

**MINUTES**  
**BOROUGH OF NEW MILFORD**  
**6:30 PM WORK SESSION**  
**OPEN SESSION immediately following**  
**8:30 PM PUBLIC MEETING**  
**Monday, August 24, 2009**



**WORK SESSION:**

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

Also present: S. G. Moscaritolo, Borough Attorney; Mark Polito, CFO;  
Steven Wielkocz, Auditor (8 PM); Christine Demiris, Administrator/Clerk

Mayor DeBari read the Open Public Meeting and Mission Statements.

The Record reflects the Closed Session was held until after the Public Meeting.

The Council discussed whether or not it would be necessary to reschedule the September Public Meeting as it falls on Yom Kippur. The Administrator will check with the local synagogue and advise at the next meeting.

**OPEN SESSION:**

1. Budget Committee Recommendations

Councilwoman Subrizi stated the Finance Committee is going to create a form with the account number and account name to be used by each department when submitting their budget. Councilman Zeilner stated the purpose of doing this is to simplify the budget process for the Finance Committee. Councilwoman DeLucia asked how the Library would be affected; given their budget is not separated by line items. She was advised that the format they used in the present year was acceptable. Councilman Putrino explained why a listing of positions was requested for each salary line, noting the difficulty when reviewing the budget to identify which positions were included in each line. Councilman Zeilner added in many instances the Finance Committee could not determine whether or not the salary lines provided by the department heads included increases or did not. The Council agreed the salary information should be provided by the CFO based upon discussions with the department heads.

Councilwoman Duffie expressed concern for the volunteer organizations, suggesting that it may be difficult to track and the need to keep it simple; noting volunteers may be discouraged from participating if it seems like a lot of work.

The Finance Committee stated a desire for more accountability on capital expenditures and maintaining individual budget lines. If lines are going to be over expended or capital items, other than those requested, are to be purchased it needs to be explained to the CFO and the Mayor and Council. The Administrator stated this may be hard to achieve when the budget is not in place until September of a given year; departments may not know they have over expended a budget line if they do not know how much was budgeted to begin with.

Regarding borough vehicles, the Finance Committee recommends the use of borough vehicles for all employees traveling to classes or on borough business; suggesting that travel expenses should not be reimbursed if a borough vehicle is not used. The Administrator explained that borough vehicles are not always available for use. The Committee responded if only certain employees were allowed to bring their vehicles home, more vehicles would be available for use. Councilman Bachmann asked if an employee is going to school to further their career, why the Borough should pay for mileage. The Committee suggested that the Recycling vehicle should be available for use and if the recommendations are implemented in 2010 the Recycling Coordinator will be notified. The Mayor commented the Council is spending a significant amount of time discussing items that will result in little or no savings and suggested it might be more productive to reconsider pricey capital requests such as cameras and/or computers in the police cars rather than whether or not the detectives can take their assigned vehicles home. Councilman Zeilner commented the Finance Committee discussed if something is contractual the Borough will pay for it, if it is not contractual, the Borough will not pay for it. Council President DeLucia commented this is a disincentive to the employee to further themselves and stay current.

Councilwoman Subrizi stated the Finance Committee further recommended all classes and travel should have prior approval of the Administrator. Council President DeLucia suggested department head approval should be sufficient. The Administrator confirmed all education currently requires prior approval from the department head; no education is approved after the fact. After much discussion the Council agreed; the recommendation will be amended. The Council agreed the balance of the recommendations would be carried for discussion at a future meeting. Councilman Putrino will update the recommendations

## 2. Gaelic Communications – Easement Request

Mr. Moscaritolo referenced the request for an easement from Gaelic, stating his opinion it is a reasonable request given the restriction of diesel fuel near the river; the easement would allow for a gas line to be installed. Councilwoman Subrizi asked if the lease would have to be modified. Mr. Moscaritolo responded it could be accomplished with a letter of agreement. Council President DeLucia asked if there would be any safety issues to allowing the request. Mr. Moscaritolo stated he did not feel there would be any safety issues. The Mayor asked who told Gaelic they could not have diesel fuel by the river. Mr. Moscaritolo responded, the DEP.

Mr. Moscaritolo stated his recommendation to grant the easement. Councilwoman Duffie asked if the Borough Engineer would have the opportunity to review the plan. The Mayor stated the Borough should specify that all underground pipe must be welded or the new plastic pipe; no joints or seams. Mr. Moscaritolo will respond to Gaelic with the Council's approval specifying all costs, including the cost for the Borough engineer to review, will be

at the applicant's expense, all pipes will be welded and there will be no disturbance of any public improvements. Councilwoman Subrizi commented that since the approval of the lease the applicant has requested additional height and an easement. She asked if Mr. Moscaritolo anticipated any additional requests. Mr. Moscaritolo responded, the applicant could argue the current lease would allow for him to bring in utilities. The Mayor asked to be advised as to what DEP ruling is being cited.

### 3. Unpaid Landscaping Bill – Nature's Way

The Administrator stated the unpaid landscaping bill is for current maintenance, not the repair to LaBarbera Field, which has been paid in full. She explained that according to what she had been told, the landscaper was advised that he is not being paid because the Borough is waiting to receive money from FEMA. She reiterated that the repair to the field was paid for out of existing capital money and the disputed charges are for current landscaping.

Councilman Bachmann prefaced his remarks stating the contractor in question is a client of his, therefore he would not vote on anything to do with this matter. He stated the Recreation Commission only became aware of the outstanding bills on August 6<sup>th</sup>. Councilman Bachmann further stated he asked to have the matter listed on the agenda because he felt the Council should be made aware of it. Noting the autonomy of the Recreation Commission, Councilwoman Duffie stated the Council should not take any action, but rather the Administrator should notify the Recreation Director of the outstanding bill that needs to be paid.

The Council discussed a number of things: who authorized the work, whether the maintenance was part of the emergency authorized by the Council, and whether or not the maintenance should go out for bid. It was determined the maintenance was not part of the emergency and any job over the bid threshold should be put out to bid. Councilman Putrino noted an item pertaining to Jr. Football and asked if they had the authority to authorize work on the field without Borough permission. Councilman Bachmann will address the Council's concerns at the next Recreation Commission meeting.

### 4. Non-Life Hazard Inspection Fees

The Administrator stated there had been a request for additional information from the Fire Marshall such as: current vs. proposed fees, total fees collected in 2008, and an explanation of what the fees are used for. The Fire Marshall provided the current vs. proposed fees and responded the fees cover salaries and operating expenses and the total fees collected in 2008 were \$10,062. Councilman Bachmann commented the fees should cover the expenses and the professional is telling us they do not. Council President DeLucia commented the proposed fees are in line with those adopted by neighboring communities. The Council agreed with the proposal; the ordinance will be prepared for introduction at the September public meeting.

### 5. Local Finance Board Application – Steven Wielkotz, RMA

Mr. Wielkotz began by stating the Borough was not awarded extraordinary aid, noting that municipalities do not get rewarded for having a tax increase considered below average. He added many other municipalities are in worse shape; stating New Milford did the right thing

by cutting as much as possible, however we will not get aid. Mr. Wielkotz explained extraordinary aid was allowed to be considered in the introduced budget, in the amount awarded last year. Now that the determination has been made that New Milford will not receive aid the Borough must do one of three things: cut \$350,000 from the introduced budget, find an additional \$350,000 in revenue, or apply to the Local Finance Board for a Tax Levy CAP Waiver to allow the Borough to raise taxes above the CAP. He stated that this late in the budget year it would be virtually impossible to cut \$350,000 from the budget or to come up with an additional \$350,000 in revenue, which leaves us with an application to the LFB. He explained that because of what happened with extraordinary aid a number of towns are in a similar position.

He stated the Council has two things before them tonight: an amendment to the introduced budget, which adds the amounts for a few grants, reduces the amount of interest on bonds, reduces the recycling revenue based upon the negotiated contract, and moves some money between budget lines. He stated, the net effect, even with the levy cap waiver, the municipal tax rate is going up 2.1 points or \$94.82 on the average assessment of \$414,658. He added school taxes are going up \$178.30 and county taxes are going up \$82.93. The other item before the Council is the resolution authorizing the application to the Local Finance Board for the aforementioned tax levy cap waiver.

Councilwoman Subrizi asked if we did not receive extraordinary aid this year, does it mean we probably will not get it next year. Mr. Wielkotz responded it does not, noting that we do not even know if the extraordinary aid program will exist next year and that it is an annual event, based upon the municipality's budget for a given year. He stated that the LFB raised the bar, noting that in order to qualify for extraordinary aid in 2009 you would have had to have had a municipal tax increase of more than \$250.00.

Mr. Wielkotz stated the amendment will be introduced tonight, advertised on August 28<sup>th</sup> and the public hearing and adoption will be on September 14<sup>th</sup>. With that schedule it should be possible to send out the tax bills by the end of September. He reiterated, even if the municipality were to adopt the budget earlier, the state does not release the tax levy to the county until the state adopts its budget, which is not until the end of June.

#### 6. Fire Department Feasibility Study

Councilman Putrino reviewed the information provided previously by the Fire Department for the Council. He moved to fund the study now so it will be complete by February 2010, which will allow the Fire Department to apply for the next available round of funding to build firehouses. He added you cannot apply if you do not have a study; noting we have already missed out on two rounds of funding. He confirmed the cost of the study is \$7,500, which has already been allocated in the budget. A resolution, to authorize the study, will be listed for consideration on the September 14<sup>th</sup> agenda.

#### 7. Sign Ordinance – Neon Pros and Cons

This item was tabled to a future agenda.

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

This item was tabled to a future agenda.

**ADMINISTRATOR:**

The Administrator briefly explained the reason for resolution 2009:185. Although the Borough has a current contract with remaining option years, the market has improved and after consultation with the DPW Supervisor and the Oradell Administrator and DPW Supervisor it was agreed we could anticipate potential savings by putting the service back out to bid.

Regarding resolution 2009:183 the Administrator explained the Borough normally sells surplus vehicles at public auction through the County. She has been advised the County has recently gone to an online auction service and therefore is no longer accepting vehicles from the municipalities. She has contacted the Borough of Oradell regarding the possibility of a joint auction for the current surplus and will investigate the possibility of online auctions for the Borough going forward.

The Council agreed to hold the Closed Session until the conclusion of the Public Session.

Councilman Bachmann asked to have resolution #2009:184 pulled out for a separate vote.

Council President DeLucia made a motion to reconvene in the Council Chambers. Councilwoman Duffie seconded the motion. All present in favor, none opposed.

**PUBLIC SESSION:** (Actual Start 8:38 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

Also present: S. G. Moscaritolo, Borough Attorney; Mark Polito, CFO; Steven Wielkocz, Auditor; Christine Demiris, Administrator/Clerk

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.

Councilman Bachmann made a motion to approve the minutes from the May 18<sup>th</sup> Work Session and the May 27<sup>th</sup> Public Session. Councilwoman Subrizi seconded the motion. All present in favor, none opposed.

**2009 MUNICIPAL BUDGET AMENDMENT**

Mr. Wielkocz explained the budget amendment, noting it inserts a couple of additional grants, reduces the anticipated revenue on recyclables and reduces the interest to be paid on bonds, in addition to a few minor line item adjustments. He noted in addition to the amendment the

Council will be considering a resolution to authorize application to the Local Finance Board requesting a tax levy cap waiver as a result of not being awarded any extraordinary aid.

Mr. Wielkocz stated the amended budget will result in a \$94.82 municipal tax increase, an \$82.93 county tax increase and a \$178.30 school tax increase for a total increase of \$356.05 on the average home.

The Mayor announced he and Mr. Wielkocz will make the application to the Local Finance Board on September 9<sup>th</sup> and a public hearing on the budget amendment will be held on September 14<sup>th</sup>.

## **PRESENTATIONS:**

### **ASSEMBLYWOMAN CHARLOTTE VANDERVALK**

The Mayor introduced Assemblywoman Charlotte Vandervalk to speak on the topic of COAH and unfunded mandates.

Ms. Vandervalk began by stating COAH is a complicated issue. She stated many legislators feel COAH is the wrong approach; it has achieved very little and does not recognize the realities of the construction trade or the economy in New Jersey. She reported when she first suggested municipalities ask for relief through the Council on Local Mandates, the Council on Local Mandates came back and stated COAH is not a mandate; municipalities do not have to follow it by law, but by not doing so, leave themselves open to lawsuits. She went on to discuss the red tape and resource commitments created by COAH.

Ms. Vandervalk asked where we go from here and responded there needs to be more of an outcry from municipalities across the state. She noted developer's fees are supposed to be designed to cover the cost of affordable housing without costing taxpayer money; but we are finding this not to be true. She added even if a municipality does everything to comply with COAH it can still be sued.

The Mayor apologized and asked Assemblywoman Vandervalk to pardon an interruption but noted the need to vote on the budget resolutions in order to permit the Auditor and CFO to leave the meeting.

Councilman Zeilner made a motion to approve resolutions #2009:178 and 2009:179. Councilman Bachmann seconded the motion. All present in favor on a roll call vote.

The Mayor reopened the discussion of COAH by explaining the Council has tried to follow the Supreme Court decision, noting the town's required number of affordable units is currently 41. He explained there are only two privately owned vacant plots at present: Gramercy and United Water. He further explained the town's purchase of the Carlton Place property, which was done to prevent a builder's remedy lawsuit.

Assemblywoman Vandervalk suggested joining the League of Municipalities proposal to fight the third round regulations, noting very little developable open space in Bergen County. She stated COAH is looking to get 115,000 homes built.

The meeting was opened for public comment on Assemblywoman Vandervalk's comments.

Ms. Joanne Prisendorf came forward and asked what the residents of town could do. Ms. Vandervalk responded the current administration in Trenton believes in the policy; to change COAH, change the administration. She added she does not know of anyone in the governing body that likes this policy. She suggests residents and the Council keep complaining, write to the Governor's office, write to editors of newspapers – be vocal.

Mr. Dan Conner addressed Ms. Vandervalk stating she represents twenty-eight towns and asking if all of the towns feel similarly why she can't get the issue the attention it deserves.

Mr. Howard Berner asked if COAH ever looks at the burden it places on the rest of the infrastructure: schools, roads, etc. Ms. Vandervalk responded they do not care.

Ms. Hedy Grant stated COAH started decades ago and neither party has had a significant positive impact on COAH reform. Ms. Vandervalk responded, Ms. Grant is correct COAH has existed and evolved through both administrations, but what is different now is people are starting to rebel.

Mr. Joe Steele questioned if the Federal Government has any jurisdiction with regard to COAH. Ms. Vandervalk responded they have no role to play. She added Community Development money, which comes from HUD (which is federal money), can be used to improve urban areas. Mayor DeBari stated this was the point of Regional Contributions, allowing municipalities to send money to urban areas, but COAH has done away with RCAs.

Mr. Nick D'Amelio asked how the town could be expected to put additional development on sewer systems built between 1920 and 1930; he commented on the proximity to the river as well. Ms. Vandervalk responded COAH does not make exceptions for those things and they should. The Mayor stated the Carlton Place developer wanted to put twenty-eight units at the mouth of the river. Council President DeLucia stated the same developer filed a builder's remedy lawsuit in a neighboring town; noting the worst parts of COAH came about through the courts.

Mr. Berner questioned what would happen if the two vacant parcels are developed and the town is still short of meeting their COAH requirement; if a developer comes in and buys three properties to put up multiple units would he get approval? He was advised it would be approved.

An unidentified resident asked is it not true there is no obligation to build; if the town does not develop property there is no need to build affordable units. The Mayor explained the town does not own the property and therefore cannot prevent development. Mr. Moscaritolo added the town must have a plan to be in compliance, without a plan a developer can come in and build what they want. He then reviewed the Mt. Laurel decision.

Mr. Dominic Collucci asked why the Supreme Court is permitted to dictate law over the legislature. Ms. Vandervalk responded the only way to circumvent this is with a statewide referendum to overturn it. She then asked the status of New Milford's Third Round Plan. She was advised the plan was submitted by the December 2008 deadline and as of July 2009 we have been advised there have been no objections received. Ms. Vandervalk stated the best the towns

can do is to file their plan; New Milford has done the most they can do at this point. Councilman Bachmann stated New Milford complied but he voted against it, noting the municipality first spent \$25,000 and then an additional \$15,000 to send a plan to Trenton.

Ms. Prisendorf stated the town spent \$40,000 to make a plan and questioned why we did that. She was advised that it was submitted to COAH as Assemblywoman Vandervalk said it should have been; it was done to protect the town. Ms. Prisendorf commented the town paid for something that may not happen. Councilwoman Duffie stated it is a similar concept to insurance; you purchase insurance to protect yourself but you may never need it.

An unidentified resident asked for clarification on what would be considered affordable housing and asked if current rentals in town do not meet the affordable requirements. Mayor DeBari stated none of the existing rentals comply with affordable housing requirements. He explained new units could be either rentals or sales but the price to rent or own would be low; there would be no supplementing of income.

Councilman Zeilner stated no one sitting on the Council is in favor of COAH. He too explained it is similar to purchasing insurance and asked to make clear that nothing was cut from the municipal budget to fund the COAH plan; the need for additional money was identified after the budget was introduced and it had to be added, no cuts were made to the recreation budget or any of the other budgets.

Mr. Angelo DeCarlo identified himself as a member of the Planning Board. He stated density is what attracts a builder in a small space; it is what makes them seek builder's remedies, the courts are backing builders if a parcel exists that could accommodate the units. He continued, two parcels exist, if the town does not have a plan it cannot prevent the builder from doing what they want.

Assemblywoman Vandervalk said COAH is constantly changing and the town is not obligated to spend taxpayer money.

The Mayor said Ms. Vandervalk suggest being more vocal, he asked with whom? Ms. Vandervalk responded the Governor, the DCA and the League. She then added Assemblyman Gerald Green, head of the Housing and Local Government Committee; Assemblyman Joseph Roberts Jr., Speaker of the Assembly; and Senate President Richard Codey.

The Mayor thanked Assemblywoman Vandervalk for coming.

## **BERGEN COUNTY MUNICIPAL ACCESS – GIRL SCOUTS OF AMERICA**

Ms. Cherilyn Conner of Girl Scout Troop #51 came forward to address the Council. Ms. Conner read a statement regarding the Bergen County Municipal Access Award Campaign. She explained the objective of the campaign is to increase awareness of inclusion for individuals with disabilities. She encouraged the Council to participate in the campaign and offered contact information for Jane Linter of Disability Services for more information.

**APPOINTMENTS:            JACK SICCARDI – JR. FIRE DEPARTMENT  
                                     ROBERT O'BRIEN – JR. FIRE DEPARTMENT**

Councilman Putrino made a motion to approve the appointments of Jack Siccardi and Robert O'Brien to the Jr. Fire Department. Council President DeLucia seconded the motion. All present in favor, none opposed.

**COUNCIL COMMITTEE REPORTS:**

**Councilman Arthur Zeilner**

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

Councilman Zeilner reported the Environmental Commission and the Police Auxiliary did not meet during the previous month.

Councilman Zeilner reported Buildings and Grounds has no ongoing projects but has kept busy with routine maintenance throughout the Borough buildings. He reported the DPW is continuing its schedule of summer maintenance.

Councilman Zeilner reported on the Police Department activity for the previous month and congratulated Officer Keith Wester on the success of National Night Out.

**Councilman Keith Bachmann**

Ambulance Corps, Drug Alliance, Recreation

Councilman Bachmann reported the Ambulance Corps met on August 17<sup>th</sup>, the Recreation Commission met on August 5<sup>th</sup> and 19<sup>th</sup> and the Drug Alliance did not meet during the previous month. He stated he had nothing significant to report for any of these committees.

**Councilwoman Randi Duffie**

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

Councilwoman Duffie reported the Annual Flu Clinic will be held at the Elks on September 23<sup>rd</sup>. Vaccines are free to residents 62 and over and are available for \$20 for residents 18-62; pre-registration is required.

**Council President Tina DeLucia**

Chamber of Commerce, Planning Board, Library Board

Council President DeLucia reported the Chamber of Commerce, Planning Board, and Library Board did not meet during the previous month. She stated she attended National Night Out and commented on its success. She additionally reported she attended the Board of Education forum for the two Superintendent candidates and found it very informative.

**Councilwoman Ann Subrizi**

Board of Education, Historic New Bridge Landing, Public Events

Councilwoman Subrizi stated she was unable to attend the Board of Education forum on the new Superintendent search and, acknowledging Dan Conner in the audience, asked for a status report. Mr. Conner stated no decision has yet been made but the Board is very close to a decision.

With regard to the Historic New Bridge Landing Park Commission, Councilwoman Subrizi reported the saw shop demolition has been postponed from September to October and the junkyard clean-up should be complete by year end.

Councilwoman Subrizi announced the upcoming Veteran's Day Ceremony scheduled for November 11<sup>th</sup> by the Public Events Committee. She additionally reported the Committee is considering a "New Milford Day" event.

**Councilman Michael Putrino**

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

Councilman Putrino reported the Historic Preservation Committee had a table at National Night Out in lieu of its regular meeting. He presented the Council with a map of the Historic Peetzburg section of town. Next meeting – September 8<sup>th</sup>.

Councilman Putrino reported that the Fire Department did not meet in August but they also attended National Night Out. He reported on Company #1's Wet Down held on August 8<sup>th</sup>, noting the turnout was good. He reported the Fire Department will be holding its 27<sup>th</sup> Annual Fire Awareness Day on October 8<sup>th</sup>. Next meeting – September 21<sup>st</sup>.

Councilman Putrino reported on the Shade Tree Commission meeting of August 20<sup>th</sup>. He stated the Commission has met the requirements and received approval for its second 5-year plan for Community Forestry. Next meeting – September 14<sup>th</sup>.

Councilman Putrino summarized the Garbage and Recycling activity for the previous month. He noted the Borough has entered into a two year agreement with e-Revival and will now accept computer equipment at the recycling center behind the DPW. When asked if the Board of Education could utilize this program he responded affirmatively.

**Mayor Frank DeBari**

Community Development

No Report

Councilwoman Subrizi asked to read a letter into the record from Mr. Tom Baeli thanking the Mayor and Council for replacing the plaque honoring his father at Baeli (Sutton Street) Park.

**OLD BUSINESS:**

**ADOPT ORDINANCE #2009:13**

BOND ORDINANCE TO AUTHORIZE THE MAKING OF VARIOUS PUBLIC IMPROVMENTS AND THE ACQUISITION OF NEW ADDITIONAL OR REPLACEMENT EQUIPMENT AND MACHINERY, NEW COMMUNICATION AND SIGNAL SYSTEMS EQUIPMENT, NEW INFORMATION TECHNOLOGY EQUIPMENT AND NEW ADDITIONAL FUNISHINGS, IN, BY AND FOR THE BOROUGH OF NEW MILFORD, IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY, TO APPROPRIATE THE SUM OF \$530,000 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS.

Councilwoman Subrizi made a motion to open to the public for comment on the adoption of this ordinance. Councilman Putrino seconded the motion. All present in favor, none opposed.

The record reflects that no member of the public wished to comment on this ordinance.

Councilwoman Subrizi made a motion to close to the public. Councilwoman Duffie seconded the motion. The motion passed on a roll call vote. All present in favor, none opposed.

Councilman Putrino made a motion to adopt this ordinance on its second and final reading. Council President DeLucia seconded the motion. The motion passed on a roll call vote. All present in favor, none opposed.

**ADOPT ORDINANCE #2009:14**

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF NEW MILFORD SALARY ADOPTED AS ORDINANCE 91:01 AND AMENDED BY ORDINANCE 91:21, 92:07, 93:01, 94:13, 95:07, 96:05, 97:11, 98:05, 99:04, 2000:07, 2001:11, 2002:15, 2003:10, 2004:13, 2004:15, 2005:16, 2006:09, 2007:12, 2008:02 AND 2008:09.

Councilman Zeilner made a motion to open to the public for comment on the adoption of this ordinance. Councilwoman Duffie seconded the motion. All present in favor, none opposed.

The record reflects that no member of the public wished to comment on this ordinance.

Councilwoman Subrizi made a motion to close to the public. Council President DeLucia seconded the motion. The motion passed on a roll call vote. All present in favor, none opposed.

Councilman Zeilner made a motion to adopt this ordinance on its second and final reading. Councilman Bachmann seconded the motion. The motion passed on a roll call vote as follows:  
For the motion: Zeilner, Bachmann, Duffie, DeLucia, Subrizi  
Against the motion: None  
Abstain: Putrino

## **NEW BUSINESS:**

None

## **RESOLUTIONS:**

- 2009:176 Closed Session
- 2009:177 Payment of Bills and Vouchers
- 2009:178 Authorize Local Finance Board Application for Tax Levy CAP Waiver
- 2009:179 Approve Amendment to 2009 Municipal Budget
- 2009:180 Approve the Corrective Action Plan for the 2008 Municipal Audit
- 2009:181 Authorize Mayor to sign grant agreement with County of Bergen to use \$60,000 in 2009 Community Development funds for Handicapped Curb Ramps
- 2009:182 Award Complete Solid Waste Collection Service for 1-4 Family Residences on a shared service basis with the Borough of River Edge to Waste Management, Hillsdale, NJ
- 2009:183 Authorize Joint Public Auction of Borough Property with the Borough of Oradell
- 2009:184 Authorize Mayor to sign Developer's Agreement with Gramercy Associates, LLC
- 2009:185 Authorize Interlocal Services Agreement with the Borough of Oradell for the Joint Bid of Loading, Transportation and Disposal/Recycling of Leaves and Vegetative Waste Disposal/Recycling Service
- 2009:186 Authorize Renewal of Membership in the Bergen County Municipal Joint Insurance Fund
- 2009:187 Approve Raffle License #2009:21 for St. Joseph Council #3814 Knights of Columbus for an Off-Premise 50/50
- 2009:188 Approve refunds of 2007 and 2008 tax overpayments as a result of State of New Jersey Tax Court Judgment – Block 1304 Lot 5
- 2009:189 Approve refund of 2008 tax overpayment as a result of State of New Jersey Tax Court Judgment – Block 1522 Lot 13
- 2009:190 Approve refund of Zoning Board Escrow balance to Steven Bengel, 469 Capitol Road in the amount of \$300.00

## **VOTE ON RESOLUTIONS**

Council President DeLucia made a motion to approve the consent agenda consisting of resolutions #2009:176, 2009:177, 2009:180 through 2009:183, and 2009:185 through 2009:190.

Councilwoman Subrizi seconded the motion. All present in favor, none opposed.

Councilwoman Duffie made a motion to approve resolution #2009:184. Council President DeLucia seconded the motion. The motion passed on a roll call vote as follows:

For the motion: Zeilner, Duffie, DeLucia, Putrino

Against the motion: Bachmann, Subrizi

Abstain: None

In casting her vote for the motion Councilwoman Duffie commented the Developer's Agreement does not change anything that was decided at the Planning Board level.

## COMMENTS FROM THE PUBLIC

Councilwoman Subrizi made a motion to open the meeting to the public. The motion was seconded by Councilwoman Duffie. All present in favor, none opposed.

Mr. Dan Conner came forward to address the Council. Mr. Conner commented the driveway on River Road at Madison Plaza was supposed to remain closed until a Certificate of Occupancy (C.O.) was issued. He stated it was open while paving was being completed on the side of the building, but the paving is complete and the driveway remains open. He stated the contractor was intending to put an opening in the fence between the High School and Madison Plaza and the Board of Education told him not to do it. He commented there is no silt fence at the back of the property and residual dirt comes into the tennis courts. He concluded by stating he feels the Council should put a resolution on saying they disagree with opening the driveway next to the High School.

Councilwoman Subrizi responded the Planning Board is on record as having opposed the driveway and within a year of opening it will be revisited and can be closed if it proves to be a problem. She added, the Council is against it, the Chief is against it. Mr. Conner stated the Board of Education filed a motion with the County Planning Board saying they were not noticed.

The Mayor stated proper notice was given and received by the New Milford Planning Board. He added the driveway was originally placed closer to Madison Avenue and the County changed it to the current location. The Administrator will speak to the Building Department to ensure the driveway remains closed until after the C.O. is issued.

Councilman Bachmann commented he has not seen the Developer's Agreement signed by the Mayor. He added, the agreement states the construction will be complete by July 9<sup>th</sup> and it is now August. The Administrator responded that recent legislation, the Permit Extension Act, has extended the deadline by which all construction must be completed, noting it is out of the Borough's hands.

Mr. Angelo DeCarlo commented the original plan called for two-way traffic both in and out. The Planning Board objected to having two-way traffic at the North driveway and it was changed.

Mr. Nick D'Amileo, 34 Trench Drive, commented left hand turns should be prohibited out of the CVS driveway. He was advised left hand turns would be prohibited.

Ms. Joanne Prisendorf, River Road, commented it is not easy to make the turn around the island; it is difficult with big trucks and it makes it difficult to see small children.

Mr. Arthur Dalton, 459 James Street, questioned the recently passed "No Parking" ordinance. He asked why the residents in the neighborhood were not kept informed and commented there is equipment in town that is not used. He added the residents do not believe one side of the street parking is needed. Mayor DeBari responded the ordinance has already been adopted; it has been through its second reading. Mr. Dalton said he was promised by the Council to be kept informed and he is upset that it was not done the way it was promised. The Mayor apologized to Mr.

Dalton if he felt he was not kept informed but stated the discussion regarding the parking situation on these streets has been going on for more than two years.

Mr. Paul Martinelli, 438 James Street commented there are other safety issues to consider. He noted James Street is heavily used when school is session and restricted parking will make it more difficult for parents. He expressed concern the restriction to one side would create a speedway.

Ms. Peggy Saslow, 278 Ridge Street, came forward to address the Council. Ms. Saslow said she had contacted both the Building Department and Property Maintenance and is now asking the Council to clean up the "dump" at 282 Ridge Street. Ms. Saslow read a letter from Mr. Louis Fallon, 1070 Allessandrini, into the record expressing a similar sentiment. Ms. Saslow referenced a number of borough ordinances she believes are being violated including litter on sidewalks and preventing the accumulation of litter at construction sites. She presented a petition with 150 signatures. She reported she had been told by Property Maintenance it is an active construction site; she claimed it has been sitting for ten months and the builder is out of money. She added she believes that others are dumping on the property.

Council President DeLucia said she agrees with Ms. Saslow and she too has reported it to Property Maintenance. She noted the entrances have been boarded but the open seepage pits are still in the yard.

Mr. Mitchell Fried, 279 Ridge Street, stated his agreement with the comments on 282 Ridge calling it a monstrosity and commenting on the mosquitoes.

Ms. Hedy Grant, 175 Boulevard, asked to be added to the notification list for the Hirschfeld Mitigation project. The Administrator will ask the Engineer to have her added to the list.

Mr. Mike Brattigan, James Street, commented he was dismayed the parking ordinance had already been approved because the residents were told that someone would get back to them on it. He commented to abandon the privilege to park on one side of the street is a hardship. He asked the Council to reconsider their decision.

Mr. Joseph Steele, 377 Hoffman Avenue, commented the posters from the recent carnival still remain posted as do many garage sale posters after the date of the sale. The Administrator will ask Property Maintenance to follow up. Mr. Steele commented on the attendants at the carnival, noting their use of cell phones, blasting music, and the use of profanity. The Mayor will relay Mr. Steele's concerns to the VFW.

Mr. D'Amelio commented on the previous discussion on Ridge Street and asked if bonds were obtained to guarantee its completion. Ms. DeLucia replied the project was not reviewed by any board because it is being built within all of the zoning limitations. Mr. D'Amelio reported that 119 Center Street has been empty for a year and it is in disrepair. Property Maintenance will be asked to follow up.

Ms. Donna Collucci, 223 Bergen Avenue, stated the tree was cut down in front of 226 and she thanked the Council. Regarding Madison Plaza she said she was pleased to see the driveway

opened on River Road to complete the paving on the side of the building but she agrees it should now be closed until a C.O. is issued.

Mr. Eddie Prevot, 281 Ridge Street, asked the Council how they would feel if 282 Ridge was in their neighborhood. She commented she does not believe the seepage pits are adequate and somebody should look at this property.

Mr. Phil Giambalvo, 1099 Boulevard, asked how they got a permit to do an eleven foot basement given the water table in the area. Councilwoman Subrizi stated she was informed there is no BOCA code to preclude a basement depth of eleven feet. She added in order to circumvent the height restrictions the builder went deeper. She noted they started with one seepage pit and are now up to three and she is not sure it will be enough.

Mr. Howard Berner, 145 Terrace Place, asked why Councilwoman Duffie is not livid instead of thanking neighbors for being patient.

Mr. Prevot questioned the effectiveness of the seepage pits if they are installed too low in the water table.

Ms. Gus Bachmann, 258 Stevens Court, stated he received a letter dated May 18<sup>th</sup> from the Borough requesting access to his property. He read from a letter from Boswell dated August 18<sup>th</sup> and questioned the duplication of effort. The Administrator explained the letter from the Borough was to request permission for access to the property and the Boswell letter was to notify the residents of the permit application submittal.

A resident named Dorothy from Ridge Street asked why the town could not take the construction materials from Ridge Street and sell them. It was explained that this is private property and the Borough cannot just take the materials.

Ms. Marilyn Bachmann, 258 Stevens Court, asked if anyone knew what stores would be going into Madison Plaza. Mayor DeBari said the landlord is under no obligation to tell the town ahead of time who the tenants would be.

Mr. Brett Dzadik, 797 Columbia Street, reported the barrier on River Road at the bend near Burger King was removed by the county and they are not intending to replace it. The Mayor said he will check the status with the County Engineer.

Mr. Bachmann questioned all the money spent on flood mitigation noting the plans have changed and stating his opinion that there is not good communication. He stated the trees were removed to put in water retention pits and now the Borough is not going to do the retention pits. He said without communication money gets spent for no gain.

Ms. Grant said she wanted to compliment the company who installed the driveway aprons on her portion of the Boulevard stating that they did their best to minimize the inconvenience to the residents and expressing her hope the paving company will do the same.

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

#### **ADMINISTRATOR:**

The Administrator reported Community Development applications are due by October 9<sup>th</sup>. She reminded the Council that only certain items and/or areas are eligible. She suggested the Council consider applying for a second round of funding to complete the handicap ramps for which we received partial funding through last year's CD grant. She advised the estimate to complete the work is \$190,000. She additionally reported on approximately 300 feet of sunken storm sewer pipes that need replacement on Faller Drive between the circle and Bulger Avenue. The estimated cost of this work is \$50,000. The Council agreed to both applications and a resolution will be drafted to authorize Capital Alternatives to prepare both applications.

The Administrator referenced a request from the Gloria Dei Church asking the Council to waive the permit fees associated with repairs to be made at the church. All present agreed to waive the fees.

The Administrator referenced a request from the Fire Department to borrow a roll-off container from the DPW for use in two upcoming parades. All present in favor.

The Administrator asked that anyone interested in obtaining a conference badge for the League of Municipalities please let her know as soon as possible.

The Administrator reported she has received an inquiry from a former Ambulance Corps member who is questioning the liquidation of her LOSAP account. The former member is claiming that although she only qualified for LOSAP for three years, she has more than the five years of service required for vesting. Councilman Bachmann will discuss it with the Ambulance Corps to get their feedback. Mr. Moscaritolo will review the current Borough Ordinance. The matter will be relisted for discussion on the September 14<sup>th</sup> agenda.

The Administrator reported she has authorized the change to induction for the lights previously identified by PSE&G and discussed by the Council. The authorization was based upon her 8/20 email to the Council for which she received no objection.

The Administrator reported the "No Parking" signs for Madison Avenue and the streets outlined in the recently adopted ordinance have been ordered.

The Administrator referenced the memo from Sgt. Jones in which he has requested West Street be designated as a "No Parking" zone during school hours. She reported the Chief of Police is aware of the recommendation and is in favor of it. The Council asked to have time to review the recommendation. The matter will be relisted for discussion on the September 14<sup>th</sup> agenda.

#### **COUNCIL:**

Councilman Putrino reported that Fire Inspector Mark Longo has retired and moved out of state. He additionally reported Deputy Chief Peter Torpie has resigned his position as an officer. He

will continue to serve in the Fire Department. Councilman Putrino explained since there is more than three months left in the year a new officer must be elected. The election will be held the second Monday in September.

Councilman Putrino reported Borough Photographer Kathy Carter has resigned as she is away at school.

Councilman Putrino reported on a resident letter received and reviewed by the Shade Tree Commission. The Commission has determined the trees in question are on private property and can be removed by the homeowner. The Administrator will notify the homeowner.

The Council asked the Administrator to contact Boswell Engineering to request a response to the letter sent last month with regard to the delay in obtaining the DEP permit for the Hirschfeld Brook Flood Mitigation project.

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

**CLOSED SESSION:**

1. Pending Litigation
2. Review of Closed Session Minutes

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

**OPEN SESSION:**

Councilman Bachmann made a motion to approve the minutes from the March 9, 2009, March 23, 2009 and the May 18, 2009 closed session meetings. Councilman Putrino seconded the motion. All present in favor, none opposed. Council President DeLucia abstained from the approval of the March 9<sup>th</sup> and March 23<sup>rd</sup> closed session minutes as she had not attended the meetings.

**ADJOURNMENT**

Councilwoman Subrizi made a motion to adjourn. Councilman President DeLucia seconded the motion. All present in favor, none opposed. Time 11:59 PM.

Respectfully submitted,



Christine Demiris  
Borough Clerk