

MINUTES
BOROUGH OF NEW MILFORD
7:00 PM WORK SESSION
Monday, May 9, 2011



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| Council President Keith Bachmann | Present (9:07 pm) |
| Councilwoman Randi Duffie | Present |
| Councilman Diego Robalino | Present |
| Councilman Howard Berner | Present |
| Councilwoman Celeste Scavetta | Present |
| Councilman Dominic Colucci | Present |
| Mayor Ann Subrizi | Present |

Also present: Mark Madaio, Borough Attorney (7:14 pm); Christine Demiris, Administrator/Clerk

OPEN WORK SESSION:

1. Alternative Energy Providers: Systrum/Viridian

Wendy Phillips, a representative of Systrum Energy was present and provided pricing per therm on gas for residential and commercial. Ms. Phillips used her own bill as an example; noting a \$20 savings over PSE&G. The product and service are the same; which are still billed through PSE&G. Ms. Phillips compared this third party service to a coupon; the service is month-to-month and there is no contract required. Ms. Phillips referenced Systrum's website and noted the prices are updated and posted monthly. Councilman Berner asked how the prices are determined; Ms. Phillips advised gas is a commodity and therefore the price fluctuates. Ms. Phillips advised the cost is always \$.04 per therm for commercial; never more or less. Councilman Berner questioned why more companies have not switched; Ms. Phillips stated people are skeptical, but without good reason.

Forest Sherney and James Westura represent Viridian Energy. Mr. Westura reviewed some of the Borough's recent electric bills and advised the average use is between 12.5 cents and 13.5 cents per kilowatt. Unlike gas, electricity is done under contract; winter rates are currently in affect and that is the best time to shop as the rates are lower. Under said rates, the Borough could save \$6,000 - \$15,000 per year. Mr. Westura noted 28% of Veridian's energy is generated through renewable resources. Councilwoman Scavetta asked the number of clients Mr. Westura has; he noted over 2,000. Councilwoman Duffie asked which ones the Borough may recognize; Mr. Westura stated many different towns and cities as well as non-profits such as Special Olympics.

2. ABC Violation – New Milford Liquors

Mr. Madaio explained the Notice of Hearing. The Administrator referenced previous incidents and stated the Council must decide on a hearing date; she will then notify New Milford Liquors of the date and charges. The Council decided to meet at 6:30 pm on May 23, 2011; the Administrator will advise New Milford Liquors.

3. Social Service Director Position

The Administrator advised JoAnn Falcone, Social Services Director will retire, effective June 30, 2011. The Administrator advised it is a part-time position; however Ms. Falcone was on-call 24/7. The Administrator noted the Council's options regarding the open position; either filling the position or turning it over to the County.

Councilwoman Duffie is a member of the Bergen County Board of Social Services; and noted there is a lot of pressure to cut services. Councilwoman Duffie feels the County is losing sight of the people; she believes it would be better to fill the position locally rather than turn it over to the County.

Councilwoman Scavetta and Councilman Colucci referenced shared services with other towns. Mayor Subrizi agreed with Councilwoman Duffie, if the Borough went with the County, it would lose much of the personal service. The Administrator will survey surrounding towns regarding shared services as well as find out Ms. Falcone's recommendation.

4. Police Department Retirement/Chief's Request to Hire

Mayor Subrizi reviewed Chief Papapietro's memo request to hire; highlighting the fact overtime will be high as the department is eight officers short. Councilman Colucci questioned how quickly a new hire would be up and running; Mayor Subrizi noted if the officer is PTC certified it will be quicker.

Councilman Berner questioned why the Council would not want to follow Chief Papapietro's recommendation. Mayor Subrizi noted the Borough is still paying the retired officer's salary and medical, which would be in addition to the new officer's salary and medical.

Councilwoman Duffie has not hidden her feelings that other unions were asked to take a zero percent increase and hiring freeze and now the Council is being pushed to the wall by the Police Department again. She noted the safety of the residents is the first concern; however she would like to hear an estimate of costs for a new hire vs. overtime costs from the Police Chief.

Councilman Robalino referenced the alternative schedule discussion; Mayor Subrizi advised it is a complicated process and will be discussed with the new contract committee. The Administrator will request Chief Papapietro attend the Council meeting on May 23rd.

5. 992 Oxford Lane Deed of Easement

The Administrator referenced a letter from March 2010 reminding the owner at 992 Oxford Lane that the easement belongs to the Borough. Mr. Madaio advised the Borough can rescind the easement; that may refocus the resident. He noted the Borough may wish to make action for a specific performance or an action to defend; the Borough may also choose to fence the area, making it clear the area is an easement. Councilwoman Duffie requested Mr. Madaio research the issue and make a recommendation.

6. RGGI (Regional Greenhouse Gas Initiative) – Cap and Trade Program

Mayor Subrizi referenced an editorial to best explain the program. Councilwoman Duffie felt it unfair to explain the program through an editorial. Permits need to be purchased depending upon the amount of carbon emitted into the air; PSE&G would pass the cost on to the consumer. Mayor Subrizi advised only ten states participate in the program; the only thing that can be done at the Mayor and Council level is to make a plea to Trenton to get New Jersey out. Councilman Berner supports a resolution to the State asking them to get New Jersey out of this program; the Administrator will put the resolution on the next agenda.

7. United Water – Westwood Letter/Resolution

Mayor Subrizi advised that Dr. Boswell went to Westwood following his visit to New Milford. Mayor Subrizi read a letter dated April 28, 1997 from United Water to the Borough of Westwood. She noted United Water would let water out as it could but needed to maintain water levels for the summer. It seemed as though the Borough of Westwood believed the letter to be a permanent agreement between them and United Water. Mayor Subrizi stated this will prompt another conversation between New Milford and United Water; she agrees dam safety is the first priority but United Water but wants them to look at the possibility of greater flood mitigation.

Councilman Berner noted Westwood's situation is different than New Milford's; they deal with one reservoir whereas New Milford deals with the outflow of four.

Councilwoman Duffie referenced the community representative/liaison that United Water used to have; there needs to be a dialog. Councilwomen Duffie and Scavetta would like United Water to attend a Mayor and Council meeting. Councilwoman Scavetta would like to see studies on how the water level determination is made; development and weather patterns have changed over the years. Councilman Berner suggested getting the Board of Public Utilities involved; the Administrator will contact the Bergen County Utilities Authority and request the point person for water management in Bergen County or Trenton. The Administrator will request United Water attend the June 13th Work Session to discuss their policies of water management and what they are doing/can do to help New Milford flood less.

8. United Water – Response to Borough Engineer Questions

The Administrator referenced Dr. Boswell's answers to questions raised at an earlier meeting; she noted they need to be interpreted by someone, posting them on the website will not be helpful. The Administrator will ask the Borough Engineer to attend the June 13th meeting as well to explain their response.

ADMINISTRATOR

The Administrator was advised by the Grants Consultant that the DOT has announced two additional grant categories; Safe Routes to Schools and the Streetscape program. Currently the streetscape ends at Henley Avenue; does the Council wish to go further down River Road. Superintendent Polizzi happened to be present and noted he will be in touch with the Borough after

reviewing the topic with the Board of Education. The Grants Consultant expects the applications will be due in June. The Council discussed adding to the streetscape near the Post Office and nearby strip mall; the Administrator will check on the eligibility. Councilwoman Duffie questioned whether "Welcome to New Milford" signs could be included; the Administrator will ask the Grants Consultant.

The Administrator reported a Senior Center attendee has been given a written warning; he will be asked not to return if he is observed smoking on the property again.

The Administrator referenced Relay for Life; the coordinator requested garbage pickup on Saturday, May 21st. She advised the garbage pick up is contractual; however the dumpsters are emptied on Friday so they will not be overflowing. The Administrator explained the garbage could be brought directly to the DPW on Saturday before 1:00 pm. The coordinator requested the DPW pick the garbage up; Mr. Calamari advised that would require two men for two hours, overtime rates would apply. The Administrator asked if the Council wished to authorize the overtime; if so should the Relay for Life be charged. Councilman Robalino suggested the Borough pick it up at no charge to Relay for Life. Mayor Subrizi is concerned about starting a precedent as New Milford is a very civic minded town. Mayor Subrizi will advise the Coordinator why the Borough cannot provide pick-up; however she will advise on how they will help.

The Administrator surveyed other municipalities in Bergen County through the Municipal Clerks Association to see if they are billing the BCUA-Tier II – Non Profits. She advised of the fifteen responses, two towns are billing and four others are considering. Mayor Subrizi advised there are approximately twenty users i.e.: private schools, religious organizations, etc. The Administrator advised Tier II users are tax exempt. The Council decided to relist the topic for a decision at the next meeting.

The Record's Community and Public Relations Manager asked if she could provide flyers from some of the Record's advertising specials to be added to the new resident welcome bags. It was the consensus of the Council to limit the bags to municipal information only.

The Elks Club has requested the DPW install their identification signs on existing poles in town; the Administrator asked if the Council had any objections. Councilwoman Duffie referenced Maywood's welcome sign and suggested New Milford develop an official directory board; thereby improving the Borough's appearance. The Administrator will ask the DPW to investigate sign options.

The Administrator referenced the Fire Department's request to have Fire Awareness Day on October 13 from 5 pm to 9 pm with a rain date of October 20; she asked if there were any objections. The Council had no objections.

The Administrator noted the Council is required to sign an affidavit and pass a resolution stating they have familiarized themselves with the audit as well as the Auditor's comments and recommendations. She will prepare said paperwork for the Council's approval and signatures on May 23rd.

The Administrator referenced a proposed resolution developed by the Clerk's Association in opposition of Senate Bill 1351, which would amend the Open Public Meetings Act. She asked if the

Council had any interest in listing it for approval at a future meeting. The Administrator will copy the Council again; if there are no objections she will put it on the next agenda.

The Administrator noted the Background Check Ordinance discussion was tabled to the May 23rd meeting due to tonight's lengthy agenda.

The Administrator noted the Repair Shop and Key Box/Fire Hydrants Ordinances were tabled for discussion a while back; does the Council wish to list the items for discussion at a future meeting. The Council decided to list the Key Box/Fire Hydrant Ordinance for discussion on the May 23rd agenda and the Repair Shop Ordinance for discussion at the June Work Session. Mr. Madaio will separate the Key Box/Hydrant Ordinance into two separate drafts.

OPEN WORK SESSION: (continued)

9. United Water Property Development – Dennis Kirwan, Borough Planner

Mr. Madaio referenced the Council's previous discussion with regards to what the Planner was to focus on; and highlighted the Council's concern regarding New Milford's COAH requirements.

Mr. Kirwan advised he contacted Kate Butler, COAH representative from the DCA, regarding New Milford's status. Mr. Kirwan noted COAH is not evaluating plans or approving ordinances; however is still expecting Round I and II compliance. New Milford should still collect development fees. Currently, COAH does not expect the Borough to accomplish anything in Round III.

Mr. Kirwan advised the United Water property site is considered an inclusionary site for COAH; potentially 40 units according to Round III. If the Council wishes to entertain the zoning request, the units would have to be accounted for elsewhere. The 2004 Master Plan called for mixed use development with high density age restricted housing along with a commercial component. The 2010 re-exam report called for holding that plan, and allows the Planning Board to revisit when the final plans came through. Mr. Kirwan advised the Borough does not need to react quickly; and should look at everything before making a decision.

Mr. Kirwan advised the property is conducive to flooding and therefore would not be good for a residential location; it is better suited to commercial or passive/active recreation.

Mr. Madaio explained the fees that could be collected upon development; these funds could be used to meet the COAH obligation. Mr. Kirwan explained if the plan had received substantive certification, had the fair share ordinance in place, and identified the property as inclusionary housing and this developer showed up today and opted out of building residential, they would be required to pay the Borough \$167,000 per unit not built.

Mr. Madaio noted the Borough does not currently have a fair share ordinance; and asked Mr. Kirwan to see if fair share ordinances without development incentives are lawful and are still permitted.

Mayor Subrizi noted COAH is currently in limbo; and asked if the property was purchased now why would previous rules apply. Mr. Madaio acknowledged COAH is a moving target; however the Borough wants to be sure to collect the maximum amount of fees to cover any remaining obligations.

Councilwoman Duffie asked if there will be grace periods for Round III; Mr. Kirwan noted COAH will still impose obligations however after a certain date.

Mr. Madaio questioned if the Borough were to purchase the property, would it still be a COAH obligation. Mr. Kirwan advised if you take the property off the rolls, it will not be used in future calculations. Mr. Madaio noted if 40 units is the requirement; the Borough will have to fulfill the obligation elsewhere.

Councilman Berner questioned if the property is rezoned, would the Borough still have the obligation; would the Borough be exposed to a builder's remedy. Mr. Kirwan advised although the Borough does not have Round III certification, it is protected because a plan is currently in place.

Council President Bachmann noted the builder looking to knock down homes in order to erect 40 COAH units, must be willing to lose quite a bit of money. Mr. Madaio noted said builder would build full price units in greater quantities to cover the affordable units.

Mr. Madaio noted the Planner needs direction from the Mayor and Council to do his initial plan review.

Mayor Subrizi requested Mr. Kirwan evaluate Hekemian's proposal; i.e. affect on COAH, is the proposed field appropriate for the area, etc.

Mr. Madaio explained the requirements for a use variance; further noting they should be sparingly granted.

Council President Bachmann suggested the Planner should address if the current proposal offends the Master Plan. Mr. Kirwan displayed the 2004 Master Plan showing it as multipurpose; it was not changed in 2010 during the reexamination. Mr. Madaio noted a developer will try to reconcile according to the Master Plan.

Mr. Madaio stated there is currently a proliferation of Senior Housing, COAH is incentivizing to convert to re-appropriate to regular units.

Councilwoman Duffie asked if the Borough officially stated it will not purchase the property. Council President Bachmann stated the Borough let the time run out. Mayor Subrizi advised the Borough was never provided the real cost of the property. Mr. Madaio said the "real cost" is whatever a developer would pay; the right of refusal price is seven or eight million dollars. He said the question for the Council is "is this an appropriate rezoning of this property."

Councilwoman Duffie expressed concern over what would go on the old ShopRite site; Mr. Madaio stated the property is currently zoned commercial and Mr. Inserra has agreed to give up all previous zoning approvals upon relocation.

Councilwoman Duffie wants the Planner to look at the storm water management plan as well; Mr. Kirwan will coordinate with the Borough Engineer.

Mr. Madaio requested Mr. Kirwan provide a general planning prospective on the proposed plan in his report; i.e. road widening, traffic flow, lighting, signage, impact on the area, historic element, truck deliveries, etc. What is the property suitable for? Is it suitable for the proposed plan? If not what is it suited for?

The Council agreed to authorize Mr. Kirwan to proceed with his report; it will be financed through the developer's escrow account. The Council requested the report by provided by the June 27th Public Meeting.

APPOINTMENT: RAYMOND COTTIERS, JR. – RECREATION COMM. – 2ND ALT.*

Council President Bachmann made a motion to appoint Raymond Cottiers, Jr. as 2nd Alternate to the Recreation Commission. Councilwoman Scavetta seconded the motion. The motion passed as follows:

For the motion: Bachmann, Robalino, Berner, Scavetta, Colucci

Against the motion: Duffie

COUNCIL

Councilman Robalino referenced the Girl Scout Awards on June 8th; Mayor Subrizi requested certificates be made.

Council President Bachmann referenced the grant opportunity for playground items and noted the Recreation Commission should review the plans for the new swing sets first.

Councilman Colucci was contacted by an aspiring dietician from town; she is interested in preparing an awareness program. He advised her to contact the Board of Education and possibly attend National Night Out.

Mayor Subrizi stated the New Milford High School will celebrate its 50th anniversary of the first graduating class on June 3rd.

Councilman Colucci stated registration forms are still available for the Fire Departments 5K.

Councilwoman Duffie referenced the bus stop on River Road near CVS south; Mayor Subrizi requested a building inspector look at it. It was decided if the structure is deemed unsafe, a letter will be forwarded to NJ Transit advising it will be removed if they do not respond.

Councilwoman Scavetta noted there are different brilliances of lighting at the Senior Center; she believes it may be dangerous. She requested the Borough's electrical inspector to look at it.

Councilwoman Duffie referenced a discussion via email regarding the driveway opening at Madison Plaza; it was a discussion among Council and should have been brought to the table. The Administrator advised the discussion took place because of the Police Chief's comments; it was not intended to be a discussion, the actions taken were due to the Police Chief's concerns.

Councilwoman Duffie asked if Marlene Casey's home is for sale; if so the Council should discuss its acquisition as it is the most historic home in New Milford.

Councilman Berner expressed concern over the activity at Klinger's Farm; there is a tent and a parking lot. Mr. Madaio will review the agreement; especially regarding parking.

COMMENTS FROM THE PUBLIC

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

Al Alonso, 45 Clover Court came forward to address the Council. Mr. Alonso complimented the DPW on their efficient tree removal. Mr. Alonso referenced the rezoning proposal. He noted the Planner should be able to provide his opinion of whether or not it is consistent with the Master Plan by the next meeting; before going into a lengthy report. Mr. Madaio advised the Borough is being responsible in requiring a comprehensive review. Mr. Alonso noted if it is not consistent with the Master Plan, then rezoning is wrong; Mr. Madaio disagreed and provided his legal opinion to the Council. Mr. Alonso believes Dr. Boswell misrepresented himself in saying he was here in the best interest of New Milford as he represents United Water as well. Mayor Subrizi corrected Mr. Alonso noting Dr. Boswell has worked for United Water in the past; however he does not represent them.

Jose Camacho, 265 Eagle Avenue came forward to address the Council. Mr. Camacho questioned if the Planner will provide his opinion on the best use of the property or an alternate use; Mayor Subrizi advised the Council did request his opinion on this matter. Mr. Camacho asked if there was any further discussion on an alternate garbage schedule; Councilman Robalino stated no and any further discussion will occur at a public meeting.

Mary McElroy, 297 Greve Drive came forward to address the Council. Ms. McElroy noted there are contradictions between the 2004 Master Plan and its 2010 reexamination. She noted this is only one proposal; are the Mayor and Council open to looking at alternate uses. Mayor Subrizi noted the Council directed the Planner to look into alternate uses. Ms. McElroy questioned Councilman Robalino on his comments in the Record; Councilman Robalino explained his comments and noted the Borough has no intentions to purchase the property. Ms. McElroy stated the purchase price if the property is not rezoned may be different. Ms. McElroy implored the Council to entertain all proposals and have the Planner review. Council President Bachmann said the Council does not have the luxury to do nothing because it will ultimately be decided; the Council must explore all options.

Josie McKeown, 184 Trotta Drive, came forward to address the Council. Ms. McKeown expressed concern for seniors noting it would be a great imposition if Shop Rite moves. She also questioned what would happen to the old Shop Rite property.

Joseph Klimkak, 163 River Lane, came forward to address the Council. Mr. Klimkak stated he had an issue with the owners of 992 Oxford Lane which was heard in municipal court. He said they are dumping on the easement and parking on it overnight which they are not allowed to do. Mr. Madaio said the Council will be looking into the matter.

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

RESOLUTIONS:

- 2011:115 Closed Session
- 2011:116 Payment of Bills and Vouchers
- 2011:117 Approve Raffle License #2011:08 New Milford-Teaneck Lodge #2290 B.P.O.E. Games & Wheels
- 2011:118 Approve Social Affair Permit – St. Matthew’s Evangelical Lutheran Church – June 25, 2011
- 2011:119 Authorize Support of S-54
- 2011:120 Oppose 8% Increase in for 2011 from the Bergen County Utilities Authority
- 2011:121 Request Director of DLGS to approve insertion of revenue and like appropriation for Police Department Body Armor in the amount of \$3,071.25
- 2011:122 Authorize Master Contract between the Riverside Cooperative and Montana Construction Corp. for Emergency Water Main and/or Storm and Sanitary Sewer Repairs

VOTE ON RESOLUTIONS

Councilman Robalino made a motion to approve the consent agenda #2011:115, 2011:116, and 2011:118 through 2011:122. Councilwoman Scavetta seconded the motion. All present in favor, none opposed.

Councilman Berner made a motion to approve resolution #2011:117. Councilman Colucci seconded the motion. The motion passed on a roll call vote as follows:

- For the motion: Duffie, Robalino, Berner, Scavetta, Colucci
- Against the motion: None
- Abstain: Bachmann

CLOSED SESSION:

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

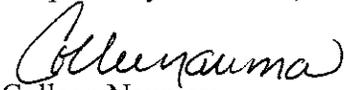
- 1. Personnel
- 2. Pending Litigation

At the conclusion of the closed session Councilwoman Duffie made a motion to go back into open session. Council President Bachmann seconded the motion. All present in favor, none opposed.

ADJOURNMENT

Councilwoman Duffie made a motion to adjourn. Council President Bachmann seconded the motion. All present in favor, none opposed. Time 11:39 PM.

Respectfully submitted,


Colleen Naumov
Deputy Borough Clerk