
TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Township Council Workshop
Date of Meeting: May 9, 2007
Time of Meeting: 7:30 P.M.
Minute Page No: Page 2 of 8

Each department reviewed the application and no objection was lodged. The Council had no questions and instructed the Clerk to prepare a resolution for the next meeting.

Discussion Items

Mayor DiDonato asked if the Council would consider moving the discussion of the defeated school budget to this part of the agenda because the consultant, Mr. Donohue, is present to address Council on this matter. The Council agreed. Council President Smolinski recused himself from this discussion. Mr. Donohue approached the podium and thanked the Council for engaging his services again this year. He explained the process and the line items he can review in the school budget for potential cuts. Using the same approach as last year resulted in diminishing returns. His report does not attempt to make changes to curriculum, programs, or extra-curricular programs. Changes to such programs would require a team effort and more time that is available as part of this process. He commended the Board of Education and their staff for their work on the budget. He reviewed the report he submitted to Council line by line. He has recommended cuts to miscellaneous revenue of \$20,000, food service fund \$41,640, tuition to private school for disabled in state \$5,000, communications \$3,360 and energy \$5,000. The total proposed cuts amount to \$75,000.

Councilman Weisbecker questioned where other cuts could be made. Mr. Donohue directed the Council to the Board Secretary's ten-month report to look for accounts with available balances. However, because of the amount of money used in the fund balance, he was tentative about cutting those accounts. Councilman Warden expressed concern that a member of the Board had made a presentation to the Council for a turf field wherein that member stated that they could find \$350,000 in the budget to fund this expense. Mr. Donohue noted that the Board of Education (BOE) did not budget for that turf field. If they were to fund such a project, funding would be based on the choices made by the BOE. Councilman Weisbecker recommended that Mr. Donohue look at the other accounts for more cuts to the budget. Councilman Nolan stated that it appears that most of the cuts have already been made, the BOE submitted a budget that is under the CAP, and he is not surprised that there is not a lot to cut this year. Mr. Donohue concurred noting that the BOE anticipated \$851,879 as their surplus and their budget indicates that they intend to use those funds in this budget cycle. He expressed concern that too many additional cuts will have a negative impact. Councilman Scangarello asked for an explanation of the potential fallout and/or impact of further cuts on next year's budget. Mr. Donohue responded by advising that, if the BOE cannot regenerate their surplus to put back into the budget, there will be a negative impact. The 2% CAP allowed by the state only covers the Board's ability to pay bills and perhaps pay for unexpected expenses. The Council thanked Mr. Donohue. They instructed him to revisit the budget for additional cuts and requested his presence at the upcoming joint meeting with the BOE.

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 Moore, 192 Westbrook Road, West Milford stated that signs do not vote. During every election cycle, the Township is inundated with political signs which are an eyesore. He requested that the Council consider adopting an ordinance prohibiting such signs noting that such action would be a positive direction for West Milford. He stated that West Milford voters are sophisticated and do not need signs.

Martin O'Shea, 10 Lakeshore Road East, Stockholm stated that the BOE members constantly complain that 80% of their budget goes to salary and wages so that they cannot really impact their own budget. He believes that the Council will find many savings. He distributed information to the Council pertinent to the fee ordinance. He noted that the law says that fees for public records shall be the actual cost of duplicating a record and objected to the cost of compact discs, audio, and videotapes. He has conducted his own research and found that the actual cost for the discs used by the Township is \$0.95 as opposed to the \$5.00 being charged. He noted that either the Township is overpaying for this media or they are not complying with the law.

Doris Aaronson, 19 Bearfort Road, West Milford noted that the MUA has approached the Council to ask for support in requesting an extension from DEP for filing an updated wastewater management plan. This, she said, is an outrage. The MUA is proposing to submit a watered down environmental study of their plan for the next twenty years and is seeking a delay to submit this report. They are required to submit their report every six years yet they have not done so for twenty years. She stated that their argument about the Highlands master plan is bogus because before the Highlands master plan proceeds the MUA should evaluate if the environment can handle additional effluent sewerage. This would indicate the amount of development that the municipality could sustain. The MUA has proposed plans in the past wherein there would be a sewerage expansion and every home in Pinecliff Lake would be required to hook up at a significant cost to the homeowners. Additionally, the water deficit in West Milford must be evaluated. She recalled that a previous Mayor lost a re-election bid when he proposed bonding to fund MUA projects.

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Township Council Workshop
Date of Meeting: May 9, 2007
Time of Meeting: 7:30 P.M.
Minute Page No: Page 3 of 8

Frank Hannan, 83 Krattiger Court, West Milford expressed sorrow at losing Ed Spirko as a member of the Zoning Board. He stated that Mr. Spirko judged every application on its merits and he would be a good asset to the MUA if appointed.

Councilman Weisbecker moved to close the Public Comments portion of the meeting.

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

Council Comments

Councilman Nolan stated that, if Mr. O’Shea is correct, the Township might want to amend the fee ordinance. Mr. Semrau requested that this item be placed on a workshop agenda for discussion. With respect to signs, Councilman Nolan stated that it would be difficult to ban signs on private property.

Action Items

Agenda No. VIII 1

~ Resolution 2007-167 ~

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 Application on the Consent Agenda is hereby approved:

Applications:

- a. **Application** – Extension of Licensed Premises – Big John’s Pub – deck and backyard, for Monday, May 28, 2007.

Adopted: May 9, 2007

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

Agenda No. VIII 2

~ Resolution 2007-168 ~

Mr. Semrau requested that Council defer consideration of this resolution until later in the evening. He noted that he would like to discuss this matter in Executive Session before the Council votes. The Council agreed.

Payment of Bills

Agenda No. IX

~ Resolution 2007-165 ~

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
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TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of:
 Date of Meeting:
 Time of Meeting:
 Minute Page No:

Township Council Workshop
 May 9, 2007
 7:30 P.M.
 Page 4 of 8

1	Current Account	\$430,005.89
2	Reserve Account	89,959.97
3	Animal Control Trust	1,330.00
6	Capital	262,285.05
7	Grants	6,963.10
8	Refuse	107,812.98
9	Refunds	209,574.24
12	General Ledger	4,242,134.43
16	Heritage Trust	
14	Open Space Trust	
17	Trust	750.00
18	Development Escrow	1,995.98
19	LOSAP	
20	Special Reserve	
Total		\$5,352,811.64
Less Refund Resolution		-209,574.24
Actual Bill List		\$5,143,237.40
Other Payments		
Less Refund Resolution		
Total Expenditures		\$5,143,237.40

Adopted: May 9, 2007

Discussion: Mayor DiDonato noted that \$4.1 million on this bill list comprises Passaic County second quarter taxes. Additionally there is a \$91,000 Inter-government Joint Fund premium payment which is for lawsuits. New Jersey municipal employee benefits are \$232,000 and there is an \$81,000 payment to Passaic County for open space. Councilman Nolan expressed objection to Mayor DiDonato’s public comments against the Freeholders. Mayor DiDonato replied that his comments were not intended as an attack but rather to inform the taxpayers. He is a proponent of the concept that each entity that generates a tax should send out their own bills. Councilman Nolan replied that the MUA should then do likewise.

Items For Discussion

The Township Council discussed the following items:

2)	<p>Road Assessment Program – At the Administrator’s request, the Council moved this discussion item because the Engineer was present to address them on this subject. Mr. McFadden approached the podium to speak with the Council. He noted that the current program has not been funded in recent years. He reviewed the history of the program and past policies of the Township relative to road assessments. He noted that there are petitions from some areas that were filed many years ago and noted that the Council would decide if these petitions are still valid. It would be the Council’s decision as to how aggressive the program would be. At current staffing levels, his department could pave ¼ to ½ miles per year. If Council wanted to begin at that level, he suggested that a capital sum be appropriated specifically for these projects. If the Council were to hire one assistant engineer, the department could complete one mile per year. An assistant engineer and a drafting technician could equate to 2 miles per year and that would bring staffing levels back to where they were five years ago. Some of the streets in question are critical to other Township roads and to emergency vehicles. Councilman Weisbecker recalled past programs and noted that the Council should not impose on communities by creating assessments. In the past, residents had to agree to a project because they were paying the bill. He questioned how the Township can determine that a road should be taken over if the majority of residents on that road do not want the Township to take it over. Administrator Kunze noted that, on occasion it may be necessary for the Township to take over a road but that the general concept would be to start with voluntary programs. Noting that some residents may not want improvements, Councilman Weisbecker recommended establishing a committee to review these road assessments. Mr. McFadden noted that, in some cases, there are stormwater, environmental and erosion concerns on certain roads. Councilman Smolinski noted that there appears to be interest with residents in having this program reinstated. He recommended that the Council address this matter and advise the</p>
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TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Township Council Workshop
 Date of Meeting: May 9, 2007
 Time of Meeting: 7:30 P.M.
 Minute Page No: Page 5 of 8

	<p>affected residents of the assessments. The Council instructed the Township Engineer to provide them with a list of roads in the municipality that are of concern and a cost estimate of how much is spent annually maintaining these roads now. Councilman Nolan asked if this work could be contracted out. Administrator Kunze replied in the affirmative but noted that such a contract would require in-house oversight which generally equates to 15-20% of the total cost. Councilman Weisbecker stated that he will not be involved in forcing assessments on anyone. Councilman Smolinski and Councilman Nolan agreed that the Council should address the list of voluntary requests currently on file for road assessments. In response to a question from Councilman Warden, Administrator Kunze noted that the source of funding would be a policy decision. At a minimum, the Township would be funding the down payment. The Council thanked Mr. McFadden.</p>
1)	<p>Wastewater Management Plan Update – Mayor DiDonato directed the Council to a written request from the MUA for support in seeking an extension for submitting their water management plan to the DEP because neither the West Milford nor the Highlands master plans have been completed. Councilman Warden asked why there is no representation tonight from the MUA when such an important topic is being addressed. Administrator Kunze advised that he had requested that the Executive Director and the MUA Engineer attend but they advised that they could not. Noting that such behavior is bizarre, Councilman Warden stated that he will not vote to have such a letter signed. He stated that the MUA must come before Council to answer questions and cease thumbing their noses at the Council. Councilman Smolinski saw no objection to the MUA request. Noting that the submission of a management plan to the DEP is state mandated, the MUA is seeking to postpone the submission because of the cost. The DEP is seeking a plan now that will have to be revised at additional cost when the municipal and Highlands master plans are done. Councilman Warden stated that Councilman Smolinski is not clear on all the facts. He said that the MUA cannot afford to do this project and they are trying to use Council leverage to avoid and circumvent the regulations so that they can bring more development into West Milford. If the MUA cannot handle drafting the plan or funding it, the Council should consider finding an alternative to the MUA. Councilman Nolan stated that the Council has asked the MUA for cooperation on Eagle Ridge but they sided with the developer instead. The Township Attorney sent the MUA a letter at the Council's behest on April 26th and the MUA never responded. The Township does not owe the MUA anything and they need to come to a Council meeting to explain themselves. Councilman Smolinski expressed objection to that noting that the Council should focus on breaking down the barrier that now exists. Councilman Weisbecker agreed with Councilman Nolan and added that nobody would attack the MUA, the Mayor would conduct a fair meeting, and the MUA should present their case before the Council. The Council instructed the Administrator to invite the MUA Executive Director, Engineer, and Attorney to the May 17th meeting and to further request that they respond to Mr. Semrau's correspondence as soon as possible.</p>
3)	<p>Defeated School Budget – previously discussed.</p>
4)	<p>Passaic County Open Space Grant Submission – Administrator Kunze advised that this grant application is due next month. He advised that the Township plans to resubmit the Bubbling Springs application and are also seeking funding for engineering and design work at Westbrook Park. Mr. McFadden is preparing the cost estimates. The Council authorized Township staff to proceed with these applications.</p>
5)	<p>Amend Ordinance for subdivisions and Final Plats – Mr. Semrau advised that the Council had requested this. However, after reading case law he does not believe that this amendment is necessary. The courts have already ruled that these applications do expire. He will notify the Planning Board that the ordinance calls for expiration of preliminary approvals.</p>
6)	<p>Historic Property Reinvestment Act – Administrator Kunze advised that the Historic Preservation Commission (HPC) is seeking Council support for this proposed legislation which would provide a tax credit to those who restore historic properties. The tax credit would be available to both residential and commercial property owners. Mayor DiDonato noted that the legislation provides incentives but does not require property owners to do anything. The Council gave consent to have a supporting resolution before them at the next meeting.</p>
7)	<p>Renewal of Garden State Preservation Trust Fund – Councilman Smolinski advised that he supports the proposed resolution expressing support for this trust fund. Additionally, he would like to insert a caveat that would provide for a water tax for host communities that supply water. Councilman Nolan questioned if inserting such language would be effective or if the Council should adopt a separate resolution for the water tax. Mayor DiDonato opined that the Council can say that West Milford has always supported the Garden State Preservation Trust Fund and wants it expanded to include a water tax. Councilman Nolan asked that the Republicans on Council seek support from Assemblymen DeCroce and Pennachio for this resolution to which Councilman Smolinski replied that he will call them.</p>
8)	<p>Planning Department Study – Administrator Kunze noted that the Council had indicated</p>

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Township Council Workshop
 Date of Meeting: May 9, 2007
 Time of Meeting: 7:30 P.M.
 Minute Page No: Page 6 of 8

	that they wish to form a committee to review staffing issues in the Planning department. Councilman Weisbecker stated that he would like to participate in this committee. Councilmen Nolan and Smolinski agreed to serve on the committee also. Administrator Kunze agreed to reach out to each Councilperson to schedule a meeting. In response to Councilman Weisbecker, the Council agreed to limit input to the Council at this time.
9)	Radio Communications Project – Administrator Kunze advised that he received phase II of the report at about 6:30 p.m. this evening. He has not reviewed the report as yet. However, it will need budget adjustments and he will provide information to the Council before the budget hearing.
10)	Ridge Road Bid – Administrator Kunze advised that seven bids were received and Tomaro was the lowest bidder. Thus, he and the Engineer are recommending award of the contract to Tomaro. The Council gave consent to proceed.
11)	Payments Outside the Bill List – Administrator Kunze advised that the Council adopts an annual resolution at the reorganization meeting to allow standard payments outside the bill list. That resolution needs to be amended to allow the Township to pay the Bubbling Spring taxes. The Council gave consent to proceed.
12)	Appointments – Councilman Warden nominated Ed Spirko to serve as an alternate on the MUA, seconded by Councilman Nolan. Councilman Smolinski nominated Mr. Spirko to serve as a regular member of the MUA and was seconded by Councilman Scangarello. Councilmen Nolan and Warden withdrew their previous nomination. Unanimous roll call vote to close and confirm. The Clerk was instructed to prepare an appointing resolution for the next meeting. Mayor DiDonato further instructed the Clerk to prepare an appointing resolution for his appointment of Frank Curcio to an alternate position on the Zoning Board.

Reports

Administrator Kunze reported that the Audubon Society does not wish to assume control of the Wallisch property because of the maintenance associated with the buildings. He will relay this information to the BOE. He advised that the 2007/2008-grant application for NJ Transit is due on May 30th and directed the Council to the report prepared by the Recreation Director. He asked the Council to call either himself or Ms. Palermo with any questions.

Councilman Weisbecker reminded everyone that we are approaching fire season. It is very dry outside and he asked the media to remind people to be careful. He noted that some New Jersey municipalities are considering ordinances which would control and oversee massage parlors. These municipalities are becoming proactive and legislating that all masseuses become certified. He asked for Council consideration of adopting an ordinance requiring local licensing and regular health inspections of massage parlors in West Milford. Mr. Semrau advised that similar legislation has been struck down in the courts because the state is currently in the process of developing a licensing process. Councilman Schimmenti noted that massage therapists in New Jersey are already required to be certified.

Councilman Nolan stated that, in the minutes of the April 11th senior advisory committee, it was noted that the Chair, Doris Osterhoudt, stated that Mr. Gervens will be serving after the November elections.

Councilman Warden thanked Mayor DiDonato and Councilmen Smolinski and Nolan for being at the Highlands rally. He advised that he, Councilman Schimmenti, Administrator Kunze and the Recreation Director Renee Palermo met about the Jungle Habitat concert. The subject is progressing. He thanked the Council for appointing Mr. Spirko to the MUA. He asked Mr. Semrau if he had researched if the Council has the authority to conduct an investigation into the MUA to which the Township Attorney answered in the affirmative. Councilman Warden urged the Council to avail of that authority and investigate why the Government Records Council (GRC) has to go to Superior Court to obtain public records from the MUA. By not releasing public records, he stated, the MUA is not serving this community. Councilman Warden asked Mr. Semrau to contact the MUA attorney to have him shed some light on this matter.

Councilman Scangarello noted that the Township received a letter from the NJ DOT in reference to Warwick Turnpike and Lakeshore Drive. He advised that the Memorial Day parade is scheduled for Sunday May 28th.

Township Attorney Fred Semrau advised that he has submitted the Valley Ridge brief to the appellate division. He will send letters to residents in the Eagle Ridge area to advise them of the information session to be held on May 23rd at Town Hall. He asked Council to defer discussion of SOS tonight and advised that he wishes to discuss Valley Ridge, Eagle Ridge and tax appeals in executive session. The Council may take action on the tax appeal resolution when they return from executive session.

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Township Council Workshop
Date of Meeting: May 9, 2007
Time of Meeting: 7:30 P.M.
Minute Page No: Page 7 of 8

MOTION FOR EXECUTIVE SESSION

BE IT RESOLVED by the Township Council of the Township of West Milford on the 9th day of **May**, 2007, that:

1. Prior to the conclusion of this **Workshop Meeting**, the Township Council shall meet in Executive Session, from which the public shall be excluded, to discuss matters as permitted pursuant to N.J.S.A. 10:4-12, sub-section (s):
 - () b. (1) Confidential or excluded matters, by express provision of Federal law or State statute or rule of court.
 - () b. (2) A matter in which the release of information would impair a right to receive funds from the Government of the United States.
 - () b. (3) Material the disclosure of which constitutes an unwarranted invasion of individual privacy.
 - () b. (4) A collective bargaining agreement including negotiations.
 - () b. (5) Purchase, lease or acquisition of real property, setting of banking rates or investment of public funds, where it could adversely affect the public interest if disclosed.
 - () b. (6) Tactics and techniques utilized in protecting the safety and property of the public, if disclosure could impair such protection. Investigation of violations of the law.
 - (X) b. (7) Pending or anticipated litigation or contract negotiations other than in subsection b. (4) herein or matters falling within the attorney-client privilege.
 - West Milford v. TCR NJ/PA Land Acquisition, LP - Valley Ridge - Docket No. PAS-L-1429-06
 - K. Hovnanian v. West Milford - Eagle Ridge - Docket No. A-6031-04T3
 - Tax Appeals
 - () b. (8) Personnel matters.
 - () b. (9) Deliberations after a public hearing that may result in penalties.
2. The time when the matter(s) discussed pursuant to Paragraph 1 hereof can be disclosed to the public is as soon as practicable after final resolution of the aforesaid matter(s).

Adopted: May 9, 2007

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

The Council went into Executive Session 10:38 p.m.

The Council reconvened in public session at 11:02 p.m. with all present as before.

Agenda No. VIII 2

~ Resolution 2007-167 ~

A RESOLUTION OF THE MAYOR AND TOWNSHIP COUNCIL OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE MUNICIPAL TAX ASSESSOR AND TOWNSHIP ATTORNEY TO SETTLE COUNTY TAX BOARD PETITIONS OF APPEAL

WHEREAS, approximately 325 County Tax Board Petitions of Appeal have been filed against the Township of West Milford; and

WHEREAS, a majority of these Petitions, approximately 300, pertain to Bald Eagle Commons wherein in 2005 the County Tax Board denied the Assessor's request to reduce the values with respect to units in the said development; and

WHEREAS, said denial by the County Tax Board has prompted a number of individual Petitions of Appeal; and

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Township Council Workshop
Date of Meeting: May 9, 2007
Time of Meeting: 7:30 P.M.
Minute Page No: Page 8 of 8

WHEREAS, the Tax Assessor has reviewed each one of these appeals and recommends that consistent with his application to the Board in 2005, that the aforesaid assessments for this development be reduced; and

WHEREAS, the Mayor and Township Council have met and discussed these appeals in Executive Session; and

WHEREAS, the remaining 20 Petitions of Appeal will either be dismissed, adjudicated or resolved by way of a recommendation by the Tax Assessor.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Township Council of the Township of West Milford, County of Passaic and State of New Jersey that the Tax Assessor and Township Attorney are hereby authorized to execute Stipulations of Settlements in connection with the Petitions of Appeal filed with the Passaic County Board of Taxation for the 2007 year.

BE IT FURTHER RESOLVED will only be executed based upon the professional recommendation of the Tax Assessor.

Adopted: May 9, 2007

Moved: Weisbecker Seconded: Smolinski
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 11:06 p.m.

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

Approved: June 27, 2007

MAYOR JOSEPH DiDONATO
PRESIDING OFFICER

ANTOINETTE BATTAGLIA
TOWNSHIP CLERK