



## **Meetings**

Mayor Joseph DiDonato noted the future meeting schedule:

- a. December 7, 2005 - Regular Meeting
- b. December 15, 2005 - Workshop
- c. December 21, 2005 - Regular Meeting

## **Presentations**

Person to Person Transfer of Plenary Retail Consumption License No. 1615-33-023-001 Pine Village Grove Inn to Wine in the Woods L.L.C.

Mayor Joseph DiDonato noted that the Resolution authorizing the transfer of Plenary Retail Consumption License No. 1615-33-023-001 Pine Village Grove Inn to Wine in the Woods L.L.C. would be placed on the December 7th. Agenda for action by the council.

## **Public Comments**

Sandra Ramos, Strengthen Our Sisters, Lincoln Ave:

- 1) Municipal Tax
- 2) County costs and spending abuse

Jim Novak, Larchmont Drive:

- 1) Congratulate Councilmembers Scangarello and Weisbecker.
- 2) Town Hall parking problem
- 3) Sign law enforcement
- 4) Cablevision attendance at council meetings

Martin O'Shea, 22 Greenbrook Drive:

- 1) Training of people to tape meetings.

Joanne Jordan, 27 Dover Road:

- 1) Opposed to the vacation of Upper Greenwood Lake Roads due to environmental issues, right of ways.

Robert Pawlo, 7 Madelyn Avenue:

- 1) Voting Districts and redistricting

Wayne Gottlieb, :

- 1) Redistricting, voting machine problems.

Councilman Elcavage moved to close the Public Comments portion of the Workshop Meeting.

Moved: Elcavage Second: Scangarello

Voted Aye: Bailey, Elcavage, Gervens, Nolan, Warden, Scangarello.

Voted Nay: None.

Motion carried.

## **Council Comments**

Members of the Council commented on Government matters.

Mayor Joseph DiDonato - The first task of the new Clerk will be to look into redistricting.

Councilman Paul Bailey - Cablevision taping of meetings.  
Town Hall parking situation.

Councilman Joseph Elcavage - Council sensitivity to issues of the homeless and abused.

Councilman Robert Nolan - Redistricting.  
Strengthen Our Sisters.

Councilman James Warden - Recused his attendance at the Executive Session because of friendship with Sandra Ramos of Strengthen Our Sisters.  
Taping of council meetings.

Councilman Carmen Scangarello - Voting machine problems/county purchasing new voting machines next year.

**Action Items**

The Township Council took action on the following items:

Agenda No. **VI 1**  
RESOLUTION NO. 2005 - 292

**RESOLUTION AWARDING CONTRACT - ICE CONTROL AGGREGATES**

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

Subject of Bid: Ice Control Aggregates  
Bid Date Received: November 4, 2005  
Time Received: 10:00 A.M.

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

6-01-26-294-348

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council of the Township of West Milford that contracts are hereby awarded to the low bidder in accordance with specifications and bids received and on file in the Office of the Township Clerk as follows:

Contract Items: Ice Control Aggregates  
Bidder Name & Address: Tilcon New York Inc.  
625 Mt. Hope Road  
Wharton, NJ 07885  
Total Contract Amount: Not to exceed \$139,862.50

Adopted: November 10, 2005

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Moved: Elcavage                      Seconded: Scangarello  
Voted Aye: Bailey, Elcavage, Gervens, Nolan, Warden, Scangarello.  
Voted Nay: None.  
Resolution adopted.  
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Councilman Bailey moved to allow Michael Tfrank to speak on the Contract for Playground Equipment.

Moved: Bailey                                      Seconded: Elcavage  
Voted Aye: Bailey, Elcavage, Gervens, Nolan, Warden, Scangarello.  
Voted Nay: None  
Motion carried.

Michael Tfrank spoke on the Contract for Playground Equipment to replace the equipment at the Rockport shopping center.

Agenda No. **VI 2**  
Resolution 2005 - 293

**RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF WEST MILFORD  
AUTHORIZING A CONTRACT FOR PLAYGROUND EQUIPMENT WITH GAMETIME  
THROUGH STATE CONTRACT #A47854**

**WHEREAS**, there is a need to award a contract for playground equipment for the Township of West Milford, in the County of Passaic, State of New Jersey; and

**WHEREAS**, this can be purchased through New Jersey State contract #A47854; and

**WHEREAS**, the maximum amount of the purchase is \$78,000. and funds are available in the amount of \$78,000. as evidenced by the Chief Financial Officer/Treasurer's Certification dated 10/31/05; and

**WHEREAS**, public bids are not required when the purchase is under a state contract in accordance with 40A:11-12 of the Local Public Contracts Law.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council of the Township of West







Resolution adopted.

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Mayor Joseph DiDonato stated that appointments to the Tourism Commission are held until the December 7, 2005 Regular Council Meeting.

**Items For Discussion**

The following items were discussed by the Township Council:

\* Grant Committee

Councilman Scangarello left the meeting at this point.

The Township Council discussed possible makeup of members for a Grant Committee.

Councilman Scangarello re-joined the meeting at this point.

Mayor Joseph DiDonato called a five minute break at this time.

Mayor Joseph DiDonato called the meeting back to order.

\* Transportation Advisory Committee

Councilman Joseph Elcavage called a point of order regarding Township Code Chapter 2, Section 3 A, Mayor's appointment with advice and consent of Council.

Township Attorney Frederick Semrau recommended that the Council continue the discussion on the Transportation Advisory Committee and he will review the Code.

The Township Council discussed the Transportation Advisory Committee:

- \* Importance of Council liaison to committee
  - \*Expansion of committee to add members
- \* Resolution to re-establish the Transportation Advisory Committee.

Township Administrator Richard Kunze advised the Council on the Vacation of Linden Court/drainage issue.

- \*Councilman Joseph Elcavage opposed the vacation of Linden Court.
- \*Councilman Paul Bailey suggested the Council establish a policy on Township owned land.
- \* Councilman William Gervens suggested the Township Engineer be consulted in this matter.

Mayor Joseph DiDonato stated that the Council needs more information before it can proceed on this matter.

\*COAH third round substantive certification.

Planning Director William Drew handed information to the Mayor and Council regarding the third round process and reported on this matter.

\* Charges on copies of public records.

Township Administrator Richard Kunze noted that the surrounding communities were surveyed, he is having a chart drawn up in order to discuss this matter with the Council at a later date.

\* 82 Continental Road fence issue.

The Township Council discussed this matter with Township Attorney Frederick Semrau.

\* National Incident Management Systems training.

Township Attorney Frederick Semrau left the meeting at this point.

\* Cell Tower Land Lease bid.

Township Attorney Frederick Semrau re-entered the meeting at this point.

The Township Council discussed the Cell Tower Land Lease bid with the Township Attorney and Administrator.

Mayor Joseph DiDonato directed that a Cell Tower Land Lease resolution be placed on the December 7th. Council Meeting agenda.

\* 2006 Township Calendar/Council Meetings.

Township Administrator Richard Kunze asked that discussion regarding 2006 Township Calendar/Council Meetings be held at the December 7th. Council Meeting.

Councilman Joseph Elcavage stated that he would prefer a return to prior Council Meeting schedule of Wednesday Regular Meetings and Thursday Workshop Meetings.

Mayor Joseph DiDonato asked the Township Administrator provide a copy of the Resolution To Include a Tourism and Economic Revitalization Commission adopted at the last council to the Township Attorney.

Mayor DiDonato called a break at this point.

Mayor DiDonato called the meeting back to order.

Township Attorney Frederick Semrau noted that he had read the Resolution To Include a Tourism and Economic Revitalization Commission adopted at the last Council meeting which states that the Mayor makes appointments to this committee and does not need the advice and consent of the Township Council.

Councilman Gervens moved to table this appointment until the next meeting.

Councilman Elcavage seconded the motion.

Councilman James Warden noted that the resolution authorizing the tourism committee is an Ordinance.

The Township Council continued to discuss this matter.

Mayor Joseph DiDonato asked the Township Administrator to advise the Council on the Transportation Committee.

Township Administrator Richard Kunze reported on the purpose of the Transportation committee, and that the Transportation Committee membership is currently ten members per resolution adopted in May of 2004. He noted that it has been recommended that the membership of this committee be increased to fourteen members.

Councilman Joseph Elcavage called a point of order noting that Township Code number 2.34a states that the Mayor will make appointments to the Tourism Committee with the advice and consent of the Council.

Township Attorney Frederick Semrau noted that he will review the Code and report back to the Council on his findings.

Mayor DiDonato continued the discussion on the Transportation Committee.

The Township Council continued to discuss this matter.

The Township Administrator recommended that the Council hold action on any appointments to the Transportation Committee until the Committee is re-established by resolution at the Organization Meeting on January 1st.

Township Administrator Richard Kunze reported on the proposed vacation of Linden Court noting that the Zoning Board of Adjustment has not reviewed this application and issues. He noted that he had discussed the matter with the Township Engineer who suggested that a drainage easement may be a solution to this matter.

The Township Administrator noted that the Township Attorney needs to get involved in this matter.

Mayor DiDonato noted that the Council wants this matter resolved.

Councilman Joseph Elcavage stated that the Zoning Board of Adjustment has gone as far as it can in this matter as the applicant is demanding that the Township vacate Linden Court.

Councilman Elcavage asked if it is the Council's policy to give away land to developers or to try to keep land for open space. If it is the Township's policy to try to preserve open space then the Council should deal with the policy. The Council should not give away land under the public trust, and should proceed to make policy decisions.

Councilman Paul Bailey stated that the Council should establish a policy on Township owned land if there is not already one established.

Councilman William Gervens noted that the drainage problems weighs heavily on a decision in this matter, and that the Township Engineer should be consulted.

The Township Council continued to discuss this matter.

Mayor DiDonato noted that the Council needs more information on this issue before they can make a decision.

Mayor Joseph DiDonato advised that Planning Director William Drew is present to discuss the third round process for COAH.

Planning Director William Drew handed information to the Mayor and Council.

Planning Director William Drew advised the Council that a COAH plan has to be adopted before December 20, 2005.

Township Attorney Frederick Semrau noted that there is pending litigation due to environmental constraints imposed by the Highlands Council.

Planning Director William Drew advised the Council that the Planning Board can adopt a plan for COAH and that the state will hold the plan for two years before asking that the Township memorialize the plan by resolution.

The Township Council continued to discuss this matter with the Planning Director.

Planning Director William Drew advised the Council that the Planning Department will proceed with a COAH plan in the best interests of the Township.

Mayor DiDonato asked the Township Administrator to report on the survey conducted by his office regarding charges for copies of public records.

Township Administrator Richard Kunze reviewed a chart of costs of copies charged by surrounding communities and noted that he would address this issue at a later date.

The Township Administrator addressed the fence issue at 82 Continental Road noting that the land at issue is between the homeowners property and Township owned property and is on property the Township uses as a drainage easement. He noted that fencing is necessary to prevent children from being hurt on the Township property, and that the property owner has agreed to install the fences, and that the fence will partially be on Township owned property.

The Township Council discussed this matter with the Township Attorney.

Township Administrator Richard Kunze reported on the West Milford Office of Emergency Management recommendation asking for Council support of the National Incident Management Systems for emergency response.

Township Attorney Frederick Semrau left the meeting at this point.

Township Administrator Richard Kunze reported that the specifications for a cell tower land lease bid are being drawn up by the Township Engineer and Township Attorney.

Township Attorney Frederick Semrau returned to the meeting at this point.

The Township Council discussed this matter with the Township Administrator and Township Attorney.

Township Administrator Richard Kunze reported on the Passaic County Police Department Interlocal Agreement for access to a federal database of police information.

The Township Council discussed this matter.

Councilman Joseph Elcavage asked when the Council will decide on the Council Schedule for 2006, noting that if a decision is not made soon those meeting will not be included on the 2006 Township calendar.

Mayor DiDonato advised the Township Council to review the proposed schedule and be prepared to make a decision at the December 7th. Council Meeting.

The Township Council discussed this matter.

Mayor DiDonato noted that Township Attorney Frederick Semrau had reviewed the Tourism Committee resolution, and that the Township Attorney advised him that the appointments by the Mayor were with the advice and consent of Council.

Councilman Elcavage moved to carry appointments to the Tourism Committee to the next meeting.

Councilman Gervens seconded the motion to carry appointments to the Tourism Committee to the next meeting.

The Township Council discussed this matter.

Township Attorney Frederick Semrau noted that the resolution is unclear as to advice and consent, so in order to be conservative I recommend that the Council proceed with advice and consent of the appointments.

The Township Council discussed this matter.

Township Attorney Frederick Semrau noted that he would redraft the resolution to make it clear that the Mayor does not need advice and consent for these appointments. The Township Attorney advised that the Council must take action on the prior motion to approve the Mayor's appointments to the Highland Tourism Grant Committee.

Councilman Gervens withdrew his second of the motion to carry appointments to the Tourism Committee to the next meeting.

Councilman Joseph Elcavage noted that he had made a motion to give advice and consent of the Mayor's appointments of Paul Bailey, Renee Palermo, Carmen Scangarello, David Watson Hallowell, William Drew, the Chairman of the Planning Board or designee and the Chairman of the Environmental Commission or designee.

Councilman Gervens seconded the motion.

Councilman Nolan asked if he can ask for a vote on the appointment of Bob Nolan to the Tourism Committee first.

Township Attorney Frederick Semrau answered in the negative, noting that the current motion was made first and action must be taken on that motion first.

Councilman Nolan stated that he is asking for a vote on the appointment of Bob Nolan to the Tourism Committee separately.

The Township Council discussed this matter.

Mayor DiDonato asked for a roll call.

Tonya Cubby of the Township Clerk's Office proceeded to poll the advice and consent of the Council for seven appointments to the Highland Tourism Grant Committee as follows:

- Councilman Bailey .....Yes
- Councilman Elcavage ..... Yes
- Councilman Gervens ..... No
- Councilman Nolan ..... Yes
- Councilman Warden ..... Yes
- Councilman Scangarello ..... Yes

Mayor Joseph DiDonato declared Paul Bailey, Renee Palermo, Carmen Scangarello, David Watson Hallowell, William Drew, the Chairman of the Planning Board or designee and the Chairman of the Environmental Commission or designee members of the Highland Tourism Grant Committee for a term ending December 31, 2006.

Councilman Joseph Elcavage moved to table the advice and consent of Council of the Mayor's eighth appointment of Robert Nolan to the Tourism Committee until the following meeting so that the council can have discussion on this matter.

Township Attorney Frederick Semrau advised that there is an appointment by the Mayor that requires the advice and consent of the Council, and, at this point I have to say that since you approved and acted on the seven appointments you really need to move and act on the eighth appointment.

The Township Council discussed this matter.

Councilman Warden seconded the motion to appoint Robert Nolan as a member of the Highland Tourism Grant Committee.

Mayor DiDonato asked for a roll call.

Tonya Cubby of the Township Clerk's Office proceeded to poll the advice and consent of the Council for the appointment of Robert Nolan to the Highland Tourism Grant Committee as follows:

Councilman Bailey .....	No
Councilman Elcavage .....	No
Councilman Gervens .....	Yes
Councilman Nolan .....	Yes
Councilman Warden .....	Yes
Councilman Scangarello .....	Yes

Tonya Cubby of the Township Clerk's Office asked for clarification of the person who moved and seconded the prior appointment.

The Township Council discussed this matter.

Township Attorney Frederick Semrau stated that Councilman Nolan cannot nominate himself to a committee.

The Township Council discussed this matter.

Mayor DiDonato asked the Council to do the appointment of Councilman Nolan to the Tourism Committee over again.

Councilman Warden moved to appoint Robert Nolan as a member of the Highland Tourism Grant Committee.

Councilman Gervens seconded the motion to appoint Robert Nolan as a member of the Highland Tourism Grant Committee.

Mayor DiDonato asked for a roll call.

Tonya Cubby of the Township Clerk's Office proceeded to poll the advice and consent of the Council for the appointment of Robert Nolan to the Highland Tourism Grant Committee as follows:

Councilman Bailey .....	No
Councilman Elcavage .....	No
Councilman Gervens .....	Yes
Councilman Nolan .....	Yes
Councilman Warden .....	Yes
Councilman Scangarello .....	Yes

Mayor Joseph DiDonato declared Robert Nolan a member of the Highland Tourism Grant Committee for a term ending December 31, 2006.

**Township Administrator's Report**

Township Administrator Richard Kunze reported on the following:

- \*2006 draft budget
- \*November 28th and 29th. scheduled budget hearings with Department Heads
- \*Veteran's Day Ceremony
- \*Thank Denise and Tonya, pollworkers and his office staff for their efforts during the election.
- \*Happy Thanksgiving

**Mayor's Report**

Mayor Joseph DiDonato reported as follows:

- \*Veteran's Day ceremony
- \*Designation of Michael Woch as the Emergency Management Officer and Paul Reilly as the Deputy Emergency Management Officer
- \*Appointment of new Township Clerk as of January 1, 2006
- \*Search for a Municipal Judge

### **Township Council Reports**

Councilman Paul Bailey - No report.

Councilman Joseph Elcavage - No report.

Councilman William Gervens - No report.

Councilman Robert Nolan reported as follows:

- \* First Aid Squad blood drive
- \* Congratulate Carmen Scangarello and Phillip Weisbecker on their election
- \* County to go to bid on "Dead Man's Curve"
- \* Township Attorney's report on Paff vs. Byrnes

Councilman James Warden reported as follows:

- \*Congratulate Carmen Scangarello and Phillip Weisbecker on their election
- \*Chief Dykstra's retirement dinner
- \*Bi-State Commission conference on weed harvesting

Councilman Carmen Scangarello reported as follows:

- \*Congratulate Phillip Weisbecker on his election

### **Township Attorney**

Township Attorney Frederick Semrau reported as follows:

- \*Requirements of Constables
- \* letters sent to the Constables noting that they would not be reappointed unless their requirements were completed
- \* Paff vs. Byrnes - Statute NJSA 9-134.1 cited
- \* Eagles Ridge
- \* Hovnanian
- \* Executive Session: Sheridan property acquisition, SOS, Personnel matter, Tax Appeal

### **Township Clerk's Report**

None.

### **Executive Session**

#### **MOTION FOR EXECUTIVE SESSION**

**BE IT RESOLVED** by the Township Council of the Township of West Milford on the **10th.** day of **November**, 2005, that:

a. Prior to the conclusion of this **Workshop Meeting**, the Township Council shall meet in Executive Session, from which the public shall be excluded, to discuss matters as permitted pursuant to N.J.S.A. 10:4-9, sub-section (s):

- ( ) b. (1) Confidential or excluded matters, by express provision of Federal law or State statute or rule of court.
- ( ) b. (2) A matter in which the release of information would impair a right to receive funds from the Government of the United States.
- ( ) b. (3) Material the disclosure of which constitutes an unwarranted invasion of individual privacy.
- ( ) b. (4) A collective bargaining agreement including negotiations.
- (X) b. (5) Purchase, lease or acquisition of real property, setting of banking rates or investment of public funds, where it could adversely affect the public interest if disclosed.
- ( ) 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.

(X) b. (8) Personnel matters.

( ) b. (9) Deliberations after a public hearing that might 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).

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Moved: Elcavage                      Seconded: Scangarello  
Voted Aye: Bailey, Elcavage, Nolan, Warden, Scangarello.  
Voted Nay:None.  
Resolution adopted.  
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Councilman Warden recused himself from the discussion on the Strengthen Our sister matter.

Councilman Nolan recused himself from the discussion on the Strengthen Our sister matter.

Present: Councilmembers Paul Bailey, Joseph Elcavage, William Gervens, Robert Nolan, James Warden, Carmen Scangarello, and Mayor Joseph DiDonato.

Absent: None.

Also Present: Township Administrator Richard Kunze, Tonya Cubby of the Township Clerk's Office, and Township Attorney Frederick Semrau.

Items for discussion at Executive Session were as follows:

- \* Sheridan Property
- \* Hovnanian vs. NJDEP
- \* Strengthen Our Sisters
- \* Township Administrator
- \* Tax Appeal

Councilman Bailey moved to adjourn the executive session at 11:50 p.m.

Moved: Bailey                      Seconded: Scangarello  
Voted Aye: Bailey, Elcavage, Gervens, Nolan, Warden, Scangarello.  
Voted Nay: None.  
Executive Session adjourned.

Mayor Joseph DiDonato called the public session back to order.

Township Attorney Frederick Semrau reported on the purpose of discussion of Strengthen Our Sisters is due to potential litigation.

**Adjournment**

Councilman Bailey moved to adjourn the Workshop meeting at 12:00 a.m.

Moved: Bailey                      Seconded: Scangarello  
Voted Aye: Bailey, Elcavage, Gervens, Nolan, Warden, Scangarello.  
Voted Nay: None.  
Meeting adjourned.

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MAYOR JOSEPH DIDONATO  
PRESIDING OFFICER

\_\_\_\_\_  
TONYA CUBBY  
TOWNSHIP CLERK'S OFFICE\*