

**MINUTES
BOROUGH OF NEW MILFORD
7:00 PM WORK SESSION
OPEN SESSION immediately following
Monday, November 10, 2008**

Councilman Arthur Zeilner	Present	
Councilman Keith Bachmann	Present	(arrived 7:50)
Councilwoman Randi Duffie	Present	
Council President Tina DeLucia	Present	(arrived 7:04)
Councilwoman Ann Subrizi	Present	
Councilman Michael Putrino	Present	
Mayor Frank DeBari	Present	

Also Present: S. Gregory Moscaritolo, Borough Attorney

Mayor DeBari read the Open Public Meeting and Mission Statements. Mayor DeBari announced the time on the recording system is incorrect; and registering an hour ahead.

Open Session:

1. Municipal Housing Liaison Ordinance

The Administrator referenced an e-mail from the Borough Attorney regarding additional information from the COAH ordinance. The Administrator read and explained the difference between the positions of Housing Liaison and Housing Consultant. The Administrator stated the matter was discussed and the ordinance template was taken off the COAH website and Mr. Kauker's recommendations were added. The Council stated at an earlier meeting, they needed more time to review the proposed ordinance; Mr. Moscaritolo recommended the Council introduce the ordinance.

Council President DeLucia stated she does not agree with said ordinance however she will go with the attorney's recommendation.

Councilwoman Subrizi referenced Assemblywoman Charlotte Vandervalk's letter distributed to Council on September 24, 2008, urging municipalities to file a complaint against COAH, as the Township of Medford has done.

Council President DeLucia requested the Administrator research the Township of Medford's complaint and copy Council upon receipt.

The Administrator asked if Council objected to the ordinance being placed on the next meeting's agenda for introduction. All present in favor none opposed.

2. Recycling Ordinance

The Administrator explained to the Council the BCUA requirement for a recycling ordinance as explained to her by Rich Wierer. The Administrator stated the Borough needs to be practical in its approach. The Administrator stated the BCUA's goal is to collect fifty percent recycling of the additional materials. The Administrator stated if construction is being done, the homeowner must submit documentation of how the debris was recycled. The Administrator stated the Borough is not necessarily responsible for the recycling, it may be stated in the ordinance that the contractor is responsible for recycling and documentation.

Mr. Moscaritolo stated if the recycling ordinance is to be amended, then all mention of bringing recyclable construction debris directly to the DPW must be revised. Mr. Moscaritolo will revise the current ordinance to amend as discussed for introduction at a later date.

The Administrator will confirm with BCUA, how New Milford gets credit for its recycling tonnage.

3. Clothing Bin Ordinance

Mr. Moscaritolo explained the statute to the Council, informing them of the Borough's requirements. The Administrator questioned when the Borough Attorney will have a draft ready for discussion by Council. Mr. Moscaritolo stated the draft will be ready for discussion at the December 15th work session.

4. Development Fee Ordinance

The Administrator reiterated to the Council the Borough must adopt an ordinance to enact the collection of fees for all new development. The Administrator stated the proposed ordinance has been reviewed by both the Borough Attorney and Borough Planner. The Administrator asked if the Council had any objection to her placing the ordinance on the November 24th agenda for introduction. The Council had no objection to the ordinance being introduced on November 24th.

5. No Parking Ordinance

Councilman Putrino stated the Fire Department had no further street additions to add to the proposed ordinance.

The Administrator stated the Chief Papapietro's recommendation is to have alternate side of the street parking on an odd/even day schedule. The Administrator stated the draft will be reviewed by Chief Papapietro and the Borough Attorney and it will be placed on the December 15th agenda for introduction.

6. Temporary Structures

The Administrator stated the concern regarding temporary structures was brought about by Councilwoman Duffie at an earlier work session. Councilwoman Duffie stated the structures are temporary and not secure in any way.

The Administrator stated the former Construction Official used to rely on the Uniform Construction Code in stating to homeowners that temporary structures are unsafe and need to be taken down. The Administrator stated this past practice has recently been challenged; and the Zoning Officer has found this past practice to be unsubstantiated there is nothing in the Borough ordinance to support it.

Councilwoman Duffie stated the temporary structures could be considered dangerous if people are storing gasoline underneath.

Councilman Bachmann understands the issues regarding a danger to the public and of the structure being in the front yard, but asked how much is the Borough going to regulate.

Mayor DeBari stated the Borough should regulate the front and side yard but not the backyard.

Councilwoman Duffie stated in her opinion, it is a quality of life issue. Councilwoman Duffie stated the Borough has strict guidelines regarding sheds, why not temporary structures.

Mr. Moscaritolo noted the current zoning ordinance states no ancillary structure may go past the front yard setback. He further stated the wording "temporary structures" could be added to said ordinance.

Council President DeLucia stated the Borough should not allow temporary structures for outdoor storage including motor vehicles.

Mr. Moscaritolo will draft an ordinance for further discussion at the December 15th work session.

7. Closed Session Minutes Policy

The Administrator stated a policy to approve closed session minutes is not currently in place. The Administrator stated unapproved closed session minutes are not public record. The Mayor and Council currently have no approved closed session minutes. The Administrator stated closed session minutes are transcribed and secured, but not distributed due to the sensitive nature of the matters discussed.

Mr. Moscaritolo suggested the Council adopt a policy allowing access through OPRA to unapproved closed session minutes that have been properly redacted.

Councilwoman Subrizi questioned if Council is entitled to have access to unredacted minutes. Mr. Moscaritolo answered affirmatively, however no copies are to go out.

Councilman Bachmann stated it is the Clerk's responsibility to comply with OPRA; however it is the Council's responsibility to be sure they comply with the Open Public Meeting Act.

Councilwoman Subrizi questioned whether or not the Council complies with the Sunshine Law.

The Council will review the Sunshine Law and their obligation to comply with the Open Public Meetings Act and discuss the matter further at the January work session.

ADMINISTRATOR

The Administrator stated she has the contract for the High School Yearbook Ad then asked the Council how they wish to proceed. The Council decided to do a half page ad and divide the cost; not to be paid with public funds.

The Administrator informed the Council the Borough received a Grand Jury Subpoena to produce documents for Jet-Vac, Inc. from 1999 to present; the Borough has fully complied with the request.

The Administrator stated the Borough is to receive a JIF dividend; the Borough has the option to receive by check or apply to first installment of 2009. The Administrator stated the CFO recommended taking the check and crediting the budget line it was paid from to cover any shortages. The Council discussed the matter and agreed with the CFO to receive the dividend check.

The Administrator stated the Elected Officials Training must be held before 4/30/09. The Administrator will schedule the presentation for a work session as long as the Council can guarantee full attendance; otherwise it will be difficult to attend another presentation because they are only available through January 2009. The Council discussed the matter and decided to have the Elected Officials Training presentation at the February 9th work session.

The Administrator stated the Planning Board is holding a special hearing on November 17th to pass an amendment to the master plan housing element to meet COAH third round requirements. The Administrator stated it is then forwarded to the Council whose only role is to agree to forward it to Trenton by December 31, 2008. The Council decided it was not necessary for the Borough Planner to attend a Council meeting to explain the amendment further.

The Administrator stated on November 6th the Borough had four HRA meetings open to all employees and retirees. The Administrator stated enrollment forms for the Choice Care Card were distributed; said forms were provided to all affected Council members in

their drops. There will be a subsequent mailing to all retirees unable to attend the meeting on November 6th.

The Administrator stated the contractor for the Boulevard paving project gave Boswell the schedule for completion this week as follows, Wednesday – mill, Thursday – raise manholes and Friday – pave.

The Administrator stated Phase I of the Trench Drive Drainage Project started the week of November 3rd, however United Water's piping ran right where the drainage pipe must go. The Administrator stated the Engineer informed her they may be able to avoid moving any pipes by adding a manhole cover and changing direction. The Engineer stated this would maintain the integrity of the work and still be within budget; the Engineer will confirm this information and let her know.

The Administrator advised the Administrator in Oradell of New Milford's Elm Street Bridge Committee, comprised of Councilwoman Duffie, Councilman Bachmann and Councilman Zeilner. Mr. Albrecht will discuss the matter with his Council and report back to Ms. Demiris with possible meeting dates.

The Administrator stated the Borough received in writing, a not guilty plea from the attorney representing Brookchester Liquors. The Administrator stated the attorney for Brookchester Liquors has requested an adjournment for sufficient time to prepare.

The Administrator stated she forwarded a letter from a resident regarding air quality in and around the water company property to the Engineer. The Administrator stated the Engineer provided estimates for measuring the air quality for \$2,230 which is the minimal amount.

Councilman Zeilner questioned if United Water was measuring the air quality on all 4 corners of their property. The Administrator stated yes they are measuring; however she requested the quote from the Engineer because of the resident's letter. Councilman Zeilner questioned if the Borough can request the air quality test results directly from United Water.

Mr. Moscaritolo will contact Mary Campbell, attorney for United Water, and request their air quality testing results.

Mayor DeBari will call Bergen County Environmental to see if they can test.

The Administrator stated she needs clear guidance regarding a policy for flowers being sent to an employee/councilmember after the death of a family member. The Administrator stated it is not always possible to get a consensus from Council on short notice. The Council discussed the matter and agreed to send flowers for immediate family members of an employee/councilmember.

The Administrator questioned the Council on whether they prefer scanned via e-mail or paper drops. The Council discussed the matter and decided to use the scanned via e-mail method as a pilot through year end. It was also determined that Councilwoman Subrizi, Councilman Zeilner, Council President DeLucia, Mr. Moscaritolo and Mayor DeBari want to receive the Twin-Boro News weekly in their drops.

COUNCIL

Council President DeLucia stated the New Hope for Children breakfast was held on November 9th at the Knights of Columbus; was very well done.

Council President DeLucia appreciated the letter the Council received from Mark Madaio commenting on the wonderful job JoAnn Falcone is doing.

Councilwoman Duffie reported at the Rent Leveling Board meeting New Milford Village announced they applied for a tax appeal and will receive a credit. She stated that according to the borough ordinance that credit gets passed back to the tenants. Councilwoman Duffie stated the Board is looking for clarification on how to make the pass through. Councilwoman Duffie stated the Rent Leveling Board was unaware of the tax appeal and would like more communication from the Tax Assessor.

Councilman Zeilner stated the Environmental Commission decided to dedicate the tree farm to the memory of Diane Cardinali; he gave the wording the Commission prefers to be on the dedication plaque to the Administrator. Councilman Zeilner will visit Crown Trophy to view the Borough's options.

Councilman Zeilner reported he requested an updated roster and inventory of needed items from Chief Boele of the Police Auxiliary.

Councilman Bachmann reported the blood drive for the Ambulance Corps will be November 11th from 4 pm to 7 pm.

Councilwoman Subrizi requested the agenda be reconstructed to include new and old business ie: sludge pits. The Administrator stated it is not feasible to list all open or pending discussions on the agenda; she stated just because there is an open issue, does not mean there is something to report.

Councilwoman Subrizi stated she has requested a statement from the CFO regarding the money from Carlton Place.

Councilwoman Subrizi requested an update on the money for the farms.

Mr. Moscaritolo stated Jada Jackson has moved to another department and the contact person is now Lisa Stern. Ms. Stern advised Mr. Moscaritolo that an amended agreement is forthcoming and will require the Borough Administrator's signature.

Councilwoman Subrizi questioned the reason for the cinder block wall at the Madison Plaza CVS.

The Administrator stated the wall was required by the Police Department due to traffic and safety concerns.

Councilman Zeilner stated these traffic and safety concerns should be brought to the attention of the County before the project is complete; as they were the entity who approved the plans.

Councilwoman Subrizi stated the construction site at Madison Plaza is unsafe and questioned when it is scheduled to be completed. The Administrator will ask the Construction Official to visit the site and report.

Councilwoman Subrizi referenced the 4th of July fireworks and questioned how they will be handled.

The Administrator commented that the auditors advised her quotes must be received for the fireworks.

The Administrator further stated that River Edge has made reference they are no longer interested in participating in the fireworks jointly with New Milford so the Borough must discuss how they wish to proceed.

The Administrator will confirm whether or not River Edge will continue jointly with the fireworks.

The Administrator will provide Councilwoman Subrizi with a copy of last year's firework contract with Garden State.

Councilman Putrino stated he has 2 applications for the Junior Fire Department for Kevin A. Iglesias and Matthew P. Lajoie. Councilman Putrino made a motion to appoint both applicants to the Junior Fire Department; Councilman Bachmann seconded the motion. All present in favor, none opposed.

Councilman Putrino stated he brought the Shade Tree ordinance from the Borough of Demarest for the Borough Attorney to review and compare before the Shade Tree Commission meeting he is to attend on November 20th. Mr. Moscaritolo apologized but he is unable to attend that meeting, Councilman Putrino will attempt to reschedule.

Councilman Putrino handed the Council the information on the recycling bins. He stated there are 3 bins in Dumont. Councilman Putrino asked the Council if they wish for him to meet with the company to discuss the matter further. The Council decided it would be beneficial for Councilman Putrino to meet with the company to get more details about what they have to offer.

Councilman Putrino stated he wants to be made aware of any discussions between the Fire Department and the Borough regarding Verizon vs. Cablevision when they occur.

Councilman Putrino spoke on behalf of the Fire Department stating they were told years ago that any available streets would be named after deceased members of the NMFD, the last one being Bliss Drive. Councilman Putrino stated it is his understanding that Phillip Kehr died in the line of duty in 1943. The Fire Department has requested something be dedicated in honor of Mr. Kehr. Councilman Putrino will research more and report back to the Council.

Councilman Putrino requested that the Police Department be asked to look for landscapers in town who do not have proper stickers. Councilman Zeilner will ask the Police Chief to have this rule enforced as it is borough ordinance.

Council President DeLucia questioned who the part-time planning board employee was who was referenced in the budget transfer resolution listed on the agenda. The Administrator stated it is the line item from which the Planning Board Attorney is paid per diem for meetings.

COMMENTS FROM THE PUBLIC

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

Marilyn Bachmann, Stevens Court, came forward to address the Council. Ms. Bachmann thanked the Administrator and her office for placing notice of her event on the website; the event was a success.

Jody Seifert, Bulger Avenue, came forward to address the Council. Ms. Seifert suggested Councilwoman Subrizi contact the fireworks vendor the VFW used, stating they were very reasonable and put on a great show.

Ms. Seifert questioned if there was a list for residents who want a shade tree planted in front of their home. Councilman Putrino stated she should contact Mary Ann Perrone at the DPW.

Ms. Seifert questioned where leaves should be disposed of this time of year; in bags, buckets or the street. The Council responded in the street.

Ms. Seifert commented that as a tax payer, she would rather see donations made to the Library or the High School in lieu of flowers for the death of an employee or family member. Ms. Seifert further stated flowers die, in her opinion the Council should give a gift that continues to give.

Ms. Seifert questioned whether or not the public can review tapes of the public meeting. The Administrator stated the public may review only the public portion of the meeting and are available in the Clerk's office.

Ms. Seifert stated she does not understand the Mayor's statement regarding the air quality testing around the United Water property. Mayor DeBari stated that it would be difficult for the Borough to substantiate the testing without a claim. Ms. Seifert stated the Borough should be proactive in that it does not wait for the air quality to affect one of its students or residents who visit the Senior Center.

Mayor DeBari stated the Borough Attorney will contact United Water's attorney to request their air quality report. Mayor DeBari further stated he will request the County review the report once received from United Water.

Ms. Seifert questioned if New Milford as a town can voice concerns over the new driveway at Madison Plaza near the High School. Councilwoman Subrizi will bring this to the Board of Education, asking them to contact the County stressing their safety concerns.

Council President DeLucia reiterated the County Planning Board approved this plan before it ever came before the New Milford Planning Board.

Mildred Zombeck, Bulger Avenue, came forward to address the Council. Ms. Zombeck questioned the status of the handicap curb cuts. The Administrator stated they are on the list; however the Borough is still awaiting the grant for next year's community development.

Gus Bachmann, Stevens Court, came forward to address the Council. Mr. Bachmann discussed health and safety concerns for the elderly who visit the Senior Center, with regards to the air quality. Mr. Bachmann requested the results of the tests performed on the air filters from the Senior Center. Mr. Bachmann stated when a portion of the ceiling collapsed at the Senior Center a few years back; the Health Department was called in. He further stated the Senior Center was closed for 3 days after finding black growth on the exposed structure; Mr. Bachmann requested to see the testing results from that incident as well.

Mayor DeBari stated someone from the DPW should change all filters at the Senior Center on Wednesday morning; do not dispose of current filters, place them in a sealed bag.

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

RESOLUTIONS:

- 2008:233 Closed Session
- 2008:234 Payment of Bills and Vouchers
- 2008:235 Approve Social Affairs Permit for the Hovnanian School Cocktail Party on November 28, 2008
- 2008:236 Approve 2008 Appropriation Budget Transfers

VOTE ON RESOLUTIONS

Councilwoman Subrizi made a motion to approve consent agenda. Councilman Bachmann seconded the motion. All present in favor, none opposed.

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

Closed Session:

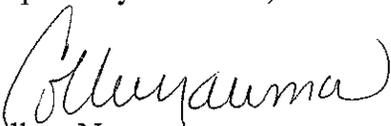
1. Personnel –Retiree Medical Benefits
2. Anticipated Litigation – Concrete Construction

Councilwoman Subrizi made a motion to go back into open session. Councilman Putrino seconded the motion. All present in favor, none opposed.

ADJOURNMENT

Councilman Zeilner made a motion to adjourn. Councilwoman Duffie seconded the motion. All present in favor, none opposed. Time 11:02 PM.

Respectfully submitted,


Colleen Naumov
Deputy Borough Clerk