
TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Township Council Workshop
Date of Meeting: November 28, 2007
Time of Meeting: 7:30 P.M.
Minute Page No: Page 1 of 8

Mayor Joseph DiDonato called the Workshop Meeting of the West Milford Township Council to order.

Adequate Notice Statement

Please note that in accordance with Chapter 231, Public Laws of 1975 of New Jersey, adequate advance notice of this Workshop Meeting was advertised in the Herald News in its issues of December 17, 2006 and January 7, 2007; 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 DiDonato led all in attendance in a salute to the flag.

Roll Call

Present: Councilmembers Joseph Smolinski, Phil Weisbecker, Salvatore Schimmenti, Robert Nolan, James Warden. Mayor DiDonato
Absent: Carmen Scangarello.
Also Present: Township Administrator Richard Kunze, Township Clerk Antoinette Battaglia and Township Attorney, Fred Semrau

Reading of or Approval of Unapproved Minutes

Councilman Weisbecker moved to adopt the minutes of the October 24, 2007 Workshop Meeting as presented.

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

Councilman Weisbecker moved to adopt the minutes of the November 7, 2007 Regular Meeting as presented.

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

Councilman Weisbecker moved to adopt the Executive Session of the November 7, 2007 meeting as presented.

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

Proclamations

None.

Presentations

Person-to-Person Transfer for Retail Consumption License - Lakeside Bar & Liquors Inc. t/a Neil's Bar & Liquors

Mayor DiDonato invited the applicant, Mr. Si Huang, to the podium to address the Council. Ms. Battaglia directed the Council to her memo on this application noting that the applicant does not intend to make any changes at these premises. The Council had no questions.

Agenda VI

Public Comments

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

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Bob Moshman, 40 Pondview Drive, West Milford complimented Mayor DiDonato on his four years of service to the Township and he wished Ms. Bieri lots of luck when she assumes her duties as Mayor in January. He distributed information to the Council advising that it contains his opening statements and twenty questions that he recommended they seek answers to before they vote on dissolving the Wanaque Valley Sewerage Authority (WVRSa). He encouraged the Council to seek input from professionals, the Planning Board, the Township Engineer and Environmental Commission. He stated that Wanaque has repeatedly attempted to pressure West Milford and Ringwood to dissolve the WVRSa. Last year, the Council believed that dissolution would protect West Milford from liability and he asked if, since that time, the Township has obtained indemnification from Wanaque. If such indemnification has been obtained, he asked if bond counsel has reviewed it. He stated that he feels compelled to present this information to Council because he has served West Milford on the WVRSa for four years.

There being no other persons wishing to be heard, the Council closed the public portion of the meeting.

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

Agenda VII

Council Comments

None.

Agenda VIII

Action Items

Agenda VIII 1

~ Resolution 2007-394 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY RATIFYING A PRIOR RESOLUTION AUTHORIZING PERSON TO PERSON TRANSFER OF PLENARY RETAIL CONSUMPTION LICENSE NO. 1615-33-017-006 FROM SABANI BASKIM LOCATED AT 9 LAKESIDE ROAD, HEWITT, NEW JERSEY TO LEBISTRO, INC. FOR PREMISES AT THE SAME LOCATION ADOPTED OCTOBER 10, 2007

WHEREAS, the Township Council of the Township of West Milford hereby ratifies action taken on October 10, 2007 by virtue of Resolution 2007-351 and detailed herein; and

WHEREAS, an application has been received for a Person to Person transfer of 2007 - 2008 Plenary Retail Consumption License No. 1615-33-017-006 presently held by Sabani Baskim at 9 Lakeside Road, Hewitt to LeBistro, Inc. for premises at the same location; and

WHEREAS, the transfer of this license is due to a requirement of the New Jersey Division of Taxation due to taxes being paid in the trade name rather than the license name; and

WHEREAS, the Township Council has conducted a public investigation of the applicant as stipulated in the guidelines of the Director of the Division of Alcoholic Beverage Control dated April 14, 1980, and

WHEREAS, as a result of that investigation the Township Council has determined the following:

1. The submitted application is complete in all respects.
2. The applicant is qualified to be licensed according to all statutory, regulatory and local governmental A. B.C. laws and regulations.
3. The applicant has disclosed to the issuing authority the source of all additional financing obtained in the previous license year (July 1, 2007 - June 30, 2008).
4. Licensee has provided Affidavit of Publication.

WHEREAS, as a further result of the public investigation and upon the recommendation of the Police Department the license be transferred.

NOW, THEREFORE, BE IT RESOLVED that the application is again hereby approved and the Township Clerk is authorized to endorse the transfer on the license per the requirement of the New Jersey Division of Taxation.

Adopted: November 28, 2007

Moved: Weisbecker Seconded: Nolan
Voted Aye: Weisbecker, Smolinski, Schimmenti, Nolan, Warden.

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Voted Nay: None.
 Motion carried.

Agenda VIII 2

~ Resolution 2007-395 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN APPLE VALLEY ESTATES, LLC AND THE TOWNSHIP OF WEST MILFORD

WHEREAS, by Resolution #2007-303, the Mayor and Township Council authorized the acquisition of Block 9901, Lots 10, 11 and 12 known as Apple Valley Acres from Apple Valley Estates, LLC for the sum of \$800,000; and

WHEREAS, as part of the Contract between the parties, the County of Passaic, one of the funding sources in Paragraph 20(b)(1) is listed as contributing \$200,000 to the acquisition; and

WHEREAS, the County of Passaic has advised that the amount of the funding award is \$230,000.

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 as follows:

1. The Township Attorney is hereby authorized to execute an amendment to the contract between Apple Valley Estates, LLC and the Township of West Milford that will identify the County of Passaic as providing funding in the amount of \$230,000 toward this acquisition.
2. The Township Attorney is hereby permitted to take necessary action to reflect this additional funding by the County of Passaic toward this acquisition.

This Resolution shall take effect immediately.

Adopted: November 28, 2007

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

Agenda IX

Payment of Bills

~ Resolution 2007-396 (as amended) ~

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.....	\$ 80,362.03
	Current Account.....	\$77,536.03
2	Reserve Account.....	3,790.65
3	Animal Control Trust	74.25
6	Capital.....	665,704.22
7	Grants.....	8,802.98
8	Refuse.....	195,291.45
9	Refunds.....	117.50
12	General Ledger.....	
16	Heritage Trust.....	
14	Open Space Trust	
17	Trust.....	19,272.09
18	Development Escrow.....	
19	LOSAP	

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20	Special Reserve	
Total		\$973,415.17
Total		\$970,589.17
Less Refund Resolution		(117.50)
Actual Bill List		\$973,297.67
Actual Bill List		\$970,471.67
Other Payments		
Less Refund Resolution		
Total Expenditures		\$973,297.67
Total Expenditures		\$970,471.67

Adopted: November 28, 2007

Discussion: Councilman Nolan asked for a separate vote on the AccuWeather invoice for \$2,826. Councilman Weisbecker amended his motion to exclude this invoice from consideration and Councilman Nolan amended his second.

Moved: Weisbecker Seconded: Nolan
 Voted Aye: Weisbecker, Smolinski, Schimmenti, Nolan, Warden.
 Voted Nay: None.
 Abstained: Councilman Nolan abstained from the Valley Health bill only.
 Motion carried.

AccuWeather Invoice

Councilman Nolan made a motion to consider the AccuWeather invoice and was seconded by Councilman Smolinski.

Discussion: Councilman Nolan advised that he considers this expenditure to be a waste of taxpayer money. One can obtain weather forecasts on-line at no charge and thus he sees no need for this service. Administrator Kunze advised that this matter has been discussed with the DPW in the past and they believe that this provides a level of service not available on the website. The funds expended on this service assist in decision making that saves the Township money by not prematurely calling contractors out for plowing and sanding. Councilman Schimmenti asked if the DPW can provide Council with more information about this service. Councilman Weisbecker stated that Mr. Storms, the DPW Superintendent, has been before Council many times in the past when he has outlined the cost savings realized by having this service. He noted that the Council will receive insight from a report outlining the specifics. Councilman Warden stated that he agrees with Councilman Nolan. Noting that he flies a plane, he stated that he checks the weather on-line to ensure that the conditions are safe for flying. This expenditure, he believes, is simply spending money for the sake of spending money. Councilman Weisbecker made a motion to table payment of the AccuWeather invoice until more information is received. Councilman Smolinski asked that the Administrator provide specific instances where savings were realized as a result of this service. Councilman Weisbecker made a motion to table this invoice until December 12, 2007.

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

Agenda X

Discussion Items

1)	Clear Garbage Bags – Mr. Kunze advised that the Beautification & Recycling Committee had discussed the use of clear garbage bags to assist in recycling enforcement efforts. Councilman Weisbecker stated that an ordinance mandating the use of clear garbage bags supports state and municipal regulations mandating recycling. He stated that Greenwood Lake New York has passed similar ordinances as have other New Jersey municipalities. The Beautification & Recycling Committee drafted an ordinance that has been reviewed by the Township Attorney. Administrator Kunze advised that the Council has received a model ordinance from Chester. Mayor DiDonato questioned the availability of these bags for residents to which Councilman Weisbecker replied that the bags are readily available for purchase at most retailers. Mayor DiDonato asked if there are any plans to educate the public before people are found to be in violation of such legislation were it to be enacted. Councilman Weisbecker advised that the intent of the committee hopes to have the ordinance in place well before violations are issued. The residents would be provided an opportunity to familiarize themselves with the ordinance prior to the award of a garbage contract in 2009. At that time, the garbage collection contract would contain a provision that the successful
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	<p>bidder would be responsible for enforcement. Basically, if they find recyclables in garbage, they will not collect that garbage. The recycling coordinator would be responsible for checking the hauler's enforcement. Mayor DiDonato requested that the committee do research to define compliance in such an ordinance. Councilman Smolinski advised that he contacted a number of retail stores today including Home Depot In Riverdale, Lowes, Sears, and ShopRite. These retailers do not carry clear garbage bags with the exception of ShopRite who only carries 30-gallon bags. He commended the committee for all their work on this proposed legislation but stated that he has a number of concerns. Primarily, he is concerned about privacy and security for residents. While it is true that everyone should be cautious about placing personal information in the garbage, the use of clear garbage bags could make lapses of such caution problematic for residents. He also stated that having the hauler act as the enforcement agent may result in garbage being left out all day and thus attracting animals including bears. Councilman Schimmenti concurred noting that the Council spent a long time gaining approval for use of bear proof garbage cans. Attracting bears to garbage left out all day while residents are at work may negate such efforts. Councilman Warden stated that the intent of clear garbage bags is to reinforce the commitment to recycling. Unless there is a strong enforcement program in place such initiatives are moot. Councilman Nolan made a motion, seconded by Councilman Warden to recognize Jim Novack and Renee Alessio, members of the Beautification & Recycling Committee. Mr. Novack and Ms. Alessio were recognized by an affirmative roll call vote of the Council.</p> <p>Jim Novack, Larchmont Drive, West Milford advised that he is speaking tonight as an individual because the committee did not authorize him to speak on their behalf. He advised that many of the questions that surround this proposed legislation will be answered when the new garbage contract is being drafted in 2009. The committee would like to have this legislation adopted sooner rather than later so that residents can begin complying as soon as possible with violations being issued in early 2009. Local retailers will stock clear garbage bags when needed. He noted that the recycling coordinator will be retiring in the near future and his replacement can have clear guidance as to expectations about enforcement of this ordinance that would complement the relative language that would be inserted in the garbage collection contract. Enforcement, he said, is the key component. He advised that he conferred with representatives from Chester about their ordinance and they have indicated that it has assisted in their recycling efforts. They did not track the difference in tonnage. Such recycling initiatives result in increased revenue from recycling as well as increased grant opportunities for municipalities. He stated that Roxbury has generated significant funding from grants as a result of their recycling efforts. Councilman Nolan commented that, if enforcement efforts were increased on recycling days, the Township might realize an increase in recycling. He stated that, in his neighborhood alone, many residents do not participate in the recycling program as is evidenced by the lack of recycling containers left out for pickup. Mr. Novack stated that enforcement efforts were greater in the past. Administrator Kunze advised that the Township is realizing more revenue from recycling now than ever. The Township does have an enforcement program that is being managed in the best possible manner given current resources.</p> <p>Renee Alessio, 39 Hillcrest Drive, Upper Greenwood Lake asked that the Council review the draft ordinance created by the Beautification & Recycling Committee. Current ordinances in West Milford do not make provisions for hazardous materials in residential garbage. Batteries, oil, and other hazardous materials should be disposed of properly. Clear garbage bags will allow enforcement agents to readily recognize attempts to dispose of such items with regular household waste. There should be greater outreach and education combined with greater enforcement. Mayor DiDonato asked that the Beautification & Recycling Committee research this matter further and provide Council with real data for consideration. He thanked Mr. Novack & Ms. Alessio.</p>
2)	<p>Re-codification of Township Code – Mayor DiDonato reminded the Council that this ordinance was introduced at the last meeting and is scheduled for public hearing and final adoption on December 5th. He asked if the Council had any questions or comments. Councilman Smolinski asked what the process is if errors or omissions are found in the codes. Ms. Battaglia advised that this process allows for current legislation to be compiled in one, legible document. When that has been accomplished, Township officials, both elected and appointed, must begin the process of reviewing the legislation contained therein and proceed with amending any legislation that requires change. Mr. Semrau advised that as amendments are made, each ordinance would be subject to public hearing which will allow for full discourse before the legislation is amended.</p>
3)	<p>2008 Ford Expedition Police Purchase under Morris County Co-op – Administrator Kunze advised that this purchase is part of the annual replacement program. This would replace a 2001 vehicle with over 100,000 miles. Councilman Weisbecker, noting the police officers often carry items of significant weight, asked why running boards are not being ordered for this vehicle. He noted that his wife has difficulty entering their larger vehicles and expressed concern that female police officers might experience similar difficulties because of their stature. Administrator Kunze advised that the decision to remove the running boards was made by the Police Chief who has full knowledge of his departmental needs. Councilman Weisbecker noted that \$400 is a small amount of money to pay to ensure the safety of police officers. Councilman Schimmenti asked if perhaps running boards from out of service vehicles can be installed if it is determined that they are needed. Councilman Nolan questioned whether or not the purchase is necessary noting that it is not being made until the end of the year. Administrator Kunze advised that there is a need but the current schedule based on that adhered to in recent years has resulted in late-year purchases. Ms. Battaglia stated that with the budget adoption in June the subsequent need to adopt the associated bond ordinance, the supply of vehicles under contract was depleted. Therefore, the Chief had to await the award of the new contract before he could make the purchase. Councilman Weisbecker asked if OSHA would have a problem if they discovered the Township is purchasing vehicles</p>

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	without a running board.
4)	Bid – Tub Grinder – Administrator Kunze reviewed the bids that were opened on November 16 th . The lowest bidder was Grinnell Recycling. Mr. Semrau advised that his office has recommended that all these bids be rejected because there was a fatal defect in the specifications pertaining to the requirement for a consent of surety. The Council authorized drafting of a resolution rejecting the bids and authorizing rebid.
5)	Change Order – Stainsby, Lambert, Burr, Yonder & Durant Road Improvements – Administrator Kunze advised Council that these roads are Township owned in the vicinity of Greenwood Lake Turnpike. These roads are being paved for the first time and unforeseen site circumstances were uncovered during the work that necessitate additional excavating, storm sewers, etc. Therefore the Engineer is requesting a change order in the amount of \$20,000 to cover these costs. He does not expect additional changes and there is funding available to cover these costs.
6)	Appointments – Ms. Battaglia directed the Council to information distributed in their packets and asked if there were any questions. Most of the information will be used by Council to make appointments at the annual reorganization meeting in January.

Agenda XI

Reports of Administrator, Mayor and Members of the Council

Mayor DiDonato advised that he was honored to represent the Council at a recent court of honor for two new Eagle Scouts this past weekend. He congratulated the Eagle Scouts and commended their families for achieving such status.

Administrator Kunze advised that he has received a request to have conditions of the filming ordinance waived for a student who wishes to make an educational film on Clinton Road this weekend. Specifically, the waiver would pertain to the days and hours of filming. Councilman Weisbecker stated that Clinton Road is a major artery which affords access to the mountain. He expressed concern that this filming will cause traffic problems. Administrator Kunze advised that the student has not requested a road closure. He is asking for approval to film on Saturday from 2:00 p.m. to 2:00 a.m. and on Sunday from 5:00 a.m. to 6:30 p.m. Approval of the waiver would be contingent upon him receiving no objections from residents. Councilman Weisbecker recalled an incident in 2002, prior to the filming ordinance, wherein filming caused a traffic backup for miles and he is not in favor of waving the ordinance for this purpose. Councilman Nolan made a motion, seconded by Councilman Warden to waive the day and hours provisions in the ordinance to the student to film on Clinton Road this weekend. By unanimous roll call vote of the Council, the motion passed.

Administrator Kunze provided an update on the road paving program which is almost concluded for this year having almost achieved the goal of ten miles. The Planning Board will have a hearing on third round certification from COAH tomorrow evening. There will be a resolution for Council consideration on December 5th. The annual tree lighting is scheduled for December 3rd. The Highlands Council has released the new draft master plan. Staff will review it and he expects that their report will be submitted to Council at the first workshop meeting in January.

Councilman Weisbecker advised that there was a major tie-up at Deadman’s curve during rush hour this evening due to paving. He asked if the Township can send a statement to the County expressing disappointment that this occurred. He has been discussing many issues with the Administrator including the island on East Shore and Greenwood Lake turnpike for the adopt-a-spot program. He stated that the County gave full control of that area to a private individual and he stated that such matters should be worked out between the two government agencies. He asked for Council consensus to have the Administrator send a letter to the Freeholders asking them to amend their resolution and returning that decision to the municipality. He stated that he plans to take the tour offered by the Upper Greenwood Lake Property Owners Association in the Council packets and asked if any other Council member would like to join him.

Council President Smolinski sought and received confirmation from the Administrator that the Highlands report will be presented to Council in January. He thanked the Beautification & Recycling Committee for answering the Council’s questions and concerns. He asked Mr. Semrau for an update on the Greenwood Quarry/Tilcon site. Mr. Semrau advised that Councilman Smolinski had asked him to research this matter. He advised that he is trying to determine if there is a restoration plan on file for this property and he will contact Green Acres on this matter. There is no commitment from Green Acres to purchase this property and the concern is that the property may remain permanently in its current state. Councilman Smolinski noted that the Township could potentially lose \$40,000 per year in ratables as a result of this sale.

Councilman Schimmenti urged the Council to proceed with caution when digesting information presented earlier by Mr. Moshman noting that some comments made may be biased.

Councilman Nolan advised that the Insurance Committee is scheduled to meet on Friday morning. He expects that they will have proposals and quotes from the Township’s current JIF and the Morris County

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JIF. The committee will make a recommendation to Council on December 5th. The Insurance Committee meeting will begin at 8:30 a.m. and is open to the public.

Township Clerk, Antoinette Battaglia asked for Council approval to re-advertise both the December 5th and December 12th meetings as joint workshop and regular meetings. If Council is amenable, they could then discuss matters at both meetings and take action too. The Council concurred.

Township Attorney, Fred Semrau advised that the phase I report on Apple Valley is completed and there are no environmental issues. He expects that the closing will take place before the end of the year as planned. He directed Council to a memo he sent out about Castle Rock Estates. Because of the Highlands Act, the developer was precluded from proceeding and was denied an Highlands exemption. Both the superior court and the appellate division have upheld the denial and they have upheld the Highlands Act. This matter went to Supreme Court last week where they were denied a hearing. He asked that the Hillcrest matter be removed from executive session discussion tonight and he added a GRC matter to the items to be discussed in executive session.

Agenda XII

Executive Session

~ Resolution No. 2007 - 397 ~

MOTION FOR EXECUTIVE SESSION

BE IT RESOLVED by the Township Council of the Township of West Milford on the 28th day of November, 2007, that:

1. Prior to the conclusion of this **Workshop Meeting**, the Township Council shall meet in Executive Session, from which the public shall be excluded, to discuss matters as permitted pursuant to N.J.S.A. 10:4-12, sub-section (s):
 - () b. (1) Confidential or excluded matters, by express provision of Federal law or State statute or rule of court.
 - () b. (2) A matter in which the release of information would impair a right to receive funds from the Government of the United States.
 - () b. (3) Material the disclosure of which constitutes an unwarranted invasion of individual privacy.
 - () b. (4) A collective bargaining agreement including negotiations.
 - () b. (5) Purchase, lease or acquisition of real property, setting of banking rates or investment of public funds, where it could adversely affect the public interest if disclosed.
 - () b. (6) Tactics and techniques utilized in protecting the safety and property of the public, if disclosure could impair such protection. Investigation of violations of the law.
 - (X) b. (7) Pending or anticipated litigation or contract negotiations other than in subsection b. (4) herein or matters falling within the attorney-client privilege.
 - GRC Complaint – Elcavage v. 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: November 28, 2007

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

The Council went into Executive Session at 9:13 p.m.
The Council reconvened in open session at 9:23 p.m. with all present as before.

Agenda XIII

Adjournment

There being no further business to come before the Council, the Township Council adjourned the meeting at 9:23 p.m.
