
TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Township Council Workshop
Date of Meeting: August 22, 2007
Time of Meeting: 7:30 P.M.
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The Workshop Meeting of the West Milford Township Council was called to order by Mayor DiDonato.

Adequate Notice Statement

Mayor DiDonato read the following 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 Philip Weisbecker, Joseph Smolinski, Salvatore Schimmenti, Robert Nolan, James Warden, Carmelo Scangarello.
Mayor Joseph DiDonato.

Absent: None.

Also Present: Township Administrator Richard Kunze, Township Clerk Antoinette Battaglia, Township Attorney Frederick Semrau.

Reading of or Approval of Unapproved Minutes

Councilman Smolinski moved to adopt the minutes of the July 11, 2007 Regular Meeting as presented.

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

Councilman Smolinski moved to adopt the minutes of the July 11, 2007 Executive Session as presented.

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

Councilman Nolan moved to adopt the minutes of the July 25, 2007 Workshop Meeting as presented.

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

Councilman Nolan moved to adopt the minutes of the July 25, 2007 Executive Session as presented.

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

Councilman Weisbecker moved to adopt the minutes of the August 8, 2007 Regular Meeting as presented.

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

Councilman Weisbecker moved to adopt the minutes of the August 8, 2007 Executive Session as presented.

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

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Meetings

Mayor DiDonato noted the future meeting schedule:
September 5, 2007 Regular Meeting
September 12, 2007 Workshop Meeting
September 26, 2007 Regular Meeting
October 3, 2007 Workshop Meeting

Proclamations

None.

Presentations

None.

Public Comments

Mayor DiDonato opened the meeting to the public after advising that there is a five-minute limit for each speaker. He invited interested parties to raise their hand and come forward when called upon.

Thomas Adamkiewicz, 1894 Clinton Road, Hewitt provided the Council with copies of the Township's Taxi Ordinance. He advised that he is in the process of starting a business and when he came to the Township to obtain his application, he was given a copy of this Ordinance. He noted that the Ordinance allows the Township Administrator to set the liability insurance limits and advised that the Township currently requires \$1 million in liability insurance. He advised the Council that this amount is substantially greater than that required by state law and he asked Council to reconsider this amount. He advised that taxi owners register their vehicles with the state. He opined that it appears unfair to place such a financial burden on a small business owner. He stated that he does not work for nor get paid by the Township and it appears that this Ordinance is biased.

Jim Novack, Largemount Drive, West Milford stated that he read in the paper last week that the Township is spending taxpayer dollars for a study of a private lake. West Milford Lake is private and he asked how the Council can justify spending taxpayer dollars to conduct a study on that lake.

Doris Aaronson, 19 Bearfort Road, West Milford distributed information to Council. She complimented Council President Smolinski for stating that the Township's Land Development Ordinances are not sufficient to handle the water problems being experienced at Eagle Ridge, Valley Ridge, and Wooley Road. She reviewed the documents she handed out noting that the first page is comprised of graphs pertaining to water at Eagle Ridge, the second pertains to Wooley Road and the third is the current Land Use Ordinance for well testing. She had some suggestions that she would like to share when a new well testing Ordinance is drafted. She stated that the current Ordinance does not include standards for a 5-day well test. The residents near Wooley Road are afraid that they will have no water if the proposed development is allowed to proceed. She asked the Council to review the well testing Ordinance.

Carl Richko, 9 Shepard Road and Bob Moshman, 40 Pondview Drive, West Milford advised that both are former Mayors of the Township. For years, they said, West Milford had a 5K run that was held in conjunction with the annual Autumn Lights Festival (ALF). Many runners were disappointed that there was no 5K at ALF last year and some formed a committee to organize a 5K for this year's festival. It can cost up to \$4,000 to organize a 5K race and sponsors are needed. The committee is grateful for those entities who have already agreed to sponsor the race which will begin at the Macopin/High School complex. They have met with Captain Hardin of the police department to discuss traffic control. They asked the Council to join the dignitaries who will start the race and encouraged any interested elected officials to join in the race too.

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

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

Council Comments

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Councilman Weisbecker stated that he was not present when the Council voted to expend funds for a study on private property. He advised that the study is being funded through grant monies.

Councilman Nolan thanked Ms. Aaronson for the research she did on the well testing Ordinance.

Action Items

The Township Council took action on the following items:

Agenda No. VIII 1

~ Ordinance 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, 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;

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;

To ensure that potential buyers are notified that property is in an area of special flood hazard; and
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:

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;

Requiring that uses vulnerable to floods including facilities which serve such uses, be protected against flood damage at the time of initial construction;

Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

Controlling filling, grading, dredging, and other development which may increase flood damage; and,

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

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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 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:

The overflow of inland or tidal waters and/or

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:

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;

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;

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

Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

By an approved State program as determined by the Secretary of the Interior; or

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.

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"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, 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:

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

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:

A scientific and engineering report "Flood Insurance Study, Passaic County, New Jersey (All Jurisdictions)" dated September 28, 2007.

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

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

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:

Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;

Elevation in relation to mean sea level to which any structure has been floodproofed.

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,

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

Review all development permits to determine that the permit requirements of this ordinance have been satisfied.

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.

Review all development permits to determine if the proposed development is located in a floodway.

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

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

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.

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

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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.

25.4.4 VARIANCE PROCEDURE

A. APPEAL BOARD

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.

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.

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.

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:

the danger that materials may be swept onto other lands to the injury of others;

the danger to life and property due to flooding or erosion damage;

the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

the importance of the services provided by the proposed facility to the community;

the necessity to the facility of a waterfront location, where applicable;

the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

the compatibility of the proposed use with existing and anticipated development;

the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;

the safety of access to the property in times of flood for ordinary and emergency vehicles;

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,

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.

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.

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

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.

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.

Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

Variances shall only be issued upon:

1. a showing of good and sufficient cause;
2. a determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
3. 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.

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

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

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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

All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

A. UTILITIES

All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

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;

On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and

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

All subdivision proposals shall be consistent with the need to minimize flood damage;

All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,

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

New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation;

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

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

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:

be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,

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

G. MANUFACTURED HOMES

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Manufactured homes shall be anchored in accordance with Section 25.5.1A-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.

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: 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.

If SECTION 25.5.3 is satisfied, all new construction and substantial improvements must comply with SECTION 25.5 PROVISIONS FOR FLOOD HAZARD REDUCTION.

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.

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.

INTRODUCED: August 22, 2007

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 5, 2007. Notice of this public hearing shall be published in the Herald News on or about August 26, 2007.

Discussion: Mr. Semrau advised that the Township's flood map must be updated with the DEP and FEMA to provide for residents to qualify for flood insurance. The DEP notified the Township in July that the update must be adopted by the end of September. The DEP has reviewed this Ordinance and they preferred some revisions and suggestions which have already been incorporated into the document. He asked the Council to introduce tonight and advised that he will answer any questions Council may have. Administrator Kunze advised tha the Township Engineer and the OEM have reviewed this Ordinance and had no revisions.

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

Agenda No. VIII 2

~ Ordinance 2007-020 ~

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

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amount plus the additional costs paid by the Pinecliff Lake Community Club in the amount of \$9,538.12; and

WHEREAS, the Chief Financial Officer has certified as to the availability of funds said funds to be encumbered from the Assessment Trust Fund; and

WHEREAS, the Pinecliff Lake Community Club has requested reimbursement of the \$9,538.12; and

WHEREAS, the administration recommends payment to Pinecliff Lake Community Club for the amounts paid by the Club for the rehabilitation dam project.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Township Council of the Township of West Milford that the Chief Financial Officer is hereby authorized to make payment in the amount of \$9,538.12 to the Pinecliff Lake Community Club.

BE IT FURTHER RESOLVED, that the monies for such payment are being collected by way of the Pinecliff Lake Dam Rehabilitation Assessment Program as certified by Brian Townsend on November 10, 2004 and copy of the Assessment Tabulation is attached hereto and part of this Resolution.

Adopted: August 22, 2007

Discussion: In response to a question posed by Council President Smolinski, Administrator Kunze advised that payment will be made to the association by check.

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

Agenda No. VIII 4

~ Resolution 2007-298 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AMENDING THE NOT-TO-EXCEED AMOUNT IN RESOLUTION 2007-268, THE AWARD OF A NON-FAIR AND OPEN PROFESSIONAL SERVICE CONTRACT TO PRINCETON HYDRO, LLC TO PERFORM AN ANALYSIS TO DETERMINE THE FUTURE USE OF WEST MILFORD LAKE

WHEREAS, the Township of West Milford has received grant funding through the Association Of New Jersey Environmental Commissions (ANJEC); and

WHEREAS, these grant funds are to be used to conduct a formal analysis and educational program to determine the most appropriate future use of West Milford Lake; and

WHEREAS, in accordance with the recommendation from the Environmental Commission the Township Council awarded a contract to Princeton Hydro, LLC by virtue of resolution 2007-268 in an amount not to exceed \$5,500.00; and

WHEREAS, the initial proposal did not include the full scope of the services covered by the grant and a second proposal was sought to include each element of the analysis which proposal is in the amount of \$8,370.00; and

WHEREAS, the Chief Financial Officer has certified as to the availability of funds said funds to be encumbered from an account to be established with grant funds subsequent to approval of Chapter 159, Items of Revenue, approval from the Director of the Division of Local Government Services; and

WHEREAS, this study is not to be construed as a commitment from the Township for future work or services.

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

1. The Township of West Milford hereby amends the not-to-exceed amount in resolution 2007-268 from \$5,500.00 to \$8,370.00 and authorizes the Mayor and Township Clerk to execute an agreement with Princeton Hydro, LLC, to conduct a formal analysis and educational program to determine the most appropriate future use of West Milford Lake in accordance with their proposal for same and the grant

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- agreement with the Association Of New Jersey Environmental Commissions (ANJEC) in an amount not to exceed \$8,370.00.
2. This contract is awarded without competitive bidding in accordance with the provisions of the Local Public Contracts Law.
 3. The total fee authorized for this contract shall not exceed \$8,370.00 without the prior written approval of the Township Council.
 4. Notice of this action shall be published once in the Township's official newspaper as required by law.

Adopted: August 22, 2007

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

Agenda No. IX 1

~ Resolution 2007-299 ~

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 a proposed Application; and

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

Resolutions:

- a. **Resolution 2007- 278** – Refund Recreation Fees

Applications:

- a. Extension of Licensed Premises (with Conditions) – Big John's Pub – deck and backyard, for Monday, September 3, 2007.
- b. Application for Off Premise 50/50 Raffle by WMHS PTSO - December 2007.
- c. Application for Tricky Tray Raffle by WMHS PTSO - March 2008.
- d. Application for On Premise 50/50 Raffle by WMHS PTSO - March 2008.
- e. Application for Off Premise 50/50 Raffle by WMHS PTSO - April 2008.
- f. Application for Bingo by WMHS PTSO - March 2008.

Adopted: August 22, 2007

Discussion: Councilman Nolan asked Ms. Battaglia if it is usual to issue LGCCC licenses so far in advance. Ms. Battaglia responded that it is dependent on when the applicant files.

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

The following Resolution was included in the consent agenda:

Agenda No. IX 1a

~ Resolution 2007-278 ~

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
Eugenia Lesko 30 Walker Avenue	Refund for partial cancellation of enrollment in Day Camp	\$50.00

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West Milford, NJ 07480		
Salvatore Schimmenti 71 Vreeland Road West Milford, NJ 07480	Refund of enrollment in Bubbling Springs Day Camp meal plan	\$56.00
Teena Sukul-Khan 16 Elias Lane West Milford, NJ 07480	Refund of enrollment in Bubbling Springs Swimming Lessons	\$40.00
Heather Todd-Schlieper 42D Lexington Lane West Milford, NJ 07480	Refund of enrollment in Summer Golf Camp	\$105.00
Catherine Scott 32 Elm Street Hewitt, NJ 07421	Refund of enrollment in Summer Golf Camp	\$105.00

Adopted: August 22, 2007

Payment of Bills

Agenda No. X

~ Resolution 2007-300 ~

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.	\$145,069.68
2	Reserve Account	17,227.00
3	Animal Control Trust	154.25
6	Capital.	
7	Grants.	1,533.53
8	Refuse.	192,678.44
9	Refunds.	240.00
12	General Ledger.	875.00
16	Heritage Trust.	3,330.00
14	Open Space Trust	
17	Trust	23,329.50
18	Development Escrow.	4,198.52
19	LOSAP	
20	Special Reserve	
	Total	\$388,635.92
	Less Refund Resolution	(240.00)
	Actual Bill List	\$388,395.92
	Other Payments	358.00
	Less Refund Resolution	(356.00)
	Total Expenditures	\$388,395.92

Adopted: August 22, 2007

Discussion: Councilman Nolan asked for a separate vote on four bills. Page 8, Stephen Glatt \$1,500; Hakim Associates \$2,160; page 10, Glen Kienz \$1,333.33 and Weiner Lesniak, \$1,094.

Councilman Weisbecker moved to pay the bill list with a separate vote for the four bills listed by Councilman Weisbecker.

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

Councilman Weisbecker moved to pay the four bills that Councilman Nolan asked for a separate vote for.

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

Discussion Items

1)	<p>Attorney Accountability Ordinance – Mr. Semrau advised that he prepared a draft Ordinance after receiving input from Councilmen Smolinski and Warden. The common thread in the discussions was that the Council wishes to obtain the ethics history of an attorney seeking employment in the Township prior to that person being hired. Therefore, the most significant change to the Ordinance is that a person seeking to provide legal services to the Township would authorize the release of his/her ethics history and disclose their ethics history prior to being hired. After appointment, if the ethics history is not in accordance with representations made, the applicant could be subject to termination. Those persons not hired would have their ethics information returned to them. Councilman Weisbecker questioned how the Clerk is expected to handle requests for the ethics history when the courts have not made a distinct ruling as to whether or not such information is public. Mr. Semrau advised that the Ordinance clearly stipulates that the document pertaining to the person hired will for the purposes of their contract be considered public information. Council President Smolinski commended Mr. Semrau for his work on this Ordinance noting that he did a great job addressing the concerns expressed by Council. Councilman Warden noted that this Ordinance really becomes relevant on January 1st when Council reorganizes. Mr. Semrau advised that this Ordinance applies to prospective applications as well as those persons who are ultimately employed or reappointed by the Township. Mr. Semrau noted that the title of the Ordinance has also changed from the Ordinance that was previously in effect. The Council instructed Mr. Semrau to insert language into the Ordinance that would ensure that this Ordinance also applies to substitute attorneys.</p>
2)	<p>Fee Ordinance – Mr. Semrau advised the Council that the most significant change reflected in the Ordinance before them tonight is the fees to be charged for CDs and DVDs. He and the Clerk met with Mr. O'Shea and made revisions to the fee Ordinance. He spoke with the Police Chief to address fees for the police department which reflect actual costs. However, the police department expends a considerable amount of time on discovery requests. Therefore, there is a provision in this Ordinance that allows reimbursement for time spent. Councilman Warden asked if there would be a cost if someone were to request that a recording be burned onto a CD provided by the requester. The Clerk expressed concern as the recordings are filed on the network and viruses could potentially be imported. The Council instructed Mr. Semrau to insert language that dictates that the media is to be provided by the Township and have the Ordinance ready for introduction on September 5th.</p>
3)	<p>Possible dissolution of the WM MUA – Mr. Kunze directed the Council to two memorandums on this topic. The first is from Mr. Semrau and provides the Council with a legal opinion on the feasibility of dissolving the MUA. The second is from the Township Auditor and outlines the financial ramifications of a possible dissolution of the MUA. Mr. Semrau's letter advises that the MUA would have to consent to being incorporated into the Township and the Auditor's memo highlights the debt obligation that would have to be either extinguished or absorbed. Because the MUA is an autonomous body, they would make the ultimate decision. Councilman Nolan stated that the opinions leave the Council with no recourse if they are unhappy with the MUA except to effectuate change through appointments to this board. He expressed concern both as a Councilman and as a customer about fees being expended to defend the MUA for defying the Open Public Records Act. Councilman Weisbecker cautioned the Council advising that Montville had a costly and long battle over their MUA and they lost. Council President Smolinski stated that, repeatedly in the past, Councilman Nolan expressed concern about how to deal with various boards in the Township. He recommended that the Council act toward these boards in a civil manner because dialogue brings about positive action. He stated that the MUA board is comprised of members who are conscientious and he trusts them to do the right thing for West Milford. Because past practices have proven to be ineffectual, the Council must rethink their approach and attitude. He asked that the Councilmembers do their homework before publicly pursuing such matters in the future. He noted that this situation is similar to a time in the past when a previous Council had concerns about assuming the MUA debt and lowering the Township's bond rating. Councilman Nolan disagreed with Council President Smolinski's comments recalling that the MUA attorney, Mr. Baum, was not forthcoming when answering questions posed by Councilman Warden at a recent Council meeting.</p>

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	<p>Councilman Warden concurred. He asked if the Township had received any indication from the DEP that the MUA letter relative to the Eagle Ridge water testing would result in resident's wells being included in the test. In his opinion, the MUA letter was not worded correctly and the DEP will respond in kind. The MUA, he said, has cost West Milford taxpayers tens of thousands of dollars by thumbing their nose at the Council. They have also lied to the Council. Neither he nor Councilman Nolan has agreed to one appointment to the MUA. They have confidence in Mr. Spirko who is scheduled for appointment but not in any other appointment made thus far to the MUA. When this Council states that they oppose high-density development and subsequently make bad appointments to the MUA, it is a slap in the face. No one, he said, has attacked any board. In fact, he and Councilman Nolan have been courteous even though they have not received any of the information they have asked for. The Township is spending money and the MUA is secretly meeting with developers. He wagered that, when the MUA executive session minutes are disclosed, it will be a who's who of political appointees. Mr. Semrau interjected to clarify that this issue is about protecting water. Councilman Warden agreed and stated that he and Councilman Nolan asked for this discussion. Now that the opinions are in, they can see that this is a waste of time and the MUA will continue to keep the Council hostage.</p>
4)	<p>Lake Commercial Zone – Mr. Semrau asked that discussion of this topic be deferred to a future workshop. The Council agreed.</p>
5)	<p>Goals and Priorities – Councilman Nolan advised that they asked for this discussion in the hopes of providing the Township Administrator and Township staff direction from Council. This, he said, will allow for on-going matters to be completed and conclusions to be reached. He noted that the Council has been discussing a septic maintenance Ordinance for some time now and he asked that this be brought to fruition. The Council recently adopted a fertilizer Ordinance and he asked how the enforcement has been and what the plans for continued enforcement are. He would like to see the committee meet to discuss the future of the planning director position within the Township. The future of the MUA has been decided and the WMP may become a county problem. The Council should continue discussion of a private road takeover program. He suggested that the Council could agree on three to five items that the Administrator can make a priority. Council President Smolinski encouraged the media present to obtain a copy of the priority list and Councilman Weisbecker noted that there are many positive issues reflected thereon. He stated that he would like to see the Council address the numerous dangerous intersections in West Milford and urged the Council to work together on the local issues. Councilman Nolan asked that each Councilperson review the list to determine the common goals and asked that this subject be broached again at the next Workshop meeting so that the Council can provide the Administrator with some direction. Council President noted that the Council has been working on the issues reflected on this list and he stated that he is proud of the Council's accomplishments.</p>
6)	<p>Leasing Space for Signs on Township Property – Mr. Semrau advised that he and the Township Engineer have worked on the bid document. He advised that he eliminated some of the standard bid requirements and the sign has been modeled in accordance with the original suggestions. Steps will be taken to ensure that there will be no negative impact on traffic or sight obstructions. He is proposing a 5-year lease term with 2-year extensions thereafter. The renter would be responsible for upkeep and maintenance and the Tax Assessor's recommendation will be the minimum bid amount. Councilman Scangarello moved to authorize the Township Attorney to proceed with this bid. Councilman Weisbecker seconded the motion and the Council concurred by unanimous roll call vote.</p>
7)	<p>Cancellation of General Capital Improvement Appropriation Balances into Capital Fund Balance – Administrator Kunze advised that this is an annual action taken by Council to free up funds that are otherwise sitting idle. The funds will lapse into capital surplus and can be used to help balance the budget. The Council gave consensus to proceed.</p>
8)	<p>Purchase of 2007 Fire Truck – Administrator Kunze advised that, in the budget process, the fire department requested an appropriation of \$450,000 for the purchase of this fire truck. That amount was reduced to \$385,000. However, after checking with various vendors, due to increased costs, emissions changes and needed items not included in the original specifications, it is anticipated that an additional appropriation of \$65,000 is required to proceed with this purchase. He is requesting that additional funds be appropriated through the capital surplus. Councilman Scangarello noted that this fire company must have specifically designed trucks manufactured to be housed in their firehouse's unusual configuration. Council gave consensus to prepare a capital Ordinance for the additional funding.</p>
9)	<p>Transfer 2006 Partial Balance of Snow Removal Reserve to Trust Fund for Future Snow Removal Expenditures – Administrator Kunze advised that there is a \$337,000 balance in the 2006 snow removal reserve. He and the CFO recommend taking \$150,000 for transfer into a trust for future snow removal. The remaining funds will lapse to surplus at the end of the year. This would provide the Township with a balance in the trust account which equates to 20% of the annual budget for snow removal. There will certainly be years when the Township will draw on this account and it will be subject to annual review. The Council gave consent to proceed.</p>
10)	<p>Pre-bid for the 319h Grant – Administrator Kunze advised the Council that, as a result of having to reject the bid for the stormwater retrofits because the bid amounts exceeded the available grant funds, the Township sought direction from the DEP about how the scope of this project should be revised. The DEP has recommended that the Township reduce the number of filters from two to</p>

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	one in the hopes that, when re-bid, the bids will be within the amount appropriated in the grant. The Council gave consent to proceed with re-bidding this project.
11)	Professional Services Contract – No Name Dam 40 – Administrator Kunze advised that the Township Engineer has recommended that the Township seek proposals to conduct a formal inspection of this dam as required by the DEP. The township received three proposals and the Engineer is recommending award to the lowest bidder, URS. The Council gave consent to proceed with a Resolution for the next meeting.
12)	Professional Services Contract – Bubbling Springs and Westbrook – Administrator Kunze advised that this work is also required by the DEP. Five proposals were received and he is recommending award to Civil Dynamics whose proposal came in at \$965 above the lowest bidder. However, the proposal included an extra that the Engineer has deemed important. The funding is coming from a 2006 capital account.
	The Clerk’s computer encountered technical difficulties at this time and the meeting could not be recorded from this point forward.
13)	Appointments and Resignations – Ms. Battaglia advised Council that the Beautification & Recycling Chairman had requested that the position held by Miko No be vacated as Ms. No has not attended the meetings and attempts to reach her have been unsuccessful. Ms. Carroll Sparkes has submitted a letter of interest in serving on this committee. Councilman Weisbecker made a motion to vacate the position held by Ms. No, seconded by Councilman Nolan and carried by unanimous roll call vote. Councilman Weisbecker nominated Carroll Sparkes to the Beautification & Recycling Committee, seconded by Councilman Nolan and carried by unanimous roll call vote. The Clerk was instructed to prepare Resolutions for the next Council meeting.

Reports

Mayor Di Donato thanked the Council for working on goals and priorities noting that it was a good exercise.

Administrator Kunze advised that substantive certification with COAH is required by the end of the year and Councilman Nolan had asked for an update. He advised that there is uncertainty due to a court ruling and he will be meeting with the Township Attorney and Planning Director to discuss this matter. They will seek guidance from COAH. He advised that he sent a draft of the proposed septic maintenance Ordinance to the boards & commissions who are reviewing it. He is awaiting their comments and has met with the Health Officer to discuss operational issues. He expects to have further information for Council before the end of the year. He advised that Verizon is installing an emergency backup generator this week which will be powered by a hydrogen cell.

Councilman Weisbecker expressed agreement with Mayor DiDonato about the goals and priorities list. He advised that the Beautification and Recycling Committee has drafted a clear garbage bag Ordinance that has been sent to the Township Attorney for review. He reviewed the soil screening schedule and the recycling figures for July 2007. The bear resistant garbage cans have been distributed to residents. The DEP inspected the compost site and found everything to be okay. The house beautiful contest is underway and nominations will be accepted until September 7th. He stated that he will address Council at a future meeting about the proposed County sale of the golf course. In the past, Passaic County Mayors were opposed to this sale.

Councilman Schimmenti advised residents that the panic buttons on their vehicle’s remote control can be used in emergencies. If something untoward happens and one needs assistance, he recommended depressing the panic button.

Councilman Nolan asked Administrator Kunze if he is monitoring the on-going situation on Cooley Lane. Administrator Kunze advised that he has been following up on this matter on a daily basis with the Zoning Officer. Councilman Nolan stated that there was a memo in Council packets from Mr. Semrau to the Planning Director about the proposed well testing Ordinance. He stated that he is in favor of this Ordinance. There was also a letter from the NJLM pertaining to the library levy which Township’s must pay based on the State formula. Monies that the municipality are required to pay to the library will impact the CAP amount and he asked that the Administrator and CFO calculate those numbers for the Council. Administrator Kunze advised that the numbers generally come to the municipality from the State during the fall months each year. They are based on the equalized assessed value.

Councilman Warden asked Mr. Semrau to research the insurance requirements for taxi licenses. He thanked Ms. Aaronson and asked that the well testing Ordinance be revised. He noted that the main concern with the current Ordinance is its failure to ensure that tested wells recharge sufficiently. He stated that Ms. Connolly’s concerns about the development on Wooley Road are legitimate. He stated that, according to land use laws, construction permits cannot be issued without final Planning Board approval. The West Milford Planning Board will likely let the developer build. Mr. Semrau advised that a model home can be constructed after preliminary approval. The second house that was constructed on Wooley Road is the result of a separate application and is not a part of the proposed development. He

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Voted Nay: None.
Motion carried.

The Council went into Executive Session 10:00 p.m. Mayor DiDonato left the meeting at this time and asked Council President Smolinski to assume the chair for the remainder of the meeting.

The Council reconvened in public session at 11:10 p.m. with all present as before.

Action Items

Agenda No. XIV 1

~ Resolution 2007-302 ~

A RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE AWARD OF A PROFESSIONAL SERVICES CONTRACT WITHOUT COMPETITIVE BIDDING TO SCOTT HOLZHAUER, CTA, SCGREA FOR OPEN SPACE CONSULTING, ADVISORY AND VALUATION SERVICES IN AN AMOUNT NOT TO EXCEED \$12,000

WHEREAS, with the creation of a dedicated source of tax revenue ("Open Space Trust Fund") for the acquisition of open space, there exists a need to retain the services of an open space consultant who has the technical expertise and experience in the field of open space and valuation issues concerning the acquisition of open space; and

WHEREAS, Scott Holzhauer of Holzhauer & Hostenstein, LLC has such experience and expertise in reviewing various open space acquisitions and commenting on various valuation issues; and

WHEREAS, the Township wishes to retain Scott Holzhauer of Holzhauer & Hostenstein, LLC for the purpose of assisting the Township of West Milford with regard to the possible acquisition of open space and farmland, valuation issues surrounding such open space acquisitions and other various related services as outlined in his proposal dated May 12, 2007; and

WHEREAS, the total amount of the contract shall not exceed \$12,000.00; and

WHEREAS, funds are available for this purpose from the open space trust fund; and

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

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

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1, et seq.) requires that the resolution authorizing the award of contracts for "professional services" without competitive bid and the contract itself must be made available for public inspection.

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

1. The Township of West Milford hereby awards and authorizes the Mayor and Township Clerk to execute an agreement with Scott Holzhauer of Holzhauer & Hostenstein, LLC as municipal consultant to assist the Township in the area of open space acquisition and valuation in an amount not to exceed \$12,000.00.
2. This contract is awarded without competitive bidding as the total price of the contract shall not exceed the \$17,500 bid threshold in accordance with the provisions of the Local Public Contracts Law, specifically N.J.S.A. 40A:11-3.
3. The total fee authorized for this contract shall not exceed \$12,000.00 without the prior written approval of the Township Council.
4. The Political Contribution Disclosure Form, Business Disclosure Entity Certification and the Determination of Value shall be placed on file with this resolution.
5. Notice of this action shall be published once in the Township's official newspaper as required by law.

Adopted: August 22, 2007

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

Agenda No. XIV 1

~ Resolution 2007-303 ~

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE ACQUISITION OF PROPERTY KNOWN AS BLOCK 9001, LOTS 10, 11 and 12

WHEREAS, the property known as Block 9001, Lots 10, 11 and 12 also known as "Apple Acres" are contiguous to Union Valley Road and adjacent to the Newark Water Shed lands located within the Township of West Milford; and

WHEREAS, the property consists of 105 acres of vacant land and the Township has previously requested Green Acres grants and funding for the acquisition of this potential open space greenway; and

WHEREAS, the Township of West Milford has previously requested funding and grants from the Passaic County Open Space Trust Fund; and

WHEREAS, the Township, with the assistance of the Morris Land Conservancy, has negotiated a tentative agreement, subject to specific conditions to acquire such land to make it a part of the Township's Open Space inventory.

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

1. The Mayor is hereby authorized to sign an agreement for the acquisition of the property known as Block 9901, Lots 10, 11 and 12 for a price not to exceed \$800,000.00 or \$7,620 per acre.
2. The acquisition of such land is subject to the following terms and conditions:
 - a. A Contract of Sale that includes a condition that the Township of West Milford shall have an opportunity to perform and obtain a satisfactory Phase I Environmental analysis of the property.
 - b. That the Township shall have Green Acres funding and funding from the Passaic County Open Space in an amount with a combined total of at least \$650,000.
 - c. The Contract of Sale shall also be conditioned upon the adoption of an Ordinance by the Mayor and Council which will authorize the acquisition of the property and appropriate the necessary funds.

This Resolution shall take effect immediately.

Adopted: August 22, 2007

Discussion: Mr. Semrau advised that the Township has been notified that, if contracts are not executed by August 30, 2007 for the purchase of open space, West Milford will lose the Green Acres funding previously awarded. Therefore, this Resolution authorizes such a contract should negotiations for the purchase of this property be successful.

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

Agenda No. XIV 1

~ Resolution 2007-304 ~

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE ACQUISITION OF PROPERTY KNOWN AS BLOCK 07701, LOT 7

WHEREAS, the property known as Block 07701 Lot 7 is contiguous to Union Valley Road located within the Township of West Milford; and

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WHEREAS, the property consists of 16.36 acres of vacant land that has approval for eight (8) residential homes; and

WHEREAS, the Township, with the assistance of the Morris Land Conservancy, has negotiated a tentative agreement, subject to specific conditions to acquire such land to make it a part of the Township's Open Space inventory.

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

1. The Mayor is hereby authorized to sign an agreement for the acquisition of the property known as Block 07701, Lots 7 for a price not to exceed \$650,000.
2. The acquisition of such land is subject to the following terms and conditions:
 - a. A Contract of Sale that includes a condition that the Township of West Milford shall have an opportunity to perform and obtain a satisfactory Phase I Environmental analysis of the property.
 - b. That the Township shall have Green Acres funding in an amount with a combined total of at least \$480,000.
 - c. This Contract would be authorized in the event the Township cannot enter into an agreement for the purchase of the "Apple Acres" property known as Block 9901, Lots 10, 11 and 12 by August 29, 2007.
 - d. The Contract of Sale shall also be conditioned upon the adoption of an Ordinance by the Mayor and Council which will authorize the acquisition of the property and appropriate the necessary funds.
 - e. This agreement and authorization shall only take effect in the event the Township is unable to acquire Block 9001, Lots 10, 11 and 12 pursuant to Resolution 2007-303.

This Resolution shall take effect immediately.

Adopted: August 22, 2007

Discussion: Mr. Semrau advised that this property is contiguous to Union Valley Road and the owner is asking \$650,000. The agreement will only take effect if the property being sought in Resolution 2007-303 does not result in a contract.

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

Agenda No. XIV 1

~ Resolution 2007-305 ~

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE ACQUISITION OF PROPERTY KNOWN AS BLOCK 8002, LOT 1

WHEREAS, the property known as Block 8002 Lot 1 is contiguous to Union Valley Road and adjacent to the "Valley Ridge" site lands located within the Township of West Milford; and

WHEREAS, the property consists of 63 acres of vacant land and the Township; and

WHEREAS, the Township, with the assistance of the Morris Land Conservancy, has negotiated a tentative agreement, subject to specific conditions to acquire such land to make it a part of the Township's Open Space inventory.

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

1. The Mayor is hereby authorized to sign an agreement for the acquisition of the property known as Block 8002, Lots 1 for a price not to exceed \$380,000.00 or \$6,000 per acre.
2. The acquisition of such land is subject to the following terms and conditions:
 - a. A Contract of Sale that includes a condition that the Township of West Milford shall have an opportunity to perform and obtain a satisfactory Phase I Environmental analysis of the property.
 - b. That the Township shall have Green Acres funding.
 - c. The Contract of Sale shall also be conditioned upon the adoption of an Ordinance by the Mayor and Council which will authorize the acquisition of the property and appropriate the necessary funds.

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This Resolution shall take effect immediately.

Adopted: August 22, 2007

Discussion: Mr. Semrau advised that Council has opted to move forward with purchase regardless of whether or not the Apple Acres purchase is successful. This property is contiguous to the Valley Ridge site.

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

Adjournment

There being no further business to come before the Council, the Township Council adjourned the meeting at 11:25 p.m.

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

Approved:

MAYOR JOSEPH DiDONATO
PRESIDING OFFICER

ANTOINETTE BATTAGLIA
TOWNSHIP CLERK