
TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Township Council Regular Meeting
Date of Meeting: December 3, 2008
Time of Meeting: 7:30 P.M.
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The Regular Meeting of the West Milford Township Council was called to order by Mayor Bettina Bieri.

Adequate Notice Statement

Mayor Bieri read the following statement:

Please note that in accordance with Chapter 231, Public Laws of 1975 of New Jersey, adequate advance notice of this Regular meeting was advertised in the Herald News in its issue of January 6, 2008; copies were provided to the Suburban Trends, the Record, Star Ledger, and Greenwood Lake News and posted continuously on the bulletin board in the main corridor of the Town Hall and on file in the Office of the Township Clerk.

Pledge of Allegiance

Mayor Bieri led all in attendance in a salute to the flag.

Roll Call

Present: Councilmembers Philip Weisbecker, Joseph Smolinski, Savatore Schimmenti, Robert Nolan, Marilyn Lichtenberg, Carmelo Scangarello. Mayor Bettina Bieri.
Absent: None.
Also Present: Interim Township Administrator/Township Clerk Antoinette Battaglia, Township Attorney Frederick Semrau.

Reading of or Approval of Unapproved Minutes

Councilman Weisbecker moved to adopt the following meeting minutes seconded by Councilman Scangarello as presented.

November 5, 2008 Executive Session (1st session) November 5, 2008 Executive Session (2nd session)

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

Councilman Weisbecker moved to adopt the following meeting minutes seconded by Councilman Scangarello as presented.

November 26, 2008 Executive Session

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

Agenda No. II

Presentations

Transportation Updates – Keith Knudsen, Director of Community Services & Recreation – addressed the Mayor and Council about proposed changes to the transportation program by advising them that there has been a problem with providing transportation to senior citizens and the disabled on a consistent basis. Because of this, the Transportation committee has asked for new options. In response, NJ Transit has been working with the Committee for new options. They have proposed sending out a request for proposal's. This will allow the Township to utilize a vendor who will meet the transportation needs of the community, under the direction of NJ Transit. NJ Transit has developed a plan and have asked what the Township would like to do next. He displayed a map showing the routes around the Township. He explained that the grant for transportation does not cover all the needs of the Township. The 5311 grant only covers areas that are rural and not urbanized. He showed a new proposed route and explained this route. He said that it would focus on where the majority of usage is. Busses would be able to run more often. He demonstrated a seasonal route on the map. He said that NJ Transit will assist in writing the RFP and they ask that decisions be made expediently. He deferred to Council President Smolinski who said that a lot of work has gone into this and he commended Mr. Knudsen. He also commended the Senior citizens who utilize the route, for their patience. The Township has had a broken system. Now three government agencies are working together to make this work. He is thankful for Mr. Knudsen's input and said that March 1st is right around the corner for this new program to begin. Councilman Nolan commented regarding areas that will no longer be serviced. Mr. Knudsen replied that in certain areas either no one, or only one passenger was using this route. Interim Administrator Battaglia commented that with shorter routes, fewer miles would be traveled resulting in less maintenance and less fuel costs. Mr. Knudsen said that the busses would be housed with the vendor that the Township chooses. Interim Administrator Battaglia said that when the RFP's are returned, the Council may elect to maintain the transportation in-house and utilize the new routes as have been outlined. The rural and non-urban routes

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can be billed to the 5311 grant. Mr. Knudsen said that riders are primarily going to the food store and that he would provide a daily average of number of riders if it were necessary. Ms. Battaglia said that with these new routes that ridership might actually increase. Mr. Knudsen said that smaller busses are being looked into so that there is more flexibility with the routes, especially those that require the bus be turned around. Mayor Bieri asked when Mr. Knudsen would need direction from the Council and he replied that he would like to keep this moving and requested a decision as soon as possible.

Agenda No. III

Proclamations

None.

Agenda No. IV

Unfinished Business, Final Passage of Ordinances

Agenda No. IV 1

~ Ordinance 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" AS AMENDED

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.

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."

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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, 2009 – 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.

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.

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.

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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.

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

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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.

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.

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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 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.

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§ 300-46. Fees.

The following fees and charges are herewith established:

A. 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.

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.

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ADOPTED: December 3, 2008
EFFECTIVE DATE: December 23, 2008

Mayor Bieri advised that this Ordinance was introduced on November 5, 2008 and is scheduled for public hearing tonight. Notice of public Hearing was published in the Herald News on November 9, 2008. She opened the meeting to the public to speak on this issue only.

Peter Jenck, Olcott Road, Hewitt – said that he had sent an email regarding his opinion of this Ordinance. He is an Environmental Professional with a science degree in physics and environmental engineering. He is a Groundwater specialist. He said that solution to management of wastewater would be better handled with a sewer system. The current Ordinance will not result in water quality improvements. Personally he pumps his septic every three years. He is an avid water sports person. He said that the fines are too severe and a license should not be required. He also said that there are already controls in place through the state laws and regulations. This Ordinance is overregulation. He said that a database should be sufficient to monitor compliance. The frequency of pumping should be based on individual systems. He recommends establishing a work group to see if a better solution is possible.

Doris Aaronson, 19 Bearfort Road – said that 10-15% of residents have summer homes that should not require regular pumping at the same frequency as year round habitats. There should be a provision to petition the Health Officer for an extension. She does not like the notion that the appeal process is through the Health Department. She feels that there should be an independent appeals board. The previous speaker is not familiar with the history of sewerage treatment plants in West Milford.

Gary Oppenheimer, 24 Clover Road – said that sewers would be a disaster in West Milford. He is concerned about the plot plan requirement. A drawing to scale would be difficult to do. He said that the new legislation should be easier to enforce. He said that the Rutgers University website has a fact sheet as to how to maintain a septic system.

Richard Ashley, 14 Orange Road – said that the \$15 fee has been eliminated from the Ordinance. A database is a good thing. There is also a provision for a modified term of license. He spoke with some contractors who have concerns about people using only those contractors who pump rather than do full systems. People should understand their systems.

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Jim Novack, Larchmont Drive – asked if metal tanks have to be replaced under this Ordinance? He commented that summer residents could afford to pump their septic if they can afford two homes. He said that the \$15 administration is acceptable.

Doris Osterhoudt, Richmond Road – said that Bald Eagle Commons is on a sewer system. The residents are experiencing difficulty with costs. Installing a sewer system will cost a lot of money.

Lynn Manden, Highcrest Lake – said that she is speaking for the Lakes Committee. A lot of time has been invested into this Ordinance. She reviewed the process. If the state mandates for West Milford it will ultimately cost more. The residents of the Township must be proactive.

Dave Lynch, Upper Greenwood Lake – said that septic systems that are not used actually require more maintenance than those used. This Ordinance will not be enforced all at once. There will be a plan for implementation. The Ordinance contains discretion for extensions. Fines are up to the discretion of the Health Officer. Without penalties, this Ordinance has no teeth. He thanked Township Attorney Semrau for his help. If this ordinance is not passed, the Highlands Act provision will mandate sewers at the Township's expense. All lakes in West Milford are currently designated as a septic area. He used the dredging of Greenwood Lake as an example of bureaucratic delays that can take place when having to deal with the state. He said that he would like to see passage as soon as possible in its current form.

After comments from the public, Councilman Nolan made a motion, seconded by Councilwoman Lichtenberg, to close this public portion of the meeting. Approved by unanimous roll call.

Moved: Nolan Seconded: Lichtenberg
Voted Aye: Weisbecker, Smolinski, Schimmenti, Nolan, Lichtenberg, Scangarello.
Voted Nay: Motion carried.

A vote to adopt Ordinance 2008-050 was made by Councilman Weisbecker and seconded by Councilman Scangarello.

Moved: Weisbecker Seconded: Scangarello
Voted Aye: Weisbecker, Smolinski, Schimmenti, Nolan, Lichtenberg, Scangarello.
Voted Nay: Motion carried.

Discussion: Councilman Nolan said that he has listened to the comments this evening. The Wanaque Valley Regional Sewer Authority is almost at capacity. He said that sewer service areas cannot be extended because of the Highlands Act. This Ordinance is supported by the Lakes Committee, the Greenwood lake Committee, the Environmental Committee and the Health Officer. He said that MUA customers pay about \$600 per year for sewer. A bill every three years to pump out is reasonable. He is in favor of the Ordinance in its current form. Councilwoman Lichtenberg said that she is in favor of this Ordinance. She has been a realtor for many years and has witnessed many failing septic tanks and the results. The only change that she would suggest is amending the fines. She feels they are extreme. Township Attorney Semrau said that his office has worked on this Ordinance. The Lakes Committee has worked for years on this Ordinance and has discussed this at length with many groups. The Highlands Act will demand a Septic Maintenance Ordinance in the near future. That Ordinance may be more restrictive than this. However, introduction now will give West Milford a running start. West Milford is in the most environmentally sensitive area of the state. The Ordinance allows two years to come into compliance. The Lakes Committee can revisit this over time and amend the Ordinance if necessary. He does not recommend making any changes at this time. The same applies to the fine structure. Councilman Scangarello said that metal tanks are no longer allowed when a septic is replaced. The daily flow at the Passaic Valley Sewer Commission is 350 million gallons per day. West Milford, if completely sewerd would be about 17 million gallons per day. Councilwoman Lichtenberg said that the plot for the Health Department could be sketched. Councilman Smolinski expressed concern about the fines and gave a possible scenario. Township Attorney Semrau said that court would also use discretion and the goal of this Ordinance is compliance. There is an appeal process. Councilman Weisbecker commended Township Attorney Semrau, his associates and the Lakes Committee for their work on this Ordinance. He said that the input offered tonight is appreciated. However, this work has been ongoing for a long time. He would have loved assistance from these people through the process. He reviewed the history of how this Ordinance evolved and reiterated that public involvement is welcomed. Township Attorney Semrau said that this Ordinance was introduced with the fees. He asked that before roll call, an amendment be addressed and voted on.

A vote to adopt Ordinance 2008-050 as amended was made by Councilman Weisbecker and seconded by Councilman Scangarello.

Moved: Weisbecker Seconded: Scangarello
Voted Aye: Weisbecker, Smolinski, Schimmenti, Nolan, Lichtenberg, Scangarello.

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Voted Nay: Motion carried.

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Public Comments

Mayor Bieri opened the meeting to the public advising that each person wishing to be heard will be given five minutes to speak.

Doris Aaronson, 19 Bearfort Road – commented that this is the last televised Council meeting of the year. She has talked with many residents and employees at Town Hall this past week and there is unanimous sadness that Interim Township Administrator Battaglia is leaving. She is the best that this town has ever seen and thanked her for her duty to West Milford. She wished Happy Holidays to all.

Eric Hastings, Greenwood Lake Turnpike – agreed that another governing body needs to be established for an appeal to the Septic Ordinance.

John Aiello, 828 East Shore Road, Hewitt – distributed correspondence to the Council and read a letter into the record. The letter spoke about the potential traffic light at the intersection of Stainsby Road and Greenwood Lake Tpke. It addressed concern for the 9 shop owners in the strip mall that Mr. Aiello owns. He reminded everyone that in the spring of 2008 he had asked to have an open meeting with the owner of Q&S deli as well as the Mayor and Council. Mayor Bieri denied this meeting. He again is asking for a meeting before the Mayor and Council. He detailed a meeting with Township Engineer McFadden that had taken place earlier in the year as well as a follow-up meeting with then Township Administrator Kunze, Mr. McFadden and himself. He said that there is still concern with the striping on Stainsby Road. He said that no one has come to him from the Township to address this situation. Mayor Bieri asked for consensus from the Council to extend Mr. Aiello’s time to speak. Consensus was given and Mr. Aiello continued and read his proposal to the Township. He feels that his proposal would lessen congestion at the intersection. He also spoke of his idea to alleviate the parking problem in the area.

Robert Mazzocchi, 4 Clubhouse Trail – began by saying that he is trying to construct a home. He needed Department of Environmental Protection permits. Other residents and builders have not been required to get these approvals. He has been trying to build for six years. He has pursued the proper channels. He said that the Health Department has not required others to comply.

Jim Novack, Larchmont Drive – said that he will miss Interim Administrator Battaglia when she leaves.

There being no further comments from the public, Councilman Scangarello made a motion seconded by Councilman Weisbecker to close the public portion of the meeting.

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

Agenda No. VI

Council Comments

There were no Council Comments following this Public Portion.

Agenda No. VII

New Business, Introduction of Ordinances, Resolutions

Mayor Bieri asked for Council consent to move resolutions 429 through 435 and 445 as one group. Councilman Weisbecker made a motion seconded by Councilman Scangarello to move all the resolutions as one from 429 through 435 and 445.

Agenda No. VII 1
~ Resolution 2008 - 429 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY IN SUPPORT OF ASSEMBLY BILL #2731

WHEREAS, the Township of West Milford, of 80-plus square miles in size, and its residents are often requested to review and adjust various traffic regulations; and

WHEREAS, the present procedure to make traffic engineering decisions requires Department of Transportation approval and often results in additional engineering costs or delays in order to validate such recommendations; and

WHEREAS, Assembly Bill #2731 permits municipalities to make certain traffic engineering decisions without Department of Transportation approval; and

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WHEREAS, said legislation will provide for a more efficient and effective protocol to obtain such necessary changes in traffic regulations on municipal roadways.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of West Milford, County of Passaic and State of New Jersey that the Township endorses Assembly Bill #2731 as it provides for a more efficient means to afford the Township to make immediate traffic engineering decisions without the necessity of obtaining approval from the Department of Transportation.

BE IT FURTHER RESOLVED that the Mayor and Council are of the opinion that this legislation will be of great service to the residents of the Township of West Milford and provide for an expedited process to obtain necessary traffic controls, standards or devices for the roadways of West Milford.

Adopted: December 3, 2008

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

Agenda No. VII 2
~ Resolution 2008 - 430-~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC,
STATE OF NEW JERSEY AWARDING A CONTRACT FOR TUB GRINDER SERVICES**

WHEREAS, the Township of West Milford advertised for the receipt of sealed competitive bids to be received on November 14, 2008 at 10:00 a.m. for Tub Grinding 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 Atlantic Grinding Services, LLC in the amount of \$51,975.00 for tub grinding services; and

WHEREAS, the Chief Financial Officer has certified as to the availability of funds, said funds to be encumbered from account number 9-26-55-500-200.

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 a contract for tub grinding services pursuant to the Engineer's recommendation.

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

Adopted: December 3, 2008

Agenda No. VII 3
~ Resolution 2008- 431 ~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC,
STATE OF NEW JERSEY REJECTING BIDS FOR THE PURCHASE OF ONE 2009 TANDEM DUMP
TRUCK WITH PLOW AND CENTRAL HYDRAULICS**

WHEREAS, the Township of West Milford solicited bids on October 10, 2008 at 10:00 a.m. for One 2009 Tandem Dump Truck with Plow and Central Hydraulics; and

WHEREAS, in response to the "Notice to Bidders" the Township received two (2) bids; and

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

WHEREAS, after consideration by the Township Council, it is their opinion that the Township no longer has a need at this time for the Purchase Of One 2009 Tandem Dump Truck with Plow and Central Hydraulics.

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 bids received on October 10, 2008 for the Purchase Of One 2009 Tandem Dump Truck with Plow and Central Hydraulics be and are hereby rejected for the reason stated above.

Adopted: December 3, 2008

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Agenda No. VII 4
~ Resolution 2008 – 432 ~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC,
STATE OF NEW JERSEY REJECTING BIDS FOR THE PURCHASE OF TWO 2009 3-4 CY MASON
DUMP TRUCKS WITH PLOW & CENTRAL HYDRAULICS**

WHEREAS, the Township of West Milford solicited bids on October 24, 2008 at 10:15 a.m. for two 2009 3-4 CY Mason Dump Trucks with Plow & Central Hydraulics; and

WHEREAS, in response to the "Notice to Bidders" the Township received six (6) bids; and
WHEREAS, said bids have been duly reviewed by the Director of Public Works and the Township Attorney; and

WHEREAS, after consideration by the Township Council, it is their opinion that there is no longer a need for the Purchase Of Two 2009 3-4 Cy Mason Dump Trucks With Plow & Central Hydraulics for the Township at this time.

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 bids received on October 24, 2008 for the Purchase Of Two 2009 3-4 Cy Mason Dump Trucks With Plow & Central Hydraulics be and are hereby rejected for the reason stated above.

Adopted: December 3, 2008

Agenda No. VII 5
~ Resolution 2008 – 433 ~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF
NEW JERSEY AUTHORIZING THE AWARD OF A PROFESSIONAL SERVICES CONTRACT
WITHOUT COMPETITIVE BIDDING TO JON BRODY OF APPRAISAL CONSULTANTS CORP. FOR
REAL ESTATE APPRAISAL SERVICES ASSOCIATED WITH THE PROPERTY DESIGNATED AS
BLOCK 2801, LOT 1 IN AN AMOUNT NOT TO EXCEED \$4,200.00**

WHEREAS, the Township of West Milford is in need for real estate appraisal work to be performed associated with the vacant parcel of land designated as Block 2801, Lot 1; and

WHEREAS, the Township received a proposal from Jon Brody, MAI, CRE, of Appraisal Consultants Corp. dated October 23, 2008; and

WHEREAS, the Township wishes to award a contract without competitive bidding to Jon Brody, MAI, CRE, of Appraisal Consultants Corp. for the performance of real estate appraisal work associated with the property designated as Block 2801, Lot 1; and

WHEREAS, the total amount of the contract shall not exceed \$4,200.00; and

WHEREAS, funds are available for this purpose said funds to be encumbered from account number 8-01-20-100-450; and

WHEREAS, pursuant to the Local Public Contracts Law, specifically, N.J.S.A. 40A:11-3, when the cost or price of any contract awarded by the contracting agent in the aggregate does not exceed in a contract year the total sum of \$17,500, the contract may be awarded by the contracting unit without public advertising for bids; and

WHEREAS, Jon Brody, MAI, CRE, of Appraisal Consultants Corp. has completed and submitted both a Political Contribution Disclosure Form and a Business Entity Disclosure Certification which certifies that the firm 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 Appraisal Consultants Corp. 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 by the Mayor and Council of the Township of West Milford, County of Passaic and State of New Jersey as follows:

1. The Township of West Milford hereby awards and authorizes the Mayor and Township Clerk to execute an agreement with Jon Brody, MAI, CRE, of Appraisal Consultants Corp., with offices located at 293 Eisenhower Parkway, Suite 200, Livingston, New Jersey, 07039, for real estate appraisal services associated with the property designated

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- as Block 2801, Lot 1 in an amount not to exceed \$4,200.00 and in accordance with his proposal dated October 23, 2008.
2. This contract is awarded without competitive bidding as the total price of the contract shall not exceed the \$17,500 bid threshold in accordance with the provisions of the Local Public Contracts Law, specifically N.J.S.A. 40A:11-3.
 3. The total fee authorized for this contract shall not exceed \$4,200.00 without the prior written approval of the Township Council.
 4. The Political Contribution Disclosure Form, Business Disclosure Entity Certification and the Determination of Value shall be placed on file with this resolution.
 5. Notice of this action shall be published once in the Township's official newspaper as required by law.
 6. A copy of this resolution shall be provided to Arthur Magnotti, Treasurer, and Jon Brody, MAI, CRE, of Appraisal Consultants Corp., 293 Eisenhower Parkway, Suite 200, Livingston, New Jersey, 07039, for their information and guidance.

Adopted: December 3, 2008

Agenda No. VII 6
~ Resolution 2008-434 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE AWARD OF A PROFESSIONAL SERVICES CONTRACT WITHOUT COMPETITIVE BIDDING TO ARTHUR J. SCHAPPELL, JR., PLS, FOR THE PERFORMANCE OF SURVEY WORK ASSOCIATED WITH A PORTION OF BLOCK 6002, LOT 33 IN AN AMOUNT NOT TO EXCEED \$5,000.00

WHEREAS, the Township of West Milford is in need for professional survey work to be performed on a portion of the property designated as Block 6002, Lot 33 (approximately 39 acres); and

WHEREAS, the Township wishes to retain Arthur J. Schappell, Jr., PLS, for the purpose of assisting the Township with the performance of professional survey work as outlined in its proposal dated November 26, 2008 associated with the property designated as Block 6002, Lot 33; and

WHEREAS, the total amount of the contract shall not exceed \$5,000.00; and

WHEREAS, funds are available for this purpose said funds to be encumbered from the open space trust account; and

WHEREAS, pursuant to the Local Public Contracts Law, specifically, N.J.S.A. 40A:11-3, when the cost or price of any contract awarded by the contracting agent in the aggregate does not exceed in a contract year the total sum of \$17,500, the contract may be awarded by the contracting unit without public advertising for bids; and

WHEREAS, Arthur J. Schappell, Jr., PLS has completed and submitted both a Political Contribution Disclosure Form and a Business Entity Disclosure Certification which certifies that the firm 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 Arthur J. Schappell, Jr., PLS 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 by the Mayor and Council of the Township of West Milford, County of Passaic and State of New Jersey as follows:

1. The Township of West Milford hereby awards and authorizes the Mayor and Township Clerk to execute an agreement with Arthur J. Schappell, Jr., PLS, with offices located at 81 Carmel Road, Hewitt, NJ, to assist the Township with the performance of survey work for the property designated as Block 6002, Lot 33, in an amount not to exceed \$5,000.00, and in accordance with its proposal dated November 26, 2008 attached hereto.
2. This contract is awarded without competitive bidding as the work being performed is considered a professional service as defined in the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.
3. The total fee authorized for this contract shall not exceed \$5,000.00 without the prior written approval of the Township Council.
4. Arthur J. Schappell, Jr., PLS. shall have thirty (30) days from the execution of the professional services agreement to complete the survey work associated with this contract.
5. The Political Contribution Disclosure Form, Business Disclosure Entity Certification and the Determination of Value shall be placed on file with this resolution.

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- 6. Notice of this action shall be published once in the Township's official newspaper as required by law.
- 7. A copy of this resolution shall be provided to Arthur Magnotti, Treasurer, and Arthur J. Schappell, Jr., PLS, 81 Carmel Road, P.O. Box 924, Hewitt, NJ 07421, for their information and guidance.

Adopted: December 3, 2008

Agenda No. VII 7
 ~ Resolution 2008-435 ~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC,
 STATE OF NEW JERSEY APPROVING THE ISSUANCE OF VARIOUS LICENSES FOR LICENSE
 YEAR 2009**

WHEREAS, an applications have been made by licensees for the renewal of Peddler Licenses, Limousine Driver Licenses, Limousine Owner Licenses, Amusement Game Licenses and Pool Table Licenses for the year 2009; and

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

NOW, THEREFORE, BE IT RESOLVED that the Township Council of the Township of West Milford does hereby approve the issuance of 2009 Licenses *as listed below*:

Peddler License No.	Applicant Name - Address	T/A
2009 - 1	Orlando Cardaci 43 Adelaide Terrace West Milford, NJ 07480	Cardaci Caterers Inc.
Limousine Owner License No.		
2009-1	John Karwoski 9 Trenton Road Hewitt, NJ 07421	S&J Limousine
2009-2	John Karwoski 9 Trenton Road Hewitt, NJ 07421	S&J Limousine
2009-3	Frank McCagh 18 Sweetman Lane West Milford, NJ 07480	Distinguished Limousine Service
Limousine Driver License No.		
2009 - 1	John Karwoski 9 Trenton Road Hewitt, NJ 07421	John Karwoski
2009 - 2	Frank McCagh 18 Sweetman Lane West Milford, NJ 07480	Distinguished Limousine Service
Amusement Game License No.		
2009 - 1	Richard Castronova	Valley View Pub 1612 Union Valley Road West Milford, NJ 07480
2009 - 2	Tracey Bennett	Big John's Pub 49 Old Route 23 Newfoundland, NJ 07435

Amusement Game License No.	Applicant Name	T/A - Address
2009 - 3	Hisae Cerbone	Island of Spirits 3025 Route 23 Oak Ridge, NJ 07438
Pool Table License No.		
Pool Table License No.	Applicant Name	T/A - Address

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2009 – 1	Hisae Cerbone	Island of Spirits 3025 Route 23 Oak Ridge, NJ 07438
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Adopted: December 3, 2008

Agenda No. VII 8
 ~ Resolution 2008-445 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE SETTLEMENT OF THE 2005 - 2008 TAX APPEALS ENTITLED WEST MILFORD TOWNSHIP V. APPLE VALLEY ESTATES, LLC and APPLE VALLEY ESTATES, LLC VS. TOWNSHIP OF WEST MILFORD INVOLVING BLOCK 9901, LOTS 10, 11 AND 12

WHEREAS, appeals of the 2005 - 2008 real property tax assessment of Block 9901, Lots 10, 11 and 12 in the Township of West Milford have been filed with the Tax court of New Jersey; and; and

WHEREAS, said property is owned by Apple Valley Estates, LLC; and

WHEREAS, settlement of these appeals is in the best interest of the Township.

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

1. Settlement of the tax appeals filed with the Tax Court of New Jersey challenging the assessed valuation of Block 9901, Lots 10, 11 and 12 is hereby authorized as follows:

<u>Tax year</u>	<u>Total Original Assessment</u>	<u>Total County Tax Board Assessment</u>	<u>Total Proposed Assessment</u>
2005	\$461,300.	\$46,000.	\$416,800.
2006	\$461,300.	-	\$372,640.
2007	\$461,300.	-	\$335,280.
2008	\$461,300.	-	\$318,320.

2. These settlements are conditioned upon the taxpayer waiving any interest due on the refund of taxes.

3. All municipal officials are hereby authorized to take whatever actions may be necessary to implement the terms of this Resolution.

This Resolution shall take effect immediately.

Adopted: December 3, 2008

Agenda No. VIII

Consent Agenda

The following resolutions were included in the consent agenda.

~ Resolution 2008 – 436 ~

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

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

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

Resolutions:

- a. **Resolution No. 2008 – 437** – Release Maintenance + Performance Bonds
- b. **Resolution No. 2008 – 438** – Refund Other Liens
- c. **Resolution No. 2008 – 439** – Refund Overpayments
- d. **Resolution No. 2008 – 440** – Refund Recreation Fees
- e. **Resolution No. 2008 – 441** – Refund Duplicate Cat License Fee
- f. **Resolution No. 2008 – 442** – Refund Escrow Funds
- g. **Resolution No. 2008 – 446** – Cancellation of Tax
- h. **Resolution No. 2008 – 447** – Reinstatement of Tax
- i. **Resolution No. 2008 – 448** – Refund Overpayments

Applications:

- (a) **Application 2009-9 for Instant “Pull Tab” Raffle** – West Milford Elks #2236 for 2009.

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

Agenda No. VIII a.
 ~ Resolution 2008-437 ~

RESOLUTION AUTHORIZING CASH MAINTENANCE BOND RELEASE AND CASH PERFORMANCE BOND RELEASE TO TOM SCALA FOR LAUREL HOLLOW/ROCKBURN PASS

WHEREAS, a recommendation has been received from the Township Land Use Administrator that the cash maintenance bond posted by Tom Scala for Laurel Hollow/Rockburn Pass in the amount of \$720.00 should be released; and

WHEREAS, the Township Land Use Administrator has also recommended that a cash performance bond in the amount of \$15,000.00 should be released subject to the posting in the Township Treasurer's Office of a two year Maintenance Bond in the amount of \$2,250.00; and

WHEREAS, the Township Chief Financial Officer certifies that the funds are available for the release of the \$720.00 cash maintenance bond and the \$15,000.00 cash performance bond; and

WHEREAS, the Township Chief Financial Officer notes that a two-year cash performance bond in the amount of \$2,200.00 was received from Tom Scala in October 2008 as a two year maintenance bond for Laurel Hollow Section II.

NOW, THEREFORE, BE IT RESOLVED that the Township Treasurer is hereby authorized to release the Cash Maintenance Bond in the amount of \$720.00 to Tom Scala, 203 Stephens Road, West Milford, NJ 07480.

BE IT FURTHER RESOLVED that upon the posting of an additional \$50.00 to be added to the \$2,200.00 cash maintenance bond received in October, 2008 for Laurel Hollow Section II, the Cash Performance Bond in the amount of \$15,000.00 may be released to Tom Scala, 203 Stephens Road, West Milford, NJ 07480

Agenda No. VIII b.
 ~ Resolution 2008-438~

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
08-070	04/08/2008	07205-013	\$13,214.04	ROBERT ROTHMAN 411 GRAND AVENUE ENGLEWOOD, NJ 07631
06-073	04/11/2006	12202-004	\$18,063.42	ROBERT U. DEL VECCHIO PENSION TRUST P.O. BOX 196 HAWTHORNE, NJ 07507
Grand Total			\$31,277.46	

Adopted: December 3, 2008

Agenda No. VIII c.
 ~ Resolution 2008 - 439 ~

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

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

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

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

REASONS:

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

Block/Lot	Name	Amount	Year	Reason
5312-2.10	E. Poeschl 4 Richmond Road Ste. 210 West Milford, NJ 07480	\$2,635.68	2007	3
5312-2.10	E. Poeschl 4 Richmond Road Ste 210 West Milford, NJ 07480	\$1,008.92	2008	3
4103-7	L. & P. Brinker 104 Long Pond Road Hewitt, NJ 07421	\$910.52	2008	3
TOTAL		\$4,555.12		

Adopted: December 3, 2008

Agenda No. VIII d.
 ~Resolution 2008 – 440 ~

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

BE IT RESOLVED, that the following Recreational fees upon the report of the Director of Community Services and Recreation be refunded:

Name & Address	Reason	Amount Refunded
Dawn Nowacki 28 Deerbrook Lane West Milford, NJ 07480	Refund for overpayment of registration fee for Little Chefs classes	\$10.00
Steven Sabatino 15 Meadowview Court Newfoundland, NJ 07435	Refund for Bus Trip	\$150.00
Charles Carbone 9 Clubhouse Road West Milford, NJ 07480	Refund for Bus Trip	\$450.00

Adopted: December 3, 2008

Agenda No. VIII e.
 ~ Resolution 2008-441 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING REFUND OF DUPLICATE CAT LICENSE FEE

BE IT RESOLVED, by the Township Council of the Township of West Milford that, based upon the report and request of the Animal Control Officer the following duplicate cat license fee be refunded:

Name & Address	App. No.	Amount Refunded
Eileen Simmers 128 Mountain Circle South West Milford, NJ 07480	2008-105	\$10.00

Adopted: December 3, 2008

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Agenda No. VIII f.
 ~ Resolution 2008-442 ~

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:

Name & Address	App. No.	Amount of Escrow	Amount Refunded
Zanado Enterprises, Inc. P.O. Box 788 West Milford, NJ 07480	9840-0303 0030-0479	\$8,342.93 \$7,590.00	\$5,805.29 \$5,399.59
			Total \$11,204.88

Adopted: December 3, 2008

Agenda No. VIII g.
 ~ Resolution 2008-446 ~

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
2506-5	James Eagles	\$222.00	2003 Part. 1 st Qtr.
2506-5	James Eagles	\$999.00	2003 2 nd Qtr.
2506-5	James Eagles	\$2,146.01	2003 Second Half
2506-5	James Eagles	\$4,320.95	2004 Full Year
2506-5	James Eagles	\$4,547.04	2005 Full Year
2506-5	James Eagles	\$4,851.77	2006 Full Year
2506-5	James Eagles	\$5,097.52	2007 Full Year
2506-5	James Eagles	\$5,301.00	2008 Full Year
2506-5	James Eagles	\$2,650.00	2009 First Half
1901-5	Samuel Walter	\$2,690.80	2008 4 th Added
1901-5	Samuel Walter	\$2,690.00	2009 First Half
TOTAL		\$35,516.09	

Adopted: December 3, 2008

Agenda No. VIII h.
 ~ Resolution 2008-447 ~

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
14113-38	J. & A. Krol	\$2,576.54	2008
12501-15	K. Bozenmayer	\$1,705.58	2008
11202-1	T. & B. Titchworth	\$500.00	2008

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15701-37	T. & J. Dayon Family Trust	\$21,314.95	2008
9710-8	J. & J. Hodgson	\$2,200.00	2008
Total		\$28,297.07	

Adopted: December 3, 2008

Agenda No. VIII i.
 ~ Resolution 2008-448 ~

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

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

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

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

REASONS:

- 1. Incorrect Payment 2. Duplicate Payment
- 3. Senior Citizen/Veteran Deduction 4. Homestead Rebate
- 5. Tax Appeal 6. 100 % Total Disabled Veteran

Block/Lot	Name	Amount	Year	Reason
1201-1	J. Dugan & S. Jellison C/O M. Parrello 146 County Road Hewitt, NJ 07421	\$1,805.87	2008	2
1701-44.01	D. & S. Franke 8 Bobby Lane Hewitt, NJ 07421	\$250.00	2008	3
5311-2.07	P. & G. Westra 2 Richmond Rd. Ste 207 West Milford, NJ 07480	\$250.00	2008	3
5313-2.05	M. & S. Johnson 25 Lafayette Street West Milford, NJ 07480	\$250.00	2008	3
5316-1.01	H. & M. Messler 9101 Richmond Road West Milford, NJ 07480	\$250.00	2008	3
6603-11	Wells Fargo Home Mortgage 1 Home Campus Thomas Rexroat Mac X2302-04D Des Moines, Iowa 50328	\$1,039.54	2008	1
7207-2	R. & K. Kolatac 33 Grandview Lane West Milford, NJ 07480	\$1,848.63	2008	2
7501-2	D. Zachar 15 Binnacle Ave. West Milford, NJ 07480	\$2,436.00	2008	2
7514-3	J. & B. Boschen 45 Pinecliff Lake Drive West Milford, NJ 07480	\$250.00	2008	3
7801-21.02	E. Homme 21 B Plymouth Alley West Milford, NJ 07480	\$250.00	2008	3
9602-2.03	G. & G. Sloginski 315 Wooley Road West Milford, NJ 07480	\$500.00	2008	3
9705-16	V. B. & L. Aleksoski 12 Middlesex Court West Milford, NJ 07480	\$250.00	2008	3
10602-14	J. Pfeiffer 21 Glen Drive West Milford, NJ 07480	\$250.00	2008	3
11302-12	M. Marciw	\$949.96	2008	2

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Block/Lot	Name	Amount	Year	Reason
	492 Otterhole Road West Milford, NJ 07480			
12202-2	J. Taylor P.O. Box 112 Bloomingdale, NJ 07403	\$964.30	2008	2
12208-8	A & S. Musicant 22 Poplar Grove Terrace West Milford, NJ 07480	\$250.00	2008	3
16102-13	A. Picone 29 Riverview Oak Ridge, NJ 07438	\$250.00	2008	3
16801-2	W. & A. Sutton 93 Greendale Drive Oak Ridge, NJ 07438	\$250.00	2008	3
2506-5	J. & P. Eagles 7 Stanton Court Hewitt, NJ 07421	\$3,367.01	2003	6
2506-5	J. & P. Eagles 7 Stanton Court Hewitt, NJ 07421	\$4,320.95	2004	6
2506-5	J. & P. Eagles 7 Stanton Court Hewitt, NJ 07421	\$4,547.04	2005	6
2506-5	J. & P. Eagles 7 Stanton Court Hewitt, NJ 07421	\$4,851.77	2006	6
2506-5	J. & P. Eagles 7 Stanton Court Hewitt, NJ 07421	\$5,097.52	2007	6
2506-5	J. & P. Eagles 7 Stanton Court Hewitt, NJ 07421	\$5,301.00	2008	6
4201-15	D. & G. Hall Rev. Trust 105 Edison Street Wyckoff, NJ 07481	\$54.00	2008	1
404-5	Chase Home Finance Default Analysis & Recovery/OH4-7392 3415 Vision Drive Columbus, Ohio 43219	\$3,640.87	2008	1
TOTAL		\$43,474.46		

Adopted: December 3, 2008

Agenda No. IX

Approval of Expenditures

~ Resolution 2008-443 ~

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.	\$302,408.00
2	Reserve Account	2,200.00
3	Animal Control Trust	56.00
6	Capital.	68421.25
7	Grants.	75,458.93
8	Refuse.	126,464.25
9	Refunds.	600.00
12	General Ledger.	
16	Heritage Trust.	

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14	Open Space Trust	
17	Trust	500.00
18	Development Escrow.	
19	LOSAP	
20	Special Reserve	
Total		\$636,108.43
Less Refund Resolution		(600.00)
Actual Bill List		\$635,508.43
Other Payments		
Less Refund Resolution		
Total Expenditures		\$635,508.43

Adopted: December 3, 2008

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

Agenda No. X

Reports of Administrator, Mayor and Council Members

Councilman Nolan – spoke about water issues and gave an example from Kinnelon. He said that there is only so much water in the ground and that there is now a Well Testing Ordinance in place for new developments. He said that the City of Fort Lee, NJ has proposed billing for ambulance rides for people who have insurance. He would like to discuss this during the budget process. He has received calls about the Recycling Committee and the Garbage Committee. Two representatives need to be appointed to the Beautification and Recycling Committee. He said that they would need to be reappointed at the January 1, 2009 reorganization meeting. He said that it is not likely anything will happen before end of the year. He said that the Cable TV Committee is not fully appointed and will be reappointment at the January Reorganization meeting. He congratulated his youngest daughter who will graduate from college on December 19th with her degree in nursing. He commended her and said that he was proud of her. He wished all very Happy Holidays.

Councilwoman Lichtenberg - congratulated Councilman Nolan. She said that there was a Grand Opening in the A&P shopping center. She advised of numerous dates and times of upcoming events in the community. She reminded everyone that she is available at Town Hall on Thursdays from 10am-12 noon.

Councilman Scangarello – thanked Keith Knudsen and his staff for the great Holiday Tree Lighting Ceremony. He brought up a Resolution from the Council opposing the United Water increase to Bald Eagle Commons residents. He asked for an update on tax exempt properties. Township Attorney Semrau responded to him by saying that the Tax Assessor will be meeting with him so that they can review exemption applications. They have met in August and this upcoming meeting will be a follow-up to that meeting. Councilman Scangarello offered Mr. Semrau his listing of the tax exempt properties. He wished Happy Holidays to all.

Councilman Weisbecker – addressed creating a finance committee to keep the Council on track with the finances of the municipality. He also would like to have a committee to discuss shared services of some roles in the municipality. He said that is thinking outside the box. He congratulated Councilman Nolan on his daughters success. He said that this is the last televised meeting that Councilman Scangarello will be attending as a Council member. He also expressed his appreciation to Interim Township Administrator Battaglia for all the good work that she has done for the Township. He asked that everyone be careful over the Holiday season and wished everyone Happy Holidays.

Councilman Smolinski – asked for updates on the Streetscape and the Lake Commercial Zone Ordinance. He wished everyone Happy Holidays and to be safe.

Councilman Schimmenti – said that life is fragile. All parents want to provide for their kids. He congratulated Councilman Nolan and wished everyone health and happiness for the Holiday Season. He wished Councilman Scangarello a full and speedy recovery.

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Mayor Bieri – thanked Council for their support of the concept of new library. She looked into the availability of the main meeting room of Town Hall for Library Board meetings. The room is available the 2nd Tuesday of the month and she has tentatively reserved it for these upcoming meetings. She gave an update of a Tennessee Gas Line conference call and said that Interim Administrator Battaglia will draft a memo with the details. She said that December 7 there will be the Annual Animal Portraits at the Animal Shelter, being held at Pinecliff Lake Clubhouse. She asked Councilman Scangarello to continue on the Facilities Assessment Committee. She echoed the sentiments of the Council members by wishing everyone safe and Happy Holidays and ask that people focus on what they have, not what they don't have.

Interim Township Administrator Battaglia - replied to Councilman Smolinski that regarding Streetscape, the GIS Specialist and Township Engineer are still working on this and it remains on schedule. Regarding the Lake Commercial Zone, it is scheduled for final adoption on December 17th. Councilman Smolinski said that there was a question to the Planner regarding a strip of stores and Mayor Bieri clarified that this was actually the zone lines. The zones are not being changed, just what is allowed and prohibited. Councilman Smolinski said that he would like to get an answer back. Township Attorney Semrau reiterated that the boundaries are not being changed, however the Planner can detail what is needed to change the boundaries. Councilman Smolinski said that the purpose is to keep an eye to restrict.

Township Attorney Semrau – said that Councilwoman Lichtenberg has asked about the Board of Education latitude under the Highlands Act. He gave an update regarding this. He said that during Executive Session the topics of discussion include Clarke v. Keough which is in Passaic County Superior Court and is a construction matter, ADA ramp negotiations. He said that there is a contract in place for Random Woods and both sides have agreed to a 60-day stay to research possible funding sources. He said that the Mount Laurel Park is being closed out. The Township has received approval from the state for COAH escrow and thanked Gail VanHook in the Administrators office. He will ask Township Planner McGroarty for an update on the new regulations regarding scarce resources. Regarding the Wastewater Management Plan, a letter has been received from Passaic County saying that they want to relinquish obligations to prepare a plan. He will look into that. He said that the closing is set for the Hollowbrook development. Mr. Semrau said that he will not be in attendance at the next meeting. He thanked Interim Administrator Battaglia for the opportunity to work with him. He said that there have been many spirited and challenging conversations. He also thanked Councilman Scangarello for the opportunity to work with him. He thanked Mayor Bieri and the Council members for the opportunities that they have given to him. He wished Happy Holidays to all. Councilman Nolan asked Mr. Semrau what the issues are the tax exemptions and Mr. Semrau explained the process and said that sometimes there are legal issues and the Council needs to be apprised of this and it is important to be certain that things are in order.

Mayor Bieri – spoke to Interim Administrator Battaglia and said that she has been good for West Milford and her leaving is a loss to the town. Mayor Bieri said that wherever she goes, it is acknowledged what a wonderful job Ms. Battaglia has done. She thanked her for all of her service, ethical standards and efficiency.

Agenda No. XI

Appointments and Resignations

None.

Agenda No. XII

Executive Session

**~ Resolution 2008 - 444 ~
MOTION FOR EXECUTIVE SESSION**

BE IT RESOLVED by the Township Council of the Township of West Milford on the 3rd day of December, 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

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- () 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.
 - Teshkoyen v. West Milford – ADA Ramp
 - Keough v. Clarke & West Milford
- () 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: December 3, 2008

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

The Council went into Executive Session at 9:31 p.m.

The Council returned from Executive Session at 9:50 p.m.

~ Resolution 2008 - 449 ~

A RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE SETTLEMENT OF THE MATTER ENTITLED KEOUGH v. CLARKE, et al, SUPERIOR COURT OF NEW JERSEY, PASSAIC COUNTY, BEARING DOCKET NO. PAS-L-547-08

WHEREAS, the Township of West Milford was named as a defendant in the matter entitled Keough v. Clarke, et al, Superior Court of New Jersey, Passaic County, bearing Docket No. PAS-L-547-08, which involved claims for violations of Construction Code Regulations as well as claims for damages and violations of property rights; and

WHEREAS, the parties have reached a settlement which would call for the defendant Clarke to provide various screening and landscaping as well as agreeing to certain restrictions as to the use of the structure on the site; and

WHEREAS, in conjunction with the settlement terms, the Township of West Milford will remit the sum of \$11,500 towards the settlement of this litigation.

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

1. The Mayor is hereby authorized to execute a settlement agreement in connection with the aforementioned matter providing that all parties and claims are dismissed.
2. The Township shall contribute the amount of \$11,500 towards the settlement of this litigation.

BE IT FURTHER RESOLVED that the Mayor and Council hereby authorize the settlement of this matter on the condition that the Township's insurance carrier provide \$7,500 towards the settlement of this litigation and there shall be no deductible or any other payments due to the insurance carrier or the plaintiff in this matter.

BE IT FURTHER RESOLVED, that the settlement agreement to be executed by the Mayor shall memorialize all such terms.

Adopted: December 3, 2008

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

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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Township Attorney Semrau explained that the Township will contribute \$11,500 of which \$7,500 would come from the insurance carrier. This would resolve all claims. It is a matter involving zoning and construction. There have been agreements and the Township has been released. There is not an agreement in place, this Reolution authorizes the writing of such agreement.

Agenda No. XIII

Adjournment

There being no further business to come before the Council, the Township Council adjourned the meeting at 9:51 p.m.

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

Approved: January 14, 2009

Respectfully Submitted:
Judy Manning, Part time Secretary

MAYOR BETTINA BIERI
PRESIDING OFFICER

ANTOINETTE BATTAGLIA
TOWNSHIP CLERK