
TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Township Council Regular Meeting
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Agenda No. IV

Unfinished Business, Final Passage of Ordinances

None.

Agenda No. V

Executive Session

**~ Resolution No. 2008- 391 ~
MOTION FOR EXECUTIVE SESSION**

BE IT RESOLVED by the Township Council of the Township of West Milford on the 5th day of November, 2008, that:

1. Prior to the conclusion of this **Regular Meeting**, the Township Council shall meet in Executive Session, from which the public shall be excluded, to discuss matters as permitted pursuant to N.J.S.A. 10:4-12, sub-section (s):
 - () b. (1) Confidential or excluded matters, by express provision of Federal law or State statute or rule of court.
 - () b. (2) A matter in which the release of information would impair a right to receive funds from the Government of the United States.
 - () b. (3) Material the disclosure of which constitutes an unwarranted invasion of individual privacy.
 - () b. (4) A collective bargaining agreement including negotiations.
 - () 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.
 - Random Woods – Block 8001, Lot 1
 - () b. (6) Tactics and techniques utilized in protecting the safety and property of the public, if disclosure could impair such protection. Investigation of violations of the law.
 - (X) b. (7) Pending or anticipated litigation or contract negotiations other than in subsection b. (4) herein or matters falling within the attorney-client privilege.
 - Wanaque Valley Regional Sewerage Authority (WVRS)
 - ~~Susanne Pappas v. Township of West Milford~~
 - (X) b. (8) Personnel matters.
 - Susanne Pappas
 - () 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: November 5, 2008

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

Reconvened from Executive Session to Regular meeting at 9:00 p.m.

Agenda No. VI

Public Comments

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

Celeste Byrnes, Bearfort Road – commended Interim Township Administrator Battaglia by thanking Ms. Battaglia and saying that she had done a great job regarding the election. She said that it was run in a very organized fashion.

Sal Reallie, Gordon Lakes – commented that Gordon Lakes does not have sediment basins and that the lake is disappearing fast.

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Richard Ashley, 14 Orange Road – spoke regarding Ordinance 050 and said that The Lakes Community is proposing regular septic maintenance. He read a statement from The Lakes Community that outlined concerns that he wished to bring to the Council's attention.

Melissa Mazzerella, 115 Mountain Circle – spoke regarding Sue Pappas and commended her. She feels that there should be a way that everyone can work together, and keep her active in the Township.

Blanche DeSimone, 24 East Park Drive – said that she is confused. At a September Council meeting she was told that sediment basins would be installed. Nothing has happened. She asked what has been done. She will not give up. Gordon Lake is becoming a swamp.

Harry Clarke, Grisly Road, Upper Greenwood Lake – asked about the status of Mount Laurel Park. He would like this finished. He congratulated Mr. Weisbecker and Mr. Jurkovic on winning their elections to the Township Council. He takes exception that the Vice President of the West Milford Democratic Club had demeaned people who spoke about Sue Pappas, by calling it a political ploy. That is reprehensible. He was also disappointed that he could not view it on Municipal TV. He hopes that Municipal TV continues to post the Township Council meeting.

Jim Novack, Largemont Drive – said that in June he spoke about denial of access to the Upper Greenwood Lake Fire House yesterday. A poll worker laughed at the situation and told him to vote by absentee ballot next time. He has spoken with the County and the State Attorney General's Office. He asked how many other handicapped people were denied access? He also commented that at the Shop Rite Shopping Center earlier in the day, that there were two vehicles illegally parked. He asked for enforcement to Handicapped Parking rules. He said that the police ignore this issue.

Doris Aaronson, 19 Bearfort Road – congratulated Mayor Bieri for the appointments that she has made. She has had personnel interaction with four new employees and she is very pleased. Mr. Wallace, the new Health Officer is fantastic. Mr. McGroarty, the new Planner is excellent. Today she spoke with Dorrie Fox, the new Land Use Administrator and she is great. They have all complimented Ms. Battaglia, Interim Administrator. Councilman Scangarello and the Township Council have praised her. She has a very good reputation and personally thanked her. She said that she will be providing comments on the Sewer Ordinance to the Clerk for distribution to the Council. She made comments regarding the Ordinance in response to previous comments.

Natasha Greenace, 13 Glennon Road – spoke in support of Sue Pappas and said that she wants to put the good word in for her. Ms. Pappas is very caring and compassionate. She deserves a second chance.

Larry Von Werssowetz, 178 Lakeside Road – stated that there should be a formula on the size of a septic tank and the number of people who reside in the home. The program needs to be clarified. There should be a grandfather clause for certain systems.

Brenda Yanni, 9 Banker Road, Upper Greenwood Lake – thanked Mayor Bieri and the Council for the savings gleaned this year through hard work. She thanked Township Clerk and Interim Administrator Battaglia for her hard work on the polls. She said that this went very well.

Michael Siesta, 505 Macopin Road – said that he has had his septic pumped twice in 16 years and there have been no problems. There should be a formula. He said that his ordinance will cause unnecessary expense for residents.

Darlene Kane, Highcrest Lake – said that she is a member of the West Milford Lakes Committee and of Pinecrest Lake. She has heard complaints about septic tanks and septic odors. This affects the environment and water. She said that Sparta Township was the first town to enact an ordinance. This was 20 years ago. It is time to adopt a septic ordinance. The State mandates that residents maintain their septic tanks. The recommendation is to pump every three years. This is a necessity, not an option.

April Ryerson, 541 Morsetown Road - said that she has, personally, had a very hard year and that Ms. Pappas has helped her. She commended Ms. Pappas.

Susanne Pappas, 1073 Westbrook Road – asked why her Executive Session was not being held before the public portion of this meeting.

Marla Ryerson, 541 Morsetown Road – commended Sue Pappas.

James Warden, 199 Highcrest Drive – began by saying that America is a great country. The election process is like nothing else in the world. Everyone has the right to voice their opinion. It is a gift to elect someone who will represent you. The process that he and the other candidates went through is also

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great. He referred to previous speakers and said that it takes a lot for a teenager to speak in public. He gives them credit. He said that he is proud that his name was on the same ballot as Barak Obama.

Pat Jones, 77 Forest Hill Drive – spoke regarding the Septic Ordinance. The Lakes committee has worked very hard on this. He read a letter from the Forest Hill Park Association endorsing the Ordinance. He conveyed a scenario where a resident in her community pumped a septic with a vacuum. He asked that the ordinance be adopted.

Patrick Sullivan, Oaks Drive – said that he wants a second public discussion this evening, following the Pappas hearing.

There being no more comments from the public Mayor Bieri moved to close the public portion of the meeting.

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

Agenda No. VII

Council Comments

Councilwoman Lichtenberg – asked if Interim Administrator Battaglia had an update regarding Gordon Lakes. Ms. Battaglia replied that the Engineer is in the process of scheduling a design and is anticipating the work to be started next year. She hopes to be in touch with Ms. DeSimone at weeks end. Regarding Mount Laurel, the final inspection has been done and there are some issues that require Mr. Semrau’s attention. When it is taken care of the Skate Park will get underway. Ms. Lichtenberg expressed concern regarding Mr. Novak’s concern. Ms. Battaglia said that she has been in touch with the appropriate personnel regarding this serious matter and is making every effort to address this.

Councilman Scangarello – asked that the Police Department be contacted with regards to parking in handicapped zones. Ms. Battaglia said that she has been in contact with the Police Department and that enforcement has increased. He responded to the comments of Ms. Aaronson regarding Mayor Bieri’s accomplishments and added to them, the work of the new committee appointees.

Councilman Weisbecker - asked if the Engineer has inspected the Gordon Lakes site. Ms. Battaglia said that Public Works Director Storms had conveyed to Ms. DeSimone information that was not accurate. The job does require an Engineer and therefore the time is needed to be taken to properly design the basins so that they are specific to the needs of Gordon Lake. The basins that Mr. Storms had proposed were not the ones that are required. Mr. Weisbecker asked if the grit that is put down by the Township after ice or snow could be deflected with a berm against Otterhole Road. Regarding the Septic Maintenance Ordinance, he clarified that it is regarding maintenance. He said that the Environmental Committee has endorsed the Ordinance. The Health Officer has worked hard on the Ordinance. He invited all who are interested to attend the Lakes Committee meetings.

Councilman Nolan – expressed that it is important to address access to polling locations.

Township Attorney Semrau – said regarding the Septic Ordinance that the attorney for the Highlands Council has contacted him and asked that a copy of the Ordinance be sent to him. He has also been in contact with Township Health Officer Wallace and asked that he attend the public hearing on the Septic Ordinance to address community concerns.

Mayor Bieri – commented that the appointments and cost savings were bi-partisan efforts. Regarding the Septic Ordinance she replied that education is the biggest issue to address.

Interim Administrator Battaglia – clarified that no additional staff will be required to implement and maintain this ordinance. She has talked with both Jefferson and Sparta, both Townships who have an Ordinance in place and they have advised her that there is very little administrative impact on both the homeowners and the municipality.

Township Attorney Semrau – explained regarding the Public Hearing of Susanne Pappas, a Township Employee that the employee has the right to have discussion regarding the personnel matter in a public

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forum or in Executive Session which is closed to the public. Ms. Pappas has been notified that this will be discussed and she elected to have this discussed in the public portion. He has advised her attorney and he replied that it was her preference to discuss this in public. Such discussion will therefore be in public. That discussion is just for the Council, it is not a hearing. Performance and evaluation questions may be addressed. Labor Counsel, Matt Giacobbe is in attendance. This is a matter for the Council to become apprised of the situation. It is not a dialogue, merely a discussion, as if there were no public. If there is a grievance, then there is a process for such and that is not what tonight is for. Under these circumstances, the Council can ask questions and the Administration will respond. Because this is before the public, there are no limitations of what can be discussed. However, no other employee can be discussed as there have been no other employees that have been notified. He deferred to Mr. Giacobbe to answer any questions.

Matt Giacobbe, Labor Counsel, Scarinci and Hollenbeck –elaborated on what Mr. Semrau had said and clarified that West Milford is a civil service jurisdiction and this affords employees incredible rights. He outlined those rights and explained major discipline and minor discipline. This matter tonight is a minor disciplinary matter. He outlined the employees rights and the Administrations rights. He explained the binding arbitration procedure. He opened up to questions and Mayor Bieri asked regarding the Township Guild and if it was the Township union. Ms. Battaglia explained that the Guild is one of five unions in the municipality. Mr. Giacobbe explained the fairness of the civil service jurisdiction by saying that the arbitration takes place with people who don't know anyone involved and makes determinations accordingly. The employees have mechanisms that affords and protects their rights. Ms. Pappas has exercised her rights and the union has been present in all meetings. The charge against Ms. Pappas is failure to improperly follow protocol for the use of a sick day. It is a minor matter. It is a single incident. Councilman Smolinski asked whether an employee's past history enters into this. Mr. Giacobbe said that law and contract mandates that there must be just cause to hand down discipline. Prior discipline can be reviewed. There is such a thing as progressive discipline which gives employees a chance to improve behavior. Termination can take several years. Ms. Battaglia said that part of the process is that each party must respond to the other. Councilman Scangarello asked if there has been any discipline as of this date and Mr. Giacobbe responded that there has not. Councilman Smolinski asked about job assignments and status and Mr. Giacobbe said that he is only there for the purpose of whether failure to improperly follow protocol required a disciplinary action. Ms. Battaglia explained that as a general rule, the employees day-to-day duties are not affected. No action from the Township has been taken against Ms. Pappas. Ms. Battaglia responded that when the Coffee House was first reopened, Ms. Pappas was not assigned to it. She is not the only employee who works at the Coffee House. In a conversation with Ms. Pappas regarding the caretaker agreement, it became apparent supervision of the Coffee House is not part of the caretaker agreement. It has been interpreted in the past as being part of her 35 hour work week. However, it is not part of the contract. Ms. Pappas had been awarded a promotion in May of 2007, with compensation to such retroactive to January of 2007. This promotion changed her title from Beach Supervisor to Program Coordinator. She has been compensated for that position however there is currently a Program Coordinator who will retiring in 2009. The department director has been having Ms. Pappas come into the office for 35 hours per week to start the process of learning some of the functions of the person who is retiring. This is to minimize the impact of the loss of the one retiring. Councilman Smolinski asked with regards to the time line of Ms. Pappas' complaint, where the Township was at and Ms. Battaglia explained that Ms. Pappas has been unable to secure records necessary. Ms. Pappas has found out that the records can only be subpoenaed. Mr. Giacobbe said that they are in the subpoena process. Councilman Weisbecker asked regarding the issue surrounding a sick day, why Mr. Giacobbe had gotten involved. Ms. Battaglia replied that the decision was made because Ms. Pappas had put them on notice that a law suit might be forthcoming. There were certain allegations in the alleged suit that prompted the Administration to secure legal assistance so that they did not step one toe outside of the parameters of what is allowed. This action is to protect the Township. Councilman Smolinski commented regarding the number of people who have come forward and commented in defense of an employee with a minor infraction. He asked if there were any fast tracking to this so as to satisfy or passify the residents. Mr. Giacobbe said that the residents have the right to speak and from what he has heard, he thought that a person was being dismissed and that there is a lot of misinformation. Ms. Battaglia said emphatically that nothing has been conveyed to that effect from anyone in the Administration, nor any employee of the Township involved in these discussions. Mr. Giacobbe said that he was invited in because of the letter from the employee's attorney. Mr. Weisbecker asked what would happen if the records are not available. Mr. Giacobbe said that they would probably reconvene with the employee if that is necessary, since it is a minor charge. He said that he is not the one to assign a discipline and that Administration is. Regarding assignment of various disciplines, Township Attorney Semrau said that the charge may be dismissed, a written reprimand can be given or a 5 day dismissal from the employees duties. Mayor Bieri asked if Ms. Pappas was at any risk of losing her job and Mr. Giacobbe said that in no way is she. Mayor Bieri asked if the procedures were a good practice and Mr. Giacobbe replied that it is not only good practice, it is the law. It can be an expensive process, but it is everywhere. Mayor Bieri asked both Mr. Giacobbe and Interim Administrator Battaglia if all similar matters had been handled similarly. She asked Ms. Battaglia if there is any indication that Ms. Pappas may be losing her home. Ms. Battaglia responded that this is a separate process that pertains to the caretaker agreement at Westbrook Park. She added that this was discussed in Executive Session earlier and Ms. Pappas has been advised that the Council is desirous of

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retaining the caretaker agreement with her, with changes. Ms. Pappas has asked that certain considerations be brought before Council. That is the intention of discussion in Executive Session tonight. Mayor Bieri asked regarding a union representative being present at any meetings and what that representative may have said. Mr. Giacobbe responded that this representative is not to say anything but is present as witness. Mayor Bieri asked if there was anything else that Ms. Battaglia would like to add and she responded that there was not. Councilman Smolinski asked about a vacancy in the department for a program coordinator and Ms. Battaglia said that there would not be. Ms. Pappas is in the process of learning the position from the person retiring. This will present a unique opportunity of providing a seamless transition. Mr. Smolinski asked if Ms. Pappas can go back to her previous position, however Ms. Battaglia said that it is a lesser paying position. Mayor Bieri clarified that Ms. Pappas has been being paid since January 2007, with one pay increase, for a job that Ms. Pappas has not yet trained for. Ms. Battaglia responded that this is correct. Mayor Bieri asked if there were any additional job responsibilities added when Ms. Pappas received her pay increase and Ms. Battaglia responded that to the best of her knowledge there were not. Councilman Weisbecker asked if Ms. Pappas was restricted from working at the Coffee House, and Ms. Battaglia responded that she was not restricted, however those hours would be part of her 35 hour work week. The current Program Coordinator currently works from 8:30-4:30 and with Ms. Pappas being trained for that position it is more important for her to be working her work week alongside the Program Coordinator. Councilman Smolinski commented that he has heard that Ms. Pappas works many additional hours that she is not compensated for. Mayor Bieri stated that there were other ways for Ms. Pappas to retain her chaperoning of the Coffee House possibly via the caretaker agreement. Ms. Battaglia said that if the Council wished for this, it would be so. Councilman Scangarello asked if Ms. Pappas could volunteer as the Coffee House chaperone and Ms. Battaglia said that she could volunteer for this position. Mr. Giacobbe said that employees in contention for promotional positions are tested for these positions. He said that promotions are through the department of personnel. There are job descriptions for each position. Employees are supposed to act within the guidelines of those positions. Township Attorney Semrau asked if an individual was promoted and then becomes a chaperone, is there the leverage to move job descriptions around. Ms. Battaglia explained that certain job descriptions are rather broad and she is not certain that the position of chaperone is in any job description. It has been a standard Administrative procedure to have her begin to train for the program coordinator position. Mr. Giacobbe reaffirmed that these job descriptions are broad so that employee performance can be maximized, efficiently utilizing tax payers dollars. New Jersey law is incredibly confusing. Ms. Battaglia said that if all employees were to choose only those duties that they wish to perform there would be certain duties that never got done. Councilman Nolan clarified that Ms. Pappas is being paid additional money for a job that she is only in the process of training and learning the responsibilities of. Ms. Battaglia explained that when she has tried to discuss with Ms Pappas her daily job duties, there was great resistance. She said that there are portions of her day that Ms. Pappas has not reacted well to being asked about. Councilman Nolan said that it should be the Administration telling this employee the job functions that are expected. Ms. Battaglia said that this is what she is in the process of doing. Mayor Bieri concluded discussion by thanking Mr. Giacobbe for attending this meeting.

Agenda No. VIII 1

New Business, Introduction of Ordinances, Resolutions

The Township Council took action on the following items:

ORDINANCE NO. 2008 - 050

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 300, "SEWERS", OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY WITH THE ADDITION OF ARTICLE VI ENTITLED "INDIVIDUAL SUBSURFACE SEWAGE DISPOSAL SYSTEM MANAGEMENT"

WHEREAS, the Township of West Milford finds that individual and non-individual on-site subsurface sewage disposal systems are in use within the Township of West Milford; and

WHEREAS, subsurface sewage disposal systems of existing systems have malfunctioned even when the systems have been designed, constructed, and sited in accordance with applicable standards, largely due to lack of proper system management or improper operation, poor soil conditions and maintenance. These malfunctions have been shown to adversely affect public health and welfare and the environment. Such systems constitute a potential source of pollution of ground and surface waters, contamination of potable water supplies, foul odors, nuisance problems and other hazards to public health; and

WHEREAS, it is determined to be in the interest of public health, safety and welfare of the Township to establish provisions to regulate the management of such systems to protect the public against system failures and resultant pollution.

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NOW, THEREFORE 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 300, Sewers, of the aforesaid Revised General Ordinances is hereby amended and supplemented with the addition of Article VI, Individual Subsurface Sewage Disposal System Management, to read as follows:

ARTICLE VI Individual Subsurface Sewage Disposal System Management

§ 300-37. Purpose.

In addition to the purposes set forth in N.J.A.C. 7:9A-1.1., it is the purpose of this ordinance:

1. To establish a management program for individual and non-individual subsurface sewage disposal systems in the Township of West Milford in order to ensure the proper operation and maintenance of such systems. This ordinance requires existing, new and proposed individual and non-individual subsurface sewage disposal systems to be pumped out at least once every three (3) years in order to minimize future malfunctions of such systems.
2. To regulate individual and non-individual subsurface sewage disposal systems in the program area in such a way as to protect public health and welfare and the environment, and to provide for a means of educating owners/operators, as defined herein, in the characteristics of such systems and the proper procedures for altering, operating and maintaining them.
3. To develop a management program to maintain records and manage systems in the program area.
4. To promote and assure the proper management and maintenance of individual and non-individual sewage disposal systems through time.

§ 300-38. Definitions.

All definitions given in Subchapter 2 (N.J.A.C. 7:9A-2.1 et. seq.) of the New Jersey Department of Environmental Protection (NJDEP) Standards for the Construction of Individual Subsurface Sewage Disposal Systems, N.J.A.C. 7:9A-1.1 et seq., and any amendments thereto ("NJDEP Regulations") are hereby incorporated into this article, with the following additions:

ACTIVE USE- For initial licenses, this term shall mean: "The use or direction of waste water to a system after the adoption date of this ordinance." For renewal licenses, this term shall mean: The use or direction of waste water to a system at any time during the period of the license."

DEPARTMENT OF HEALTH- The Department of Health of the Township of West Milford.

EDUCATION PROGRAM- An educational program prepared and administered by the Board of Health regarding the fundamentals of individual and non-individual subsurface sewage disposal systems and the proper procedures for the operation and maintenance of such systems. The educational program shall be deemed to be in accordance with N.J.A.C. 7:9A-3.14.)

ENFORCING OFFICIAL- The Health Officer of the Township of West Milford or his designee.

INDIVIDUAL SUBSURFACE SEWAGE DISPOSAL SYSTEM- An individual subsurface sewage disposal system, as defined at N.J.A.C. 7:9A- 2.1, serving a single family detached residential housing unit.

IMMEDIATE EFFECTIVE DATE SHALL BE JANUARY 1, 2000 – On or about January 1, 2009 the Director of the Department of Health shall designate by way of publication in two newspapers circulated in the Township the date that property owners must obtain a valid license as set forth in §300-40. The Health Officer may set such compliance date by region, section or any other reasonable manner.

LICENSED SEPTIC SLUDGE REMOVAL OPERATOR- Any person, firm or corporation which has been duly examined by the enforcing official and found qualified to pump out an individual or non-individual subsurface sewage disposal system, and who has been issued a license.

NON-INDIVIDUAL SUBSURFACE SEWAGE DISPOSAL SYSTEM. An on-site subsurface sewage disposal system serving a property other than a single family home. Such systems include but are not limited to those systems defined in N.J.A.C. 7:9A-1.8(C)2. Typical examples include but are not limited to: commercial buildings, restaurants, food establishments, commercial/residential mixed uses, and systems servicing multiple units.

OPERATOR'S LICENSE- A license issued to an applicant pursuant to this ordinance for the operation of an individual or non-individual subsurface sewage disposal system.

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OWNER OR OPERATOR- The person who owns the realty upon which an individual or non-individual subsurface sewage disposal system is located and/or the person who uses or operates said system. The owner of the realty and the operator of the system, if different, are jointly and severally liable for the obligations imposed by this ordinance.

PLOT PLAN - A sketch drawn by the owner/operator, or agent on their behalf, showing the type (if known) and location of the individual or non-individual subsurface sewage disposal system servicing the property, as well as the location and type of any on-site water supply. All plots shall be drawn to scale and list the dimensions used.

RETAIL FOOD ESTABLISHMENT- Any fixed or mobile restaurant; coffee shop; cafeteria; short-order cafe; luncheonette; grill; tearoom; sandwich shop; soda fountain; tavern; bar; cocktail lounge; night club; roadside stand; industrial feeding establishment; private, public, or nonprofit organization, institution, or group preparing, storing or serving food; catering kitchen; commissary; box lunch establishment; retail bakery; meat market; delicatessen; grocery store; public food market, or any similar place in which food or drink is prepared for retail sale or service on the premises or elsewhere, and any other retail eating or drinking establishment or operation where food is served, handled or provided for the public with or without charge.

SYSTEM- An individual or non-individual subsurface sewage disposal system, including all of the component parts thereof.

§ 300-39. Scope, Applicability and Exemptions.

- A. **Scope.** The owner and/or occupant of any realty improvement serviced by an individual or non-individual on-site subsurface sewage disposal system located in the Township of West Milford shall be subject to all of the requirements of this chapter.
- B. **Applicability.** No person within the Township of West Milford shall operate an individual or non-individual subsurface sewage disposal system unless such construction, installation, alteration, maintenance or operation is in accordance with all applicable sanitary regulations and this ordinance.
- C. **Exemptions.** Any system not in active use shall be exempted from this Ordinance. The Department of Health may require an owner or operator of a system seeking exemption under this section to submit proof in the form acceptable to the Department so as to qualify for this exemption.

§ 300-40. License to operate.

- A. Requirement for License: On and after (within 2 years of the effective date of this ordinance), no owner or occupant of a property in the Township of West Milford, upon which an individual or non-individual subsurface sewage disposal system is located, shall use or operate the system unless a currently valid license to operate the system has been issued by the Department of Health in accordance with the schedule herein to the owner of the property on which the system is located.
 - 1. The Department of Health or its designee may issue a license to operate and educational information relative to the proper operation and maintenance practices (pursuant to N.J.A.C. 7:9A-3.14) to the owner and occupant of a property upon one or more of the following events:
 - a. Issuance of a certificate of compliance for a new system;
 - b. Issuance of a certificate of compliance for the alteration of a system; or
 - c. Upon the sale or transfer of a premises.
 - d. For all existing individual and non-individual sewerage disposal systems in accordance with the immediate effective date, as defined in §300-38, for all systems.
 - 2. All licenses issued pursuant to this section shall be on a form provided by the Township Department of Health. Once issued, a license shall be transferable upon change of ownership or occupancy of the premises for which the license has been issued. A fee as provided in § 300-46 of this ordinance thereof shall accompany each application for a license or renewal. The initial application for a license shall include a plot plan showing the location of the septic system (both the tank and the disposal area) and of any private water source on the property. The plot plan shall also include the general location, if known, of any wells, and septic systems on adjoining properties.
- B. Expiration/Renewal. The license to operate shall expire three (3) years after issuance. The Department of Health shall notify the licensee or its designee at least three (3) months before the license expires and shall be directed to apply for a renewal of the license. The renewal notice shall include educational materials relative to the proper operation and maintenance practice for such systems in accordance with N.J.A.C. 7:9A-3.14.
 - 1. Requirements for Renewal: The Department of Health or its designee shall not renew the license unless the licensee has submitted the following to the Department of Health or its designee:
 - a. Evidence that the septic tank or pump tank (if applicable) (or in the case of an alternate system, the comparable component of such system) has been pumped by a licensed septic sludge removal operator as required by § 300-42 of this Ordinance.
 - 2. Renewal Term: Any license renewed under section B.1.a (Actual pumping) shall be renewed for a period of three (3) years.

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3. As a condition precedent to a license renewal, the owner/operator shall pay the fee required by § 300-46 herein.

C. Suspension of License. The Department of Health or its designee may suspend or revoke the license to operate in the following circumstances:

1. It has been determined that the system is malfunctioning based upon criteria provided for in N.J.A.C. 7:9A-3.4(a) and the licensee fails to take steps to correct said malfunction as directed by the Department of Health or its designee;

2. The owner or occupant of the premises served by the system violates any provision of this chapter with respect to operation and maintenance of the system; or

3. The owner or occupant of the premises served by the system denies the right of entry to the Department of Health or its designee, or to the New Jersey Department of Environmental Protection (NJDEP), as required in N.J.A.C. 7:9A-3.19, or in any way interferes with the administration or enforcement of this ordinance.

D. Modified Term of License. The Department of Health may, on its own motion, upon notice and opportunity to the property owner or operator for a hearing, or upon application of a property owner or system operator, alter the time period of a license to operate.

The Department of Health may consider the following factors in determining that a more frequent licensing renewal or pumping/inspection schedule may be necessary:

1. Limited size of the septic tank or disposal field;
2. The fact that the existing system may be a cesspool;
3. The age of the system;
4. Past history of malfunction or other non-compliance;
5. Location of the existing system in a flood hazard, wetland area, wetlands transition zone or other environmentally sensitive area;
6. Proximity of the system to a well or water body.

§ 300-41. Standards on the use of subsurface sewage disposal systems.

A. General.

1. The subsurface sewage disposal system shall be used only for the disposal of wastes of the type and origin provided for in the approved engineering design. No permanent or temporary connection shall be made to any source of wastes, wastewater or clean water other than those plumbing fixtures which are normally present within the type of facility indicated in the approved engineering design.

2. Drainage from basement floors, footings or roofs shall not enter the sewage disposal system and shall be diverted away from the area of the disposal field.

3. As set forth in N.J.S.A. 58:10A-17, no person shall use or introduce or cause any other person to use or introduce into any sewage water disposal system any sewage system cleaner containing any restricted chemical material.

4. Disposal of materials containing toxic substances into a subsurface sewage disposal system is prohibited. Materials containing toxic substances include, but are not limited to, waste oil, oil based or acrylic paints, varnishes, photographic solutions, pesticides, insecticides, paint thinners, organic solvents or degreasers and drain openers.

5. Inert or non-biodegradable substances should not be disposed of in the subsurface sewage disposal system. Such substances include, but are not limited to, disposable diapers containing plastic, cat box litter, coffee grounds, cigarette filters, sanitary napkins, facial tissues and wet-strength paper towels.

6. No cooking greases or fats shall be discharged into systems not equipped with a grease trap designed and constructed as prescribed in N.J.A.C.7:9A-8.1.

7. Plumbing leaks shall be repaired promptly to prevent hydraulic overloading of the system.

8. Vehicle traffic and vehicular parking shall be kept away from the aspects of the system, unless the system has been specifically designed to support vehicular traffic.

B. Disposal field maintenance.

1. The area of the disposal field shall be kept free of encroachments from decks, pools, sprinkler systems, driveways, patios, accessory buildings, additions to the main building and trees or shrubbery whose roots may cause clogging of any part of the system

2. Grading shall be maintained in a condition that will promote run-off of rainwater and prevent ponding.

3. All drainage from roofs, footing drains, ditches or swales shall be diverted away from the disposal field.

4. Vegetation shall be maintained to prevent soil erosion.

C. Abandoned Systems.

1. When it is necessary to abandon a system or components of a system, all septic tanks, dosing tanks, seepage pits, dry wells and cesspools which are to be abandoned shall be emptied of wastes and removed or filled completely with compacted sand, gravel, stones or soil material in a manner which is acceptable to the Department of Health or its designee.

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2. Except when done as part of or in conjunction with an alteration, a permit must be obtained from the Department of Health prior to abandoning a septic system or component of a septic system.

D. Additional inspection and maintenance requirements for systems with grease traps.

1. Grease traps shall be inspected and cleaned out at a frequency adequate to prevent the volume of grease from exceeding the grease retention capacity. Grease shall be removed whenever seventy-five percent (75%) of the grease retention capacity has been reached.

2. Pumping of grease traps shall be performed by a solid waste hauler registered with the NJDEP in accordance with the requirements of N.J.A.C. 7:26-3.1

3. Equipment used in the pumping of grease traps shall meet the following requirements:

Mobile tanks shall be securely mounted on trucks or trailers, shall be watertight and provided with a leak-proof cover and shall be vented to permit the escape of gases but not the liquid or solid contents of the tank.

Pumps and hoses shall be maintained and operated in a condition that will prevent the leakage of sewage.

Equipment shall be available to permit accurate measurement of the volume of grease in relation to the grease retention capacity of the grease trap.

Pumping of grease traps shall be conducted in such a manner that the entire contents of the grease trap including both liquids and solids are removed.

Pumping shall be carried out in a manner that will prevent spillage of sewage onto the ground. If any spillage occurs, the solid portion shall be immediately removed and disposed of in a sanitary manner and the area of the spill shall be disinfected using a suitable chlorine-bearing compound.

Grease and other waste materials removed from grease traps shall be disposed of in accordance with the requirements of the Statewide Sludge Management Plan adopted pursuant to N.J.S.A. 13:1E-1 et seq. and N.J.S.A. 7:11A-1 et seq., as well as any other applicable State or local rules, regulations, ordinances or directives.

E. Maintenance of dosing tanks.

Dosing tanks and associated pumps, siphons, switches, alarms, electrical connections and wiring shall be maintained in proper working order.

Any solids that accumulate in the dosing tank shall be removed and disposed of per NJDEP procedures.

§ 300-42. Removal of Septic Tank Sludge.

A. Any person, partnership, firm or corporation who empties, relieves or pumps out all or a portion of an individual or non-individual sewage disposal system within the Township of West Milford shall first apply to the Department of Health to become a licensed septic sludge removal operator. Any such license shall be for a term of one (1) year and shall be subject to the payment of a fee as provided in § 300-46.

B. Prior to emptying, relieving or pumping out all or a portion of any individual or non-individual subsurface sewage disposal system within the Township of West Milford, the licensed septic sludge removal operator shall obtain a septic pumping permit from the Township Department of Health.

C. The licensed septic sludge removal operator shall complete all information on the septic pumping permit and deliver one (1) copy to the property owner and one (1) copy to the Department of Health within seventy-two (72) hours of the time that the individual or non-individual sewage disposal system is pumped. Failure to deliver said report within the required time frame shall be considered to be a violation of this ordinance.

D. In addition to the license required under subsection (A) above, the pumping of septic tanks shall be performed by a solid waste hauler registered with the NJDEP in accordance with the requirements of N.J.A.C. 7:26-3c.

E. The Department of Health may suspend or refuse to renew the license of any septic sludge removal operator who fails to comply with this ordinance.

F. Equipment used in the pumping of septic tanks shall meet the following requirements:

1. Mobile tanks shall be securely mounted on trucks or trailers, shall be watertight and provided with leak-proof covers and shall be vented to permit the escape of gases but not the liquid or solid contents of the tank.

2. Pumps and hoses shall be maintained and operated in a condition that will prevent the leakage of sewage.

3. Equipment shall be available to permit the accurate measurement of the sludge and scum levels in relation to the bottom of the outlet baffle.

G. Pumping of septic tanks shall be conducted in such a manner that the entire contents of the septic tank including both liquids and solids are removed.

H. Pumping shall be carried out in such a manner that will prevent spillage of sewage onto the ground. If any spillage occurs, the solid portion shall be immediately removed and disposed of in a sanitary manner and the area of the spill shall be disinfected using a suitable chlorine-bearing compound.

I. The entire contents of the septic sludge shall be disposed of at a sewage treatment plant designated in accordance with the County and/or State Solid Waste Management Plans pursuant to the

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Statewide Sludge Management Plan adopted pursuant to N.J.S.A. 13:1E-1 et seq. and N.J.S.A. 58:1A-1 et seq.

§ 300-43. Appeals to the Department of Health.

Any person aggrieved by any decision of a designee of the Department of Health made pursuant to this chapter shall have the right to appeal that decision to the Department of Health. Any aggrieved person seeking a hearing under this section shall make application to the Department in writing within 30 days of the decision to be appealed. The Department of Health shall schedule the matter for a hearing within 45 days thereafter. The hearing shall be conducted at a meeting held pursuant to the Open Public Meetings Act.

§ 300-44. Enforcement.

- A. Nuisances to be corrected.
1. Any on-site sewage disposal system or component thereof that is found to be malfunctioning (as defined in N.J.A.C. 7:9A-2.1 and 3.4) shall constitute a nuisance and shall be repaired, modified or replaced pursuant to an order of the Department of Health or its designee to correct the condition caused by the malfunction. Alterations shall be performed in accordance with "Standards for the Construction of Individual Subsurface Sewage Disposal Systems" as adopted and implemented by the Department of Health by virtue of this Code and any amendments thereto.
 2. Any individual or non-individual subsurface sewage disposal system which has not been maintained in accordance with N.J.A.C. 7:9A:12.3, Septic System Maintenance, is hereby declared a nuisance.
 3. Any individual or non-individual subsurface sewage disposal system which is constructed, installed, altered, operated or maintained in violation of this section, the DEP Regulations, any rule or regulation promulgated pursuant to this ordinance or any permit, certificate or license issued pursuant to this ordinance is hereby declared to be a nuisance.
 4. In addition the powers provided for in N.J.A.C. 7:9A-1.1 et seq., the Department of Health retains its authority to abate any nuisance in accordance with the provisions of N.J.S.A. 26:3-45 et. seq.
- B. Malfunctioning subsurface sewage disposal system: Inspections of system; Revocation of license.
1. The Department of Health shall have the right to inspect any system which shows evidence of any malfunction. Such evidence may include, but not be limited to, foul odors, leakage to ground surface, or soggy ground over system. Water and/or soil samples may be taken to confirm the existence of a malfunctioning system.
 2. The Department of Health may require that any malfunctioning system be corrected by servicing or by replacement or alteration of the system.
 3. Until any necessary replacement or alteration of a system has been accomplished, the Department of Health may require pumping and the removal of the entire contents of the septic tank for the system (both liquids and solids) at intervals specified by the Department.
 4. No provision to this Ordinance shall be interpreted as precluding the Department of Health from revoking a license issued by the Department for the operation of a system in the event that the Department shall determine that such action is necessary and appropriate for the enforcement of this Ordinance. Any such revocation shall be upon Notice to the owner/operator, with an opportunity to comment or appeal.

§ 300-45. Right of entry.

In furtherance of the rights granted to the Department of Health in N.J.S.A. 26:3-45 et seq. and N.J.A.C. 7:9-3.19, the Department of Health Officer or his designee, upon presentation of identification, shall have the right to enter upon property where an individual or non-individual subsurface sewage disposal system is located for the purpose of observation, inspection, monitoring and/or sampling of the on-site sewage disposal system. This authority is exercised by virtue of N.J.S.A. 26:3-31 as a necessary and reasonable method of furthering the duties of the Department of Health as enumerated therein.

§ 300-46. Fees.

- The following fees and charges are herewith established:
- A. For the issuance of a license to operate an individual or non-individual sewage disposal system in accordance with § 300-40, a fee of Fifteen (\$15.00) Dollars shall be charged.
 - B. For the renewal of a license to operate an individual or non-individual sewage disposal system in accordance with § 300-40, a fee of Fifteen (\$15.00) Dollars shall be charged.
 - C. For the issuance of a license to remove the septic sludge from the individual or non-individual sewage disposal systems in accordance with § 300-42, the septic sludge removal operator shall pay a flat fee of One Hundred (\$100.00) Dollars to cover all of the operator's vehicles for the license period.

§ 300-47. Violations and penalties.

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A. A person or entity who violates any provisions of this article, or any term or condition of any certificate or license issued hereunder, shall be subject to a fine of not less than \$100 nor more than \$1,000 per day or a period of community service not to exceed 90 days, or both.

B. Each separate day and each violation of any provision of this article, any term or condition of any certificate or license or any notice or order issued by the Department of Health shall constitute a separate and distinct violation under this Article.

C. Nothing in this Article shall be construed as limiting the remedies of the Board of Health for violations of this Article. The Department of Health may proceed under any other remedy available at law or in equity for any violation of this article or any term or condition of any certificate or license issued by the Department of Health or for any failure to comply with any notice or order issued by the Department of Health or its enforcement official under this article.

SECTION 2. The licensing provisions contained in this Ordinance are necessary to protect the public health safety and welfare and it is therefore necessary to exceed the provisions contained in N.J.A.C. 7:9A-1 et seq. Therefore, this ordinance is hereby declared to be a "special ordinance" in accordance with N.J.A.C. 7:9A-3.1(b) and shall be forwarded to the New Jersey Department of Environmental Protection within 10 days of adoption.

SECTION 3. 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 4. 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 5. This Ordinance may be renumbered for purposes of codification.

SECTION 6. This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

Mayor Bieri advised that this ordinance is being introduced tonight. Second reading and public hearing for this ordinance is set for December 3, 2008. Notice of this public hearing shall be published in the Herald News on or about November 9, 2008.

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

Discussion: Councilman Smolinski said that Health Officer Wallace had said that there would be a sequence for introducing this regulation. He said that to startup, there should be a formula so that the department is not inundated. It is not addressed in the Ordinance. Councilman Weisbecker said that when Mr. Wallace was discussing this that he was going to review this with Township Attorney Semrau. Mr. Semrau said that he made the amendment and presented it to Mr. Wallace with the immediate effective date being 2009. Mr. Wallace will then decide how to be introduce this.

Mayor Bieri asked for Council consent to move resolutions 392 through 405 and resolutions 418 through 419 as one group. Councilman Weisbecker made a motion seconded by Councilman Scangarello to move all the resolutions as one from 392 through 405 and 418 through 419. Interim Township Administrator pointed out to the Council that there are two added Resolutions that were not discussed during a workshop meeting and that they are Resolution 418 and 419. She explained the reasons for both and fielded questions from the Council to clarify the programs for them.

Agenda No. VIII 2.

~ Resolution 2008-392 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY ESTABLISHING A COMMITTEE TO PLAN EVENTS AND ACTIVITIES TO COMMEMORATE THE 175TH ANNIVERSARY OF THE INCORPORATION OF THE TOWNSHIP OF WEST MILFORD

WHEREAS, the Township of West Milford was incorporated in 1834; and

WHEREAS, the Township shall be celebrating the 175th anniversary of said incorporation throughout the 2009 calendar year; and

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WHEREAS, the Township Council wishes to establish a committee of volunteers to plan events and activities in honor of this milestone in the Township's history.

MEMBERSHIP: The Committee shall consist of members as follows:

Councilwoman Marilyn Lichtenberg
Councilman Philip Weisbecker
Chairperson Lorraine Kirwan
Each member of the ALF Committee

WHEREAS, all volunteers wishing to work in unison with this committee and under the direction of the Chairperson are welcome.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Township Council does hereby establish a committee charged with planning events and activities to commemorate the 175th anniversary of the Township of West Milford throughout the 2009 calendar year.

BE IT FURTHER RESOLVED, that the committee shall cease to exist when the members have completed their charge.

Adopted: November 5, 2008

Agenda No. VIII 3.

~ Resolution 2008-393 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY ESTABLISHING A COMMITTEE WITH REPRESENTATION FROM THE LIBRARY BOARD AND THE GOVERNING BODY TO REVIEW AND MAKE RECOMMENDATIONS ON LIBRARY FACILITIES

WHEREAS, the Mayor and Township Council desires to establish a Committee comprised of representation from the Governing Body and the Library Board of Trustees to review, discuss and make recommendations on library facilities.

MEMBERSHIP: The Committee shall consist of five (5) members as follows:

Mayor Bettina Bieri
Councilman Robert Nolan
Councilman Carmelo Scangarello
Library Board President Douglas Ott
Library Board member Eugene Valenta

WHEREAS, this committee shall determine if there is a need for a new library facility and review possible options for the location of such a facility

WHEREAS, members shall report back to their respective colleagues on their findings and recommendations.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Township Council does hereby establish a committee charged with reviewing and making recommendations on library facilities.

BE IT FURTHER RESOLVED, that the committee shall cease to exist when the members have completed their charge.

Adopted: November 5, 2008

Agenda No. VIII 4.

~ Resolution 2008-394 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY ESTABLISHING A COMMITTEE TO REVIEW GARBAGE & RECYCLING CONTRACTS AND MAKE RECOMMENDATIONS ON SAME

WHEREAS, the Mayor and Township Council desires to establish a Committee to review, discuss and make recommendations regarding recycling and garbage contracts.

MEMBERSHIP: The Committee shall consist of nine (9) members as follows:

Councilman Philip Weisbecker

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Councilman Robert Nolan
Two (2) members of the Beautification & Recycling Committee
Carmelo Scangarello, Citizen Member
Township Administrator
Township Engineer
Recycling Coordinator
DPW Superintendent

WHEREAS, this committee shall review the current garbage & recycling contracts and make recommendations as to what considerations should be given, if any, when re-drafting the specifications for bidding for these services in 2009.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Township Council does hereby establish a committee charged with reviewing and making recommendations on garbage and recycling contracts.

BE IT FURTHER RESOLVED, that the committee shall cease to exist when the members have completed their charge.

Adopted: November 5, 2008

Agenda No. VIII 5.

~ Resolution 2008-395 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY ESTABLISHING A CITIZEN'S ADVISORY COMMITTEE TO MAKE RECOMMENDATIONS REGARDING THE PROPOSED CABLE TV FRANCHISE CONTRACT RENEWAL

WHEREAS, the Mayor and Township Council desires to establish a committee comprised of citizens from the Township to evaluate the past performance of Cablevision of Warwick, LLC and make recommendations to the Governing Body as to the renewal of the franchise.

MEMBERSHIP: The Committee shall consist of five (5) citizen members and a Council Liaison.

WHEREAS, this committee can solicit input from the municipality's residents, review responses and formulate a report for the Governing Body.

WHEREAS, this committee must complete its task and submit its report to the Township Administrator by January 31, 2009.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Township Council does hereby establish a committee charged with evaluating the past performance of Cablevision of Warwick, LLC and providing the Governing Body with a report containing recommendations as to the renewal of the franchise.

BE IT FURTHER RESOLVED, that the committee shall cease to exist when the members have completed their charge.

Adopted: November 5, 2008

Agenda No. VIII 6.

~ Resolution 2008-396 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY ADOPTING AN ADDITIONAL DEFERRED COMPENSATION PLAN AND MAKING SAME AVAILABLE TO TOWNSHIP EMPLOYEES

WHEREAS the Township of West Milford has agreed to the establishment of an additional Deferred Compensation Plan to be made available to all employees and elected officials pursuant to Section 457 of the Internal Revenue Code of 1986, as amended, *except for provisions added by reason of the Small Business Job Protection Act of 1996 (United States Public Law No. 104-188)*; and except for provisions added by reason of the Economic Growth and Tax Relief Reconciliation Act of 2001; and

WHEREAS, the rationale for the adoption and implementation of a Deferred Compensation Plan is to attract and retain qualified employees, as well as provide enhanced retirement security to eligible employees and elected officials; and

WHEREAS, certain substantial tax benefits could accrue to employees and elected officials;

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NOW THEREFORE BE IT RESOLVED that the Township of West Milford is adopting an additional Deferred Compensation Plan substantially similar to one on which a favorable Private Letter Ruling has been previously obtained from the Internal Revenue Service *except for provisions added by reason of the Small Business Job Protection Act of 1996 (United States Public Law No. 104-188) and all such provisions are stated in the plan in terms substantially similar to the text of those provisions in the Internal Revenue Code Section 457* and except for provisions added by reason of the Economic Growth and Tax Relief Reconciliation Act of 2001. The use of the Ruling is for guidance only and acknowledges that for Internal Revenue Service Purposes, the Ruling of another employer is not to be considered precedent; and

BE IT FURTHER RESOLVED by the Mayor and Council of the Township of West Milford, that the Township hereby maintains a Deferred Compensation Plan(s) for the voluntary participation of employees and elected officials; and

BE IT FURTHER RESOLVED by the Mayor and Council of the Township of West Milford, that it hereby adopts a Deferred Compensation Plan provided by the Lincoln National Life Insurance Company and Lincoln Financial Group, it's agent (12 - PD - LINCOLN – E100303); and

BE IT FURTHER RESOLVED that The Lincoln National Life Insurance Company and Lincoln Financial Group, it's agent, has agreed to be the provider of the Deferred Compensation Program for employees and elected officials; and

BE IT FURTHER RESOLVED that the Lincoln National Life Insurance Company and Lincoln Financial Group it's agent, will provide, for the benefit of the participants the Multi-Fund Variable Annuity contract; and

BE IT FURTHER RESOLVED that in accordance with N.J.A.C. 5:37-7.1(a) the Township of West Milford solicited proposals for a Deferred Compensation Plan and Service Agreement from 2 or more providers of deferred compensation services. The vendors responding to the request for proposals were Lincoln National Life Insurance Company and Lincoln Financial Group, it's agent, and AIG VALIC, and Equitable Life, and ICMA. One of the successful vendors is the Lincoln National Life Insurance Company and Lincoln Financial Group, it's agent. The Chief Financial Officer reviewed all of the proposals submitted and met with representatives of the responding companies. Lincoln National Life Insurance Company was selected, because of the level of service, financial stability of the company, features of the plan investment options and recommendations; and

BE IT FURTHER RESOLVED that there has been no collusion, or evidence or appearance of collusion, between any local official and a representative of Lincoln National Life Insurance Company and Lincoln Financial Group, it's agent, in the selection of a provider pursuant to N.J.A.C. 5:37 - 5.7.

BE IT FURTHER RESOLVED that the Finance Director or Business Administrator is authorized to execute an Administrative Services Agreement with the Lincoln National Life Insurance Company and Lincoln Financial Group, its agent, (12-SA-Lincoln-072595) and such other agreements as are necessary to implement the Deferred Compensation Program. It is implicitly understood that there is to be no cost or contribution by the Township of West Milford to the program; and

BE IT FURTHER RESOLVED that the Finance Director is authorized to serve as the "Administrator" of the plan, represent the Township of West Milford, and execute individual deferred compensation agreements with each said employee; and

BE IT FURTHER RESOLVED by the Township of West Milford, that the Clerk shall forward a certified true copy of this resolution to the Finance Director and Business Administrator; and

BE IT FURTHER RESOLVED that the Finance Director will submit all necessary documents to the Director of the Division of Local Government Services in the State Department of Community Affairs for approval.

Adopted: November 5, 2008

Agenda No. VIII 7.

~ Resolution 2008-397 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY SUPPORTING THE "OVER THE LIMIT UNDER ARREST" 2008 CRACKDOWN

WHEREAS, impaired drivers on our nations roads kill someone every 30 minutes, 50 people per day, and almost 18,000 people each year; and

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WHEREAS, 34% of motor vehicle fatalities in New Jersey are alcohol related; and

WHEREAS, an enforcement crackdown is planned to combat impaired driving; and

WHEREAS, the summer season is traditionally a time of social gatherings which often include alcohol; and

WHEREAS, the State of New Jersey, Division of Highway Traffic Safety, has asked law enforcement agencies throughout the state to participate in the *Over the Limit Under Arrest 2008 Impaired Driving Crackdown*; and

WHEREAS, the project will involve increased impaired driving enforcement from December 8, 2008 to January 2, 2009; and

WHEREAS, an increase in impaired driving enforcement and a reduction in impaired driving will save lives on our roadways;

NOW, THEREFORE, BE IT RESOLVED that the Township Council of the Township of West Milford declares its support for the Over the Limit Under Arrest 2008 Crackdown from December 8, 2008 – January 2, 2009; and pledges to increase *awareness* of the dangers of disregard of signs and traffic devices.

Adopted: November 5, 2008

Agenda No. VIII 8.

~ Resolution 2008-398 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE AWARD OF A PROFESSIONAL SERVICES CONTRACT TO THE NEW YORK – NEW JERSEY TRAIL CONFERENCE TO DEVELOP AN OVERALL TRAILHEAD SIGNAGE SYSTEM AND INSTALL 14 to 20 SIGNS IN AN AMOUNT NOT TO EXCEED \$30,000

WHEREAS, the Township has applied for and received a 2005 Recreational Trails Program grant from the NJDEP Office of Natural Lands Management, and was unable to complete the original scope of service; and

WHEREAS, the Office of Natural Lands Management has granted a one-year extension and a modified scope of work to develop an overall trailhead signage system that is appropriate to West Milford's needs and circumstances, and to design, fabricate and install signage at from 14 to 20 locations; and

WHEREAS, the New York - New Jersey Trail Conference, because of their special knowledge and involvement in the Township trails, is uniquely qualified to successfully complete this project; and

WHEREAS, the Chief Financial Officer has certified that funds are available for this purpose said funds to be encumbered from account numbers G-02-41-744-657 and G-02-41-744-744; and

WHEREAS, the New York – New Jersey Trail Conference has completed and submitted both a Political Contribution Disclosure Form and a Business Entity Disclosure Certification which certifies that he has not made any reportable contributions to a political or candidate committee in the Township of West Milford with the elected officials in the previous one year, and that the contract will prohibit the New York – New Jersey Trail Conference from making any reportable contributions through the term of the contract; and

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

NOW, THEREFORE, BE IT RESOLVED that the Township Council of the Township of West Milford hereby awards and authorizes the Mayor and Township Clerk to execute an agreement with the New York – New Jersey Trail Conference in an amount not to exceed \$30,000.

Adopted: November 5, 2008

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Agenda No. VIII 9.

~ Resolution 2008 - 399 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AWARDING A CONTRACT FOR THE PURCHASE OF ONE 2009 FORD F450 DIESEL, TYPE I, CLASS II, 4X4 AMBULANCE OR EQUAL

WHEREAS, the Township Council has received a tabulation of bids received for the following:

Subject of Bid: One 2009 Ford F450 Diesel, Type I, Class II, 4x4 Ambulance Or Equal
Bid Date Received: October 24, 2008
Time Received: 10:00 A.M.

WHEREAS, the Township Council has also received a recommendation from the West Milford First Aid Squad concerning the bids received;

WHEREAS, the Township Treasurer has certified that funds are available for the proposed expenditure from the following accounts:

C-04-07-940-260	\$141,750.00
C-04-08-940-260	\$ 29,099.65
C-04-55-933-260	\$ 12,762.35

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Milford that a contract is hereby awarded to the sole bidder in accordance with specifications and bid received and on file in the Office of the Township Clerk as follows:

Contract Item: One 2009 Ford F450 Diesel, Type I, Class II, 4x4 Ambulance Or Equal

Bidder Name & Address: New Jersey Emergency Vehicles
Division of P.L. Custom Body & Equipment Co., Inc.
2201 Atlantic Avenue
Manasquan, N.J. 08736

Total Contract Amount: \$183,612.00

Adopted: November 5, 2008

Discussion: Councilman Nolan asked how many bids were received and Rob Jurasek replied that there was one bidder. He has had conversations with many vendors and has visited with some of them. One vendor has prepared paperwork but chose not to participate based on conditions of the Township not moving forward in the past. Mr. Nolan commented that on the proposal if the Council deleted the performance bond that the price would be reduced. Township Attorney Semrau said that this can be done. Mayor Bieri asked Mr. Jurasek if this was the rig that he wanted and he replied that it is. Interim Administrator Battaglia said that she has never worked on securing an ambulance before, but had worked with Mr. Jurasek and Mr. Cunio on this project and it was a very lengthy process. She said that it was a very rewarding process and that these two gentlemen put an extraordinary amount of work into the process and need to be commended. Mr. Jurasek said that the committee is satisfied and the rig will meet the needs of the First Aid Squad.

Agenda No. VIII 10.

~ Resolution 2008 - 400 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AWARDING CONTRACTS FOR SNOW PLOWING SERVICES

WHEREAS, the Township of West Milford advertised for the receipt of sealed competitive bids to be received on September 19, 2008 at 10 a.m. for Snow Plowing Services; and

WHEREAS, said bids have been duly reviewed and analyzed by the Township Engineer and the Township Attorney; and

WHEREAS, the Township Engineer has submitted a written recommendation for the award of contracts to vendors whose bids have been found to be in proper form and in compliance with the provisions of N.J.S.A. 40A:11-23.5 and the specifications as written; and

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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WHEREAS, the Chief Financial Officer has certified as to the availability of funds, said funds to be encumbered from account number 8-01-26-294-364, 9-01-26-294-364 and T-15-56-850-294.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of West Milford, County of Passaic, State of New Jersey, that the Township Administrator be and is hereby authorized to execute contracts for snow plowing services pursuant to the Engineer's recommendation and in accordance with the following outline:

<u>CONTRACTOR</u>	<u>TRUCKS</u>	<u>SPECIAL RATES</u>
1. John Monteleone Enterprises	1	1 tandem, 1 loader
2. P&W Excavating	6	3 tandems, 1 loader
3. Joseph A. Padham, Jr.	1	
4. Freese Enterprises	5	1 tandem, 1 loader
5. Lanzo Trucking Co. LLC	3	1 loader
6. Lee Excavating Co.	12	2 tandems, 1 loader
7. Longstaff Paving LLC	4	2 loaders
8. Phil Shanahan Excavating LLC	1	
9. Tom Buske Construction, Inc.	7	2 tandems, 1 loader, 1 grader, 4 bulldozers
10. Bruce Corbett Excavating, Inc.	3	1 tandem, 1 loader, 1 bulldozer
11. Decker & Decker Const. Co.	6	1 tandem, 2 loaders, 2 bulldozers
12. W & W Contracting LLC	3	1 loader
13. McCann's Excavating	3	1 tandem, 1 loader
14. R&S Builders	1	
<u>TOTAL TRUCKS</u>	<u>56</u>	

BE IT FURTHER RESOLVED that this resolution and these contracts shall be available for public inspection in the office of the Municipal Clerk.

Adopted: November 5, 2008

Agenda No. VIII 11.

~ Resolution 2008 - 401 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY REJECTING BIDS FOR SNOW PLOW SERVICES

WHEREAS, the Township of West Milford solicited bids on September 19, 2008 at 10 a.m. for Snow Plow Services; and

WHEREAS, in response to the "Notice to Bidders" the Township received seventeen (17) bids for Snow Plow Services; and

WHEREAS, the Township Engineer and the Township Attorney have reviewed the aforementioned bids to ensure compliance with the Local Public Contracts Law and the specifications; and

WHEREAS, the Township Attorney has determined that three of the seventeen bids submitted contain material defects, which defects cause the bids to be rejected; and

WHEREAS, pursuant to N.J.S.A. 40A:11-11-13.2 a local contracting unit may reject bids under certain circumstances; and

WHEREAS, material defects in the bids submitted make it necessary to reject three of the seventeen bids submitted.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of West Milford, County of Passaic, State of New Jersey, that the following three bids received for Snow Plow Services be and are hereby rejected because material defects in the bids received have deemed these bids as not conforming with the Local Public Contracts Law, specifically N.J.S.A. 40A:11-23.2(f):

- Nortap Equipment
- Albert Christmann, Inc.
- Joseph Ragonese, d/b/a JD Ragonese Excavating

Adopted: November 5, 2008

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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Agenda No. VIII 12.

~ Resolution 2008 - 402 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING A CONTRACT TO VAN ORDEN SAND & GRAVEL OF RINGWOOD FOR THE PURCHASE OF ICE CONTROL AGGREGATES

WHEREAS, the Township of West Milford solicited bids on September 19, 2008 for Ice Control Aggregates; and

WHEREAS, in response to the "Notice to Bidders" the Township received three (3) bids; and

WHEREAS, the Township Engineer reviewed the three bids received and requested a sieve analysis from Tilcon New York, Inc. and Van Orden Sand & Gravel of Ringwood; and

WHEREAS, the Township Engineer reviewed the sieve analyses and found that the material bid by Tilcon New York Inc. did not meet specifications, and that the analysis submitted by Van Orden Sand & Gravel of Ringwood did meet specifications;

WHEREAS, the Township Engineer noted in his recommendation that the bid price of Van Orden Sand & Gravel of Ringwood at \$19.00 per ton for the contract quantity of 8500 tons is less than the 2008 Morris County Cooperative Pricing Council's contract price of \$21.00 per ton;

WHEREAS, the Township Engineer recommends award of a contract for the purchase of Ice Control Aggregates to Van Orden Sand & Gravel of Ringwood in an amount not to exceed \$161,500.00; and

WHEREAS, the Chief Financial Officer has certified as to the availability of funds for these purchases, said funds to be encumbered from account number 9-01-26-294-348 – 2009 Temporary Budget.

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 award of a contract to Van Orden Sand & Gravel of Ringwood in a total amount not to exceed \$161,500.00 for Ice Control Aggregates, subject to the Township's Chief Financial Officer certification of the availability of funds for same.
2. This resolution and contract shall be available for public inspection in the office of the Township Clerk.

Adopted: November 5, 2008

Agenda No. VIII 13.

~ Resolution 2008 - 403 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING A CONTRACT THROUGH THE MORRIS COUNTY COOPERATIVE PRICING COUNCIL CONTRACT #26 FOR BEAM GUIDE RAIL & SAFETY ENDS INSTALLED TO M.L. RUBERTON CONSTRUCTION COMPANY, INC.

WHEREAS, the Township of West Milford is a member of the Morris County Cooperative Purchasing Council (State ID # 6-MCCoOP); and

WHEREAS, the Morris County Cooperative Purchasing Council has awarded Contract #26 Beam Guide Rail & Safety Ends Installed to M.L. Ruberton Construction Company, Inc. and said contract was awarded through the open competitive bidding process and in accordance with N.J.S.A. 40a:11 et seq., Local Public Contracts Law; and

WHEREAS, the Township Engineer has reviewed the Morris County Cooperative Purchasing Council's contract and related specifications and has submitted a written recommendation that the Township of West Milford award the contract for Beam Guide Rail & Safety Ends Installed through the Morris County Cooperative Purchasing Council Contract No. 26; and

WHEREAS, the Chief Financial Officer has certified as to the availability of funds for these purchases, said funds to be encumbered from account – C-04-07-943-624.

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:

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1. The Township Council hereby authorizes the award of a contract to M.L. Ruberton Construction Company, Inc. in a total amount not to exceed \$65,000 for Beam Guide Rail & Safety Ends Installed under the Morris County Cooperative Purchasing Council Contract #26.
2. This resolution and contract shall be available for public inspection in the office of the Township Clerk.

Adopted: November 5, 2008

Discussion: Councilman Smolinski asked if the guardrails will be new or replacement. Ms. Battaglia said that this contract allows for purchase on a as needed basis.

Agenda No. VIII 14.

~ Resolution 2008 - 404 ~

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. 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, said Director may also approve the insertion of any item of appropriation for equal amount,

NOW, THEREFORE, BE IT RESOLVED, that the Council of the Township of West Milford, in the County of Passaic, State of New Jersey, hereby requests the Director of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2008 in the sum of \$15,000.00 which item is now available as a revenue from the State of New Jersey, Highland Water Protection and Planning Council, in order to facilitate professional services for costs associated with local government efforts to conform to the Highlands Regional Master Plan; and

BE IT FURTHER RESOLVED that a like sum of \$15,000.00 be and the same is hereby appropriated under the caption of: Grant, Highlands Initial Assessment.

Adopted: November 5, 2008

Agenda No. VIII 15.

~ Resolution 2008 - 405 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING THE RENEWAL OF 2008 – 2009 JUNKYARD LICENSE

WHEREAS, an application for renewal of a 2008-2009 License has been received and reviewed; and

WHEREAS, Township Officials did conduct inspections of the premise and have provided recommendations; and

WHEREAS, satisfactory recommendations have been received from the Police, Fire, Building, Health and Zoning Departments;

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

LICENSE/LICENSEE/T/A
Concourse Auto II, LLC 1894 Route 23N, West Milford, NJ 07480

Adopted: November 5, 2008

Agenda No. VIII 16.

~ Resolution No. 2008- 418 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING A CHANGE ORDER TO THE CONTRACT BETWEEN THE TOWNSHIP OF WEST MILFORD AND FINCH OIL CO. OF MORRIS COUNTY COOPERATIVE PURCHASING

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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WHEREAS, the Township of West Milford entered into a diesel fuel contract in the amount of \$170,000.00 which is to expire on December 31, 2008; and

WHEREAS, the Township's Chief Financial Officer, has recommended the need for a change order amendment to the original contract, increasing the contract amount by \$40,000.00 to \$210,000.00.

WHEREAS, the Township's Chief Financial Officer has certified that funds are available to cover the requested change order, such additional expenses are to be charged to account 8-01-31-460-200.

NOW THEREFORE BE IT RESOLVED by the Township Council of the Township of West Milford, County of Passaic, and State of New Jersey, that it hereby, approves the aforementioned change order in the amount of \$40,000.00 with Finch Oil Company of Morris County Cooperative Purchasing resulting in a total contract amount of \$210,000.00.

BE IT FURTHER RESOLVED that the Mayor and Council are, hereby, authorized and directed to execute the aforesaid approved change order contract amendment.

Adopted: November 5, 2008

Agenda No. VIII 17.

~ Resolution No. 2008- 419 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR PARTICIPATION IN THE LOCAL GOVERNMENT AUDIT PROGRAM

WHEREAS, the New Jersey Board of Public Utilities, Office of Clean Energy administers the Local Government Energy Audit Program (Program), an incentive program to assist local government agencies to conduct energy audits and to encourage implementation of energy conservation measures; and

WHEREAS, the Township Council of the Township of West Milford has decided to apply to participate in the Local Government Energy Audit Program; and

WHEREAS, the facilities to be audited are in New Jersey, are owned by the Township of West Milford, are served by a New Jersey regulated public utility, and that the Township of West Milford has not already reserved \$100,000 in the Program this year as of this application; and,

WHEREAS, it is acknowledged that acceptance into the Program is dependent on the Scope of Work and cost proposal, and that Program rules will have to be met in order to receive incentive funds; and,

WHEREAS, upon acceptance into the Program, the Township of West Milford will prepare Facility Data Forms and Scopes of Work for each facility to be audited, solicit quotations from the authorized contractors, and submit the Part B application; and,

WHEREAS, the Township of West Milford understands that energy audit work cannot proceed until an Application Approval Notice is received from the Program; and,

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Township of West Milford approves the submission of an Application for participation in the Local Government Energy Audit Program of the New Jersey Board of Public Utilities; and,

Adopted: November 5, 2008

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

Agenda No. IX

Consent Agenda

~ Resolution 2008 – 406 ~

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

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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

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

Resolutions:

- a. **Resolution No. 2008 – 407** – Cancel Taxes
- b. **Resolution No. 2008 – 408** – Refund Liens
- c. **Resolution No. 2008 – 409** – Refund Overpayments
- d. **Resolution No. 2008 – 410** – Performance Guarantee Partial Refund
- e. **Resolution No. 2008 – 411** – Refund Performance Guarantees
- f. **Resolution No. 2008 – 412** – Refund Escrow Funds
- g. **Resolution No. 2008 – 413** – Refund Insurance Fee
- h. **Resolution No. 2008 – 414** – Reinstate Taxes

Applications:

- (a) **Application to Amend Raffle License No. 2008-38** – Raffle cancelled.
- (b) **Application 2009-05 for Off Premise Draw Raffle** – West Milford Rotary for May 21, 2009.
- (c) **Application 2009-06 for Tricky Tray Raffle** – West Milford High School PTSO for May 1, 2009.
- (d) **Application 2009-07 for On Premise 50/50 Raffle** – West Milford High School PTSO for May 1, 2009.
- (e) **Application 2009-08 for Bingo License** – West Milford High School PTSO for May 1, 2009.
- (f) **Application 2008-44 for On Premise Draw Raffle** – Maple Road School for December 1, 2008.

Adopted: November 5, 2008

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

Agenda No. IX a.

~ Resolution 2008 – 407 ~

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:

100% DISABLED VETERAN

BLOCK/LOT	NAME	AMOUNT	YEAR
5312-2.10	E. Poeschl	\$1,122.80	2007 2 nd Qtr.
5312-2.10	E. Poeschl	\$1,512.88	2007 2 nd Half
5312-2.10	E. Poeschl	\$1,008.92	2008 1 st Half
5312-2.10	E. Poeschl	\$108.90	2008 4 th Qtr.
4103-7	L. & P. Brinker	\$3,926.57	2008 2 nd Half
4103-7	L. & P. Brinker	\$5,946.00	2009 1 st Half
TOTAL		\$13,626.07	

Adopted: November 5, 2008

Agenda No. IX b.

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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~ Resolution 2008 – 408 ~
RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING REFUND OF OTHER LIENS

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

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

Certificate No	Certificate Date	Block/Lot/Qual	Reimbursement Amt	Pay to the Lien Holder
06-039	04/11/2006	05011-005	\$160,425.28	Wachovia Cust/Sass5 Muni V Dtr 2 LIBERTY PLACE – TLSG 50 SOUTH 16TH ST. SUITE 1950 PHILADELPHIA, PA 19102
06-054	04/11/2006	07206-001	\$36,004.83	Park Finance Llc P.O. BOX 109 CEDAR KNOLLS, NJ 07927
06-080	04/11/2006	12404-006	\$33,143.42	Wachovia Cust/Sass5 Muni V Dtr 2 LIBERTY PLACE – TLSG 50 SOUTH 16TH ST. SUITE 1950 PHILADELPHIA, PA 19102
07-051	04/03/2007	07801-049.05	\$18,349.27	Plymouth Park Tax Service Llc P.O. BOX 2288 MORRISTOWN, NJ 07962
08-048	04/08/2008	04107-004	\$2,966.08	Theodore Jenkins 1418 CORNELL PLACE UNION, NJ 07083
08-085	04/08/2008	10602-024	\$16,271.37	Plymouth Park Tax Service Llc P.O. BOX 2288 MORRISTOWN, NJ 07962
08-103	04/08/2008	13701-042	\$26,674.01	Fidelity Tax Llc P.O. BOX 5707 FT. LAUDERDALE, FL 33310
			\$293,834.26	

Adopted: November 5, 2008

Agenda No. IX c.
 ~ Resolution 2008 – 409 ~
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. Stale Date Check
- 2. Owner Deceased

Block/Lot	Name	Amount	Year	Reason
2402-33	Frederic R. Furuya 23 Winthrop Street Williston Park, NY 11596	\$1,123.77	2007	1
5321-13.04	Marian Ross 134 Richmond Road West Milford, NJ 07480	\$1,304.46	2008	2
TOTAL		\$2,428.23		

Adopted: November 5, 2008

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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Agenda No. IX d.
 ~ Resolution 2008 - 410 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING PARTIAL REFUND OF PERFORMANCE GUARANTEE

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

<u>Name & Address</u>	<u>Block & Lot</u>	<u>Amount Refunded</u>	<u>Pg. No.</u>
CFA Custom Homes 144 Wesley Drive West Milford, NJ 07480	5010/11	\$1,700.00	78

Adopted: November 5, 2008

Agenda No. IX e.
 ~ Resolution 2008 - 411 ~

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

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

<u>Name & Address</u>	<u>Block & Lot</u>	<u>Amount Refunded</u>	<u>Pg. No.</u>
Braemar 50 Route 46 Parsippany, NJ	13002/124	\$300.00	79
Coveney Construction Inc. 106 Schoolhouse Road Oak Ridge, NJ 07438	16006/1.02	\$2,450.00	78

Adopted: November 5, 2008

Agenda No. IX f.
 ~ Resolution 2008 - 412 ~

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 Planning Consultant, the following Escrow monies be refunded:

<u>Name & Address</u>	<u>App. No.</u>	<u>Amount of Escrow</u>	<u>Amount Refunded</u>
Leeann & Ed DeRobertis 24 Cross Oak Lane West Milford, NJ 07480	0830-0812	\$750.00	\$480.12
Thomas & Assunta Trapasso 31 McKinley Place West Milford, NJ 07480	0630-0745	\$750.00	\$333.17
Robert Coyman Zanado Enterprises, Inc. P.O. Box 788 West Milford, NJ 07480	9840-0303 0030-0479	\$6,880.00 \$6,840.00	\$5,805.29 \$5,399.59
		TOTAL	\$11,204.88

Adopted: November 5, 2008

Agenda No. IX g.
 ~ Resolution 2008 - 413 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING REFUND OF AN OVERPAYMENT OF AN INSURANCE FEE

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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BE IT RESOLVED, by the Township Council of the Township of West Milford that, upon the report and request of the West Milford Fall Coed Softball League the following overpayment of the fee paid for Insurance be refunded:

<u>Name & Address</u>	<u>Insurance Fee Paid</u>	<u>Amount Refunded</u>
West Milford Coed Softball League 1910 Clinton Road Hewitt, NJ 07421	\$435.00	\$63.80

Adopted: November 5, 2008

Agenda No. IX h.
 ~ Resolution 2008 – 414 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING REINSTATEMENT OF TAXES

WHEREAS, there appears on the tax records receipt of payment of taxes; and

WHEREAS, the Collector of Taxes recommends the cancellation of receipt and reinstatement of taxes due to reasons stated below.

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

REASON: 1. INSUFFICIENT FUNDS

BLOCK/LOT	NAME	AMOUNT	YEAR
4701-38.02	#3 Memento 3 Inc.	\$2,000.00	2008
TOTAL		\$2,000.00	

Adopted: November 5, 2008

Agenda No. X

Approval of Expenditures

~ Resolution 2008-415 ~
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.	\$455,116.98
2	Reserve Account	85,820.32
3	Animal Control Trust	839.00
6	Capital.	82,340.71
7	Grants.	1,329.03
8	Refuse.	951.35
9	Refunds.	300,881.41
12	General Ledger.	5,257,097.31
16	Heritage Trust.	
14	Open Space Trust	3,750.00
17	Trust	2,876.77
18	Development Escrow.	12,018.17
19	LOSAP	
20	Special Reserve	
Total		\$6,203,021.05
Less Refund Resolution		(300,881.41)

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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Actual Bill List	\$5,902,139.64
Other Payments	100.00
Less Refund Resolution	
Total Expenditures	\$5,902,239.64

Approved: November 5, 2008

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

Discussion: Councilman Weisbecker commented that money sent to the County was \$100,001.75 for Open Space and 4th Quarter tax payment of over 5 million dollars. He asked for what?

Agenda No. XI

Reports of Administrator, Mayor and Council Members

Councilman Smolinski - moved for Councilman Schimmenti be excused from this meeting. It was seconded by Councilman Weisbecker and voted with unanimous approval. He then congratulated Councilman Weisbecker and Mr. Jurkovic on their winning the recent elected.

Councilman Nolan – also congratulated Mr. Weisbecker and Mr. Jurkovic and thanked Mr. Gargano and Mr. Warden. He asked about Elected Official training that was in the Council packet. Township Attorney Semrau explained that if they attend the program they will receive a certificate. He will look into having the trainer come to West Milford for in-house training. He also commented about a letter to Mayor Bieri from the county that asked for support. The deadline has passed. He also said that there was a recent Insurance Committee meeting. He recapped the work of the Morris County JIF. They are paying out \$700,000 in dividends to the municipalities. The bad news is that it is for year 2007 and the Township has only participated in this beginning 2008. He is optimistic for the future. He reviewed the work of the Township Insurance Company and how they have aided the Township in better training and defending themselves.

Councilwoman Lichtenberg – spoke regarding NJ Bill A2731. This legislation deals with protecting lives and preventing accidents. She asked for support of that legislation. She asked for consensus to support the bill. Consensus was given. She announced the dates for upcoming flu vaccines, the Long Pond Iron Works raffle, and the West Milford HS Cheerleaders fundraiser. She concluded by saying that she is thankful for everyday things and wished everyone a Happy Thanksgiving.

Councilman Scangarello – said that he has received a letter from Bald Eagle Commons about a United Water rate increase of 84%. He asked Township Attorney Semrau how the Mayor and Council can help these residents. Mr. Semrau said that he will research that. He said that it is difficult to overcome however he will research what the rights are. Mr. Scangarello then spoke about a letter from New Jersey Senator Pennachio and Senator Rice discussing State patrol of Greenwood Lake in 2009. He thanked everyone who has supported this. He then said that the Borough of Kinnelon wants to begin buying water from Newark.

Councilman Weisbecker – thanked his wife and Councilman Scangarello for their time and diligence to the election. He thanked all who worked on his campaign. The poll workers worked very hard, but better training is necessary. He congratulated Mr. Jurkovic. He is honored and will work for all residents. He expressed his condolences to the Bigger family. He said that he would like to discuss at a Council workshop television cameras in the meeting room. The non- approved camera is creating a safety hazard. He said that on November 11 at 11am there will be a Veterans service at the Veterans Memorial. He encouraged everyone to attend.

Mayor Bieri – no report

Interim Township Administrator Battaglia – thanked all of the poll workers and the County officials for their time and effort and commended them on their efforts.

Township Attorney Semrau – said that Eagle Ridge is out of appeals. He asked to postpone discussing Apple Valley and West Milford legal issues and add Weiner Lesniak v. West Milford Planning Board to the Executive Session instead.

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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Agenda No. XII

Appointments and Resignations

~ Resolution 2008 - 416 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY ACCEPTING RESIGNATIONS TENDERED

BE IT RESOLVED, by the Township Council of the Township of West Milford that they do hereby accept the following resignations tendered to the Township:

<u>Name</u>	<u>Position</u>	<u>Date Tendered</u>
William Lynch	Zoning Board of Adjustment	September 28, 2008

Adopted: November 5, 2008

The resignation was confirmed by the following vote:

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

The following nominations to the Cable TV Franchise Renewal Committee of Doris Aaronson, Ada Erik and Blanche DeSimone and James Warden were moved by Councilman Nolan and seconded by Councilwoman Lichtenberg.

Moved: Nolan Seconded: Lichtenberg
Voted Aye: Weisbecker, Nolan, Lichtenberg, Scangarello.
Voted Nay: Councilman Smolinski voted nay to James Warden.
Motion carried.

Discussion: Councilman Smolinski said that one individual should not serve because he is a competitor. He doesn't feel that it is appropriate and maybe unethical. Township Attorney Semrau said that he does not see a conflict. If one arises he will look into it. Councilwoman Lichtenberg asked that Mr. Warden be asked to be considered as a competitor. Councilman Nolan replied that he would like to nominate Mr. Warden and Ms. DeSimone.

Agenda No. XIII

Executive Session

~ Resolution No. 2008- 417 ~
MOTION FOR EXECUTIVE SESSION

BE IT RESOLVED by the Township Council of the Township of West Milford on the 5th day of November, 2008, that:

3. Prior to the conclusion of this **Regular Meeting**, the Township Council shall meet in Executive Session, from which the public shall be excluded, to discuss matters as permitted pursuant to N.J.S.A. 10:4-12, sub-section (s):
 - () b. (1) Confidential or excluded matters, by express provision of Federal law or State statute or rule of court.
 - () b. (2) A matter in which the release of information would impair a right to receive funds from the Government of the United States.
 - () b. (3) Material the disclosure of which constitutes an unwarranted invasion of individual privacy.
 - () b. (4) A collective bargaining agreement including negotiations.
 - () 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.
 - Random Woods – Block 8001, Lot 1
 - () 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.

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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- (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.
 - ~~West Milford Township v. Apple Valley Estates, LLC (Docket Nos. 005862-2005 and 007695-2007)~~
 - Caretaker Agreement
 - Weiner Lesniak v. West Milford Township
- () b. (8) Personnel matters.
- () b. (9) Deliberations after a public hearing that may result in penalties.

4. The time when the matter(s) discussed pursuant to Paragraph 1 hereof can be disclosed to the public is as soon as practicable after final resolution of the aforesaid matter(s).

Adopted: November 5, 2008

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

Agenda No. XIV

Adjournment

There being no further business to come before the Council, the Township Council adjourned the meeting at 11:58 p.m.

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

Approved: December 17, 2008

Respectfully Submitted:
Judy Manning, Part Time Secretary

MAYOR BETTINA BIERI
PRESIDING OFFICER

ANTOINETTE BATTAGLIA
TOWNSHIP CLERK