

## REGULAR MEETING OF JULY 16, 2013

Deputy Mayor Baratta called the meeting to order at 7:30 p.m.

In accordance with the Open Public Meetings Act, annual notice of all meetings of the Borough of Fair Lawn was published in "The Record" issue of December 14, 2012. Notices were also posted on the bulletin board located on the first floor of the Municipal Building; copies were mailed to The Community News and posted on the Borough of Fair Lawn website. The annual notice identified the meeting location and the time of Council Meetings and Work Sessions.

**PRESENT:** Deputy Mayors Baratta and Trawinski, Councilmembers Peluso and Swain.

**ABSENT:** Mayor Cosgrove.

**ALSO PRESENT:** Acting Manager Van Kruijning, Municipal Clerk Kwasniewski and Attorney Mondello.

### COUNCIL COMMENTS

Councilmember Swain reported that the Arts Council is having a photo contest entitled "A Day in the Life of Fair Lawn" that will run from September 8<sup>th</sup> through 14<sup>th</sup>. Everyone is encouraged to take pictures in Fair Lawn during that time period and submit their photos by September 21<sup>st</sup>. There will be an exhibit featuring selected photographs.

The ADA Committee is continuing their fundraising efforts for the ADA Playground. The High School students held a bake sale that raised \$280, Sunrise Rotary donated \$750 from the proceeds of the Service above Self Dinner and the High School Interact Club donated \$1,100 from the Cut-a-thon. The High School and Middle School students have raised \$5,000 so far. Anyone interested in making a donation can either contact her or one of the ADA Committee Co-chairs.

Councilmember Swain stated that the Knights of Pythias will be holding an "Antiques Road Show" on November 10<sup>th</sup>, which will allow people to find out how much an item they have always wondered about is worth. Half of the proceeds will benefit the Naugle House and the other half will go to the Knights of Pythias charities fund.

She concluded by stating that there was a lot of discussion last week about the Vanderbeck property and there has been some misinformation. She asked Acting Manager Van Kruijning and Attorney Mondello for a status update so that the Council can have all the facts and be kept apprised of what is happening.

Councilmember Peluso reported that the Garden Committee is still mulching. Volunteers are welcome. He thanked the various sponsors of the Fireworks Celebration, the Recreation Department, the Police Department and all the volunteers who helped out. It was a great event, although thunderstorms forced them to begin the program a little earlier than usual. He reminded everyone that Memorial Pool is open and looks great. It is a great place to spend time with the family.

Deputy Mayor Trawinski stated that Officer Burgis was hit at the intersection of Plaza Road and Morlot Avenue while responding to an emergency call. Thankfully he is doing well. They should never forget to thank all their first responders, especially their Police officers.

Deputy Mayor Baratta stated that they are in the middle of a heat advisory. Residents can stop by the Community Center to cool off. Special precautions should be taken for the elderly, and pets should not be left in cars.

The Animal Shelter in Teterboro is in need of newspapers to line the cages. Residents wishing to drop off papers can leave them in the box outside the door of the shelter.

**ORDINANCE ON SECOND READING:**

Upon motion by Deputy Mayor Trawinski and a second by Councilmember Swain, it was unanimously agreed to read the following ordinance by title and open the time for public comments.

**ORDINANCE NO. 2283-2013**

**AN ORDINANCE FIXING THE SALARIES OF CERTAIN EMPLOYEES OF THE  
BOROUGH OF FAIR LAWN, BERGEN COUNTY, NEW JERSEY AS AMENDED**

There being no comments by the public, upon motion by Councilmember Swain and a second by Deputy Mayor Trawinski, it was unanimously agreed to close the time for public hearing.

There being no discussion, upon motion by Councilmember Swain and a second by Deputy Mayor Trawinski, Resolution No. 255-2013 adopting Ordinance No. 2283-2013 was unanimously passed.

Upon motion by Deputy Mayor Trawinski and a second by Councilmember Swain, it was unanimously agreed to read the following ordinance by title and open the time for public comments.

**ORDINANCE NO. 2284-2013****BOND ORDINANCE APPROPRIATING \$2,267,700, AND AUTHORIZING THE ISSUANCE OF \$2,154,315 BONDS OR NOTES OF THE BOROUGH, FOR VARIOUS IMPROVEMENTS OR PURPOSES AUTHORIZED TO BE UNDERTAKEN BY THE BOROUGH OF FAIR LAWN, IN THE COUNTY OF BERGEN, NEW JERSEY**

There being no comments by the public, upon motion by Councilmember Swain and a second by Councilmember Peluso, it was unanimously agreed to close the time for public hearing.

Upon motion by Deputy Mayor Trawinski and a second by Councilmember Peluso, Resolution No. 256-2013 adopting Ordinance No. 2284-2013 was discussed.

Councilmember Swain stated that the Ordinance covers many items, including a Lightning Warning System that she felt was very necessary.

There being no further discussion, Resolution No. 256-2013 adopting Ordinance No. 2284-2013 was unanimously passed.

Upon motion by Councilmember Peluso and a second by Deputy Mayor Trawinski, it was unanimously agreed to read the following ordinance by title and open the time for public comments.

**ORDINANCE NO. 2285-2013****BOND ORDINANCE PROVIDING FOR THE IMPROVEMENT OF VARIOUS ROADS IN AND BY THE BOROUGH OF FAIR LAWN, IN THE COUNTY OF BERGEN, NEW JERSEY, APPROPRIATING \$510,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$484,500 BONDS OR NOTES OF THE BOROUGH FOR FINANCING SUCH APPROPRIATION.**

There being no comments by the public, upon motion by Deputy Mayor Trawinski and a second by Councilmember Swain, it was unanimously agreed to close the time for public hearing.

There being no discussion, upon motion by Deputy Mayor Trawinski and a second by Councilmember Swain, Resolution No. 257-2013 adopting Ordinance No. 2285-2013 was unanimously passed.

Upon motion by Deputy Mayor Trawinski and a second by Councilmember Swain, it was unanimously agreed to read the following ordinance by title and open the time for public comments.

**ORDINANCE NO. 2286-2013**

**BOND ORDINANCE PROVIDING FOR THE IMPROVEMENT OF THE WATER SUPPLY AND DISTRIBUTION SYSTEM IN AND BY THE BOROUGH OF FAIR LAWN, IN THE COUNTY OF BERGEN, NEW JERSEY, APPROPRIATING \$326,400 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$310,080 BONDS OR NOTES OF THE BOROUGH FOR FINANCING SUCH APPROPRIATION.**

There being no comments by the public, upon motion by Deputy Mayor Trawinski and a second by Councilmember Swain, it was unanimously agreed to close the time for public hearing.

Upon motion by Councilmember Swain and a second by Deputy Mayor Trawinski, Resolution No. 258-2013 adopting Ordinance No. 2286-2013 was discussed.

Deputy Mayor Trawinski stated that this Ordinance and Ordinance No. 2288-2013 are the last of the Bond Ordinances that he will have had the privilege to vote on. In the 1980's and early 1990's there was a notion that they could save money by neglecting Capital infrastructure, and then the Borough had to spend the next six years catching up. He encouraged future Councils not to neglect the Borough's infrastructure as it is an absolute necessity. He knows the Councilmembers he has served with understand and appreciate that fact.

There being no further discussion, Resolution No. 258 -2013 adopting Ordinance No. 2286- 2013 was unanimously passed.

Upon motion by Deputy Mayor Trawinski and a second by Councilmember Peluso, it was unanimously agreed to read the following ordinance by title and open the time for public comments.

**ORDINANCE NO. 2287-2013**

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN, 2000 BY AMENDING AND SUPPLEMENTING CHAPTER 160 ENTITLED "PARKS AND RECREATION AREAS" MORE SPECIFICALLY SUBSECTION 160-6 ENTITLED "MEMBERSHIP FEES"**

There being no comments by the public, upon motion by Deputy Mayor Trawinski and a second by Councilmember Swain, it was unanimously agreed to close the time for public hearing.

Upon motion by Deputy Mayor Trawinski and a second by Councilmember Swain, Resolution No. 259-2013 adopting Ordinance No. 2287-2013 was discussed.

Deputy Mayor Trawinski stated that when they adopted the original Ordinance on membership fees for the Community Center they knew it would need to be tweaked from time to time. This is a positive change that makes the facility available at no cost Monday through Thursday from 6:30 to 10:00 p.m. for Civic and Service organizations who contribute so much to the Borough.

There being no further discussion, Resolution No. 259-2013 adopting Ordinance No. 2287-2013 was unanimously passed.

Upon motion by Councilmember Peluso and a second by Councilmember Swain, it was unanimously agreed to read the following ordinance by title and open the time for public comments.

### **ORDINANCE NO. 2288-2013**

#### **AN ORDINANCE TO PROVIDE FOR A CERTAIN CAPITAL IMPROVEMENT IN THE BOROUGH OF FAIR LAWN AND TO PROVIDE FOR THE RECEIPT, ACCEPTANCE AND DEPOSIT OF FUNDS THEREFORE (CHANDLER DRIVE, CALYNE DRIVE, CARLTON PLACE, CHADWICK PLACE AND 30<sup>TH</sup> STREET)"**

There being no comments by the public, upon motion by Deputy Mayor Trawinski and a second by Councilmember Swain, it was unanimously agreed to close the time for public hearing.

There being no discussion, upon motion by Councilmember Swain and a second by Deputy Mayor Trawinski, Resolution No. 260-2013 adopting Ordinance No. 2288-2013 was unanimously passed.

### **PUBLIC COMMENTS ON CONSENT AGENDA ITEMS ONLY**

Upon motion by Councilmember Peluso and a second by Deputy Mayor Trawinski, the time for public comments on Agenda items only was opened.

Michael Sternat, Esq, stated that he represents the Dubes. The house was appraised at an "as is" condition. There is no boiler in the house because of the flood. The Ordinance states that they need a C.O. to sell the home, which they cannot obtain without a boiler. They can provide smoke and carbon monoxide detectors but it seems like a waste of money if they are going to demolish the house.

Attorney Mondello asked for permission to speak to the Building Department and Fire Marshall about waiving those two requirements. Deputy Mayor Trawinski stated Mr. Sternat's request makes sense since they are going to demolish the house. Councilmember Peluso asked that Attorney Mondello notify the Construction Official that the Council supports waiving these requirements.

There being no further comments from the public, upon motion by Councilmember Swain and a second by Deputy Mayor Trawinski, the time for public comments was unanimously closed. /

### **RESOLUTIONS BY CONSENT #17-2013**

Deputy Mayor Trawinski stated that he recused himself on the discussion regarding the Ethics Board that took place during the June 11<sup>th</sup> Closed Session and he does not believe he should vote on approving the minutes. Attorney Mondello believed that the vote on the minutes pertained to whether they were accurate and depicted what occurred. Deputy Mayor Trawinski explained that he left the meeting once he was recused so he does not know what occurred afterwards. Attorney Mondello stated that since he was not present he should not vote. Municipal Clerk Kwasniewski stated that they can move the Closed Session minutes for June 11, 2013 to Resolution No. 272-2013.

Upon motion by Deputy Mayor Trawinski and a second by Councilmember Peluso, Consent Agenda 17-2013 containing the following items was unanimously passed. Deputy Mayor Trawinski stated that with respect to Resolution No. 263-2013 he recused himself from the Radburn Study but was present to hear the discussion. He is following the advice of Attorney Mondello and since it is a procedural vote, will vote on accepting the minutes since they reflected what he heard.

- a. Resol. #261-2013 – Refund of Overpayment of Taxes
- b. Resol. #262-2013 – Approval of Minutes:
  - Regular Meeting 5/28/13
  - Work Session 6/11/13
  - Closed Session 6/11/13 Removed
- c. Resol. #263-2013 – Radburn Study
- d. Resol. #264-2013 – Authorizing Acceptance of Electronic Payments
- e. Resol. #265-2013 - Endorsement of Treatment Work Approval  
Application Landmark at Radburn
- f. Resol. #266-2013 - Award of Bid: Ductile Iron Pipes, Fittings & Valves
- g. Resol. #267-2013 - Award of Bid: Trailer Mounted Generator
- h. Resol. #268-2013 - Authorizing the "At Risk" Purchase of 4-50 2nd  
Street
- i. Resol. #269-2013 - Authorizing a Fee for Non-Food Items at the  
Farmer's Market
- j. Resol. #270-2013 - Appointments to the Fair Lawn Borough Gardens  
Committee
- k. Resol. #271-2013 - Confirmation of Fire Board Actions

### **RESOLUTION NO. 272-2013 - Approval of Minutes:**

Work Session 5/21/13

Special Meeting 5/21/13  
Closed Session 5/21/13  
Regular Meeting 6/18/13  
Closed Session 6/11/13

Upon motion by Councilmember Peluso and a second by Councilmember Swain, Resolution No. 272-2013 was passed with Deputy Mayor Baratta abstaining on the May 21<sup>st</sup> meetings and Deputy Mayor Trawinski recused.

### **PUBLIC COMMENTS**

Upon motion by Councilmember Peluso and a second by Deputy Mayor Trawinski, it was unanimously agreed to open the time for public comments.

Howard Mark, 12-23 Ferry Heights asked about the water tower. Deputy Mayor Baratta stated that the water tower has been funded and will be painted in September. Mr. Mark expressed concern about the land swap for the Vanderbeck House. He felt it was important to keep a visual barrier and protect wildlife habitat. He did not want to see a big building at the entranceway to Fair Lawn. He was concerned about the historical content and flood runoffs. He spoke to Ms. Armstrong at Green Acres, who advised him to read Chapter 26 for the rules and regulations.

H. Gelfand, 230 Hall Street, Harrisburg, Virginia asked for a moratorium on demolition of the Vanderbeck House. He noted that the Council has twice voted for such a moratorium; once for the Cadmus House and once for the Naugle House. If the Council is as serious as they say, this is a step they should take. Although the Mayor and Deputy Mayors state that the developer is interested in saving the house, his plans indicate he intends to bulldoze the Vanderbeck house if he cannot get a land swap. The Naugle House will be threatened by driveways, traffic and parking lots, as well as the flooding that will result from removing trees.

A moratorium would allow the chance to ask the taxpayers what they would like to see happen with the properties, give the Council a chance to consult with County officials to determine if grants could be utilized to preserve the property as open space and determine from the estate if they intend to demolish the house and if so, if the Council would try to salvage the sandstone and wood or move it to another location. It would give the Council the chance to work on vacating the easement between the Naugle House and the Saddle River and engage the developer in a dialogue about constructing homes on the property to protect both houses and the trees. It would also provide a chance to resolve plans to save and restore the Naugle House, as the public expects them to do.

He asked the Council to become activists in this effort rather than intimidating, threatening, belittling and berating those who work to preserve such houses and

their historic landscapes. They are owed an apology. An open-minded, fair dialogue about these issues seems a better solution than claiming that they lied in the article in The Record. He acknowledged that they misstated that the developer was seeking a land swap, but the Council supports that. They misstated that the Council wished the developer to seek a use variance change and not a Zoning change, as they were not aware of that when they wrote the article. He felt the editorial staff chose an appropriate title – whether by bulldozer or poor design both houses are threatened.

He concluded by stating that rather than treat concerned citizens like poorly behaved children or criminals, he asked that the Council treat everyone with respect and civility, and create the opportunity for a dialogue that will lead to a plan which actually saves the houses.

Pam Coles, 13-34 George Street thanked the Council for pushing the cleanup of Route 208, which is starting to look good due to the tree trimming and the road clean up. She has noticed graffiti or tagging on the overpass of Route 208 at the intersection of Route 4. Acting Manager Van Kruijning will discuss this with the Police Department.

Ms. Coles inquired about the cell tower going out to bid. Attorney Mondello stated that he will give a copy of Mr. O'Scanlon's letter dated July 8, 2013 to Ms. Coles. Deputy Mayor Trawinski stated that there is no market at this time.

Ms. Coles reminded the Council that several months ago she asked for a resolution to protect the Naugle House. She was told not to worry because the property near the Naugle House cannot be developed due to Green Acres' strict requirements. She expressed concern that the current plans show development on a large area of Green Acres land. It has been mentioned that the Council supports the development, but yet they are not going to rezone it. Deputy Mayor Baratta stated that the Council never stated that they were supporting any plan, but Ms. Coles was correct in stating that the Council was not going to rezone it.

Deputy Mayor Trawinski stated that Ray Richter reported at the Open Space Meeting that the developer had requested that the Council consider rezoning the property, as he did in an initial meeting he attended with Mayor Cosgrove. The Council decided that they will not rezone the property. The developer was told they would like to see a plan that achieves a balance of preserving the Vanderbeck house and that they absolutely would not support moving the Naugle House. They were asked if they would go to the State House Commission to get permission to remove the Green Acres restriction for a possible land swap with the developer, but that is the developer's obligation. Most importantly, they pointed out to the developer again that there are three restrictions on the property.

The first protection is the conditions that were imposed when they accepted Green Acres funding to acquire the property and the Naugle House, with the exception of 4/10 of an acre that immediately surrounds the Naugle House for which they did not use Green Acres funding. That piece of property is technically not protected by Green Acres restriction. When they acquired the Naugle House and property, and the rest of the property with County Historic Preservation money, they put a protective deed of conservation on it as required by the County and upon the recommendation of the Historic Preservation Commission. A copy of the recorded deed is in the Municipal Clerk's office.

Ms. Coles asked if there is a protective deed on the Naugle House. Deputy Mayor Trawinski stated in addition to the County deed, the Council unanimously agreed to put their own protective easements on the entire tract, although they had no obligation to do so since they used Borough Open Space Trust Fund money. Technically, there are three easements on the land surrounding the Naugle House, except for the small carve out piece. They did that because Green Acres told them they could not get the funding for rest of the tract unless they took the historic property out. They are fully protected.

They are talking to a developer who appears to be reasonable. They have made no decisions collectively other than to listen in an effort to strike a balance between preserving the Vanderbeck house at no cost to the taxpayers or Borough, since they don't have \$2.2 million and listening to what the Historic Preservation Commission says. When and if a plan is officially presented to the Council, they will discuss it and make their decision. Absolutely no decisions have been made. The headline stating the Naugle House faces demolition is not accurate. When the developer presented his first sketch, Mayor Cosgrove told him "no" at the Council's request. In one sketch he wanted to move the Naugle House, and the Council said "no". The developer then met with the Historic Preservation Commission and the Mayor and the developer was informed that the Council would consider other alternatives if and only if the Historic Preservation Commission recommended that they do so. Mr. Gelfand was at the meeting when Mr. Richter told them that. Ms. Coles stated that she was also at the Open Space meeting and none of the information presented that night indicated that the Vanderbeck House was in danger. Deputy Mayor Trawinski pointed out that Mr. Richter said he was very concerned that if they did not work out a reasonable balance with the developer, the house would be demolished.

Deputy Mayor Trawinski stressed that the Council does not have a plan. Mr. Richter was crystal clear that the Council would consider whatever plan the Historic Preservation Commission recommended. Ms. Coles said that her interpretation was that the Council was supporting the plan and at the recommendation of the Council, the Commission should support the plan as well.

Deputy Mayor Baratta stressed that the Council has not seen any plans. Councilmember Swain informed Ms. Coles that she has requested a factual update of exactly where they stand from Acting Manager Van Kruiningen. She does not know all the facts either. Ms. Coles agreed that they should get the facts straight so they can understand what is going on.

Jennifer Rothschild, 49 Washington Avenue, South Nyack, NY stated she was attending to follow up on what occurred at last week's meeting where some unpleasant statements were made to Mr. Gelfand, such as "he should not show his face in Fair Lawn again" or "I see the trash hasn't been taken out yet". She finds those kinds of comments from public officials shocking, rude and unbecoming of people in positions of power. As an attorney, she would interpret such statements to be violative of the Open Space Meeting Act.

Deputy Mayor Baratta advised Ms. Rothschild to obtain a tape of the meeting, since some of the things she quoted were not said at the meeting.

Deputy Mayor Trawinski asked Ms. Rothschild what section of the Open Public Meetings Act they violated. Ms. Rothschild stated she did not say it was violative of the entire act, but rather the spirit of the act. If he is suggesting someone is not welcome at a public meeting she felt that was violative. Deputy Mayor Trawinski stated that he was the one who made a statement but he did not say the person was not welcome at a public meeting; he stated that he hoped the person never set foot in Fair Lawn again.

Ms. Rothschild asked if Deputy Mayor Trawinski thought his behavior was befitting of a public official. Deputy Mayor Trawinski stated that the person had a forum of the entire readership of The Record. Ms. Rothschild responded that the person was entitled under the First Amendment. Deputy Mayor Trawinski stated that someone is absolutely is entitled if they are accurate. He had a forum of a dozen people. There is a difference between being entitled to your opinion and misrepresenting the facts. As an attorney she knows that. Someone misrepresented the facts to her. He looks forward to her finding the section of the tape or the minutes where someone said "the trash hasn't been taken out" because it does not exist. As an attorney, he knows that his job is to find out the facts. As a Councilmember he is entitled to his opinion and his opinion is that Mr. Gelfand, who had nothing to do with the preservation of the Naugle House unlike Deputy Mayor Baratta and himself who ran on the proposition of saving the house when it was zoned by the prior Council for townhouses, and unlike this entire Council who worked very hard and listened to the Naugle Kids and the Historic Preservation Commission and voted to spend \$1.7 million to acquire the property and then put easements on the property.

Ms. Rothschild concluded by commending the Borough of Fair Lawn for acquiring the Naugle House and hoping that they continue along that path with the Vanderbeck House, the surrounding property and all the trees.

There being no further comments, upon motion by Deputy Mayor Trawinski and a second by Councilmember Peluso, the time for public comments was unanimously closed.

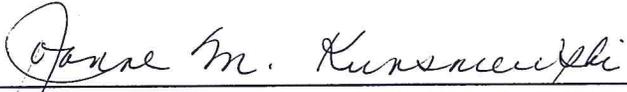
### MANAGER'S REPORT

Acting Manager Van Kruijning asked to return to item 6, Manager's Report. Deputy Mayor Baratta apologized for skipping that item. Acting Manager Van Kruijning stated that the Manager's Report was submitted without any change. Additional copies are available on the table. If anyone has any questions, they should contact him.

### ADJOURNMENT:

Upon motion by Deputy Mayor Trawinski and second by Councilmember Peluso, the meeting was adjourned at 8:25 p.m.

Respectfully submitted,

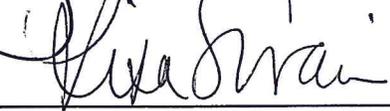
  
 \_\_\_\_\_  
 Joanne M. Kwasniewski, RMC/CMC/MMC  
 Municipal Clerk

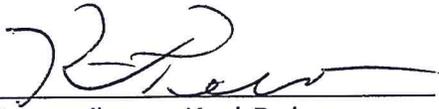
The undersigned have read and approve the foregoing minutes.

ABSENT

\_\_\_\_\_  
 Mayor John Cosgrove

  
 \_\_\_\_\_  
 Deputy Mayor Jeanne Baratta

  
 \_\_\_\_\_  
 Councilwoman Lisa Swain

  
 \_\_\_\_\_  
 Councilman Kurt Peluso

  
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 Deputy Mayor Ed Trawinski