
TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Township Council Workshop
Date of Meeting: November 22, 2006
Time of Meeting: 7:30 P.M.
Minute Page No: Page 2 of 11

Doris Aaronson, 19 Bearfort Road, West Milford stated that she is speaking tonight as a trustee of Pinecliff Lake. She expressed support for the previous speaker's statements about development. She commended Mr. Frank for affording the public sufficient time at the Planning Board meeting to comment on Valley Ridge. Most people were opposed to the development and were pleased that the board members voted to deny the application. She advised that recent developments suggest that the developer presented flawed information to the court and she urged the Council to determine if they can become involved in the process to protect the Township's interests. She asked the Council to consider training senior students in the high schools to act in the capacity of deputy security guards in the schools, noting that New York University has successfully adopted such a program on their campus.

Marilyn Schultz, 18 Laurel Hollow, West Milford asked if the Council has scheduled an Executive Session meeting with the Police Chief to discuss Special Resource Officers (SROs) in the schools. She stressed the importance of this presence in our schools. At last week's Board of Education meeting, a Board member stated that they would speak with the Council to discuss the possibility of forming a steering committee to reach a compromise on this matter. She stated that she would like to see the SROs reinstated full time.

Wayne Gottleib, 20 South Richfield Road, Upper Greenwood Lake stated that at last week's Board of Education (BOE) meeting, the members voted to establish a 3-member committee to approach the Council on the subject of SROs. That committee will request that the Council form a committee of 3 members to meet with them and the Police Chief to discuss deployment of SROs in the school. A formal request is being sent to the Township Administrator. He referred to and read excerpts from a recent article in *The Trends* that pertained to the Sunshine Act. He stated that having one person write such a law and then try to force it on everyone does not constitute open government. The writer of the article stated that information disseminated in opposition to the Sunshine Act contained lies; Mr. Gottleib disputed that contention. He stated that the Sunshine Act is as flawed as the FAR ordinance that has been bouncing around for years and now seems to be reappearing. That ordinance never had a public hearing and has now been referred to the Lakes Committee, which is a self-serving group from selected communities in town. The FAR ordinance would restrict homes in lake communities even though those properties are valuable ratables in a town that has very few ratables. No government agency should cap an individual's ability to pour their own money into their own home. He cautioned those who saw the flaws in the Sunshine Act to look closely at the FAR ordinance.

Councilman Weisbecker moved to close the Public Comments portion of the meeting.

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

Council Comments

Councilman Weisbecker stated that the Lakes Committee is looking at the FAR ordinance because they oppose it and are seeking an explanation.

Mayor DiDonato asked the Administrator if he had received correspondence from the BOE and was answered in the negative. Mayor DiDonato advised that an Executive Session meeting has been scheduled with the Chief of Police on December 6, 2006 to discuss this topic.

Presentations

Matthew Gabay, 17 Vreeland Road, West Milford

Mayor DiDonato invited Matthew Gabay to the podium to make a presentation to the Council on his "West Milford Monthly Recycling Volunteer Service Program". Mr. Gabay introduced himself and advised that he is a Boy Scout with Troop 114 and that he is currently competing for the William T. Hornaday Award. He explained that this is a very prestigious environmental award and, to that end, he has developed an educational initiative for Township residents which he hopes the Council will support. He directed the Council to literature he prepared and distributed. The program would have a monthly theme to encourage and educate people about recycling. He advised that he has made a presentation to the Beautification and Recycling Committee who supports this effort.

Councilman Smolinski commended Mr. Gabay on his efforts and asked if he has contacted the organizations listed in his program. Mr. Gabay advised that he had and that the response has been positive. Mayor DiDonato asked Mr. Gabay to explain the William T. Hornaday Award. Mr. Gabay gave a brief overview of this award program and noted that it has never been won by a New Jersey resident. The Council noted that certain departments would be affected by this program to which the Administrator responded that they have been contacted and he will reach out to them again. The Council gave unanimous consent for a resolution of support and endorsement of this program. Councilman Nolan asked Mr. Gabay to report back to the Council throughout the year and Mayor DiDonato advised that the resolution will be considered at the December 6th regular meeting. He thanked Mr. Gabay for attending tonight's meeting.

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Fred Lubnow, Princeton Hydro

Mayor DiDonato invited Mr. Lubnow to the podium to speak to the Council about options to treat weeds in Greenwood Lake. Mr. Lubnow introduced himself and gave a brief overview of his experience. He advised that he has been working with the Greenwood Lake Commission in West Milford, Warwick, and the Village of Greenwood Lake on watershed and management of Greenwood Lake. He stated that there is an over-abundance of plants in Greenwood Lake, not all of which are natural to this region. One technique will not work to rid the lake of these weeds so the Commission has been researching a toolbox approach to this ongoing problem. He listed some of the grants obtained to reduce the impact of these weeds on the health of the lake and he stated that the Commission is seeking additional funding to continue. Tonight, in his presentation, Mr. Lubnow stated that he will advise the Council on mechanical harvesting, chemical control and biological control as measures that, with combined usage, may prove beneficial to Greenwood Lake.

In mechanical weed harvesting, the machine functions in a manner similar to a lawn mower. The advantage is that this method directly removes vegetation and phosphorous. It is an important process that gets credit from the state. There is a significant amount of phosphorous in the vegetation removed through weed harvesting. Mechanical weed harvesting can also be used to create habitats for fish. However, the costs are high, it is labor intensive, there is often difficulty removing vegetation in shallow areas, this form of treatment is not species specific, it has the potential to distribute fragments throughout the lake, and it can remove a portion of small or young fish from the lake. An alternative to mechanical weed harvesting is hydro raking. This method of weed harvesting works with a machine that is similar to a backhoe with a modified shell which will remove vegetation with a lot of tubers or biomass in the sediments. It works well in shallow areas and near docks. It removes below-sediment biomasses, which is important in the growing season. However this process is expensive and slower than the mechanical weed harvesting and a lot of permits are required for dredging. After biomass is removed there may be problems with turbidity. Dredging is a method that can be used to remove accumulated material and has a lot of advantages. When one raises the level of water one minimizes the growth rates which improves circulation, reduces the internal nutrient load, improves open water habitat for fish and recreational uses. The permitting and planning required is extensive and there are always disposal issues. Dredging must always be done in tandem with watershed programs.

Chemical control techniques include contact herbicides and systemic herbicides. Herbicides are low to moderate in cost, they are a permitted activity, and the results are more immediate. However, the duration of impact is short, the lake could experience algae blooms, and some species of weeds are resistant to chemicals. Additionally, this treatment can have an impact on non-targeted plants. Contact herbicides are like week killers. They work quickly and can result in dissolved oxygen and/or fish kills. Permits are required. These treatments are relatively low in cost. Systemic herbicides kill plants from the inside out. Sonar is the most commonly used and they help break down the system that make the plants grow. They can be expensive but, if done properly, the results can be realized for two to three years. However, Sonar needs a lot of contact time, at least thirty days.

Mr. Lubnow re-emphasized that weed control is achieved by using more than one implementation technique. He reviewed some other measures that can be taken but he does not recommend any of these for Greenwood Lake. Biological control is only allowed in bodies of water less than ten acres; aquatic weevils are expensive and require a lot of time before showing results; and bio-manipulation requires a lot of big fish to eat the little fish which might be considered later in the process. At this time it is more important to focus on watershed control and aquatic plant control.

The Council asked some questions about costs and specific methods of weed control. Councilman Warden stated that, to engage in chemical treatments in conjunction with other treatments, West Milford would have to appropriate about \$50,000 and Mr. Lubnow agreed. Mayor DiDonato thanked Mr. Lubnow for tonight's presentation.

Action Items

The Township Council took action on the following items:

Agenda No. VIII 1

~ Ordinance 2006-020 ~

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 2, ENTITLED "ADMINISTRATION", OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WEST MILFORD, NEW JERSEY, IN ORDER TO ESTABLISH A TOWNSHIP POLICY FOR THE AWARDED OF PUBLIC PROFESSIONAL SERVICE AND VENDOR CONTRACTS

WHEREAS, the residents of the Township of West Milford (the "Township") have a right to expect that the exercise of the duties and responsibilities of their elected municipal officials and the Township's employees and officials, are not influenced by political contributions; and

WHEREAS, pursuant to N.J.S.A. 40A:11-5 and N.J.S.A. 40:48-2, municipalities have the right to establish rules and procedures for contracting with professional business entities; and

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WHEREAS, nothing contained herein shall be interpreted to impair in any way the right of a professional service provider secured by the First Amendment of the Constitution of the United States of America and further secured by Article 1, Paragraph 6 of the Constitution of the State of New Jersey to exercise its right to freedom of speech and its right to speak, write and publish sentiments on all subjects.

NOW, THEREFORE, BE IT ORDAINED, by the Township Council of the Township of West Milford, in the County of Passaic and State of New Jersey, that the policy of the Township of West Milford will be to create such a regulation which states that a professional service provider which makes direct or indirect political contributions beyond a certain amount to elected officials who are responsible for awarding professional services contracts shall be ineligible to receive a public professional service and/or vendor contract from the Township of West Milford.

SECTION 1. Chapter 2, Administration, Subsection 2.7.2, Purchasing Procedures, of the Revised General Ordinances of the Township of West Milford is hereby supplemented to read as follows:

2.7.2.1- Definitions.
As used in this Article:

Agreement to purchase goods or services shall mean an agreement for the purchasing of goods to or on behalf of the Township and any vendor contracts for the procurement of goods or services not considered "professional" as defined in the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., above the public bid threshold that may be established from time to time by the State of New Jersey, and without regard to whether the said agreement or contract is awarded pursuant to and in accordance with the "Fair and Open" procedures as established in the "Pay-to-Play" Law, N.J.S.A. 19:44A-20.4, et seq.

Agreement for professional services shall mean an agreement for the rendering of professional services to or on behalf of the Township, as defined herein, and without regard to whether the said agreement or contract is awarded pursuant to and in accordance with the "Fair and Open" procedures as established in the "Pay-to-Play" Law, N.J.S.A. 19:44A-20.4, et seq.

Campaign contribution shall mean West Milford campaign contribution, County campaign contribution and/or pass-through campaign contribution as defined herein.

County campaign contribution shall mean any contribution, whether in the form of money, free service or pledge, including without limitation any in-kind contributions, or purchases of tickets, advertisements or the like, directly or indirectly, to any County level political organization or County level campaign committee or fund within the County of Passaic; the term "directly or indirectly" as used herein shall further mean and include any campaign contributions made through intermediaries or third-parties for the purpose of concealing the source of the contributions(s).

Entity shall mean any corporation, professional corporation, joint venture, general or limited partnership, trust or limited liability company, or subsidiary or parent of any of the foregoing.

Ineligible vendor shall mean any vendor who has during the preceding three-year period made campaign contributions in excess of the limits set forth in Section 2.7.2.4 of the Revised General Ordinances of the Township of West Milford.

Ineligible vendor list shall mean a list of ineligible vendors maintained by the Township Administrator or his designee of the Township in accordance with the provisions of this Chapter.

Pass-through campaign contributions shall mean any contribution, whether in the form of money, free service or pledge, including without limitation any in-kind contributions, or purchases of tickets, advertisements or the like, directly or indirectly, to any campaign committee or election fund of any candidate for, or holder of the office of, Mayor or Council of the Township, or to any municipal or party committee or political club or organization within the Township, that is received from the election fund or other campaign account of any elected official or candidate for any office other than Mayor or Council of the Township, or from any County political organization, County campaign committee or political action committee or fund within or without the County of Passaic.

Township shall mean the Township of West Milford as a municipal entity, and any elected official, officer, employee, agent department, board or commission of the Township of West Milford.

Vendor shall mean any individual person or entity who either negotiates, bids or otherwise seeks to enter into an agreement to purchase goods or services as defined herein. In the case of any vendor who is an individual person, the term shall also include the individual's spouse, if any, and any child living at home, as well as any entity by whom any of them are employed or in which any of them have an ownership interest in excess of ten (10%) percent. In the case of any vendor who is an entity, the term shall also include each and every principal of the said entity who has an ownership interest in excess of ten (10%) percent in the entity, or any parent or subsidiary of the entity, and their spouses, if any, and any child living at home.

Vendor's certification of eligibility shall mean a certification in lieu of affidavit pursuant to which each vendor shall list each and every West Milford campaign contribution and each County campaign contribution the vendor has made during the preceding year.

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West Milford campaign contribution shall mean any contribution, whether in the form of money, free service or pledge, including without limitation any in-kind contributions, or purchases of tickets, advertisements or the like, directly or indirectly, to any campaign committee or election fund of any candidate for, or holder of the office of, Mayor or Council of the Township, or to any municipal or party committee or political club or organization within the Township; the term "directly or indirectly" as used herein shall further mean and include any campaign contributions made through intermediaries or third-parties for the purpose of concealing the source of the contribution(s).

2.7.2.2 RESTRICTIONS ON CAMPAIGN CONTRIBUTIONS BY VENDORS TO THE TOWNSHIP.

2.7.2.3 Prohibition on Awarding Contracts for Goods or Services to Certain Campaign Contributors.

The Township shall not enter into any agreement for any professional service or for the purchase of goods or other services with any vendor that has made any campaign contribution in excess of the limits specified in Section 2.7.2.4(a) of the Revised General Ordinances of the Township of West Milford, during the one (1) year period immediately preceding the date of the agreement, or during the term of any such agreement.

This section shall apply to all professional services contracts, with the exception of (D) and (E) below, and to all contracts for the purchase of goods and other services with the exception of the following items:

- (A) Contracts that are awarded as a result of open public bidding as set forth under the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.;
- (B) Contracts that are offered to the lowest, responsible, qualified bidder after public advertising for bids and quotes, pursuant to the provisions of the competitive contracting requirement of the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.;
- (C) Contracts with an anticipated aggregate value less than \$17,500;
- (D) Contracts that are awarded due to certain public exigencies pursuant to N.J.S.A. 19:44A-20.12;
- (E) Contracts with any New Jersey Government and/or Federal Government Agencies;
- (F) Contracts with banking institutions, insurance and public utility companies that are regulated by State restrictions on political contributions; and
- (G) Contracts the Township enters into for the purchase and acquisition of open space.

2.7.2.4 West Milford and County Contribution Limits Affecting Vendor Eligibility and Conflicts of Interest.

a. Campaign contribution limits affecting the eligibility of vendors, pursuant to subsections 2.7.2.3 and 2.7.2.5, to enter into or be paid pursuant to agreements for the purchase of goods or services are as follows:

1. The maximum combined amount of West Milford campaign contributions that may be made by a vendor during any election cycle shall not exceed three hundred (\$300.00) dollars.
2. The maximum amount of County level campaign contributions that may be made by a vendor shall not exceed three hundred (\$300.00) dollars during any election cycle to any party.

2.7.2.5 Limits on Political Campaign Contributions by Vendors to the Township.

No vendor shall knowingly solicit on behalf of, or make any campaign contribution in excess of the limits specified in Section 2.7.2.4(a) herein during the pendency of any such negotiations for, or during the term of, any agreement to purchase goods or services.

2.7.2.6 Vendors to Certify Their Compliance with the Township's Restrictions on Campaign Contributions; Obligation is Continuing.

Prior to issuing any purchase order or awarding to any vendor an agreement for the sale of goods and services, or making any payment pursuant to the same, or granting any change order in connection therewith, the Township's Administrator, or his designee, shall require that the vendor submit the required forms adopted by the State of New Jersey in conjunction with the State's existing "Pay-to-Play" law, in which the vendor shall verify that it has not knowingly made any campaign contribution in excess of the limits set forth in Section 2.7.2.4(a) of the Revised General Ordinances of the Township of West Milford. The Township Administrator or his designee shall keep the original of each such certification of vendor eligibility on file. Notwithstanding anything contained herein to the contrary, the vendor shall have a continuing duty to report immediately to the Township Administrator or his designee any campaign contributions made in violation of this section that occur during any time that an agreement for the sale of goods or services is in effect, or that occur during the pendency of any negotiations or bidding by the vendor to enter into such an agreement.

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2.7.2.7 Vendor Who Refuses to Certify Its Eligibility or Knowingly Submits a False Certification of Eligibility Shall Be Declared to be an Ineligible Vendor.

In addition to such other penalties as may be provided by law, any vendor who, after ten (10) days notice of the consequences thereof, refuses or otherwise fails to provide the certification required herein, or who knowingly files a false vendor's certification of eligibility, shall be designated by the Township Administrator or his designee as an ineligible vendor, and shall be promptly included on the ineligible vendor list maintained pursuant to Section 2.7.2.8 hereof and shall thereafter be prohibited from entering or continuing any agreement for the sale of goods or services with the Township, and from receiving any payment pursuant to such an agreement for a period of three (3) years from the date the vendor is designated as ineligible.

2.7.2.8 Township Administrator to Maintain a List of Ineligible Vendors.

The Township Administrator or his designee shall prepare and at all times maintain a list of vendors who are, by virtue of the provisions of this section, ineligible to enter into an agreement for the sale of goods or services with the Township. The Administrator or his designee shall prepare this list based upon information obtained from the submission of the required forms from the vendors pursuant to section 2.7.2.6. The Township Administrator or his designee shall update the list of ineligible vendors within ten (10) business days of the receipt of any certifications or information as required in this section.

2.7.2.9 Contributions Made Prior to the Effective Date.

Notwithstanding any term contained herein to the contrary, this Ordinance shall not consider campaign contributions made prior to January 1, 2007, and no such campaign contributions shall be considered by the Township Administrator or his designee in determining a vendor's eligibility pursuant to this section.

2.7.2.10 Curing Violations; Return of Excess Contributions.

Any Vendor may cure a Campaign Contribution made in excess of the limits set forth in subsection 2.7.2.4 of this Act, if, the said Vendor notifies the Administrator or his designee of the Township in writing that it has received a reimbursement of a contribution in excess of that allowed in subsection 2.7.2.4 and by attaching a true and correct copy of the check received in reimbursement within sixty (60) days of making such contribution.

SECTION 2. All ordinances of the Township of West Milford which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3. If any section, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any court or competent jurisdiction, such decision shall not affect the remaining portion of this ordinance.

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

SECTION 5. This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

SECTION 6. A copy of this Ordinance shall be immediately filed with the Secretary of State of the State of New Jersey.

Mayor DiDonato noted that second reading and public hearing for this ordinance is set for the Regular Meeting of the Township Council scheduled for December 6, 2006. Notice of this public hearing shall be published in the Herald News on or about November 26, 2006.

Discussion: Mr. Semrau advised the Council that changes that have been made have been done so at the direction of counsel to simplify the legislation and include Open Space acquisitions. Everything else is consistent with previous discussions. Councilman Nolan recommended that "either party" should be changed to "any party" and Councilman Smolinski recommended that the words "direct or indirect" be inserted before the word "contributions" on the first page. The Council agreed.

Councilman Weisbecker made a motion to adopt the ordinance as introduced and Councilman Nolan seconded the motion. Councilman Weisbecker moved to amend the ordinance to include the changes recommended by Councilmen Nolan and Smolinski.

Moved: Weisbecker Seconded: Nolan
Voted Aye: Weisbecker, Smolinski, Gervens, Warden, Nolan, Scangarello.
Voted Nay: None.
Abstained: None.
Motion carried.

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Agenda No. VIII 1

~ Resolution 2006-382 ~

A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING AMENDMENTS TO NORTH JERSEY MUNICIPAL EMPLOYEE BENEFITS FUND "BYLAWS"

WHEREAS, the Township of West Milford is a member of the North Jersey Municipal Employee Benefits Fund, hereinafter referred to as the "FUND" and;

WHEREAS, recent changes in the State regulations and FUND practices require the FUND's bylaws to be revised; and

WHEREAS, after the public hearing conducted on September 22, 2006, the Board of Commissioners of the FUND recommends revised bylaws to the membership; and

WHEREAS, these revised bylaws must be ratified by at least three fourths of the members before they can become effective.

NOW, THEREFORE BE IT RESOLVED, by the Township Council of the Township of West Milford that the revised bylaws of the North Jersey Employee Benefits Fund are hereby ratified.

Adopted: November 22, 2006

Moved: Nolan Seconded: Weisbecker
Voted Aye: Weisbecker, Smolinski, Gervens, Warden, Nolan, Scangarello.
Voted Nay: None.
Abstained: None.
Motion carried.

Agenda No. VIII 3

~ Resolution 2006-384 ~

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING THE AWARD OF A PAVING MATERIAL PHASE II CONTRACT TO TILCON NEW YORK, INC. THROUGH THE MORRIS COUNTY COOPERATIVE PURCHASING COUNCIL, CONTRACT #5

WHEREAS, the Township of West Milford is a member of the Morris County Cooperative Purchasing Council; and

WHEREAS, the Morris County Cooperative Purchasing Council has awarded Contract #5, Paving Materials, to Tilcon New York, 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 a contract in an amount not to exceed \$19,000.00, under the Morris County Cooperative Pricing Council contract #5 to Tilcon New York, Inc.; and

WHEREAS, the Chief Financial Officer has certified as to the availability of funds for these services, said funds to be encumbered from account numbers 6-01-26-290-361 - \$14,000.00 and C-04-05-943-624 - \$5,000.00;

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:

The Township Council hereby authorizes the Township Administrator to execute a contract for Paving Materials to Tilcon New York, Inc. through the Morris County Cooperative Purchasing Council, Contract #5, in an amount not to exceed \$19,000.00.

Adopted: November 22, 2006

Discussion: Administrator Kunze advised that this contract provides the amount of asphalt the Township needs to make pothole repairs before winter sets in. Therefore, he moved it to an action item tonight and the CFO has certified as to the availability of funds.

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Moved: Weisbecker Seconded: Scangarello
 Voted Aye: Weisbecker, Smolinski, Warden, Nolan, Scangarello.
 Voted Nay: None.
 Abstained: Gervens.
 Motion carried.

Payment of Bills

Agenda No. IX

~ Resolution 2006-382 ~

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:

<u>Acct #</u>	<u>Account Name</u>	<u>Amount</u>
1	Current Account	\$137,696.99
2	Reserve Account	
3	Animal Control Trust	2,154.78
6	Capital.	51,260.50
7	Grants.	8,735.95
8	Refuse.	186,153.95
9	Refunds.	13,134.90
12	General Ledger.	
16	Heritage Trust.	
14	Open Space Trust	
17	Trust	2,890.00
18	Development Escrow.	4,585.50
19	LOSAP	
20	Special Reserve	
	Total	\$406,612.57
	Less Refund Resolution	<u>-13,134.90</u>
	Actual Bill List	\$393,477.67
	Other Payments	
	Less Refund Resolution	
	Total Expenditures	\$393,477.67

Adopted: November 22, 2006

Discussion: Councilman Weisbecker asked for an explanation of the \$1,124.06 expenditure for a data card photo ID service. Administrator Kunze responded that this payment is for new equipment, software and training for a new ID card system for Emergency Management. The old machine no longer functions and must be replaced. Councilman Nolan stated that there appears to be a number of bills payable from escrow accounts to Mr. Glatt, the Zoning Board Attorney. He asked if these bills must be submitted in a timely manner. Mr. Semrau stated that the Zoning Board has been advised of the time limits for submitting such bills and noted that there is a grievance process for applicants if they are dissatisfied.

 Moved: Weisbecker Seconded: Nolan
 Voted Aye: Weisbecker, Smolinski, Gervens, Warden, Nolan, Scangarello.
 Voted Nay: None.
 Abstained: Councilman Nolan abstained on the Valley Health invoice.
 Motion carried.

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Items For Discussion

The Township Council discussed the following items:

1)	Underage Drinking Ordinance – Mr. Semrau advised the Council that a number of municipalities have adopted such an ordinance at the local level. He reviewed the state allowances for this type of ordinance which would allow enforcement on private property. As a general rule, such ordinances are enforced by the local police when there is an underage party that is not supervised by adults. The Police Chief has endorsed this ordinance. This ordinance deviates from the state’s model in that it allows a 21-year old sibling to vouch for a younger sibling but the police would notify the parents in such an event. Councilman Smolinski stated that this ordinance closes a gap in the law. Mr. Semrau advised that the penalties would result in a loss of driving privileges. Councilman Nolan asked for an explanation of the ages outlined in the law. Mr. Semrau advised that, under the state law, a person who is eighteen years or older can take responsibility for someone younger who is found to be in violation of the law. Under this draft, if you are nineteen years old and you are drinking, you are in violation of this ordinance unless there is a relative over the age of twenty-one who is willing to vouch for you. Police would need probable cause to enter a home to enforce this law. In other municipalities, police have been careful to take action against only those kids who are consuming alcohol. The Council gave consensus to proceed with the ordinance for December 6 th .
2)	Bear Resistant Garbage Cans – Mr. Kunze advised the Council that, for a second time, bids were received on November 3 rd . Three entities bid on this contract and the tabulations have been distributed to Council. Compumeric bid in an amount that exceeds the amount of available funding. The DAWG bid was found to have a technical defect. Therefore, he is recommending that the Council award this contract to Compliance Systems. He further advised that he has asked the DEP if the Township can use grant funds to install the handles which is a labor-intensive project and the handles are not included with the bid. The recommendation is subject to DEP approval of this request. Councilman Nolan expressed concern that the lids will get lost thus negating the benefits to this program. Administrator Kunze noted that this is a pilot project intended to study such issues. The Township’s current garbage hauler will not be increasing his rates as a result of these bear-proof cans. The Council gave consent to award at the next meeting.
3)	Tub Grinding Contract – Administrator Kunze advised that four bids were received for this contract. The bid amount is a not-to-exceed amount based on a daily rate, meaning that the Township will only pay for the actual days used. The Council noted that they would like to discuss the possible outsourcing of all Recycling Center functions and instructed the Administrator to prepare a report on this subject. The Council gave consent to proceed with this award at the next meeting.
4)	Recyclables – Administrator Kunze advised that this is a companion contract to the Marketing of Recyclables contract that was recently executed. One entity submitted a bid even though several vendors took out the bids. Waste Management has advised that the geographical area in West Milford is too large to make a profit. Councilman Nolan questioned the need for a five-year contract, stating that it may be better for the Township if vendors know that we would be re-bidding in three years. Administrator Kunze advised that state law allows for five-year contracts for garbage. Mr. Semrau advised that Blue Diamond has submitted a bid that is complete in all respects. Therefore, there is no basis to reject the bid. Additionally, he noted that, if the Township chose to re-bid this service, knowing that there are no other interested contractors, those who bid this time may increase their prices. The Council reviewed the process used by the Engineer to determine the estimate for the contract. The Council gave consent to proceed.
5)	Paving Materials – Phase II Contract – The Council took action on this matter earlier in the evening.
6)	Mount Laurel Park – Mr. Semrau advised that he has reviewed the bids submitted for this project. He advised that he found an inconsistency in the format of the specifications which he reviewed with the Council. He is recommending that, due to that inconsistency, the Council reject these bids and authorize re-bidding. This delay will not impact the project. The Council agreed.
7)	Executive Session Minutes – Mr. Semrau advised that he and the Clerk have reviewed Executive Session Minutes that have been approved by Council but not released to the public. He referred the Council to the Clerk’s memo on this subject. He asked the Council if the Clerk may release those matters being recommended for release in the memo. Councilman Weisbecker made a motion to release those Executive Session Minutes being recommended for release by the Clerk and the Attorney. Council President Gervens seconded the motion. By unanimous roll call vote, the Council gave consent.
8)	Resignations and Appointments – Ms. Battaglia advised the Council that she has received a letter of resignation from Dr. Schimmenti regarding his alternate position on the West Milford Municipal Utilities Authority (MUA). She further advised that she has received one letter of interest in this vacancy. Councilman Weisbecker stated that it has been policy in

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the past to appoint users to the MUA. The Council instructed the Clerk to post this vacancy on the Township's website with a deadline date of December 15 th .

Mayor's Report

Mayor DiDonato wished everyone a very Happy Thanksgiving.

Township Administrator's Report

Administrator Kunze advised that the tree-lighting ceremony is scheduled for Monday, December 4, 2006 at 7:00 p.m. He stated that approximately eighty third grade students from West Milford schools visited Town Hall yesterday as part of their Civics studies. He is hoping to work with High School students in the coming year on an intern project. Budget meetings with department heads are scheduled for next Thursday and Friday. He wished everyone a very Happy Thanksgiving.

Township Council Reports

Councilman Weisbecker stated that there are many dangerous intersections in town including Lakeshore Drive and Warwick Turnpike in Upper Greenwood Lake. He asked for Council consensus to instruct the Administrator to send a letter to the DOT requesting a meeting to discuss these dangerous intersections and determine the most constructive means to deal with these problems. The Council gave consensus. He noted that, last week, a trailer took out the telephone pole by the Shop Rite where there is no guardrail. He stated that the County should be notified and safety measures installed. Councilman Weisbecker also noted that he received a letter from an Upper Greenwood Lake resident complaining about speeding on Melrose. He asked the Administrator to look into this matter. He stated that he would like to discuss the attorney ethics ordinance at the next workshop to determine if it should be amended or possibly repealed.

Councilman Smolinski thanked members of JORBA for helping clean the Jungle Habitat trails last Sunday.

Council President Gervens wished everyone a Happy and Safe Thanksgiving holiday.

Councilman Nolan wished everyone a Safe Thanksgiving. He noted that the Council should begin discussing the Volunteer of the Year program and asking for applications to be submitted. He stated that some residents with commercial plates who are not landscapers are being stopped at the Recycling Center. Administrator Kunze replied that the ordinance was amended earlier this year to limit use by commercial vehicles and he noted that there have been on-going issues with enforcement. Councilman Nolan asked what measures have been taken by the Planning Director to draft an ordinance on preliminary approval expirations. Mr. Kunze responded that he, Mr. Semrau and Mr. Drew are meeting on December 13th to discuss this matter. Councilman Nolan stated that he sent a letter to the Mayor and Council requesting funding for Open Space projects. Noting that both Eagle and Valley Ridge are outstanding he urged the Council to begin planning now so that they have leverage when the time is right. He also asked that the Morris County Conservatory be included in discussions. Mayor DiDonato stated that we can invite them for a consultation but we cannot move forward until the Township has determined that they are close to making a commitment.

Councilman Scangarello asked if West Milford is receiving any funds to repair streets. Administrator Kunze advised that the Township is receiving \$350,000 for Warwick Turnpike, Section 9. Councilman Scangarello commended the owners of Bearfort Shopping Center for donating their lift for use in hanging the lights on the Township's Christmas tree in front of Town Hall. This resulted in a savings of about \$1,500 for the Township. He wished everyone a Happy and Safe holiday.

Township Attorney

Mr. Semrau advised that he is pleased to report that all encroachments on the redevelopment property have been taken care of and the state has authorized the release of funds (approximately \$70,000). He stated that Boulder Pond LLC is attempting to take over where Hovnanian left off on Eagle Ridge. The Township has filed to stop their efforts claiming that it is too late in the game for them to be involved.

Agenda No. XII

~ Resolution 2006-383 ~

MOTION FOR EXECUTIVE SESSION

BE IT RESOLVED by the Township Council of the Township of West Milford on the 22nd day of **November**, 2006, that:

1. Prior to the conclusion of this **Workshop Meeting**, the Township Council shall meet in Executive Session, from which the public shall be excluded, to discuss matters as permitted pursuant to N.J.S.A. 10:4-12, sub-section (s):
() b. (1) Confidential or excluded matters, by express provision of Federal law or State statute or rule of court.

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- () 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.
- () 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.
 - Valley Ridge
- () b. (8) Personnel matters.
- () b. (9) Deliberations after a public hearing that may result in penalties.

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

Adopted: November 22, 2006

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

The Council went into Executive Session at 10:04 p.m.

The Council reconvened in public session at 10:30 p.m. with all present as before. Mayor DiDonato advised that, as a result of the Executive Session discussion, the Council is proposing a motion be made at this time. He asked the Township Attorney to phrase the motion for Council consideration. Mr. Semrau stated that he is asking Council for a motion to amend Matthew Mullhall's contract to include his professional hydro-geological expertise on matters pertaining to Valley Ridge.

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

Adjournment

There being no further business to come before the Council, the Township Council adjourned the meeting at 10:33 p.m.

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

Approved: December 13, 2006

MAYOR JOSEPH DIDONATO
PRESIDING OFFICER

ANTOINETTE BATTAGLIA
TOWNSHIP CLERK