
TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Workshop Meeting
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Agenda No. VI

Presentations

2021 Municipal Budget (Capital and Debt) – Ellen Mageean, CFO presented the Debt Management Plan. Administrator Senande presented the Capital Budget. He noted that there is a total of 33 requests made from Directors/Department Heads. He provided an explanation on what is being funded, partially funded and not funded. The Council gave consensus to move forward with the capital ordinance.

Agenda No. VII

Executive Session

None

Agenda No. VIII

Discussion Items

Animal Protection League – No Discussion

Agenda No. IX

Unfinished Business, Final Passage of Ordinances

Agenda No. IX 1

~ Ordinance 2021 – 001 ~

ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AMENDING THE TOWNSHIP CODE CHAPTER 500 ENTITLED “ZONING” OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WEST MILFORD TO REVISE THE 1938 UNION VALLEY ROAD REDEVELOPMENT ZONE

WHEREAS, on November 6, 2019, the Township Council of the Township of West Milford adopted Resolution # 2019-339 authorizing and directing the Planning Board to conduct a preliminary investigation to determine whether the property identified as Block 6701, Lot 10 meets the criteria set forth in the Redevelopment Law and should be designated as a Non-Condemnation Redevelopment Area, as that term is defined by the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.* (“LRHL”), and

WHEREAS, in order to accomplish this task, the Planning Board retained J. Caldwell & Associates, LLC to undertake an investigation and prepare a report for the Planning Board’s review, preliminary to the public hearing to be held on the matter, all of which were designed to inform the Planning Board’s subsequent recommendation to the Township Council, and

WHEREAS, J. Caldwell & Associates, LLC produced a report, dated February 7, 2020, which provided detailed information regarding the Study Area and the applicable statutory criteria required to be evaluated, based on which information the Report concluded that the Study Area, in fact, affirms the LRHL criteria to enable the Board to recommend to the Township Council that an Area in Need of Redevelopment without Condemnation designation is warranted; and

WHEREAS, the Board held its public hearing on February 27, 2020, at which the Board accorded to all members of the public the opportunity to offer their comments respecting the Study Area, which comments were made part of the public record; and

WHEREAS, by Resolution adopted February 27, 2020, the Board recommended to the Township Council in accordance with the LRHL that the Study Area be determined as meeting the criteria under the LRHL as an area in need of redevelopment without condemnation; and

WHEREAS, the Township Council received the resolution of the Board and the recommendations contained therein at a regularly scheduled meeting held on March 4, 2020; and

WHEREAS, the Township Council reviewed the Caldwell Report and the Board’s recommendation and found that the LRHL criteria for determination of an area in need of redevelopment are indeed affirmed by the Study Area; and

WHEREAS, the Township Council, via Resolution No. 2020-136, dated March 4, 2020, determined the Study Area to be an area in need of redevelopment without condemnation and directed J. Caldwell & Associates, LLC, to prepare a redevelopment plan, and

WHEREAS, J. Caldwell & Associates, LLC prepared a redevelopment plan for the area in need titled “Redevelopment Plan 1938 Union Valley Road Block 6701, Lot 10” (the “Redevelopment Plan”), dated April 16, 2020, and, after review of the Redevelopment Plan at a public meeting held on April 22, 2020, the Mayor and Township Council desires to approve the adoption of the Redevelopment Plan; and

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WHEREAS, the Township Council approved the Ordinance that was prepared to implement the Redevelopment Plan by adopting Ordinance 2020-009 on May 20, 2020; and

WHEREAS, the Township Planner submitted the Area in Need of Redevelopment Study and the Redevelopment Plan for grant funding approval, which were reviewed and funding approved, contingent upon several changes being made to the Redevelopment Plan; and

WHEREAS, the Township Council has reviewed the requested changes and desires to approve same by amending Ordinance 2020-009.

THEREFORE, BE IT ORDAINED by the Township Council of the Township of West Milford, County of Passaic, State of New Jersey, that the revisions to the Redevelopment Plan are hereby adopted and that the following amendments and revisions are made to the Revised General Ordinances of the Township of West Milford, Chapter 500 entitled "Zoning".

SECTION 1. Chapter 500 Zoning shall be amended to read as follows related to the 1938 Union Valley Road Redevelopment Zone

Permitted Uses

The Township will seek a Redeveloper, or Redevelopers for all portions of the site based on developer interest and ability to develop in the 1938 Union Valley Road Redevelopment Zone. The Redeveloper will acquire, or work with the Township to acquire, all or portions of the Redevelopment Area in order to redevelop the 1938 Union Valley Road Redevelopment Zone according to the following land use regulations.

The following uses are permitted in the 1938 Union Valley Road Redevelopment Zone. Uses not identified below are prohibited. Multiple principal uses and buildings are permitted.

A. Principal Permitted Uses:

Block 6701, Lot 10: Community Commercial (CC)

- (1) Retail sale of goods and services;
- (2) Restaurants excluding drive-in, bars, or taverns as individual uses;
- (3) Professional offices;
- (4) Banks and financial institutions excluding drive-in;
- (5) Child-care centers;
- (6) Major food stores or department stores; and
- (7) Hotels and motels.

B. Conditional Uses:

Block 6701, Lot 10: Community Commercial (CC)

- (1) Service stations outside of Highlands Tier 1 and 2 Wellhead Protection Areas:
 - a. Subject to Section 500-97 and approval of an Operations and Contingency Plan;
- (2) Essential Services (Section 500-96)
- (3) Drive-in restaurants (Section 500-100);
- (4) Drive-in banks (Section 500-101).

C. Accessory Uses:

Block 6701, Lot 10: Community Commercial (CC)

- (1) Off-street parking;
- (2) Signs;
- (3) Garages, storage buildings, and toolsheds;
- (4) Temporary construction trailers and one (1) sign not exceeding one-hundred (100) square feet, advertising the prime contractor, subcontractor, architect, financing institution and similar data for the period of construction, beginning with the issuance of a construction permit and concluding with the issuance of a certificate of occupancy for one year, whichever is less, provided the trailer and sign are on the site where construction is taking place and are set back at least fifteen (15) feet from all street and lot lines;
- (5) Fences and walls (See Section 500-68.).

All other sections of Ordinance 2020-009 remain unchanged.

SECTION 2. The Redevelopment Plan, a copy of which is annexed hereto and made a part of this Ordinance, is adopted in accordance with N.J.S.A. 40A:12A-7 of the Local Redevelopment and Housing Law.

SECTION 3. All ordinances or parts of 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.

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SECTION 4. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to such section, paragraph, subdivision, clause or provision and the remainder of this Ordinance shall be deemed valid and effective.

SECTION 5. This Ordinance shall take effect upon (i) filing with the Passaic County Planning Board in accordance with the Municipal Land Use Law; and (ii) adoption and publication in the manner required by New Jersey law.

Introduced: January 6, 2021
Adopted: February 3, 2021
Effective Date: February 23, 2021

This Ordinance was introduced on January 6, 2021 and the Notice of Public Hearing was published in the Herald News on January 11, 2021. The Governing Body will open the meeting to the public to speak on this Ordinance only.

There being no one wishing to be heard, Councilwoman Erik made a motion, seconded by Councilman Gross and carried by unanimous voice vote to close the public comment period.

Motion to adopt Ordinance 2021-001

Moved: Erik Seconded: Gross
Voted Aye: Erik, Chazukow, Lichtenberg, Goodsir, Gross, Marsden
Voted Nay: None
Motion carried:

Agenda No. IX 2

~ Ordinance 2021 – 002 ~

ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AMENDING §500-90 B.(3) OF THE TOWNSHIP CODE TO ALLOW THE KEEPING OF POULTRY ON LESS THAN ONE ACRE OF LOT AREA - AMENDED

BE IT ORDAINED by the Township Council of the Township of West Milford, County of Passaic, State of New Jersey that Section §500-90 B. (3) of the Township code be and is hereby amended, as follows:

One acre for the keeping of poultry and fowl, except as provided in Subsection B(5) of this section except that there shall be allowed a maximum amount of twelve (12) chicken hens allowed on lots of less than one acre so long as the lot conforms to the minimum lot size within the zoning district. No more than 32 animals shall be kept per acre of lot area.

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

Introduced: January 6, 2021
Adopted: February 3, 2021
Effective Date: February 23, 2021

This Ordinance was introduced on January 6, 2021 and the Notice of Public Hearing was published in the Herald News on January 11, 2021. The Governing Body will open the meeting to the public to speak on this Ordinance only.

There being no one wishing to be heard, Councilwoman Erik made a motion, seconded by Councilman Gross and carried by unanimous voice vote to close the public comment period.

Motion to adopt Ordinance 2021-002

Moved: Erik Seconded: Gross
Voted Aye: Erik, Chazukow, Lichtenberg, Goodsir, Gross, Marsden
Voted Nay: None
Motion carried:

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Agenda No. IX 3

~ Ordinance 2021 – 003 ~

ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AMENDING CHAPTER 135 “FEES AND COSTS” OF THE REVISED GENERAL ORDINANCES AMENDED

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

SECTION 1. Chapter 135 “Fees and Costs”, §135-17. Fire Prevention fees are amended and effective January 1, 2021 as follows:

The Fire Department is authorized to charge the following fees.

§ 135-17 Fire prevention.

A. A permit shall be obtained from the Fire Official to use, install, conduct processes or carry on operations involving or creating conditions deemed hazardous to life or property as per a list of operations listed in the Uniform Fire Code. The permit fees shall be as specified in the Uniform Fire Code, which shall be amended as follows:

- (1) Hot tar roofing permit: \$50 per job
- (2) Type 1 permits: \$55

B. Application for a certificate of smoke detector, carbon monoxide fire extinguisher and house number compliance inspection fee as required by N.J.A.C. 5:70-2.3:

When Certificate of Compliance Required (number of business days prior to closing)	
More than 10	\$55
5 to 10	\$100
4 days or less	\$165
Re-inspection	\$50

C. Annual non-life-hazard inspection fees. In addition to the registration fees required pursuant to the Uniform Fire Code, the following additional annual fees shall be required for annual inspections, except that the fees established pursuant to this section shall not be assessed against life hazard uses. The following fees shall also apply to all vacant buildings:

Occupancy (square feet)	Fee
Up to 999	\$50
1,000 to 4,999	\$75
5,000 to 9,999	\$140
10,000 to 14,999	\$265
15,000 and over	\$365

D. Violation of fire lane: \$60.

E. Any form of haunted amusements (shall include hay mazes, haunted structures, etc.): \$80.

F. Illegal burning: not to exceed \$1,000 per offense.

SECTION 2. 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.

SECTION 3. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

SECTION 4. This Ordinance shall take effect January 1, 2021 immediately upon final passage, approval, and publication as required by law.

SECTION 5. This Ordinance may be renumbered for codification purposes.

Introduced: January 6, 2021
Adopted: February 3, 2021
Effective Date: February 23, 2021

This Ordinance was introduced on January 6, 2021 and the Notice of Public Hearing was published in the Herald News on January 11, 2021. The Governing Body will open the meeting to the public to speak on this Ordinance only.

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There being no one wishing to be heard, Councilwoman Erik made a motion, seconded by Councilman Marsden and carried by unanimous voice vote to close the public comment period.

Motion to adopt Ordinance 2021-003

Moved: Erik Seconded: Marsden
 Voted Aye: Erik, Chazukow, Lichtenberg, Goodsir, Gross, Marsden
 Voted Nay: None
 Motion carried:

Agenda No. IX 4

~ Ordinance 2021 – 004 ~

ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY CONCERNING SALARIES AND COMPENSATION FOR ADMINISTRATIVE, CONFIDENTIAL AND UNAFFILIATED EMPLOYEES

BE IT ORDAINED, by the Township Council of the Township of West Milford, in the County of Passaic, New Jersey that pursuant to Chapter 33 entitled Personnel of the Revised General Ordinances of the Township of West Milford, New Jersey, 1976, the following Officers and Employees here below stated shall be classified by job title with the corresponding pay ranges:

MAYOR AND COUNCIL

JOB TITLE	MINIMUM	MAXIMUM
Township Mayor	\$5,348.00	\$16,000.00
Township Council	\$4,754.00	\$5,070.99

DEPARTMENT AND OFFICE HEADS

JOB TITLE	MINIMUM	MAXIMUM
Township Administrator	\$45,000.00	\$160,000.00
Director of Community Services and Recreation	\$45,000.00	\$140,000.00
Director of Finance	\$45,000.00	\$140,000.00
Director of Public Safety/Chief of Police	\$45,000.00	\$170,000.00
Director of Public Works	\$45,000.00	\$140,000.00
Court Administrator	\$45,000.00	\$140,000.00
Township Clerk	\$10,000.00	\$140,000.00
Director of Health/Health Officer	\$10,000.00	\$140,000.00
Construction Official	\$45,000.00	\$140,000.00

DIVISION HEADS

JOB TITLE	MINIMUM	MAXIMUM
Fire Marshall	\$45,000.00	\$65,000.00
Network Administrator	\$35,000.00	\$110,000.00
Tax Assessor	\$50,000.00	\$140,000.00
Tax Collector	\$50,000.00	\$95,000.00

CONFIDENTIAL AND UNAFFILIATED EMPLOYEES

JOB TITLE	MINIMUM	MAXIMUM
Judge	\$25,000.00	\$55,500.00
Prosecutor	\$20,000.00	\$44,000.00
Data Processing Technican	\$35,000.00	\$65,000.00

STIPENDS

JOB TITLE	MINIMUM	MAXIMUM
Deputy Registrar	\$3,000.00	\$6,000.00
Alternate Deputy Registrar	\$1,000.00	\$3,000.00
Emergency Management Coordinator	\$2,000.00	\$10,000.00
Deputy Emergency Management Coordinator	\$3,000.00	\$3,000.00
Fire Commissioner	\$3,000.00	\$6,500.00

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Deputy Fire Commissioner	\$1,500.00	\$5,000.00
Qualified Purchasing Agent (QPA)	\$5,000.00	\$5,000.00
Telecommunications Systems Analyst	\$2,500.00	\$5,500.00
Veteran Officer	\$500.00	\$1,500.00

1. The aforesaid Officers and Employees shall be compensated in accordance with the preceding Salary Range.
2. **BENEFITS:** Benefits relating to vacation, sick days, personal days, longevity, holidays, bereavement leave and medical insurance shall be those as contained in the contract between the West Milford Municipal Employees Guild (AFSCME 3301) and the Township of West Milford or any employment agreement consistent with applicable law.
3. **OVERTIME:** If not otherwise eligible for overtime compensation by contract or law, each full-time department and division head in lieu of overtime compensation as provided in the Guild contract, shall receive three (3) vacation days and up to 35 compensatory hours annually, the latter earned hour for hour for hours worked above forty per week. All other full-time employees listed in this ordinance if not otherwise eligible for overtime compensation by contract or law, shall receive 21 compensatory hours annually, plus one half hour for each hour worked above thirty-five or forty hours per week depending on the applicable contract for the employee's department. Vacation and compensatory time may be used or accumulated as follows: vacation days may be carried for up to one year from January 1 following the year earned, and compensatory hours may be taken no later than April 1 of the year following the year earned.
4. Stipend Positions will not be subject to increases unless specifically authorized by Resolution of the Governing Body.
5. Any ordinance or parts thereof in conflict or inconsistent with the provisions of this ordinance are hereby repealed to such extent as they are in conflict or inconsistent. This ordinance shall take effect 20 days after its final passage by the Township Council.

Introduced: January 6, 2021
Adopted: February 3, 2021
Effective Date: February 23, 2021

This Ordinance was introduced on January 6, 2021 and the Notice of Public Hearing was published in the Herald News on January 11, 2021. The Governing Body will open the meeting to the public to speak on this Ordinance only.

There being no one wishing to be heard, Councilwoman Erik made a motion, seconded by Councilman Gross and carried by unanimous voice vote to close the public comment period.

Motion to adopt Ordinance 2021-004

Moved: Erik Seconded: Gross
Voted Aye: Erik, Chazukow, Lichtenberg, Goodsir, Gross, Marsden
Voted Nay: None
Motion carried:

Agenda No. X

Public Comments

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

Renee Alessio, 39 Hillcrest Drive – Said she is on the board of Sustainable West Milford and the board only comes before the Council when they are concerned about an environmental issue. She expressed her thoughts and concerns about the Tennessee Gas Pipeline project.

Anne Thornton, 1064 Union Valley Road – Asked the Council to reject the Tennessee Gas Pipeline project. She spoke about her concerns.

John Harrison, 152 Lincoln Ave – Noted that he is a board member of Sustainable West Milford. He spoke about his concerns regarding the Tennessee Gas Pipeline proposed compressor station. He expressed that there has been a terrible history of chemicals in the groundwater in Passaic County.

Luke Slott, 10 Ponderosa Place – Mentioned that he is the Executive Director of Sustainable West Milford. He spoke about the proposed Tennessee Gas Pipeline compressor station and the harmful effect it will have on air quality. He provided facts on the Highlands Region.

Karl Stehle, 23 Gifford Road – Has been a proud member of Sustainable West Milford since its inception. He spoke about his thoughts and concerns regarding the Tennessee Gas Pipeline project.

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Robin Rose Bennett, 41 Terra Cotta Road – Expressed that Sustainable West Milford is asking for the Council's support in recognizing that the proposed compressor station must not be allowed to go forward.

Norma Stehle, 23 Gifford Road – Noted that she is a board member of Sustainable West Milford. She addressed the new Compressor 327 station as it relates to The Highlands Preservation Act and C1 streams flowing into reservoirs.

Matt Smith, New Jersey Director, Food and Water Watch – Expressed his concerns on the Tennessee Gas Pipeline. He noted they recognize that the Township Council can't stop the project on their own. This is largely a State and Federal permitted project. He looks forward to working together to protect the health and welfare of West Milford.

There being no more comments from the public, Councilwoman Erik moved to close the public portion of the meeting.

Moved: Erik Seconded: Gross
Voted Aye: Unanimous voice vote
Voted Nay: None
Motion carried.

Agenda No. XI

Council Comments

Councilman Chazukow – Said the Township should confirm that the code Mrs. Stehle mentioned in her statement is relevant and compliant.

Mr. Semrau – Explained that the Township does not have jurisdiction or decision making authority on the Tennessee Gas Pipeline project. The Township can certainly pass along the residents' concerns.

Councilman Marsden – Expressed that the Council should request an integrity check of the pipe. They should also address the residents' concerns and get them noted so if there are any repercussions in the future it is up to the State to address them.

Agenda No. XII

New Business, Introduction of Ordinance, Resolutions

Agenda No. XII 1

~ Ordinance 2021 – 010 ~

ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WEST MILFORD AND AMENDING CHAPTER 332 "STREETS AND SIDEWALKS" SECTION §332-3 (C)

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

WHEREAS, an omission of certain language to Chapter 332-3 paragraph (C) Right-of-way entry permit application requirements was inadvertently missed that should be deleted. The following amendment is hereby made:

SECTION 1. Chapter 332 "Streets and Sidewalks" is amended to read as follows:

§332-3 Right-of-Way Entry Permit application requirements.

- C. All applications for permits shall be accompanied with a public liability insurance policy or a certificate of insurance with statutory Workmen Compensation, contractor's liability of \$1,000,000 and Automobile Liability of \$1,000,000 liability policy to be issued by an insurance company authorized to do business in New Jersey, indemnifying and protecting the Township from all liability by reason of property damage or personal injuries or death which may result or may be claimed to result as a result of any accident occurring at the point of the opening. If work is to be performed by an independent contractor, other than by the applicant, then such certificate of insurance shall be required of the independent contractor.

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

Introduced: February 3, 2021
Adopted:
Effective Date:

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Second reading and public hearing for this Ordinance is set for the Workshop Meeting of the Township Council scheduled for March 3, 2021. Notice of this public hearing shall be published in the Herald News on or about February 9, 2021.

Moved: Erik Seconded: Marsden
Voted Aye: Erik, Chazukow, Lichtenberg, Goodsir, Gross, Marsden
Voted Nay: None
Motion carried:

Agenda No. XII 2

~ Ordinance 2021 – 011 ~

TOWNSHIP OF WEST MILFORD CALENDAR YEAR 2021 ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A: 4-45.14)

WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2.5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the Township Council of the Township of West Milford in the County of Passaic finds it advisable and necessary to increase its CY 2021 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the Township Council hereby determines that a 1.0% increase in the budget for said year, amounting to \$267,264.81 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

WHEREAS the Township Council hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the Township Council of the Township of West Milford, in the County of Passaic, a majority of the full authorized membership of this Governing Body affirmatively concurring, that, in the CY 2021 budget year, the final appropriations of the Township of West Milford shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.50%, amounting to \$935,426.86, and that the CY 2021 municipal budget for the Township of West Milford be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

Introduced: February 3, 2021
Adopted:
Effective Date:

Second reading and public hearing for this Ordinance is set for the Workshop Meeting of the Township Council scheduled for March 3, 2021. Notice of this public hearing shall be published in the Herald News on or about February 9, 2021.

Moved: Erik Seconded: Gross
Voted Aye: Erik, Chazukow, Lichtenberg, Goodsir, Gross, Marsden
Voted Nay: None
Motion carried:

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Agenda No. XII 3

~ Ordinance 2021 – 012 ~

ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AMENDING CHAPTER 460 “SOIL REMOVAL AND SOIL FILL” OF THE CODE OF THE TOWNSHIP OF WEST MILFORD

WHEREAS, the Township Code currently contains requirements and restriction regarding removal of soil and use of fill soil; and

WHEREAS, a review of the Township Code demonstrates that there are currently several issues that are not addressed by the provisions of the Code; and

WHEREAS, the Township Council has determined that it is necessary to amend the Code to address all aspects of the process of removing soil and importing fill soil; and

NOW THEREFORE BE IT ORDAINED, by the Township Council of the Township of West Milford, Passaic County, New Jersey, that Chapter 460 “Soil Removal and Soil Fill” shall be amended to read as follows:

SECTION 1. Chapter 460 Soil Removal and Soil Fill

§ 460-1 Purpose and findings.

The Township Council finds that the unregulated and uncontrolled excavation, removal, placement and movement of soil and other mineral deposits can result in conditions detrimental to the public safety, health and general welfare. Such conditions substantially hamper and deter the efforts of the Township to effectuate the general purposes of municipal planning. Soil removal, movement operations, and filling operations should relate to the overall physical development of the area within which the operation is located. It is essential that all soil removal, movement operations and filling operations be reviewed and approved by the Township Planning Board. All soil removal, movement operations, and filling operations must be conceived and operated in such a way that there will be no appreciable harmful effects to the environment. In order to best ensure that all soil removal, movement operations, and filling operations are an asset to the Township of West Milford, rather than a liability, all such operations shall adhere to the conditions, restrictions and provisions outlined in this chapter.

§ 460-2 Definitions.

The words defined in this section shall mean and include the following when used in this Section:

APPROVED PLAN – A plan for the placement of soil fill approved by the Township Engineer (minor permit) or by the Township Planning Board (major permit) pursuant to the provisions of this Chapter.

MAJOR SOIL FILL PERMIT – A permit for the fill of more than 500 cubic yards of soil.

MINOR SOIL FILL PERMIT – A permit for the fill of more than 100 cubic yards of soil but less than 500 cubic yards of soil.

PERMIT – A soil fill permit.

PERSON – Includes an individual, a partnership, a corporation or any other legal entity.

PLANNING BOARD – The Planning Board of the Township of West Milford.

SOIL – Includes dirt, stone, gravel, sand, humus, clay, loam and mixtures of any of these, but this shall not include quarry process or rock products utilized in the construction of roads, driveways or similar types of construction.

TOPSOIL – The arable soil within eight (8) inches of the surface.

TOWNSHIP – The Township of West Milford.

§ 460-3 Permit required.

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No person shall excavate, scrape, dig, quarry, fill or otherwise disturb the soil on any premises in the Township of West Milford for use on the premises from which it shall be taken or placed; nor shall any person remove or cause the removal of any soil from any premises in the Township of West Milford for use on other premises or fill or cause the placement of any soil on any premises in the Township of West Milford whether such removal or fill be for sale, gift or otherwise, unless a permit therefor is first secured from the Township Planning Board as hereinafter provided. A permit shall not be required for the removal, fill or moving of less than 100 cubic yards of soil.

§ 460-4 Exceptions and exemptions.

- A. The provisions of this chapter shall not apply to excavations for building foundations, septic tanks or sanitary installations, provided that no excavation or construction of any kind shall take place until a site plan or permit has been approved by the Construction Official and/or Department of Health as required by law.
- B. Nothing in this chapter shall be construed to affect or apply to any person engaged in the moving of soil in and upon lands enrolled in the Soil Conservation Program of the Hudson, Essex and Passaic Soil Conservation District of the United States, Department of Agriculture Soil Conservation Service and for which lands an approved farm plan has been established by said agency, provided that all soil moving and removal operations and fill operations in and upon such lands are performed in accordance with said approved farm plan and provided further that a copy of said approved farm plan is placed on file with the Township Engineer prior to any soil moving, removal operations or fill operations.
- C. A separate soil permit under this chapter shall not be required for subdivisions and/or site plans approved pursuant to Chapter **470**, Subdivision of Land and Site Plan Review, of the Land Development Ordinance:
 - (1) By the Planning Board;
 - (2) By the Board of Adjustment;
 - (3) By the Township Engineer; or
 - (4) Administrative review and approval.
- D. Nothing in this chapter shall be construed to affect or apply to any person engaged in a state-mandated cleanup plan; provided that all soil moving, removal operations and fill operations are performed in accordance with said cleanup plan and provided further that notice of the state-mandated cleanup plan is placed on file with the Township Engineer prior to any soil moving, removal operations or fill operations.
- E. The provisions of this chapter shall not apply to the storage of sand, soil, stone, topsoil, mulch or other similar materials on lawfully existing landscaping and contractor yards provided that the outdoor storage of materials on said property has previously been established and does not require site plan approval pursuant to this chapter.
- F. This chapter does not regulate the movement and placement of soil fill directly related to agricultural uses on farm properties within the Township and does not supersede any rights granted under the Right to Farm Act.

§ 460-5 Application for permit.

- A. Application for a minor soil removal or soil fill permit shall be filed with the Township Engineer, who shall issue the permit based upon substantial compliance with the provisions of §§ **460-10** and **460-13** of this chapter; provided, however, that the Township Engineer shall have the authority to deny a permit if he determines that the removal or fill would be detrimental to the health, welfare or safety of the general public. The denial shall be in writing setting forth reasons for same.
- B. Application for a major soil removal or soil fill permit shall be filed with the Township Planning Board and shall be accompanied by a fee prescribed in § **460-8**. Five copies of the application shall be submitted on forms prescribed by the Township Planning Board and supplied by the Secretary to the Board. The application shall set forth the following:
 - (1) Name and address of the applicant.
 - (2) Name and address of the owner, if other than the applicant.
 - (3) The description and location of the land in question, including the tax map block and lot numbers.
 - (4) The purpose or reason for moving, filling, or removal of the soil.
 - (5) The nature and quantity, in cubic yards, of soil to be removed or filled.
 - (6) The place to which the soil is to be removed or placed.
 - (7) The proposed date of completion of the soil removal or fill.
 - (8) The name and address of the person having direct charge or supervision over the soil removal, filling operation movement operation.
 - (9) Supporting documentation as required to adequately address and comply with the purpose and the provisions of this chapter.
 - (10) An approved soil conservation permit.
 - (11) Environmental and community impact statement in conformance with § **470-17**, Environmental and community impact statement, of the Land Development Ordinance.

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§ 460-6 Referral.

Upon receipt of an application for a major soil removal or soil fill permit, the Planning Board Secretary shall forthwith send a copy of same to the Planning Director, Construction Official, Township Engineer, Township Health Officer and Environmental Commission who shall review the application, and they shall submit their reports and recommendations, and their reasons, to the Township Planning Board within 30 days of receipt of the application. Failure to file such a report within the required time period shall be deemed an approval of the application by such department, officials and commissions.

§ 460-7 Action by Planning Board; notice of hearing on major soil removal or fill applications.

- A. The Township Planning Board shall grant or deny the application within 45 days after receipt of the reports and recommendations of the Planning Director, Construction Official, Township Engineer, Township Health Officer, and Environmental Commission. On an application for a major soil removal or soil fill permit, the Planning Board shall schedule a public hearing and shall notify the applicant of the date of such hearing. The applicant shall notify in writing all property owners within 200 feet of the extreme limits of the property, as their names appear on the Township tax records, at least 10 days prior to the date of the hearing in the application. The notice shall be given in person or by registered mail and shall state the reason for the hearing; the time and place of the hearing as fixed by the Township Planning Board; a brief description of the property; and that a copy of the application and map has been filed with the Township Clerk for public inspection. The applicant shall also cause notice of the hearing to be published in the official newspaper of the Township, at least 10 days prior to the date of the hearing.
- B. At the hearing, the applicant shall present to the Township Planning Board the following:
- (1) Certification, in the form of an affidavit, signed and sworn by the applicant, affirming that he has notified all property owners, as required in Subsection **A** of this section.
 - (2) Proof of publication of the newspaper notice required in Subsection **A** of this section.

§ 460-8 Permit fees; inspections.

- A. The fees for a minor or major soil removal or soil fill permit are set forth in Chapter **414**, Fees, Land Development.
- B. Inspections. On an annual basis, the Township Engineer may require the submission of a topographic map and quantity estimates prepared by a professional engineer or land surveyor, or any other method approved by the Township Engineer, on behalf of the application and at the applicant's expense, in order to determine the quantity of soil removed, filled or moved. Should the original quantity estimates be exceeded at any time, the fee shall be increased accordingly and the matter will be reviewed by the Township Planning Board.

§ 460-9 Supporting documentation for major soil removal or fill permits.

- A. In addition to the application forms submitted to the Township Planning Board, the applicant shall submit reports and maps as required which will address the following points:
- (1) Procedures and measures that will be taken by the applicant to ensure that noise and dust problems will be held to a minimum.
 - (2) Procedures and measures that will be taken by the applicant to assure lateral support of remaining soil and the prevention of erosion, floods and siltation of watercourses during the active life of the operation and after the soil removal operation ceases.
 - (3) Procedures and measures that will be taken by the applicant that will protect adjoining and downstream properties from the affects of the soil removal or fill operation.
 - (4) The routes over which the material will be transported, the method of traffic control and the ability of the road network to handle the amount and type of traffic generated by the soil removal or fill operation.
 - (5) Procedures and measures that will be taken by the applicant to ensure that the land in question can be used as intended by the Land Development Ordinance of the Township.
 - (6) The type, capacity and description of each piece of equipment to be used during the soil removal, fill, and movement operation.
- B. The application for a major soil removal or soil fill permit shall be accompanied by a topographical map of the lands on question. Said map shall be prepared and certified by a professional engineer or land surveyor. Same shall be prepared at a scale of not smaller than 50 feet to the inch and shall show the following:
- (1) The present grades on a one-hundred-foot grid layout, using two-foot contour intervals.
 - (2) The proposed finished grades using ten-foot contour intervals.
 - (3) The quantity, in cubic yards, of soil to be moved.

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- (4) The grades of all streets and lots within 100 feet of the property in question.
- (5) Proposed sloped and lateral supports.
- (6) Present and proposed surface water drainage.
- (7) A plan for the restoration of the site when soil removal or fill operations cease.
- (8) Key map.
- (9) All existing structures, all existing roads and drainage within 200 feet of the property.
- (10) Location of all property lines.
- (11) Location of any wetlands, streams, or other environmentally sensitive areas on the property.
- (12) Location of any topsoil storage areas.

§ 460-10 Standards governing the issuance of permits.

In considering and reviewing applications for soil removal or fill permits, the Township Planning Board and Township Engineer shall be guided by the general purpose of municipal planning and shall take into consideration the following factors:

- A. Soil erosion by water, sand and wind.
- B. Surface water drainage (no sharp declivities to be formed) and water pollution.
- C. Soil fertility.
- D. Public health and safety.
- E. Lateral support slopes and grades of abutting streets and land.
- F. Land values and uses.
- G. Contours, both existing and proposed.
- H. Existing contours and topographic character of the land prior to the placement of any soil and proposed contours which will result subsequent to the placement of soil in accordance with the soil fill application.
- I. Whether the proposed placement of soil is necessary and incidental to the development of the property for its intended use or whether the proposed placement of fill constitutes primarily a commercial activity.
- J. Such other factors as may bear upon or relate to the coordinated, adjusted and harmonious physical development of the Township.

§ 460-11 Bond requirements.

Prior to the issuance of a major soil removal or soil fill permit, the applicant shall have posted with the Township a performance bond conditioned upon full compliance with all the terms and conditions of approval, including the provisions of this chapter. The amount of such bond shall be fixed by the Township Planning Board and shall be submitted in the form required by Chapter **470**, Article **IX**, Off-Tract Improvements, Guarantees and Inspections, of the Land Development Ordinance. The performance bond shall not be canceled or released until all conditions set forth in the permit have been met. The bond is to assure compliance with this chapter, restoration work, minor road repair and street cleanup. Neither the bond nor permit shall be transferable to another party without the prior approval of the Township Planning Board.

§ 460-12 Soil removal, fill and movement restrictions.

- A. The soil removal, fill operations, and movement operations shall be so conducted that there shall be no sharp declivities pits or depressions and in such a manner that the area shall be properly leveled off, cleared of debris and graded to conform to the finished contour lines and grades as approved by the Township Planning Board.
- B. The developer or excavator shall not remove or move from the premises or take away the top layer of arable soil for a depth of four inches, but such top layer of soil shall be set aside on the premises and shall be respread over the premises when the rest of the soil has been removed in conformity with the contour lines approved by the Township Planning Board.
- C. The grading of slopes shall not exceed 45 degrees. Benching, as may be required by the Township Engineer, shall be provided for by the applicant. Grading of slopes in quarry operations shall be as determined by the Township Engineer.
- D. Hours of operation shall be restricted completely on Sundays. On weekdays, work shall commence no sooner than 7:00 a.m. and shall end no later than 7:00 p.m. except that on Saturday, work shall commence no sooner than 8:00 a.m. and shall end not later than 7:00 p.m.
- E. A one-hundred-foot buffer shall be retained from each property line wherein the soil operation is adjacent to developed residential uses. A fifty-foot buffer shall be retained from each property line in all other areas. When compliance with buffer requirements is impracticable because of the physical configuration of the property of preexisting uses, the distance requirements may be waived upon the recommendation of the Township Engineer if:

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- (1) Natural screening is to be preserved by the applicant.
- (2) Additional screening of fencing as may be required by the Township Engineer shall be provided by the applicant.
- F. Dust is to be controlled by water or calcium chloride or as may be directed by the Township Engineer.
- G. Noise shall be controlled as per Chapter **226**, Noise, of the Township Code.
- H. Sedimentation ponds shall be installed and maintained as may be required by the Township Engineer.
- I. Restoration will include replacing topsoil, seeding, fertilizing, mulch and crown vetch on slopes as may be directed by the Township Engineer.
 - (1) The applicant shall file an as-built plan and restoration plan with the Township Engineer upon completion of soil removal, fill, and movement operations.
 - (2) The pit shall be left in a condition without holes and completely stabilized.
- J. Soil removal, fill operations and movement operations shall be allowed only in zoning districts where such an operation is a permitted use or on a site that has been the subject of a use variance approval.
- K. All new site plans and all new soil removal, fill operations or movement operations must show and install soil erosion controls, including:
 - (1) Stone blanket for wheel cleaning to be 30 feet in length and consist of 2 1/2 inches stone and be 12 inches in depth.
 - (2) Stockpile and land disturbance controls shall be installed and shown on all new site plans and consist of fabric fence or hay bales staked in place.
 - (3) For new site plans, soil erosion controls shall be in place prior to commencement of any soil removal, fill, or movement operations.
 - (4) With respect to open bed inspections, stone beds must be in place prior to any excavation of the site.
 - (5) All disturbed lands must be stabilized prior to a certificate of occupancy for new site plans or 30 days, whichever occurs first, unless an extension is approved in writing by the Township Engineer.

§ 460-13 Enforcing officer; duty to make inspections.

The Township Engineer is hereby designated as the officer whose duty it shall be to enforce the provisions of this chapter. He shall, from time to time, upon his own initiative, and whenever directed by the Township Administrator, inspect the premises for which permits have been granted to ensure compliance with the terms of the permit and of this chapter. The Engineer shall have the right to enter upon any lands for the purpose of examination and inspection of the operation without advance notice.

§ 460-14 Enforcement.

- A. The Township Engineer, or other official designated by the Township Council, shall have the authority to enforce the provisions of this chapter and to issue summonses to any person importing soil without a permit.
- B. The Township Engineer, or other official designated by the Township Council, shall have the authority to enforce the provisions of this chapter with respect to persons importing soil with a permit. The Township Engineer, or other designated official, shall, from time to time, upon their own initiative, and whenever directed by the Township, inspect the premises for which permits have been granted to ensure compliance with the terms of the permit and this chapter. The Township Engineer, or other designated official, shall have the right to enter upon any lands for the purpose of examination and inspection of the operation without advance notice.
- C. After notice and an opportunity to be heard before the Township Engineer, or other designated official, the permit of any person may be revoked or suspended for such period as may be determined for any violation of the terms hereof or the terms and conditions of any permit granted hereunder. In addition to the revocation provided for herein, any person who violates this chapter or any director or officer of a corporation who participates in a violation of this chapter shall, upon conviction thereof, be subject to a minimum fine of \$2,000, or imprisonment for a period not to exceed 90 days, or both. Each and every day that such violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense.
- D. In addition to the penalties set forth above, the Township shall have the right, but not the obligation, to pursue injunctive relief in the Superior Court of New Jersey, Passaic County, including but not limited to requiring the removal of any soil imported without a permit, testing to ensure no presence of contaminated soil, and site restoration.

§ 460-15 Use of streets for soil transportation.

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In the removal of soil or fill operation, only such streets of the Township shall be used for transportation as may be designated for that purpose by the Township Planning Board upon the recommendation of the Township Engineer. The applicant shall cause such streets to be kept free from dirt and debris resulting from such soil removal or fill operation.

§ 460-16 Conformance with Land Development Ordinance; conflicts.

Nothing contained herein shall be deemed to modify or repeal any of the provisions of the Land Development Ordinance of the Township of West Milford. In the event of any inconsistency between the provisions of this chapter and the provisions of Chapter **500**, Zoning, of the Land Development Ordinance, such inconsistency shall be resolved in favor of the enforcement of Chapter **500**, Zoning.

§ 460-17 Violations and penalties.

- A. Any person, firm or corporation violating any of the provisions of this chapter shall be subject to a fine of not less than \$100, and not exceeding the maximum penalty as provided in Chapter **1**, Article **III**, General Penalty, as may be amended from time to time, in the discretion of the Judge before whom such conviction shall be had. Each and every violation and nonconformance of this chapter, or each day that any provision of this chapter shall have been violated, shall be construed as a separate and distinct violation thereof.
- B. In addition to the penalty set forth herein, the Township may institute an action to enjoin or take any other appropriate action or proceeding in order to enforce the provisions of this chapter.

§ 460-18 Other permits.

Nothing contained in this chapter shall be construed to affect the owner's application for a soil conservation service permit or a water policy permit (if necessary) or to affect any other state or federal regulations or permits as required.

§ 460-19 Preexisting soil removal and movement operations.

- A. Soil removal, fill and movement operations are of such public concern that its control is deemed necessary for the protection of the environment, public health, welfare and safety. The Township Council deems it necessary that all existing soil removal, fill and movement operations within the Township of West Milford must comply with the provisions of this chapter.
- B. Requirements of § **460-8A** for supporting documentation of applications for a soil removal or fill permit should be waived by the Township Planning Board for the review of existing soil removal, fill and movement operations.
- C. The Township Planning Board, in the interest of the protection of the health, safety or welfare of the public, may require that existing soil removal, fill and movement operations comply with all of the provisions of this chapter.

§ 460-20 Method of operation

If a permit is issued for the placement of soil as provided herein, the owner or person in charge shall so conduct the operations that there shall be no sharp declivities, pits or depressions, and in such manner that the area shall be properly leveled off, cleared of debris, and graded to conform with the contour lines and grades as required and shown on the approved plan.

§ 460-21 Regulation of operation

No soil shall be placed nor shall any operation be conducted so as to violate any of the regulations contained in this chapter after a permit is granted.

§ 460-22 Deposit of soil on adjoining property or public roads

Soil fill shall not be deposited or in any way thrown or placed upon adjoining property or public roads. Any soil or material resulting from any such operation accumulating on any adjoining property or public road shall be removed there from immediately upon notice to the permittee of such accumulation.

§ 460-23 Compliance with other standards and terms of permit

All operations shall be conducted in strict accordance with any state law, other ordinances of the Township, and the terms and conditions of any permit granted for such operations.

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Prior to the issuance of any permit, the applicant shall provide a copy of an approval or exemption by the Hudson-Essex-Passaic Soil Conservation District for any project that disturbs more than 5,000 square feet.

§ 460-24 Nuisances and unsafe conditions

The operation shall be so conducted as to not constitute a nuisance, and in no event shall said operation create any hazardous or unsafe condition with regard to any person or persons. Natural screening is to be preserved by the applicant.

§ 460-25 Restoration of area

- A. Upon completion of any operation delineated on the approved plan, said area shall be properly leveled off, cleared of debris, and graded to conform to the contours and grades as approved by the Township Engineer. A final map for all major soil fill permits shall be submitted containing and complying with all requirements of this chapter.
- B. No trash, junk or debris may be stored in any area, and no safety hazards will be permitted, either during or after completion of operations.

§ 460-26 Storage limitations

The material stored shall not exceed a height of 20 feet, and the maximum storage slope shall be 45°.

SECTION 2. 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.

SECTION 3. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, preempted by Federal or State law, or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

SECTION 4. No provision of this Ordinance shall be construed to impair any common law or statutory cause of action, or legal remedy there from, of any person for injury or damage arising from any violation of this Ordinance or from other law.

SECTION 5. This Ordinance shall take effect immediately upon final passage, approval, and publication as required by law.

SECTION 6. This Ordinance may be renumbered for codification purposes.

Introduced: February 3, 2021
Adopted:
Effective Date:

Second reading and public hearing for this Ordinance is set for the Workshop Meeting of the Township Council scheduled for March 3, 2021. Notice of this public hearing shall be published in the Herald News on or about February 9, 2021.

Moved: Erik Seconded: Gross
Voted Aye: Erik, Chazukow, Lichtenberg, Goodsir, Gross, Marsden
Voted Nay: None
Motion carried:

Discussion:

Councilman Chazukow asked why someone would not be allowed to have an accessory structure on their front yard. He proposed that they change it to read five feet. Councilwoman Erik noted it's in the regular ordinance. Mayor Dale explained that this is amending a different section of the ordinance. An accessory structure would have to go through the Zoning Board for approval. Councilman Chazukow rescinded his request and said he understands. He noted that if a resident has an issue with this specifically he will support them and make sure they get a variance. Mayor Dale said their goal is to review the zoning ordinances because she feels they are old and need to be updated. Councilman Chazukow expressed that he is glad they spoke about the ordinance, he understands the intensive effect of it and he is supportive of it.

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Agenda No. XII 4

~ Ordinance 2021 – 013 ~

ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AMENDING CHAPTER 500 “ZONING” OF THE CODE OF THE TOWNSHIP OF WEST MILFORD TO ADD A NEW SECTION 500-17A ENTITLED “BULK STANDARDS FOR RESIDENTIAL DEVELOPMENT ON EXISTING LOTS OF LESS THAN ONE ACRE”

WHEREAS, the Township Code contains development standards for properties within the residential; zones throughout the Township; and

WHEREAS, a review of the Township Code demonstrates that there are currently no standards set forth with regard to existing lots less than one acre in size; and

WHEREAS, the Township Council has determined that it is necessary to amend the Code to establish such standards; and

NOW THEREFORE BE IT ORDAINED, by the Township Council of the Township of West Milford, Passaic County, New Jersey, that Chapter 500 “Zoning” shall be amended to add a new Section 500-17A entitled “Bulk Standards for Residential Development on Existing Lots of Less Than One (1) Acre” to read as follows:

SECTION 1.

§500-17A Bulk Standards for Residential Development on Existing Lots of Less Than One (1) Acre

In all residential districts, including R-1, R-2, R-3, R-4 and LR, the following bulk standards shall apply for single family residential development of existing lots of less than one (1) acre. Lot area, lot frontage, lot width and lot depth shall be permitted as existing provided that the following bulk standards can be met:

Principal Structure:	
Front Yard:	20 feet
Side Yard:	5 feet (each)
Rear Yard:	20 feet
Building Coverage:	25%
Accessory Structure:	
Front:	Not permitted in front yard.
Side Yard:	5 feet
Rear Yard:	5 feet
Distance to other building:	10 feet
Maximum Building Size:	1,000 square feet

SECTION 2. 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.

SECTION 3. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, preempted by Federal or State law, or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

SECTION 4. No provision of this Ordinance shall be construed to impair any common law or statutory cause of action, or legal remedy there from, of any person for injury or damage arising from any violation of this Ordinance or from other law.

SECTION 5. This Ordinance shall take effect immediately upon final passage, approval, and publication as required by law.

SECTION 6. This Ordinance may be renumbered for codification purposes.

Introduced: February 3, 2021
Adopted:
Effective Date:

Second reading and public hearing for this Ordinance is set for the Workshop Meeting of the Township Council scheduled for March 3, 2021. Notice of this public hearing shall be published in the Herald News on or about February 9, 2021.

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Moved: Erik Seconded: Lichtenberg
Voted Aye: Erik, Chazukow, Lichtenberg, Goodsir, Gross, Marsden
Voted Nay: None
Motion carried:

Mayor Dale asked to move resolutions 2021-073 through 2021-078.

Agenda No. XII 5

~ Resolution 2021 – 073 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY REFERRING A RESOLUTION TO THE PLANNING BOARD DESIGNATING ALL PROPERTY THROUGHOUT THE TOWNSHIP AS AN AREA IN NEED OF REHABILITATION PURSUANT TO N.J.S.A. 40A:12A-14 FOR REVIEW AND RECOMMENDATION

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.* (“Redevelopment Law”), authorizes municipalities to determine whether certain parcels, or all parcels, of land in the municipality constitute areas in need of rehabilitation; and

WHEREAS, the Redevelopment Law sets forth the procedures for the Township to declare an area in need of rehabilitation; and

WHEREAS, pursuant to the Redevelopment Law, the Township of West Milford (the “Township”) has determined that all property within the boundaries of the Township should be considered for designation as an area in need of rehabilitation pursuant to N.J.S.A. 40A:12A-14(a), inclusive of any and all streets, “paper” streets, private drives and right of ways (the “Study Area”); and

WHEREAS, N.J.S.A. 40A:12A-14(a) provides that prior to the adoption of a resolution designating the Study Area as an area in need of rehabilitation, the Township must first submit a copy of the proposed resolution designating the Study Area to the Township Planning Board for its review and recommendation; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-14(a), the Planning Board shall provide, by resolution, its review and recommendations within 45 days of the date of referral of the Resolution from the Township Council.

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

- 1) The Township Council does hereby refer the Resolution Designating All Property throughout the Township as an Area in Need of Rehabilitation to the West Milford Township Planning Board for review and recommendations.
- 2) A copy of this Resolution to the Planning Board for action.
- 3) A copy of this Resolution shall be available for public inspection at the office of the Township Clerk.
- 4) This Resolution shall take effect immediately.

Adopted: February 3, 2021

Agenda No. XII 6

~ Resolution 2021 – 074 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING THE AWARD OF A PROFESSIONAL SERVICES CONTRACT WITHOUT COMPETITIVE BIDDING TO PRINCETON HYDRO, LLC FOR THE WEST MILFORD TOWNSHIP WATERSHED MANAGEMENT PROGRAM

WHEREAS, the Township of West Milford is located entirely within the Highlands Preservation Area with many water bodies, some of which are utilized for recreation; and

WHEREAS, the private West Milford Lakes Committee has requested a study for the Township’s waterways to analyze pollution sources in order to target possible implementation solutions to protect these resources; and

WHEREAS, Princeton Hydro, LLC has submitted a proposal for said watershed management program to be completed in incremental phases; and

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WHEREAS, the New Jersey Highlands Council approved, by their Resolution 2020-16, Regional Master Plan Conformance Funding to the Township of West Milford in an amount not to exceed \$200,000.00; and

WHEREAS, the Township of West Milford has a need to appoint a Professional Services Contract, as a non-fair and open contract pursuant to the provisions of *N.J.S.A. 19:44A-20.4 or 20.5 as appropriate*; and

WHEREAS, Princeton Hydro, LLC will complete and submit a Business Entity Disclosure Certification which will certify that the 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 the firm of Princeton Hydro, LLC from making any reportable contributions through the term of the contract; and

WHEREAS, the Chief Financial Officer has certified as to the availability of funds pursuant to *N.J.A.C. 5:30-5.4* in an amount not to exceed \$200,000.00 from account #02-213-41-734-006.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Milford in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

1. The Township Mayor and Township Clerk be and are hereby authorized to execute a contract with Princeton Hydro, LLC., 1108 Old York Road, Suite 1, PO Box 720, Ringoes, NJ 08551 for professional services for the West Milford Township Watershed Management Program - Phase 1 in an amount not to exceed \$200,000.00.
2. This contract is awarded without competitive bidding as "Professional Services" pursuant to *N.J.S.A. 19:44A-20 et seq.* and the local public contracts law.
3. The total fee authorized for this contract shall not exceed \$200,000.00 without the prior written approval of the Township Council.
4. That a notice of this action shall be published in accordance with law, and said notice to provide that the contract awarded and this resolutions authorizing same are available for public inspection in the office of the Township Clerk.

Adopted: February 3, 2021

Agenda No. XII 7

~ Resolution 2021 – 075 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN PROFESSIONAL SERVICE CONTRACT WITH PRIMEPOINT LLC FOR PAYROLL SERVICES

WHEREAS, in 2020 the Township entered into an agreement with Primepoint to provide payroll services; and

WHEREAS, the Township would like to continue utilizing Primepoint for payroll services; and

WHEREAS, Primepoint, LLC has submitted a proposal for payroll services, with no increase in the fees, in the amount of \$39,739.60; and

WHEREAS, the Township portion of the yearly payroll services are \$4,739.60 due to the banking agreement we have with Columbia Bank to pay up to \$35,000 for annual payroll expenses; and

WHEREAS, Primepoint, LLC will complete both a Political Contribution Disclosure Form and a Business Entity Disclosure Certification which certifies that they have 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 Primepoint, LLC 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 bids and the contract itself must be available for public inspection.

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

1. The Mayor and Township Clerk be and are hereby authorized to execute a professional services contract with Primepoint, LLC of 2 Springside Road, Westampton, NJ 08060 for the Township Payroll Services.

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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2. The Chief Financial Officer has certified the availability of funds for these services, said funds to be encumbered from 01-201-20-130-450 in an amount not to exceed \$4,739.60 without prior written consent from the Township Council.
3. This contract is awarded without competitive bidding as "Professional Services" pursuant to *N.J.S.A. 19:44A-20 et seq.* and the local public contracts law.
4. That a notice of this action shall be published in accordance with law, and said notice to provide that the contract awarded and this resolutions authorizing same are available for public inspection in the office of the Township Clerk.

Adopted: February 3, 2021

Agenda No. XII 8

~ Resolution 2021 – 076 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AMENDING RESOLUTION 2020-049 WITH MARK SEMERARO, ESQ. OF THE FIRM KAUFMAN, SEMERARO, LEIBMAN, LLC FOR SPECIAL LABOR COUNSEL SERVICES TO INCREASE THE CONTRACT VALUE IN AN AMOUNT NOT TO EXCEED BY \$5,000.00

WHEREAS, by virtue of Resolution 2020-049 adopted January 6, 2020 the Township Council did authorize the engagement of Special Legal Counsel services to be provided by Mark Semeraro, Esq. of Kaufman, Semeraro, Leibman, LLC; and

WHEREAS, Resolution 2020-049 and the related Professional Services Contract did authorize services in an amount not to exceed \$60,000 and Resolution 2020-321 adopted October 21, 2020 authorized and amended an additional amount not to exceed of \$20,000.00; and

WHEREAS, the Township Administrator has been advised that the Township's needs, necessitates an amendment in an additional amount not to exceed \$5,000; and

WHEREAS, the Chief Financial Officer has certified as to the availability of funds and said funds to be encumbered from account 01-203-20-155-502 for \$5,000.00; and

WHEREAS, that a notice of this action shall be published in accordance with law, and said notice to provide that the originally awarded Professional Services Contract, and this resolution serving as the Addendum to the Contract are available for public inspection in the office of the Township Clerk and that the professional services offered by Mark Semeraro, Esq. are extended by an additional twelve months or until the conclusion of the legal matter, whichever comes first.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Milford, County of Passaic, State of New Jersey that they do hereby authorize the Township Administrator to approve an amendment of \$5,000 to Mark Semeraro, Esq. for Special Legal Services which amount is in excess of the approved contract amount of \$60,000 bringing the contract total to an amount not to exceed \$85,000 and re-engaging the services of Mark Semeraro, Eds. for an additional twelve months or until the conclusion of this legal matter, whichever comes first.

This Resolution shall take effect immediately.

Adopted: February 3, 2021

Agenda No. XII 9

~ Resolution 2021 – 077 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC STATE OF NEW JERSEY AUTHORIZING THE ACCEPTANCE OF A STRATEGIC PLAN FOR THE WEST MILFORD MUNICIPAL ALLIANCE GRANT BY THE MUNICIPAL ALLIANCE COMMITTEE (CASA)

WHEREAS, the Governor's Council on Alcoholism and Drug Abuse established the Municipal Alliances for the Prevention of Alcoholism and Drug Abuse in 1989 to educate and engage residents, local government and law enforcement officials, schools, nonprofit organizations, the faith community, parents, youth and other allies in efforts to prevent alcoholism and drug abuse in communities throughout New Jersey; and

WHEREAS, The Township Council of the Township of West Milford, County of Passaic, State of New Jersey recognizes that the abuse of alcohol and drugs is a serious problem in our society amongst persons of all ages; and therefore has an established Municipal Alliance Committee; and

WHEREAS, the Township Council further recognizes that it is incumbent upon not only public officials but upon the entire community to take action to prevent such abuses in our community; and

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WHEREAS, the Township Council has applied for funding to the Governor’s Council on Alcoholism and Drug Abuse through the County of Passaic.

NOW, THEREFORE, BE IT RESOLVED by the Township of West Milford, County of Passaic, State of New Jersey hereby recognizes the following:

1. The Township Council does hereby accept a grant of a strategic plan for the West Milford Municipal Alliance grant for the period of October 1, 2020 to June 30, 2021 (FY2021) in the amount of:

DEDR	\$6,207.36
Cash Match	\$1,551.84
In-Kind	\$4,655.51
2. The Township Council acknowledges the terms and conditions for administering the Municipal Alliance Grant, including the administrative compliance and audit requirements.

Adopted: February 3, 2021
Agenda No. XII 10

~ Resolution 2021 – 078 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING EXPENDITURE OF FUNDS FOR THE PURCHASE OF VEHICLE REPAIR PARTS IN ACCORDANCE WITH THE TOWNSHIP’S PURCHASING POLICIES AND PAY-TO-PLAY LAW N.J.S.A. 19:44A-20.5 ET SEQ.

WHEREAS, the Township Council did establish a policy whereby a resolution shall be presented for their consideration for any purchase or purchases in excess of the former bid threshold of \$17,500.00 and that the purchases shall warrant use of State contract, cooperative pricing contract or a minimum of three quotations; and

WHEREAS, the Department of Public Works is requesting the purchase of vehicle repair parts, (brake parts, exhaust parts, engine parts, filters, hoses, fittings, tires, etc.), through use of State Contracts, as a member of cooperative pricing contracts or a minimum of three quotes which expenses could exceed the aggregate quote threshold of \$17,500.00; and

WHEREAS, the Township Council has received a recommendation from the Director of Public Works indicating the anticipated need to purchase various vehicle repair parts which expenses may exceed the aggregate quote threshold of \$17,500.00; and

WHEREAS, any vendor utilized for such purchases shall comply with State pay-to-play regulations by completing and submitting a Business Entity Disclosure Certification; and

WHEREAS, pursuant to N.J.A.C. 5:30-5.5 (b), no orders of material shall be undertaken until such time as the funding for the goods or services are certified by the Chief Financial Officer.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Township Council of the Township of West Milford, County of Passaic, State of New Jersey that the appropriate Township officials be and are hereby authorized to execute purchases not to exceed the budgeted appropriation established for this purpose for the remainder of the 2021 calendar year.

Adopted: February 3, 2021

Moved: Erik Seconded: Chazukow
Voted Aye: Erik, Chazukow, Lichtenberg, Goodsir, Gross, Marsden
Voted Nay: None
Motion carried:

Mayor Dale asked to move the consent agenda.

Agenda No. XIII

Consent Agenda

~ Resolution 2021 – 079 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING PASSAGE OF CONSENT AGENDA

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WHEREAS, the Mayor and Township Council of the Township of West Milford has reviewed the Consent Agenda consisting of various proposed Resolutions.

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

Resolutions:

- a) **2021-080** – Authorizing refund of recreation fees

Adopted: February 3, 2021

Agenda No. XIII a

~ **Resolution 2021 – 080** ~

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

BE IT RESOLVED that the following recreational fees upon the report of the Director of Community Services and Recreation be refunded:

SR BEGINNER LINE DANCE	
\$20.00	Terry Dwyer 3 Wesley Drive West Milford, NJ 07480
SR COMBO DANCE CLASS	
\$20.00	Janet Donus 2201 Richmond Road West Milford, NJ 07480
SQUIRTS	
\$122.00	Dana Brannan 31 Brook Road Hewitt, NJ 07421

Adopted: February 3, 2021

Moved: Erik Seconded: Marsden
Voted Aye: Erik, Chazukow, Lichtenberg, Goodsir, Gross, Marsden
Voted Nay: None
Motion carried:

Agenda No. XIV

Approval of Expenditures

~ **Resolution 2021 – 081** ~

RESOLUTION APPROVING THE PAYMENT OF BILLS

WHEREAS, the Township Treasurer has submitted to the members of the Township Council a supplemental report listing individual disbursement checks prepared by this office in payment of amounts due by the Township.

NOW, THEREFORE, BE IT RESOLVED that the Township Treasurer's report of checks prepared by the Treasurer's Office be approved and issued as follows:

Acct #	Account Name	Amount
1	Current Account	\$156,540.44
3	Reserve Account	90,671.61
2	Grants	24,848.00
6	Refunds	162.00
1	General Ledger	5,321,304.16
26	Refuse	258,001.29
4	Capital	412,497.04
19	Animal Control	1,025.00
19	Heritage Trust	0.00
19	Open Space Trust	0.00
19	Trust	20,656.40
19	Scala Trust	0.00

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16	Development Escrow	0.00
19	Tax Sale Trust	0.00
21	Assessment Trust	0.00
	Special Reserve	2,850.00
Total		\$6,288,555.94
Less Refund Resolution		-162.00
Actual Bills List		\$6,288,393.94
Other Payments		
Payroll		\$515,946.11
Optimum		507.95
State of NJ, Dog Report		18.60
Total Expenditures		\$6,804,866.60

Adopted: February 3, 2021

Moved: Erik Seconded: Goodsir
Voted Aye: Erik, Chazukow, Lichtenberg, Goodsir, Gross, Marsden
Voted Nay: None
Motion carried:

Agenda No. XV

Reports of Administrator, Mayor and Council Members

Councilwoman Lichtenberg – No report.

Councilman Goodsir – Expressed that the DPW did a great job clearing the roads.

Councilman Gross – Provided an update on the Township map and brochure.

Councilman Marsden – Commended the DPW for the work they did during the snow storm. He noted that he is a member of the CERT team in Town. If anyone is interested in joining, the basic CERT course is being offered in April. Mayor Dale requested the flyer be placed on WM77 TV, the Township website and the Rotary Sign.

Councilwoman Erik – Said the DPW did a great job on the roads. She expressed that they need an ordinance stating that the snow should not be plowed from driveways onto the main roads.

Mayor Dale – Mentioned that the last snow storm was a very challenging storm. They are going to have a meeting and debrief about what went well and what they can do better.

Councilman Chazukow – Expressed his admiration and thanks to everyone that was up for two nights clearing the roads.

Administrator Senande – No report.

Mr. Semrau – Provided an update on Newark Watershed.

Agenda No. XVI

Appointments and Resignations

Councilwoman Lichtenberg made a motion to appoint Jill Van Nostrand to the Economic Development Commission, seconded by Councilwoman Erik.

Jill Van Nostrand, Economic Development Commission

Moved: Lichtenberg Seconded: Erik
Voted Aye: Unanimous voice vote
Voted Nay: None
Motion carried.

Councilman Goodsir made a motion to appoint William Cytowicz to the Community Services & Recreation Committee, seconded by Councilwoman Erik.

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William Cytowicz, Community Services & Recreation Committee

Moved: Goodsir Seconded: Erik
Voted Aye: Unanimous voice vote
Voted Nay: None
Motion carried.

Councilwoman Lichtenberg noted that Jaclyn Becker has not officially moved into West Milford yet. Her closing was delayed so she would like to postpone appointing her. She noted that if anyone is interested in advertising on the Rotary Sign to email the Rotary Club.

Agenda No. XVII

Adjournment

There being no further business to come before the Council, the Governing Body adjourned the meeting at 8:51 p.m.

Moved: Erik Seconded: Chazukow
Voted Aye: Unanimous voice vote
Voted Nay: None
Motion carried.

Approved: February 17, 2021

Respectfully submitted:

Sherry Zbrzeski, Keyboarding Clerk II

MICHELE DALE, MAYOR

WILLIAM SENANDE, TOWNSHIP CLERK