

REGULAR MEETING OF JANUARY 15, 2013

Mayor Cosgrove called the meeting to order at 7:31 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: Mayor Cosgrove, Deputy Mayors Baratta and Trawinski, Councilmembers Peluso and Swain.

ALSO PRESENT: Manager Metzler, Municipal Clerk Kwasniewski, Assistant Municipal Clerk Bojanowski and Attorney Mondello.

SWEARING IN OF NEW POLICE OFFICERS:

Chief Rose was present and introduced the new officers to be sworn in.

Mayor Cosgrove swore in the following: Christopher O'Shaughnessy, Nicholas Synder and John Revetto.

COUNCIL COMMENTS:

Councilmember Peluso felt it was great to see these three officers carry on the tradition other officers have of being volunteers, lifelong residents and even one of them serving our Country.

Councilmember Peluso congratulated Ira Marks on his retirement as OEM Coordinator. The Fair Lawn Fire Department swore in their new officers and he thanked the people who put together the Adopt a Soldier Dinner.

Councilmember Swain also congratulated Ira Marks who just retired. She also offered congratulations to the Fire Officers who were just sworn in and to the Adopt a Soldier program. Councilmember Swain felt this program was so successful and a great program that is able to support people who have served this Country so valiantly. She offered her congratulations to the new Police Officers that were sworn in tonight. She wished Councilmember Peluso a happy birthday.

Deputy Mayor Trawinski echoed what was previously said and congratulations to the three officers sworn in tonight.

He thanked a former veteran who was in the Battle of the Bulge, John Gatens, who he felt was a true American hero. It was an honor to meet him and see him at the dinner. They learned that he was also a POW and was forced to march close to 400 miles. He thanked Mayor Cosgrove, former Mayor Tedeschi, Alan Krutchkoff, Albee Palmieri and the other former Mayors that participated for a very moving and stirring evening.

Deputy Mayor Trawinski cautioned everyone on the weather conditions.

Deputy Mayor Baratta commented that they had a very active week last week. She thanked all the volunteers that put everything together. One of the three new officers was a neighbor of hers whom she has not seen since he was seven years old. She wished them a long, safe, successful tenure in the Borough of Fair Lawn.

Deputy Mayor Baratta reminded everyone that Monday, January 21st is Martin Luther King Day and the Borough offices will be closed.

Deputy Mayor Baratta recognized the people working for FLTV who no one sees because they are working in the basement. They are always here for the meetings and other events. She thanked them for what they do.

Mayor Cosgrove thanked former Mayor Tedeschi and Albee Palmieri for the great event Saturday night for the Adopt a Soldier Platoon. Saturday during the day, he and Manager Metzler accompanied the wounded warrior, David Bixler, who had lost both his legs in Afghanistan to Ground Zero. He thanked Lt. Kneer who arranged the visit because the wounded soldier was greeted with a true hero's welcome. As they walked to Ground Zero, Mr. Bixler walked to the monument without his cane out of respect for the victims of 9-1-1. It was a moving experience to be with a true American hero. They also went to Engine 10 Ladder 10, NYC Fire Department who gave Mr. Bixler a great welcome. Mayor Cosgrove mentioned that one of the Fireman, Vinny DeGennaro, who was a Fair Lawn resident that recognized him. He also thanked Alan Krutchkoff, who was the founder of the Adopt a Soldier Platoon. He and his wife have truly adopted Corp. Bixler and have been doing great things for him.

Mayor Cosgrove mentioned that during the Adopt a Soldier Platoon, there was an 89 year old veteran whose flag pole was broken but it was sixteen feet high. He wanted to get on a six foot stepladder to fix it. On Sunday morning, he, members of Fire Co. 3, Lt. Kneer, Corp. Bixler and Alan Krutchkoff went to his house, hoisted the flag and had a little ceremony.

ORDINANCES ON FIRST READING:

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

ORDINANCE NO. 2258-2013**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN, 2000 BY AMENDING AND SUPPLEMENTING VARIOUS CHAPTERS TO REVISE FEES**

Upon motion by Deputy Mayor Trawinski and a second by Councilmember Swain, Resolution No. 61-2013 introducing Ordinance No. 2258-2013 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.

ORDINANCE NO. 2259-2013**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**

Upon motion by Deputy Mayor Baratta and a second by Deputy Mayor Trawinski, Resolution No. 62-2013 introducing Ordinance No. 2259-2013 unanimously passed.

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

ORDINANCE NO. 2260-2013**AN ORDINANCE FIXING THE SALARIES OF CERTAIN EMPLOYEES OF THE BOROUGH OF FAIR LAWN, BERGEN COUNTY, AND NEW JERSEY IS AMENDED (ASSISTANT DPW SUPERINTENDENT AND DEPUTY FIRE MARSHAL)**

Upon motion by Deputy Mayor Trawinski and a second by Councilmember Swain, Resolution No. 63-2013 introducing Ordinance No. 2260-2013 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.

ORDINANCE NO. 2261-2013

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN, 2000 BY AMENDING AND SUPPLEMENTING CHAPTERS 125 ENTITLED "LAND DEVELOPMENT" AND CHAPTER 94 ENTITLED "FEES" TO REVISE CERTAIN FEES FOR ZONING PERMITS AND TREE REMOVALS

Upon motion by Deputy Mayor Trawinski and a second by Deputy Mayor Baratta, Resolution No. 64-2013 introducing Ordinance No. 2261-2013 was unanimously passed.

Upon motion by Deputy Mayor Baratta and a second by Councilmember Peluso, it was unanimously agreed to read the following ordinance by title.

ORDINANCE NO. 2262-2013

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 49 "AFFORDABLE HOUSING" TO PERMIT A PAYMENT-IN-LIEU OF ON-SITE AFFORDABLE HOUSING IN THE MIXED-USE PLANNED DEVELOPMENT ZONE

Upon motion by Deputy Mayor Trawinski and a second by Councilmember Peluso, Resolution No. 65-2013 introducing Ordinance No. 2262-2013 was unanimously passed.

ORDINANCE ON SECOND READING:

Upon motion by Deputy Mayor Baratta 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. 2257-2013

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, CHAPTER 150 ENTITLED "NOISE" SPECIFICALLY SECTION 150-11 PROHIBITED ACTS

There being no comments by the public, upon motion by Deputy Mayor Baratta 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. 66-2013 adopting Ordinance No. 2257-2013 was discussed.

Councilmember Peluso stated that at the events that they mentioned earlier, someone came up to him to discuss this ordinance. It seemed like it was bothering everyone. He encouraged the residents to bring any issues to their attention. Also, a lot of Police Officers were happy with the ordinance because they had received a lot of calls about the noise and this will allow them to enforce it earlier. He thanked the Borough Attorney who looked at various ordinances from the surrounding area and preparing this ordinance.

Deputy Mayor Trawinski echoed Councilmember Peluso and also thanked him for bringing this to them. He felt this type of issue does not get a lot of press. Tonight 97% of what they have done has been done unanimously. On the rare times that they disagree it's always in the newspapers but there is never a word about the times they agree.

This ordinance is a prime example of how the Council listens to the residents. He has seen it throughout the eleven years he has served on the Council. He reiterated what Councilmember Peluso said, if there are issues of concern, bring it to the Council's attention or to the Manager's attention. The Council does listen and try to do what's right for the residents of Fair Lawn.

There being no further discussion, Resolution No. 66-2013 adopting Ordinance No. 2257- 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.

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

RESOLUTIONS BY CONSENT #3-2013

Upon motion by Deputy Mayor Baratta and a second by Deputy Mayor Trawinski, Consent Agenda #3-2013 containing the following items was unanimously passed.

- a. Resol. #67-2013 – Approval of Minutes
Special Meeting 11/20/12
Work Session 12/4/12

Special Meeting 12/4/12
Closed Session 12/4/12

- b. Resol. #68-2013 - Authorizing Renewal of Massagist License:
Woojung Han at Pure Nails
- c. Resol. #69-2013 – Refund of Overpayment of Taxes
- d. Resol. #70-2013 - Appointment to Rent Leveling Board
- e. Resol. #71-2013 – Supporting a Bill to Amend the Definition of
Hazardous Substances within the Spill
Compensation and Control Act, N.J.S.A. 58:10-
23.11(b)
- f. Resol. #72-2013 – Approving Revised Spending Plan for Affordable
Housing Trust Fund

**RESOLUTION NO. 73-2013 – PROFESSIONAL SERVICES: TAX APPEALS COUNSEL –
JOHN J. O’HARA, III**

Upon motion by Deputy Mayor Baratta and a second by Deputy Mayor Trawinski, Resolution No. 73-2013 was discussed.

Mayor Cosgrove pointed out that John J. O’Hara was the Tax Appeal Counsel last year who billed the Borough \$14,793.90 compared to \$28,681.49 that was billed in 2011, and \$34,846.30 that was billed in 2010. One of the ways he was able to lower the cost was to send the Tax Assessor to the Work Sessions to present the appeals while Mr. O’Hara was available to be reached by phone. By doing this, he was able to cut the bill in half and that is why he was supporting this tonight.

Deputy Mayor Trawinski stated that between 1999 and 2005, the practice of awarding contracts to people who made contributions to one political party or another, was rampant in this Borough. He would like to think that the election of Deputy Mayor Baratta and himself to the Council had something to do with that practice being changed. In 2006, the Council saw that it was wrong and supported one of the campaign items he and Deputy Mayor Baratta ran on which was to eliminate the corrupting practice of pay to play. He felt it was a disguised tax on the taxpayers of Fair Lawn. He was proud that the other Councilmembers in 2006 and 2007 agreed and Fair Lawn now has one of the toughest ordinances in the State of New Jersey banning the corrupting practice of pay to play. This is another example of an appointment being made where there was no pay to play contributions. He will proudly support this because it reduces the fees that they pay. He also pointed out that every single settlement that was brought to them was unanimously approved by this Council.

Councilmember Swain said she was not sure of how accurate those figures were because they had so many appeals before 2012 and that was why the Borough

had the reassessment done. She asked Manager Metzler to provide an analysis of the hours spent on the tax appeals that were provided by the previous attorney compare to the current attorney. Perhaps those numbers may not be as different as they appear now. For that reason and for the reason that they were getting excellent Counsel before from someone who lived in Fair Lawn and did not have to pay travel expense fees, she will be voting against this appointment.

Mayor Cosgrove stated that the Borough did not pay any of Mr. O'Hara's traveling expenses. Councilmember Swain said she had previously brought it up because that was included in the proposal. She asked Manager Metzler to go back to 2010 to check the totals.

Deputy Mayor Baratta stated she will be supporting this appointment because it is half of what they were paying before and in these times this was something they had to look at. She reiterated what Deputy Mayor Trawinski said that every one of those tax appeals that were brought to the Mayor and Council were unanimously accepted. She thought that Mr. O'Hara did a terrific job even by doing it a little different than how it was done in the past. It was a way that saved the Borough a lot of money.

Councilmember Swain commented that the reason they voted unanimously was regardless of who did the work for them if they are able to save this Borough money they would vote for it. She is not partisan when it comes to that.

Councilmember Peluso remembered that when they first appointed Mr. O'Hara, they had given him a fifty percent increase in his hourly rate of pay. The increase also applied to the Borough Attorney who declined to take the pay raise. He thought at this time it was not economically right to reappoint Mr. O'Hara at a higher rate of pay.

There being no further comments, Resolution No. 73-2013 was passed with Councilmember Peluso and Councilmember Swain dissenting.

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.

Pam Coles, 13-34 George Street, thanked Councilmember Peluso for bringing the matter to the Council's attention about the noise from the dumpster pick up.

She expressed her concern about the people honking their horns at the intersection of River Road and Fair Lawn Avenue. She wondered if there was a way to limit the noise. The residents in the area feel it is unnecessary.

Ms. Coles asked Manager Metzler about the status of painting the water tower. Manager Metzler explained that the Borough had already contracted to have the specifications written. It will be going out to bid in March, receipt of bids should be at the end of April, the contract will be awarded in late May and work will not commence until September. As part of the work, the tank has to be drained and Engineering does not want to lose the water pressure from the tank during the summer months. He expected the tank to be draped with the actual work to start in early September. Ms. Coles felt it was an eye sore.

Deputy Mayor Trawinski said when it was done in 1997, they asked the Manager to notify the residents that are adjacent to the water tower of when the work would begin. The residents should be made aware of the draping so they know what's going on. While it is an eyesore, the reason it gets repainted periodically is a maintenance issue. When it was painted in 1997, in the course of it being emptied, 18,000 pinholes were discovered that had to be spot welded. It cost between \$12 and \$20 per pinhole which was unanticipated.

Ms. Coles inquired about the status of the cell tower. Attorney Mondello advised the status remained the same.

Ms. Coles spoke about the revised fees since they have not been changed since 2000. Mayor Cosgrove said it was not 2000. Manager Metzler said the fees were updated in 2008 and Municipal Clerk Kwasniewski stated some fees were changed in 2010. Mayor Cosgrove said the Council reviews them periodically.

Ms. Coles spoke about the overnight parking enforcement. She felt if they could institute it again, they could bring in revenue and keep the streets safe. Manager Metzler urged her to take a look at the monthly Manager's Report because included in that report is a list of summonses that have been issued for the past month by the Police Department. He believed that she would find there was a large number of overnight parking summonses issued. Additionally, there has been a suggestion by the Traffic Safety Officer on how they can move forward in the future in regard to acquiring a permit for an extended period to ease the burden of calling in. That discussion should be on a Work Session agenda in the near future. Ms. Coles stated several times there were cars parked in front of her home for days without being moved and no summonses were issued. Manager Metzler urged her to call him with the tag number but explained that the cars could be there for many reasons. If there is a persistent violation which they feel is not being rectified by the Police Department, they can always call him or the Chief to follow up.

Ms. Coles acknowledged the Council for appointing Mr. O'Hara and bringing down the fees and lowering that portion of the fees.

Jennifer Heist, 66 Pomona Avenue, stated she was a renter. She wondered about the surveys that went out in the spring because she never received one. She asked what action was taken to confirm how many were actually received.

Ms. Heist felt where she lives is very isolated. At this time, they are within walking distance to Walsh Pool. She understood that Fair Lawn All Sports advanced a plan to remove the existing playground and replace it with a much smaller playground. They would end up going to Van Saun Park where it is frowned on to visit playgrounds in other tax areas. People actually ask if they pay taxes.

Ms. Heist asked about the repairs to the Library's roof because the Library had to be closed during the recent storm.

Mayor Cosgrove suggested she contact the Manager's office to see if hers was one of the 127 that were returned by the Post Office.

Maple Avenue is a County road which will have work done to it in the near future. Manager Metzler explained that the intersection of Maple Avenue and Wagaraw Road were first designed by the Borough at the request of the County of Bergen in 1999. Since then the County has requested three revisions of the drawing. In the last sixty days, the County approached the Borough saying they want to add an additional right turn lane from River Road onto Maple Avenue. He and the Municipal Engineer met with the County Engineer and advised them that the Borough of Fair Lawn would not be willing to pay for any more redesign work and believed it was time to get the intersection built. He knew that as late as last week, the County was doing a car count survey. He expects that within the next thirty days he will be meeting with the County with an update as to what they found.

In regard to the survey, he suggested she call his office tomorrow. They will be able to tell her how many were mailed out and if hers was one that was returned. Any surveys that were returned were kept on file.

Ms. Heist said her concern was that some of those mailings were not received at all. She was thinking that many renters would not have been included. Mayor Cosgrove informed her that the response rate was 21% overall.

Deputy Mayor Trawinski stated that when the Manager speaks of the County, residents may think it's an entity that sits in Hackensack but in fact, the County Planner who is responsible for making the recommendation is a Fair Lawn

resident and the former Chairman and still a current member of the Planning Board. When he made his recommendation he felt there may be some better things that could be done there.

Mayor Cosgrove stated that he and Councilmember Peluso met with the Fair Lawn All Sports Association who came up with a plan which is a first step of many. There is no money from the Council to fund this plan which they realize. They want to fundraise to move forward with their plan. Before any plans are officially approved, they will have to be voted on by the Council. The Council wanted to give the Fair Lawn All Sports Association input before they started their fundraising. The Council made it very clear that there was no money in the town budget to build a complex like that.

Ms. Heist said the parking situation at Dobrow Field is already somewhat problematic for the people that go down Harristown Road. She was concerned that Fair Lawn All Sports was asked before the residents were and a plan was advanced that included removing community resources or making them smaller.

Mayor Cosgrove explained that Fair Lawn All Sports came forward with the plan because they use 80% of the complex and the Borough did not want to put the Skate Park in a place where it would have to be moved at a later date. He emphasized that their decisions were far from being made now. All residents will be able to give their input before the Council votes on this.

Deputy Mayor Baratta stated it was not this Council's plan. It was just a concept that came before them. She felt it was a wish list by the Fair Lawn All Sports Association. There were parts of the plan that the Council did not like or wanted for the neighbors in that area.

Ms. Heist realized that Fair Lawn All Sports was an association and easier to contact but she pointed out that the local people need to be consulted.

Mayor Cosgrove said they will respect the rights of the residents. The Fair Lawn All Sports Association has thousands of kids involved in it so they are a partner of the Borough's.

Councilmember Peluso agreed with her having lived on Pomona Avenue. It is the closest park and it was a great point she brought up. They are in the earliest stages and will be reaching out to residents. He would be very hesitant to shrink the playground they do have.

Manager Metzler said they are working with Engineering to get the specifications together to replace the Library roof. The funds to repair this roof were in the 2012 capital budget.

Deputy Mayor Trawinski said that most of the playgrounds in Bergen County or in Passaic County have an open space and recreation plan and most of the towns have received green acres funding to enable some or all of their park facilities to be developed. For those towns that have that plan, under DEP regulations, they cannot preclude people from other municipalities from using their parks. Also, a common misconception is that the Radburn Parks are not available when in fact, they are. The walkways and parks are available for public use.

Catherine Aliotta, 23-05 High Street, thanked Manager Metzler for giving her a copy of the results of the survey. It was organized, neat and understandable.

She stated she was interested in pedestrian safety. She wanted to let the people of Fair Lawn know the safe way to cross an intersection. She has seen people cross the street on the red light and she has seen them not use the crosswalks. Ms. Aliotta explained that she used a flash light to light the way across the street at night. She explained that she wants to be an active member to show people about pedestrian safety. She would appreciate hearing from them.

Mayor Cosgrove reminded her that this Council is concerned about pedestrian safety.

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

CLOSED SESSION – PENDING LITIGATION: DOG ATTACK

Upon motion by Deputy Mayor Baratta and a second by Deputy Mayor Trawinski, the following closed session resolution was unanimously adopted at 8:46 p.m.

WHEREAS, the Open Public Meetings act of the State of New Jersey permits the public to be excluded from certain matters to be discussed by the Governing Body; and

WHEREAS, the Mayor and Council of the Borough of Fair Lawn desire to discuss pending litigation – dog attack; and

WHEREAS, these matters are ones which permit the exclusion of the public from such discussions; and

WHEREAS, minutes will be taken during this closed session and once the need for confidentiality no longer exists the minutes will be available to the public.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Fair Lawn that the public be excluded since these matters as set forth above are ones which permit the exclusion of the public from such discussions.

ADJOURNMENT:

Upon motion by Deputy Mayor Baratta and second by Councilmember Swain, the meeting was adjourned at 9:55 p.m.

Respectfully submitted,

Joanne M. Kwasniewski, RMC,CMC,MMC
Municipal Clerk

The undersigned have read and approve the foregoing minutes.

Mayor John Cosgrove

Deputy Mayor Jeanne Baratta

Councilmember Kurt Peluso

Councilmember Lisa Swain

Deputy Mayor Trawinski