

**MINUTES**  
**BOROUGH OF NEW MILFORD**  
**7:00 PM WORK SESSION**  
**Monday, June 8, 2009**



Councilman Arthur Zeilner	Present (7:10 pm)
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 reads the Open Public Meeting and Mission Statements.

**OPEN SESSION:**

1. Medical Insurance Update – Art Caughlan

Mr. Caughlan informed the Council the medical insurance program is right on track as far as utilization. Mr. Caughlan requested the Council's help. He stated when the program first started; a line was drawn in what the Choice Care Card would be worth both in and out of network. He stated he needs authorization to override that amount as necessary on a one on one basis. He noted the Borough is currently at 70% in-network utilization. He further noted the older generation tends to go out of network, as they drop out, the in-network percentage should go higher. Mr. Caughlan stated there was a glitch with Medco sending out checks they should not have; the Borough is trying to recover said checks and return them to Medco. Once the checks are received by Medco, the member's Choice Care Card will be reimbursed.

Councilwoman Subrizi questioned the total amount of checks issued. Mr. Caughlan stated he does not have the total amount, however approximately 25-30 checks were issued.

Mayor DeBari stated the Borough has four unions; he wondered whether someone will cry foul that Mr. Caughlan is adjusting some Choice Care Cards and not others. Mr. Caughlan does not believe it will be an issue. Mayor DeBari requested an example of an adjustment to be made. Mr. Caughlan explained the difference between reaching full benefit or not, is whether or not the in/out-of-network deductible has been met. In these cases a small amount will be placed on the member's Choice Care Card in order for the member to reach full benefit.

Mayor DeBari stated in the initial meetings regarding the Choice Care Card, the Council was told the member would think twice about going to the doctor; he asked if this has happened. Mr. Caughlan stated it is happening. Mr. Caughlan noted the Council should not get hung up on minor issues; they will be pleased at the end of the year.

Councilwoman Subrizi thanked Mr. Caughlan for bringing this program to the Borough and for its cost effectiveness.

Mayor DeBari reiterated his concern about the unions; Mr. Caughlan stated the Borough needs to take it as it comes.

Mayor DeBari stated in funding the program, it was explained the Borough could see a potential savings of \$400,000; however the introduced budget included the full amount. Mr. Caughlan stated that is correct, the Borough cannot spend money it doesn't have.

Councilman Zeilner noted the bottom line is the coverage has remained the same and the Borough can save money.

## 2. 2009 Capital Budget

Councilman Putrino summarized the proposed Capital Budget and highlighted the added items. Councilwoman Subrizi noted some original items were removed to add the highlighted items.

The Administrator was under the impression the Borough had to do the Charles Street Drainage Project this year. Councilman Zeilner stated the committee reviewed the topic; they established an \$800,000 cap whereby many smaller items needed to be finalized prior to starting the drainage project.

Mayor DeBari noted Mr. O'Scanlon had arrived; the Council tabled the budget discussion to hear from him regarding the cell tower.

## 3. Cell Tower Updated – Gaelic Communications – Declan O'Scanlon

Mr. O'Scanlon stated the DEP permits are ready for the Borough's approval. He noted upon being awarded the bid, Gaelic's responsibility was to secure tenants to pull in revenue. To date three leases have been negotiated and the Borough should receive approximately \$55,000 in the first year; two other carriers are currently in discussions with Gaelic Communications. Mr. O'Scanlon initially thought four carriers would be sufficient, however he believes he could get six carriers. He stated he can get revenue totaling \$75,000 - \$80,000 per year for New Milford, however he needs the Council's approval to do so. He noted locating more carriers at this location, could eliminate them from coming in on private land. Mr. O'Scanlon stated each carrier needs ten feet of vertical space on the tower; he further noted if a sixth carrier is signed, the tower would need another ten feet in addition to the 150 feet already approved.

Councilwoman Subrizi questioned if room remains for police and fire; Mr. O'Scanlon stated there will absolutely be room. Councilwoman Subrizi expressed concern with the ten foot extension. Mr. O'Scanlon responded some carriers can broadcast further than others, extra height helps those with weaker signals broadcast further; however he will do everything he can to not extend the tower. He stated no additional ground feet will be needed.

Councilwoman Duffie questioned if adding the additional ten feet could help deter other applications for cell towers. Mr. O'Scanlon noted if a carrier is left off the tower or the tower is made lower, the likelihood of another application coming before the town goes up.

Councilman Zeilner questioned how many linear feet are needed between carriers; Mr. O'Scanlon stated ten feet. Councilman Zeilner questioned if the tower would require additional height due to the police antenna; Mr. O'Scanlon does not foresee any problems.

Councilman Bachmann questioned if the lease contract that was bid on gives Gaelic Communications the right to get the extra ten feet if needed. Mr. O'Scanlon noted the specs do not prohibit it and in addition, he does not believe it would have affected bid submission of the other bidders.

Councilman Bachmann further questioned the additional cost to build the extra ten feet; Mr. O'Scanlon estimated an additional cost of 10%-15% with a commensurate increase in his profit.

Mr. Moscaritolo stated other bidders have only 45 days to raise an appeal; the issue of extending the height was not raised in that time period. Mr. Moscaritolo does not believe any bidder would be successful in an appeal at this point. Councilman Bachmann's concern is whether or not the Borough would have to defend itself.

Councilwoman Subrizi questioned if the extension could be done at a later date; Mr. O'Scanlon stated yes, however the foundation must be built to handle the extension now.

Mr. O'Scanlon agreed to provide more specific information on the increase in cost and profit to add the ten feet.

Mr. Moscaritolo stated the Borough is just amending the lease; he will prepare a rider to the lease.

Mayor DeBari noted the Council may now resume with the budget discussion.

Council President DeLucia questioned the \$50,000 allocated for the sewer jet and sweeper; will the remaining be allocated next year? Mayor DeBari noted \$50,000 is the balance owed.

Mayor DeBari provided information to the Administrator for a comparable color printer to the one she requested in her capital budget, the County bought it through State contract.

Mayor DeBari noted the refrigerator and stove listed under Buildings and Grounds was already bought with old capital, therefore it can be removed from the current list.

Mayor DeBari disagreed with funding the second option for the HVAC unit, stating the Borough should not put money aside now for future use. He further stated the Borough Hall unit was recently replaced; however Fire Co. #2 and the DPW are in need.

Councilwoman Subrizi noted the Finance Committee would like to allocate money to do that. She further noted they do not wish to replace all the units at once; it should be spread over a period of time.

Mayor DeBari noted the Council cannot continually anticipate something breaking; at that point it is considered an emergency.

Councilman Putrino requested the Administrator get a copy of the Building and Grounds list along with dollar figures.

Councilman Zeilner questioned if the \$800,000 figure is a number the Council is willing to work with or are they looking to lower it?

Mayor DeBari noted the introduced budget has \$824,000; therefore \$24,000 needs to be cut to meet the \$800,000 target. Mayor DeBari questioned the need for the \$13,000 wall around the compactor; Councilman Putrino stated for safety reasons, it is not in compliance.

Mayor DeBari stated the radio repeater, requested by the Fire Department, would be obsolete next year because the County will fund Capital money for all county-wide municipalities to be on the same radio. Councilwoman Subrizi stated at this time Fire Co. #1 cannot communicate with Fire Co. #2; and asked if the County will be ready next year?

Mayor DeBari questioned the infrared camera requested by the Fire Department. Councilwoman Subrizi stated the Fire Department currently has two and neither of them works efficiently; therefore they are requesting one to share.

Mayor DeBari questioned the trunk boxes requested by the Police Department. Councilman Zeilner noted they have already been purchased with old capital money and therefore can be removed.

Councilman Zeilner explained the new weapons for the Police Department are not for new hires, but to replace old weaponry.

Councilman Zeilner explained the vehicle camera request has been in for years, the Police Department currently has none. Council President DeLucia questioned how many vehicles would the requested \$35,000 cover. Councilman Zeilner stated the five or six primary police vehicles. Councilman Zeilner asked Mr. Moscaritolo, if the cameras are approved would the union have a say in whether or not they are installed; Mr. Moscaritolo stated it would not be an issue because it is not their vehicle. Councilman Zeilner further questioned if Mr. Moscaritolo believes the cameras would be helpful to the Borough. Mr. Moscaritolo stated the cameras would be very helpful, because there would be no disputes.

Councilwoman Duffie questioned the interview room equipment. Councilwoman Subrizi noted it is mandated by the State; however it is not necessarily equipment but a few smaller mandates that can be accommodated in the Borough Hall.

Councilwoman Subrizi stated Recreation needs \$18,000 for a new lawn mower and approximately \$4,000 for small repairs to the dugout areas.

Council President DeLucia noted the Council has made a \$10,400 reduction in the Capital Budget.

Councilman Putrino stated \$700 must be added to cover the down payment obligation. The Council discussed reducing the boiler/HVAC replacement line to bring the total Capital Budget to \$800,000. Council President DeLucia does not think the Council should eliminate \$20,000 from the boiler HVAC replacement line.

Councilman Putrino made a motion to approve the Capital Budget for \$814,000. Council President DeLucia seconded the motion. Mayor DeBari noted the Borough's down payment will be \$40,700. On a roll call vote, all present in favor none opposed.

#### 4. Repair Shop Ordinance – Revised Draft

Mr. Moscaritolo made an explanatory statement regarding the legislative process of an ordinance; he noted that the Council is at the beginning of the process and that the draft is a work in progress. He noted some changes have been made and it is on tonight's agenda for further discussion. Mr. Moscaritolo requested Council's comments on Sections I and II, no comments noted. He then requested comments on Section III; Councilman Bachmann noted in B3, there are many backyard mechanics that will violate the proposed ordinance; therefore a reasonable time period should be included in the definition. Councilman Bachmann noted a 30 day limit is reasonable. Mr. Moscaritolo noted the proposed ordinance is only for vehicles that are not garaged.

Mayor DeBari questioned whether the proposed ordinance as written is intended for the resident mechanic or businesses. Mr. Moscaritolo noted it is intended for both private and commercial, where the vehicles appear abandoned; it does not target any particular business.

Council President DeLucia questioned if the proposed ordinance would negatively affect the DPW; she further stated the word "public" should be removed from the ordinance.

Councilwoman Subrizi suggested including the word power train in the definition of main component parts.

Mr. Moscaritolo reviewed section IV, Regulations for the Council.

Mayor DeBari noted a junkyard is not a permitted use; the Administrator questioned if junkyard is allowed in the Industrial Zone. Mr. Moscaritolo will review and confirm. Councilwoman Subrizi noted ordinance 30-27.1 specifically lists a junkyard as a prohibited use; therefore #2 can be deleted.

Mayor DeBari questioned if a homeowner is selling their car, is it unlimited as to how long it can remain? Mr. Moscaritolo noted as written, no time limit was included. Councilman Bachmann gave an example if he and his wife both wished to sell their vehicles at the same time, could that be done. Mr. Moscaritolo stated not as the ordinance is written, it is to prevent people from using their homes as a used car lot.

Councilman Bachmann referred to VII, and questioned what if there was no longer a Property Maintenance Officer? Mr. Moscaritolo noted the wording may be changed to Code Enforcement Officer, as that covers many different sections of the code i.e. Health, Police, etc. The Administrator noted this causes an issue, whereby it does not fall under one specific title and no one takes responsibility. The Council discussed the matter at length, and decided Zoning Officer or his/her designee should replace Property Maintenance Officer.

Councilman Bachmann suggested removing the section which reads "where no adjoining property owner is adversely affected," because someone is always affected.

Councilman Bachmann noted the Borough must permit merchants to make a living; the proposed ordinance as written is too restrictive. He suggested limiting the overnight parking, not the workday.

Councilman Zeilner noted the business owners know the workload that could be handled throughout the course of the day.

Mr. Moscaritolo noted the ordinance encourages business owners to have only cars to be repaired, not for storage.

Mr. Moscaritolo noted the reason for section VIII is because the Borough had received complaints about people in residential areas running repair shops out of their driveways. The Council discussed what would be considered minor work.

Councilwoman Duffie suggested removing "or annoyance to adjoining property owners or occupants." The Council discussed at length, what constitutes a nuisance. After discussion, the Council decided to leave in "or annoyance."

The Administrator noted the DPW should be removed from section VII; Mayor DeBari suggested adding the Health Department.

Mayor DeBari questioned what the general fine is currently in the code book. Councilwoman Subrizi looked it up and stated it is up to \$1,000.

Mr. Moscaritolo suggested opening to the public, to hear from them on this proposed ordinance only.

Councilwoman Subrizi made a motion to open the meeting to the public to discuss this ordinance and only this ordinance. Councilman Putrino seconded the motion. All present in favor none opposed.

John Dapper, 430 Madison Avenue came forward to address the Council. Mr. Dapper reviewed his registered service vehicles, and questioned whether they go against the car count. He further stated his business tows accident vehicles; it could be weeks before an insurance adjuster comes to view the car. He stated the Police Department informed him he must hold an impounded vehicle for 30 days prior to claiming abandonment; while the State has him wait an additional 30 days before he can get the title. He stated he has his own vehicle, two employee vehicles, and a recreational vehicle do they count against the car count?

Councilwoman Duffie asked if Mr. Dapper offers storage, he stated yes his business does offer storage for cars that are considered a total loss.

Mayor DeBari asked Mr. Dapper to explain the extent of the storage.

Mr. Moscaritolo stated Mr. Dapper made a good point; employee and service vehicles should not be included in the final car count.

John Hadley, 197 Main Street, came forward to address the Council. Mr. Hadley asked what does the Council want from the shop owners; and further noted the shop owners need to work together.

Kirk Youngling, 201 Henley Avenue, came forward to address the Council. Mr. Youngling reiterated much of what the previous shop owners stated; he added many vehicle owners drop them off before leaving for work, but are unable to pick them up prior to the shop closing.

Councilwoman Subrizi stated maybe the size of the shop should be taken into consideration rather than the number of bays. She further noted the Council is not trying to hurt anyone's business but a line needs to be drawn.

Scott Johnson, 1140 Roosevelt Avenue, came forward to address the Council. Mr. Johnson noted the language of minor repairs should be reconsidered.

John Dapper III, 438 Ryeside Avenue, came forward to address the Council. Mr. Dapper stated the Council cannot distinguish between major/minor work, as they have no automotive background. He stated he helps friends with their vehicles in his driveway, no neighbors are complaining.

Martin Shenkman, 203 Center Street, came forward to address the Council. Mr. Shenkman questioned other businesses working out of their driveways on weekends i.e. accountants and lawyers. Council President DeLucia noted these are permissible by law. He stated a car has sat on his lot for over 1½ years; he took the owner to court however it still is not been remedied. Mr. Shenkman noted on Mother's Day an ex-employee worked on his own vehicle at Marty's shop; the Property Maintenance Officer harassed him for working on Sunday. The police were called

and informed them work may be performed on his personal vehicle on Sunday. He noted if laws are on the books that work cannot be done on Sunday, then it must be enforced with everyone.

Councilman Zeilner made a motion to close the meeting to the public. Council President DeLucia seconded the motion. All present in favor none opposed.

5. E-Revival Contract

Councilman Putrino said to his knowledge there is no place the items could be sold in order to make money.

Mr. Moscaritolo noted the company sorts through the components and removes the usable ones to be sold locally; the remainder goes to a Chicago based company to be sold as scrap.

Council President DeLucia stated the new contract does not include the tonnage report; that should be added back to section 2a.

Mayor DeBari expressed concern about the closed containers for safety reasons.

The Administrator will prepare an authorizing resolution for the Mayor to sign the contract on June 22, 2009. Mr. Moscaritolo will revise section 2a of the contract to include the tonnage report.

6. Recreation Safety Director

The Administrator read the opinion of the Borough's Risk Manager on the creation of the position of Recreation Safety Director for Dr. Jeff Altman.

Council President DeLucia requested a formal resume of his qualifications be provided to the Mayor and Council as other appointees provide.

Mr. Moscaritolo questioned whether or not the Recreation Commission should appoint him. He further noted they appoint Directors and Coordinators, if they were to appoint Dr. Altman with a resume on file, then the Borough would indemnify him.

Councilman Bachmann confirmed that it was the Council's official position that it is within the Recreation Commission's purview to appoint the Safety Director. He will request an appointing resolution from the Recreation Commission with Dr. Altman's resume attached.

7. No Parking –Madison Avenue

The Administrator explained the Borough ordinance already provides for no parking on the entire west side of Madison Avenue, from the Oradell border to the Dumont border, however it has never been posted as such. The Administrator will alert the Police Department and DPW that No Parking signs need to be placed.



## 8. Sanzari Event Request

The Administrator explained the request to the Council. She further advised there were no complaints from last year's event. The Administrator noted in addition to the items required last year, the Borough has requested no parking signs on New Bridge with overflow parking at the Borough Hall with shuttles made available.

Councilman Bachmann requested the resolution be pulled out for a separate vote.

## 9. Sign Ordinance

Councilwoman Duffie expressed concerns about neon signs popping up throughout town and noted that it has not been enforced. She stated three large commercial projects are coming up and she is worried if they come in for neon signs, if the Borough can deny them.

Council President DeLucia noted the neon signs in town are either single tube outline of windows or deli signs reading Boar's Head or Thumann's. She does not wish to place undue burden on these businesses in this economy. Council President DeLucia does not find the signs offensive; she believes that part of the ordinance should be eliminated or read no flashing signs are permitted.

Councilman Putrino noted an ordinance is currently on the books; however it is not being enforced, and therefore should be revised.

Mayor DeBari noted the Council has three options; enforce the current ordinance, revise the ordinance to allow, or notify the Chamber of Commerce that the ordinance is on the books and the signs must be removed.

Councilwoman Duffie thinks it should be enforced.

Councilwoman Subrizi noted the sign ordinance should stand as is and be enforced.

Councilman Putrino stated it should be controlled, but neon should not be banned.

Councilman Bachmann proposed that since Councilwoman Duffie and Councilman Putrino are on opposite sides of the fence on the sign issue, they should each take photos to present at the July Council meeting.

## **ADMINISTRATOR**

The Administrator stated twelve Hirschfeld Flood Mitigation letters were mailed and she received confirmation of receipt from all, however only nine homeowners have given permission. Councilman Bachmann volunteered to speak to the unresponsive homeowners on behalf of the Borough; Mr. Moscaritolo noted this would be beneficial.

The Administrator asked if there were any objections to St. Joseph School placing signs on Borough property for two weeks to advertise their craft fair; no objections noted.

The Administrator noted there will be another Girl Scout bridging ceremony at the gazebo on June 15<sup>th</sup>, from 6pm – 7:30pm.

The Administrator asked if there were any objections to Fire Co. #2 borrowing the Senior Van on June 14<sup>th</sup> to travel to a boat cruise in New York City; no objections noted however the Council has requested a designated driver.

The Administrator questioned how to tactfully announce that there are no fireworks on the lawn sign. The Council discussed and determined it should read “sorry, no fireworks this year.”

The Administrator was informed by the Recreation Director that his Capital Request for an \$18,000 lawn mower would be approved and the funds available in May. The Council discussed the matter and decided to authorize the purchase with old capital money and reimburse it upon adoption of this year’s capital budget.

## **COUNCIL**

Council President DeLucia had nothing to report.

Councilwoman Duffie was informed by the Administrator in Oradell that a grant was received to pave New Milford Avenue, which is set to begin over the summer.

Councilwoman Duffie stated that Oradell is awaiting the County report regarding the Elm Street Bridge, it is expected in two weeks.

Councilwoman Duffie questioned if it were appropriate for the Rent Leveling Board to meet with the Tax Assessor. She further noted the ordinance does not reflect how current appeals are handled, as they are settling with credits not refunds. The Council suggested she e-mail the ordinance to the Tax Assessor and then meet with her to get her ideas.

Councilman Zeilner mentioned the issue of graffiti on the playground, and further noted it has been cleaned up.

Councilman Bachmann requested the two consent forms for the Hirschfeld Flood Mitigation Project be e-mailed to him for two of the remaining homeowners.

Councilwoman Subrizi announced she will not be able to attend the June 22<sup>nd</sup> Public meeting, but noted that the Public Events Committee has scheduled a presentation to Tom Maggi for that meeting.

Councilwoman Subrizi received notification that the Governor will be at the Historic New Bridge Landing Park Commission tomorrow to sign legislation turning over the financials to the Commission.

Councilman Putrino requested all the playgrounds be looked at for graffiti.

Councilman Putrino requested the status of the Employee Assistance Program and its applicability to volunteers. The Administrator explained it has been put in place for the Borough's full-time employees. She further noted the process would be held up if the Borough were to wait for legal advice on part-time employees and volunteers. The Administrator stated at this time they are not covered however the Borough is working to change that for the next contract year.

Councilman Putrino requested the Council be copied on all written departmental responses to the audit memo.

### **RESOLUTIONS:**

2009:142 Closed Session

2009:143 Payment of Bills and Vouchers

2009:144 Approve Amendments to 2009 Temporary Budget

2009:145 Authorize Refund of Duplicate Tax Payments, Various Blocks and Lots

2009:146 Approve Petition to Extend Licensed Premises – 105 New Bridge Properties, LLC

### **COMMENTS FROM THE PUBLIC**

Council President DeLucia made a motion to open the meeting to the public. Councilman Putrino seconded the motion. All present in favor none opposed.

Gus Bachmann, 258 Stevens Court came forward to address the Council. Mr. Bachmann requested clarification on the Hirschfeld Flood Mitigation letters, whether it was the receipt of letters or consent the Borough is awaiting. The Administrator reiterated the Borough has received all twelve receipts however it is awaiting consent from three homeowners. Mr. Bachmann requested a duplicate letter for his neighbor and he will deliver it to him for his consent. Mr. Bachmann stated it was a grave mistake that the Council did not take advantage of the people who have lived with the misery of the Hirschfeld Brook.

Marilyn Bachmann, 258 Stevens Court came forward to address the Council. Mrs. Bachmann requested the Council meeting dates be published in the New Milford Nuggets section of the Twin-Boro News.

### **CLOSED SESSION**

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

1. Review of Closed Session Minutes – 4.13.09
2. Personnel
3. Pending Litigation/Contract Negotiation

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

### **OPEN SESSION**

Councilwoman Duffie made a motion to approve the April 13, 2009 closed session minutes. Councilwoman Subrizi seconded the motion.

For the motion: Zeilner, Subrizi, Duffie, Putrino

Against the motion: none

Abstain: DeLucia, Bachmann

### **VOTE ON RESOLUTIONS**

Council President DeLucia made a motion to approve resolutions 2009:142 through 2009:145. Councilman Bachmann seconded the motion. All present in favor, none opposed.

Councilman Zeilner made a motion to approve resolution 2009:146. Councilman Putrino seconded the motion.

For the motion: Zeilner, DeLucia, Duffie, Putrino

Against the motion: Bachmann, Subrizi

Mayor DeBari asked the Administrator inform Mr. Scuderi that the resolution was approved however it was borderline; and to please convey the Council's displeasure with their reluctant cooperation on the lights.

### **ADJOURNMENT**

Councilman Bachmann made a motion to adjourn. Councilman Zeilner seconded the motion. All present in favor, none opposed. Time 11:48 PM.

Respectfully submitted,



Colleen Naumov  
Deputy Borough Clerk