

# Township of West Milford

Passaic County, New Jersey

~ Ordinance 2017 - 011 ~

## AN ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY PROVIDING FOR THE DISSOLUTION OF THE WEST MILFORD MUNICIPAL UTILITY AUTHORITY

**WHEREAS**, the Township of West Milford heretofore created West Milford Municipal Utility Authority (the "Authority") pursuant to County and Municipal Utilities Law (P.L. 1957, c.183), of the State of New Jersey; and

**WHEREAS**, after a thorough analysis, the Mayor and Council (the "Governing Body") have determined that it is in the best interests of the residents of the Township and the users of the system of the Authority to dissolve the Authority, sell the assets and extinguish the financial obligations of the Authority as set forth herein; and

**WHEREAS**, Section 20 of the Local Authorities Fiscal Control law (P.L. 1983, C.313 N.J.S.A. 40A:5A-20) of the State of New Jersey (the "Fiscal Control Law") empowers the governing body of a municipality to dissolve an authority by ordinance under certain conditions, provided that such ordinance is approved by the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs prior to its final adoption by the governing body; and

**WHEREAS**, the Governing Body has determined that the dissolution of the Authority will be in the public interest, will benefit the health, safety and welfare of the residents of the Township, and will achieve a more efficient means of providing and financing facilities in the Township for the collection, treatment and disposal of sewage; and

**WHEREAS**, the Authority, which has worked diligently to maintain the utility, is also of the opinion that the system users would be best served by a sale of the system.

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

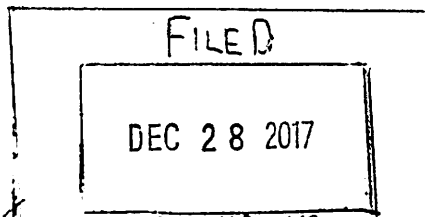
- SECTION 1.** The West Milford Township Municipal Utilities Authority (the "Authority") is hereby dissolved, subject to the terms and conditions herein.
- SECTION 2.** The Authority is hereby enjoined from taking any further actions without the consent of the Township. Simultaneously upon the effective date of the dissolution as set forth in Section 5 of this Ordinance, the Authority shall cease all operations and activities, which operations and activities shall be transferred to the Township automatically subject to the conditions set forth herein.
- SECTION 3.** Upon the effective date of the dissolution, all real and personal property, facilities and contracts of the Authority shall be deemed transferred to the Township and the present officers and staff of the Authority are hereby authorized and directed to execute any documents or instruments necessary to transfer legal title to all real property, personal property, facilities and contracts to the Township or an escrow agent if so directed by the Township for the purposes of the sale of the assets to a private entity as of the effective date of the dissolution.
- SECTION 4.** This Ordinance is conditioned upon referendum approval of the sale of the Authority's assets by the legal voters of the Township pursuant to N.J.S.A. 40:62-5, approval of the

proposed sale by the New Jersey Board of Public Utilities pursuant to N.J.S.A. 48:3-7; and satisfaction of all conditions of the proposed sale.

- SECTION 5. This Ordinance is conditioned upon the effective date of the Authority's dissolution, which would occur when the final payment of all bonded indebtedness and all New Jersey Department of Environmental Protection penalties in the name of the Authority are paid, extinguishing all legal obligations to pay all existing and outstanding creditors and obligations of the Authority. If the Township cannot extinguish such debt and obligations, the dissolution shall not occur.
- SECTION 6. Upon and after the effective date of dissolution, the Township shall assume and provide the services theretofore provided by the Authority which are necessary for the health, safety and welfare of the recipients of those services.
- SECTION 7. This Ordinance shall be submitted to the Local Finance Board of the State of New Jersey for its approval, in accordance with the requirements of N.J.S.A. 40A:5A-20. The final adoption of this Ordinance by the Township shall be conclusive proof of the fact that this Ordinance has received the approval of the Local Finance Board. Upon final adoption of this Ordinance, a copy shall be filed with the Local Finance Board and with the Secretary of the State of New Jersey, in accordance with N.J.S.A. 40A:5A-20.
- SECTION 8. The Township Administrator, Township Clerk, and other Township employees and professionals, are hereby authorized and directed to take any and all steps necessary to effectuate the purposes of this Ordinance. The Authority, its officers, employees, engineer and counsel are hereby authorized and directed to take all steps necessary to effectuate the purposes of this Ordinance.
- SECTION 9. If any section, subsection, sentence, clause or phrase of this Ordinance if for any reason held to be unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.
- SECTION 10. All ordinances of the Township that are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.
- SECTION 11. This Ordinance shall take effect upon final adoption and publication according to law, provided, however, that the Local Finance Board has approved this Ordinance in accordance with N.J.S.A. 40A:5A-20.

Introduced: August 16, 2017  
 Adopted: December 6, 2017  
 Effective Date: December 26, 2017

ATTEST



TOWNSHIP OF WEST MILFORD  
 COUNTY OF PASSAIC  
 STATE OF NEW JERSEY

*Antoinette Battaglia*  
 Antoinette Battaglia, Township Clerk

KIM GUADAGNO  
 SECRETARY OF STATE By:

*Bettina Bieri*  
 Bettina Bieri, Mayor