

**MINUTES**  
**BOROUGH OF NEW MILFORD**  
**7:00 PM WORK SESSION**  
**7:45 PM PUBLIC MEETING**  
**Monday, October 24, 2011**



**WORK SESSION:**

Mayor Subrizi read the Open Public Meeting and Mission Statements.

Council President Howard Berner	Present
Councilwoman Randi Duffie	Present
Councilman Diego Robalino	Present
Councilman Peter Rebsch	Present
Councilwoman Celeste Scavetta	Absent (Work – Excused)
Councilman Dominic Colucci	Present
Mayor Ann Subrizi	Present

Also Present: Doug Doyle, Labor Attorney; Mark Madaio, Borough Attorney;  
Christine Demiris, Administrator/ Clerk

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

**CLOSED SESSION:**

1. Personnel – DPW
2. Potential Property Acquisition – Block 1309, Lot 1.02

At the conclusion of the Closed Session Councilman Robalino made a motion to reopen the meeting and reconvene in the Council Chambers for the Public Session. Councilman Rebsch seconded the motion. All present in favor, none opposed.

**PUBLIC SESSION:** (Actual Start 8:26 PM)

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

Council President Howard Berner	Present
Councilwoman Randi Duffie	Present
Councilman Diego Robalino	Present
Councilman Peter Rebsch	Present
Councilwoman Celeste Scavetta	Absent (Work – Excused)
Councilman Dominic Colucci	Present
Mayor Ann Subrizi	Present

Also Present: Mark Madaio, Borough Attorney; Christine Demiris, Administrator/ Clerk

## **COUNCIL COMMITTEE REPORTS:**

### **Council President Howard Berner**

Planning Board, Chamber of Commerce, Environmental & Energy Commission, Historic Preservation, Historic New Bridge Landing

Council President Berner reported on the Environmental Commission's Clean Community Day which was held on October 6<sup>th</sup>.

Council President Berner reported on the reorganization meeting of the Historic New Bridge Landing Park Commission on October 6<sup>th</sup>. The Commission discussed a possible land lease in order to generate revenue to help become self sustaining. He summarized upcoming Bergen County Historical Society events including Mitzvah Day on November 6<sup>th</sup>.

Council President Berner reported on the Historic Preservation meeting held on October 11<sup>th</sup>. The Commission is interested in trying to create a "Friends of Historic Preservation" group. He reported on a visit from a group called the "Dutch Cousins" who are direct descendants of many of the founding families of New Milford. The purpose of the visit was to see the French Cemetery and the Demarest House.

Council President Berner reported on the Planning Board meeting of October 18<sup>th</sup> at which the application for the Gospel Fellowship Church was held. Additional testimony will be presented on November 15<sup>th</sup>.

Council President Berner reported that Congressman Scott Garret attended the Chamber of Commerce meeting on October 19<sup>th</sup> at which time there was discussion of the severity of flooding in town and its impact on local businesses.

### **Councilwoman Randi Duffie**

Health & Human Services, Shade Tree, Rent Leveling/Tenants Association,

Councilwoman Duffie reported that the Rent Leveling Board met and the current focus is on checking the smaller developments in town for compliance with the Rent Leveling ordinance.

Councilwoman Duffie said the Shade Tree Commission is working on mapping of the larger trees in town and will be valuing them to prepare for possible removal for future development.

Councilwoman Duffie reported on the meeting of the Board of Health; flu shots are still available. The Board of Health is looking at honoring the Chairman, Dan Harmatz, for his many years of service and plans to work with the Library Board as he is a longstanding member and Chariman of that Board as well.

Councilwoman Duffie reported the Sign Ordinance Review Committee held its first meeting; it was productive and she will be bringing their findings back to the Council.

Councilwoman Duffie noted she had attended the recent After Action Meeting and found it to be very informative.

Councilwoman Duffie reported she had recently contacted the DEP with questions about DEP issued permits. She said United Water claims it can't lower the water level because of the DEP and the requirements of water supply and allocation. Councilwoman Duffie spoke with John Zuzak in Water Enforcement and he told her the only requirement is minimum passing flow. He provided her with information that she would like to pass to the Borough Engineer for review. She said she also spoke with a Water Systems Engineer and to Dam Safety who confirmed the Oradell reservoir is not designed for flood protection but the state does not require a certain level be maintained.

Mayor Subrizi said she had a meeting on October 24<sup>th</sup> at the Bergen County offices with other Mayors, the President of PSE&G, the Board of Public Utilities President, DEP Government Relations, and Jim Glozzy of United Water. She asked who can authorize lowering the level in advance of a rain event. She said she will continue to work with Congressman Garrett's office and she does not accept the fact that the Army Corps of Engineers will not come here. She wants to see the Hackensack River dredged. She noted she is serving on the Bergen County Flood Council with representatives from both Congressman Garrett and Congressman Rothman's office and she intends to pursue vigorously to get flood relief for the town.

**Councilman Diego Robalino**  
Garbage & Recycling, Board of Education

Councilman Robalino announced the deadline to file a claim with FEMA has been extended from October 31<sup>st</sup> to November 30<sup>th</sup>.

Councilman Robalino reported on the recycling tonnage revenue for the previous month.

Councilman Robalino reported on the Board of Education meeting of October 17<sup>th</sup> at which the district goals and capital improvement plan were discussed. He noted the suggestion of a bilateral sharing of ideas between the Council and the BOE with the suggested topic of geese.

**Councilman Peter Rebsch**  
Ambulance Corps, Recreation

Councilman Rebsch reported on the October 17<sup>th</sup> meeting of the Ambulance Corps; two new members were sworn in, one resigned. They will be having a Halloween Party on October 28<sup>th</sup>, reviewing their by-laws, and speaking to Holy Name Hospital for supplies.

Councilman Rebsch reported on the Recreation Commission meetings of October 5<sup>th</sup> and 19<sup>th</sup>. Pat Maggi has been appointed to the Commission. They are reviewing their budget and will be ordering new equipment. Commission members attended Blood Borne Pathogen training on 10/17 and the 8<sup>th</sup> Annual 2<sup>nd</sup> Grade Soccer Tournament was held on 10/16. Councilman Rebsch read a letter of appreciation from the NJ Soccer League.

**Councilwoman Celeste Scavetta**  
Senior Citizens Advisory Board, Public Events

Absent – No Report

**Councilman Dominic Colucci**

Department of Public Works, Buildings & Grounds, Fire Department, Drug & Alcohol Municipal Alliance

Councilman Colucci reported the DPW has just about completed the recovery efforts from Hurricane Irene and is returning to normal maintenance.

Councilman Colucci attended a meeting of the Fire Department on October 17<sup>th</sup> and reviewed damage to the lower level social area that happened during a recent storm; they believe the source of the damage has been identified and will be repaired. He reported the NMFD took first place for Color Guard and Marching in the recent Northern Valley Parade. Councilman Colucci reported on Fire Awareness Day which took place on October 13<sup>th</sup>; eighty-seven children between the ages of two and eleven were in attendance. Twenty new Adopt-a-Hydrant applications were obtained that night. The Fire Department is giving consideration to holding the next Fire Awareness Day during daytime hours. December 11<sup>th</sup> the Fire Department will be picking up toys throughout town for the Annual Toy Drive.

Councilman Colucci reported the Drug Alliance will be holding a dance at DEO Middle School on October 28<sup>th</sup>. A Haunted House tour will be held on October 29<sup>th</sup> at 278 Birchwood, courtesy of the Paulsen family with all donations going to the Drug Alliance.

Councilman Colucci reported on routine repairs for Buildings and Grounds.

**Mayor Ann Subrizi**

Police/Police Aux., Library Board, Community Development, Joint Insurance Fund, Bergen County Open Space

Mayor Subrizi said she had nothing to add to her previous report.

**APPOINTMENTS:                    DAVID MARTI – FIRE CO. #2  
   SCOTT BRUNNER – FIRE CO. #1**

Councilman Colucci made a motion to approve the Fire Department appointments. Councilman Rebsch seconded the motion. All present in favor, none opposed.

The Mayor explained the Council would be discussing items carried from the previously held work session.

1. Hurricane Irene National Emergency Grant

The Administrator reported on a grant program being administered through the County whereby temporary workers would be deployed to the municipality to assist with the clean-up efforts as a result of the devastation of Hurricane Irene and Tropical Storm Lee. The Recreation Director and DPW Supervisor agreed that they could make use of the additional help; a resolution, to authorize participation, is on the agenda for the Council's consideration.

2. Friends of Recreation – Quasi Municipal Entity or Adjunct Organization

The Friends of Recreation asked if they would be covered under the Borough's umbrella of insurance. The Administrator contacted the Risk Manager. The Risk Manager explained if they were considered part of Recreation they would be covered under the same umbrella. The Recreation Policies and Procedures identify the Friends as an independent non-profit organization. He said coverage could be provided in either one of two ways: if they were to be considered an adjunct organization by Recreation – which would require an amendment to their Policies and Procedures or the Mayor and Council could adopt a resolution identifying the Friends of Recreation as a quasi-municipal entity. The Council opted to identify them as a quasi-municipal entity; a resolution was added to the current agenda.

3. Fire Co. #2 – Structural Engineering Report

The Engineer's report was reviewed. It was noted that Boswell has recommended further study to determine the load bearing capacity; proving its safety to support a second floor. Since the report was issued the Fire Department has discussed alternatives to add on to the building that will not require further studies and add to the costs; possibly by removing the oldest portion of the building completely and rebuilding it with a second story on that portion only. Councilman Colucci will speak to Mr. DeCarlo about obtaining a proposal for this alternate proposal.

**OLD BUSINESS:**

**ADOPT ORDINANCE #2011:21**

AN ORDINANCE TO AMEND CHAPTER VII OF THE ORDINANCES OF THE BOROUGH OF NEW MILFORD ENTITLED "TRAFFIC", THEREBY AMENDING SECTION 7-6 ENTITLED "THROUGH STREETS, STOP INTERSECTIONS AND YIELD INTERSECTIONS"

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

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

**NEW BUSINESS:**

**INTRODUCE ORDINANCE #2011:22**

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 13 OF THE REVISED GENERAL CODE OF THE BOROUGH OF NEW MILFORD ENTITLED "FIRE PREVENTION" TO PROVIDE FOR ACCESS TO FIRE HYDRANTS.

Council President Berner referenced the 2<sup>nd</sup> paragraph where it reads in part: twenty four hours after any natural obstruction such as snow and within twelve hours of any other type of obstruction and asked to clarify that this would mean everything that is not snow would need to be cleared within twelve hours. Mr. Madaio confirmed that this was correct and used a fallen tree or garbage as an example.

Councilman Robalino made a motion to introduce and approve this ordinance on its first reading. Councilman Colucci seconded the motion. The motion passed on a roll call vote. All present in favor, none opposed.

The ordinance will be published in the Record and a public hearing will be held on November 28, 2011 at 7:45 PM.

### **INTRODUCE ORDINANCE #2012:23**

AN ORDINANCE TO AMEND CHAPTER IX OF THE ORDINANCES OF THE BOROUGH OF NEW MILFORD ENTITLED "DRUG FREE ZONES," THEREBY AMENDING SECTION 9-1 ENTITLED "DRUG FREE SCHOOL ZONES"

Council President Berner made a motion to introduce and approve this ordinance on its first reading. Councilman Rebsch seconded the motion. The motion passed on a roll call vote. All present in favor, none opposed.

The ordinance will be published in the Record and a public hearing will be held on November 14, 2011 at 7:45 PM.

The Mayor announced two resolutions were being added to the consent agenda: 2011:228 to act on an employee matter as discussed in Closed Session and 2011:229 to identify the Friends of Recreation as a Quasi-Municipal entity.

### **RESOLUTIONS:**

- 2011:220 Closed Session
- 2011:221 Payment of Bills and Vouchers
- 2011:222 Approve Raffle License 2011:16 – Friends of New Milford Public Library
- 2011:223 Approve Special Permit for Social Affair – New Milford-Teaneck Lodge #2290  
B.P.O.E. for November 19, 2011
- 2011:224 Approve refund of 2010 tax overpayment as a result of State of New Jersey Tax Court Judgment – Block 904 Lot 44 in the amount of \$3,088.12
- 2011:225 Approve refund of 2008 tax overpayment as a result of State of New Jersey Tax Court Judgment – Block 1522 Lot 13 in the amount of \$2,768.82
- 2011:226 Approve cancellation of outstanding check #53918
- 2011:227 Authorize Participation in Hurricane National Emergency Grant – Disaster Recovery Employment for Bergen County
- 2011:228 Approve Final Disciplinary Action – John Stormer
- 2011:229 Approve Recognition of the "Friends of Recreation" as a Quasi-Municipal Entity

Councilman Robalino made a motion to approve the August 22, 2011 Closed Session minutes. Council President Berner seconded the motion. The motion passed on a roll call vote as follows:

For the motion: Berner, Duffie, Robalino, Colucci

Against the motion: None

Abstain: Rebsch

Council President Berner made a motion to approve the September 12, 2011 Closed Session minutes. Councilman Robalino seconded the motion. The motion passed on a roll call vote as follows:

For the motion: Berner, Robalino, Rebsch, Colucci

Against the motion: None

Abstain: Duffie

Councilwoman Duffie asked if the sunshine law would apply to all committees and commissions. Mr. Madaio advised that committees are generally advisory but that anyone empowered to spend money and act would be required to follow the Open Public Meetings Act. Councilwoman Duffie stated she was referring to Public Events. The Chairperson of Public Events stated there have been minutes filed and there will be additional minutes filed this week. Councilwoman Duffie asked about Recreation as well. She was advised they are filed with the Clerk's office and posted on the Recreation website.

#### **COMMENTS FROM THE PUBLIC**

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

Ms. Sharon Hilmer, 563 Columbia Street, came forward to address the Mayor and Council. Ms. Hilmer thanked the Mayor and Council for trying to help with the aftermath of the flooding. She asked for the next steps. The Mayor responded she would be keeping in touch with the Governor and Congressman and would continue to pursue federally to get someone to move forward with dredging. She said she will continue to speak with the BPU (Board of Public Utilities), PSE&G, the DEP and United Water to try to get an answer on lowering the reservoir in anticipation of a rain event. Councilwoman Duffie said she has been in touch with a climatologist who understands flooding and the utility should have a water management plan that should never include flooding. She said if it is a policy decision to lower the water level there must be a way to balance the two – provide drinking water and not flood New Milford. She said the DEP says it is United Water's decision to lower the water; the Mayor and Council should speak to United Water. Ms. Hilmer asked if there is any way the Planning Board can stop the construction on the United Water property until the flooding issue can be resolved. Mr. Madaio said neither the Governing Body nor the Planning Board has the ability to stop construction here or in the towns whose water floods down to us. He noted any development in a flood zone would require individual permits from the DEP. Mr. Madaio added no one has the authority to say there is a moratorium on construction.

Ms. Kerri Capasso, 138 California Avenue, came forward to address the Mayor and Council. Ms. Capasso presented a bottle of brown water taken from her home tap and said this has been an ongoing problem for more than a year. She has been informed that she is connected to the Oradell line and has been trying to resolve it herself without success. The Mayor asked to have the bottle of water and said she would pursue it with United Water on behalf of Ms. Capasso. Ms. Capasso next voiced her concerns regarding the fields in town; she asked to confirm that every sport entity was

represented on the recently formed Athletic Field Committee. She was assured that all sports entities are represented. She said there needs to be a disaster plan put in place so in the event of a flood the kids can still play. Ms. Capasso next asked when the Elm Street Bridge would be reopened. The Mayor said she had no new information on when it would reopen. Councilwoman Duffie said the County is still struggling with the historic component; until the historic permit is obtained it will not move forward. The County is anticipating the permit being issued in the Spring of 2012.

Ms. Sandra Nachberg, 506 Hughes Road, came forward to address the Mayor and Council. Ms. Nachberg expressed her opinion that the flooding is a federal problem. She noted the utility is not owned by an American company and therefore not under the rules of the U.S. government. She said it never flooded when it was under the Hackensack Water Company.

Mr. Chris Pecci, 621 McCarthy Drive, came forward to address the Mayor and Council. Mr. Pecci said he is concerned with the cars that park and idle in front of Shop Rite. He said at times the cars are four to five deep and this is a safety concern. He asked if the Police could be more proactive in moving people along and enforcing the fire lane. The Mayor said she would speak to the Chief.

Ms. Jessica Rasulo, 139 Holland Avenue, came forward to address the Mayor and Council. Ms. Rasulo asked if there is anything the residents can do to get the attention of the Army Corps of Engineers. The Mayor responded that our Congressman can help the most with any federal issue. Ms. Rasulo asked about the appearance of a conflict of Boswell Engineering representing the Borough and listing United Water as a client and asked to what extent this has been vetted. The Mayor responded that Stephen Boswell has been the Borough engineer for as long as she can remember and that he is a premiere authority on hydrology in Bergen County. She said that Boswell is not the engineer of record for United Water, nor has he ever been. The Mayor said she would ask the attorney to contact Mr. Boswell to issue a statement to clear up the issue. Ms. Rasulo said she wants to be sure the Council continues an open dialogue with other flood affected towns. The Mayor said this is the reason for the formation of the Bergen County Flood Advisory Council.

Ms. Xiomara Santos, 125 Holland Avenue, came forward to address the Mayor and Council. Ms. Santos thanked the Mayor and Council for their efforts. She said she feels New Milford is a dumping ground for adjoining communities; she is concerned with the idea of additional development. She said the town needs to take a more aggressive stand on what will be built in areas that flood. She said there needs to be a stronger political presence, and suggested the Council should organize trips to bring the concerns to legislators.

Mr. Robert Ryan, 114 Holland Avenue, came forward to address the Mayor and Council. Mr. Ryan thanked the Council for their flood efforts. He noted the Oradell reservoir was lowered to 17.5 feet; Tappan and DeForest were not lowered however. He said Valley Cottage did not flood and Tappan did not flood. He wants to know why the New York reservoirs were not lowered in advance of the storm. The Mayor suggested the question be posed to United Water representatives at the November 28<sup>th</sup> meeting.

Mr. Rick Mide, 660 Columbia Avenue, came forward to address the Mayor and Council. Mr. Mide acknowledged the expectation for damage during a hurricane. He stated on the Friday following the event it was low tide and United Water did not release water in advance of Tropical Storm Lee. He said residents should not have damage for all rain events. He asked what legal options the residents have; what can the town do to put pressure on United Water. Mr. Madaio said he is not certain

there is a legal remedy. He suggested the residents only option is to make a lot of noise at the BPU, with our Congressman, and with the DEP on permitting.

Ms. Marilyn Waxman, 138 South Park Drive, came forward to address the Mayor and Council. Ms. Waxman said she feels that everyone forgets about the residents on South Park and West Park. She said she is not in a flood plain but has been flooded three times. She said she already took place in a class action lawsuit in 1999 which was lost because it was considered an act of God. She said it is not an act of God; United Water is releasing the water. Ms. Waxman said something should be done to lower taxes. The Mayor said the Council is not in a position to lower taxes and it is up to the individual homeowner to contact the Tax Assessor to request review.

Ms. Hilmer came forward and said that Senator Cardinale is supposedly working with someone in Rockland County.

Mr. Ulises Cabrera, 659 Columbia Street, came forward to address the Mayor and Council. Mr. Cabrera thanked the Council for their service. Mr. Cabrera referenced the previously mentioned grant program through the County to assist with the clean-up and suggested they be used to clean up the debris on the river behind the houses on Columbia. He also mentioned shrink wrapped gas lines that floated down by the boat ramp that should be removed. Mr. Cabrera asked that people attend the Planning Board meeting on 11/15; he noted the applicant has proposed tapping wells into Harvard which run to the check valve that has continued problems on Columbia Street.

Mr. Joseph Binetti, 621 Concord Street, came forward to address the Mayor and Council. Mr. Binetti said he is being approached by residents to ask when it would be the right time to sell. He said it is hard to market homes with the taxes associated with the home. He asked if there is any way to get relief. Mr. Madaio said it is Mr. Binetti's obligation to honestly set forth what is in the public record. Councilwoman Duffie asked what kind of disclosure Mr. Binetti is making when he lists a property. Mr. Binetti responded everything is completely disclosed. Mr. Madaio said the seller's disclosure lists many items and that a flood search should be done.

Ms. Rasulo came forward and said not all realtors disclose information on flood history; she is not in a flood zone, her property has repetitively flooded and no one disclosed this information to her prior to purchase.

Ms. Hedy Grant, 175 Boulevard, came forward to address the Mayor and Council. Ms. Grant stated that Hekemian had entered into a purchase agreement with United Water in December 2010. She said there was a public meeting at the High School in April, it was discussed by the Council on the occasion when the Planner was asked to prepare a report and the last time it was mentioned in her recollection was at a public meeting was in August, when a poll was taken of the Council. She said Councilman Berner recused himself and she believes someone else was not present; all others with the exception of Councilwoman Duffie said they were in favor of it. Ms. Grant said there has been no other vote on the matter and the public has not heard about it since. She asked for a status from the Mayor and Council's perspective. The Mayor said the plan was to put it on the agenda for 9/12 but a decision was made not to list it after the hurricane took place at the end of August in deference to residents who were so devastated by the hurricane. Ms. Grant asked when it would next be listed for a public discussion. The Mayor said there are other facts the Council need to obtain before a decision came be made about relisting it for discussion. Ms. Grant said she had attended a number of meetings of the Recreation Commission and at one, no minutes were being taken. When she asked why the Chairman responded they only take minutes at the public session because they do not

take action at the work session. Ms. Grant said they do take action; while there are no votes action is taken by consent. She also reported there was no agenda for the closed session and no indication of what was to be discussed.

Mr. Frank DeBari, 120 River Road, came forward to address the Mayor and Council. Mr. DeBari referenced a newspaper article in which it said Councilman Robalino wants to exhaust all possibilities before the Borough decides what to do with the property. The article also stated the Council wants to ask the grants writer to see if there are any available funds. He said, as far as anyone is aware, Hekemian is in a contract to purchase this property. He said the ability to purchase is no longer there; it is only a decision of whether or not the Council wishes to rezone the property. He asked if the Borough ever sent a letter to the water company to decline the option to purchase. Mr. DeBari said the Borough had the right of first refusal to purchase this property. Mr. Madaio asked if this right of first refusal is written anywhere. Mr. DeBari said it was not but that it had been discussed with representatives of the water company in meetings.

Mr. Cabrera came forward and said he feels the development of the property is giving up green space and putting more water in streams. He said more people will be walking away from their homes. He said he believes the Borough will lose revenue in the long run if they allow the property to be developed.

Mr. DeBari came forward and said the only way to stop development of that property was to purchase it.

As there were no other members of the public wishing to comment Councilman Rebsch made a motion to close the meeting to the public. Councilman Robalino seconded the motion. All present in favor, none opposed.

#### **VOTE ON RESOLUTIONS**

Councilwoman Duffie made a motion to approve the consent agenda #2011:220 through #2011:229. Council President Berner seconded the motion. All present in favor, none opposed.

#### **ADJOURNMENT**

Councilwoman Duffie made a motion to adjourn. Councilman Rebsch seconded the motion. All present in favor, none opposed. Time 10:58 PM.

Respectfully submitted,



Christine Demiris  
Borough Clerk