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**TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY**

Minutes of: Township Council  
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Mayor Joseph DiDonato called the Regular 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 Regular 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. Mayor DiDonato asked that everyone remain standing at this time. He advised that, on August 30, 2007, former West Milford resident Sergeant Jason M. Butkus was killed in Iraq when a rocket-propelled grenade hit his Humvee while he was on patrol. On behalf of the residents, Mayor DiDonato conveyed condolences to the Butkus family and Sergeant Butkus' young son. He invited Joseph Smolinski Jr. to play "amazing Grace" on the bagpipes in memory of Sergeant Butkus while everyone observed a moment of silence in his honor.

**Roll Call**

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

**Reading of or Approval of Unapproved Minutes**

None.

**Presentations**

**West Milford High School Band**

Elena Smith, a junior in West Milford High School and a member of the Highlander Marching Band, introduced herself to the Council. She has played the clarinet and will serve this year as one of the band's three drum majors. Samantha Kirk addressed the Council advising that she is a senior this year and will serve as a drum major this year for the second consecutive year. A second senior, Dan Willever, introduced himself to the Council and advised that he will also serve as a drum major this year.

Together the three speakers, on behalf of the West Milford Highlander Band, thanked the citizens of West Milford, Mayor DiDonato, and the Council for their continuous support. They expressed pride, on behalf of each member of the band, to represent West Milford at home and abroad. They advised the Council of their upcoming events this year which include performances throughout New Jersey and the greater tri-state area. In the spring of 2008, they plan to travel to Scotland and England. They presented the West Milford Highlander Pipes and Drums who played three songs for the Council.

**Proclamations**

None.

**Unfinished Business, Final Passage of Ordinances**

Agenda VII 1

~ Resolution 2007 - 021~

**AN ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AMENDING CHAPTER 25 ENTITLED "FLOOD DAMAGE PREVENTION" OF THE REVISED GENERAL ORDINANCES**

**BE IT ORDAINED** by the Township Council of the Township of West Milford, County of Passaic, State of New Jersey that Chapter 25 of the Code of the Township of West Milford is hereby amended to include the following:

**25.1.0 STATUTORY AUTHORIZATION**

The Legislature of the State of New Jersey has in N.J.S.A. 40:48-1, et seq., delegated the responsibility to local governmental units to adopt regulations designed to promote public health, safety, and general welfare of its citizenry. Therefore, the governing body of West Milford Township, Passaic County, of New Jersey does ordain as follows:

**25.1.1 FINDINGS OF FACT**

The flood hazard areas of West Milford Township are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services,

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extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, causes damage in other areas. Uses that are inadequately flood-proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

**25.1.2 STATEMENT OF PURPOSE**

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:  
To protect human life and health;  
To minimize expenditure of public money for costly flood control projects;  
To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;  
To minimize prolonged business interruptions;  
To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, bridges located in areas of special flood hazard;

1. To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
2. To ensure that potential buyers are notified that property is in an area of special flood hazard; and
3. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

**25.1.3 METHODS OF REDUCING FLOOD LOSSES**

In order to accomplish its purposes, this ordinance includes methods and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. Requiring that uses vulnerable to floods including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
4. Controlling filling, grading, dredging, and other development which may increase flood damage; and,
5. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

**Section 25.2 DEFINITIONS**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

**"Appeal"** means a request for a review of the Township Administrator interpretation of any provision of this ordinance or a request for a variance.

**"Area of shallow flooding"** means a designated AO or AH zone on a community's Flood Insurance Rate Map with a one percent or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**"Area of special flood hazard"** means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

**"Base flood"** means the flood having a one percent chance of being equaled or exceeded in any given year.

**"Basement"** means any area of the building having its floor subgrade (below ground level) on all sides.

**"Breakaway wall"** means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

**"Development"** means any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within an area of special flood hazard.

**"Elevated building"** means a non-basement building (i) built in the case of a building in an Area of Special Flood Hazard to have the top of the elevated floor elevated above the ground level by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water, and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In an Area of Special Flood Hazard "elevated building" also includes a building elevated

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by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

**"Flood or flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters and/or
2. The unusual and rapid accumulation or runoff of surface waters from any source.

**"Flood Insurance Rate" Map**(FIRM) means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**"Flood Insurance Study"(FIS)** means the official report provided in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Insurance Rate Map and the water surface elevation of the base flood.

**"Floodplain management regulations"** means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**"Floodway"** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.2 feet.

**"Highest adjacent grade"** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**"Historic Structure"** means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  1. By an approved State program as determined by the Secretary of the Interior; or
  2. Directly by the Secretary of the Interior in States without approved programs.

**"Lowest Floor"** means the lowest floor of the lowest enclosed area [including basement]. An unfinished or flood resistant enclosure, useable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor provided that such enclosure is not built so to render the structure in violation of other applicable non- elevation design requirements.

**"Manufactured home"** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

**"Manufactured home park or manufactured home subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**"New construction"** means structures for which the start of construction commenced on or after the effective date of a floodplain regulation adopted by a community and includes any subsequent improvements to such structures.

**"New manufactured home park or subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the flood plain management regulations adopted by the municipality.

**"Recreational vehicle"** means a vehicle which is [i] built on a single chassis; [ii] 400 square feet or less when measured at the longest horizontal projections; [iii] designed to be self-propelled or permanently towable by a light duty truck; and [iv] designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**"Start of Construction"** for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No. 97-348) includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation,

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addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings or piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**"Structure"** means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

**"Substantial Damage"** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**"Substantial Improvement"** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures, which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

**"Variance"** means a grant of relief from the requirements of this ordinance that permits construction in a manner that would otherwise be prohibited by this ordinance.

### Section 25.3 General Provisions

#### 25.3.1 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the Township of West Milford, Passaic County, New Jersey.

#### 25.3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the Township of West Milford, Community No. 340411, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

1. A scientific and engineering report "Flood Insurance Study, Passaic County, New Jersey (All Jurisdictions)" dated September 28, 2007.
2. Flood Insurance Rate Map for Passaic County, New Jersey (All Jurisdictions) as shown on index and panel number (s) 0010, 0015, 0016, 0017, 0018, 0019, 0028, 0030, 0036, 0037, 0038, 0039, 0041, 0042, 0043, 0084, 0092, 0105, 0107, 0110, 0111, 0112, 0116, 0117, 0118, 0119, 0126, 0127, 0128, 0129, 0136, 0138; whose effective date is September 28, 2007.

The above documents are hereby adopted and declared to be a part of this ordinance. The Flood Insurance Study and maps are on file at the Township's Clerks office, 1480 Union Valley Road, West Milford, NJ 07480.

#### 25.3.3 PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$2,000.00 or imprisoned for not more than 90 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Township of West Milford from taking such other lawful action as is necessary to prevent or remedy any violation.

#### 25.3.4 ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

#### 25.3.5 INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and,
3. Deemed neither to limit nor repeal any other powers granted under State statutes.

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### 25.3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

This ordinance shall not create liability on the part of West Milford Township, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

### Section 25.4 Administration

#### 25.4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 25.3.2. Application for a Development Permit shall be made on forms furnished by the Township Administrator and may include, but not be limited to; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

Specifically, the following information is required:

1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
2. Elevation in relation to mean sea level to which any structure has been floodproofed.
3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 25.5.2F; and,
4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

#### 25.4.2 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Township Zoning Officer is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

#### 25.4.3 DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR

Duties of the Township Zoning Officer shall include, but not be limited to:

##### A. PERMIT REVIEW

1. Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
2. Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
3. Review all development permits to determine if the proposed development is located in a floodway.
4. Assure that the encroachment provisions of Section 25.5.3(1) are met.

##### B. USE OF OTHER BASE FLOOD AND FLOODWAY DATA

When base flood elevation and floodway data has not been provided in accordance with Section 25.3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Township Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Sections 25.5.2E SPECIFIC STANDARDS, Residential Construction, and 25.5.2F, SPECIFIC STANDARDS, Nonresidential Construction.

##### C. INFORMATION TO BE OBTAINED AND MAINTAINED

1. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
2. For all new or substantially improved floodproofed structures:
  - i. verify and record the actual elevation (in relation to mean sea level); and
  - ii. maintain the floodproofing certifications required in Section 25.4.1 (3).
3. Maintain for public inspection all records pertaining to the provisions of this ordinance.

##### D. ALTERATION OF WATERCOURSES

1. Notify adjacent communities and the New Jersey Department of Environmental Protection, Flood Plain Management Section and the Land Use Regulation Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
2. Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood carrying capacity is not diminished.

##### E. INTERPRETATION OF FIRM BOUNDARIES

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in SECTION 25.4.4.

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### 25.4.4 VARIANCE PROCEDURE

#### A. APPEAL BOARD

1. The Planning Board as established by the Mayor and Council of the Township of West Milford shall hear and decide appeals and requests for variances from the requirements of this ordinance.
2. The Planning Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Township Zoning Officer in the enforcement or administration of this ordinance.
3. Those aggrieved by the decision of the Planning Board, or any taxpayer, may appeal such decision to the Superior Court of New Jersey, Law Division, Passaic County as provided for in court Rule 4:69.
4. In passing upon such applications, the Planning Board, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
  - i. the danger that materials may be swept onto other lands to the injury of others;
  - ii. the danger to life and property due to flooding or erosion damage;
  - iii. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - iv. the importance of the services provided by the proposed facility to the community;
  - v. the necessity to the facility of a waterfront location, where applicable;
  - vi. the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - vii. the compatibility of the proposed use with existing and anticipated development;
  - viii. the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
  - ix. the safety of access to the property in times of flood for ordinary and emergency vehicles;
  - x. the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
  - xi. the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
5. Upon consideration of the factors of Section 25.4.4A(4) and the purposes of this ordinance, the Planning Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
6. The Township Zoning Officer shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

#### B. CONDITIONS FOR VARIANCES

1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in SECTION 25.4.4A(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
2. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon:
  - i. a showing of good and sufficient cause;
  - ii. a determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
  - iii. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in SECTION 25.4.4A(4), or conflict with existing local laws or ordinances.
6. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

### SECTION 25.5 PROVISIONS FOR FLOOD HAZARD REDUCTION

#### 25.5.1 GENERAL STANDARDS

In all areas of special flood hazards the following standards are required:

##### A. ANCHORING

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

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2. All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

**25.5.2 CONSTRUCTION MATERIALS AND METHODS**

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

**A. UTILITIES**

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;
3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and
4. Electrical, heating, ventilation, plumbing and air- conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

**B. SUBDIVISION PROPOSALS**

1. All subdivision proposals shall be consistent with the need to minimize flood damage;
2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
4. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).

**C. ENCLOSURE OPENINGS**

All new construction and substantial improvements having fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other covering or devices provided that they permit the automatic entry and exit of floodwaters.

**D. SPECIFIC STANDARDS**

In all areas of special flood hazards where base flood elevation data have been provided as set forth in Section 25.3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or in SECTION 25.4.3B, Use of Other Base Flood Data, the following standards are required:

**E. RESIDENTIAL CONSTRUCTION**

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation;
2. Require within any AO zone on the municipality's FIRM that all new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet (at least two feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

**F. NONRESIDENTIAL CONSTRUCTION**

1. New Construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or
2. require within any AO zone on the municipality's FIRM that all new Construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet (at least two feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures; or together with the attendant utilities and sanitary facilities, shall:
3. be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
4. have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
5. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable

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provisions of this subsection. Such certification shall be provided to the official as set forth in SECTION 25.4.3C(2).

**G. MANUFACTURED HOMES**

1. Manufactured homes shall be anchored in accordance with Section 25.5.1A-2.
2. All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the top of the lowest floor is at or above the base flood elevation.

**25.5.3 FLOODWAYS**

Located within areas of special flood hazard established in SECTION 25.3.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless a technical evaluation demonstrates that encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
2. If SECTION 25.5.3 is satisfied, all new construction and substantial improvements must comply with SECTION 25.5 PROVISIONS FOR FLOOD HAZARD REDUCTION.
3. In all areas of special flood hazard in which base flood evaluation data has been provided and no floodway has been designated, the cumulative effect of any proposed development, when combined with all existing and anticipated development, shall not increase the water surface elevation of the base flood more than two-tenths (0.2) of a foot at any point.

**25.6** 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.

**25.7** 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.

**25.8** This Ordinance may be renumbered for purposes of codification.

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

**25.10** A copy of this Ordinance shall be immediately filed with the State of New Jersey Department of Environmental Protection.

Mayor DiDonato advised that this Ordinance was introduced on August 22, 2007. Notice of this public hearing was published on August 26, 2007. He opened the meeting to the public to speak on this matter only.

There being no comments from the public, Councilman Smolinski made a motion, seconded by Councilman Scangarello, to close this public portion of the meeting. Approved by unanimous roll call vote.

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Moved: Nolan Seconded: Warden  
Voted Aye: Smolinski, Schimmenti, Nolan, Warden, Scangarello.  
Voted Nay: None.  
Motion carried.  
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Agenda IV 2

~ Ordinance 2007- 022 ~

**AN ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY VACATING INTEREST IN THE RIGHT-OF-WAY THAT SEPARATES LOTS 6 AND 7 IN BLOCK 8510**

**WHEREAS**, Daniel Oostdyk is the owner of property located in the Township of West Milford designated as Block 8510 Lot 6; and

**WHEREAS**, recently Mr. Oostdyk purchased additional property from the Township designated as Block 8510 Lot 7 for the purpose of constructing a well on the land to service the property located on Block 8510 Lot 6; and

**WHEREAS**, the purchase of Lot 7 was necessitated to maintain appropriate separation between the septic system located on Lot 6 and the well which Mr. Oostdyk was intending on placing on the land to service his property on Lot 6; and

**WHEREAS**, there exists on paper a Right-of-Way between the two aforementioned lots, which Mr. Oostdyk has requested the Township relinquish; and

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**TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY**

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**WHEREAS**, the Engineering and Health Departments of the Township have no objections to the vacating of the right-of-way as it has no further benefit to the Township; and

**WHEREAS**, the Township Council of the Township of West Milford is desirous of vacating the right-of-way to allow for the ingress and egress between the two aforementioned Lots providing there is common ownership and only one residence on the combined lots known as Block 8510, Lot 6 and Block 8510, Lot 7; and

**WHEREAS**, the vacating of such rights requires the approval by Ordinance of the Township Council pursuant to N.J.S.A. 40A:12-5.

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

**SECTION I.** The Township hereby vacates any interest in Block 8510, Lot 6 and Block 8510, Lot 7 and the Township Attorney is hereby authorized to record the documents relinquishing such rights and responsibilities to Daniel Oostdyk with the Passaic County Clerk providing Mr. Oostdyk files a Deed restriction as to one residence on the adjoining properties.

**SECTION II.** If any article, section, subsection, term or condition of this Ordinance is declared invalid or illegal for any reason, the balance of the Ordinance shall be deemed severable and shall remain in full force and effect.

**SECTION III.** All ordinances or parts of ordinances or resolutions that are in conflict with the provisions of this Ordinance are repealed to the extent necessary.

**SECTION IV.** This Ordinance shall take effect after publication and passage according to law.

Mayor DiDonato recused himself from discussion of this subject and requested that Council President Smolinski preside while this subject is on the table. Council President Smolinski advised that this Ordinance was introduced on August 22, 2007. Notice of this public hearing was published on August 26, 2007. He opened the meeting to the public to speak on this matter only.

There being no comments from the public, Councilman Scangarello made a motion, seconded by Councilman Warden, to close this public portion of the meeting. Approved by unanimous roll call vote.

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

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Agenda V

**Public Comments**

Mayor DiDonato opened the meeting to the public noting that each person wishing to speak will be afforded five minutes.

Andrew Gargano, Apsawa Cross Road, West Milford noted that the fee Ordinance is scheduled for introduction tonight. He said that if the 2003 Ordinance which provided copies for free had never been repealed the Township would have saved all the money expended to draft this Ordinance. There appear to be, he said, contradictions in the Ordinance as presented. He cannot understand why anyone would opt for the \$2.70 CD. In the Ordinance, audiocassettes would cost \$1 while the Board of Education charges \$0.60 for audiocassettes. There is also a contradiction on the CDs for the police records. On one page it indicates that CDs are unavailable while on another page there is a fee. He asked for an update on the re-codification of the Township code. He stated that work on the code began in 2001 and ceased in 2003 when the Township was preparing for the change in the form of government. It appears that the new regime allowed the-then Township Attorney to begin working on the code in 2004 and now it has been contracted out to general code. He asked what the expected time frame is for this project to be brought to completion. He stated that there are only two communities in New Jersey that have this form of government, North Brunswick and West Milford. In North Brunswick the Administrator has authority and in West Milford the Mayor appears to have the authority. He asked to be directed to the specific legislation that allows a model to be built without final approval.

Linda Connolly, Wooley Road, West Milford stated that West Milford residents need a strong Council that will adopt Ordinances to prevent development and protect the water supply. The system is not working. The open space in West Milford attracts builders who do not care about this community. At the last meeting, she said, Doris Aaronson presented a revised well water pump test. She asked if Council plans to take any action on that.

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**TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY**

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Thomas Adamkiewicz, 1894 Clinton Road, Hewitt stated that he addressed the Council two weeks ago about liability coverage two weeks ago. He has done some research since then and has found that state law requires \$35,000 liability insurance for commercial and private vehicles. The limits are higher for limousines. He stated that West Milford's requirements are too stringent.

Wayne Gottlieb, 20 South Ridgefield Road, Upper Greenwood Lake commended the high school band members for tonight's presentation. He advised that, at the high school, the gymnasium floor has been resurfaced and the bleachers have been replaced. Now residents can attend the many events hosted there. He stated that Resolution 2007-309, scheduled for action tonight, pertains to No Name Dam #40 which is adjacent to the redevelopment tract. He asked for an explanation as to why money is being spent on this property.

There being no more speakers, the Council closed the public portion of the meeting.

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

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Agenda VI

**Council Comments**

Township Attorney Fred Semrau explained that the manufacturer of the recording system used by the Township recommends a certain disc for recording. Thus, the fee Ordinance provides requesters with options. The audiocassettes will cost \$1 because that is what the Township paid for those cassettes they currently have in stock. He stated that he has reviewed the taxicab Ordinance. The intent behind the Ordinance is that residents are protected. The Township's insurance carrier has reviewed this matter. He plans to discuss this matter with the Administrator and Clerk and will subsequently make a recommendation on the liability insurance limits. He advised that he is currently working on a well Ordinance which will provide the Township with tools to monitor applications. He has conversed with Matt Mulhall, the hydro-geologist, and will have a draft Ordinance for the next meeting.

Administrator Richard Kunze stated that the conflicts with the forms of government are being addressed in the re-codification process. He advised that this is an extensive process. The response to the analysis has been sent to General Code. He expects that the draft code will come before Council this Fall to be considered for adoption. No Name Dam, he said, is owned by the Township. He is not aware of the prior history but has been advised that the Township is required to perform this work. He stated that he will look into this matter and report back to Council.

Councilman President Smolinski thanked the High School band for their performance which highlights one facet of the talent here in West Milford. He stated that these kids earn respect everywhere they go and they make West Milford very proud. The instructors, parents, and teachers deserve kudos. He stated that he is happy to see the water issue being addressed so that West Milford residents are protected.

Councilman Nolan stated that not everyone on the dais voted to repeal the 2003 fee Ordinance.

Councilman Warden stated that the No Name Dam Resolution should be tabled because he believes that it is owned by the State of New Jersey. He stated that Ms. Connolly is right, the system is broken. Two houses have been built on Wooley Road and the MUA fails to turn records over to the State. The Planning Board writes political letters to the papers as a result of partisan politics. Because the system is in such disrepair, residents are not being given their due. While the Connolly's concerns have not been addressed, the proposed changes to the well testing Ordinance may well address future problems.

Agenda VII

**New Business, Introduction of Ordinances, Resolutions**

Agenda VII 1

~ Ordinance 2007- 023 ~

**ORDINANCE AMENDING FEES, RATES AND CHARGES OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY**

**BE IT ORDAINED** by the Municipal Council of the Township of West Milford, County of Passaic, State of New Jersey, as follows:

**SECTION 1.** Fees, Rates and Charges of the aforesaid Revised Ordinances for the Township of West Milford are hereby amended and established to read as follows:



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Voted Aye: Smolinski, Schimmenti, Nolan, Warden, Scangarello.  
Voted Nay: None.  
Motion carried.

Agenda VII 2

~ Ordinance 2007- 024 ~

**ORDINANCE APPROPRIATING \$65,000.00 FROM THE CAPITAL SURPLUS FOR THE PURCHASE OF FIRE TANKER TRUCK FOR GREENWOOD FOREST FIRE COMPANY (#3) BY THE TOWNSHIP OF WEST MILFORD, IN THE COUNTY OF PASSAIC, NEW JERSEY.**

**WHEREAS**, the Township previously adopted Ordinance #2007-018 which provided for the issuance of \$3,309,676 in bonds or notes; and

**WHEREAS**, Section 3(G) of such Ordinance provided for an estimated cost of the acquisition of a fire truck and equipment in the amount of \$404,250; and

**WHEREAS**, after consultation with the Fire Department, the Township Administrator recommends that an additional amount of \$65,000 from Capital Surplus be utilized to attain the acquisition of the equipment.

**NOW, THEREFORE, BE IT ORDAINED, BY THE TOWNSHIP COUNCIL OF WEST MILFORD, IN THE COUNTY OF PASSAIC, NEW JERSEY AS FOLLOWS:**

Section 1 \$65,000 is hereby appropriated from the capital surplus toward the purchase of one fire tanker truck for the Greenwood Forest Fire Company (#3).

Section 2 The capital budget of the Township of West Milford is hereby amended to conform with the provisions of this Ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director of the Division of Local Government Services is on file with the Clerk and is available there for public inspection.

Section 3 This Ordinance shall take effect immediately.

Mayor DiDonato advised that a second reading and public hearing for this Ordinance is set for the Regular Meeting of the Township Council scheduled for September 26, 2007. Notice of this public hearing shall be published in the Herald news on or about September 9, 2007.

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

Agenda VII 3

~ Resolution 2007-306 ~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSIAC, STATE OF NEW JERSEY AUTHORIZING THE CANCELLATION OF GENERAL CAPITAL IMPROVEMENT APPROPRIATION BALANCES INTO CAPITAL FUND BALANCE**

**WHEREAS**, certain General Capital Improvement appropriation balances remain dedicated to projects now completed and fully funded; and

**WHEREAS**, it is necessary to formally cancel said balances so that unexpended balances may be returned to Capital Surplus.

**NOW THEREFORE, BE IT RESOLVED**, by the Council of the Township of West Milford, County of Passaic, State of New Jersey, that the following balances of the General Capital Appropriations be cancelled:

Account Number	Project Description	Ordinance	Amount	Total Ordinance
C-04-03-941-374	Pressure Washer	2003-37	2,500.00	
C-04-03-941-500	Jaws of Life	2003-27	0.90	
C-04-03-941-539	Other Expenses (Section 20 Soft Costs)	2003-37	1,984.52	
C-04-03-942-500	Fire Arms Range	2003-37	25,000.00	





**TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY**

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**~ Resolution 2007-310~**

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSIAC AND STATE OF NEW JERSEY AUTHORIZING AN AMENDMENT TO THE CAPITAL BUDGET**

**WHEREAS**, the local capital budget for the year 2007 was adopted on the 6<sup>th</sup> day of June, 2007; and

**WHEREAS**, it is desired to amend said adopted capital budget section.

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Body of the Township of West Milford, County of Passaic, that the following amendment(s) to the approved capital budget section of the 2007 Budget be made:

RECORDED VOTE ( Smolinski ( ( ( ( Schimmenti ( ( ( ( Nolan AYES ( NAYS ( ABSTAIN ( ( Warden ( ( Scangarello ( (

From CAPITAL BUDGET (CURRENT YEAR ACTION)			5c
1	3		Capital Surplus
Project	Estimated Total Cost		
Supplemental Appropriation for Purchase of Fire Truck	65,000		65,000
<b>Total All Projects</b>	<b>65,000</b>		<b>65,000</b>

**6 YEAR CAPITAL BUDGET 2007-2012**  
Anticipated Project Schedule and Funding Requirement

1	3	4	Budget Year 2007
Project	Estimated Total Cost	Estimated Completion Time	
Supplemental Appropriation for Purchase of Fire Truck	65,000	1 Year	65,000
<b>Total All Projects</b>	<b>65,000</b>		<b>65,000</b>

**6 YEAR CAPITAL BUDGET 2007-2012**  
SUMMARY OF ANTICIPATED FUNDING SOURCES AND AMOUNTS

1	3	5
Project	Estimated Total Cost	Capital Surplus
Supplemental Appropriation for Purchase of Fire Truck	65,000	65,000
<b>Total All Projects</b>	<b>65,000</b>	<b>65,000</b>

**BE IT FURTHER RESOLVED** that three certified copies of this resolution be filed forthwith in the Office of the Director of Local Government Services.

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

Agenda VII 8

**~ Resolution 2007 -322~**

**A RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE EXECUTION OF A NJDEP LOAN AGREEMENT AS CO-BORROWER WITH MOUNT GLEN LAKES ASSOCIATION, INC.**

TABLED TO SEPTEMBER 12, 2007 BY UNANIMOUS ROLL CALL VOTE ON SEPTEMBER 5, 2007

Discussion: Mr. Semrau advised that he has been contacted by the Mount Glen Lakes attorney who advised that this situation is similar to that with Gordon Lakes. However, he has not had an opportunity to adequately research the matter. He asked the Council to table this matter to the next meeting.

Moved: Nolan Seconded: Smolinski  
 Voted Aye: Smolinski, Schimmenti, Nolan, Warden, Scangarello.  
 Voted Nay: None.

**TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY**

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Motion carried.

Agenda VIII

**~ Resolution 2007 - 311~**

**RESOLUTION 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 2007 - 313 - RESOLUTION AUTHORIZING CANCELLATION OF TAX
- b. Resolution 2007 - 314 - RESOLUTION AUTHORIZING REFUND OF OTHER LIENS
- c. Resolution 2007 - 315 - RESOLUTION AUTHORIZING REFUND OF OVERPAYMENTS
- d. Resolution 2007 - 316 - RESOLUTION AUTHORIZING PARTIAL REFUND OF PERFORMANCE GUARANTEE
- e. Resolution 2007 - 317 - RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING REFUND OF RECREATION FEES
- f. Resolution 2007 - 318 - RESOLUTION AUTHORIZING REFUND OF ESCROW MONIES
- g. Resolution 2007 - 319 - RESOLUTION AUTHORIZING REINSTATEMENT OF TAXES

**Applications:**

- a. **Application** – Extension of Licensed Premises (with Conditions) – Big John’s Pub – deck and backyard, for Saturday, October 6, 2007.
- b. **Application** – On Premise 50/50 by Our Lady Queen of Peace Home School Association
- c. **Application** - Off Premise Draw Raffle by West Milford Elks Ladies Association
- d. **Application** – Off Premise draw Raffle by West Milford Rotary

Adopted: September 5, 2007

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

The following Resolutions were included in the consent agenda:

Agenda VIII a

**~ Resolution 2007 -312~**

**RESOLUTION 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:

**REASON: EXEMPT PROPERTY**

BLOCK/LOT	NAME	AMOUNT	YEAR
4502-3.03	State of NJ D.E.P.	\$15.00	2006
4502-3.03	State of NJ D.E.P.	\$1,768.00	2007 Third Qtr.
	TOTAL	<b>\$1,783.00</b>	

**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 cancel as hereafter listed below:

Adopted: September 5, 2007

\*\*\*\*\*  
Agenda VIII b

**~Resolution 2007-313 ~**

**RESOLUTION AUTHORIZING REFUND OF OTHER LIENS**

**TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY**

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**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
07-003	04/03/2007	00409-004	\$13,128.14	LIEN TIMES LLC 203 STEPHENS ROAD WEST MILFORD, NJ 07480
07-016	04/03/2007	02006-009	\$13,213.19	PAM INVESTORS C/O PATRICK CARABELLESE 127 SOUTH WASHINGTON AVE BERGENFIELD, NJ 07621
			<b>\$26,341.33</b>	

Adopted: September 5, 2007

\*\*\*\*\*  
 Agenda VIII c

**~ Resolution 2007 -314~**

**RESOLUTION 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                | 4. Homestead Rebate    |
| 2. Duplicate Payment                | 5 Tax Appeal           |
| 3. Senior Citizen/Veteran Deduction | 6. Over Billed Account |

Block/Lot	Name	Amount	Year	Reason
806-5	Casha & Casha, Atty. 115 Horseneck Road Suite 2 Montville, NJ 07045	\$1,453.00	2007	2
902-17	Lawrence T. Murphy 32 South Richfield Road Hewitt, NJ 07421	\$239.13	2007	1
1101-34	M. & J. Casciano 76 Banker Road Hewitt, NJ 07421	\$478.00	2007	1
1101-37	Vincent Lanza 4 Countryside Lane Ringwood, NJ 07456	\$340.00	2007	5
1208-6	Jonathan Iwaszczuk 21 Delmont Road Hewitt, NJ 07421	\$119.68	2007	5
1612-31	D'Angelo & D'Angelo, Atty. 1395 Route 23 South Butler, NJ 07405	\$1,325.00	2007	2
1816-10	John & Julie Barounis 685 Lakeshore Drive Hewitt, NJ 07421	\$1,749.00	2007	6
2006-3	Kathleen & Don Leinberger 14 Paterson Road Hewitt, NJ 07421	\$200.00	2007	1

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2014-10	Byers & Byers P.A. 201 East Ridgewood Avenue P.O. Box 567 Ridgewood, NJ 07451	\$1,287.00	2007	2
2412-13	Levy, Ehrlich & Petriello, Atty's. 60 Park Place Suite 1016 Newark, NJ 07102	\$846.00	2007	2
3603-8	Melissa Yon 355 Warwick Turnpike Hewitt, NJ 07421	\$8,170.16	2007	1,5
4301-25	Norberto & Dawn Silva 255 River Road East Hanover, NJ 07936	\$2,237.00	2007	2
4601-18.02	Dolores Rossi 6788 West Alegria Drive Tucson, Arizona 85743	\$95.20	2007	5
5003-1	C. Rosica & W. Peters 6 Rockburn Pass West Milford, NJ 07480	\$748.00	2007	5
5311-1.10	James & Edna Miller 2 Richmond Road Suite 110 West Milford, NJ 07480	\$544.00	2007	5
5311-3.11	Andrew & Dave Wood 621 Betsy Ross Place Bound Brook, NJ 08805	\$253.33	2006	4
5312-1.01	Charles & Dolores Gabriele 4 Richmond Road Suite 101 West Milford, NJ 07480	\$544.00	2007	5
5312-1.03	Lena Saffioti 4 Richmond Road Suite 103 West Milford, NJ 07480	\$285.60	2007	5
5312-1.04	Rosemary Cappola 4 Richmond Road Suite 104 West Milford, NJ 07480	\$544.00	2007	5
5312-2.17	Helen Hunter 4 Richmond Road Suite 217 West Milford, NJ 07480	\$544.00	2007	5
5315-1.04	Nicholas & Naomi Jean Rizzi 7104 Richmond Road West Milford, NJ 07480	\$544.00	2007	5
5315-1.11	Eleanor May Wilson 7111 Richmond Road West Milford, NJ 07480	\$544.00	2007	5
5315-2.05	Mar Patricia Schwarz 7205 Richmond Road West Milford, NJ 07480	\$544.00	2007	5
5315-2.11	Frances Corallo 7211 Richmond Road West Milford, NJ 07480	\$544.00	2007	5
5315-2.24	Rose Savkov 37 Califon Road Long Valley, NJ 07853	\$544.00	2007	5
5315-3.14	Ceres Gomez Sosa 7314 Richmond Road West Milford, NJ 07480	\$272.00	2007	5
5315-4.04	Susan Van Wart 7404 Richmond Road West Milford, NJ 07480	\$544.00	2007	5
5315-4.16	Kenneth & Jacqueline Peck 7416 Richmond Road West Milford, NJ 07480	\$544.00	2007	5
5316-1.01	Howard & Margery Messler Jr. 9101 Richmond Road West Milford, NJ 07480	\$544.00	2007	5
5316-2.02	Arnold & Phyllis Steinberg 9202 Richmond Road West Milford, NJ 07480	\$544.00	2007	5
5317-2.03	Roger Thompson 6203 Richmond Road West Milford, NJ 07480	\$272.00	2007	5

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5317-2.19	Miriam Bernstein 6219 Richmond Road West Milford, NJ 07480	\$252.44	2006	4
5317-2.19	Miriam Bernstein 6219 Richmond Road West Milford, NJ 07480	\$544.00	2007	5
5317-2.22	The DWB 2005 Irrevocable Trust 637 Wyckoff Avenue #241 Wyckoff, NJ 07481	\$544.00	2007	5
5317-3.01	Geraldine McDonnell 6301 Richmond Road West Milford, NJ 07480	\$544.00	2007	5
5317-3.18	Jay Asper Box 64 Digmans Ferry, PA 18328	\$544.00	2007	5
5504-2.12	Horace Martin 1212 Richmond Road West Milford, NJ 07480	\$272.00	2007	5
5504-2.13	Charles Miele 1213 Richmond Road West Milford, NJ 07480	\$544.00	2007	5
5505-2.19	Ruth Hartshorn 5219 Richmond Road West Milford, NJ 07480	\$272.00	2007	5
5505-3.12	Constance Kaufman 5312 Richmond Road West Milford, NJ 07480	\$544.00	2007	5
5505-4.10	Carol Fitzpatrick 5410 Richmond Road West Milford, NJ 07480	\$272.00	2007	5
5613-6	Joan Eurich 21 Juniata Street West Milford, NJ 07480	\$253.00	2007	4
6401-8	Leigh S. Greene 865 Burnt Meadow Road Hewitt, NJ 07421	\$681.88	2007	6
6902-33	Granatell Associates 125 Main Avenue Elmwood Park NJ 07407	\$6,168.00	2007	6
7002-7	Alfred J. Egenhofer 72 Mt. Vernon Street Ridgefield Park, NJ 07660	\$1,349.00	2007	2
7401-21	Pinecliff Lake Comm. Club Inc. P.O. Box 246 West Milford, NJ 07480	\$259.93	2007	1
7603-2	Lisa G. Gaertner 67 Pinecliff Lake Drive West Milford, NJ 07480	\$787.72	2007	6
7614-4	Robert Fass 5 Arcata Lane West Milford, NJ 07480	\$1,128.00	2007	2
7801-17.06	Casha & Casha Atty. 115 Horseneck Road Suite 2 Montville, NJ 07045	\$1,470.00	2007	2
7801-29.04	Gary Monaco 29 D Concord Road West Milford, NJ 07480	\$1,166.22	2007	6
8601-6	J., N., & A. Saal C/O Ronald Sherman 33-23 Halsey Road Fairlawn, NJ 07410	\$449.00	2007	6
8802-20	Signature Closing Services LLC 520 Speedwell Avenue Ste 103 Morris Plains, NJ 07480	\$2,306.00	2007	2
9501-39	Robert & Barbara Choma 58 Bisset Drive West Milford, NJ 07480	\$97.92	2007	5
10102-14	Jay I. Lazerowitz, Atty. 55 Harristown Road 3 <sup>RD</sup> Floor Glen Rock, NJ 07432	\$2,850.00	2007	2

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10502-16	Douglas & Alison Gerlitz 42 Osage Drive West Milford, NJ 07452	\$76.00	2007	1
10703-46	S. Walsh & D. L'Hereux 22 Plumridge Road West Milford, NJ 07480	\$1,399.00	2007	2
12901-59	Palma Riley 175 High Crest Drive West Milford, NJ 07480	252.89	2006	4
13401-16	Alexander Sebesalmi 520 Macopin Road West Milford, NJ 07480	\$65.28	2007	5
13701-27	Salvatore Saggio 30 Navajo Trail West Milford, NJ 07480	\$252.89	2006	4
14113-46	R. Woslyuk & K. MacMahon 22 Apple Lane West Milford, NJ 07480	\$1,246.00	2007	2
15601-4	Matthew A. Dancy 179 Clinton Road P.O. Box 526 Newfoundland, NJ 07435	\$1,587.04	2007	6
16401-1	Jeannette Gemmill 62 Cooper Road Oak Ridge, NJ 07438	\$253.33	2006	4
16801-4	Theodore & Carrie Clark 81 Greendale Drive Oak Ridge, NJ 07438	\$187.00	2006	1
16801-7	Dennis & Donna O'Donnell 63 Greendale Drive Oak Ridge, NJ 07438	\$150.00	2007	1
16801-8	John & Mary Brugaletta 57 Greendale Drive Oak Ridge, NJ 07438	\$148.00	2007	1
16802-6	N. Karol & H. Cummings 15 Greendale Drive Oak Ridge, NJ 07438	\$204.00	2007	1
16803-4	William & Patricia Bausback 7 Crest Hill Drive Oak Ridge, NJ 07438	\$118.00	2007	1
16804-3	Ralph & Lucille Rathyen 76 Greendale Drive Oak Ridge, NJ 07438	\$178.00	2007	1
16804-7	Ralph & Pamela Cavallaro 112 Greendale Drive Oak Ridge, NJ 07438	\$155.00	2007	1
16804-9	Edward & Gloria Fetter 115 Crest Lake Drive Oak Ridge, NJ 07438	\$176.00	2007	1
16804-10	Mary Anne Allender 109 Crest Lake Drive Oak Ridge, NJ 07438	\$146.00	2007	1
16806-4	Richard & Linda Vernotica 1 Sandlor Terrace Oak Ridge, NJ 07438	\$194.00	2007	1
16806-5	Ciro & Anna Cerciello 160 Greendale Drive Oak Ridge, NJ 07438	\$184.00	2007	1
16807-1	George & Joanne Leichtweisz 82 Crest Lake Drive Oak Ridge, NJ 07438	\$137.00	2007	1
16808-4	Robert & Annette Evans 125 Greendale Drive Oak Ridge, NJ 07438	\$1,963.04	2007	1
16907-1	Harmony Financial Services LLC 759 Bloomfield Avenue #246 West Caldwell, NJ 07006	\$686.00	2007	2
17001-6	John & Helen Egan P.O. Box 98 Newfoundland, NJ 07435	\$160.00	2007	1

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17001-10	Diane Paris 130 Henderson Road Stockholm, NJ 07460	\$184.00	2007	1
17001-11.02	Gerard Farese 109 Henderson Road Stockholm, NJ 07460	\$209.00	2007	1
17004-1	Charles Search 74 Henderson Road Stockholm, NJ 07460	\$114.00	2007	1
17004-2.05	Mark & Ann Pantazes 31 Elias Lane Stockholm, NJ 07460	\$204.00	2007	1
17201-4	George & Christina Stephens 131 Cherry Ridge Road Hewitt, NJ 07421	\$66.00	2007	1
	<b>TOTAL</b>	<b>\$61,436.68</b>		

Adopted: September 5, 2007

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Agenda VIII 1d

~ Resolution 2007- 315~

**RESOLUTION AUTHORIZING A REDUCTION OF A PERFORMANCE (CASH) BOND FOR WINE IN THE WOODS (BLOCK 5308 LOT 3) OF BALD EAGLE COMMONS**

**WHEREAS**, the Township Planning Director has submitted a recommendation dated August 8, 2007 for the reduction of the Performance (Cash) Bond of Bald Eagle Commons in the amount of \$18,000.00 subject to the posting of a Cash Bond in the amount of \$1,000.00 for completion of minor site work; and

**WHEREAS**, said recommendation is based upon a site inspection of work having been completed and a request for the release of the Performance (Cash) Bond;

**NOW, THEREFORE, BE IT RESOLVED**, that the Mayor and Township Council of the Township of West Milford hereby authorizes the partial release of a Performance (Cash) Bond of Bald Eagle Commons posted by certified check in the amount of \$17,000.00, and \$1,000.00 to be retained as a Cash Bond for completion of minor site work;

**BE IT FURTHER RESOLVED**, that the appropriate Township officials be and they are hereby authorized to execute such documents and take such steps necessary to effectuate the terms of this resolution.

Adopted: September 5, 2007

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Agenda VIII 1e

~ Resolution 2007 -316~

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

**RESOLVED**, that the following Recreational fees upon the report of the Recreation Director be refunded:

Name & Address	Reason	Amount Refunded
Nathan & Nicholas Leinberger 125 Kitchell Lake Drive West Milford, NJ 07480	Refund for cancellation of enrollment in Day Camp	\$140.00
Carolyn Post 9 Seminole Way West Milford, NJ 07480	Refund of enrollment in Bubbling Springs Swim Lesson	\$35.00
Cynthia Craft 8 Alpine Ride Road West Milford, NJ 07480	Refund of enrollment in Tennis Camp	\$55.00

Adopted: September 5, 2007

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Agenda VIII 1f

**TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY**

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**~ Resolution 2007 -317~**

**RESOLUTION 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 Township's Planning Director, the following Escrow monies be refunded:

<u>Name &amp; Address</u>	<u>Application No.</u>	<u>Amount of Escrow</u>	<u>Amount Refunded</u>
Angelo Catalini 3142 Route 23 North Oak Ridge, NJ 07438	0640-0757	\$1,066.02	\$1,066.02

Adopted: September 5, 2007

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 Agenda VIII 1g

**~ Resolution 2007 -318~**

**RESOLUTION 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

<b>BLOCK/LOT</b>	<b>NAME</b>	<b>AMOUNT</b>	<b>YEAR</b>
6604-10	Lois O'Brien	\$775.00	2007
10707-4	Teri Lee Paradise	\$935.00	2007
16101-2	T. Murphy & E. Crocker	\$635.00	2007
3011-2	Martin Shenkman	\$1,608.00	2007
16702-8	Boyd & Candy Lyons	\$2,706.00	2007
13202-10	Paul J. Salvador	\$2,074.00	2007
3009-14	John Scherer	\$717.22	2007
<b><u>TOTAL</u></b>		<b><u>\$8,193.00</u></b>	

Adopted: September 5, 2007

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 Agenda IX

**Payment of Bills**

None.

Agenda X

**Reports of Administrator, Mayor and Members of the Council**

Mayor DiDonato advised that he went to Mr. Semrau's office on Thursday afternoon to sign two contracts on behalf of the Township. These contracts authorize the purchase of Apple Acres and the Wertz's property with State and County open space funds. He thanked Mr. Semrau for all the work he did to bring this to fruition. He noted that recently some person or persons repeatedly drove a car over Farrell Field causing approximately \$6,000 in damage. The police have investigated this matter and two suspects are expected to be charged. He said that people should know that the West Milford will be very aggressive in finding persons who destroy public property. He plans to call the Prosecutor to advise that the Township insists on being compensated the \$6,000 due to the taxpayers.

Administrator Kunze advised that the Township filed a claim with FEMA for reimbursement for damage caused by a storm earlier this year. The application has been reviewed and West Milford will get over \$100,000 to repair the damage.

Council President Smolinski advised that some residents have been receiving letters from a company offering to provide deeds to property owners for \$79.50. The letter is disturbing for a host of reasons, not least because they request a significant amount of personal information. He advised residents that, if they wish to obtain a copy of their deed, they can get a photo copy at Town Hall for \$1 and a certified

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copy from the County of Passaic for approximately \$10. He advised that the Council received good news via a letter in their packets from the NJ EPA. Valley and Eagle Ridge are no longer exempt from the Highlands Act which, in effect, shuts these projects down. He thanked residents and the Council for all the hard work expended on this. The State sent representatives to both sites to ensure that construction had not begun before the August 10<sup>th</sup> deadline and it had not. He asked for a status update on the Sustainable West Milford proposal. He stated that the Council was favorable to their presentation and he is interested to know how they were received by the Board of Education. He stated that the Ordinance adopted last year which increased the penalties for illegal dumping in watershed properties had a flaw. Park officials were not included in the Ordinance as having authority to issue summonses under this Ordinance. He asked Mr. Semrau to determine if including them would give the Ordinance more strength. He commended the band parents for all the work they do behind the scenes. For example, he said, each uniform costs over \$1,000 and volunteers take care of the inventory and each student is responsible for his or her uniform. He urged everyone to support the band.

Councilman Schimmenti extended condolences to the family of William DeMarco, a former Township attorney, who passed away after a long battle with cancer.

Councilman Nolan conveyed condolences to the Butkus family on the loss of Sergeant Jason M. Butkus. He noted that Council adopted Ordinances and Resolutions without much discussion and advised that discussion of each item took place, as is usual, at a Workshop Meeting. He echoed the Mayor's comments, thanking Mr. Semrau and the Morris Land Conservancy for their work to purchase property with open space funds. He noted that the Borough of Ringwood recently began posting the audio of their meetings on their website and he would like to see that happen in West Milford. He read an editorial recently in *The Record* about posting of public documents online. A model Ordinance sponsored by a Republican is to be introduced in the legislature. He expressed hope that the Republican majority in West Milford would support this legislation as access to public records makes for better-educated residents. He noted that the annual Autumn Lights Festival (ALF) is scheduled for October 13<sup>th</sup> and there will be a 5K run/walk that morning with proceeds being used to benefit the Pequannock River Coalition. He stated that there are seventeen McMansions proposed for construction on Wooley road. The Planning Board attorney has said that the work is okay, yet there is no developer's agreement. He stated that the same Planning Board attorney, Glen Kienz, dumped the Planning Board in the Eagle Ridge and Valley Ridge matters because he was representing the developers. Yet, the Planning Board continues to reappoint Mr. Kienz.

Councilman Warden Thanked Mr. Semrau for all his hard work on Apple Acres and the Wertz's property. He congratulated West Milford voters who voted to keep the open space funds intact noting that this decision affords this Council the ability to reap the benefits for all residents. He stated that Paul Zarillo is doing a great job on the Greenwood Lake Bi-State Commission. There were very few weeds on the southern end of the lake this year. One of his goals is to find a funding mechanism for weed control for Greenwood Lake next year. He asked Administrator Kunze to schedule a meeting with Steve DeFeo of the Bi-State Commission to discuss that. He said that he would also like the Administrator to meet with David Watson Hollowell to talk about moving forward with the Sustainable West Milford plan.

Councilman Scangarello reminded everyone that West Milford schools opened today and he urged everyone to be cognizant of that when on the roads. He noted that the guardrails have been installed on Ridge Road. He asked Administrator Kunze for an update on Cooley Road. Administrator Kunze advised that the Zoning Officer continues to follow up on this and they will be following up with the Township Attorney. Councilman Scangarello asked for an update on the communications project. Administrator Kunze advised that the RFP for architectural services has been drafted.

Township Attorney, Fred Semrau advised that two Green Acre appraisals are needed for the properties being purchased with grant funds. The cost for these appraisals will be about \$15,000 and he has spoken with appraisers currently in the Township's employ. He advised that the proposed contract for the purchase of Apple Acres will include a provision regarding the settlement of tax appeals and an addendum asking for absolute release for the Township from an on-going COAH proceeding. He advised that there are two Highlands revocations of exemptions, one for Valley Ridge and one for Eagle Ridge. He had requested that Township officials take photos at the site and, despite the heavy rain on August 10<sup>th</sup>, those photos were taken.

Agenda XI 1

**Appointments, Resignations, Terminations**

~ Resolution 2007 - 319~

**RESOLUTION TO VACATE POSITION OF THE WEST MILFORD BEAUTIFICATION & RECYCLING  
TASK FORCE COMMITTEE**

**Township Council Authority**

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**TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY**

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**BE IT RESOLVED**, by the Township Council of the Township of West Milford that the Township Clerk be and is hereby directed to vacate the Citizen Member position currently held by Miko No Chung on the Beautification and Recycling Task Force Committee said term to expire on December 31, 2007.

Adopted: September 5, 2007  
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Moved: Nolan Seconded: Warden  
Voted Aye: Smolinski, Schimmenti, Nolan, Warden, Scangarello.  
Voted Nay: None.  
Motion carried.  
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**Agenda XI 2**

~ Resolution 2007 - 320 ~

**RESOLUTION OF APPOINTMENT TO THE WEST MILFORD BEAUTIFICATION AND RECYCLING TASK FORCE COMMITTEE**

Township Council Authority

**BE IT RESOLVED**, by the Township Council of the Township of West Milford that they do hereby make an appointment to the Beautification and Recycling Task Force Committee as follows:

**Carroll Sparkes**, Citizen Member – to fill the unexpired term of Miko No Chung – term expires December 31, 2007.

Adopted: September 5, 2007  
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Moved: Nolan Seconded: Warden  
Voted Aye: Smolinski, Schimmenti, Nolan, Warden, Scangarello.  
Voted Nay: None.  
Motion carried.  
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**Agenda XIII**

**Executive Session**

~ Resolution No. 2007- 321~

**MOTION FOR EXECUTIVE SESSION**

**BE IT RESOLVED** by the Township Council of the Township of West Milford on the 5<sup>th</sup> day of **September** 2007, 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.
  - (X) b. (4) A collective bargaining agreement including negotiations.
    - Teamster Labor 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.
    - Hillcrest
  - ( ) 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).

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Adopted: September 5, 2007

Discussion: Council President Smolinski advised that he would recuse himself from the Executive Session discussion of Hillcrest.

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

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The Council went into executive session at 8:48 p.m.  
The Council reconvened in public at 9:05 p.m. with all present as before.

**Adjournment**

There being no further business to come before the Council, the Township Council adjourned the meeting at 9:05 p.m.

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

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APPROVED: September 26, 2007

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MAYOR JOSEPH DiDONATO  
PRESIDING OFFICER

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ANTOINETTE BATTAGLIA  
TOWNSHIP CLERK