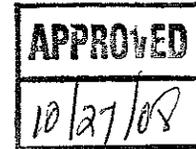


**MINUTES**  
**BOROUGH OF NEW MILFORD**  
**6:30 PM WORK SESSION**  
**OPEN SESSION immediately following**  
**Monday, September 8, 2008**



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: Art Caughlan, Risk Manager

Mayor DeBari read the Open Public Meeting and Mission Statements.

The meeting was closed to the public on a motion from Councilwoman Duffie, which was seconded by Council President DeLucia.

For the motion: Zeilner, DeLucia, Putrino, Duffie

Against the motion: Subrizi, Bachmann

**Closed Session:**

Risk Manager Presentation – 6:30 PM

**Open Session:**

The meeting was opened on a motion from Councilman Zeilner, which was seconded by Councilman Bachmann. All present in favor, none opposed.

1. Planning Board – Special Session Fees

The Administrator summarized the correspondence between herself, the Borough Attorney and the Planning Board Attorney. The Administrator stated the applicant has never been charged for a special meeting because usually the Board is the one requesting said meeting. Council President DeLucia stated at times the applicant requests a special meeting because they need the project to be completed quickly; the Planning Board has always accommodated these requests. Council President DeLucia further stated in some surrounding towns, the Boards are accommodating as well, however they collect a fee for such requests. Councilman Bachmann questioned why the Board would agree to hear a special meeting; Council President DeLucia stated there is a need due to the large volume of applications that come at once. Councilwoman Duffie stated the Planning Board will not start a new application after 10:30 PM. Councilman Bachmann stated objective criteria should be used to set a special meeting. Council President DeLucia stated the issue is should the Governing Body set a fee for special meetings, not criteria. The Administrator stated the Planning Board should make a recommendation to the Governing Body. Mayor DeBari stated if the applicant makes the request, then a fee should be set; the Building Department should poll surrounding towns to see if they charge the applicant for special meetings if so, what the fee is. The Council determined if

the applicant requests the special meeting a fee should be charged, if the Board requests a special meeting then the applicant should not be charged. The Council requested the Planning Board make a recommendation to the Governing Body on the fee and what other towns are doing. All present in favor, none opposed.

## RESOLUTIONS:

- 2008:198 Closed Session
- 2008:199 Payment of Bills and Vouchers
- 2008:200 Award Improvements to the Boulevard – Section 4 to Smith-Sondy Asphalt in the amount of \$145,190.65
- 2008:201 Award Drainage Improvements to Trench Drive – Phase I to Colonnelli Brothers, Inc. in the amount of \$136,700.00
- 2008:202 Authorize Boswell McClave Engineering to prepare plans and specifications and Borough Clerk to receive bids for T-Ball Field at Warren Street Park
- 2008:203 Approve Street Opening Permit for Verizon New Jersey – Various Locations
- 2008:204 Request Director of DLGS to approve insertion of revenue and like appropriation for Safe Schools Resource Officer in the amount of \$106,810.56\*\*\***TABLED**\*\*\*
- 2008:205 Request Director of DLGS to approve insertion of revenue and like appropriation for the Clean Community Program in the amount of \$16,754.28\*\*\***TABLED**\*\*\*
- 2008:206 Approve Special Emergency Appropriation of \$25,000 for Revisions to the Master Plan (COAH 3<sup>rd</sup> Round Revisions) \*\*\***TABLED**\*\*\*
- 2008:207 Approve redemption of tax sale certificate 07-02 on Block 1114 Lot 5 in the amount of \$17,056.31 to R. Rothman
- 2008: 208 Approve Raffle License #2008:17 for St. Joseph Council #3814 Knights of Columbus for an Off-Premise 50/50
- 2008:209 Liquor License Renewal – Blue Ridge Restaurant, Inc. (200 Main) \*\*\***TABLED**\*\*\*
- \* 2008:210 Authorize Emergency Appropriation – Buildings & Grounds O/E \$25,000 for Emergency Generator – DPW
- \* 2008:211 Authorize emergency purchase of emergency generator at a sum not to exceed \$25,000

Mayor DeBari asked that resolutions 2008:204 through 2008:206 and 2008:210 through 2008:211 be pulled from the consent agenda for separate votes because Council majority is needed.

Councilman Bachmann commented on 2008:206. Councilman Bachmann questioned why the Borough is wasting \$25,000 on third round COAH when the League of Municipalities is against it and has filed for a stay. Councilman Bachmann referenced purchase order #57189 (check #47113) on the bill list for \$3,572 that has already been incurred. Council President DeLucia recounted her understanding of what Mr. Kauker was supposed to do. The Council requested the Administrator speak to Mr. Kauker on what the Borough is being billed for. Mr. Moscaritolo commented on the Council's discussion. Mr. Moscaritolo stated he is unaware of any stay in effect through the Appellate Division. Mr. Moscaritolo further stated if the Borough does not try to comply with the third round COAH the Borough will lose immunity from another builder's remedy lawsuit. Mr. Moscaritolo stated if the Borough does not put the third round

COAH application in or pass an ordinance for developer's fee; the Borough will lose protection on any current developments being planned such as the one on River Road. Mr. Moscaritolo stated the Borough's obligation will increase on the backend; new developments will not have to comply with COAH. The Administrator stated the Council has already authorized the work; this is simply the method of payment. Mayor DeBari stated it is illegal to authorize work without authorizing the funding. The Council discussed Mr. Kauker's bill in question. The Council decided Mr. Kauker's bills must be more specific in their breakdown in order to appropriate the money accordingly and pulled the referenced purchase order/check from the bill list.

#### **INTRODUCE ORDINANCE #2008:15**

AN ORDINANCE AUTHORIZING A SPECIAL EMERGENCY APPROPRIATION  
N.J.S.A. 40A:4-53

Council President DeLucia made a motion to introduce and approve this ordinance on its first reading. Councilwoman Duffie seconded the motion.

For the motion: Zeilner, Duffie, DeLucia, Putrino

Against the motion: Bachmann, Subrizi

Mayor DeBari stated the ordinance will be advertised and open for public comment at the September 22, 2008 meeting of the Mayor and Council.

The Administrator stated the dollar amount for resolution 2008:204 will be paid by the Board of Education for the two school resource officers and their medical benefits. Councilwoman Subrizi questioned if the amount in said resolution was accounted for in the budget; if so, it should reduce the amount of money to be raised by taxes.

Councilwoman Subrizi made a motion to table resolution 2008:204 until the Council is certain as to whether or not money was already included in the budget appropriation; Councilwoman Subrizi stated the CFO or the Auditor should be able to provide that information. Councilman Putrino seconded the motion. All present in favor, none opposed.

Councilwoman Subrizi made a motion to table resolution 2008:205 for the same reasons as stated above for 2008:204. Councilman Putrino seconded the motion.

For the motion: Zeilner, Bachmann, Subrizi, Putrino

Against the motion: Duffie, DeLucia

Council President DeLucia made a motion to approve resolution 2008:206.

Councilwoman Duffie seconded the motion.

For the motion: Zeilner, Duffie, DeLucia, Putrino

Against the motion: Bachmann, Subrizi

Councilman Zeilner made a motion to approve resolution 2008:210. Councilman Bachmann seconded the motion. All present in favor, none opposed.

Councilman Zeilner made a motion to approve resolution 2008:211. Councilman Bachmann seconded the motion. All present in favor, none opposed.

Council President DeLucia excused herself at 9:12 PM.

### **POD Ordinance**

Mr. Moscaritolo recommended the POD ordinance be all inclusive along with the dumpster ordinance. The Council disagreed with said recommendation. The Administrator stated the original criteria that was agreed upon was a 3 month term with the option to renew for an additional 3 months not to exceed 6 months in a 12 month period. Councilman Bachmann stated certain criteria should be met before an extension would be granted. Councilwoman Duffie stated the PODS are unsightly and are not fair to neighbors and maybe should not be allowed at all. Mr. Moscaritolo stated in his opinion the POD should only be allowed with a building permit. Councilwoman Subrizi questioned what surrounding towns have a "No POD allowed" ordinance. Councilman Bachmann stated the ordinance should impose a higher fee to be sure only those who really need it are using it. The Council discussed the pros and cons of the Borough Attorney's draft ordinance. After a lengthy discussion, it was the consensus of the present Council to direct the Borough Attorney to draft a "No PODs allowed" ordinance.

### **Administrator**

The Administrator informed the Council of the reason behind resolution 2008:209 being tabled; stating the establishment did not receive its tax clearance certificate necessary to renew the liquor license.

The Administrator explained resolution 2008:201 to the Council. She stated the Council agreed to the Trench Drive Drainage project for three years; three phases at \$100,000 per phase. The lowest bid for Phase I was \$135,000; the Borough will proceed using \$100,000 from 2007 capital and the balance from 2008 capital. The Administrator stated she questioned the Borough Engineer on why the lowest bid was not similar to the estimate provided by Boswell. Ms. Batistic explained it needed to be revised to use elliptical pipes to go around the sanitary sewer as well as general price increases due to the rough estimate having been completed two years ago. The Borough Engineer also stated to the Administrator, it is possible the Borough will not need Phase III after completing Phases I and II.

The Administrator referenced the Charles Street Drainage issue. She stated Boswell estimated the project would cost \$150,000 and the work could be phased i.e.: manhole to manhole. The Administrator stated \$30,000 remains from the Voorhis Drainage project, the Borough can either use that to phase Charles Street or balance the shortfall for Phase I Trench Drive. The Council decided to use the remaining money to start the process for Charles Street. The Administrator will find out from the Engineer what could be accomplished for \$30,000.

The Administrator stated the Community Development Application is due October 10; last year the Borough received \$100,000, however the Borough is very limited in how the money may be spent. Mike Calamari drafted a list of Borough streets that are in need of handicap curb cuts for accessibility. The Administrator and Mike Calamari both recommend this use for the application for this year.

The Administrator stated the Borough received \$89,000 in 2007 through a matching grant from Bergen County Open Space for Warren Street Park; it was to be used for the Babe

Ruth and T-Ball at Warren Street Park. However the Babe Ruth Field was done on an emergency basis with previously allocated capital money. The Administrator further stated there is an additional \$72,700 left in the 2006 Warren Street Bond that could be used as the matching funds required to cover the entire cost estimate for the t-ball field of \$136,500.

The Administrator referenced a letter dated August 22, 2008 regarding Chestnut Street flooding and the problem on Elizabeth Street that Councilman Zeilner brought to her attention. The Borough Engineer visited both sites on September 6, 2008 during a heavy rainstorm. Ms. Batistic stated in an e-mail to the Administrator that she did not see any major problem at either site; she noted however that there may be a problem during a much heavier rainstorm. Ms. Batistic's said the solution on Chestnut Street may be to replace the existing pipes with larger diameter pipes; however it would have to be improved beyond Chestnut Street which may be cost prohibitive. Ms. Batistic further stated 483 Elizabeth Street the solution may be to replace the manhole cover and 230 linear feet of pipe between the houses. The Administrator questioned if the Council wants the Engineer to research either or both of the issues and prepare a cost estimate for such improvements. Councilmen Putrino and Bachmann suggested that the DPW Superintendent review the situation, and could possibly alleviate the problem by cleaning out the pipe. Councilman Zeilner stated the problem on Elizabeth Street is the 90 degree angle the water is forced to make through the pipe, during heavy rains the water cannot make the turn. Mayor DeBari suggested removing the elbow and installing a cement vault with pipes on either side, the vault will slow down the volume of water. Councilman Zeilner stated it should be brought to the attention of the Engineer to find out if it will work and the cost. The Administrator will confirm with Mike Calamari that the Chestnut Street pipe was checked with the TV camera.

The Administrator polled the Council on interest in establishing an Access for All Committee in New Milford for people with disability issues. Mayor DeBari suggested it be sent to the Board of Health for discussion at their next meeting and report back to the Council.

The Administrator asked if the Council had any objection to Gibbs PTO holding a car wash on September 20, 2008. The Administrator stated the Recreation Director had no objection and felt the soccer games could help the car wash; the Council had no objection.

The Administrator distributed the 2009 Holiday Schedule and Council Meeting schedule and asked if the Council had any objection to her preparing resolutions. All present in favor, none opposed.

Councilman Putrino asked that the December 28, 2008 public meeting be canceled. The Administrator suggested combining the work session and public session to be held on December 15, 2008. All present in favor, none opposed.

## **Council**

Councilwoman Duffie reported the Rent Leveling meeting was postponed until September 11, 2008.

Councilwoman Duffie reported she attended the Board of Health meeting. Councilwoman Duffie stated the Health Department needs more storage. Councilwoman Duffie stated Mid-Bergen used to have an office in River Edge where rent was paid; should he pay rent to New Milford. Mayor DeBari stated rather than paying rent, he would prefer a reduced rate from Mid-Bergen. Mayor DeBari will check on the records retention for patient records.

Councilman Bachmann stated he received a list from the Department of Public Works regarding the work being done at the Babe Ruth Field that still needs attention. Mr. Calamari stated to Councilman Bachmann that the contractor should not be paid until the work is finished. Councilman Bachmann walked the field today; he stated the wheelbarrows full of red gravel should be spread out. Councilman Bachmann reviewed the list provided by the Department of Public Works and did not see any additional problems, however he stated he would bring the list to the attention of the Council. The Administrator stated the Recreation Director signed off that the work was completed and the contractor has been paid. The Administrator will provide the Recreation Director with the list.

Councilman Bachmann questioned the proper protocol for the League of Municipalities; he tried to register for classes but was unsuccessful. The Administrator stated that no pre-registration is needed; the badge he receives upon his arrival at the League allows him to go to classes.

Councilwoman Subrizi requested standing reports, from this point forward, on the sludge pits.

Councilwoman Subrizi asked for written status or communication on legal bills for Dennis Oury for the sludge pits this year. The Administrator stated there was nothing new this year.

Mayor DeBari stated Lynn DeCarlo from the County could provide the Borough with more information.

Councilwoman Subrizi expressed concern regarding runoff at 282 Ridge Street; stating that water is pumped out daily. She questioned if there is any way to restrict how deep the house goes.

Councilwoman Duffie stated all construction must produce zero runoff. Councilwoman Duffie stated she will discuss the matter further with the Planning Board Attorney.

Councilwoman Subrizi stated she does not accept the fact that the Council can do nothing.

Councilwoman Subrizi stated the problem of silt runoff from construction is still occurring on Concorde Street. The Administrator will bring it to the attention of the Building Department.

Councilman Putrino stated the same problem is occurring on Monmouth Avenue as well.

Councilwoman Subrizi stated the recycling calendar should include the phone number and the website for 2009.

Councilwoman Subrizi questioned if the Borough was reimbursing Brookchester 100% for garbage collection. The Administrator stated the Borough reimburses one-third.

Councilman Putrino asked the Borough Attorney if he had any recent conversations with Jada Jackson of Green Acres. Mr. Moscaritolo stated he had left two messages, with no return phone call.

Councilman Putrino requested he be copied on all the correspondence received from each department on the budget memo sent by the Administrator.

### **COMMENTS FROM THE PUBLIC**

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

Mildred Bombeck, 51 Bulger Avenue, came forward to address the Council. Ms. Bombeck stated there are no handicap ramps on the corner of Bulger Avenue and Luhmann Drive. Mayor DeBari stated the Borough is currently working to obtain a Community Development grant to install handicap curb cuts throughout the Borough.

John Foley came forward to address the Council. Mr. Foley began by thanking Councilman Putrino for coming by his house during the flooding. Mr. Foley stated the Hirschfeld Brook is filling with water at a much faster rate than ever before; his backyard was flooded with the last rain. Mr. Foley stated near the Main Street Bridge the water is moving slowly, which seems to accelerate the rate of flow of water to his property; however the water recedes quickly. Mr. Foley requested the status of the Hirschfeld Brook project. The Administrator stated that information is forthcoming at the public meeting; it is currently under the Engineer's review. Mr. Foley questioned if the money has been allocated; the Administrator stated the Borough has done two years of funding.

Councilwoman Subrizi questioned if the Council awarded the first phase of the Hirschfeld project. The Administrator stated the first phase was approved, but only for the preliminary survey and study.

Jodi Seifert came forward to address the Council. Ms. Seifert asked if the Borough had any plans to commemorate September 11. Mayor DeBari stated the affected families have requested the Borough not do anything; the Council respects the families' wishes. Councilwoman Subrizi stated DEO Middle School will have a service, and the County will have an observance in Overpeck Park.

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.

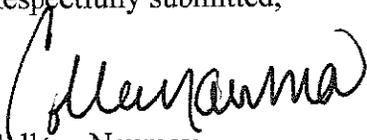
## **VOTE ON RESOLUTIONS**

Councilman Bachmann made a motion to approve resolutions #2008:199 through #2008:203 and #2008:207 through #2008:208. Councilman Putrino seconded the motion. All present in favor, none opposed.

## **ADJOURNMENT**

Councilman Putrino made a motion to adjourn. Councilman Bachmann seconded the motion. All present in favor, none opposed. Time 10:53 PM.

Respectfully submitted,



Colleen Naumov  
Deputy Borough Clerk