

**MINUTES
BOROUGH OF NEW MILFORD
7:00 PM WORK SESSION
OPEN SESSION immediately following
8:30 PM PUBLIC MEETING
Monday, October 27, 2008**

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

Also present: Borough Attorney, S. Gregory Moscaritolo

Mayor DeBari read the Open Public Meeting and Mission Statements.

Open Session:

1. Brookchester Liquor Store

The Administrator advised the Council of their options. The Administrator stated the Council can decide whether or not to hold a hearing as the ABC Board in New Milford, as was done in prior cases. Councilwoman Subrizi recommended the Council wait for the attorney to discuss their legal obligations.

Councilman Bachmann stated the Council should be consistent and should hold a hearing.

Councilman Zeilner stated the Council should hold a hearing, impose requirements and make recommendations.

The Administrator stated the hearing would be completely separate from whatever the police are pursuing.

Mayor DeBari stated the hearing should be held at the November public session, whereby the Council could impose a one week shutdown of the establishment for the first offense.

Mr. Moscaritolo reviewed with the Council their options. Mr. Moscaritolo stated this is Brookchester's second offense, he will provide the Administrator with the file.

The Council decided the hearing will be held at the November 24th public session; the Administrator will notice the establishment.

2. Shade Tree Commission Policy – 328 Grove

Councilman Putrino summarized the letter from the resident at 328 Grove Street for the Council. Councilman Putrino stated the Shade Tree Commission received the original letter; the arborist inspected the tree and found it to be healthy and was not to be cut down. Councilman Putrino noted the Shade Tree Commission followed the Borough Ordinance.

Council President DeLucia stated homeowners need to be able to cut roots that may encroach piping, if under the arborist's supervision.

Councilman Putrino read the letter into the record.

Councilman Zeilner stated if the roots are cut, the stability of the tree may come into question and have to be removed at some point.

Councilman Putrino noted that there is no sidewalk on the property; the resident is referring to their personal walkway.

Mayor DeBari stated if the tree is causing health and welfare concerns, then it should be removed.

Councilman Putrino noted that the ordinance does not state health and welfare concerns; Mayor DeBari stated the ordinance must change.

Mayor DeBari stated the DPW will review and assist the resident, lifting the sidewalk and cutting the roots.

Mr. Moscaritolo will assist in updating the Shade Tree ordinance.

Councilman Putrino suggested Mr. Moscaritolo attend the next Shade Tree Commission meeting. Councilman Putrino will visit the site with Mike Calamari and Norm Krause.

3. Clothing Bin Ordinance

The Administrator stated the Borough does not have a clothing bin ordinance, however effective 1/1/09, the State requires the clothing bin owner to get a permit from the municipality.

Mr. Moscaritolo summarized the State Statute for the Council. Mr. Moscaritolo noted there is a \$25 application fee for the permit, renewable annually and with that the applicant receives a sticker. Mr. Moscaritolo will draft an ordinance for introduction at the November 24th meeting.

Councilwoman Subrizi questioned if the Planning Board gave permission to the owner of Madison Plaza for an exit only drive onto River Road. The Administrator stated the County approved the drive, not the Borough.

4. Bio-fuel Pilot

The Administrator referenced a letter and memo from Oradell regarding their bio-fuel program.

Councilman Bachmann stated the cost of the machine to convert the oil costs \$8,500. The Administrator stated the machine is not necessary for the conversion; a cloth cleans the oil just as well.

Councilwoman Subrizi prefers the Council wait and see how other town's pilot program go. All present in favor, none opposed.

5. Temporary Structures

Councilwoman Duffie proposed the Council look into temporary structures. Councilwoman Duffie stated they are not appealing to the neighborhood; both residential and commercial should be considered. The Administrator will put the topic for discussion on the next work session agenda.

Administrator

The Administrator stated there was a compromise of 4 locations rather than 8, for signs for the Athletic Boosters.

The Administrator stated Oradell does not wish the New Milford Council to appear at a public or work session meeting to discuss the Elm Street Bridge closure, they prefer to handle it in committee. Council discussed the matter and decided Councilman Bachmann, Councilman Zeilner and Councilwoman Duffie will be on the Elm Street Bridge Committee.

The Administrator stated a tree service working for PSE&G has asked the DPW for permission to park their vehicles in the yard while working in town. Mayor DeBari stated the Swim Club parking lot is a possibility; the Administrator stated it is private property and they should contact the Swim Club directly.

Councilwoman Subrizi stated PSE&G has never done anything to help the Borough.

Councilman Bachmann stated it would be unfair to neighbors of the Swim Club.

Council decided not to allow the tree service trucks to utilize the DPW yard to park their trucks.

The Administrator referenced a letter from Hovnanian School requesting assistance from the Borough with false alarm charges. The letter stated they are charged \$75 - \$100. Mayor DeBari stated the school is not charged until the 3rd incident and they had 17 last year.

Councilman Bachmann stated the alarm system should be adjusted; it is unfair to the residents.

The Administrator stated she had discussed a joint bid for solid waste disposal with River Edge. She stated the Boroughs run on different schedules, therefore the specifications would be joint as part A and B. The Administrator stated it was agreed that in addition to the joint bid, each town would bid separately. The Administrator questioned if Council would agree that the interlocal agreement require the bid be in the best interest of both towns and that it be awarded or rejected by both. Council discussed their options and decided if River Edge would change their schedule then a joint bid is possible, if not then New Milford should continue alone.

The Administrator stated Mike Calamari and John Bigger visited the Prospect Park site on October 23rd. The Administrator stated they noted garbage cans thrown about and banged up, rubber mulch is scattered, and one instance of unreported graffiti. The Administrator has requested the Police Department increase their patrolling of the area. The Administrator referred to Borough Ordinance 19-2e prohibiting anyone to remain in a public park (except Kennedy Field) after sunset. The Administrator suggested signs be posted making residents aware of said ordinance. The Council agreed the signs should be posted.

Council President DeLucia stated the garbage cans should be banged out rather than replaced.

Councilman Zeilner stated Police Auxiliary could patrol area more often.

Mayor DeBari requested that Mike Calamari speak to PSE&G regarding getting a dusk to dawn light in the American Legion parking lot.

The Administrator drafted a letter to residents affected by the Elm Street Bridge closure, slated to be mailed November 3rd inviting them to the November public session to hear Chief Papapietro explain proposed traffic modifications. Councilman Bachmann suggested the letter be mailed closer to the meeting date. The Council decided the letter should be mailed November 10th, and a Police Department map of affected area be included.

The Administrator stated the Boulevard paving is currently underway; curbing and aprons are scheduled for completion this week.

The Administrator stated Phase I of the Trench Drive Drainage Project has been pushed back to the week of November 3rd because contractor has not received the piping yet.

The Administrator stated the Borough was able to meet the requirements for advertising the cell tower re-bid. However, Mr. Moscaritolo will meet with the engineer to discuss a proposed addendum; therefore the bid opening is postponed until November 13th.

The Administrator stated the Women's Club requested the use of the Senior Center after hours as they have done in the past. As the discussion progressed, the Administrator was informed it was for a fundraiser, which is not permitted at the Senior Center. It was the consensus of the Council that the Senior Center may be used by the Women's Club during regular business hours, but not for fundraising purposes.

The Administrator stated the County Road Program is currently working on handicap mats on River Road and the curbs on Madison Avenue are scheduled to begin November 7th.

The Administrator stated the resident from 211 Demarest Avenue came to Borough Hall extremely upset with the Engineer's response to the alleged damage to his home from the water company remediation. The Administrator mailed the resident a copy of the Engineer's letter for his records.

The Administrator distributed the High School Yearbook Booster ad to be discussed at the next meeting.

The Administrator stated the recycling ordinance on the agenda is required by the BCUA.

The Council tabled Ordinance 2008:17 for discussion and will not introduce it at tonight's meeting. All present in favor, none opposed.

Mayor and Council

8:30 PM Public Session

(Actual Start 8:54 PM)

Councilman Arthur Zeilner	Present
Councilman Keith Bachmann	Present
Councilwoman Randi Duffie	Present
Council President Tina DeLucia	Present
Councilwoman Ann Subrizi	Present
Councilman Michael Putrino	Present
Mayor Frank DeBari	Present

Mayor DeBari called the meeting to order, asked for a moment of silent prayer, and led the flag salute. Mayor DeBari read the Open Public Meeting Law and Mission Statements and pointed out the fire exits in the Council Chambers.

The minutes from the August 25th Public Session and the September 8th Work Session were approved on a motion from Councilwoman Subrizi. The motion was seconded by Councilman Putrino. All present in favor, none opposed.

PROCLAMATIONS: **VETERAN'S DAY**
 NATIONAL FAMILY WEEK
 PANCREATIC CANCER AWARENESS MONTH
 NATIONAL CAREGIVERS AWARENESS MONTH

Mayor DeBari presented Debbie Herrero with the Pancreatic Cancer Awareness Month Proclamation after reading it into the record.

Mayor DeBari read a last minute proclamation brought to his attention by Tom Crispino, to honor Master Chief David Kurt Graef who retired after 30 years in the military.

PRESENTATION: **STEVEN CONNER**

The Council honored Steven Conner for the Gazebo he built on the south lawn for his Eagle Scout project.

COUNCIL COMMITTEE REPORTS:

Councilman Arthur Zeilner

Building and Grounds, Environmental, Police/Police Aux., Public Works

Councilman Zeilner reported on routine maintenance for Buildings and Grounds, noting that there are no major projects currently underway.

Councilman Zeilner reported that the Environmental Commission had a fabulous turnout for Clean Communities Day on October 4th with 190 participants.

Councilman Zeilner reported the total for July, August and September for Police Auxiliary were 669 hours. He read a letter addressed to the Police Chief from P.O. Scott Petrie commending the actions of the Police Auxiliary with regards to traffic control at Woodcrest Center and the October 16th accident scene.

Councilman Zeilner summarized the calls for the Police Department for the previous month.

Councilman Zeilner reported that in addition to routine work, the DPW has been picking up leaves.

Councilman Keith Bachmann

Ambulance Corps, Drug Alliance, Recreation

Councilman Bachmann reported he was unable to attend the Ambulance Corp. meeting.

Councilman Bachmann reported Recreation is meeting tonight. He stated Hubert Klein stepped down as Chairperson and Howard Berner is the new Chairperson.

Councilman Bachmann reported the Drug Alliance will sponsor a dance on October 30th for Middle School students. He stated the Alliance has recruited 11 new members, thanks to the efforts of 2 of New Milford's police officers. He stated the High School's new Student Assistance Coordinator is very involved; she is arranging to have a mock DWI incident on June 5th at the High School, for educational purposes.

Councilwoman Randi Duffie

Health & Human Services, Rent Leveling/Tenants Association, Senior Advisory

Councilwoman Duffie reported the Health Department had a successful Flu Clinic on October 1st. She stated the next meeting is scheduled for November 5th.

Councilwoman Duffie reported the Rent Leveling Board met on October 9th and are currently working on new procedures. She also reported the Board has a new Recording Secretary.

Councilwoman Duffie reported the Senior Advisory Board met on October 16th and started planning their Christmas party. She stated they are looking for ways to attract new people to come and enjoy the Senior Center. She noted the seniors are looking to put together a program to interact with High School students; stating seniors have so much to give.

Council President Tina DeLucia

Chamber of Commerce, Planning Board, Library Board

Council President DeLucia reported the Chamber of Commerce met last week, at which the Ambulance Corp made a presentation. The Ambulance Corp made a plea for new members, and is willing to take drivers who are not EMT's.

Council President DeLucia reported the Borough Planner, Mr. Kauker, attended the last Planning Board Meeting; Mr. Kauker explained the intricacies of COAH and how significant an obligation New Milford has. The Borough will receive a draft report in a week or so; the Planning Board will hold a public hearing on November 17th to discuss the matter further.

Council President DeLucia reported that the Library will continue with their Saturday/Sunday hours. She stated the new carpet is being installed in the adult reading room; books from the area can still be accessed.

Councilwoman Ann Subrizi

Board of Education, Historic New Bridge Landing, Public Events

Councilwoman Subrizi reported the Historic New Bridge Landing Parks Commission will approach the School Superintendent about a promotional pamphlet, "forward to the past" to engage others to take interest. Dan Conner, of the Board of Education, was present in the audience; he took the proposal and will forward it to the Superintendent. Councilwoman Subrizi stated someone in the school system needs to carry the ball on this project because it will get statewide attention.

Councilwoman Subrizi reported that Public Events will have its annual Veteran's Day Ceremony on November 11th at 11:00 am. The Committee is requesting the names of current servicemen for roll call. Councilwoman Subrizi noted names may be submitted to her via e-mail or by calling the Borough Clerk's office directly.

Councilwoman Subrizi reported New Milford High School Football will hold a home game on October 31st.

Councilwoman Subrizi reported that on November 2nd, the Historic New Bridge Landing Parks Commission will hold a Mitzvah day to clean-up Campbell Christie House. She requested Council's approval for the New Milford DPW to bring woodchips. All present in favor, none opposed. Councilwoman Subrizi reported all bids for signage were rejected; the Commission will re-bid in November to firms with historic experience in order to meet the scope of work, not met the last time.

Councilman Michael Putrino

Fire Department, Garbage/Recycling, Historic Preservation, Shade Tree

Councilman Putrino reported he was unable to attend the Historic Preservation meeting on October 14th; their next meeting is scheduled for November 11th.

Councilman Putrino reported he attended the meeting of the Fire Department on October 20th. He attended Fire Awareness Day on October 12th, and stated there was a 52% increase in attendance from the prior year. The Fire Department is still considering moving their website to the Borough site. He offered a reminder that when you turn your clocks back; remember to change the batteries in smoke and carbon monoxide detectors. He stated the drive for new and unwrapped toys will be December 14th and read times and locations. He summarized the Fire Department activity for the previous month. The next meeting is scheduled for November 17th.

Councilman Putrino reported on the Shade Tree Commission meeting of October 23rd at which they continued to work on proposed ordinance revisions. The Borough Attorney will attend the next meeting scheduled for November 20th.

Councilman Putrino summarized the garbage and recycling activity for the period previous month.

Mayor Frank DeBari
Community Development

Mayor DeBari had nothing to report.

NEW BUSINESS:

INTRODUCE ORDINANCE 2008:16

AN ORDINANCE TO AMEND CHAPTER XVI OF THE ORDINANCES OF THE BOROUGH OF NEW MILFORD ENTITLED "GARBAGE AND REFUSE," THEREBY AMENDING SECTION 16-3.4 ENTITLED "DESIGNATION OF RECYCLABLE MATERIALS"

Councilwoman Subrizi voiced her concern about adding "construction debris" to recyclable materials, stating it is at the Borough's expense.

Mayor DeBari read the letter from the Bergen County Utilities Authority into the record.

Mr. Moscaritolo requested time to review the requirement.

Councilwoman Subrizi made a motion to table ordinance 2008:16 until the Borough Attorney has a chance to review. Councilman Bachmann seconded the motion. All present in favor, none opposed.

INTRODUCE ORDINANCE 2008:17

AN ORDINANCE TO CREATE THE POSITION OF MUNICIPAL HOUSING LIAISON FOR THE PURPOSE OF ADMINISTERING NEW MILFORD'S AFFORDABLE HOUSING PROGRAM PURSUANT TO THE FAIR HOUSING ACT.

Mayor DeBari announced that ordinance 2008:17 was tabled during the work session for another meeting.

RESOLUTIONS:

2008:231 Closed Session
2008:232 Payment of Bills and Vouchers

COMMENTS FROM THE PUBLIC

The meeting was opened to the public on a motion from Councilman Putrino, which was seconded by Councilwoman Duffie. All present in favor, none opposed.

Dolores Weisenbach, Washington Avenue, came forward to address the Council. Ms. Weisenbach stated she attended George Batterson's funeral services and the family was deeply touched by Mayor DeBari's gesture of giving the former mayor his Mayor's pin.

Scott Petrie, Police Department/Auxiliary Liaison, came forward to address the Council. Mr. Petrie thanked Councilman Zeilner for reading his letter into the record and acknowledged the Auxiliary as one of the most hidden volunteer departments. Mr. Petrie questioned if the Council discussed the need for Duty Jackets for the Auxiliary during the work session. Councilman Zeilner stated the Council will finish their work session after the public meeting; it will be discussed then.

Nick D'Amelio, 349 Trench Drive, came forward to address the Council. Mr. D'Amelio asked if the town is notified when a house enters foreclosure. Mayor DeBari stated the town is not notified; however he is aware of 3 homes currently in foreclosure. Mayor DeBari stated the Property Maintenance Officer is trying to keep up with it so the homes look occupied; however the banks are often unresponsive. Mr. D'Amelio asked if the town is notified when utilities are turned off. The Administrator stated the town is made aware because it is considered a health violation.

Mr. Moscaritolo stated he reviewed the Building Code and stated the Construction Code Official has the authority to tag the building if it is unsafe. He stated as long as the building is protected and locked, it should not be considered unsafe; however if it is unlocked or windows are broken, it can then be tagged unsafe.

Mr. D'Amelio asked if the Council plans to write an ordinance to protect the residents because he is concerned about the surrounding neighbors. He stated the bank should be the one to notify the town that they are taking ownership of the property. The Administrator stated the police are notified of any unsafe conditions. The Administrator stated it is a concern that the town shares and is aware of and is currently looking at.

Mr. D'Amelio stressed his concern over the construction of the proposed cell tower and the FCC law that requires the installer to test. Mayor DeBari stated there are two areas in town that they are allowed to build a cell tower, Borough property or an industrial area; the church property is neither and that is why the application is before the Zoning Board. Mr. D'Amelio requested the test to be certified by an outside firm.

Mr. D'Amelio questioned what is being done at the water company property. Mayor DeBari explained it is a clean-up mandated by the DEP.

Nabil Iskander, 211 Demarest Avenue, came forward to address the Council. Mr. Iskander stated he has lived in town for 12 years and is annoyed about the damage to his house from the water company remediation. He stated 4 months ago Mayor DeBari agreed to authorize the Borough Engineer to assess the situation. He noted in the interim the DPW fixed the hole in front of his driveway. He stated the Engineer finally came on October 14th; however he never received a

report. He stated he came to the Borough Hall and requested it from the Administrator, and was told it would be mailed to him.

Mayor DeBari stated the Administrator had to await the Council's approval before doing anything. Mayor DeBari read the Engineer's report into the record. Mr. Iskander questioned why the Borough cannot stop the work. Mayor DeBari stated the only work that can be stopped through the Borough is that which begins before 7 am. Mayor DeBari stated Mr. Iskander must retain his own attorney who will require an outside engineer's perspective.

Hank Samanski, 251 River Road, came forward to address the Council. Mr. Samanski stated he lives across from the water company property and his home is damaged as well. Mr. Samanski stated there is evidence of damage throughout the area. He compared the constant pounding to a 3.0 earthquake. Mr. Samanski stated the constant pounding causes settling, thus causing damages.

Councilwoman Duffie asked if the residents have approached the water company as a group.

Mr. Samanski stated he contacted the water company on his own. He further stated he has lived in the house for 10 years; his initial home inspection makes no mention of cracks or settling; now it is throughout the home. The only factor that has changed is the water company remediation.

Councilwoman Duffie noted a statement must be made to the water company.

Mr. Moscaritolo suggested the affected residents group together to reduce their expenses in a suit against the water company. He further stated it is not in the best interest of the Borough to spend taxpayers' money to go any further.

Mr. Samanski stated he does not wish the Borough to do so. His concern is the engineer's report that was just read into record, does not encompass all the homes involved; he would prefer to have the engineer survey all homes involved to see the damages are similar.

Councilman Bachmann questioned if the removing of the soil and the digging would be causing that much vibration.

Mr. Samanski stated it was the heavy equipment used to move the heavily compacted soil that is causing the vibrations.

Mr. Samanski will provide the Mayor with the name of his contact at the water company as well as the engineer who inspected his home.

Mayor DeBari stated he will call the President of United Water and give him addresses of the homes in question.

Gus Bachmann, 258 Stevens Court, came forward to address the Council. As a member of the Senior Advisory Board, Mr. Bachmann stated he is concerned for the safety of the elderly who visit the Senior Center. He stated he can hear the windows rattle and the floor shake when he is in the building. He questioned what the Council is doing about the air quality for the residents of New Milford.

Councilwoman Duffie attested to the comments made by Mr. Bachmann; she attended the meeting of the Senior Advisory Board at which she heard the same noises.

Mr. D'Amelio questioned why the dirt was being moved. Mayor DeBari stated it was mandated by the DEP to clean the area; it is monitored daily by the DEP.

Jody Seifert, Bulger Avenue, came forward to address the Council. Ms. Seifert stated she hopes testing is performed because there are over 600 students taking gym. Mayor DeBari assured her the DEP monitors the situation daily.

The Administrator will confirm with the Board of Education if the school has noted any damages to the building.

Mr. Bachmann asked Council what kind of air samples have been taken on Borough property most notably the Senior Center.

Mayor DeBari stated the DEP is monitoring the air quality of the remediation area only; they are not going around testing the surrounding area. He noted the Senior Center is equipped with central filtered air.

Mr. Bachmann stated the windows are always open. He stated it would be money well spent to check air samples on Borough property.

Craig Maiocchi, 223 Cedar Road, came forward to address the Council. Mr. Maiocchi wished to thank everyone who helped fix the situation causing the 4 sewer back-ups in his home. He especially thanked Mike Calamari and the DPW who tv'd the pipe, found and fixed the problem.

As there were no further comments from the public, the meeting was closed on a motion from Council President DeLucia. Councilman Zeilner seconded the motion. All present in favor, none opposed.

VOTE ON RESOLUTIONS

Councilman Bachmann made a motion to approve consent agenda. Council President DeLucia seconded the motion. All present in favor, none opposed.

Councilman Putrino asked Mr. Moscaritolo for an update on the farms from Jada Jackson. Mr. Moscaritolo stated he sent a letter and made 4 phone calls to date with no response.

Councilman Zeilner asked for the consensus of the Council after their meeting with the representative from Honeywell. The Administrator stated the Council must discuss their objective before a decision can be made. Mayor DeBari stated Council should decide what they are looking to achieve and then discuss it at the December work session.

Councilman Zeilner stated the Auxiliary is in dire need of duty jackets i.e. winter jackets and rain coats. He stated they are involved in every aspect of the town regardless of the weather

conditions, as volunteers they are unable to fundraise because they work under the Police Department.

Mr. Moscaritolo will research the legality issue and whether or not the Auxiliary may fundraise.

Councilwoman Duffie inquired if another organization may fundraise on their behalf.

The Administrator stated it may be considered a capital expense; she will research that option.

Councilman Zeilner will discuss the matter with Chief Papapietro and inquire as to why the Auxiliary being uniformed is not currently in the Police budget.

Councilwoman Duffie stated there is graffiti around the fence at Warren Street Park; Councilman Zeilner will inform the Police Department.

Councilwoman Duffie questioned if the concerns of space for records for the Health Department has been addressed. Mayor DeBari stated the concerns have not yet been addressed.

Councilwoman Duffie questioned whether or not Mid-Bergen Regional Health Commission should pay rent to the Borough for the space currently utilized.

Mayor DeBari explained the circumstances of how Mid-Bergen came to New Milford. He stated considering Mid-Bergen has not given the Borough a discount in its rate, it is time they pay rent.

The Administrator will advise the Buildings and Grounds Superintendent to measure the square footage of the space and figure out the dollar value.

Council President DeLucia stated the Borough should explore other storage options in the area.

The Administrator will speak with Lori Palma regarding the Health Department's storage requirements.

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

Closed Session:

1. Pending Litigation
2. Personnel

ADJOURNMENT

Council President DeLucia made a motion to adjourn. Councilman Zeilner seconded the motion. All present in favor, none opposed. Time 11:56 PM.

Respectfully submitted,

Colleen Naumov 
Deputy Borough Clerk