

## WORK SESSION OF JULY 19, 2016

Mayor Cosgrove called the meeting to order at 7:05 p.m.

**PRESENT:** Mayor Cosgrove, Deputy Mayors Dunay and Lefkowitz, Councilmembers Peluso and Swain.

**ALSO PRESENT:** Manager Van Kruiningen, Municipal Clerk/Deputy Manager Kwasniewski and Attorney Mondello.

### **NJ MANAGED DISTRICT ASSOCIATION**

Former mayors Steve Weinstein and Ed Trawinski were present.

Mr. Weinstein explained that NJ Managed District Association helps educate and provide assistance to business improvement administrators, board members, stake holders and municipalities.

He and Mr. Trawinski attended a meeting in Rahway a month ago, where a court case threatens the existence of its town-wide improvement district. Since Fair Lawn has two business districts, they felt it was appropriate to make the Borough aware of what is occurring.

Mr. Trawinski explained that the court case threatens Fair Lawn's SID's, has state-wide impact and the potential to adversely impact towns like Newark and Paterson. The judge essentially rewrote the statute and stated that municipalities cannot have non-contiguous or town-wide SID's. The only allowable SID a municipality can have is in its downtown. Fair Lawn does not have one downtown it has three – four if you include Lincoln Avenue. The Judge also said that the inclusion of multi-family apartments in an industrial building in a SID was a violation of the statute.

At the League of Municipalities request, NJ Managed District Association sought court permission to intervene before the Appellate Division because Rahway decided to appeal. When Rahway's Council decided to make a town-wide SID they sought legal advice from their Borough Attorney, who did not find any prohibition in the statute. In fact, the statute indicated that municipalities be given the broadest possible discretion in exercising their determination as to whether or not to incorporate a SID into the municipality and what the SID should look like. The Judge, however, read out "broadest possible discretion". The test is if the SID is going to provide an economic benefit for the municipality as a whole and for the business district. Almost any SID fulfills that test.

Although it is too late for another municipality to join in this case at the Appellate Division level, this will likely end up at the Supreme Court. The Council may want to think about intervening at that point. He will give copies of the brief to Attorney Mondello and Municipal Clerk/Deputy Manager Kwasniewski.

Mayor Cosgrove asked when the case will appear before the Appellate Court. Mr. Trawinski stated that the briefs were filed July 11, 2016. He anticipated a hearing being scheduled in the next six to 11 months. However, it might move quicker because the League of Municipalities is now involved. Mayor Cosgrove stated that they will have the Borough Attorney keep track of this case. He thanked Mr. Weinstein and Mr. Trawinski for coming in.

### **PROPOSED BOND SALE**

Steve Wielkotz, Borough Auditor, was present.

Mr. Wielkotz presented an overview of the synopsis he distributed to the Council showing the Borough's debt. They have discussed taking the short term debt and fixing it long term to take advantage of the historically low long term rates. The Borough has done about \$14 million worth of capital projects since the last bond sale in 2010.

One long term older debt will be paid in full in 2016, creating space in the debt service budget from 2016 to 2017. This makes it the perfect time to go out into the markets, take all the projects that the Council has done since 2010, fix the debt long term and roll it into the current debt service. They also looked at the impact of the 2016 sale over the next five years.

They have \$800,000 of borrowed money on hand from ordinances cancelled last year. They could issue \$13,820,000 of long term debt beginning in 2017. In 2021 they could take the new notes for \$10 million dollars for new projects and fix that long term, without inhibiting future Councils from continuing yearly capital projects and capital programs. This would keep the debt service portion of the budget stable for the next 25 years.

He met earlier with the Finance Committee who were agreeable to his recommendation. He and CFO Palermo have already spoken to the Bond Counsel and put together a preliminary schedule and a preliminary offering document. If the Council agrees they will have a conference call with Moody's and give them the pertinent information. Since there has been a growth and regeneration of the surplus and the water surplus between 2010 and 2016, very little incremental tax increases over the last three or four years and increases in the ratable base due to redevelopment this should earn them gentler language

in the report as to consistency of management, fiscally conservative budgets, etc., if not an upgrade to an AA1 rating.

They would meet with Moody's the second week in August to obtain a rating and sell the bonds the week before Labor Day. The closing would take place after Labor Day and the notes would be paid in full on September 17<sup>th</sup>. He suggested drafting a resolution for the August meeting formally setting a fund balance policy, which Moody's will look at favorably. A draft resolution will be sent in August asking the Council to consider setting aside 10% to 15% of the operating budget or a dollar value of \$7.5 million to \$10 million, to be determined after further review. This will make it harder for a future Council to use large amounts of surplus to reduce taxes.

Mayor Cosgrove asked Mr. Wielkotz if he and CFO Palermo felt this was the next logical step. Mr. Wielkotz stated yes. Deputy Mayor Lefkowitz thanked Mr. Wielkotz for his efforts. She asked if there were any risks involved. Mr. Wielkotz stated long term rates might go even lower, but the incremental difference over a 14 year period was minimal. CFO Palermo felt there was more risk not going to long term.

There was consensus to add a resolution establishing a policy regarding the fund balance to the August agenda, using the percentage or dollar amount determined by CFO Palermo and Auditor Wielkotz.

#### **AMENDMENT TO FIRE DEPARTMENT ORDINANCE**

Fire Chief Yuskaitis was present.

Manager Van Kruijning referenced his email dated July 13, 2016 regarding the amendment to the Fire Department Ordinance eliminating the position of Engineer from all four fire companies.

Chief Yuskaitis explained that they looked at the entire structure of the Fire Department including membership, which is struggling. State and Federal requirements have made it difficult to become an officer and they are having trouble fielding qualified candidates every year. Instead of having four officers in each company they would like to eliminate the Engineer. There would still be an Engineer in the firehouse to take care of the equipment, but they will not have to be a qualified line officer. State law requires that if they have the position listed it must be filled. They do not feel these changes will be detrimental to the Department in anyway.

Mayor Cosgrove noted that retention is still high but new recruitment is difficult. The training requirement is now 52 weeks of classes to be a firefighter. Manager Van Kruijning stated that line officers are required to go to the fourth level of training, which is a significant amount of classes.

There was consensus to allow the Fire Department to eliminate the officer position of Engineer.

### **CORRECTIVE ACTION PLAN**

Manager Van Kruijning reviewed the letter sent to the Mayor dated April 25, 2016 regarding the 2015 Audit, which noted some minor findings pertaining to Municipal Court. He and CFO Palermo met with the Court Administrator, who implemented the corrective action plan immediately. He commended CFO Palermo, his staff and everyone in the Borough for only having these minor corrections and thanked them for the great job they do regarding the Borough's financial matters.

### **FAIR LAWN AVENUE CORRIDOR VISION PLAN**

Mayor Cosgrove explained that the EDC is requesting the plan be sent to the Borough Planner for review.

There was consensus for Municipal Clerk/Deputy Manager Kwasniewski to obtain a proposal from the Planner and distribute it to the Council.

Steve Weinstein, 20-15 Radburn Road, EDC member thought there should be an ad hoc committee to move the study forward.

### **PROPOSAL FROM MATRIX NEW WORLD ENGINEERING FOR AFFORDABLE HOUSING STATUS REPORT**

Attorney Mondello stated that every town has filed some type of declaratory judgement with the Superior Court. The Borough's Judgement of Compliance/Judgement of Repose has an expiration date, so they need to have something in place when that date comes. Mayor Cosgrove stated that Tom Toronto informed him that the next funding round will take place in January, 2017.

Councilmember Swain asked if the fees will be paid from their Affordable Housing Account. Attorney Mondello explained that the fees will come out of the Borough's operating budget.

## **DOGS IN THE PARK**

Manager Van Kruningen referenced his email dated July 13, 2016 regarding revisions to the section pertaining to Dogs in the Park. He suggested dogs be allowed in the park providing they meet certain criteria. Dogs must be accompanied by a person over the age of 12 and be securely controlled by a leash not exceeding six feet in length. Dogs are not allowed on Borough sports field, the beach area, playgrounds or park buildings, but will be allowed in the parking lot and walking paths. Owners must pick up after their dogs and remove the dog waste from the property.

Councilmember Swain questioned enforcement. Manager Van Kruningen stated that once the Ordinance is passed it will be distributed to the Police Department. Councilmember Swain suggested the Council receive a report in three months. Deputy Mayor Dunay wondered if they would end up needing waste receptacles. Manager Van Kruningen did not think so as Parks personnel currently empty the garbage receptacles daily. There was no plan to install any at this point but they could do so in the future.

There was consensus to amend the ordinance to allow dogs in parks provided they met the criteria outlined above.

## **BANNING THE SALE OF DOGS AND CATS FROM PET SHOPS**

Councilmember Peluso stated that he will email a copy of Camden's ordinance. He wanted to clarify that he was open to adding that AKC registered breeders be allowed to sell puppies, as well as an individual whose dog gave birth to puppies. Attorney Mondello stated that the Wyckoff ordinance included the term "hobby breeder". The Senate has already passed legislation prohibiting pet shops from obtaining pets from any source other than a shelter or rescue organization; however, an individual is allowed to purchase pets from a breeder in New Jersey or any other state. The Council needs to decide if they are going to make this restriction retroactive or give the pet shop another six months to sell its inventory. Councilmember Peluso suggested giving the pet shop a year. Mayor Cosgrove agreed.

Deputy Mayor Lefkowitz stressed that small businesses should be given fair warning. They also need to be fair to the consumer and not prevent them from purchasing a specific breed of dog that is appropriate for their family. She thanked Councilmember Peluso for mentioning the exemption for AKC breeders. Attorney Mondello stated it should be one year until they sell their current inventory. He will redraft the ordinance and send it to the Council.

**MISCELLANEOUS PUBLIC COMMENTS**

Mayor Cosgrove stated that Public Comments was being moved to the public Council Meeting.

**CLOSED SESSION RESOLUTION**

Upon motion by Deputy Mayor Lefkowitz and a second by Councilmember Swain, the following closed session resolution was unanimously adopted at 7:55 p.m.

**WHEREAS;** the Open Public Meeting 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 Personnel – Police Department, Fire Prevention, Tax Collection and Recreation; and

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

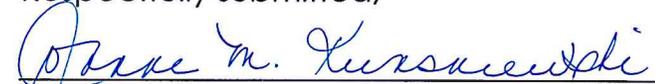
**WHEREAS;** minutes will be taken during this closed session and once the need for confidentiality no longer exists the minutes will be available to the public.

**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.

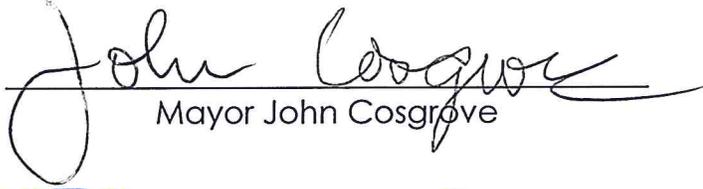
**ADJOURNMENT**

Upon motion by Deputy Mayor Lefkowitz and a second by Deputy Mayor Dunay, the Work Session was adjourned at 8:05 p.m.

Respectfully submitted,

  
Joanne M. Kwasniewski, RMC/MMC  
Municipal Clerk/Deputy Manager

The undersigned have read and approve the foregoing minutes.



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Mayor John Cosgrove



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Deputy Mayor Daniel Dunay



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Deputy Mayor Amy E. Lefkowitz



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Councilmember Kurt Peluso



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Councilmember Lisa Swain

