



**MINUTES
BOROUGH OF NEW MILFORD
7:00 PM WORK SESSION
OPEN SESSION immediately following
Monday, February 9, 2009**

Councilman Arthur Zeilner	Absent
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: David Grubb, JIF
S. Gregory Moscaritolo, Borough Attorney

Mayor DeBari read the Open Public Meeting and Mission Statements.

OPEN SESSION:

1. JIF Elected Official Training – 7:00 PM

David Grubb presented the Elected Official Joint Insurance Fund Training. The Administrator and all Elected Officials, except Councilman Zeilner, were in attendance. Mr. Grubb presented Worker's Compensation statistics, specifically DPW, Police and Fire Departments. Mr. Grubb then discussed annual heart risk screenings for volunteer Fire Department members over the age of 35. In closing, Mr. Grubb urged managers and supervisors to be aware of and discuss safety.

2. Honeywell Energy Study

Mayor DeBari stated the Honeywell representative is not in attendance this evening. The Administrator requested a list of boilers and air-conditioning/heating units from the Buildings and Grounds Supervisor; Mayor DeBari read the list to Council. The Administrator reviewed the list of 4 potential objectives presented by the Honeywell representative. Mayor DeBari stated the Borough should address the Aging Infrastructure objective; which will address objectives 1 and 4 as well. Council President DeLucia stated stimulus funds could impact the Borough's priorities; she questioned if the Borough could move forward with 2 objectives. Councilman Bachmann noted the representative never stated the Borough had to continue after the study was complete; further stating it is not in the Borough's best interest to dispose of 17 boilers because they are old. Council President DeLucia noted the objectives could possibly be funded through Congressman Rothman's initiative; however the deadline is February 27th. The Administrator will contact the Honeywell representative and advise him of the Borough's objectives.

3. Recycling Ordinance

Mr. Moscaritolo is awaiting more information from the BCUA; stating he is not convinced it is mandatory. Mr. Moscaritolo stated he was advised by Rich Wierer, in not adopting said ordinance, the Borough would be in violation of the State Health Code, however there is no penalty listed in the code. Mayor DeBari informed Mr. Moscaritolo that he must stay on top of the situation.

4. Temporary Structures Ordinance

Councilwoman Duffie noted temporary structures larger than 12 ft. x 12 ft. or those structures erected before May 1st are examples of what should not be allowed. Council President DeLucia requested the word "storage" be added to the first paragraph. Councilwoman Subrizi suggested prohibiting temporary structures in the setback area. Councilman Bachmann stated he does not wish to intrude upon residents' backyards by limiting the size of the recreational cover as long as it is not within the setback area. Councilwoman Duffie stated the proposed ordinance should include definitions to differentiate between canopy and tent. Mr. Moscaritolo will revise proposed ordinance to include said definitions for the Council to review at the February 23rd meeting.

5. Closed Session Minute Policy

The Administrator stated the Borough has never had a policy in place. Mr. Moscaritolo stated it is always the Borough Clerk's obligation to redact information. Councilman Bachmann noted the closed session minutes regarding the purchase of property; stating once purchased the information should be made public. Mr. Moscaritolo stated even after the issue is resolved, attorney-client privilege still prevails unless it is waived. The Administrator requested a policy going forward; under OPRA she is not legally required to disclose unapproved closed session minutes. The Council discussed the matter and decided the closed session minutes will be distributed, reviewed and approved at work session meetings and returned to the Clerk immediately. The Clerk will keep a clean copy of all closed session minutes in the Clerk's office. Mr. Moscaritolo stated the Council bylaws need to be amended to include said policy.

ADMINISTRATOR

The Administrator questioned if the Borough should proceed with DEP permits for channeling and berming the Hirshfeld Brook at approximately \$15,000 before obtaining full homeowner buy-in. The Borough Engineer is currently preparing the list of affected homeowners to which the Hirschfeld Brook Mitigation meeting letter will be mailed. The Council authorized the Engineer to proceed with the DEP permits. The Administrator stated the mitigation meeting date will be separate from a regular meeting. The Council requested the Administrator find out who from Boswell Engineering will be representing the Borough at said meeting. Mayor DeBari stated the meeting must be advertised, as their may be a quorum of Council in attendance.

The Administrator updated the Council on the Hirschfeld Brook Mitigation; stating a field inspection revealed additional homes have been built, as well as additions, since the initial study was completed three to four years ago. She stated the Engineer will confer with the Building Department regarding the additions she feels may conflict with the channeling. She further stated the Engineer rechecked the addition in question and confirmed there is no conflict with the plans.

The Administrator stated the Health Department contacted the six addresses referenced in the Engineer's letter regarding sump pumps connecting to storm sewers; they are all in the process of complying. She stated the Engineer proposed sending another letter to the remaining addresses for compliance; the Administrator provided said letter to Council via e-mail.

Councilwoman Subrizi stated it seems the letter requires homeowners to connect to the nearest storm drain or add a seepage pit; the Council agreed that was correct. Councilwoman Subrizi noted again the home on Ridge Street; stating its affect on the water table and uncontrollable runoff. She questioned whether the Borough had been remiss in approving the plan. The Administrator stated unfortunately there is nothing in the ordinance to prevent it. Both Councilwoman Duffie and Council President DeLucia confirmed there was no need for the homeowner to come before either the Planning or Zoning Board, because the homeowner was within its rights to build the planned construction. Council President DeLucia stated it is still the homeowner's responsibility to prevent runoff; they may have to spend additional money to remediate. Councilwoman Subrizi stated the Borough should allow no new construction unless it is on a slab due to the disturbance of the water table. Council President DeLucia stated her belief the building code trumps Borough ordinance; she will ask the Planning Board Attorney to research. The Council discussed revisions to be made to the Engineer's letter prior to its mailing; after the revisions are made, the letter will be redistributed to the Council for their review.

The Administrator noted the Riverside Coop needs the Borough's roads and quantities for the road paving project by March 11th; she distributed a copy of Mike Calamari's last list. Mike Calamari requested the Council provide any comments by February 23rd so the preliminary work may be done for the deadline. The Administrator stated she needs to know how much will be allocated in the 2009 budget for the Road Program.

The Administrator noted Boswell asked permission to submit a Clean Water Loan Request on the Borough's behalf before the January 31st deadline. The details have not been finalized, however in order to hold our place the Borough must apply for a PIN and submit the financing request before the deadline. Boswell is proposing major sanitary sewer rehabilitation at a proposed cost of \$500,000; the Engineer spoke with Marlene Casey and she was not preparing any applications through this program. Boswell is doing this for a number of municipalities they represent, merely looking for authorization to proceed with plans at a fee not to exceed \$25,000. The Council discussed the option of the Clerk adding an authorizing resolution for Boswell to act at a fee not to exceed \$25,000. Councilman Putrino made a motion to add resolution #2009:57 to the agenda authorizing Boswell to act at a fee not to exceed \$25,000 for sanitary sewer rehabilitation. Councilwoman Duffie seconded the motion. All in favor none opposed.

Councilman Bachmann requested resolution #2009:57 be pulled from the consent agenda for a separate vote.

Councilwoman Subrizi requested resolution #2009:53 be pulled from the consent agenda for a separate vote.

The Administrator advised the Council that John Mulligan is no longer a D'Amato/Greenstar representative. Tom Vizioli is now representing D'Amato/Greenstar; she, the Mayor and Borough Attorney agreed to meet with him on February 10th. Councilman Bachmann questioned what the purpose of the meeting is; the Council has already decided not to let them out of their contract. Mayor DeBari stated the company requested a meeting and it is common courtesy to comply with such request.

The Administrator stated the final voucher for Green Acres was received; once signed by the CFO, the Borough can expect payment of \$450,000 within two weeks.

The Administrator noted an Employee Assistance Program was recommended by the Labor Attorney to show steps taken to rectify problems in disciplinary cases. She explained it is offered through the County at \$20 per employee and she spoke with Susan Boggia who is researching if the program is applicable for volunteers. The Administrator explained an employee can be referred by a supervisor or attend voluntarily if needed. Mayor DeBari suggested the Council request Susan Boggia attend the next work session for further clarification of the program.

The Administrator stated, at the request of the Recreation Director, soccer certificates will be presented at the February 23rd Public Session.

The Administrator informed the Council that the Borough Hall basement flooded last week due to an overflowing urinal; she stated Servpro was called in to clean-up. We are in the process of assessing the damage; the carpet must be replaced. She stated the Borough is covered by insurance, minus the \$1,000 deductible; however not for the full replacement value of the carpet which was significantly worn.

The Administrator stated she recently became aware of a requirement for all traffic signs to meet retro reflectivity requirements as outlined by the Manual on Uniform Traffic Control Devices. She requested recommendations from Mike Calamari, Chief Papapietro and the Borough Engineer. The Administrator further stated all traffic signs must be replaced by 2015; and all street signs by 2018. The Administrator stated money needs to be allocated in capital to complete in phases; signs cost approximately \$100-\$200 apiece.

Mayor DeBari questioned if the Borough can earmark \$1.00 from every traffic ticket for the sign replacement.

Councilwoman Subrizi questioned if the MOD money the Borough receives from Community Development every year could be used for the signs.

The Administrator stated the Tax Assessor has requested her part-time assistant stay until 4:00 PM on Monday's to allow them more time to discuss matters; allowing her to leave 1 hour earlier 1 day per week. The Council has no objection; the Administrator will notice the newspaper, as well as post information on the website and signs posted in Borough Hall.

The Administrator stated the PODS Corporation has inquired about the Borough's charter and process for passing ordinances. She is unsure if there are any issues with the recently adopted ordinance; she will keep the Council apprised of the situation.

The Administrator stated Closter is holding the JIF Elected Official Training on February 25th at 6:30 PM for anyone that did not attend tonight's session.

The Administrator stated she will be away from Thursday, February 12th through Tuesday, February 17th.

The Administrator stated a resident requested a bulletin board for senior stories to be posted in the Borough Hall; with the Library Directors approval, she informed them the Library would be a more appropriate venue.

BOROUGH ATTORNEY

Mr. Moscaritolo stated the law is expanding with regards to bail and bond forfeitures; Councilman Bachmann stated the Borough would have to pursue a civil action to collect forfeited bail and bonds. Mr. Moscaritolo stated if the Council has any interest, they must authorize him to pursue the matter. The Council discussed the pros and cons of enforcing this issue.

Mayor DeBarì suggested Mr. Moscaritolo contact David Lafferty; Mr. Lafferty did similar work for the County last year.

Councilwoman Subrizi requested the New Milford Court provide the Council with the amount of bonds forfeited in the last year.

Mr. Moscaritolo questioned whether or not the Council wishes him to attend an upcoming seminar regarding bond forfeiture.

Council President DeLucia stated for his attending the seminar, Mr. Moscaritolo can be paid on either a contingency or flat fee basis.

Councilman Bachmann made a motion for Mr. Moscaritolo to attend the bond forfeiture seminar on the Borough's behalf. Council President DeLucia seconded the motion. All present in favor, none opposed.

COUNCIL

Council President DeLucia stated the Planning Board is scheduled to meet February 17th regarding the Holly Street subdivision.

Council President DeLucia stated the Chamber of Commerce is currently seeking Peetzburg banner donations; they are approximately \$700 short.

Council President DeLucia noted the Library Board of Trustees is scheduled to meet next week. She referenced the statute regarding the powers of the Board she provided to the Council. She stated she researched what a mil was; noting a mil is equivalent to 1/1000 of a dollar therefore 1/3 of a mil is 1/3 that amount. Council President DeLucia stated the Library now offers audio books to be downloaded via website; you can visit the Borough website, click the link for the Library to find out more information.

Councilwoman Duffie stated due to the flood in the basement, there was no Board of Health meeting his month.

Councilwoman Duffie reported the Rent Leveling Board is still researching the best way for the landlord to distribute the tax credit. She further noted the Tax Assessor gave a tax credit rather than a refund. She stated the Rent Leveling Board is still in need of a tenant to serve as a representative on the Board.

Councilwoman Duffie will attend the Senior Advisory Board meeting on February 19th.

Mayor DeBari questioned if the Planning Board has a Developer's Agreement for Gramercy; Council President DeLucia stated no. Mayor DeBari will contact the Planning Board Attorney, Arthur Neiss.

Councilman Bachmann questioned the condition of Columbia Street near the brook; this is the fourth time he has seen the road cave.

Councilman Bachmann questioned when the budget hearing will be held. Councilwoman Subrizi stated the Finance Committee has met and plan to put their recommendations in writing for the Council's review at a scheduled work session.

Councilwoman Subrizi stated River Edge has cut the fireworks from their budget; she recommended New Milford does the same given the economy.

Councilwoman Subrizi stated Mayor Watkins of River Edge requested a meeting to discuss a joint bid for garbage pick-up. The Administrator stated the Council discussed it at their last meeting and decided not to bid jointly. The Administrator noted she responded twice to the Borough Administrator in River Edge of the Council's decision; however he still wishes to meet to discuss further. Mayor DeBari stated if Oradell wishes to bid with New Milford then they must commit to only bidding jointly.

Councilman Putrino questioned the status of the fire hydrant audit. Mayor DeBari spoke with John DiRienza who stated the audit information was given to a company and they are awaiting their feedback.

Councilman Putrino requested the Historic Preservation Commission leave DVD's to be sold from the Clerk's Office, just as the cookbooks have been done in the past; the cost for said DVD is \$15.

Council President DeLucia requested the Borough website's welcome page be updated.

Councilman Putrino stated the website committee needs to set up a meeting; further stating the municipal index needs updating.

COMMENTS FROM THE PUBLIC

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

John Foley came forward to address the Council. Mr. Foley questioned when the Hirschfeld Brook meeting will be scheduled. The Administrator stated the meeting will be scheduled for mid to late March, pending Boswell's availability. Mayor DeBari stated residents directly affected by the work to be done on their property, will be notified in writing of the meeting.

Councilwoman Subrizi suggested posting the meeting information in the New Milford Nuggets section of the Twin-Boro News in addition to the legal advertising.

Gus Bachmann, Stevens Court, came forward to address the Council. Mr. Bachmann suggested the Borough compile the many lists of the affected residents to assure everyone is notified.

The Administrator requested clarification as to what lists are being referred to; Council stated sign-in sheets from various meetings.

Council President DeLucia stated residents at the Hirschfeld Brook meeting were promised notification and therefore should receive such.

Mr. Foley stated it was his understanding the purpose of Boswell's study was to develop the land owned by the town to make space for the water.

The Administrator stated according to the Engineer there would be no significant gain from the addition of water retention pits at the referenced properties on Neumaier and Carlton; therefore DEP would not approve permits for that work.

Mr. Bachmann questioned where the dirt for the berming will come from if not from Neumaier and Carlton Place; Council stated that question will be for the Engineer at the upcoming meeting.

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

Mayor DeBari noted that Council President DeLucia does not agree to the Library discussion being held in closed session.

Mayor DeBari read a list of problems and concerns he had with the Library contract into the record.

Mr. Moscaritolo determined the Library should be discussed in open because the contract was not negotiated by the Mayor and Council.

Council President DeLucia commented on her fiduciary duties as Mayoral Designee on the Library Board of Trustees. She further stated she was advised by the Mayor to not vote on the Library's budget or contract matters.

Mr. Moscaritolo stated the Mayor or the Mayoral Designee is a voting member of the Board of Trustees by state statute; further noting it is part of the checks and balances system to allow for Council's input. Mr. Moscaritolo restated that the Mayor or Mayoral designee is a voting position.

Council President DeLucia stated she informed the Board what the town would want both before and after the contract passed; she further stated she does not endorse the contract.

Terrie McColl, Library Director came forward to address the Council. Ms. McColl stated as Director she is not a negotiator that is between the Board and the Union; however, she did inform the Board of the Borough's requests. She stated the settled contract was more in line with the other union contracts than previous Library contracts.

The Administrator stated the Library is not fully funding its medical coverage out of their budget, it is being supplemented by the Borough; therefore the Borough should have control over the terms of the insurance.

Mr. Moscaritolo stated if the Library does not fully fund their medical insurance, it is not a collective bargaining agreement issue; the Borough funds the insurance and therefore must be present at the negotiations.

Ms. McColl stated although the Council was not present at negotiations, the appointed Board of Trustees were.

Mr. Moscaritolo explained to Ms. McColl that the Mayor and Council cannot delegate away their authority with regards to the budget.

Ms. McColl stated the Library is contributing to the cost of its healthcare as requested by former CFO, Gene Vinci.

Mayor DeBari stated there are certain items that are Borough Policy and should not be part of any contract negotiations.

Council President DeLucia stated the President of the Library Board of Trustees made numerous attempts to speak with the Mayor and those at the Borough Hall to discuss the Library contract, to no avail.

The Administrator noted that statement was untrue; she spoke to Mr. Harmatz 3 times and the only question he had was with regard to salaries, which she provided to him.

Ms. McColl stated that 1/3 of a mil for 2009 is less than 2 percent.

Councilwoman Subrizi noted the total cost for running the Library is \$760,000 as an operating budget with an additional \$80,000 for medical coverage.

Mayor DeBari noted in the event of inclement weather the Library should not close; further stating if the Borough Hall remains open, then all other Borough buildings should as well.

Councilman Putrino questioned if there was any discussion of what is to be done if the State Legislature decides to cut the mil formula.

RESOLUTIONS:

- 2009:49 Closed Session
- 2009:50 Payment of Bills and Vouchers
- 2009:51 Approve cancellation of old outstanding checks
- 2009:52 Approve extension to Tax Assessor appointment
- 2009:53 Approve CPI adjustments to LOSAP as per Local Finance Notice 2008-26
- 2009:54 Oppose League of Municipality adoption of Resolution 2008-03
- 2009:55 Approve reappointment of Zoning Officer – Maria Sapuppo
- * 2009:56 Approve Raffle License 2009:03
- * 2009:57 Authorize Boswell McClave Engineering to proceed with the New Jersey Environmental Infrastructure Trust 2009 Sanitary Sewer Program

VOTE ON RESOLUTIONS

The Mayor stated that resolutions 2009:53 and 2009:57 would be pulled from the consent agenda for a separate vote.

Councilman Putrino made a motion to approve resolution 2009:53. Councilman Bachmann seconded the motion.

For the motion: Bachmann, Duffie, DeLucia, Putrino

Against the motion: none

Abstain: Subrizi

Council President DeLucia made a motion to approve resolution 2009:57. Councilwoman Duffie seconded the motion.

For the motion: Duffie, DeLucia, Subrizi, Putrino

Against the motion: Bachmann

Council President DeLucia made a motion to approve resolutions 2009:49 through 2009:52 and 2009:54 through 2009:56. Councilwoman Duffie seconded the motion. All present in favor, none opposed.

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

CLOSED SESSION:

1. Personnel

Councilman Bachmann made a motion to go back into open session. Councilwoman Subrizi seconded the motion. All present in favor, none opposed.

ADJOURNMENT

Councilman Bachmann made a motion to adjourn. Councilwoman Subrizi seconded the motion. All present in favor, none opposed. Time 11:56 PM.

Respectfully submitted,



Colleen Naumov
Deputy Borough Clerk