

# **Township of West Milford**

Passaic County, New Jersey

## **~ Resolution 2025 – 225 ~**

### **RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY CREATING AND IMPLEMENTING A LONG-RANGE PLAN TO ADDRESS DRAINAGE ISSUES**

**WHEREAS**, The Governing Body declares that it is in the best interests of the community to address drainage problems in a comprehensive and orderly fashion that aligns with N.J.S.A 59:1.1, et seq., and

**WHEREAS**, New Jersey Statute Section 59:1-1, et seq., provides limitations on liability for public entities for conditions of public property where the public entity exercises appropriate discretion in the allocation of funds of public improvements. The limitation of liability is commonly known as “scarce resource immunity,” and

**WHEREAS**, The Legislature in N.J.S.A. 59: 1-2 quoted Chief Justice Joseph Weintraub by declaring that: “The Legislature recognizes the inherently unfair and inequitable results which occur in the strict application of traditional doctrine of sovereign immunity. On the other hand, the Legislature recognizes that while a private entrepreneur may readily be held liable for negligence within the chosen ambit of his activity, the area within which government has the power to act for the public good is almost without limit and therefore government should not have the duty to do everything that might be done; and

**WHEREAS**, N.J.S.A. 59:2-3 (c) provides: “A public entity is not liable for the exercise of discretion in determining whether to seek or whether to provide the resources necessary for the purchase of equipment, the construction or maintenance of facilities, the hiring of personnel, and in general, the provision of adequate services;” and

**WHEREAS**, NJSA 59:2-3 (d) provides: “A public entity is not liable for the exercise of discretion when, in the fact of competing demands, it determines whether or not to utilize or apply existing resources, including those allocated for equipment, facilities and personnel unless a court concludes that the determination of the public entity was palpably unreasonable;” and

**WHEREAS**, this resolution is narrowly limited to outlining the application of scarce resources for the purpose of addressing the overall health, safety, and welfare of the general community; and

**WHEREAS**, The Governing Body hereby determines that the appropriate way to continue to address this wide-ranging community wide issue is as follows.

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

1. The Municipal Administrator shall direct that the Engineer to prepare a Watershed Assessment by developing an electronic infrastructure map that delineates the location of the stormwater features that are owned or operated by the municipality including easements and features owned by others in the community.

2. The Municipal Administrator shall direct that the Engineer to prepare a Watershed Improvement Plan Report including: a summary of proposed flood prevention improvement projects, both public and private; the proposed implementation schedule; costs, broken down by project and year and funding opportunities.

3. Each year, as part of the annual budget process, the Municipal Administrator may include in the long-term capital plan sufficient funds to implement this Watershed Improvement Plan over a reasonable period considering other demands on municipal scarce resources.

4. Each year, as part of the annual budget process, the Administrator may include current year operating budget and capital budget sufficient funds to implement this Watershed Improvement Plan over a reasonable period considering other demands on municipal scarce resources.

5. Each year, if limited resources require allocation as part of the annual process, the Administrator may identify the work that can be completed and the work that cannot be completed or addressed.

6. Failure to appropriate funds or failure to spend an appropriation shall be deemed as exercise of governmental discretion in the face of competing demands.

7. Every two years, the Municipal Administrator may direct that the Engineer to update the Watershed Assessment and the Watershed Improvement Plan as appropriate.

Adopted: May 21, 2025

Adopted this 21<sup>st</sup> day of May, 2025  
and certified as a true copy of an original

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William Senande, Township Clerk