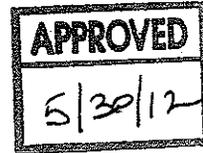


**MINUTES**  
**BOROUGH OF NEW MILFORD**  
**6:30 WORK SESSION**  
**Monday, March 12, 2012**



**WORK SESSION:**

The Work Session was opened at 6:34 PM. Mayor Subrizi read the Open Public Meeting and Mission Statements.

Councilwoman Randi Duffie	Present
Councilman Austin Ashley	Present
Councilman Diego Robalino	Present
Councilman Dominic Colucci	Present
Councilwoman Hedy Grant	Present
Council President Howard Berner	Present
Mayor Ann Subrizi	Present

Also Present: Mark Madaio, Borough Attorney; Christine Demiris, Administrator/ Clerk

**OPEN SESSION:**

1. Ethics in Local Government -- Training

Mr. Madaio went through the MEL/JIF Ethics in Local Government handout. Councilwoman Duffie asked if this applies to Boards, Committees and Commissions; she was advised yes, the Council should bring it to their attention.

2. Introduction of the 2012 Municipal Budget

Gary Higgins, Borough Auditor, presented the Mayor and Council with the proposed budget introduction as drafted in consultation with the finance/budget committee. He noted the state deadline for introduction was extended to March 9<sup>th</sup> or the next regular meeting following that date; hence the introduction tonight. He said the introduction is more or less a formality and the law requires a public hearing on the introduced budget which must take place at least twenty-eight days after the introduction; he advised the hearing is scheduled for April 23<sup>rd</sup>. He explained the introduction in no way formalizes the plan until it's adopted; the budget can be amended up to and subsequent to the public hearing on the introduction. Mr. Higgins presented a summary sheet of the budget as it stands with a comparison of 2012 to 2011; the overall budget has increased \$407,041, the tax rate increased \$0.03 per \$100 of assessed valuation, the average home (total residential net valuation taxable/number of parcels) \$410,000 (assessed value) will see an increase of \$123 per year for the municipal portion of the budget. The tax levy, which drives the tax rate increase of \$0.03, is up \$452,269 or 3.2%. He explained the 2% cap everyone is familiar with does not account for a number of adjustments allowed by law.

He explained one thing that affected the tax rate is the loss of \$16,122,664 of ratables between 2011 and 2012 which is 8/10s of 1% of the net valuation. Even if the budget remained static the tax rate would have increased by ½ of a cent. In addition, the proposed reassessment at just

over \$200,000 equates to \$0.01; the emergency for hurricane Irene and a judgment against the Borough equate to an additional \$0.01; and an increase in debt service as a result of the NJEIT loan equates to an additional ½ of a cent. With regard to the appropriation cap (the cap that has been around since 1977) \$447,487 below the appropriation cap and even with a 3.2% increase it is actually \$150,706 below the tax levy cap.

He explained there are a few other actions required in addition to the introduction.

Councilman Ashley asked about the anticipated surplus for the year. Mr. Higgins referenced page 4 and said it was originally anticipated at the same amount as the previous year \$125,211 but it was increased slightly by \$5,000 due to an adjustment in the electricity line. Councilman Ashley asked if there is a percentage of surplus that must be maintained. He was advised there is not. Councilwoman Duffie asked what was in surplus last year. She was advised there was \$444,000 at the end of 2011 and there will be \$314,000 remaining after the \$130,000 is anticipated in the 2012 budget.

Councilman Ashley asked if there is anything that can't be changed once the budget is introduced. He was advised that there is not. Mayor Subrizi asked for an explanation of resolution 2012:83. Mr. Higgins explained the State understands municipalities have been pummeled with tax appeals so they have modified the law on the reserve for uncollected taxes calculation; allowing the municipality to adjust the levy down to the appeal level which in turn increases the collection rate. The only way the town can take advantage of this option is to pass this resolution.

Mr. Higgins also explained the COLA ordinance which provides for a cap bank which can be held for two years; there is no explanation to use it but it protects the municipality if they need; it is not an authorization to spend additional money.

Councilwoman Duffie commented the Council has not heard much from the budget committee; they did not communicate with the council.

Councilman Ashley said he would like to make some changes prior to the introduction; he has \$777,000 in cuts he would like to make to the budget, including \$300,000 in savings that could be realized by switching to State Health Benefits.

The Council discussed the topic at length. The Administrator pointed out the obligation under the law to introduce a budget. The Auditor said again that the introduction is a formality; the Council has until April 23<sup>rd</sup> to continue discussions on the budget.

Councilwoman Grant asked what would happen if it was not introduced. Mr. Higgins responded the town would not be in compliance with the Local Finance Notice that was approved by the Local Finance Board and endorsed by the Governor.

## **INTRODUCE ORDINANCE #2012:05**

CALENDAR YEAR 2012 ORDINANCE TO EXCEED THE MUNICIPAL BUDGET  
APPROPRIATIONS LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A:4-45.14)

Council President Berner made a motion to introduce and approve this ordinance on its first reading. Councilman Colucci seconded the motion. The motion passed on a roll call vote. All present in favor, none opposed.

The ordinance will be published in the Record and a public hearing will be held on April 23, 2012 at 7:45 PM.

#### 2012:83 Computation of Reserve for Uncollected Taxes – 2012 Budget

Councilman Robalino made a motion to approve resolution 2012:83. Council President Berner seconded the motion. The motion passed on a roll call vote. All present in favor, none opposed.

#### 2012:84 Introduce 2012 Municipal Budget

Council President Berner made a motion approve resolution 2012:84. Councilman Robalino seconded the motion. The motion passed on a roll call vote as follows:

For the motion: Duffie, Robalino, Grant, Colucci, Berner

Against the motion: Ashley

Abstain: None

In casting her vote Councilwoman Duffie said she was dissatisfied with the process or the numbers but would vote yes to comply with the law.

Councilwoman Grant echoed Councilwoman Duffie's comments.

Council President Berner noted the Mayor had asked for volunteers to serve on the budget committee and neither Councilwoman Duffie nor Councilwoman Grant volunteered.

### 3. Risk Manager – Employee Vision Plan Review

Borough Risk Manager, Art Caughlan reported that when discussing the renewal of the medical insurance plan a 3% increase was projected; it is in fact not an increase but rather a 1.5% decrease from last year. In order to achieve this, the insurance was switched from Oxford to Cigna however Cigna's vision plan has been found to be inferior. In order to provide the employees with the same level of benefit the Risk Manager recommends a separate vision plan through VSP. The cost of this plan will fall within the 1.5% savings. He said it is a national network, it will satisfy the obligations to the employees, and it can be provided retroactively back to January 1<sup>st</sup>.

Council President Berner asked if they would guarantee the rate for more than one year. He was advised that it was for one year. Mr. Caughlan noted the 1.5% savings accounts for foregoing the vision plan through Cigna. The cost of the VSP plan is within the 1.5%.

Mr. Caughlan additionally reported he had negotiated a zero co-pay on prescriptions after the self insured portion of the deductible has been met. He said this is to the advantage of the employee at no additional charge to the Borough; he cautioned however this should not be viewed as an additional benefit, it is a one-time offering from Cigna and the Borough should not be contractually obligated to provide this in the future.

Mr. Caughlan also briefed the Council on a beneficial change to the Delta Dental coverage. Delta will now allow participants to accumulate anything unspent of their annual benefit for up to five years to allow participants to plan for major dental work.

Mr. Caughlan reported the Borough will be receiving a Safety Award from the Joint Insurance Fund at an upcoming breakfast meeting and he asked to present it to the governing body at the next public meeting.

Mayor Subrizi asked Mr. Caughlan to sit with Councilman Ashley to discuss the issues of switching insurance plans. Councilwoman Duffie asked if there is a contract that has been signed with Cigna and if so could the Borough withdraw. She was advised there is a contract and with proper notice it would be possible to withdraw. The Mayor said there would need to be a comparison of the coverage to confirm it is equal to or better than the current coverage. Mr. Caughlan said the State Health Benefits Plan is dramatically less coverage than the borough currently provides. Mr. Caughlan will provide a comparison of the State Health Benefits Plan to the current insurance which will be distributed to the Council.

#### 4. RFQ Review – Licensed Professional Planner

Mr. Madaio asked to hold this discussion for the closed session to allow him to provide legal advice.

#### 5. Beautification Committee

Councilwoman Duffie said that after review she has determined that the Borough of River Edge offers the clearest outline of the formation and duties of a Beautification Committee. She suggested New Milford follow their format. Council President Berner asked how it would be funded. Councilwoman Duffie suggested it would be through fundraising; asking local merchants for donations and through the Chamber of Commerce. Councilman Colucci asked if it could be added to the responsibilities of Public Events to give them a fuller agenda. Councilwoman Grant said the mandates for these committees are very different. Councilwoman Duffie suggested the Environmental Commission or Shade Tree Commission may be a better match. Councilman Colucci suggested the three groups should interface. Mr. Madaio will draft the ordinance for the Council's review. Mayor Subrizi referenced a section and noted it should be limited to public properties.

#### 6. SEM Electricity Auction

Councilman Robalino explained the SEM Electricity Auction is scheduled to take place and the Borough must opt out if we do not wish to be included in the auction. The governing body agreed the reason for joining was to participate; the Borough will not opt out. Councilman Robalino explained the guaranteed strike point is 6% below the lowest month's price as set by the BPU. If the bids are above this amount they will not be accepted. Council President Berner asked if there will be additional savings if usage is higher than predicted and additionally if it will require going to the spot market to satisfy demand. Councilman Robalino said it is based on consumption; the price is guaranteed for whatever is consumed. He will verify with the SEM that there is no minimum or maximum.

## 7. Subdivision and Site Plan Ordinance Modification – Draft

The Administrator explained this came about based upon feedback from the Planning Board. In reviewing an application before the Board the engineer made a recommendation for the applicant to follow the existing streetscape on River Road. The Applicant asked to be exempt as they had recently undertaken a costly sidewalk replacement and did not want to remove them and replace them according to the streetscape design. As there is currently no requirement in the ordinance for applicants within the boundaries of existing streetscape to follow the design a modification to the site plan ordinance has been proposed. The governing body approved the draft; the ordinance will be placed on the March 26<sup>th</sup> agenda for introduction.

## 8. Sr. Center – Kitchen Aide Position

The Administrator explained the Senior Center Director's recommendation to hire two people, part-time, to cover the position. There would be no additional hours. She made this recommendation because she felt it would ensure coverage; if one person was ill, the other could be called in to cover. The governing body had no objection. Resolutions to hire will be prepared for the next meeting.

### **COUNCIL:**

Councilwoman Duffie reported on a complaint she had received regarding graffiti at Prospect Park on the playground equipment. The Administrator will notify the DPW and request clean-up.

Councilwoman Duffie asked if the grants person could come to a future work session to provide the Council with a status on current applications and a report on anticipated grant rounds. The Administrator will schedule it for a future work session following the adoption of the budget.

Councilman Colucci referenced a previous problem with a tree removal on Elizabeth Street; he asked for clarification on the issue of curb replacement and whether or not the homeowner could forego a sidewalk. The Mayor said she has received many inquiries regarding shade trees; she has attempted to clear up the process for how these requests are evaluated and acted upon. What she has found is that the Shade Tree Commission makes the recommendation which is then forwarded to the DPW for action. It was noted that the certified tree expert, also a member of the DPW, does not always agree with the recommendation of the Shade Tree Commission and a determination needs to be made on which opinion will prevail. The Administrator will speak with the tree expert to reiterate the need for him to attend the Shade Tree Commission meetings so a joint decision can be reached.

Councilwoman Grant noted an issue with residents dumping at the end of Carlton Place and Terrace Place. The Environmental Commission has requested to have "No Dumping" signs posted at the end of each street. The Administrator will coordinate this with the DPW.

Council President Berner said he has been speaking with some of the County Freeholders regarding the \$500,000 restoration to the waterworks property. He has been advised that the money has not yet been allocated; these are recommendations from the Bergen County Open Space Committee, it has not come to a vote of the freeholders. Council President Berner will be meeting with Freeholder Felice, the person who made the recommendation to reallocate the funds away from New Milford. He will brief the Council on the outcome of this meeting.

Mayor Subrizi said that Freeholder Driscoll offered to take the Council on a tour of the waterworks; she will attempt to schedule this tour. Councilman Colucci said he would like to take the tour before voting on the resolution.

**ADMINISTRATOR:**

The Administrator advised she had received a request from the District 38 Legislators to come before the Mayor and Council in the hopes of advancing a collaborative relationship. The governing body agreed. The Administrator will attempt to schedule it for the May or June work session. Mayor Subrizi said she had a similar request from the County Executive for an in-person meeting. The Mayor asked for the Council's input on issues they would like addressed. She suggested these issues may be similar for the District 38 Legislators.

The Administrator referenced the request from the Public Events Committee to increase their budget request by \$200 to accommodate an additional vendor for the Memorial Day parade. The decision will be held for the upcoming budget discussions.

The Administrator referenced a request from a homeowner on Sutton Place. The sidewalk has been lifted on more than one occasion by borough shade tree roots. The homeowner has repaired the sidewalk in the past but has asked the Council to consider allowing him to eliminate these sidewalk slabs as they "dead-end" at the Sutton Place Tennis Courts. She stated that she had spoken to both the DPW Asst. Superintendent and the tree expert and both agree there would be no precedent as the slabs do not connect to other sidewalk slabs. Council President Berner noted a personal relationship to the homeowner and indicated he would recuse himself from any vote on the matter. It was noted as well that the homeowner is a member of the Planning Board. There was no objection to the removal of the sidewalk slabs. The Administrator will notify the homeowner; the removal and disposition will be the responsibility of the homeowner.

The Administrator referenced the request from New Milford Little League to hold their Opening Day Parade on 4/14 from 10:15 to 11:15, with a rain date of 4/15. The governing body had no objection.

The Administrator reported receipt of the RFPs from the Tax Assessor for the reassessment. The Assessor would like a decision from the governing body as quickly as possible so she can proceed. The proposals will be circulated among the council members and it will be listed for discussion at the finance meeting scheduled for March 19<sup>th</sup>.

The governing body discussed and agreed to meet on March 19<sup>th</sup>, April 2<sup>nd</sup>, and April 16<sup>th</sup> at 6:30 PM in addition to the regular meetings scheduled on March 26<sup>th</sup> and April 9<sup>th</sup> to do a line by line review of the budget.

The Mayor referenced the capital budget proposal. A spreadsheet, outlining the original requests and the finance committee's recommendations, was distributed. She asked the Council to review and be prepared to discuss at the upcoming budget meeting. Councilman Ashley asked for information on the models and cost of the Police Department radios being requested. He additionally asked for a list of other uses for the dump truck in addition to snow removal. The information will be requested of the individual departments and forwarded to the Council.

## COMMENTS FROM THE PUBLIC

Council President Berner made a motion to open the meeting to the public. Councilwoman Duffie seconded the motion. All present in favor, none opposed.

Frank DeBari asked to address the Mayor and Council. Mr. DeBari asked for clarification on some of the previously mentioned budget items. He confirmed the surplus is currently over \$400,000 of which \$130,000 is being anticipated in the 2012 budget, leaving \$314,000 in surplus. He confirmed the proposed increase is \$.03 per \$100 of assessed value or \$123 on the average home. He asked about the 3.2% increase over last year and was advised some of the increases are outside of the 2% cap. He asked to confirm the loss of ratables discussed was \$16,000,000.

Mr. DeBari referenced the cell tower on borough property and asked if Gaelic Communications had ever placed the fire horn on the tower. He was advised that it was turned over to the Fire Department to handle directly with Gaelic.

Mr. DeBari asked who would be paying for the turf field being proposed at the Middle School. He was advised that the Field Committee was charged with making a recommendation on locating the field, not on how it would be paid for. There will be a meeting with the grants writer to discuss options for funding and then discussions with the Board of Education.

Jeffrey DelVecchio, 794 Mabie Street, asked to address the Mayor and Council. Mr. DelVecchio reported he had received a summons to appear in court and while he understands the autonomy of the Board of Health he finds it undemocratic that there is no appeal process to the decision of the Board. He has started an online petition in support of his efforts to maintain chickens and has received 136 signatures. Mr. Madaio said the BOH makes its own ordinances. Mr. DelVecchio asked the BOH to consider changing the ordinance, the BOH declined; therefore the ordinance remains in full force and effect. He explained the essence of the rule; it is not dependent upon complaints, it is enforceable based upon the violation. Mr. Madaio said this is a common ordinance in many towns. Mr. DelVecchio responded he has found it more common for these ordinances to be changed and referenced Lyndhurst, Emerson, and Maplewood as examples. Mr. DelVecchio said again that he finds it odd that there is no recourse. Mr. Madaio said it is acceptable to ask them to change but they are under no obligation to do so. Councilwoman Duffie said Mr. DelVecchio has been to two meetings and has brought information for the BOH to consider; they are reviewing the information but as of now the vote to maintain the ordinance stands. She added, the decision was made by the BOH, Mr. DelVecchio is not compliant and now it is in the hands of the municipal court. Mr. DelVecchio said he wants to understand the authority the BOH holds and the role of the Mayor and Council. The Mayor said the Council has no input on the policies of the BOH. Mr. DelVecchio said he finds that odd.

Jody Seifert, asked to address the Mayor and Council. Ms. Seifert asked who owns the VFW and questioned who would be responsible for repairs. The Mayor explained as long as it is used for a civic use it belongs to the VFW; if the VFW ceases to exist the property reverts back to the town. Ms. Donna Colucci asked to comment; she said as the Service Unit Manager of the New Milford Girl Scouts they have discussed the possibility of helping maintain the property with the VFW.

As no other member of the public wished to comment, Councilman Colucci made a motion to close to the public. Council President Berner seconded the motion. All present in favor, none opposed.

Councilman Ashley asked about the individual resolutions for the Lieutenant promotions that were made at the previous meeting. The Administrator explained the promotions were approved on a voice vote in January but when she reviewed what had been done in the past she noted promotions had been made by resolution. She spoke with the borough attorney and he concurred that the Lieutenant promotions should be affirmed by resolution.

Councilwoman Grant asked about resolution 2012:95. The Administrator explained a Sergeant's test was given to all of the interested candidates. The scores were ranked and a promotion list was drafted. This resolution authorizes the promotions of the first six patrolmen on that list. Councilman Ashley asked the cost of the promotions. The Mayor said the total cost for the six promotions to Lieutenant (effective 3/1/12) and the six promotions to Sergeant (effective 4/1/12) is approximately \$82,000.

Councilman Ashley asked to have resolution 2012:95 pulled out for a separate vote.

Councilwoman Duffie asked to have resolutions 2012:88 through 2012:93 pulled out for a separate vote.

Councilman Ashley asked to have resolution 2012:94 pulled out for a separate vote.

Councilman Colucci asked to have resolution 2012:100 tabled until a tour of the property could be scheduled. Councilwoman Grant noted the Freeholders would be voting on the issue on March 21<sup>st</sup>.

The Mayor reported to the Council on the loss of an additional DPW employee due to an extended medical leave and noted this was in addition to the loss of three other employees the previous year; two to retirement and one for personnel reasons. The Mayor asked the Council to reconsider rehiring Mark Hettinger to continue his seasonal employment. Councilman Ashley said he would still like to see what this individual will be doing on a daily basis before voting. The Administrator will ask for the information and relist the matter for the next meeting.

## **RESOLUTIONS:**

- 2012:85 Resolution to go into Closed Session
- 2012:86 Payment of Bills and Vouchers
- 2012:87 Oppose parole release of Christopher Righetti
- 2012:88 Affirm Promotion of Thomas Johnson to the Rank of Lieutenant
- 2012:89 Affirm Promotion of Robert Jones to the Rank of Lieutenant
- 2012:90 Affirm Promotion of Kevin Kiene to the Rank of Lieutenant
- 2012:91 Affirm Promotion of Stephen Littlefield to the Rank of Lieutenant
- 2012:92 Affirm Promotion of John O'Malley to the Rank of Lieutenant
- 2012:93 Affirm Promotion of Frank Ramaci to the Rank of Detective Lieutenant
- 2012:94 Authorize Agreement with VSP to provide vision benefits to employees
- 2012:95 Authorize Promotions to the Rank of Sergeant effective April 1, 2012
- 2012:96 Authorize Acceptance of Grant Agreement from the Bergen JIF for Base Accreditation
- 2012:97 Authorize refund of duplicate tax payment – Various Blocks and Lots
- 2012:98 Authorize refund of duplicate tax payment – Various Blocks and Lots
- 2012:99 Authorize Mayor to sign Service Agreement with BCUA for a Certified Recycling Professional to Prepare Annual Recycling Tonnage Report

2012:100 Request Bergen County Freeholders to accept and adopt the 2010 recommendation of the Bergen County Open Space Trustees to allocate \$500,000 for the preservation and repair of the chimneys at the Water Works site

## **VOTE ON RESOLUTIONS**

Councilwoman Duffie made a motion to approve resolution 2012:85, 2012:86 and 2012:87. Councilman Ashley seconded the motion. All present in favor, none opposed.

Councilman Robalino made a motion to approve resolution 2012:96 through 2012:99. Councilwoman Duffie seconded the motion. All present in favor, none opposed.

Councilman Colucci made a motion to approve resolution 2012:88 through 2012:93. Council President Berner seconded the motion. The motion passed on a roll call vote as follows:

For the motion: Robalino, Colucci, Grant, Berner

Against the motion: Duffie, Ashley

Abstain: None

In casting her vote Councilwoman Duffie said it was in no way a reflection of her feelings for the individuals; she just wanted to see more of a progression.

Mayor Subrizi commented while she agreed with the idea of progression, the structure of the department was so eroded by the lack of promotions over the last decade she does not feel the promotions could have been scattered.

In casting his vote Councilman Ashley said he echoed the sentiments of Councilwoman Duffie. It is not a reflection on the individuals but rather a budgetary decision and an objection to the number of promotions being made at this time.

In casting his vote Councilman Robalino commented that he too agrees with progression but this is to make up for the promotions that should have been made over previous years.

In casting her vote Councilwoman Grant said that having voted for the promotions previously she would vote yes to affirm the action already taken.

Council President Berner made a motion to approve resolution 2012:94. Councilman Colucci seconded the motion. The motion passed on a roll call vote as follows:

For the motion: Duffie, Robalino, Colucci, Grant, Berner

Against the motion: Ashley

Abstain: None

In casting his vote Councilman Ashley commented he was voting no because he does not know the cost of the program being proposed.

In casting his vote Councilman Robalino commented he was voting yes based upon the recommendation of the risk manager.

Council President Berner made a motion to approve resolution 2012:95. Councilman Colucci seconded the motion. The motion passed on a roll call vote as follows:

For the motion: Robalino, Colucci, Berner, Subrizi  
Against the motion: Duffie, Ashley, Grant  
Abstain: None

In casting her vote Councilwoman Duffie commented again that her vote does not reflect her opinion of the character of the individuals, she just feels it is too many at one time.

In casting his vote Councilman Ashley said he voted no for the same reasons mentioned previously; he does not believe there is a need for this many.

In casting his vote Council President Berner said he believes if previous Mayor and Council had prudently dealt with the chain of command this Mayor and Council would not be dealing with it now.

In casting her vote Mayor Subrizi commented that the Council had voted in January to authorize the test and she believed it was given as agreed to move forward with the promotions. She said the lack of structure in the Police Department was the motivating reason why the promotions must be made.

Councilman Robalino said he thought resolution 2012:100 should be tabled.

Councilwoman Duffie made a motion to approve resolution 2012:100. Councilwoman Grant seconded the motion. The motion passed on a roll call vote as follows:

For the motion: Duffie, Ashley, Grant, Berner  
Against the motion: Robalino, Colucci  
Abstain: None

In casting his vote Councilman Colucci commented he would like to tour the property before making a decision.

In casting her vote Councilwoman Grant commented this vote will help to preserve the waterworks and by not voting for it the money previously allocated would be lost.

In casting his vote Council President Berner said he voted yes as the liaison to a Historic Preservation group for the Borough who has strong support for the restoration of the waterworks property.

At this time, Councilwoman Duffie made a motion to go into closed session. Councilman Ashley seconded the motion. All present in favor, none opposed.

**CLOSED SESSION:**

1. Potential Acquisition of Property – 1033 Steuben Avenue
2. RFQ Review – Licensed Professional Planner

At the conclusion of the closed session Councilwoman Grant made a motion to reopen the meeting. Councilwoman Duffie seconded the motion. All present in favor, none opposed.

**ADJOURNMENT**

Councilwoman Grant made a motion to adjourn. Councilman Robalino seconded the motion. All present in favor, none opposed. Time 11:20 PM.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Christine Demiris".

Christine Demiris  
Borough Clerk