

**MINUTES
BOROUGH OF NEW MILFORD
7:00 PM SPECIAL MEETING
Monday, DECEMBER 12, 2016**



Mayor Subrizi read the Open Public Meeting and Mission Statements.

Councilwoman Thea Sirocchi-Hurley	Present
Councilman Dominic Colucci	Present
Councilwoman Hedy Grant	Present
Council President Diego Robalino	Present
Councilman Ira Grotsky	Present
Councilman Al Alonso	Present
Mayor Ann Subrizi	Present

Also Present: Councilwoman Elect Langschultz

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 points out the fire exits in the Council Chambers.

Councilman Grotsky made a motion to approve resolution 2016:282. Councilman Colucci seconded the motion. The motion carried on a roll call vote. All present in favor, none opposed.

UNFINISHED BUSINESS:

AFFORDABLE HOUSING OPTIONS

Councilwoman Grant made a motion to adjourn the meeting stating the Council did not negotiate the changes to the settlement, nor did they meet to discuss them. She said there is no legal urgency to vote on the settlement immediately.

Mayor Subrizi said she also had a statement to read prior to the motion being seconded. She too said given there were changes made as late as this afternoon it should not be voted upon tonight. She said she would like for the borough professionals to weigh in on the final document. She asked that all on the Council review the document and notify the borough attorney of any requested changes within the next two days. She suggested opening to the public prior to adjourning the meeting.

Councilwoman Grant objected, noting that she had made a motion. Councilwoman Sirocchi-Hurley said she seconded the motion. Councilwoman Grant said she would amend the motion to allow the meeting to be opened to the public and then adjourned. Councilwoman Sirocchi-Hurley seconded the amended motion.

Councilwoman Grant objected to the idea of forwarding comments to the attorney for inclusion in a final document without the Council meeting to discuss it. Councilman Grotsky agreed,

suggesting the committee should meet to discuss the settlement and then bring it back to the Council for discussion.

Councilman Alonso said there have been numerous discussions in committee, to which Councilwoman Grant has been a part of, and she has never had any comments or suggestions to contribute. He said Councilwoman Grant only mentioned any reservations at the last meeting. He said he emailed the Borough Attorney and the developer with fourteen separate points that he drafted as a result of the public comments made at the last meeting. He said all of those concerns have been addressed and incorporated into the agreement.

Councilman Grotzky said that Councilman Alonso communicated these points without including the Council and said it was not until this past weekend that the rest of the Council was made aware of the changes he had requested.

Mr. Madaio suggested the Council open to the public and then decide on the path forward.

COMMENTS FROM THE PUBLIC

Council President Robalino made a motion to open the meeting for public comment. Councilwoman Grant seconded the motion. The motion carried. All present in favor, none opposed.

Maria Pouchala – 855 B River Road. Ms. Pouchala expressed her opinion that the Shop Rite should not be moved from its current location.

Joe Loonam – 469 Marion Avenue. Mr. Loonam asked the Council to review what the public would be commenting on.

Mayor Subrizi reviewed the three options: A. do nothing/let the Judge decide, which will likely result in the approval of the Shop Rite, the bank, and twenty-four units of affordable housing; B. settlement with the developer, which would include the Shop Rite, the bank and a field (donation of 4.3 acres of property) on the Suez property with the affordable housing located at the site of the current Shop Rite; C. high density housing with a 20% set aside of affordable housing, which would be between 300-600 units.

Councilwoman Grant mentioned that the 2011 Council had the opportunity to purchase the property and it was not discussed or acted upon. Mayor Subrizi said when the offer was made there was no will on the Council to move forward, no motion was ever made. Councilman Colucci said when he campaigned the concern he heard most from residents was taxes and purchasing the property would have resulted in a large tax burden to the residents.

Paige Ryan – 226 West Street. Ms. Ryan asked for a recap of the changes made since the last presentation. She was advised the options have not changed since the last presentation. Mayor Subrizi said paragraph 13, regarding the offsite road improvements, now indicates that if there are any offsite road improvements it will be done at the expense of the developer. Councilman Grotzky said that it says if they are widening the road they will pay 100%, but it does not say

anything about what they will pay if anything else is required, it just says they will pay their pro rata share. Mr. Madaio said it would be same as if any other developer made an application, if the improvements serve only the developer they pay 100%; if the improvements serve a portion of the community the costs are allocated. He said that is what the law already provides. Mr. Madaio said there were comments and revisions on the draft settlement but not substantive changes. Ms. Ryan asked to confirm the options presented previously have not changed. Mr. Madaio said the options have not changed.

Lorraine McMackin – 400 Madison Avenue. Ms. McMackin asked what the Borough's COAH numbers were under Round 3. Mr. Grygiel said Round 3 has been going on since 2005 so there is not one single number; he said there was a set of numbers in 2005 and they changed in 2008. Ms. McMackin asked if New Milford filed under Round 3. Mr. Grygiel said that prior to the deadline in 2008 New Milford filed a plan that provided for affordable housing which included the United Water site among other sites. Ms. McMackin asked how many units were provided for in the plan. Mr. Grygiel said it included a set aside of 40 affordable units on the United Water site. She asked how many units were provided for in the entire town. Mr. Grygiel said he did not have that number at hand. Mr. Grygiel said COAH reviewed the plan and deemed it complete in 2009 but no decision was ever made as to the merits of the plan. She asked if it would still be considered an active plan before the Supreme Court. She was advised that the Planning Board amended the 2008 plan in 2014 to move the affordable housing off the United Water site onto the Brookchester property in anticipation of rezoning and potential redevelopment. Ms. McMackin asked what the Planning Board envisioned for the United Water property at the time of that reexamination. Mr. Grygiel said the Planning Board recommended it remain single family but to allow for cluster development. He said the zoning was not changed and nothing was filed with the State or the court. Ms. McMackin referenced former Mayor Mario LaBarbera and noted that he was a historian who contributed to the planning of New Milford. She said in his plan the Brookchester area was the heart of New Milford with shopping, banks, etc. She said it would be a mistake to move the heart of New Milford into one of the oldest, residential sections of town. She asked the Council not to rush to a decision.

Maryann Milligan – 407 Madison Avenue. Ms. Milligan said she only found out about the potential settlement at the November meeting. Ms. Milligan echoed Ms. McMackin's comments regarding the Brookchester area.

Michael Polizzi, Superintendent of Schools – 145 Madison Avenue. Mr. Polizzi read a statement on behalf of the BOE. He said the BOE did an analysis of the three proposals as they understand them, discussed it at the recent public session and arrived at an opinion. He said 450 units on the property would be totally irresponsible and would require a significant school redevelopment. He said to do nothing would be a major gamble with an unpredictable outcome which would not provide any value to the community. Mr. Polizzi said it appears the least intrusive option for the New Milford Public School system is Option B. He said the housing component would still have major implications for Berkley Street Elementary School which is already at capacity. He said the BOE opinion is based on what it views will cause the least stress on the school system.

Lori Barton – 399 Roslyn Avenue. Ms. Barton referenced conceptual plans the BOE proposed in 2009 to acquire the United Water property and asked if Mayor Subrizi was aware of the plan.

Mayor Subrizi said she believes she was invited to sit in on one meeting at which it was discussed. Ms. Barton said it was going to be a four-way partnership between United Water, the BOE, the Mayor and Council and the State of New Jersey to try to acquire the property. Ms. Barton asked how the Mayor could say there was no interest in acquiring the property. Mayor Subrizi said she did not say there was no interest she said there was no will at the Council to spend the money, no one made a motion to buy the property when it was offered in 2011. Ms. Barton said many have questioned the difference between the ratables of commercial, residential and recreational open space. Ms. Barton referenced information from the Association of New Jersey Environmental Commissions in which they commented upon the unforeseen costs of commercial and light industrial ratables and the hidden municipal costs. Ms. Barton went on to ask a series of questions. Mayor Subrizi asked Ms. Barton to submit her questions for review.

Chris Ryan – 508 Windsor Road. Mr. Ryan asked how the Council can vote on any of the options without knowing the number of affordable units required. Mr. Madaio said the Borough's own expert has put the number at 135 to 150. He said Fair Share Housing has put the number, including the gap period, at 487. Mr. Madaio said there is no one that thinks the number is less than 100. Mr. Ryan said the developer will not satisfy the entire obligation. Mr. Madaio said there will be an amount of units that we will be obligated to provide for construction and that would be the number of units from this development. He said there will then be an amount of unmet need. He said there is recognition in higher density towns where there is not a lot of open space there will be unmet need which could be accommodated through a rehabilitation ordinance or a town wide overlay that provides for a set aside for anyone that builds more than a certain number of units.

Randi Duffie – 120 California Avenue. Ms. Duffie addressed Mayor Subrizi's comment that she would like to see this finished by the people who have worked on it. Ms. Duffie said she served two terms and worked on it as well. She said she feels it is being rushed. She said this property would have been perfect for the County of Bergen to add to their open space. She said by voting now it would place the burden on the next Council to see the contract enforced. She said adjustments to the settlement should not have been done by email and asked under whose authority one Councilman negotiated or discussed the terms of the agreement on behalf of the Council. Mayor Subrizi said once the settlement was opened to the public everything has been open. She said it was done in an effort to bring everyone into the process. She said she cannot say why one Councilman made more comments than other Councilpersons, but all were invited to review the settlement and make any comments they thought appropriate to the Borough Attorney. Ms. Duffie asked when the negotiation committee dissolved. The Mayor said as soon as there was a draft agreement, which probably should not have been made public until it was finalized, but it was in order to bring the public into the conversation.

Sean Massaro – 170 Fulton Street. Stating that this will probably be voted upon on 12/19, Mr. Massaro asked why this is being discussed now when the necessary ordinance will not be adopted until the 2017 Council convenes. Mayor Subrizi clarified that this matter will not be on the 12/19 agenda. Councilman Alonso said the Council will be voting on a resolution not an ordinance.

Councilman Grotzky asked why the proposed ordinance has been drafted by the developer's attorney. Mr. Madaio said this is common practice and the way that it is almost always done because the ordinance is written to approve the settlement. He said it is drafted by the developer but reviewed and approved by the Borough's professionals.

Casey Hittel – 277 Boulevard. Ms. Hittel asked if the Borough opts for Option A, to let the Judge decide, can he add to the number of units or is it limited to the twenty-four. Mr. Madaio said the Judge could not add to the number of units at the Suez site but it would leave open what would happen at the current Shop Rite site. Ms. Hittel said she previously indicated her preference for Option C, high density residential, but she now prefers Option A as Option C would completely overwhelm the schools and other borough resources. Mayor Subrizi said the issue with Option A is that we will have no say it what will happen at the current Shop Rite site as it will be decided by the Special Master and we could end up with 750 units. She referenced a development in Dumont that is four stories and noted that it is 50 units saying we would need twelve similarly sized buildings in order to achieve 600 units.

John Bigger – 325 Williams Street. Mr. Bigger said we either agree to a settlement and get something or we get nothing. He suggested we should get what we can rather than allowing the Judge to decide and get nothing.

Sam Tripsis – 327 Maple Avenue, Oradell. Mr. Tripsis presented a depiction of a shopping center and senior housing development that was proposed in Oradell in 1993 at the waterworks property. He said the proposal was tabled and the property is now a County park. He suggested that this would be the best use of the water company property. He said a commercial development across from the park is inappropriate.

Ken Vogel – 19 Terrace Street, Bergenfield. Mr. Vogel gave his credentials noting his degree in architecture and civil engineering. He said that he read in the Twin Boro News that United Water decided to give the County a park. He said he suggested making the property a County fairground. He further suggested consolidating the River Edge and Oradell train stations.

Michael Gadaleta – 270 Demarest Avenue. Mr. Gadaleta referenced a report that he had prepared for the ZBA and forwarded, after the last meeting, to the Council. He said it is factual and was accepted as expert testimony. He asks that his comments this evening be considered the same. Mr. Madaio said no one is being sworn in, nor presenting testimony. Mr. Gadaleta said he prepared the report because the Borough was not getting the information necessary from the developer to make an informed decision. He said there was no provision in the plans to provide for the safety of the High School. He said the developer used 1980 flood maps during the ZBA hearings. He said the maps have been changed and the flood elevation has been raised to 18.5; he said the entire area is less than 18.5. He said the entire site would flood during a Hurricane Sandy type event. He said the area where the detention basin was located for the ZBA application is now where the football field is being proposed.

Lynn Gadaleta – 270 Demarest Avenue. Ms. Gadaleta asked to allow her husband to speak on her behalf. Mr. Gadaleta continued to present marked-up drawings noting that the developer raised the proposed building six inches when Mr. Gadaleta made note that the building would be

underwater during an 18.6 flood event. He said the Borough has a tree management plan that requires the developer to get approval from the Shade Tree Commission before removing trees. He said the developer refused to address it. Mr. Gadaleta said trees will be taken down and the road will need to be widened. He said by the developer's own estimation there would be 750 cars per hour at the intersection of River Road and Demarest Avenue. Mr. Gadaleta said he is against the Shop Rite. He presented a conceptual drawing of what 450 units could look like on the property, consisting of three, five-story buildings of 150 units per building and noted the parking would be provided for underneath the buildings. Mr. Gadaleta said no one from the Planning Board or Zoning Board has endorsed this settlement.

Joseph Steele – 377 Hoffman Avenue. Mr. Steele said the issue of overcrowding at the schools is not just a problem for the BOE. He said it affects the children and stated that every school is at their maximum capacity.

Gene Murray – 425 Madison Avenue. Mr. Murray asked for a clarification about a statement made about choosing Option A whereby it was said that that if a judgement was passed on the developer's appeal of the ZBA decision that the Borough would likely lose. Mr. Madaio said that was not what was said. He said the ZBA decision will never be considered by the Court. He said between the time that the ZBA made their decision and today COAH has been dissolved, the Supreme Court took responsibility and allowed the Borough to seek repose and they allowed developers or property owners to intervene. Mr. Madaio said that is what will be decided; the Borough's application for declaratory judgement of repose and the developer's consolidated lawsuit for something on that property under the argument that it helps satisfy affordable housing. He said that application will be different than whatever was heard by the ZBA. The ZBA decision will never be considered by a court. He said, unfortunately, the dynamics of the situation have changed very considerably since the ZBA made their determination. Mr. Madaio said if this were just a determination on whether or not the ZBA was right the Borough would win the case. Mr. Sproviero confirmed the information as presented by Mr. Madaio. Mr. Murray asked if this means there is no Option A. Mr. Madaio said there is no option that the Court will uphold the ZBA decision. He said the three options remain: wait for the judge to decide on the Shop Rite, the bank and the twenty-four units. Mr. Murry interjected and asked if this will be decided even if the development does not uphold Sica standards. Mr. Madaio said yes, it will be done regardless because no ZBA review standards apply. He went on to say the remaining two options are: provide a significant number of units to provide a 20% set aside of affordable units that will satisfy the Judge; or a settlement that is some version of what is before the Council currently. Mr. Murray asked for clarification of an item in the 12/6 version of the draft which identified the Madison Avenue developer as Inserra Associates. Councilman Alonso said it has already been corrected. Mr. Murray said that there is nothing in the agreement to mandate that they build anything as the language says "if" 135 units are constructed. Councilman Alonso said he raised the same issue but that it relates to paragraph 2B which says the developer will be building 135 units. Mr. Madaio said the developer does not get anything on the Suez property if he does not build the affordable housing. Mr. Murray said there is no reference to a timeline and asked if it will be addressed. Mr. Madaio said it will be addressed.

Terrence McMackin – 400 Madison Avenue. He asked where the field would be placed if any of Mr. Gadaleta's comments are taken into consideration. Mayor Subrizi said Mr. Gadaleta's plans

were based on the ZBA application. Mr. McMackin asked if the ordinance to permit five-story buildings at Brookchester is still in effect. Mr. Madaio said it remains in effect but the court appointed Master has considered the viability of that ordinance in providing a realistic opportunity for additional affordable housing. He determined it is not a good mechanism to provide affordable housing for two reasons: it is very difficult or impossible and possibly contrary to existing law known as the anti-eviction act to remove tenants; and additionally the Court Master noted that while Brookchester does not meet the definition of affordable housing and it is not counted as affordable housing it is good, moderately priced housing. For this reason he felt it would not be effective to remove numerous reasonably priced units and to replace them with some moderately priced units and some higher priced units. The net impact on entirety of good housing stock at reasonable prices would be damaged by that plan.

Lauren Maehlerlein – 230 McKinley Avenue. Lauren Maehlerlein said the decision needs to be the least onerous for New Milford. She said she would support Mr. Gadaleta's plan as it preserves the bulk of the property. Ms. Maehlerlein read from a letter, sent to a State Senator in 2012 by the Environmental Commission, regarding a bill pertaining to runoff.

Anna Leone – 505 Boulevard. Ms. Leone identified herself as an executive member of SOD and expressed her objection to a post on the Borough website that made the assumption that a flyer distributed in town was from SOD. She said if it had been from SOD it would have had their name and logo on it. She asked for an apology. Ms. Leone asked if anyone on the Council had ever been approached by any member of Hekemian with regard to the settlement. She asked if anyone on the Council had any relationship with anyone in the Hekemian organization. Mayor Subrizi offered her sincere apology to SOD and said she had nothing but respect for the organization. The Councilmembers indicated that none had been approached nor do they have any relationship to anyone within the Hekemian organization.

Judy Machacek – 131 Clinton Avenue. Ms. Machacek asked if there is any way to get the State to request or demand that the Army Corps of Engineers dredge the Hackensack River. She said if we cannot change the plan she would like to address the flooding.

John Rutledge – 8200 Boulevard, North Bergen. Mr. Rutledge said he feels some of the Mayor's comments with regard to the acquisition of the property were disingenuous as there had been opportunities with Bergen Swan and the Riverkeeper. Mr. Rutledge said he was surprised the Superintendent of Schools did not express any concern for the safety of the students. He said if the Borough allows for the development to go through the Borough will never recover from it.

Edward Kilarjian – 3030 Edwin Avenue, Fort Lee. Mr. Kilarjian said the property is an eyesore and it should just get done.

George Adelung – 723 Berkley Street. Mr. Adelung said he believes the Superintendent of Schools has all of the kids in mind and he is proud to have him as the Superintendent.

Council President Robalino made a motion to close to the public. Councilwoman Grant seconded the motion. The motion carried. All present in favor, none opposed.

The Council discussed next steps. Councilman Alonso made a motion to terminate the committee. He said all substantive issues have been incorporated into the agreement. Council President Robalino seconded the motion. The motion carried on a roll call vote as follows:
For the motion: Colucci, Grant, Robalino, Grotsky, Alonso
Against the motion: Sirocchi-Hurley

Councilman Alonso suggested the Council meet at 6:00 PM on 12/19 to discuss the agreement prior to the regular meeting. All agreed.

The Mayor suggested scheduling a special meeting for 12/21 should it be necessary. Councilman Colucci made a motion schedule a special meeting for 12/21 at 7:00 PM. Councilman Alonso seconded the motion. The motion carried on a roll call vote as follows:
For the motion: Colucci, Robalino, Alonso, Subrizi
Against the motion: Sirocchi-Hurley, Grant, Grotsky

RESOLUTIONS:

2016:281 Authorize Mayor to sign settlement agreement with NMRA, LLC ***TABLED***
2016:282 Authorize Emergency Appropriation – Sanitary Sewer Repair

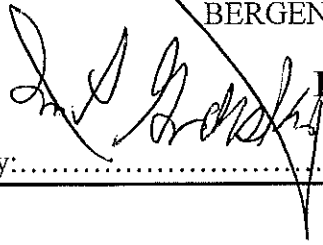
ADJOURNMENT

Councilman Colucci made a motion to adjourn. Council President Robalino seconded the motion. The motion carried. All present in favor, none opposed. Time 9:47 PM.

Respectfully submitted,



Christine Demiris, RMC, CMC
Borough Clerk



RESOLUTION

No. 2016:282

Offered by:.....

Seconded by:.....

Member	Aye	No	Abstain	Absent
SIROCCHI-HURLEY	✓			
COLUCCI	✓			
GRANT	✓			
ROBALINO	✓			
GROTSKY	✓			
ALONSO	✓			
MAYOR (tie)				

EMERGENCY RESOLUTION NJS 40A:4-48
(Under 3% limitation)

WHEREAS, an emergency has arisen with respect to a sanitary sewer line break on Dilworth Avenue and no adequate provision was made in the 2016 Current Budget for the aforesaid purpose, and N.J.S. 40A:4-46 provides for the creation on an emergency appropriation for the purpose mentioned above, and

WHEREAS, the total amount of emergency appropriations created, including the appropriation to be created by this resolution is \$50,000 and three (3) percent of the total operating appropriations in the budget for 2016 is \$562,196, and

WHEREAS, the foregoing appropriation together with prior appropriations does not exceed three (3) percent of the total operating appropriations (including utility operation appropriations) in the budget for 2016,

NOW, THEREFORE, BE IT RESOLVED, (by not less than 2/3 of all governing body members affirmatively concurring) that in accordance with N.J.S. 40A:4-48:

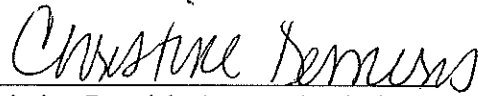
1. An emergency appropriation is hereby made for an emergency sanitary sewer line repair for the DPW in the amount of \$50,000.
2. That said emergency appropriation shall be provided for in full in the 2017 budget, and is requested to be excluded from CAPS, pursuant to NJS 40A:4-53.3c(1).
3. The funds for the appropriation shall be provided for by funds on hand.
4. That two (2) certified copies of this resolution be filed with the Director of Local Government Services
5. That the statements required by the Local Finance Board have been filed with the Clerk and a copy thereof will be transmitted to the Director of Local Government Services.

BOROUGH OF NEW MILFORD
BERGEN COUNTY, NEW JERSEY

RESOLUTION No. _____

Offered by:..... Seconded by:.....

I, Christine Demiris, Borough Clerk of the Borough of New Milford, County of Bergen, do hereby certify the foregoing to be a true and correct copy of a resolution adopted by the Governing Body at a meeting of said Governing Body held on December 12, 2016, and said resolution was adopted by not less than a two-thirds vote of the members of the Governing Body.



Christine Demiris, Borough Clerk

Witness my hand and seal on this
12th day of December, 2016