

**MINUTES  
BOROUGH OF NEW MILFORD  
7:00 PM WORK SESSION  
Monday, September 12, 2011**



**WORK SESSION:**

Mayor Subrizi read the Open Public Meeting and Mission Statements.

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

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

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

**CLOSED SESSION:**

1. Closed Session Minutes

At the conclusion of the closed session Councilman Robalino made a motion to return to open session and reconvene in the Council Chambers. Council President Berner seconded the motion. All present in favor, none opposed.

**OPEN SESSION:**

Council President Berner made a motion to approve the Closed Session minutes of: January 10, 2011, January 24, 2011, February 14, 2011, February 28, 2011, March 14, 2011, March 28, 2011, April 11, 2011, April 25, 2011, May 9, 2011, June 13, 2011, June 27, 2011, July 14, 2011, and July 25, 2011. Councilman Rebsch seconded the motion. All present in favor, none opposed.

**APPOINTMENTS: PAT MAGGI – RECREATION COMMISSION**

Councilwoman Scavetta made a motion to appoint Pat Maggi to the Recreation Commission. Councilman Colucci seconded the motion. All present in favor, none opposed.

1. Fresh & Fancy Farms

Don and Kerry Low came forward to address the Mayor and Council. Mr. Low explained there were originally five greenhouses on the property, three of which came down during the severe winter weather. He would like to replace the three and add one additional.

Mr. Madaio referenced the Deed of Easement for Conservation and Walkway Purposes dated March 18, 2008 which states: expansion of existing agricultural structures and construction of

new temporary or permanent agricultural structures is permitted under a Farm Management Plan approved by the Grantee. He explained the Grantee is the Borough of New Milford and the County of Bergen. Mr. Madaio said he believes the Low can probably do all of the things they would like to do but they must first obtain a Farm Management Plan consistent with the conservation easement.

Mr. Low said he has a meeting with the State scheduled for September 13<sup>th</sup>. Mr. Low said according to Robert Abbatomarco of the County of Bergen he does not need a Farm Management Plan as long as the proposal meets the local requirements with regard to setbacks and coverage.

Mr. Madaio referenced capital letter E. at the bottom of page 2 of the deed noting it calls for a Farm Management Plan for the expansion or construction of existing or new agricultural structures; prohibits non-agricultural uses; and prohibits the deposit of, among other things, gravel. He suggested the tenant on the property and the deposit of gravel to construct a parking area seem inconsistent with what the easement allows. Mr. Madaio said in effect the property has been sold twice. The first time a few years back when the Borough and County bought the development rights for a fair amount of money. This burdened the property in two ways: the walkway easement, which is limited to a certain area of the property, and by the conservation easement, which applies to every square inch of the property. The property was then sold again to the Lows who purchased the property at a price that reflected a property that retained none of the previously sold development rights.

Ms. Low explained the reason behind the deposit of gravel. Mr. Madaio responded it is not allowed without a Farm Management Plan. He said the best way to proceed would be for the Lows to get a Farm Management Plan. Once the plan is in place they would then be able to apply for permits to do whatever has been approved in the plan.

The Lows indicated they would move forward with the meeting with the State in pursuit of a Farm Management Plan.

## 2. Planning Board Resolutions – “Family”, “Home Professional Office”, Definitions

The Mayor reviewed each of the resolutions whereby the Planning Board has made the following recommendations: replace the antiquated or outmoded definition of “family” with a more contemporary, non moralistic, non judgmental term that better reflects the current mores of society; add a definition of “home professional office” and further outline the permitted uses under the term; update the definitions of “building coverage” and “structure”, replace the term “impervious coverage” with the term and corresponding definition “improved lot coverage” and add the terms and corresponding definitions of “deck” and “patio”.

Ordinances will be prepared for introduction at the September 26<sup>th</sup> meeting.

## 3. Community Development Block Grant Application

The Administrator advised the Community Development Block Grant Application is due to the County on October 7<sup>th</sup>. She reviewed the eligible areas and populations and noted some of the recently completed projects including paving on Reichelt Road, sewer lining on Faller Drive, and handicap accessible ramps at various locations throughout town. She said in reviewing

potential projects for this year's applications she was made aware of the need for some handicapped improvements at the senior center. The Council agreed to pursue this application. The engineer will be asked to prepare an estimate and authorizing resolutions will be prepared for the September 26<sup>th</sup> meeting.

#### 4. Best Practice Inventory

The Administrator advised the Best Practice Inventory was submitted to the State as required by the September 1<sup>st</sup> deadline. The final requirement is a certification of the Clerk acknowledging the Mayor and Council considered the inventory at a public meeting. She noted the Borough will be entitled to receive its full complement of state aid based upon the results of the inventory prepared and submitted. She asked if there were any comments or objections to answers submitted; there were none. The certification will be submitted to the State.

### **PROCLAMATIONS:       PATRIOT DAY AND NATIONAL DAY                                   OF SERVICE AND REMEMBRANCE**

Mayor Subrizi read a proclamation from the office of the Governor.

### **ADMINISTRATOR:**

The Administrator noted a number of flood related resources that have come through her office. Copies were placed at the front of the room for anyone interested and will be available at the Borough Clerk's office.

The Administrator referenced the informal announcement that building department permit fees would be waived for flood related repairs; she asked to add a resolution to the agenda to formalize the plan. The Council agreed, the resolution was added to the agenda as #2011:195.

The Administrator referenced a letter from St. Joseph's School requesting permission to place signs promoting their upcoming craft fair. Given the short period of time between the date of the Council meeting and the Craft Fair she has already approved the request. There was no objection from the Council.

The Administrator announced the receipt of a Certificate of Appreciation to the Mayor and Council from Run New Milford 2011.

The Administrator stated the initial arrangement for enhanced garbage pick-up is scheduled to end after September 13<sup>th</sup>. She asked if the Council wished to abide by this date or to extend the enhanced service. The Council unanimously agreed to resume the normal schedule after September 13<sup>th</sup>.

### **COUNCIL:**

Councilman Robalino said he had spoken with Chief Papapietro regarding the intersections of Manor and Ryeside and Ryeside and Duke suggesting the need for stop signs to be installed at these intersections. He said the Chief agreed with his suggestions. He asked the Council to consider amending the current ordinance to add these intersections. The Council agreed; the ordinance will be prepared for introduction at the September 26<sup>th</sup> meeting.

Councilman Colucci asked if we had received the structural engineering report from Boswell Engineering on Fire Co. #2. He was advised that we had not and that an inquiry has gone out to Boswell.

## **COMMENTS FROM THE PUBLIC**

Council President Berner made a motion to open the meeting to the public. The motion was seconded by Councilman Rebsch. All present in favor, none opposed.

Dan Ferretti, 163 River Road, came forward to address the Mayor and Council. Mr. Ferretti thanked the Fire Department, Police Department, and the Mayor and Council for all that was done during the Hurricane. Mr. Ferretti stated he made it through the hurricane without flooding but the water started to rise after the storm had ended and by 4:00 PM he was inundated with water. He said he never had a problem until ten years ago. He suggested United Water should have released more water in advance of the storm. He spoke of water in New York and how it took a court order to get them to release water prior to the storm; he said it was too little, too late and ultimately ended up adversely effecting New Jersey. He said United Water is protecting their commodity at the expense of people's lives and homes. He said he intends to sue United Water. He said while it is not the Council's fault they need to help fix the problem. He said he is not sure where the Council stands on United Water property and asked for the status.

Mr. Madaio responded that United Water is in contract to sell to Hekemian, Hekemian has approached the Council to rezone the property and the Council is considering the request to rezone.

Mr. Ferretti suggested the town should get involved with Blue Acres to purchase the properties on Columbia and Harvard and mandate that these residents be relocated to the United Water property.

Lori Barton, 399 Roslyn Avenue, came forward to address the Mayor and Council. Ms. Barton read a prepared statement in which she noted United Water is not responsible for the rain but they are responsible for the amount of flooding and the cascading effects of the United Water reservoir system. Ms. Barton said she is imploring the governing body to do whatever is necessary to change the way United Water does business. She further asked the Council to allow the people of New Milford to decide the fate of the United Water property. She said any development of the property will impact the town as much as the Brookchester development did in the 1950's. She said there is no reason to rush the decision; she urged the Council to put it to a non-binding referendum.

Michael Putrino, 494 James Street, came forward to address the Mayor and Council. He said he wished to comment on the discussion regarding the Fresh and Fancy Farm. Mayor Subrizi stated the former Councilman Putrino was instrumental in bringing the conservation easements of the Perrone and Klinger farms to fruition. Mr. Putrino stated that not only was the property sold to New Milford and the County but a large portion was sold to the state. Mr. Madaio said while much of the easement was state funded, the easement was granted to New Milford and the County of Bergen. Mr. Putrino also said the walkway is to be prominently marked and suggested if the signs, originally provided by the State, are no longer installed additional signs could be obtained through Green Acres.

Ms. Florencs Bartus, 580 Columbia Street, came forward to address the Mayor and Council. Ms. Bartus claimed there had never been any problem with flooding when it was Hackensack Water; United Water devastates the residents of Columbia Street.

Mr. Darren Drake, 323 Hoffman Avenue, came forward to address the Mayor and Council. Mr. Drake expressed concern over the redefinition of family and how it would affect existing businesses. It was explained that it is not being used in terms of a "family business." He asked if the term transient had been defined as well. He was advised that it had not and in fact the definition includes the term "non-transient". Mr. Madaio stated the new definition follows current case law. Council President Berner commented the definition would only apply within the context of Planning Board purposes.

Mr. Belsam Habib, 595 Columbia Street, came forward to address the Mayor and Council. Mr. Habib asked about the source of the water that runs behind his property. Mayor Subrizi questioned if it was possibly the stream that runs between the Perrone and Klinger Farms, under River Road. He questioned if there is a check valve or if one could be placed there. The Administrator will review with the DPW Supervisor. Mr. Habib asked about the extended garbage pick-up and the cancelled brush pick-up. He was advised building materials are the responsibility of the homeowner and the brush pick-up will resume this week. Mr. Habib asked if the property taxes would be reduced if the area is designated as a floodway. He was advised the Tax Assessor would have to work with each homeowner individually; the Assessor is quasi-judicial bound to make decisions without the input of the Mayor and Council.

Ms. Mary McElroy, 297 Greve Drive, came forward to address the Mayor and Council. Ms. McElroy stated she personally contacted all of the Bergen County Freeholders to help with the situation in New Milford. She asked if the Borough is working with any other towns or the Freeholders to elevate the position of New Milford. The Mayor stated she has been appointed, through the Freeholders, to the Flood Advisory Council; the first meeting is on September 19<sup>th</sup>. Ms. McElroy commented on a newspaper article outlining work being done by Boswell on behalf of the Borough of Westwood. Ms. McElroy stated her belief is there is a conflict of interest on Boswell's behalf and asked if the Army Corps of Engineers could be brought in. The Mayor stated this would be her first question at the meeting of the Flood Advisory Council. Ms. McElroy expressed her frustration over the conditions of the recreation fields in town. She suggested the Borough should work with the Board of Education to come up with an alternative for recreation fields. The Mayor said she will speak with the Recreation Commission to form a committee.

Mr. Austin Ashley, 939 Boulevard Apt. F, came forward to address the Mayor and Council. Mr. Ashley suggested the Shade Tree Commission could make use of grant funding available to the Community Development Block Grant. Mr. Ashley noted there have been two occasions recently where the Boulevard has been closed between Bulger and Reichelt due to flooding. He said he believes the storm drains are in need of cleaning. The Administrator will notify the DPW.

Mr. Raj Manocha, 564 Columbia Street, came forward to address the Council. Mr. Manocha asked if United Water could be forced to set-up a community outreach program. He said while they cannot prevent the disaster perhaps they can explain why it happened. He suggested a town hall meeting to show their concern and an acknowledgement of the obligation to safeguard the people in the communities they serve. The Mayor said United Water has invited the Council and five members of the public to come to their facility for an explanation of the operation and a tour. She said interested members of the public should contact the Borough Clerk's office. Mr. Manocha said United Water needs to communicate to the town with updates; he suggested they utilize the Reverse 911 system. The Mayor said anyone not receiving the emergency notifications should contact the Borough Clerk.

Ms. McElroy asked if United Water had ever been invited to attend a Mayor and Council meeting. She was advised that they had been invited. Ms. McElroy said New Milford is being complacent and needs to start making a big deal; she suggested the need to get the Governor involved and stated nothing should happen with the United Water property until they pay New Milford.

Mr. Habib referenced the USGS site and noted the cresting point of the reservoir is 23.16. At 8:30 tonight it is at 23.17; he asked why they do not lower the level. He was told they are not currently releasing water, they are holding it back because they do not want to have any more water running into the flooded areas.

Mr. John Foley, 254 Stevens Court, came forward to address the Mayor and Council. Mr. Foley said there is a tree down in the Hirschfeld Brook north of Main Street off of the Boulevard. The Administrator will notify the DPW.

Mr. Michael Caperelli, 596 Columbia Street, came forward to address the Mayor and Council. Mr. Caperelli stated it has been hard to secure his house after the flood damage. He has asked for increased police patrols but has not seen any additional patrols. The Mayor said she will speak with the Police Department.

Ms. Hedy Grant, 175 Boulevard, came forward to address the Council. Ms. Grant commented on the tree down in the brook; she said it has obstructed a lot of debris which has caused flooding on the Boulevard. Ms. Grant commented on the definition of family. She said the resolution notes two other places it is used and she suggested it should be changed throughout the ordinance. Ms. Grant additionally suggested the formation of a committee to review the many outdated terms/definitions in the borough ordinance. Ms. Grant referenced the Planner's report on the United Water property stating her opinion that much of the information was superficial. She noted some of the statistics were based upon a 2006 study and asked the Council to consider if they are relying on up to date information. Ms. Grant asked if the Borough had a long range plan for flooding and questioned why the town waited so late in the week to contact United Water; she asked also why arrangements for trash were not made prior to the flood. The Mayor assured Ms. Grant there is a plan in place and it was followed; she said she would incorporate the suggestion on the trash for the future. The Mayor said she has been in touch with the Board of Public Utilities and would be meeting with them the following day. Ms. Grant asked who comprises the members of the Flood Advisory Council. The Mayor said she does not know who the other members are but that she is happy to be included to bring New Milford's perspective. Ms. Grant asked if the Mayor would be reporting back from the FAC. The Mayor said that she would. Ms. Grant said with the water receding she has noticed a coating left behind on the grass and she questioned its safety. The Mayor said she could not answer that question.

Ms. Barbara Epstein, 599 Columbia Street, came forward to address the Mayor and Council. Ms. Epstein asked if there was a prohibition against draining water onto a neighbor's property. She was advised that there is and told to report any future infractions to the Borough.

Mr. Drake came forward again to note the Board of Education is against single family residential development of the United Water property.

Ms. Krista Merchrod, 161 Washington Avenue, came forward to address the Mayor and Council. Ms. Merchrod reported on the damage to her home and said she would like to rebuild her home on stilts and asked for the Council's support to approve the height to do so.

Mr. Neil Papaiya, 667 Harvard Street, came forward to address the Mayor and Council. Mr. Papaiya said he gets flooded regularly, not just during catastrophes. He has contacted the DPW and feels the storm drains are not being cleaned regularly. He also questioned the ownership of the marshland behind the racquetball club noting it is badly littered with trash and large debris. The Administrator will speak with the DPW regarding regular monitoring of the storm drains and will look into the property behind the racquetball club; if it is privately owned the owner will be contacted. Mr. Papaiya suggested the Borough should purchase the racquetball club property for a pumping station and further suggested the Borough should provide a sandbag station in advance of large storms.

Council President Berner questioned a requirement to retain water within the boundaries of the property with regard to the racquetball club. He was advised there is not a requirement to retain water just a prohibition to intentionally drain it. Zero runoff would apply based upon when the construction took place; but water draining in the natural course would not be restricted, only runoff caused by the development.

Councilwoman Scavetta asked if PSE&G has ever been asked to elevate the substation to enable them to keep the power on during flood events. Mayor Subrizi said she believed it was elevated after Hurricane Floyd, but not enough. She noted it serves towns other than New Milford. Councilman Colucci said the Bergen County Freeholders Board is working on getting PSE&G to raise the substations.

Mr. Habib asked if more sewer grates could be added to alleviate puddling and mosquitoes. The Mayor explained it would be more than adding sewer grates as they would need to be connected to the storm drains; it would require an engineering study. The Bergen County Mosquito Commission will be contacted with regard to the mosquitoes in the area.

Ms. Antera Fernandez, 544 Columbia Street, came forward to address the Mayor and Council. Ms. Fernandez said she went through a similar experience the first year she moved into her home. She said she has not seen anything being done since that first time. She said the effects are devastating and she is asking the Council to do something. She asked who would speak to United Water. The Mayor assured Ms. Fernandez she would keep pursuing a resolution. Ms. Fernandez asked about parking in the street and was advised the restrictions have been lifted until October 1<sup>st</sup>.

Mr. Ferretti said he would donate the use of twelve dumpsters to the Borough to be placed throughout the flooded neighborhoods to assist residents with continued clean-up.

As there were no other members of the public wishing to comment Council President Berner made a motion to close the meeting to the public. Councilman Rebsch seconded the motion. All present in favor, none opposed.

## **RESOLUTIONS:**

- 2011:191 Closed Session
- 2011:192 Payment of Bills and Vouchers
- 2011:193 Authorize application for 2012 Municipal Alliance Grant
- 2011:194 Approve Amendment to Raffle License #2011:14 for New Milford Junior Football League
- 2011:195 Authorize Building Department to Waive Permit Fees for Hurricane Related Repairs

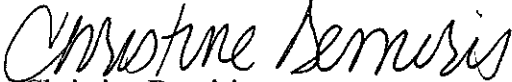
## **VOTE ON RESOLUTIONS**

Council President Berner made a motion to approve the consent agenda 2011:191 through 2011:195. Councilman Colucci seconded the motion. All present in favor, none opposed.

## **ADJOURNMENT**

Council President Berner made a motion to adjourn. Councilman Rebsch seconded the motion. All present in favor, none opposed. Time 9:44 PM.

Respectfully submitted,

A handwritten signature in cursive script that reads "Christine Demiris".

Christine Demiris  
Borough Clerk