

**MINUTES  
BOROUGH OF NEW MILFORD  
6:30 PM WORK SESSION  
Monday, June 13, 2011**



Mayor Subrizi read the Open Public Meeting and Mission Statements.

Councilwoman Randi Duffie	Present
Councilman Diego Robalino	Present
Councilman Howard Berner	Present
Councilwoman Celeste Scavetta	Present
Councilman Dominic Colucci	Present
Councilman Peter Rebsch	Present
Mayor Ann Subrizi	Present

Also present: Mark Madaio, Borough Attorney; Christine Demiris, Administrator/Clerk; Chief Papapietro; John Bigger, Recreation Director (7:15 PM)

**OPEN SESSION:**

1. ABC Violation – New Milford Liquors

Mr. Madaio stated there are two priors for sale to someone under 21 but over 18. He noted this is a first offense for the sale to someone under the age of 18; this is a separate category. He said there is an anecdotal prior; in 2005 there was a sale to a person under the age of 18 where a police officer wrote a summons and the matter was prosecuted as a sale to a minor in the municipal court but it was never the subject of a license hearing. He said this is the reason the Council has heard this is a fourth offense, when in reality it is two and one because the offenses are broken out separately by statute. The period of suspension for a first offense, according to the ABC, is thirty days. Mr. Madaio strongly recommended the following additional steps: require an electronic ID reader and require ABC sanctioned training for all employees.

Mr. Stuart Stern, Daitzman and Stern, entered his appearance on behalf of the licensee, Shukla & Sons, DBA New Milford Liquors. He stated the licensee is prepared to enter a plea of non vult for the first offense before this Board for selling to a minor under the age of 18. Mr. Stern represented the licensee is prepared to purchase the ID reader and that every employee, not just management, will be trained as required by the Board.

Mr. Madaio explained a plea of non vult is a plea of no contest, which is as close to a guilty plea in a hearing for a liquor license. He suggested the Council should accept the plea and impose the suspension consistent with the ABC guidelines. Recognizing the frequency of incidents he reminded the Council that license renewal is not mandatory; any violations in the next year should cause the Council to seriously consider non-renewal.

Councilman Berner asked the consequences if the conditions were not met. Mr. Madaio responded, revocation.

Councilman Robalino made a motion to accept the recommendation of the Borough Attorney. Councilman Berner seconded the motion. The members of the Council unanimously agreed. A resolution, affirming the suspension, will be prepared for the next meeting. The resolution will outline all of the conditions and provide for a thirty day stay of the suspension pending appeal.

## 2. Council Vacancy

Councilman Berner made a motion to nominate Peter Rebsch. Councilman Colucci seconded the motion. The motion passed on a roll call vote as follows:

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

Peter Rebsch was sworn in by Mayor Subrizi.

Councilwoman Duffie asked how the appointment would affect Mr. Rebsch's employment with Recreation. Mr. Rebsch said he had notified the Recreation Commission that he would be stepping down.

Councilwoman Duffie asked if Mr. Rebsch does business with the Police Department. Mr. Rebsch said that he did but this was his last day; he has turned over the remaining work to another vendor.

## 3. Social Service Director Position

Mayor Subrizi referenced the resignation of the current Social Services Director, JoAnn Falcone. She explained that Donna Foxen had come by way of Ms. Falcone's recommendation. The Mayor and the Administrator have met with Donna and endorse Ms. Falcone's recommendation. She said the position is part-time and includes a small salary with no additional benefits. The Mayor noted Ms. Foxen works with Ms. Falcone in her regular employment and will have access to Ms. Falcone should she have any questions at the outset of her employment. She said if the Council is willing to waive the advertising requirement she does not believe the Borough could find a better candidate.

Councilwoman Duffie said she would normally be uncomfortable waiving the requirement to advertise the position, but given Jo Ann's recommendation, whose opinion she holds in high regard, she would be willing to waive the requirement.

The Council unanimously agreed to waive the advertising requirement. It was noted the resolution is on the current agenda for approval.

## 4. DPW Hiring Request

The Administrator referenced the memo from the Assistant Superintendent requesting replacements for two recent unexpected retirements. She explained that she had discussed his needs and the feasibility of hiring a seasonal employee in addition to one full-time

employee. The Council unanimously agreed to have the Administrator advertise for one full-time and one six-month seasonal employee.

5. Brookchester Bar & Liquors Petition

The Administrator recapped the current situation. The licensee is operating as a Pleenary Retail Consumption License with Broad Package Privilege (#32), which allows a bar and liquor store to operate under the same license. She explained this is no longer a valid designation but the licensee has operated continuously as such as far back as anyone can recall. The Licensee wants the State to recognize it is a #32 and for its licensing paperwork to reflect the same. The Licensee was instructed by the State to file a petition to request this recognition. In addition, they must obtain a letter from the Borough stating that there is no objection to them being recognized as a #32. The Council discussed the matter and agreed there is no objection to the license being reclassified as a #32. The Administrator will draft a letter to the State acknowledging the same.

6. Background Check Ordinance

The Administrator explained that the Borough has an ordinance that was adopted in 2006. She said we have not been following the ordinance because it was not easily implemented. We were recently made aware of an opportunity to do fingerprinting through the Megan Kanka Foundation without any expense to the Borough. The Mayor noted this was one of the obstacles in the past; how to fund the fingerprinting. The Administrator said the requirement would apply to any current employee or volunteer with direct unsupervised access to minors.

Mr. Bigger explained the grant runs through the end of the year and that there is no guarantee the funding will still be in place in 2012. The fingerprinting would be done by an authorized agency at a cost of \$35, which would be paid by the Kanka Foundation. If the grant expires the Borough will then be responsible for the \$35 payment.

The Chief explained this company is a sub-contractor to the State Police, who used to perform the background checks. He said the Borough has to be prepared to tell people they cannot coach; certain offenses will require the Borough to ban them from coaching. He said he absolutely recommends background checks be performed.

Mr. Bigger said the initial report would just say the person is excluded; the coach can then request the reason and go before a committee to decide if the person can coach. It was noted, people could be excluded for minor offenses that may have many years prior and may not even be relevant to their suitability to coach.

It was noted that any violation after the completion of the background check will be reported to the Borough. Mr. Madaio said if the check follows the individual it would make sense to get everyone in the program checked this year while the funding is in place and then to budget for a handful of additional checks in subsequent years. Mr. Bigger recommended everyone be checked every three years.

The Council unanimously agreed to commit to paying for these background checks in the event the funding is no longer in place. Mr. Bigger will contact the Kanka Foundation to proceed.

7. Sanzari's Barbeque Fundraisers

The Mayor noted this barbeque has been an annual event, the proceeds of which benefit Hackensack Hospital. She noted they are asking to have two outdoor events this year, one in July and one in August. She said that she spoke with a representative from Sanzari's and asked if they would then ask to do it even more frequently. He assured her they would not.

The Administrator reported on the receipt of approvals/conditions from the Zoning, Health, Fire, and Police Departments. The Administrator explained it will require an application for an Extension of Premise permit for their liquor license. She advised a resolution has been prepared to authorize the Extension of Premise permit should the Council wish to add it to the agenda. The Council agreed to add the resolution to the agenda and to grant permission for the barbeque in both July and August.

8. 992 Oxford Lane Deed of Easement

Mr. Madaio stated the town had posted no parking signs a number of years ago but there was no ordinance to support the signs so they were removed. Mr. Madaio suggested the Council should adopt an ordinance to put the "no parking" signs back on the easement. He additionally suggested the placement of a "Green Acres" sign at the end of the easement. Councilman Berner commented on the placement of the homeowner's mailbox at the end of the easement; it gives the impression their property begins at that point. Mr. Madaio suggested they could be instructed to move the mailbox onto their property.

The Council agreed to introduce a "no-parking" ordinance, place Green Acres signs, and to ask the homeowner to move the mailbox and the basket ball hoop because the latter blocks access to the woods for emergency vehicles. The ordinance will be prepared for introduction on June 27<sup>th</sup>. The Administrator will contact Green Acres for the signs.

9. Fire Co. #2 – Rebuild vs. Renovation

Councilman Colucci noted it has been the vision of Fire Co. #2 to rebuild the firehouse. Given the financial constraints they would like to look at what it would cost and the feasibility of renovating rather than rebuilding. They have gotten an estimate for a structural review from the engineer associated with the architect who did the feasibility study for the rebuild. The estimate for the structural report is \$1,200.

Mayor Subrizi said she is uncomfortable with idea of the architect for the rebuild bringing in the engineer for the renovation proposal. She suggested an independent engineer would be better and asked if Boswell could do the study. The Administrator will contact Boswell to request a quote.

Angelo DeCarlo, a representative of Fire Co. #2, clarified the parameters of the study stating it is not a full evaluation but rather a review of the cracks in the north wall to determine if it

can be repaired or if it would have to be replaced and additionally a determination as to whether or not the existing building could support a second floor.

The Administrator will check with the CFO to see if there is any money in the budget to cover the cost of this structural evaluation.

#### 10. Repair Shop Ordinance

The Mayor said we are attempting to resolve some of the problems with the repair shops with existing ordinances rather than by creating a new ordinance. She said she has asked Chief Papapietro to look at how we handle unregistered vehicles.

The Council acknowledged the issue pertains particularly to two repair shops that have received the most citations. Councilman Berner commented that one of the shop owners said that some of the cars are there because the owners have skipped out on payment. He asked if fencing the property would alleviate the unsightliness.

The Chief commented that the property is situated on a corner; therefore the height of the fence would be limited and might not have the desired effect. He said the problem with ticketing the unregistered vehicles is that the vehicle owner would get the summons not the shop owner. The Chief suggested he could review the ordinances from other towns in an attempt to "tweak" our ordinance.

Councilwoman Duffie said there were 25 cars during the day and 21 cars this evening at the one shop. She commented on the cars on the street and the fact that the cars need to be three feet off the sidewalk which they are not.

The Mayor said she hopes to address the matter with the Chief's assistance and if it does not work the Council can revisit the other ordinance. The matter will be relisted for discussion at the July meeting.

#### 11. Fire Hydrant Ordinance

Councilman Colucci said he conducted an independent study; he went to houses with fire hydrants in front of them and of the seven homeowners he spoke with all of them currently clear the hydrants in front of their homes. He spoke to someone who rents and he too clears the hydrant in front of his residence. He said he found people are concerned about their own homes and the homes of their neighbors.

The Administrator relayed a conversation she had earlier in the day with Alan Silverman who was unable to attend the meeting. He wanted to remind the Council that the Fire Department has absolutely no intent to hurt the elderly or infirmed and that if they were to contact the Fire Department they would be more than happy to help them clear those hydrants.

Councilman Robalino commented on the perception that people with hydrants in front of their home get a discount on their home insurance; he stated they do not. He said he had spoken with the Boy Scouts and had a letter from the Scoutmasters indicating the Scouts willingness to assist with clearing hydrants. Councilman Robalino concluded by stating he

originally thought the ordinance was not needed but apparently it is because not everyone is clearing their hydrants.

Councilman Berner asked what would happen if someone can't shovel out the hydrant, what if they are away. He asked if the homeowner would be liable if something happened to someone else's property. Councilman Robalino commented that homeowner's make arrangements to have their property shoveled if they are away. Councilman Colucci stated there are unexpected storms. He stated this is his primary reservation with it becoming an ordinance.

Mr. DeCarlo asked to comment as a representative of the Fire Department. He said the intent of the ordinance was to encourage compliance; they have no interest in being punitive. He noted the Fire Department just can't get to all 350 hydrants. The goal is to bring public awareness because this is a public safety issue, minutes count, any delay puts not only the public at risk but the public servants as well. He said 80% compliance would be much better than what is happening currently.

Councilman Berner said he would like to move forward with the ordinance. Both Councilwoman Duffie and Councilman Robalino seconded the motion. Mayor Subrizi asked if there was consensus among the Council to put the ordinance on for introduction at the June 27<sup>th</sup> meeting. All present were in agreement.

## 12. Way Finding/Directional Signs

Councilwoman Duffie reported she has been in touch with the grants person regarding how much can be allocated within the Streetscape design and she will be contacting the borough engineer to include it in the Streetscape specifications.

## **COMMENTS FROM THE PUBLIC**

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

Ms. Eileen Leonard addressed the Council. Ms. Leonard said there had been no-parking signs on the easement on Oxford Lane but that they were removed. The Mayor explained the signs had been installed without an ordinance to back it up. The Council is planning to amend its no-parking ordinance to include this easement so signs can be installed and the restriction can be enforced.

Mr. Charlie Seifert addressed the Council. Mr. Seifert asked why Brookchester does not clear its own hydrants. It was explained that the hydrants are on the public right-of-way not private property. If the ordinance is put in place they will be obligated to clear the hydrants just the same as the homeowners.

Ms. Marilyn Bachmann addressed the Council. Ms. Bachmann asked if the requirement to clear the hydrants would be advertised. She was advised the introduction and adoption of the ordinance will be advertised and it will be on the borough's website, the lawn sign, in the Fire Department newsletter as well as disseminated through other media outlets.

Ms. Jody Seifert addressed the Council. Ms. Seifert asked if the Streetscape was being done through a grant. She was advised that it is being done through a grant.

Ms. Hedy Grant addressed the Council. Ms. Grant asked for the status of the Hirschfeld Brook Flood Mitigation project. The Administrator reported she had spoken with last homeowner for which we were waiting for consent on June 7<sup>th</sup>. He had questioned whether or not he would be getting a tax credit for the conservation easement and was advised that he is already receiving a credit for wetlands. The homeowner stated he would sign the consent and return it. She said she has yet to receive the signed consent.

With regard to flooding the Mayor reported the River Vale Mayor offered to host a meeting of the Mayors in Pascack Valley and surrounding towns. The meeting was attended by Mayor Subrizi and the Mayors of River Vale, Hackensack and Ridgefield Park. They have agreed to continue to meet to discuss the issue of flooding. On a separate matter, the Mayor reported that Freeholder Driscoll is forming a Flood Advisory Commission and is looking for anyone interested in serving. Councilwoman Scavetta and Councilman Berner expressed interest.

As there were no other members of the public wishing to comment Councilwoman Duffie made a motion to close the meeting to the public. Councilman Robalino seconded the motion. All present in favor, none opposed.

#### **RESOLUTIONS:**

- 2011:133 Closed Session
- 2011:134 Payment of Bills and Vouchers
- 2011:135 Approve Raffle License #2011:10 – New Milford Volunteer Fire Co. #1 – On-Premise Merchandise Draw
- 2011:136 Approve Community Development Appointments for 2011-2012
- 2011:137 Approve Open Space Trust Municipal Program Regional Committee Appointment for 2011-2012
- 2011:138 Approve the Corrective Action Plan for the 2010 Municipal Audit
- 2011:139 Authorize 2011 Liquor License Renewals
- 2011:140 Authorize Boswell Engineering to prepare plans and specifications and the Borough Clerk to advertise for bids – Handicapped Curb Ramps
- 2011:141 Authorize Boswell Engineering to prepare plans and specifications and the Borough Clerk to advertise for bids – River Road Streetscape – Phase 4
- 2011:142 Award Contract for Broom Street Sweeper with Belt Conveyor to W.E. Timmerman Co., Inc. in the amount of \$184,710.00
- 2011:143 Authorize one (1) year extension to the contract with eRevival for the Collection and Recycling of Used Electronics
- 2011:144 Appoint Social Services Director – Donna Foxen
- 2011:145 Approve Extension of Premise Permit – Sanzari's New Bridge Inn – July 26, 2011 and August 30, 2011

#### **ADMINISTRATOR:**

The Administrator reported the vegetative waste contract is up in October. There is an option to renew for an additional year. She said the rates were extremely favorable at the time the contract

was awarded and that she had spoken with the DPW Assistant Superintendent and the Superintendent in Oradell (as it was a joint bid) and neither of them believe we would be afforded a better contract if we were to go out to bid. She asked the Council for permission to place a resolution on the next agenda to authorize the option year. The Council unanimously agreed.

The Administrator referenced the resolution on the current agenda to authorize the first one year option for the electronics recycling. She explained the contract is at no cost to the Borough and if we opted not to renew we would have to find an alternative method of disposal. As there have been no problems with the vendor she recommends authorizing the option year.

The Administrator reported on a telephone call she received from Dave Hollenbeck of PSE&G. With regard to the recently enacted off-duty police ordinance Mr. Hollenbeck informed the Administrator that PSE&G does not pay escrow; they are entitled to an exclusion as a regulated utility. He said the Borough will have to amend our ordinance to carve out an exemption for the utilities or PSE&G will hire county or state police or flaggers. Mr. Madaio recommended the Council amend the ordinance to include the exemption. He will draft the amendment for the Council's review.

The Administrator referenced the request from the Senior Center to hold a picnic in the parking lot on July 12<sup>th</sup> and to close Frank McCue Lane from 10:30 – 2:30. She stated the Police Department had no issue with the request as long as the residents on Frank McCue Lane are notified in advance. The Council approved the request. The Administrator will notify the Fire Department and the Health Department.

## **COMMENTS FROM THE PUBLIC**

Councilwoman Duffie made a motion to reopen the meeting for public comment. Councilman Berner seconded the motion. All present in favor, none opposed.

Mr. Eddie Prevot, 281 Ridge Street, addressed the Council. Mr. Prevot asked for information on the closed session with regard to the property acquisition and whether it had anything to do with the United Water property. He was advised that the matter does not pertain to the United Water property.

Mr. Ray Cottiers, 931 Pacific Street, addressed the Council. Mr. Cottiers asked when the ordinance to shovel sidewalks was passed. He commented that the sidewalk ordinance was passed in the interest of the safety of pedestrians and it would seem that the fire hydrant ordinance should have been passed decades ago.

As there were no other members of the public wishing to comment Councilwoman Duffie made a motion to close the meeting to the public. Councilman Robalino seconded the motion. All present in favor, none opposed.

## **VOTE ON RESOLUTIONS**

Councilman Berner made a motion to approve the consent agenda #2011:133 through #2011:145. Councilwoman Scavetta seconded the motion. All present in favor, none opposed.



**CLOSED SESSION:**

Councilman Berner made a motion to go into closed session. Councilwoman Scavetta seconded the motion. All present in favor, none opposed.

- 1. Proposed Property Acquisition: 1033 Steuben, 154 Washington
- 2. Personnel – DPW
- 3. Collective Bargaining – PD Union Pay Issue

At the conclusion of the closed session Councilwoman Duffie made a motion to go back into open session. Councilman Berner seconded the motion. All present in favor, none opposed.

**INTRODUCE ORDINANCE #2011:13**

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF NEW MILFORD SALARY ADOPTED AS ORDINANCE 91:01 AND AMENDED ANNUALLY BY ORDINANCE UP TO AND INCLUDING ORDINANCE 2011:06

Councilman Berner made a motion to introduce and approve this ordinance on its first reading. Councilwoman Duffie 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 June 27, 2011 at 7:45 PM.


**COUNCIL:**

Councilman Robalino referenced a letter from Senator Michael Doherty regarding school funding and distribution of school aid to the municipality. Mayor Subrizi suggested, since it is such an important issue and since it affects so many people, it should be discussed at a public meeting.

**ADJOURNMENT**

Councilwoman Duffie made a motion to adjourn. Councilman Berner seconded the motion. All present in favor, none opposed. Time 10:37 PM.

Respectfully submitted,



Christine Demiris  
Borough Clerk