
TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Workshop Meeting
Date of Meeting: December 5, 2018
Time of Meeting: 6:30 pm
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Mayor Dale noted that she will move the agenda around to accommodate the Council members that were not present yet. There are some items on the executive session agenda that they would like to have the full Governing Body present for. Mayor Dale moved the meeting to discussion items.

Agenda No. VI

Discussion Items

1.	Discussion: Art Display: Councilwoman Pegel said she met with the Library Director, Mr. Ricardo Pino to discuss a future place for residents to display their artwork. She said that Mr. Pino gave a great presentation and provided the information for the residents to submit their samples of art. They are trying to utilize the library and display local artists work. She noted that there are a lot of talented residents in the Township. They want to convert the space in the library into an art gallery. The library purchased an apparatus that suspends the art from the walls from the ceilings down. She said Mr. Pino provided a slide show presentation that provided the policies and sample information on how the residents can submit all their information. She expressed that it is time to showcase the residents' talent.
2.	Discussion: Lion's Club: Councilwoman Pegel said that she met with Mr. Bill Francis and Barbara from the Lion's Club. She said the Lion's Club is a helpful, wonderful organization. She mentioned that they do not have a place to hold their meetings and showcase their charter and memorabilia. She would like to propose the Township Annex for the Lion's Club to pick a room for their meetings and showcase their information in a shadow box. Administrator Battaglia said that they had a discussion in the past and the Governing Body gave consensus for Councilwoman Pegel to participate in this. At the direction of the Governing Body, the reason they had the conversation with Mr. Pino was to discuss expanding the art program that they have for the library to the Township hallways. Mr. Pino described what they will need to get that done, so they will issue the purchase order. She expressed that the Lion's Club does have valuable information that needs a home, and the shadow box is the perfect solution. When they understand what the shadow box will entail, they will bring forth a resolution to the Governing Body.

Agenda No. VII

Presentations

Kriszta Hajek – Miss American Teen – Mayor Dale welcomed Kriszta and her family to join her at the podium. Mayor Dale mentioned that she has known the Hajek Family for quite some time. She spoke about their history in West Milford, and she read a biography on Kriszta. Kriszta read a thank you letter.

Agenda No. VIII

Proclamations

None

Mayor Dale moved the meeting to Unfinished Business. After she read Ordinance 2018-010, she opened the meeting to the public to speak to Ordinance 2018-010 only. Mr. Aiello from 20 De Hart Ave in Hewitt approached the podium to speak. Mr. Semrau interjected and said there is a bit of history to the Ordinance and he would like to wait for all the members of the Governing Body to be present before they have public comments. He expressed that one of the purposes of the Ordinance was to hear the public comments and Council comments. Mayor Dale expressed that it would be in the best interest if they waited for the public portion until the other Council members arrive. Mr. Aiello mentioned that Councilman McGuinness is at a gymnastics awards dinner for his daughter. He said that their daughters are teammates and he missed the dinner to be at the meeting tonight and he does not think that is fair. Councilman Signorino said he has no problem letting Mr. Aiello speak because what if the other Council members do not make it to the meeting. Mr. Aiello said he should be heard now or the Governing Body should delay it. Mr. Semrau said the Governing Body has the right to move the agenda around. Mayor Dale respectfully asked Mr. Aiello to wait. Mr. Aiello said that he will wait.

Mayor Dale noted that she will move to action items and refer back to this Ordinance when the other Council members arrive.

Agenda No. IX

Action Items

Mayor Dale asked to move resolutions 2018-318 through 2018-328.

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Agenda No. IX 1

~ Resolution 2018 – 318 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY APPROVING THE SUBMITTAL AND ACCEPTANCE OF A GRANT APPLICATION BY THE MUNICIPAL ALLIANCE COMMITTEE (CASA) FOR SCHOOL AND COMMUNITY BASED DRUG AND ALCOHOL PREVENTION PROGRAMS

WHEREAS, the Governor’s Council on Alcoholism and Drug Abuse established the Municipal Alliances for the Prevention of alcoholism and drug abuse in 1989 to educate and engage residents, local government and law enforcement officials, schools, nonprofit organizations, the faith community, parents, youth and other allies in efforts to prevent alcoholism and drug abuse in communities throughout New Jersey; and

WHEREAS, the Township Council of the Township of West Milford, County of Passaic, State of New Jersey recognizes that the abuse of alcohol and drugs is a serious problem in our society amongst persons of all ages, and therefore has an established Municipal Alliance Committee; and

WHEREAS, the Township Council further recognizes that it is incumbent upon not only public officials but upon the entire community to take action to prevent such abuses in our community; and

WHEREAS, the Township Council has applied for funding to the Governor’s Council on Alcoholism and Drug Abuse through the County of Passaic.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Milford County of Passaic, State of New Jersey hereby recognizes the following:

1. The Township Council does hereby authorize submission of a strategic plan for the West Milford Municipal Alliance Grant for the period of July 1, 2019 to June 30, 2020 (FY2020) in the amount of:
DEDR \$22,440.00
Cash Match \$5,610.00
In-Kind \$16,830.00
2. The Township Council acknowledges the terms and conditions for administering the Municipal Alliance grant, including administrative compliance and audit requirements.

Adopted: December 5, 2018

Agenda No. IX 2

~ Resolution 2018 – 319 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE DISPOSAL OF MUNICIPAL-OWNED PROPERTY NO LONGER NEEDED BY THE TOWNSHIP

WHEREAS, the Township of West Milford has obsolete computer equipment that is of no value to the Township that is being stored at Town Hall; and

WHEREAS, Propertyroom.com has opined that the obsolete computer equipment is “electronic waste” with no value and will not sell at public auction; and

WHEREAS, a list of such equipment has been compiled and is on file in the Township Clerk’s Office.

NOW, THEREFORE, BE IT RESOLVED, that such property is of no value to the Township and is not needed for public use; and

BE IT FURTHER RESOLVED that such items are of no value to the Township and are not needed for any further public use and the Administration estimates that the fair market value, which includes the offset of the costs to continue the storage and maintenance of such equipment, is of no value to the Township.

BE IT FURTHER RESOLVED that the Township Council of the Township of West Milford does hereby authorize the proper Township officials to dispose of the aforementioned property.

Adopted: December 5, 2018

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Agenda No. IX 3

~ Resolution 2018 – 320 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE ACCEPTANCE OF A DONATION OF SIX (6) BALLISTIC HELMETS AND TWENTY-EIGHT (28) OLIGHT PL-2 WEAPON LIGHTS

WHEREAS, the West Milford PBA received a donation of which funds have been used to purchase 6 Ballistic Helmets and 28 Olight PL-2 weapon lights, and

WHEREAS, the West Milford PBA wishes to donate these items to the Township of West Milford for police use; and

WHEREAS, the Township of West Milford Police Department has a need for such equipment for police purposes.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Township Council of the Township of West Milford, County of Passaic and State of New Jersey that the Chief of Police is authorized to accept the transfer of 6 Ballistic Helmets (style ATE HHV) and 28 Olight PL-2 Weapon lights with appreciation to the PBA and the anonymous donor for their generosity.

This Resolution shall take effect immediately.

Adopted: December 5, 2018

Agenda No. IX 4

~ Resolution 2018 – 321 ~

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 SCOTT HOLZHAUER, CTA, SCGREA, TO ASSIST THE TOWNSHIP OF WEST MILFORD WITH TAX APPEALS FILED IN THE TAX COURT OF NEW JERSEY

WHEREAS, the West Milford Tax Assessor has recommended that the Township of West Milford retain professional real estate appraisal and consulting services to assist the Township of West Milford with outstanding tax appeal matters in the Tax Court of New Jersey; and

WHEREAS, the Chief Financial Officer has certified as to the availability of funds for these services, said funds to be encumbered from account number 01-201-20-150-450.

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

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Milford in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

1. The Township Mayor and Township Clerk be and are hereby authorized to execute a contract with Scott Holzhauer, CTA, SCGREA for professional services to assist the Township with Tax appeals filed in the Tax Court of New Jersey in an amount not to exceed \$6,000.
2. This contract is awarded without competitive bidding as "Professional Services" pursuant to *N.J.S.A. 19:44A-20 et seq.* and the local public contracts law.
3. The term of this contract shall be through December 31, 2018.
4. The total fee authorized for this contract shall not exceed \$6,000 without the prior written approval of the Township Council.
5. That a notice of this action shall be published in accordance with law, and said notice to provide that the contract awarded and this resolution authorizing same are available for public inspection in the office of the Township Clerk.

Adopted: December 5, 2018

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Agenda No. IX 5

~ Resolution 2018 – 322 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING FUTURE EXPENDITURE OF FUNDS FOR REPAIRS TO TRAFFIC LIGHTS THROUGH ALLAN BRITWAY ELECTRICAL CONTRACTORS, INC. IN ACCORDANCE WITH THE TOWNSHIP'S PURCHASING POLICIES

WHEREAS, the Township Council of the Township of West Milford did adopt Ordinance 2013-020 to create the position of Qualified Purchasing Agent in the municipality and they did subsequently adopt Resolution 2013-330 appointing a Qualified Purchasing Agent (QPA) and increasing the bid threshold to \$40,000.00; and

WHEREAS, as a condition to the increase in the bid threshold, the Council did establish a policy whereby a Resolution shall be presented for their consideration for any purchase in excess of the former bid threshold of \$17,500.00 and that the purchase shall warrant a minimum of three quotations; and

WHEREAS, the Township Council has received notification from the Director of Public Works that any future use of Allan Briteway Electrical Contractors Inc. to perform any needed emergency traffic light repairs would exceed the aggregate \$17,500.00 threshold; and

WHEREAS, the Department of Public Works has notified the Council that under N.J.S.A 59:4-2 "A public entity has liability for negligence when its failure to maintain its property results in a dangerous condition." To ensure the safety of the travelling public, repairs to traffic lights must be performed in a timely manner therefore obtaining three quotes is not practicable; and

WHEREAS, Allan Briteway Electrical Contractors, Inc. has been a reliable vendor in the past and has been able to respond to all repair needs within hours of being notified a repair is needed; and

WHEREAS, the Township's Qualified Purchasing Agent is aware of the recommendation, has confirmed that Allan Briteway Electrical Contractors, Inc. is in compliance with the New Jersey Local Public Contracts Law.

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 appropriate Township officials be and are hereby authorized to execute future purchases to Allan Briteway Electrical Contractors, Inc. in an amount not to exceed \$36,000.00 for the remainder of the 2018 calendar year.

Adopted: December 5, 2018

Agenda No. IX 6

~ Resolution 2018 – 323 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE CANCELLATION OF OUTSTANDING CHECKS OVER SIX MONTHS OLD TO MUNICIPAL CASH BALANCES

WHEREAS, the Chief Financial Officer has determined that the following Township of West Milford Claims account checks have been outstanding for a period in excess of six months.

DATE	CHECK #	AMOUNT
9/21/17	15025	\$1,409.37
12/21/17	16070	\$1,678.00
1/18/18	16321	\$60.00
TOTAL		\$3,147.37

NOW, THEREFORE, BE IT RESOLVED that the above outstanding checks be restored to the Township cash balance.

Adopted: December 5, 2018

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Agenda No. IX 7

~ Resolution 2018 – 324 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY, TO TRANSFER ITEMS OF CURRENT FUND APPROPRIATIONS IN ACCORDANCE WITH THE PROVISION OF N.J.S.A. 40:4 - 58

WHEREAS, there appears to be a surplus in the 2018 appropriation over and above the demand deemed to be necessary for the balance of the year:

APPROPRIATION	ACCOUNT NUMBER	TRANSFER PROPOSAL
Public Health, S&W	27-330-100	\$16,000
Detective Bureau, S&W	25-241-100	\$10,000
TOTAL TRANSFERS OUT		\$26,000

WHEREAS, there appears to be insufficient funds in the following appropriations to meet the demands thereon for the balance of the 2018 budget year:

Administration, S&W	20-100-100	\$10,000
Information Technology, S&W	20-140-101	\$500
Tax Assessor, S&W	20-150-100	\$4,000
Police Patrol, S&W	25-240-100	\$10,000
Prosecutor, S&W	43-491-101	\$1,500
TOTAL TRANSFERS IN		\$26,000

NOW, THEREFORE BE IT RESOLVED, by the Council of the Township of West Milford in the County of Passaic, State of New Jersey, that in accordance with the provisions of N.J.S.A. 40A:4-58, part of the 2018 appropriation heretofore mentioned be and the same are hereby transferred to the appropriations mentioned as being insufficient to meet prior demands, and

A certified copy of this Resolution shall be forwarded by the Township Clerk to the Township Treasurer.

Adopted: December 5, 2018

Agenda No. IX 8

~ Resolution 2018 – 325 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING THE 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 Amount	Pay to Lien Holder
18-0039	10/09/2018	09702-003	\$4,480.96	US BANK CUST FOR TOWER TRUST 2018-1 50 SOUTH 16 TH ST STE 2050 PHILADELPHIA, PA 19102
18-0027	10/09/2018	04011-011	\$28,701.72	SUNSHINE STATE CERTIFICATES VII LLP BANKUNITED TRUSTEE 7900 MIAMI LAKES DR WEST MIAMI LAKES, FL 33016
Total			\$33,182.68	

Adopted: December 5, 2018

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Agenda No. IX 9

~ Resolution 2018 – 326 ~

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:

Travel Basketball		
Jacob & Lauren	\$15.00	Karen Harmen 49 Center Street West Milford, NJ 07480
Yoga Nov/Dec		
Renee	\$50.00	Renee Cavaleri 23 Pine Lane West Milford, NJ 07480
Yoga Nov/Dec		
Linda, Alexis	\$100.00	Linda Hofman 135 Center Street West Milford, NJ 07480
Holiday Luncheon		
Lawrence & Joann	\$50.00	Joann May 6 Gleason Road Hewitt, NJ 07421
Travel Basketball		
Olivia, Reilly, Amber	\$30.00	Theresa Reilly-Cantara 20 Delaware Road Hewitt, NJ 07421

Adopted: December 5, 2018

Agenda No. IX 10

~ Resolution 2018 – 327 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY APPROVING THE ISSUANCE OF VARIOUS LICENSES FOR THE LICENSE YEAR 2019

WHEREAS, applications have been made for the new licenses and the renewal of various Licenses for the 2019 license year; and

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

NOW, THEREFORE, BE IT RESOLVED that the Township Council of the Township of West Milford does hereby approve the issuance of 2019 Licenses as listed below:

License No.	2019 CLOTHING BINS
2019-11 2019-12,13	Millennium International Textile, Inc. Marshall Hill Elementary School(1) Aphawa Volunteer Fire Company (2)

Adopted: December 5, 2018

Agenda No. IX 11

~ Resolution 2018 – 328 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY RESCINDING THE RENEWAL OF INACTIVE PLENARY RETAIL CONSUMPTION LICENSE NO. 1615-33-011-005

WHEREAS, the State of New Jersey, Division of Alcohol Beverage Control has determined that the liquor license listed below requires a Special Ruling pursuant to N.J.S.A. 33:1-12.39; and

WHEREAS, the license was placed on Resolution 2018-166 and adopted June 13, 2018.

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NOW THEREFORE, BE IT RESOLVED that the renewal of Plenary Retail Consumption License No. 1615-33-011-005 is hereby rescinded and will be resubmitted on a resolution for renewal, following receipt of the Verified Petition and Special Consideration of Petition from the Director of the New Jersey Division of A.B.C.

License Number	Licensee	License Year
1615-33-011-005	Three Sheets LLC	2018 – 2019

Adopted: December 5, 2018

 Moved: Signorino Seconded: Wagner
 Voted Aye: Pegel, Hensley, Wagner, Signorino
 Voted Nay: None
 Motion Carried:

 Agenda No. X

Consent Agenda

None

 Agenda No. XI

Approval of Expenditures

~ Resolution 2018 – 329 ~

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 this office in payment of amounts due by the Township.

NOW, THEREFORE, BE IT RESOLVED that the Township Treasurer's report of checks prepared by the Treasurer's Office be approved and issued as follows:

Acct #	Account Name	Amount
1	Current Account	\$577,595.65
3	Reserve Account	15,934.00
2	Grants	3,819.74
6	Refunds	33,427.68
1	General Ledger	0.00
26	Refuse	141,977.72
4	Capital	10,537.00
19	Animal Control	2,247.37
19	Heritage Trust	152.00
19	Open Space Trust	0.00
19	Trust	73,740.91
19	COAH	0.00
16	Development Escrow	2,632.50
19	Tax Sale Trust	0.00
21	Assessment Trust	0.00
	Special Reserve	0.00
Total		\$862,064.57
	Less Refund Resolution	-33,427.68
	Actual Bills List	\$828,636.89
	Other Payments	
	Payroll	536,881.65
	Payroll	564,466.47
	BOE	4,614,668.00
	State of NJ Dog Report	48.00
	Total Expenditures	\$6,544,701.01

Adopted: December 5, 2018

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Moved: Signorino Seconded: Pegel
Voted Aye: Pegel, Hensley, Wagner, Signorino
Voted Nay: None
Motion Carried:

Agenda No. XII

Executive Session

~ Resolution 2018 – 317 ~

MOTION FOR EXECUTIVE SESSION

BE IT RESOLVED by the Township Council of the Township of West Milford on the 5th day of December, 2018 that:

1. Prior to the conclusion of this **Workshop Meeting**, the Governing Body 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.
 - (X) b. (4) A collective bargaining agreement including negotiations
 - PBA/SOA 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.
 - (X) 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.
 - 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.
 - Attorney-Client Privilege – Sale of MUA
 - Attorney-Client Privilege – Zoning Board Applications
 - () 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 5, 2018

Moved: Signorino Seconded: Pegel
Voted Aye: Unanimous voice vote
Voted Nay: None
Motion carried.

The Governing Body went into executive session at 7:10 p.m.
Councilwoman Gerst arrived in executive session at 7:53 p.m.
Councilman McGuinness arrived in executive session at 8:42 p.m.
The Governing Body returned to the public meeting at 8:51 p.m. with all present as before.

Mr. Semrau noted that the closing date for the sale of the MUA is scheduled for December 17th. He provided an update on the sale. He expressed that they are working diligently to get to the closing, and all the parties involved are working together.

Agenda No. IX 12

~ Resolution 2018 – 330 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY DESIGNATING AND AUTHORIZING ANTOINETTE BATTAGLIA, TOWNSHIP ADMINISTRATOR, TO EXECUTE DOCUMENTS ON BEHALF OF THE TOWNSHIP OF WEST MILFORD WITH RESPECT TO THE SALE OF THE WEST MILFORD MUNICIPAL UTILITIES AUTHORITY

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WHEREAS, the Township of West Milford has entered into a Contract, dated September 6, 2017, for the sale of the assets of the West Milford Municipal Utilities Authority to Suez Water New Jersey; and

WHEREAS, the approval of this sale was authorized by Referendum of the voters of the Township of West Milford in November, 2017; and

WHEREAS, the Township is approaching a closing date on this sale whereby various steps and tasks must be completed in connection with the closing of this transaction; and

WHEREAS, in order to effectuate the sale, it will be necessary to designate and authorize a Township official to act on behalf of the Township in connection with this closing.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Township Council of the Township of West Milford, in the County of Passaic, and State of New Jersey that the Township Administrator, Antoinette Battaglia, is hereby designated and authorized to act on behalf of the Township of West Milford in connection with the sale of the West Milford Municipal Utilities Authority, which actions include but are not limited to, execution of closing documents, deeds, escrow agents, escrow agreements, etc.

BE IT FURTHER RESOLVED, that the Township Administrator is hereby indemnified and held harmless for such actions taken on behalf of the Township of West Milford in connection with the sale of the West Milford Municipal Utilities Authority as such actions are all in accordance with her responsibilities as Township Administrator and the authorization contained in this Resolution.

This Resolution shall take effect immediately.

Adopted: December 5, 2018

Moved: Pegel Seconded: Signorino
Voted Aye: Pegel, Hensley, Wagner, McGuinness, Signorino, Gerst
Voted Nay: None
Motion Carried:

Agenda No. XIII

Unfinished Business, Final Passage of Ordinances

~ Ordinance 2018 – 010 ~

AN ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY, AFFIRMING AND RATIFYING ORDINANCE 2017-008, IN PART, CODIFIED AT CHAPTER 63 IN THE TOWNSHIP CODE OF THE TOWNSHIP OF WEST MILFORD ESTABLISHING PLENARY RETAIL DISTRIBUTION LIQUOR LICENSES WITHIN THE TOWNSHIP

WHEREAS, on August 16, 2017, the Township Council adopted Ordinance No. 2017-008 (the "Ordinance") which established plenary retail distribution liquor licenses within the Township in accordance with N.J.S.A. 33:1-12.4 *et seq.*; and

WHEREAS, the Ordinance was codified under the Township Code in Chapter 63; and

WHEREAS, in accordance with the applicable statute, N.J.S.A. §33:1-12.14, the Ordinance permitted one plenary retail distribution liquor license to be issued per every 7,500 persons residing in the Township; and

WHEREAS, in reviewing the original Ordinance the Council has reviewed and considered many factors and a great deal of information; and

WHEREAS, the Council considered the fact that the Township of West Milford is located in the Highlands preservation area, has limited opportunities for development and accordingly seeks to avail businesses with various economic opportunity; and

WHEREAS, the Township will generate additional revenue if it were to sell a plenary retail distribution license as well as receive the benefit of the renewal of such license; and

WHEREAS, the Township, within its 80 square miles, does not have any liquor stores or commercial establishments that have been issued plenary distribution retail liquor licenses; and

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WHEREAS, a study conducted by the Food Marketing Institute (“FMI”) in June 2011 found that distribution licenses benefit consumers by providing one-stop shopping for a range of standard products, provide products to consumers at a lower cost through its ability to better negotiate with suppliers without violating the three-tier system of alcohol distribution or violating the prohibition on selling below cost, providing a reliable source for standard beverage alcoholic products, and providing reliable quality control and access restrictions; and

WHEREAS, the communities surrounding the Township of West Milford, albeit smaller in density, land size and population, all have distribution licenses; and

WHEREAS, issuance of the plenary retail distribution licenses would be subject to public bidding and subject to appropriate land-use and zoning approval within the Township; and

WHEREAS, the preclusion of a plenary distribution liquor license, or even the opportunity to sell such a license, prevents commercial establishments from taking advantage of the economic benefit a distribution license would create; and

WHEREAS, a plenary retail distribution liquor license would encourage diverse business development within the Township; and

WHEREAS, the availability of plenary retail distribution liquor licenses would create additional opportunities for landlords and property owners to market their properties to diverse commercial tenants; and

WHEREAS, the creation of availability of diverse businesses would be beneficial to the residents of West Milford in that these businesses opening in the Township would create job opportunities for the residents and rental income for business owners, landlords and property owners; and

WHEREAS, plenary retail distribution liquor licenses will benefit retailers that are currently shut out of the Township’s alcoholic beverage market; and

WHEREAS, studies conducted by the FMI determined that the risks to currently licensed package stores are minimal; and

WHEREAS, the plenary retail distribution liquor license provides an opportunity for economic enhancement and job creation; and

WHEREAS, the 2011 FMI report provided analysis that indicates plenary retail distribution licenses create employment opportunities and wage increases in the areas in which they are available; and

WHEREAS, the distance restrictions on plenary retail consumption liquor licenses was recently repealed in an effort to encourage businesses to develop in the Township; and

WHEREAS, the Township Council has determined that it is in the best interests of the Township to affirm and ratify the portions of the Ordinance which created and regulated the plenary retail distribution liquor licenses.

NOW THEREFORE BE IT ORDAINED by the Municipal Council of the Township of West Milford, County of Passaic, State of New Jersey, that the Township hereby affirms and ratifies Ordinance 2017-008, the portions of which created and regulated the plenary retail distribution liquor licenses, and codified at Chapter 63; and

BE IT FURTHER ORDAINED, that 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; and

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

Introduced: November 7, 2018
Adopted: December 5, 2018
Effective Date: December 25, 2018

This Ordinance was introduced November 7, 2018 and the Notice of Public Hearing was published in the Herald News on November 11, 2018. The Governing Body will open the meeting to the public to speak on this Ordinance only.

James Aiello, 20 De Hart Ave, Hewitt – Noted that he is the owner of Greenwood Lake Discount Liquors. He asked if the Council reached a conclusion that this Ordinance would not impact the health, safety and welfare of Township residents. He asked if there was a study performed regarding the impact the Ordinance has to the health, safety and welfare of the residents. He asked if everyone read the study that was done.

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He mentioned a study that addresses distance and liquor in supermarkets that will affect other licensees. He asked the Governing Body if they considered that this Ordinance is having a direct impact on someone involved in their case which is in jeopardy of being thrown out of their establishment. He said the Township is over saturated with liquor licenses as it is. He read a quote from an article written in July of 2018. "Alcohol is still the number one substance abuse in towns like West Milford, Rebecca Stumpf, CASA Coordinator and West Milford Township Public Health Nurse.

Matt Mehta, 6 Hearthstone Drive, West Milford – Mentioned that he is the owner of Uncorked Wines and Spirits in West Milford. He expressed that West Milford does not have the population to support all these liquor licenses. They can't compare liquor stores to pizza stores because everyone from the age of 2 to 90 eats pizza. The drinking age is 21, and they have to consider the population that does not drink alcohol. He thinks the Governing Body should consider that this is a very bad idea.

Ada Erik, Macopin Road – Noted that she read the Ordinance. She said she was a councilwoman when this started in 2017, and she never saw the FMI study that was done. The first time she heard about it is when Mr. Aiello just spoke about it. She said other than the initial price of the license they were never told about the renewal fee which is now listed in the Ordinance. She feels that the Governing Body did not do their homework on it. It was stated that they were led to believe and they were told that it was a distributor only license, and that is not what is being said in the Ordinance. She said she will fight this starting next month. They might as well just give a bunch of other licenses out. She said she is speaking because she assumes the court case is over.

Si Huang, Owner, Plaza Bar & Liquors, Hewitt – Said that if the Ordinance is passed and a store that sells liquor is put in the former A&P he will be out of business. He mentioned that he owned his store for over 30 years.

There being no one else wishing to be heard, Councilman Signorino made a motion, seconded by Councilman McGuinness and carried by unanimous voice vote to close the public comment period.

Discussion:

Mr. Semrau explained that the license would allow the sale of packaged goods and not consumption on the premises. Presently the Township does not have a license that is just a packaged goods store. The Governing Body has the ability per state licensing to make a decision to issue a license subject to it getting bid on and the Township accepting that bid. Councilman Signorino said he wants to know about the point of contention about the FMI and any additions or modifications. He said they were not in the original Ordinance and he does not remember having a discussion about that verbiage. Mr. Semrau said the FMI references a food marketing study that talks about distribution licenses. Councilman Signorino said that was not in the original Ordinance, and he thought they were discussing the same Ordinance that was recently introduced and past. Mr. Semrau said the whereas were added, the Governing Body is not bound by them but they reference information for the Governing Body's consideration. Mr. Semrau noted that it is background information that was added to the Ordinance, and the overall Ordinance is exactly the same in the effect. He said the Governing Body was already aware of the information, and some of it was brought up to him by various Council members. Councilman Signorino said he was never involved in any discussion about soliciting specific people or companies to acquire this certain license knowing that it would impact a business. Mr. Semrau said if they adopt the Ordinance tonight it only gives the Township the right to put it out for bid. It does not mean a license is necessary issued. Councilman McGuinness noted that there is no exact location for the license at this time. He is for some of the whereas. He expressed that they are not trying to hurt any businesses; they are trying to create jobs, income and tax rolls. Councilwoman Pegel said this will open up door of opportunity and economic growth in the Township; they have to keep these options open. She said she understands and she agrees. Councilman Signorino said the Township has been through too many years of stagnation. Councilman Wagner said the license will create another ratable, and it will benefit the consumers. He mentioned that Wayne Township sold a distribution license for \$400,000. He expressed that the Highlands Act cost the Township \$216,000 per year in revenue; a total of \$11 million dollars over the last ten years. He read a passage from the Highlands Council in reference to the West Milford Township Buildout Report. He said nobody likes competition and he does not feel this license will put anyone out of business. He said he appreciates everyone speaking tonight. Councilman Signorino said at the end of the day if there is a successful bid; the Council has to decide and they don't have to accept it. Councilman Wagner mentioned that anyone in the room could bid on the license.

Mr. Aiello requested to speak again and the Governing Body gave consensus. Mr. Aiello expressed that other townships have licenses that are in line for the residents. He asked Councilman Signorino to read over the details and pay more attention to the case. He said that someone on the Council met with the owner of the property where they do a fundraiser, and the property owner asked for the D License. Then, within a month, the Governing Body is moving forward with this Ordinance with a hoax that there will be a food store in that property. He said Administrator Battaglia received an email from the Layne people apologizing because the Inserra Group backed out from bidding on the license. He said that is part of their law-suit case. He said it is part of the proof, it is in black and white, and that this Ordinance was done for one specific person. Mr. Semrau said it is all part of the legislative process regardless of how many business owners speak about the property. Mr. Semrau said there is nothing wrong with that.

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There being no more comments from the public, Councilman McGuinness moved to close the public portion of the meeting.

Moved: McGuinness Seconded: Hensley
Voted Aye: Unanimous voice vote
Voted Nay: None
Motion carried.

Agenda No. XV

Council Comments

Mr. Semrau – Encouraged residents to email Administrator Battaglia with their concerns. He noted that her email address is on the Township’s website.

Administrator Battaglia – Said that the Governing Body cannot speak to the draft from the Planning Board yet because it has not come back to the Governing Body. She explained that the reason the Planning Board subcommittee is engaging in this issue is because it came before the Governing Body by concerned residents. This is a very preliminary stage, and the Planning Board is doing their due diligence. They will do the research and present it to the Governing Body. Through the legislative process, the Governing Body will make a determination.

Councilman Signorino – Noted that the subcommittee and the Planning Board were doing what the Governing Body asked them to do. He was agreeable to the research because of the concerns that were raised to the Governing Body. When he received the document, he thought that the document did not accomplish their goals and it created more bureaucracy and expenses justifying the work. Some of the concerns he heard tonight were part of the reason why he did not like draft. He said he appreciates the Planning Board looking in to it.

Councilwoman Pegel – Mentioned that the residents have very valid issues, and she thanked them for coming to the meeting to speak. Hopefully the Planning Board and Governing Body can come to a feasible conclusion. It will be ongoing and they will discuss it in the future.

Agenda No. XVI

Reports of Administrator, Mayor and Council Members

Councilwoman Gerst – Apologized to everyone for being late to the meeting. She said they need to have a conversation about the Teen Center. She expressed that the Teen Center needs a makeover. She said there were no ping pong balls for the table, a piece of wood was sticking out of the hockey table, and the stage was ripped up downstairs. They need to take time and look into how they can make it better for the kids and more appealing. Councilwoman Pegel said the games are still broken. Councilman McGuinness said the Teen Center repairs are in the next budget. She said the Tree Lighting was a wonderful event. She congratulated Mayor Dale.

Councilwoman Pegel – Congratulated Mayor Dale. She said the Tree Lighting Ceremony was festive and fantastic. She said she is always in communication with the county departments and state legislators to discuss the concerns and issues that residents bring to her attention. She said that she is a big advocate of keeping the line of communication open. She mentioned that she attended the League of Municipality conference and she shared a lot of ideas and met with different legislators. She provided an update on the Senior Advisory Committee. She said she did not get any information about the senior’s Annual Christmas Luncheon. She mentioned that she is the liaison and she was the last one to know about the event. She reminded everyone about Wreaths Across America.

Councilman Hensley – Congratulated Mayor Dale and wished her the best of luck.

Councilman Wagner – Mentioned that the Christmas Tree Lighting was a success as always. He appreciates everyone that showed up and participated. He reminded everyone about the Menorah lighting. He said he is still waiting for the picnic tables and receptacles at Browns Point Park; he went there today and there is still garbage all over the place. He asked if Mr. Corrigan could attend the December 19th meeting to provide updates on personnel matters. The Governing Body gave consensus. He asked for an update on the subcommittee for the Highlands Council meeting. Administrator Battaglia said they are in communication with the Highlands Council to agree on a date for the meeting.

Councilman McGuinness – Said the Tree Lighting was a lot of fun and it was good to see the community together. He reminded everyone about the Menorah lighting. He said Mr. Crevina from Crevina Landscaping asked if he could place lights that will light up at night in the shape of a Christmas tree in the center of town by the land he maintains. He noted that it is approximately 6 feet high, and they are trying to do something different in the center of town. The Governing Body gave consensus. He expressed that being an elected official means to try and do what is right for everyone by putting aside his beliefs. He tries to make decisions that are best for the Township.

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He expressed that sometimes doing the right thing is not always the easiest. He loves the Township and he stands by his decisions. The oath he has taken is to make decisions that are best for the Township and the betterment of the people, even if a friend or neighbor disagrees. He mentioned that it is the holiday season and encouraged everyone to slow down, relax and enjoy.

Councilman Signorino – Congratulated Mayor Dale. He said he appreciates the Tree lighting every year. Someone mentioned the following suggestion to him; instead of having the young children and Girl Scouts off to the side, bring them more to the front. He expressed that the event is about the kids. He asked if the website redesign has taken a back seat or if it is in the process to make the recommended changes. He asked if they can ask the ADA Committee to look at the Township website and see if they have any recommendations on changes that need to be made. Councilman Signorino said he made several requests over the years asking for information on speed humps. He asked if he needs to get consensus from the Council. He expressed that there are neighborhoods with young children and historically people have been speeding in those neighborhoods. He wants to be proactive. Mayor Dale said there is a memo on the cloud addressing his request. Councilman Signorino promoted the museum and the Heritage Committee. He wished everyone a Merry Christmas, Happy Hanukah and Happy New year.

Discussion:

Councilman Signorino said there is a new year ahead of them so he would like to have discussion about the Administrator's position at the meeting on December 19th. He asked if they need to provide a rice notice. He wants to make sure they protect everybody's rights and interests. Mr. Semrau asked Councilman Signorino if he would like to wait until next year because the new Council members will be on the dais. Mayor Dale asked Councilman Signorino what exactly he is requesting to discuss. Councilman Signorino said to discuss the Administrator's position. He is not sure if it has to be done in executive session. Mr. Semrau said the appropriate protocol would be to rice the employee. Councilman Hensley said he is confused about what Councilman Signorino is asking to be discussed. Councilman Signorino said he asked for FRP's for the Administrator's position several years ago. Mayor Dale noted that the position is not an RFP, it is a contract. Councilman Signorino expressed that he asked for RFP's to go out over a year ago for the Administrator's position. He said the contract should be provided at the meeting if he gets consensus. Mr. Semrau said he understands the request but whatever they discuss will have to be discussed again in January. He recommended waiting to have the discussion at a meeting in January. Councilman Signorino said he wanted to have this discussion for a quite some time, so he asked the Council for consensus. Administrator Battaglia said if Councilman Signorino wants to have a discussion about performance in the Administrator's position that would require a rice notice and then it is up to the employee whether the discussion will take place in the public or executive session. If the discussion is related to the contract, there is no need to rice, and the Governing Body could have the discussion in executive session or the public. Councilman Signorino said they would have a contractual discussion in executive session. He would like to get the Council's thoughts and topics on the contract. Mayor Dale said there is not a clear understanding of what is being asked. Councilman Signorino said he would be happy to rice either way. Mayor Dale said if it is a discussion about the contract, then they don't need to rice the employee. Councilman Signorino asked it to be a general discussion and the discussion should cover the contract and performance. The Governing Body gave consensus to rice the Administrator's position to discuss performance and the contract.

Mayor Dale – Expressed that it is important to understand the needs of the small businesses. She spoke to many small businesses on Small Business Saturday. She said the senior citizen bus schedule did not allow them to get around to some of the outlying businesses like the West Milford Pharmacy and Bearfort Shopping area. She worked with Administration, Mr. Voli and Councilwoman-elect Marilyn Lichtenberg to expand the bus route to include stops along that route and make a full loop around West Milford so the senior citizens have an opportunity to get to those businesses. She noted that they updated the bus schedule and made a flyer. They are testing the route to make sure everyone is pleased with it. She spoke about hosting the grand opening of North Jersey Guitar Center. She said the store and the proprietors are lovely and she wished them the best of luck. She reached out to a lot of senators and elected officials throughout the county for assistance and spoke to them about her overall view of the municipality. She said she is meeting with a grant writer to understand what types of federal and local grants are available for the municipality. She expressed that she looks forward to working with the Council to accomplish a vision of having a long term financial plan for West Milford. She noted that she is here to support the Council and said feel free to reach out to her anytime.

Councilman McGuinness made a motion seconded by Councilman Signorino to correct the November 7th meeting minutes to state that he said the grit pile was tested and passed so there is no contamination.

Moved: McGuinness Seconded: Signorino
Voted Aye: Unanimous voice vote
Voted Nay: None
Motion carried.

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Councilwoman Pegel thanked Mayor Dale for sharing the information about the small businesses and being the liaison on the EDC. She thanked Joann Blom for all of her hard work, and said maybe they can work together with the EDC and the businesses in town. Mayor Dale said she is working with the WM77 TV Commission about advertising the local businesses. Councilwoman Pegel said perhaps she can work with Mayor Dale on the project.

Councilman Signorino asked for an update on the Marshall Hill Road Bridge. Councilman McGuinness said he spoke to Freeholder Duffy and was told that the concrete is poured; they are waiting for Verizon's utilities and the bridge should be open for traffic the week before Christmas. Mayor Dale said she did inquire about the road resurfacing program on Morsetown Road and Cahill Cross Road. She did receive an update and overview and the project should be done by the end of this week. She expressed that they do understand that it was an inconvenience for the community but it was out of necessity that the project needed to be completed before the end of the year. She said the Governing Body has been diligent in following up with Administration on behalf of the residents that the project on the bridge is moving as swiftly as it can.

Agenda No. XVII

Appointments and Resignations

None

Agenda No. XVIII

Adjournment

There being no further business to come before the Council, the Governing Body adjourned the meeting at 10:27 p.m.

Moved: McGuinness Seconded: Signorino
Voted Aye: Unanimous voice vote
Voted Nay: None
Motion carried.

Approved: December 19, 2018

Respectfully submitted:

Sherry Zbrzeski, Keyboarding Clerk I

MAYOR MICHELE DALE, PRESIDING OFFICER

ANTOINETTE BATTAGLIA, TOWNSHIP CLERK