

**MINUTES**  
**BOROUGH OF NEW MILFORD**  
**7:00 PM WORK SESSION**  
**OPEN SESSION immediately following**  
**Monday, January 12, 2009**

Councilman Arthur Zeilner	Present	
Councilman Keith Bachmann	Present	(arrived 7:01)
Councilwoman Randi Duffie	Present	
Council President Tina DeLucia	Present	(arrived 7:08)
Councilwoman Ann Subrizi	Absent	
Councilman Michael Putrino	Present	
Mayor Frank DeBari	Present	

Mayor DeBari read the Open Public Meeting and Mission Statements.

**OPEN SESSION:**

1. Damato Paperstock/Greenstar – 7:00 PM

Mr. John Mulligan came forward to address the Council. He identified himself as an Account Manager for Greenstar. Mr. Mulligan summarized current conditions in the recycling industry. He stated that the market collapsed in September 2008 after a very strong run. He explained the contract in place with the Borough, entered into in November 2007, which provides a formula for payment with floor prices as follows: Newspaper - \$65; Corrugated - \$50.00; Mix - \$65.00; and Commingled - \$15.00.

Noting that he had met with the Administrator, the Mayor and the CFO previously, Mr. Mulligan produced a spreadsheet with market prices from 2003 through present. Referencing the unprecedented drop in prices, Mr. Mulligan stated that he had come before the Council to ask for relief from the contract. He acknowledged that it is foolish to offer floor prices in this industry because the company does not control the market. Specifically, Mr. Mulligan proposed paying according to the formula outlined in Damato's proposal dated October 2007, but waiving the floor prices. He stated that the company would pay above the formula when the market rebounds to the November 2007 Board Market Prices. He made no guarantee that the Borough would be returned to the floor price, however.

Councilwoman Duffie stated that in essence they are asking to break the contract. Mr. Mulligan stated that they are asking for relief and understanding.

Councilman Putrino asked how close Greenstar is to bankruptcy. Mr. Mulligan responded that they are not close to bankruptcy but that they are run like a corporation. He clarified that the company's American businesses are suffering.

The Mayor asked if this was a nationwide problem. Mr. Mulligan responded that it is global-wide. He added that one of the biggest consumers is China and that they are big enough to

affect the market both positively and negatively, contributing significantly to the high market earlier in the year and the dramatic decreases now.

The Borough Attorney asked where he could find the Board Market prices. Mr. Mulligan stated that he would forward the link of the official website to the Administrator. Mr. Moscaritolo asked if the materials were a traded commodity. Mr. Mulligan responded that it is a traded commodity specific to the industry it is not traded in any market that you would find published in the newspaper.

Mr. Moscaritolo asked if was comparable to the fuel oil industry noting that it is not strictly supply and demand the dictates fuel prices. Mr. Mulligan stated that he believes that the recycling industry is a classic case of supply and demand.

Mr. Moscaritolo confirmed that the offer is to modify the contract to pay \$35.00 above the Official Board Market (OBM) price.

Councilman Bachmann asked how much the Borough can expect to collect under the terms of the original contract vs. how much the Borough will collect under the contract as proposed. The difference was determined to be approximately \$48,840 less as proposed. It was noted however, that it difference could be greater if the market was to decline further.

## 2. Boswell Engineering – Flood Mitigation – 7:45 PM

Ms. Batistic, representing Boswell Engineering, stated that preliminary studies on Hirschfeld Brook had been completed.

The Administrator referenced the special meeting held in January 2007, at which the plan was discussed with the effected homeowners. She commented that one homeowner was extremely concerned that the proposed widening would encroach on his property and that he was assured at the time that it would not, that the banks of the brook would be squared off internally and not widened onto the property.

Ms. Batistic referenced a map and stated that the area west of the Boulevard is very narrow, which creates a bottleneck and that by widening the channel to width of the area by Summit Avenue we will effectively lower the elevation of the water surface up to Main Street and at some points up to Milford Avenue up to 18". She clarified that the flood elevation will be lowered up to 18".

Ms. Batistic stated that we are ready to go to the state for permits but before we do so we must obtain permission from the homeowner's. She stated that the homeowner's on the North side, particularly the three closest to the Boulevard, would be most affected. She said that she did not want to start the permit process without the homeowner's permission and that a letter must be sent to both the homeowner's effected by the channel widening and the berm installation. She further stated that the excavations at Carlton Place and Neumaier Drive are no longer being recommended, noting that the modeling done showed no significant gains by the excavations. She said excavation would require the removal of many trees and much

vegetation and would probably not be permitted by the DEP based on the small anticipated gain.

Ms. Batistic will provide the block and lot information for the affected homeowners as well as information of the Consent of Agreement for Encroachment that must be requested. The information will be forwarded to the Borough Attorney who will draft the letter.

The Mayor suggested that we should not wait for the homeowner's permission prior to applying for the permit, noting that it is a long process and the work must be done regardless of whether or not we receive the homeowner's cooperation. He stated that the proposed work is for the good of the whole community and while it would be nice to have the homeowner's consent it is not required.

Councilman Bachmann stated his impression that the permits are very costly and suggested that if the cost is between \$10,000 and \$15,000 we should move ahead, but that if it were closer to \$100,000 we should wait until after permission is granted. Ms. Batistic will advise the Administrator of the cost prior to the next meeting.

### 3. S. Wielkocz/S. Rogut – Bond Issues – 8:20 PM

The Borough Auditor, Steven Wielkocz and the Borough Bond Counsel, Steven Rogut came forward to address the Council.

Mr. Wielkocz explained that the Borough has a significant amount of notes outstanding for a number of projects as well as a number of projects authorized for which the Borough has yet to borrow the money. He outlined a proposal for a bond sale that would fully fund all eligible notes that are either currently outstanding or authorized but not issued while effectively reducing the Borough's debt service for 2009 and 2010. In order to give us enough time to prepare for the bond sale he recommended rolling over the notes that are coming due in February to June of this year. He stated that it would be a good time to permanently finance and fix the rate because our debt is decreasing; it will provide a little stability and it give us a fixed rate for debt service.

The Mayor asked how we could adopt our budget earlier. Mr. Wielkocz responded that even if we were to adopt our budget without the benefit of extraordinary aid we would not be able to issue tax bills until the state certifies the tax levy to the county board, which did not take place until July in 2008.

The Mayor said that he wanted to be sure that the \$625,000 the Borough just received from Bergen County Open Space would go specifically to paying down the debt for Carlton Place.

Mr. Rogut explained that generally when ordinances are passed short term notes are issued until there is a sufficient amount of debt to justify the cost of a bond sale. He stated that the Borough's previous sale was in 2005 and the one prior was in 2000.

The Mayor asked where the Borough stands with 4.1 million dollars in debt service. Mr. Wielkotz responded that the Borough has always had a very manageable debt position and that 4.1 million is significantly under the Borough's net debt availability.

Mr. Rogut stated that the term of the bond would be twelve years which is relatively short and will help to get a better rating. Mr. Wielkotz said that it fits well into the existing debt service, will give the Borough some relief both this year and next and would allow the Borough to do some projects over the next couple of years.

Councilman Bachmann asked what would happen to the debt service if we chose not to move forward with the bond sale. Comparing it to a balloon mortgage, Mr. Wielkotz stated that while debt service would drop drastically in 2009 it would ultimately result in a big spike later on. He explained that the Borough is currently paying the minimum required by statute. It was also noted that if debt service drops significantly the Borough would be required to reduce taxes; prior to the levy cap any reduction could have been used for other expenses, now reductions must be used to reduce taxes.

Council President DeLucia made a motion to move forward with the bond sale as proposed by Mr. Wielkotz and Mr. Rogut; renew the notes from January 30<sup>th</sup> through June 30<sup>th</sup> and prepare the offering statement for the bond sale in June. Councilman Bachmann seconded the motion. All present in favor, none opposed.

#### 4. Planning Board Recommendation – Lot Coverage

Council President DeLucia summarized the Planning Board recommendation to revise the borough ordinance with regard to Business Zones, specifically Section 30-25.

The purpose of the revision would be to make the ordinance consistent with the Residential A Zone as it pertains to building/impervious coverage requirements and side yard requirements. The revision would only affect structures in a Business Zone where more than 60% of the total floor area of the building is either new construction or an alteration of a building and is to be used for dwelling purposes.

Council President DeLucia explained that the Board does not want to allow buildings to be built or altered in a business zone as residential structures. With the discrepancy between the Residential A and Business Zone ordinance it would be possible to build a residence that did not comply with coverage and side yard requirements.

Mr. Moscaritolo asked if residential dwellings are a permitted use in a Business Zone. He was advised that they are.

Councilman Bachmann asked how the Planning Board had arrived at 60%. Council President DeLucia responded that 50% would create problems for many of the existing structures and that the Board felt that 60% indicated an intent to build a residential or primarily residential dwelling.

The Clerk will prepare the ordinance for introduction.

5. Clothing Bin Ordinance Draft

Mr. Moscaritolo stated that he had changed the definition to exclude cups and cans and took out references to donations of money. Council President DeLucia noted some typographical errors; she will provide them to Mr. Moscaritolo. The ordinance will be corrected and prepared for introduction.

6. POD Ordinance

The Administrator explained that the Building Department had expressed concern that the ordinance, as written, is silent on the subject of extensions; in the absence of comment, there is nothing to prevent someone from submitting a new application and paying the fee every thirty days. After discussion, the Council agreed that although the intent is to discourage PODs, if someone reapplies and pays the fee another permit can be issued for an additional thirty days, at the Construction Official's discretion. It was agreed to leave the ordinance as it was adopted and revisit the matter only if it becomes a problem.

7. Recycling Ordinance

Mr. Moscaritolo stated that he does not believe that the Borough has to revise the recycling ordinance. He stated that he has not seen anything that says the Borough must revise the ordinance, only that the Borough should. The Administrator summarized the previous correspondence from the Bergen County Utilities Authority (BCUA) which indicates that the revision must be made according to the Updated Statewide Solid Waste Management Plan (State Plan); that in order to achieve the state mandated goal of recycling 50% of Bergen County's solid waste stream, the State Plan requires that municipalities amend their recycling ordinance to include the additional materials as recyclables.

The Administrator referenced a second letter from the BCUA and the Borough Attorney's previous promise to do additional research. The Mayor suggested that the Administrator contact the BCUA for more information. She advised that she had already discussed the matter with Rich Wierer, Director of Solid Waste, from the BCUA and that he has confirmed that the materials must be included in the Borough's recycling ordinance on or before March 31, 2009. He noted that failure to do so would be in violation of the Bergen County Solid Waste Management Plan and the New Jersey Solid Waste Management Act, subjecting the Borough to violations and penalties.

Councilman Bachmann said the Council needs to know if the revision is on a wish list of the BCUA or if the State requires it.

The Mayor suggested that the Borough Attorney contact Mr. Wierer for further clarification. The Administrator will resend copies of the two previous letters, the ordinances from other towns that address the bonding requirements; and the proposed revision to the ordinance to Mr. Moscaritolo. Mr. Moscaritolo will report back to the Council at the next meeting.

The Council discussed the proposal presented earlier in the evening by Mr. Mulligan representing Damato Paperstock/Greenstar. Councilman Bachmann stated that Greenstar would lose approximately \$48,000 if New Milford did not agree to the revised terms. He stated that he did not believe the company would go out of business because of \$48,000 and that the Council's obligation is to the taxpayers. Councilman Bachmann stated that the Borough has a contract that we can enforce.

The Mayor stated that we cannot overlook the fact that Greenstar can default on the contract and the Borough would be stuck with 186 tons of recyclables with nowhere to go. Councilman Bachmann stated that the Borough would sue Greenstar for the cost to bring it elsewhere and for the difference in what we are paid for the materials.

Council President DeLucia questioned the potential cost of enforcing the contract and suing if Greenstar were to default.

Councilman Zeilner stated that Greenstar may not default and the Borough would have let them off the hook for the contracted amount.

The Council unanimously agreed that Mr. Moscaritolo should write a letter to enforce the contract. The Administrator will forward copies of the contract and Mr. Mulligan's correspondence to Mr. Moscaritolo.

**APPOINTMENT:                    Gladys Parliament – Sr. Advisory Board  
                                          Marc Longo – P/T Fire Inspector**

The Mayor explained that he had made the assumption that there was a vacancy on the Sr. Advisory Board and later found out that he was mistaken. For that reason Gladys Parliament is being reappointed to the Board and the appointment of Nubar Kazarian, will be held until a vacancy becomes available.

Councilman Putrino explained that Marc Longo is being appointed to replace Richard Nooner, Sr. who is moving to Florida. It was noted that the appointment will not result in any additional expenditures.

Council President DeLucia made a motion to approve the appointments of Gladys Parliament and Marc Longo. Councilwoman Duffie seconded the motion. All present in favor, none opposed.

Council President DeLucia stated that resolution 2009:37 should be removed as it was not necessary to transfer these funds by resolution and in fact, the Mayor and Council have no jurisdiction as to how the funds for the Library are to be allocated.

Council President DeLucia asked about the transfer of funds from the Social Security line. It was explained that it is budgeted for based upon the estimation of how much will be withheld

throughout the year, but that the actual number can differ from the estimate depending upon the number of employees and salaries actually paid.

Council President DeLucia referenced the NJLM resolution suggesting a reduction in funding for the Library and asked to have the matter tabled for discussion to allow the Library Director an opportunity to respond.

The Council discussed the proposed signage in the Elm Street Bridge area. The Administrator explained that after consultation with the Borough Engineer and the Chief of Police it may not be possible to place all of the signs proposed, as there are certain DOT requirements that must be met for multi-directional stop signs. Councilman Bachmann suggested that we should install the signs anyway and the Borough Attorney concurred. The Council agreed that the ordinance should be prepared for introduction on January 26<sup>th</sup>.

The Administrator reported on the bid received for the sewer camera. The Mayor stated that it made no sense to purchase the camera prior to purchasing the sewer jet to connect it to. The Council agreed that the bid should be rejected and the purchase postponed until such time that a sewer jet is purchased.

The Council discussed the letter from the homeowner at 200 Rambler who has asked for assistance with a sidewalk, which he claims is sinking as a result of the decaying roots of a Borough shade tree that was removed. The Administrator advised that the Assistant Superintendent of the DPW is against the Borough taking action as Borough ordinance is clear that the sidewalk is the responsibility of the homeowner. The Council agreed and the Administrator will send a letter to the homeowner advising him of such.

The Administrator reported on a request to place a collection box at the Borough Hall for a Senior Citizens Love Story Contest. There were no objections from the Council.

The Administrator reported that the wireless internet connection is operational in both the upstairs meeting room and the Council Chambers.

Councilman Zeilner asked if there are tapes from the Planning Board meeting at which the application for Town & Country was approved and if so, and if they support the Board members recollection as to what was agreed upon, can the town hold the applicant to what was said on the tape. It was explained that the memorialized resolution of the Board would supersede the tape.

The Mayor asked to have Don Low, of Town and Country, attend the January 26<sup>th</sup> meeting.

Council President DeLucia asked for a copy of the Planning Board tapes on this application so that she could review them.

The Administrator reminded the Council of the Elected Official JIF Training scheduled for February 9<sup>th</sup> at 7:00 PM.

Councilman Zeilner referenced a presentation made in November of last year by Honeywell regarding a free energy study. He asked for the matter to be listed on a future agenda for the Council to discuss so that a decision could be relayed to Honeywell. It will be listed for discussion on the February 9<sup>th</sup> agenda.

The Mayor advised Councilman Bachmann that he had received a letter from one of the Recreation Commissioners regarding the liaison assignments. The Mayor will forward the letter to Councilman Bachmann for it to be addressed by the Chairperson and the Commission.

Councilman Putrino advised the Council that the Fire Department will be holding its annual remembrance at the Entwistle Memorial on Saturday, January 17<sup>th</sup> at 7:30 PM.

Councilman Putrino commented on the budget from Public Events, noting that it was indicated that there would be no change from last year. He reminded the Council that depending on River Edge's participation the Borough may not sponsor the 4<sup>th</sup> of July Fireworks this year. He asked to have the Public Events budget be reviewed and revised if necessary.

Councilman Putrino asked the Borough Attorney for an update on the last payment from Green Acres for the Perrone and Klinger farms. Mr. Moscaritolo responded that he has compiled all of the information as requested by Lisa Stern of Green Acres and it will be going out to her later this week.

Councilman Putrino asked Councilman Zeilner to coordinate with him and Councilwoman Subrizi to schedule a finance committee meeting. He then asked Council President DeLucia to coordinate with him to schedule a website committee meeting.

Councilman Putrino referenced a recent email from the Administrator that listed links to foreclosure information and asked to have the information posted on the Borough website.

Councilman Putrino stated that he feels the Council should reconsider the alternate side of the street parking in Ordinance 2008:20 prior to its adoption. He feels that it could pose a problem during the summer and on weekends when the Borough allows overnight parking. Councilman Zeilner agreed that the midnight cutoff would be difficult for residents to adhere to and suggested that the time be changed to the morning. Council President DeLucia stated that she could agree with a time change but felt that restricting parking permanently to one side of the street would be unfair.

Councilman Zeilner made a motion to change the time to 7:00 AM. Council President DeLucia seconded the motion. All present in favor, none opposed. The Ordinance will be revised and reintroduced on January 26<sup>th</sup>.

The Mayor reported that he, the Borough Engineer, the Borough Grant's Consultant, and the Administrator would be meeting the following day to discuss possible projects for the anticipated economic stimulus package from the federal government. It was noted that these projects must be designed and out to bid within three months of the approval; projects that could be completed immediately such as paving, a streetscape, an addition to Fire Co. #1.



Mr. Moscaritolo referenced an eminent domain case whereby Cliffside Park is attempting to obtain a property in Fairview. He suggested the Mayor and Council consider a similar action with the Elm Street Bridge. The Council agreed that the situations were not comparable.

### **COMMENTS FROM THE PUBLIC**

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

Mr. Gus Bachmann addressed the Council. He asked for the P.O. Box number for Fire Co. #2. Councilman Putrino will provide it. Mr. Bachmann complimented the cooperation of the Clerk's office in facilitating the recent mailing to the Senior Advisory Board. Mr. Bachmann noted that some of the projects mentioned with regard to the economic stimulus package are cosmetic and reminded the Council of the importance of flood mitigation in town. He reminded the Council that members of the public that live in the area have volunteered to be on a committee to address flooding, but that they have yet to be called upon.

The Mayor responded that in fact Steve Boswell had said that he would take public comment when the model was complete. He said that he would contact Mr. Boswell to find out when he would be available for public input.

As there were no further comments from the public, the meeting was closed on a motion from Councilwoman Duffie, which was seconded by Councilman Putrino. All present in favor, none opposed.

### **RESOLUTIONS:**

- 2009:35 Closed Session
- 2009:36 Payment of Bills and Vouchers
- 2009:37 Approve Appropriation Transfers from Reserves for Budget Year 2008 – Library  
\*\*\*TABLED\*\*\*
- 2009:38 Approve Appropriation Transfers from Reserves for Budget Year 2008 – Borough
- 2009:39 Appoint Qualified Purchasing Agent – Kathy Michkowski
- 2009:40 Approve Community Development Appointments for 2008-2009

### **VOTE ON RESOLUTIONS**

The Mayor stated that Resolution 2009:39 would be considered after the Closed Session.

Councilman Bachmann made a motion to approve resolutions 2009:35; 2009:36; 2009:38; and 2009:40. Council President DeLucia seconded the motion. All present in favor, none opposed.

Councilman Bachmann made a motion to go into closed session. Council President DeLucia seconded the motion. All present in favor, none opposed.

**CLOSED SESSION:**

1. Personnel – Qualified Purchasing Agent
2. Personnel – Property Maintenance

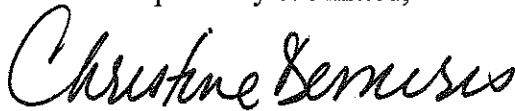
Councilman Bachmann made a motion to go back into open session. Council President DeLucia seconded the motion. All present in favor, none opposed.

Council President DeLucia made a motion to approve resolution 2009:39. Councilwoman Duffie seconded the motion. All present in favor, none opposed.

**ADJOURNMENT**

Councilman Putrino made a motion to adjourn. Councilman Bachmann seconded the motion. All present in favor, none opposed. Time 11:25 PM.

Respectfully submitted,



Christine Demiris  
Borough Clerk