

**New Milford Zoning Board of Adjustment
Work Session/Reorganization meeting
January 8, 2019**

Chairman Schaffenberger called the Work/Reorganization Meeting Session of the New Milford Zoning Board of Adjustment to order at 7:38 pm and read the Open Public Meeting Act.

ROLL CALL

Mr. Adelung	Absent
Ms. Hittel	Present
Mr. Loonam	Present
Mr. Rebsch	Present
Mr. Seymour	Present
Mr. Stokes	Present
Mr. Weisbrot	Present
Mr. Schaffenberger- Chairman	Present
Mr. Sproviero - Attorney	Present

REORGANIZATION – 2019

The Board Attorney swore in Mr. Levin for a two year term as alternative 2 expiring 12/31/19.
The Board Attorney swore in Ms. Hittel for a two term as alternative 1 with an unexpired term expiring 12/31/20.

The Board Attorney swore in Mr. Rebsch for a four year term as a full member with a term expiring 12/31/22.

The Board Attorney swore in Mr. Weisbrot for a four year term as a full member with a term expiring 12/31/22.

The Chairman called for a motion to dissolve the firm of Boswell Engineering.

Motion made by Mr. Loonam, seconded by Mr. Rebsch and carried by all.

The Chairman called for a motion to dissolve the legal counsel of Scott Sproviero, Esq.

Motion made by Mr. Loonam, seconded by Mr. Weisbrot and carried by all.

The Chairman called for a motion to dissolve Vice Chairman from their obligation to the Zoning Board.

Motion made by Mr. Rebsch, seconded by Mr. Weisbrot and carried by all.

The Chairman called for a motion to dissolve Chairman from their obligation to the Zoning Board.

Motion made by Mr. Weisbrot, seconded by Mr. Loonam and carried by all.

Meeting turned over to the senior member, Mr. Schaffenberger.

Mr. Schaffenberger called for a motion to nominate a Chairman for 2019.

Motion made by Mr. Weisbrot to nominate Karl Schaffenberger, seconded by Mr. Rebsch.
The motion passed on a roll call as follows:
For the motion: Members Weisbrot, Rebsch, Loonam, Seymour, Stokes and Hittel.
Abstain: Member Schaffenberger
No other nominations were made.

The Chairman called for a motion to nominate a Vice Chairman for 2019.
Motion made by Mr. Seymour to nominate Mr. Loonam, seconded by Mr. Weisbrot.
The motion passed on a roll call as follows:
For the motion: Members Seymour, Weisbrot, Rebsch, Stokes, Hittel and Schaffenberger.
Abstain: Mr. Loonam
No other nominations were made.

The Chairman called for a motion to nominate a Board Attorney for 2019.
Motion made by Mr. Rebsch to nominate Scott Sproviero, seconded by Mr. Loonam.
For the motion: Members Rebsch, Loonam, Seymour, Stokes, Weisbrot, Hittel and Schaffenberger.

The Chairman called for a motion to appoint an Engineer for 2019.
Mr. Loonam said the Board has just relieved Boswell from their obligation but noted that the Mayor and Council had entered into a contractual obligation years ago. Mr. Loonam did not understand why we relieved them from their obligations if the Board had no choice but to hire the engineer. Mr. Loonam believed that Boswell Engineering has been bought out by another entity. Mr. Loonam asked if the Mayor and Council could enter into a contract that forced future Mayor and Councils to continue to agree to the contract. Mr. Loonam asked if the Mayor and Council were allowed to do this and how new management affects the contract. Mr. Loonam asked if the Board could relieve Boswell from their obligations. Mr. Loonam felt the right thing to happen would have RFQs submitted for Engineering. He said they were an autonomous board and felt they should have the ability to work as one. He explained if the Board received an RFQ from Boswell, he was not saying the board would not hire them again but it was a procedural issue.

The Board Attorney said the actions of a prior Mayor and Council do bind future Mayor and Councils because it is the institution of the corporate body politic of the Borough of New Milford that remains consistent. Mr. Weisbrot said since we have relieved Boswell and if the board does not further appoint them, was the Board breaching the contract with Boswell. The Board Attorney said in 2017, the Mayor and Council entered into a contract with Boswell Engineering to serve as the Borough Engineer for a three year period. A specific scope of services were set forth which is incorporated in the contract which scope of services includes representation of general municipal engineering matters as well as the two land-use boards. Boswell and the Mayor and Council have an expectation of entitlement to do work that is covered by the scope of services. He did not want to say it might result in a breach but felt there may be claims to be served. Mr. Weisbrot did share Mr. Loonam's concerns about why we were dissolving a contract and why we were voting to appoint someone if there is already a contract in place. Mr. Weisbrot had a legal concern to the extent that the board was taking actions that seemed to be superseded by other agreements and contracts. The Board Attorney said that it why it has been in the past

years, the practice of the board to recognize the existence of the contract between the Borough and the engineer and recognizing Boswell as the Engineer who shall perform the duties of board engineer as part of their contract. Mr. Weisbrot agreed with Mr. Loonam that this year there has been a change with Boswell Engineering and the Board had no say about it. The Board Attorney said he has already had some discussion with the Borough Attorney expressing the feeling of the board asking why they have not gone out on their own RFQs to individually retain and engage our engineer. The Board Attorney said there was a couple of answers. Mr. Weisbrot said one was the Board does not have the money. The Board Attorney agreed that they did not have the money and the borough controls the budget and currently there is no budget allocation for payment of the board's engineer. Mr. Sproviero said he already suggested, which will require significant follow-up both from a legal and political perspective, to put at a minimum the zoning board in a position where funding would be available for an engineer and they could engage professionals of the board's choosing in lieu of being bound by a contract that has been entered into by the Mayor and Council.

The Chairman said the Board has had this discussion annually but this year is different. One reason was that Boswell has changed hands. The Board Attorney did know the full extent of the transactions but added that many of the principals and the associate engineers were still with Boswell Engineering. The Chairman noted that Ms. Batistic is no longer with Boswell Engineering. The Board Attorney felt that was more of an issue with the Mayor and Council and they did not have a concern with it. The Chairman asked Mr. Sproviero that looking ahead had he already started the dialog with the Borough Attorney regarding the Board's wishes to request RFG's for an engineer. Mr. Sproviero said yes. The Chairman asked if he thought the Mayor and Council would think this was a good idea. The Board Attorney said it was a lawful idea and it was an idea that has been litigated and bound that the autonomous authority can choose their professionals. Mr. Sproviero said he is aware that certain cases have challenged and not been successful where the Mayor and Council has said the board can hire whoever they want but they would not fund them.

Mr. Loonam felt with this board it was very important for them to rely on smaller outfits because this was a small board. He said within the last 5 years, there was an application that required a traffic engineer and that traffic expert hired for the board did not represent the firm very well. Mr. Loonam thought they should be able to control it and should have more say on the expert that would represent the board. He stated there was nothing personal against any specific engineering firm. He commented that the engineering firm may have restructured or changed in some capacity. The Board Attorney stated that he was not aware of what the terms are in the existing contract to offer any opinion. Mr. Loonam said the board has just relieved Boswell Engineering. The Board Attorney said yes and the board has always recognized Boswell Borough Engineer as the boards engineering expert. Mr. Loonam asked if the board was not hiring them why do we need to recognize them. Mr. Sproviero said if the board did not adopt the resolution a representative from Boswell would be at the meeting anyway. Mr. Loonam clarified that if they voted no on this, it would not matter but rather be a protest to the system. The Board Attorney agreed.

The Chairman said that for years he felt they should be able to do this since they were an autonomous body and clarified that they were working towards that now. The Board Attorney

said that process has started with discussion in November and December 2018. The Chairman asked if this will continue and they somehow would be able to do this. The Board Attorney said discussion will continue but whether or not they will result in what the board is looking for, he could not promise.

Mr. Weisbrot agreed there should be more autonomy but if the board does not have it because of the law, rules or contracts then they should not keep discussing it. He felt they should not dissolve or re-nominate. He was in agreement with Mr. Loonam but said there might be considerations that he was not aware of legally and financially.

The Chairman asked if they could have not relieved Boswell. The Board Attorney said yes. Mr. Weisbrot asked if this vote was overwhelming against it, would that be reported to the Mayor and Council. The Board Attorney said yes and said it would open up a whole new can of worms because what happens from there would be questions on what is the board doing and what are you expecting to happen. Mr. Weisbrot was okay if this is how it has to be but did not want to have this discussion every year.

The Board Attorney read from the resolution, “Whereas, the Board is desirous of continuing to recognize Boswell Engineering, Borough Engineer to the Borough of New Milford, as the Board’s engineering expert with respect to applications for development considered by the board..”

The Chairman called for a motion to recognize the appointment of Boswell Engineering as engineer for the Zoning Board of Adjustment for 2019.

Motion made by Mr. Stokes, seconded by Ms. Hittel.

For the motion: Members Stokes, Hittel, Seymour, Schaffenberger

Against the motion: Members Loonam, Rebsch, Weisbrot

The Chairman stated that Ms. Batistic would no longer represent the town or boards.

The Chairman wanted to thank Ms. Batistic for her dedicated service over the years. He said that she was fair, impartial and accessible and all the things that the board likes in an engineer. The Chairman also added that the new representative from Boswell Engineering for the zoning board was Nicki Louloudis.

Ms. Louloudis introduced herself to the board and discussed her experience and qualifications to the board.

REVIEW MINUTES OF THE WORK SESSION – December 11, 2018

The Board Members reviewed the minutes and there were no changes.

REVIEW MINUTES OF THE PUBLIC SESSION – December 11, 2018

The Board Members reviewed the minutes and there were no changes.

Motion to close the work session was made by Mr. Rebsch, seconded by Mr. Stokes and carried by all.

New Milford Zoning Board of Adjustment

Public Session January 8, 2019

Chairman Schaffenberger called the Public Session of the New Milford Zoning Board of Adjustment to order at 8:22 pm and read the Open Public Meeting Act.

ROLL CALL

Mr. Adelung	Absent
Ms. Hittel	Present
Mr. Levine	Present
Mr. Loonam – Vice Chairman	Present
Mr. Rebsch	Present
Mr. Seymour	Present
Mr. Stokes	Present
Mr. Weisbrot	Present
Mr. Schaffenberger-Chairman	Present
Mr. Sproviero - Attorney	Present

PLEDGE OF ALLEGIANCE

OFFICIAL MINUTES OF THE WORK SESSION – December 11, 2018

Motion to accept the minutes was made by Mr. Rebsch, seconded by Ms. Hittel and carried by all.

OFFICIAL MINUTES OF THE PUBLIC SESSION – December 11, 2018

Motion to accept the minutes was made by Mr. Rebsch, seconded by Ms. Hittel and carried by all.

As there was no further business to discuss, a motion was made to close by Mr. Rebsch, seconded by Ms. Hittel and carried by all.

Respectfully submitted,
Maureen Oppelaar