% discount to seniors in Paterson. He would like to see our seniors get that discount. Mr. Boyle replied that the policy of cable vision is that the discount applies to seniors who qualify regardless of their municipality of domicile. Mr. Semrau stated that he spoke with Gary Shaw of Cable Vision who said that West Milford is getting the best terms available. He stated that we can move to introduce this ordinance tonight and continue to negotiate. We can discuss it further at the next workshop and have public hearing on the 10th with Gary Shaw in attendance. The Council agreed.

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

Agenda VII 2

Mayor asked to move all resolutions together as one. Councilman Weisbecker moved agenda items VII 2 through VII 11.

After discussion, Councilman Jurkovic moved to amend resolution 2010-361 in accordance with the discussion of same and thus have a roll call for agenda items VII 2 through VII 11 to reflect the amendment to VII 4 and Council President Smolinski seconded the motion.

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

Agenda VII 2

~ Resolution No. 2010-359 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE TOWNSHIP TO ENTER INTO AN AGREEMENT WITH THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY FOR THE TRANSFER OF STEEL FROM THE FORMER WORLD TRADE CENTER

WHEREAS, the Township of West Milford has expressed great sympathy and recognized those individuals who were affected by the World Trade Center tragedy that occurred on September 11, 2001; and

WHEREAS, the Township has an opportunity to obtain a certain piece of steel of the former World Trade Center from the Port Authority of New York and New Jersey archives; and

WHEREAS, the Township would very much like to have said steel made available and be recognized and utilized in conjunction with the Township's remembering those individuals affected by the events of September 11, 2001; and

WHEREAS, the Port Authority of New York and New Jersey proposes to enter into an agreement with the Township for the transfer of said steel; and

WHEREAS, the agreement has been reviewed by legal counsel and is found to be acceptable.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Township Council of the Township of West Milford, County of Passaic and State of New Jersey that the Mayor is hereby authorized to enter into an agreement with the Port Authority of New York and New Jersey to obtain a certain piece of steel of the former World Trade Center. A copy of the agreement with attachments is on file in the Township Clerk's Office.

Adopted: October 20, 2010

Agenda No. VII 3

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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~ Resolution No. 2010-360 ~

NUMBER NOT USED

Agenda No. VII 4

~ Resolution No. 2010-361 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING AN AGREEMENT BETWEEN THE TOWNSHIP AND THE WEST MILFORD TOWNSHIP BOARD OF EDUCATION FOR THE USE OF THE SYNTHETIC TURF FIELD AT McCORMACK FIELD

WHEREAS, the Township of West Milford will receive the benefit of a synthetic turf field installed by DTAK West Milford, LLC in accordance with the terms of an agreement between DTAK West Milford, LLC and the Township; and

WHEREAS, the Mayor and Council of the Township of West Milford have selected McCormack Field, which is owned by the West Milford Township Board of Education, as the site for the installation of the synthetic turf field to benefit the residents and children of the Township; and

WHEREAS, the Township of West Milford and the West Milford Township Board of Education have discussed various terms and conditions as to use, maintenance and replacement of the synthetic turf field.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Township Council of the Township of West Milford, County of Passaic and State of New Jersey that the Mayor is hereby authorized to enter into an agreement with the West Milford Township Board of Education for the use of the synthetic turf field at McCormack Field.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to take any and all necessary action to effectuate the terms of the Agreement, a copy of which is on file in the Township Clerk's Office.

Adopted: October 20, 2010

Discussion: Councilman Nolan stated that he has a number of issues with this resolution. The first whereas says that the field is installed. Article 11 in the agreement talks about insurance in which the Township indemnifies the Board of Education (BOE). If we indemnify the BOE they should likewise indemnify the Township. Mr. Semrau stated that he can expand on that provision to mirror the language for both parties. Councilman Nolan stated that he would like confirmation that the Township has liability insurance and property insurance on this field. He opined that there is a need for more recycling and garbage containers based on anticipated use. Council President Smolinski stated that he met with the Recreation Advisory Committee and, as with all facilities in West Milford, there will be a carry-in carry-out policy regarding garbage. This policy has been quite successful for some time. Mr. Semrau stated that he met with the Township Administrator and the Director of Community Services last Thursday. Certain revisions were proposed for the contract and Mr. Knudsen will be discussing those changes with the athletic director and does not foresee any objections. If the Council approves this contract tonight it is expected that there will be no impediments to proceeding accordingly. The Council agreed that item IV should say "Township Activities", references to maintenance should be clarified and XI changed. Additionally, the Council instructed the Attorney to amend the first "Whereas" to say that West Milford will receive the benefit of a synthetic turf field. Mr. Semrau will also expand the language on the insurance issues in the agreement.

Agenda No. VII 5

~ Resolution No. 2010-362 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE EXECUTION OF THE ACCESS AND REIMBURSEMENT AGREEMENT FOR THE EXTENSION OF WESLEY AND LESLIE DRIVE

WHEREAS, Mr. Charles Aikey, (hereinafter "Developer") has received Final Subdivision approval for Section One of a project located at Block 9501, Lot 19.02 and more particularly set forth on File Map #3555 on file with the Township of West Milford; and

WHEREAS, through the course of developing the subject subdivision, the Developer has already placed the base course of pavement on the extension of Wesley Drive and Leslie Drive which may eventually become part of the aforesaid roadways once the extension is completed and accepted by the Township; and

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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WHEREAS, the Township is already planning on paving the already public portions of Wesley Drive and Leslie Drive and has requested that the Developer grant the Township access to place the top course of pavement on the extension of roadway which may eventually be accepted by the Township once the subject subdivision is completed and all provisions relative to such acceptance are met; and

WHEREAS, both the Developer and the Township realize the benefits of allowing the Township to place the top course of pavement on the subject roadway extension prior to the Township taking over said extension subject to the terms and conditions of the access and reimbursement agreement which includes payment in advance of estimated costs for same.

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 shall execute and enter into the Access and Reimbursement Agreement with the Developer, a copy of which is on file with the Township Clerk, pursuant to the terms and conditions as stated in the Agreement.

Adopted: October 20, 2010

Agenda No. VII 6

~ Resolution No. 2010-363~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC,
STATE OF NEW JERSEY AUTHORIZING THE MEMBERSHIP RENEWAL IN THE MORRIS COUNTY
MUNICIPAL JOINT INSURANCE FUND**

WHEREAS, the Township of West Milford is a member of the Morris County Municipal Joint Insurance Fund, and;

WHEREAS said renewed membership terminates as of December 31, 2010 unless earlier renewed by agreement between the Municipality and the Fund; and

WHEREAS, the Municipality desires to renew said membership;

NOW, THEREFORE, BE IT RESOLVED as follows:

- 1) The Township of West Milford hereby renews its membership in the Morris County Municipal Joint Insurance Fund for a three (3) year period, beginning January 1, 2011 and ending January 1, 2014 at 12:01 a.m.
- 2) The Township of West Milford agrees to renew its membership in the Morris County Municipal Joint Insurance Fund and to be subject to the Bylaws, Rules and Regulations, coverages and operating procedures thereof as presently existing or as modified from time to time by lawful act of the Fund.
- 3) The Mayor and Clerk shall be and hereby are authorized to execute the agreement to renew membership to be placed on file in the Office of the Township Clerk and to deliver same to the Morris County Municipal Joint Insurance Fund evidencing the Municipality's intention to renew its membership.

Adopted: October 20, 2010

Discussion: Councilman Nolan asked to comment on this and resolution 364. The insurance committee unanimously voted to renew in both these funds for insurance and health insurance. The Morris County JIF will cost about \$2.5 million over the next 3 years. We have been in this fund for past three years and have done well. One thing that stands out is the reduced number of workers compensation claims. The Morris JIF emphasizes safety and the results are evident. He hopes this continues. The Morris JIF ranks the highest in reduced workers comp claims. One concern going forward is public official and employment practices liability. The JIF will be contracting those out because they are becoming so expensive. He asked Mr. Semrau to expand upon this. Mr. Semrau advised that his firm is the attorney for the MEL and JIF and clarified that he is not involved in contractual issues. The MEL will contract out to a private contractor for these services. The cost will come out of the EJIF surplus funds. Councilman Nolan stated that the overall increase is 1.65%. The committee believes Township is well served by the Morris JIF.

Agenda No. VII 7

~ Resolution No. 2010-364 ~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC,
STATE OF NEW JERSEY AUTHORIZING THE MEMBERSHIP RENEWAL IN THE NORTH JERSEY
MUNICIPAL EMPLOYEE BENEFITS FUND**

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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WHEREAS, a number of public entities in the State of New Jersey have joined together to form the North Jersey Municipal Employee Benefits Fund, hereafter referred to as "FUND", as permitted by N.J.S.A. 11:15-3, 17:1-8-1, and 40A:10-36 et seq., and;

WHEREAS the FUND was approved to become operational by the Departments of Insurance and Community Affairs and has been operational since that date; and

WHEREAS, the statutes and regulations governing the creation and operation of a joint insurance fund, contain certain elaborate restrictions and safeguards concerning the safe and efficient administration of the public interest entrusted to such a FUND; and

WHEREAS, the governing body of the Township of West Milford, hereinafter referred to as "LOCAL UNIT" has determined that membership in the FUND is in the best interest of the LOCAL UNIT.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the LOCAL UNIT hereby agrees as follows:

1. Become a member of the FUND for the period outlined in the LOCAL UNIT's Indemnity and Trust Agreements.
2. Will participate in the following type(s) of coverage(s):
Health insurance as defined pursuant to N.J.S.A. 17B:17-4, the FUNDS's Bylaws, and Plan of Risk Management.
3. Adopts and approves the FUND's Bylaws
4. Execute an application for membership and any accompanying certifications.

Adopted: October 20, 2010

Councilman Nolan stated that adoption of this resolution will renew membership in a JIF that provides our health insurance for three years. He reviewed the costs and compared them to prior years. In past years claims have been more than the assessments. Our claims advisor believes that our claims are high because we cover all our retirees.

Agenda No. VII 8

~ Resolution No. 2010-365 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY REQUESTING APPROVAL OF SPECIAL ITEM OF REVENUES AND APPROPRIATION

WHEREAS N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget and,

WHEREAS, the Director may also approve the insertion of any item of appropriation for an equal amount,

WHEREAS, the Township of West Milford wishes to amend its 2010 Budget to include an amount as revenue,

NOW THEREFORE, BE IT RESOLVED that the Governing Body of the Township of West Milford hereby requests the Director of the Division of Local Government Services to approve the insertion of an item in the budget of the year 2010 in the sum of \$109,700 which is now available as a revenue from:

Special Items of General Revenue Anticipated with Prior Written Consent of the Director of Local Government Services:
Public and Private Revenues Off-Set with Appropriations:
Buffer Zone Protection Program

BE IT FURTHER RESOLVED that a like sum of \$109,700 be and the same is hereby appropriated under the caption of:

General Appropriations
(A) Operations - Excluded from CAPS
Public and Private Programs Offset by Revenue
Buffer Zone Protection Program \$109,700

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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BE IT FURTHER RESOLVED, that the Township Clerk forward two copies of this resolution to the Director of Local Government Services.

Approved: October 20, 2010

Agenda No. VII 9
~ Resolution No. 2010-366 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING THE PURCHASE OF ICE CONTROL AGGREGATES THROUGH VAN ORDEN SAND & GRAVEL OF RINGWOOD

WHEREAS, the Township of West Milford solicited bids on September 10, 2010 for Ice Control Aggregates; and

WHEREAS, in response to the "Notice to Bidders" advertised and sent to ten prospective bidders and bid service companies the Township received two (2) bids; and

WHEREAS, said bids have been duly reviewed and analyzed by the Director of Public Works; and

WHEREAS, the Director of Public Works has submitted a written recommendation for the award of this contract to Van Orden Sand & Gravel of Ringwood, P.O. Box 8246, Haledon, NJ 07538; and

WHEREAS, the Chief Financial Officer has certified as to the availability of funds and encumbrances for this purchase shall come from account number 0-01-26-294-348; and

WHEREAS, after careful consideration the Governing Body has found it to be in the best interest of the Township to award a contract to Van Orden Sand & Gravel of Ringwood;

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 awards a contract Van Orden Sand & Gravel of Ringwood for Ice Control Aggregates in an amount not to exceed \$144,500.00.
2. The Mayor and Township Clerk are hereby authorized and directed to execute a contract with Van Orden Sand & Gravel of Ringwood in accordance with its bid for Ice Control Aggregates.
3. The Township's Chief Financial Officer has certified the availability of funds for same.
4. This resolution and contract shall be available for public inspection in the office of the Municipal Clerk.

Adopted: October 20, 2010

Agenda No. VII 10

~ Resolution No. 2010-367 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING THE PURCHASE OF ROCK SALT THROUGH INTERNATIONAL SALT CO., LLC

WHEREAS, the Township of West Milford solicited bids on September 10, 2010 for Rock Salt; and

WHEREAS, in response to the "Notice to Bidders" advertised and sent to twelve prospective bidders and bid service companies the Township received five (5) bids; and

WHEREAS, said bids have been duly reviewed and analyzed by the Director of Public Works; and

WHEREAS, the Director of Public Works has submitted a written recommendation for the award of this contract to International Salt Company, LLC, 655 Northern Boulevard, Clark's Summit, PA 18411; and

WHEREAS, the Chief Financial Officer has certified as to the availability of funds and encumbrances for this purchase shall come from account number 0-01-26-294-363; and

WHEREAS, after careful consideration the Governing Body has found it to be in the best interest of the Township to award a contract to International Salt Company, LLC.

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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 awards a contract to International Salt Company, LLC for Rock Salt in an amount not to exceed \$521,985.00.
2. The Mayor and Township Clerk are hereby authorized and directed to execute a contract with International Salt Company, LLC in accordance with its bid for Rock Salt.
3. The Township's Chief Financial Officer has certified the availability of funds for same.
4. This resolution and contract shall be available for public inspection in the office of the Municipal Clerk.

Adopted: October 20, 2010

Agenda No. VII 11

~ Resolution No. 2010-368 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING THE RENEWAL OF A POCKET PLENARY RETAIL CONSUMPTION LICENSE FOR THE 2010- 2011 LICENSE YEAR

WHEREAS, an application for renewal of Plenary Retail Consumption License No. 1615-33-034-006 LaRocca, Inc. for the 2010- 2011 License year has been received and reviewed; and

WHEREAS, it has been determined that this license has been an inactive pocket license with no sited premise since September 30, 2008, and that a Special Ruling is required from the Director of the Division of Alcoholic Beverage Control to renew this license; and

WHEREAS, a Special Ruling was received from the Director of the Division of Alcoholic Beverage Control on September 29, 2010; and

WHEREAS, the 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, 2009- June 30, 2010).

WHEREAS, the Police Department has recommended that the license be renewed to the current owner as an (inactive) pocket license.

NOW, THEREFORE, BE IT RESOLVED that the Township Clerk is directed to issue and hold the license certificate for the Mayor and Township Council of the Township of West Milford.

<p>LA ROCCA, INC. Mailing Address: 27 Sterling Street Franklin, NJ 07416 1615-33-34-006</p>	<ol style="list-style-type: none"> 1. Inactive and pocket licenses must be inspected, submit applicable pages of 12 page application to the Township Clerk's Office, and receive satisfactory recommendations from the Health Department and Police Department prior to opening. 2. Following renewal the executor of this estate must: <ol style="list-style-type: none"> a. Upon probate, file an Amendment to the application for a Corporate Structure Change; OR 3. If the license is sold: <ol style="list-style-type: none"> a. Purchaser must file a Person to Person Transfer of License
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Adopted: October 20, 2010

Agenda No. VIII

Consent Agenda

~ Resolution No. 2010-369 ~

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:

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Resolutions:

- a. **2010-370** – Cancel Taxes
- b. **2010-371** – Refund Overpayments
- c. **2010-372** – Refund Escrow Monies
- d. **2010-373** – Refund Health Department Fees
- e. **2010-374** – Refund Other Liens
- f. **2010-376** – 2010 Licenses

Applications:

- a. **Application for On Premise 50/50 Raffle License No. 2010-38** by the West Milford Rotary for November 20, 2010.
- b. **Application for Off Premise 50/50 Raffle License No. 2010-39** by the West Milford High School PTSO for December 8, 2010.
- c. **Application for Off Premise 50/50 Raffle License No. 2011-01** by the West Milford High School PTSO for June 9, 2011.

Adopted: October 20, 2010

Moved: Weisbecker Seconded: Nolan
 Voted Aye: Weisbecker, Smolinski, Ramaglia, Nolan, Lichtenberg, Jurkovic.
 Voted Nay: None.
 Recuse: Lichtenberg recused on the Rotary Club only.
 Motion carried.

Agenda No. VIII a

~ Resolution No. 2010-370 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING CANCELLATION OF TAX

WHEREAS, there appears on the tax records balances as listed below; and

WHEREAS, the Collector of Taxes recommends the cancellation of taxes due to reasons listed below.

NOW, THEREFORE, BE IT RESOLVED that the proper officers be and they are hereby authorized and directed to cancel as hereafter listed below:

REASON:

- 1. Township Owned Property
- 2. Tax Exempt Property
- 3. 100 % Disabled Veteran

BLOCK/LOT	NAME	AMOUNT	YEAR	REASON
8001-1	Township of West Milford	\$15,162.57	2010 2 nd Half	1
8001-1	Township of West Milford	\$14,550.00	2011 1 st Half	1
6402-3	Passaic River Coalition	\$4,364.00	2010 1 st Half	2
6504-11	Passaic River Coalition Inc.	\$38.00	2010 1 st Half	2
12208-19	John & Barbara Koch	\$7,780.82	2010 Full Year	3
12208-19	John & Barbara Koch	\$3,890.00	2011 1 st Half	3
6002-12	W. & T. McCormick Jr.	\$3,384.00	2010 2 nd Qtr	3
6002-12	W. & T. McCormick Jr.	\$5,030.64	2010 2 nd Half	3
6002-12	W. & T. McCormick Jr.	\$6,322.76	2011 1 st Half	3
15701-28	Luis & Alexandra Taveréz	\$8,882.68	2010 Full Year	3
15701-28	Luis & Alexandra Taveréz	\$4,442.00	2011 1 st Half	3

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BLOCK/LOT	NAME	AMOUNT	YEAR	REASON
TOTAL		\$73,847.47		

Adopted: October 20, 2010

Agenda No. VIII b

~ Resolution No. 2010-371 ~

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

WHEREAS, there appears on the tax records overpayments as shown below; and

WHEREAS, the overpayments were created by reasons stated below and the Collector of Taxes recommends the refund of such overpayments.

NOW, THEREFORE, BE IT RESOLVED that the proper officers be and they are hereby authorized and directed to issue checks refunding such overpayments as shown below:

REASONS:

- | | |
|-------------------------|---------------------|
| 1. Incorrect Payment | 4. Homestead Rebate |
| 2. Duplicate Payment | 5. Tax Appeal |
| 3. 100% Disable Veteran | |

Block/Lot	Name	Amount	Year	Reason
2601-23	West Milford Fire Bureau 1480 Union Valley Road West Milford, NJ 07480	\$35.00	2010	1
2608-11	Russell & Pauline Hacker P.O. Box 7246 Sussex, NJ 07461	\$18.48	2010	1
3512-8	John Bandel Jr. 6 Cascade Terrace P.O. Box 1350 Greenwood Lake, NY 10925	\$466.98	2010	1
6002-12	W. & T. McCormick 624 Morsetown Road West Milford, NJ 07480	\$3,384.00	2010	3
7509-4	Frank Cangro 11 Pinecliff Lake Drive West Milford, NJ 07480	\$168.52	2010	1
08201-22 Q	Paul Vander Veen 1855 Macopin Road West Milford, NJ 07480	\$24.50	2010	1
10805-16	Jeffrey M. Kassover, Esq. 2282 Hamburg Turnpike Suite 3 Wayne, NJ 07470	\$4.57	2010	1
10808-33	Jeffrey M. Kassover, Esq. 2282 Hamburg Turnpike Suite 3 Wayne, NJ 07470	\$45.07	2010	1
12001-16	Robert C. Ascher 6871 Fabiano Circle Boyton Beach, FL 33437	\$543.00	2010	1
12001-19	Robert C. Ascher 6871 Fabiano Circle Boyton Beach, FL 33437	\$40.93	2010	1
12001-35.01	JCV, A Partnership C/O Veltri 160 Maple Road West Milford, NJ 07480	\$1,209.53	2010	1
12208-19	John & Barbara Koch 4 Robin Lane West Milford, NJ 07480	\$3,726.00	2010	3
12501-41.01	Camp Vacamas Assoc. Inc. 256 Macopin Road West Milford, NJ 07480	\$205.00	2010	1
15701-28	Luis & Alexandra Tavez	\$6,591.00	2010	3

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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Block/Lot	Name	Amount	Year	Reason
	11 Community Place Newfoundland, NJ 07435			
13704-6	Robert Rothman 411 Grand Avenue Englewood, NJ 07651	\$2,157.30	2010	2
13101-4	Richard Meany 7 Mallory Drive West Milford, NJ 07480	\$14.81	2010	1
TOTAL		\$18,634.69		

Adopted: October 20, 2010

Agenda No. VIII c

~ Resolution No. 2010-372 ~

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's Land Use Administrator, the following Escrow monies be refunded:

Name & Address	Application No.	Amount of Escrow	Amount Refunded
Mr. & Mrs. Thomas Schaefer 39 Longhouse Drive Hewitt, NJ 07421	ZB07-10-07	\$950.00	\$620.00
TOTAL REFUND			\$620.00

Adopted: October 20, 2010

Agenda No. VIII d

~ Resolution No. 2010-373 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING REFUND OF A HEALTH DEPARTMENT FLU CLINIC FEE

BE IT RESOLVED, by the Township Council of the Township of West Milford that, upon the report and request of the Township Health Department, the following fee be refunded:

Name & Address	Receipt No(s)	Amount Refunded
Mr. and Mrs. Robert Nebel 13 Morris Avenue West Milford, NJ 07480	8612 and 8613 (\$12.00 each)	\$24.00

Adopted: October 20, 2010

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~ Resolution No. 2010-374 ~

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	Reimburse Amt	Pay to the Lien Holder
10-070	03/23/2010	06710-004	\$885.84	EDISON TAX SERVICE LLC 1290 WALL ST. STE 301 LYNDHURST, NJ 07071

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10-094	03/23/2010	09101-001	\$1,789.91	US BANK CUST FOR PRO CAPITAL I LLC US BANK TSLG 50 S. 16TH ST. STE 1950 PHILADELPHIA, PA 19102
10-107	03/23/2010	10803-019	\$1,920.09	US BANK CUST FOR PRO CAPITAL I LLC US BANK TSLG 50 S. 16TH ST. STE 1950 PHILADELPHIA, PA 19102
10-108	03/23/2010	10805-010	\$13,877.41	CLEMENTE ENTERPRISES; LLC P.O. BOX 514 LINCOLN PARK, NJ 07035
10-145	03/23/2010	16001-008	\$28,015.75	US BANK CUST/SASS MUNI VI DTR TAX LIEN 2 LIBERTY PLACE 50 SO. 16TH ST. STE 1950 PHILADELPHIA, PA 19102
Grand Total			\$46,489.00	

Adopted: October 20, 2010

Agenda No. VIII f

~ Resolution No. 2010-376 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY APPROVING THE ISSUANCE OF AN AMUSEMENT GAME LICENSE AND POOL TABLE LICENSE FOR THE REMAINDER OF LICENSE YEAR 2010

WHEREAS, applications have been made by the new owner of the Island of Spirits for an Amusement Game License and Pool Table License for the remainder of 2010; and

WHEREAS, reports of recommendation have been received from various Township Departments recommending the issuance of said license as listed below.

NOW, THEREFORE, BE IT RESOLVED that the Township Council of the Township of West Milford does hereby approve the issuance of 2010 Licenses *as listed below*:

2010 AMUSEMENT GAME LICENSE			
License No.	Applicant Name/Address	Owner Name	No. Games
2010 - 6	HPLAY of West Milford Liquors LLC 3025 Route 23 Oak Ridge, NJ 07438	Parul Patel	1
2010 POOL TABLE LICENSE			
License No.	Applicant Name/Address	Owner Name	No. Games
2010 - 8	HPLAY of West Milford Liquors LLC 3025 Route 23 Oak Ridge, NJ 07438	Parul Patel	1

Adopted: October 20, 2010

Agenda No. IX

Approval of Expenditures

~ Resolution No. 2010-375 ~

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:

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Acct #	Account Name	Amount
1	Current Account.	\$117,128.60
2	Reserve Account	0.00
3	Animal Control Trust	0.00
6	Capital.	66,756.17
7	Grants.	3,200.88
8	Refuse.	0.00
9	Refunds.	65,123.69
12	General Ledger.	10,903.48
16	Heritage Trust.	0.00
14	Open Space Trust	6,275.00
17	Trust	2,000.00
18	Development Escrow.	6,526.50
19	LOSAP	0.00
20	Special Reserve	0.00
Total		\$277,914.32
Less Refund Resolution		-65,123.69
Actual Bill List		\$212,790.63
Other Payments		
Total Expenditures		\$212,790.63

Approved: October 20, 2010

Moved: Weisbecker Seconded: Ramaglia
 Voted Aye: Weisbecker, Smolinski, Ramaglia, Nolan, Lichtenberg, Jurkovic.
 Voted Nay: Councilman Nolan voted no on Glatts bill only, Councilman Jurkovic voted no on the payment to Thomas Geminario only.
 Abstain: Councilman Nolan abstained on Valley Health and Camp Vacamas payments only, Councilman Jurkovic abstained on the payment to Steve Glatt only.
 Motion carried.

Agenda No. X

Reports of Mayor, Administrator, Council Members, Attorney

Councilman Weisbecker commended ALF committee adding that he is glad the festival did not move to Jungle Habitat as discussed earlier in the year. There was a sea of people and it was amazing to see. Encouraged people to get out and vote on November 2nd.

Council President Smolinski asked Mayor Bieri about how Captain Coscia's retirement will affect the number of people who can sit for the Chief's exam. He asked if she considered opening the test up to other ranks who are qualified because, in his opinion, this would benefit the Township. He asked her to consider this option as a courtesy to officers.

Councilman Ramaglia stated that he met a couple at ALF who come repeatedly from New York State and he stated that this result supports the goals of the Economic Development Committee.

Councilman Nolan recalled that Roger Staib from Government Strategy Group spoke to the Council earlier in year about shared services as part of his contract with Passaic County to educate and promote shared services throughout the County. He and Administrator Boyle met with Mr. Staib and representatives from PCIA two weeks ago. He asked for a future workshop discussion of shared services initiatives in the hopes that it might help reduce property taxes. The New Jersey League of Municipalities has advised that pension contributions for next year will increase with PERS contributions expected to will increase over \$188,000 and PFRS expected to increase by \$142,000. Between both this represents a \$330,000 increase before we even begin working on 2011 budget. He gave a thumbs up to the ALF committee. The day began with the annual 5K run at middle school where approximately 200 runners participated.

Councilwoman Lichtenberg announced upcoming community events including a clothing drive this weekend for the High School hockey team, a rabies clinic at DPW scheduled for October 30th and the

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Trail of Terror on 10/22 at Bubbling Springs. She gave a thumbs up to the ALF committee and all volunteers who came forward to help. She noted that she is at Town Hall every Thursday from 10 am to noon to hear residents comments and concerns.

Councilman Jurkovic echoed the comments about ALF and a voiced a special thanks to those Township employees who volunteered at ALF.

Mayor Bieri gave a thumbs up to the ALF committee. She noted that the quarterly reports received this past week indicate that revenue is significantly down. She asked if staff can be trained to assist zoning officer and perhaps deal with the volume of complaints received by this one person. Mr. Boyle stated that he will look into that. She stated that there is potential to make good use of available time while addressing a host of concerns expressed by residents. She noted that there has been talk about the drug problems encountered by towns everywhere. Newbridge Services has promulgated information that supports the theory that the war on drugs starts at home and she urged parents to become involved in their children's lives. They recommend that parents talk with your children; recognize changes in their habits and associations; and seek assistance whenever necessary.

In response to Council President Smolinski's comments she advised that she had done research and learned that she is not permitted to open the Chief's exam to officers in ranks below lieutenant. She has opened it up to the largest pool possible. Council President Smolinski interjected that he wants to be fair and equitable and demanded that the Mayor review the expiration dates of lists so that tests are called for when necessary. He asked that the Mayor include the Council President in all personnel matters and meetings. Councilman Nolan commented that the role of the Council President is simply to chair meetings when the Mayor is absent. That is all. Councilman Ramaglia stated that the Council gets criticized for asking a question yet he only wants to be informed about decisions being made by the Mayor. Council President Smolinski stated that the Mayor's actions may have cost the Township over \$200,000 which impacts the Council who is responsible for the budget. Mayor Bieri asked the Council President to substantiate his statement saying that he is misinformed. Councilman Jurkovic stated that the Mayor called a retired police officer out of retirement without consulting with the Council. Mayor Bieri explained that she was on vacation when Chief Costello retired without giving any notice or having a transition plan in place. His actions put her in a position where she had to take action and as such she followed the rank structure, the recommendations of the Department of Personnel, Civil Service, and the former Chief himself. It did not cost Township anything. Councilman Jurkovic stated that he is not disputing Mayor's right to make decisions but he urged her to include the Council in a spirit of cooperation. Council President Smolinski stated that there was a structure in place before the Chiefs retirement namely there is a captain who moves up and, in his opinion, the Mayor disrupted the structure and called someone from retirement to fill a void that was not required. He respectfully requested to be a part of it and was rejected. He perceives this to be a problem with a negative impact on the ability of members of the police department to advance within the ranks. He stated that it is Council's responsibility to address the budget. Mayor Bieri stated that she never appointed Captain Coscia to Acting Chief. Because Acting Chief Chiosie was on terminal leave at the time, Captain Coscia automatically, because of rank structure, became the officer in charge. She never interfered with existing structure but maintained it. As such she appointed the most senior officer in the department, Chiosie, to Acting Chief after consulting with him about his returning from terminal leave. Gene Chiosie, she said, was not retired. Her actions strictly adhered to the existing structure within the department and she diligently sought to adhere to that structure. The hierarchy in the department, both current and outgoing, as well as the Department of Personnel and the Division of Civil Service counseled her to abide by the existing structure and rank. She did her homework and followed the chain of command, rank structure, protocol and guidelines strictly and without prejudice. As such she appointed Gene Chiosie to serve as Acting Chief of Police because he is the most senior officer in the West Milford Police Department. She reviewed the functions of the Mayor and those of the Council under this form of government and stressed that she is fulfilling her role as Mayor. She urged the Council, especially the Council President, to stop interfering and to focus on their responsibilities as legislators. Council President Smolinski objected stating that the Mayor did not follow existing structure with the department ultimately costing the Township \$200,000. He reiterated that the Council is responsible for the budget and she is not including them in her decisions.

Mayor Bieri urged the Council President to stop his continued interference with her duties as Mayor. She stated that the Council majority repeatedly supports this interference and it is inappropriate under this form of government which was chosen by the residents of West Milford. She stated that the interference needs to stop because the effect has been to repeatedly instill fear in residents, create delays for projects and negatively impact employee morale. She cited incidents and gave examples of such interference since she assumed office in 2008. She stated that last year the Council President in writing demanded a layoff plan from the Administrator and when he got what he wanted he sought to blame her as Mayor. She stated that it is time that the Council understand their role, establish a budget, and respect the form of government that the voters chose for West Milford. The Council, she said, votes on legislation and the

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budget. Period. Administrative functions, guided by the Council's budget, fall squarely within the purview of the Mayor's office.

Councilman Jurkovic stated that he is tired of being lectured by the Mayor. He asked the Township Attorney to provide a memo to the Mayor outlining her duties. He condemned the Mayor for having a prepared statement for tonight's meeting stating that the layoff plan presented is not what Council asked for. He stated that having a prepared statement indicates that the Mayor is not working in cooperation. Councilman Ramaglia, asked where he overstepped his bounds. The coffee house was closed down because staff was being paid to oversee events at which there was no attendance. Councilman Weisbecker stated that at no time did he or any Council member demand a layoff plan. They took direction from labor counsel. Mayor Bieri stated that she prepares for every meeting to the best of her ability. She stated that she does indeed have a prepared statement tonight because she accurately predicted how the Council would act. She stated that she makes no apologies for being prepared because she takes her role seriously. Councilman Jurkovic urged the Mayor to stop lecturing Council. He demanded to know why he can't talk to employees and why Captain Coscia was disciplined for trying to speak to Council. Mr. Semrau advised that the issue with Captain Coscia is a personnel matter not subject to public discourse.

Administrator Boyle stated that he has received letter from Ed Nolan from AA requesting use of facilities at Thanksgiving and Christmas weekend and asking that the fees be waived. The Council gave consensus to waive the fees for these gatherings. Mr. Boyle stated that proposals for the revaluation are being reviewed and interviews will be conducted soon. He stated that he and members of his staff will be meeting with the open space committee, a subcommittee of the Environmental Commission, and with Land Conservancy representatives. He advised that he distributed budget information to department heads at their last meeting and noted that the public hearings for the Magnolia Road and Gordon Lakes assessments will be at 7 p.m. on November 10, 2011.

Mr. Semrau recalled that there was discussion at the last meeting about a performance guarantee for the turf field and the creation of a schedule for completion and payment. He spoke with Paul Ferriero who finds the DT Allen schedule to be acceptable. He believes a reduction of approximately \$275,000 would be warranted once the turf field is delivered and the project commences. Materials are the most significant cost associated with this job. He recommended that a 5% retainer be held until completion the release of which would be conditional on receipt of proof of delivery and commencement of the project. He asked for consensus to take the next step and formalize the schedule for release of funds. Councilman Weisbecker made a motion, seconded by Councilman Ramaglia that the Council agrees with the terms set forth in Mr. Ferriero's October 20th memo.

Discussion: Councilman Nolan stated that the deal was that payment comes when the project is completed and he expressed concerns that there have already been delays. Mr. Semrau concurred that there have been delays but he noted that DT Allen was prepared to mobilize and were not responsible for the delays. Councilman Jurkovic stated that the Township is not paying the contractor any additional money adding that it is standard in the construction industry to pay a contractor for materials. He stated that he does not object to releasing the money for materials saying that there is still money for the completion of the job.

Moved: Weisbecker Seconded: Ramaglia
Voted Aye: Weisbecker, Smolinski, Ramaglia, Lichtenberg, Jurkovic.
Voted Nay: Councilman Nolan.
Motion carried.

Mayor Bieri announced that she has decided to share her views with residents and as such has drafted an e-newsletter. Residents who wish to receive a copy may subscribe by sending an email to MayorBieri@hotmail.com

Council President Smolinski asked if he can address employees by attaching a letter from the Council President to the employees because Mayor Bieri did this as an attachment to the last paychecks. He does not feel that employees need to be addressed that way. It teetered on being electioneering. Mr. Semrau stated that he will check with labor council. Councilman Jurkovic asked that he also ascertain the legality of inserting such material in paychecks.

Agenda No. XI

Appointments and Resignations

None.

Agenda No. XII

Executive Session

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None.

Agenda No. XIII

Adjournment

There being no further business to come before the Council, the Township Council adjourned the meeting.

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

Approved: May 18, 2011

MAYOR BETTINA BIERI
PRESIDING OFFICER

ANTOINETTE BATTAGLIA
TOWNSHIP CLERK