

WORK SESSION OF SEPTEMBER 6, 2016

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

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

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

REVIEW OF RENT CONTROL ORDINANCE

Manager Van Kruijning stated that he asked Municipal Clerk/Deputy Manager Kwasniewski to recirculate memos from the Rent Board dated February 2, 2016 and March 4, 2016 because the Board was asking the Council to review the Rent Control Ordinance. Mayor Cosgrove noted that a majority of the Board voted to request the installation of a 1% floor on CPI based increases. They also have rent control on single family residences. He asked if the Council would like Attorney Mondello to review the ordinance and come back with a recommendation.

Deputy Mayor Dunay felt it would be helpful to have examples of how other municipalities handle rent control. Attorney Mondello noted that many towns do not have rent control. Mayor Cosgrove asked Manager Van Kruijning to prepare an excel spreadsheet for the Council.

Councilmember Peluso asked if they could obtain a list of the CPI percentages from the date of adoption (1982) or as far back as possible. Councilmember Swain stated that she will give Attorney Mondello her list of questions.

Ignatz Gary DeStefano, 14-06 Chandler Drive stated he attended the Rent Board meeting when they discussed this matter. Arlene Glassman, the Tenant Representative, reminded the Board that there is a Hardship Application a landlord can file to receive permission to increase the rent. He wanted to know the procedure the landlord has to go through to prove a hardship. He did not want any increase in his rent.

Arlene Glassman, 14-15 Chandler Drive stated that Fair Lawn's Rent Control Ordinance is one of the best in New Jersey and it is working. The CPI fluctuates in cycles. It was tenths of a percent for a while but now it is 1%. Landlords' expenses have gone down and so have fuel prices. She stressed that if a landlord's expenses are not covered by their rent they should file a hardship application. She felt they should continue to include single family homes in the Ordinance and not make any changes to the Ordinance.

Councilmember Swain asked Ms. Glassman if she could recall the last time a landlord approached the Board with a hardship case. Ms. Glassman stated she did not recall a hardship application ever being filed.

Ronald Fecher, 26-38 Warren Road stated he has lived in Fair Lawn for 40 years and was instrumental in the formation of the Rent Leveling Board. When oil prices went up the tenants received high increases. Now the CPI has decreased. He is pleased with the efforts the landlords have taken to maintain their properties but he does not feel an increase is needed.

Marshall Chandler, 302 High Street, Apt. H35 stated he is both a homeowner, a renter and serves on the Rent Leveling Board. He felt the proposal from the Board is ill advised. The Board did a thorough investigation of the Borough's Rent Control Ordinance versus other ordinances. He felt Fair Lawn's Ordinance was well written. Many of his neighbors at Eldorado Village are elderly seniors who are not receiving increases in Social Security. It would be a mistake to allow increases in their housing costs.

Councilmember Peluso expressed his appreciation for Mr. Chandler's effort on this issue.

David Schwartz, 34-15 Berdan Avenue stated that while he appreciates some of the arguments as a longtime resident of Fair Lawn and also a landlord of a single family home in the Borough, the Ordinance is arcane. He noted there is a distinction between apartment complexes and single family residences. The single family landlord has expenses that he cannot recoup and if he is subject to the CPI alone, it will take a long time to get back his investment.

He suggested using the Housing CPI. He believed there was a bias towards the renter simply because there is a cap on the increase. There should be a cap on the floor as well. A modest increase in any given year, regardless of CPI, should be available to a landlord. He performs a service for this community by providing the ability for people to rent a home in Fair Lawn. He asked the Council to look at other towns, as many of them do not have the restraints that exist in Fair Lawn.

Mayor Cosgrove asked Mr. Schwartz how many homes he owned in Fair Lawn. Mr. Schwartz stated he owned one home in Fair Lawn and another one in Teaneck.

Mayor Cosgrove thanked everyone for coming tonight. He explained that no decision will be made this evening. The Manager and Borough Attorney will review the facts and report back to the Council. Agendas are posted on the Borough's website so they will be able to check and see when this matter will be discussed again.

SALE OF CAMPBELL ROAD PROPERTY

Tom Toronto, President of Bergen County United Way, was present.

Manager Van Kruijning stated Mr. Toronto was invited to provide an update on the proposed special needs housing on Campbell Road. He reported that he received two separate inquiries – one via a phone call and the other via a letter - from developers interested in purchasing the property. He wanted guidance from the Council as to how he should respond.

Mayor Cosgrove stated that past minutes indicated the Council approved the donation of the land to United Way for the purpose of building special needs housing. The Council made a commitment and he felt they should honor it. Councilmember Peluso agreed. The Council has said they wanted to provide housing for special needs residents. Deputy Mayor Lefkowitz agreed with Mayor Cosgrove and Councilmember Peluso. This is a project that had the support of the whole Council.

Manager Van Kruijning inquired as to who should respond to the letters from the attorney representing the developer since they were addressed to the Mayor. Attorney Mondello stated he would respond as Borough Attorney.

There was consensus to honor their commitment to United Way.

Councilmember Swain stated that as liaison to the ADA Committee, she fully supports the donation of the Campbell Road property to United Way. She requested that the ADA Committee be notified if a situation like this occurs again as the project is very important to them.

Mr. Toronto stated on to report that their attorney, Lou Flora, has drafted a resolution to formally convey the Campbell Road property. They are also working on a developer's agreement, which will provide all the reverters and deed restrictions that assure the Borough that they will be in control of the use and disposition of the property for perpetuity, which is that it will be affordable and supportive housing forever.

Councilmember Swain asked if there is anything else they need to do as a Council to make sure they do not have to have this discussion again and developers know Campbell Road property is off the market. Attorney Mondello stated they will have a resolution. If the Manager receives any other letters regarding purchase of the property he can refer them to him and he will send them a copy of the resolution.

Mr. Toronto displayed a rendering of what they hoped to build. In order to accommodate the most tenants, they are thinking of including a four bedroom

group home for individuals with a higher level of need as well as some independent apartments next door. Once they receive the resolution giving them site control, they can be more earnest in their efforts. The State's architect has already viewed and approved the property for supportive housing and there have been preliminary conversations with service providers for the group home. The independent tenants have their own choice of service providers.

Attorney Mondello asked who might be suitable for the individual apartments. Mr. Toronto stated it would be individuals who made the diagnosis criteria of having a developmental disability ranging from MS to Cerebral Palsy to Down syndrome to Autism and the capability of living independently without 24/7 supervision. The 24/7 group home would have one dedicated service provider to assist individuals who have skills and abilities but still need supervision for safety or security reasons. A similar hybrid model is going to be opened in Mahwah with four apartments plus a separate group home.

Mayor Cosgrove stated that he has seen the apartments in Allendale and Tenafly and they are fantastic. He thanked Mr. Toronto for coming tonight.

Mr. Toronto provided an update on the proposed senior housing at River Road and Maple Avenue. The State did not have an application process this calendar year for 9% tax credits. The Qualified Action Plan (QAP) that measures the worthiness of projects was under review. The QAP was redrafted and Fair Lawn's application is now at 100 points. On Thursday he is attending the HMFA's board meeting to again stress his concern as to how their last application was treated and make Commissioner Richmond and Director Marketta understand the project's importance to Fair Lawn. He has been advised that the 9% tax credit application will open in the spring of 2017. They are poised and ready to go back down to Trenton. He is cautiously optimistic.

REVIEW OF TENTATIVE AGENDA

Municipal Clerk/Deputy Manager Kwasniewski stated she can add the introduction of the Puppy Mill Ordinance at their next meeting if it is ready. Attorney Mondello confirmed that it was ready.

COUNCIL LIAISON REPORTS

Councilmember Swain stated that the Green Team received permission to bring its Anti-idling Campaign to the schools. River Road is having a Pet Walk and Family Fun Day on September 17th. The Board meeting will take place Thursday morning. The Arts Council is meeting tomorrow night and the ADA Committee is meeting Thursday night.

She concluded by stating it was a great season at Memorial Pool. The pool was very clean and everyone seemed to enjoy it. She thanked those who were involved with the pool.

Councilmember Peluso agreed that it was another great pool season. The water was so clear even though it was the end of August. He congratulated the swim team, who won another championship. The Pool Committee will be meeting at the end of the month to see what they can do better next year.

The BIC is meeting Thursday at 10:00 a.m. in combination with the RRIC. The Garden Committee is getting ready for the 9-11 ceremony, which will take place on Sunday, September 11th at 11:00 a.m.

Deputy Mayor Dunay reported that an Environmental Commission meeting is scheduled for tomorrow and Property Maintenance Committee is meeting next week. There is a tentative Shared Services meeting scheduled for November so anyone with agenda topics can let him know.

Deputy Mayor Lefkowitz reported that there is a Wellness Conference scheduled at Bergen Community College on September 23rd from 8:00 a.m. to 3:00 p.m. entitled "Connecting 8 Dimensions of Wellness".

Mayor Cosgrove reported that he and Manager Van Kruningen asked Engineer Garrison to research whether it was possible to install a water line from Fire Company #4 to the Arboretum. They wanted the line to go under Fair Lawn Avenue but discovered there is 18 inches of concrete. Once Engineer Garrison comes up with a plan they will talk to Company #4 about installing a tap and running a hose to the Arboretum. They have received a lot of compliments on Arboretum and the signs. Ms. Spindel and the Committee have been working very hard on this project.

He continued that Walter Neill, Shade Tree Supervisor, is requesting that an outside company be used to inspect trees on private property and make the decision as to which trees must be removed. Manager Van Kruningen explained that Supervisor Neill is often placed in a difficult situation. He has no problem making determinations on Borough trees, but he is not comfortable inspecting trees on private property and advising that a tree is sick and must come down or it is healthy and should remain against residents' wishes. Supervisor Neill is asking that the Council revisit the Ordinance. Mayor Cosgrove noted that they also discussed liability to the Borough.

Councilmember Swain asked if they could provide residents with a list of consultants that the resident could choose from. Attorney Mondello stated there wouldn't be anything to prohibit them from having a list of preferred vendors that have been checked out and belong to a commerce group.

Manager Van Kruijning asked what the Shade Tree Commission thought about Supervisor Neill's comments. Mayor Cosgrove stated the Commission thought it would be a good idea to hire someone. Manager Van Kruijning stated that the way it was relayed to him was that the Commission felt the Borough should not be on private property making determinations on private trees. Mayor Cosgrove clarified that Supervisor Neill felt the Commission does not want people clearing out trees, so they would like it if someone was looking at trees and advising them whether it was healthy or not.

Municipal Clerk/Deputy Manager Kwasniewski stated the original intent of the Ordinance was to prevent developers from removing trees from the entire lot. Mayor Cosgrove stated that Supervisor Neill would like to discontinue requiring permits for tree removal, but the Commission is adamant about keeping the permit process. Attorney Mondello stated that most towns require an inspection of the tree and permission to take it down. Manager Van Kruijning stated it is \$25 for the inspection and \$25 for the follow up to have the tree removed. Municipal Clerk/Deputy Manager Kwasniewski stated there was discussion because some people felt it was extreme to require a permit to take down one tree.

Mayor Cosgrove stated that Supervisor Neill felt that when residents are told by the tree company that they need a permit to take down a tree they look for someone who will do it without a permit. Manager Van Kruijning felt the Ordinance needed to be reviewed in depth. Mayor Cosgrove stated that he will get some feedback from the Shade Tree Commission and bring it back to the Council.

Mayor Cosgrove reported that the Fire Department has been busy. Both the Fire Department and Rescue were in Paterson last night helping with a fire. The Building at Fire Company #1 is almost complete and it looks good. The park has a gazebo and a sign indicating it is "Chief Vogel Park". A dedication will take place during Fire Prevention Week.

NO KNOCK LIST ORDINANCE

Attorney Mondello stated that he circulated copies of a proposed No Knock Ordinance. The Council will need to decide if they want to add an additional burden to the Municipal Clerk or Police Department for the maintenance of the list. This ordinance does not infringe on anyone's First Amendment rights.

Manager Van Kruijning stated he was not going to put the burden on either Department as he did not think the No Knock List Ordinance was even necessary. The Police already respond and take the necessary action when a resident calls about a solicitor.

Councilmember Swain pointed out that the Ordinance already prohibits vendors from knocking on residents' doors after 7:00 p.m. Mayor Cosgrove stated the time

limit is being violated. Councilmember Peluso agreed. Municipal Clerk/Deputy Manager Kwasniewski stated that the Borough would have to sell the stickers. The biggest problem is inputting the data onto a list. If every household decided they wanted to be on the No Knock List they would have to input 12,000 names. It's a massive job. Mayor Cosgrove reiterated that some residents are afraid because there have been break-ins. He is in favor of having a No Knock List.

Deputy Mayor Lefkowitz felt it might give residents some added security. Councilmember Peluso expressed concern about liability if the Borough's name is attached to the sticker. He also worried that the Police would get called even if groups such as Jehovah's Witnesses or the Girls Scouts who are exempt knocked on a door with a No Knock sticker. He agreed that it was frustrating, but he wanted to look at other options.

Attorney Mondello stated that he did not see any liability issues because it is not the Borough prohibiting Jehovah's Witnesses or other groups from coming, it is the homeowner. He felt the sticker gives notice to anyone not to trespass. Councilmember Swain stated someone who felt their first amendment rights were violated could file a lawsuit that the Borough would have to defend. Attorney Mondello stated people sue all the time. Whether they win is a different story. Councilmember Peluso stated there are a lot of residents in town who have already purchased these stickers on their own. He would be more comfortable if it wasn't a Borough sponsored sticker.

Deputy Mayor Dunay asked for clarification as to the benefits of a "No Knock" list versus the sticker. Attorney Mondello stated that a vendor wishing to sell an item would obtain a permit from the Police Department. If handed a "No Knock" list the vendor is given notice that he should not go to the addresses on the list. The decal would offer further support to the list, although it is the residents' decision if they want to use it. Councilmember Swain stated that this is assuming that the vendor even goes to the Police. Manager Van Kruijning stated only a handful of permits are issued each year.

Deputy Mayor Dunay did not think vendors would take the list seriously. He felt the decals would be more effective and would require less work. Deputy Mayor Lefkowitz asked about having an ordinance that prohibited a solicitor from going to a "No Knock" household and include violations without compiling a list. Attorney Mondello stated they could do that. Councilmember Swain expressed concern about people who are protected by the First Amendment including Girl Scouts, trick or treaters, politicians, churches and synagogues who the right to knock on the door despite a "No Knock" sticker even though the homeowner doesn't know the difference and calls the Police. Deputy Mayor Lefkowitz stated the Police would ask who was at the door and once they were told it was the Girl Scouts or a church they would advise the resident they were not issuing a citation.

Councilmember Swain stated that she agreed with the Manager. If residents feel threatened in anyway, regardless of whether or not there is a sticker, they can always call the Police. Deputy Mayor Lefkowitz felt it would be more of a deterrent if the ordinance offered the ability to issue a violation to a vendor who knocks on a door with a "No Solicitor" decal instead of receiving a slap on the wrist.

Attorney Mondello stated that he would need to add language stating if a peddler or solicitor who is required to get a permit knocks on a door of a residence with a "No Solicitor" decal they will receive a violation. Mayor Cosgrove stated that the intent was to make residents and seniors feel secure, especially at night. He would be okay with residents purchasing their own decals and having language added to the Ordinance regarding violations for offenders.

Councilmember Swain reiterated that they already have an ordinance that they cannot knock on someone's door after a certain time. Attorney Mondello explained that one restricts the time and the other indicates they cannot knock at all.

There was consensus to have Attorney Mondello come back to the Council with a draft ordinance for their review.

FEE FOR LOST POOL TAGS

Manager Van Kruijning stated when issuing replacement tags they look at what the rate was and divide it accordingly. He is aware of other municipalities that have a flat rate set for replacement tags as low as \$5.00 some as high as \$50.00. He recommended that they do a flat replacement fee of \$20.00.

Councilmember Swain stated that she and Councilmember Peluso were concerned that if the fee is too low people may say over and over that they lost their tags. Manager Van Kruijning stated that the Superintendent and Assistant Superintendent also feel that way. Councilmember Peluso felt he should bring this back to the Pool Committee. Manager Van Kruijning stated that in 2018 the Pool staff will have a scanner, which will let them know that a tag was lost, etc. Councilmember Swain wondered why they cannot begin using the scanner in 2017. Manager Van Kruijning stated there was a cost factor involved but he will see if they can start next year.

NONRESIDENT PARKING FEES

Councilmember Peluso felt they should review the parking fees for non-residents. Residents currently pay \$1 per day or \$10 per month. Non-residents pay \$4 per day or \$40 per month. There are very few parking spaces available at the train station after 7:20 a.m. He felt non-resident fees should be increased to \$5 per day or \$50

per month, which is still less than Glen Rock who charges non-residents \$6 per day or \$100 per month.

Manager Van Kruijning stated he would prefer that any rate change take effect on January 1, 2017. Mayor Cosgrove asked if NJ Transit had any parking restrictions for non-residents. Manager Van Kruijning stated they have a resident only parking section, a small dirt lot on Route 208 designated for non-residents and a section of spaces that are non-restrictive, which means first come first served. He explained that NJ Transit required that the space be open to everyone as they owned the property, not the Borough.

Councilmember Swain stated they need to continue to look for more parking. Manager Van Kruijning stated he is trying. Mayor Cosgrove stated that the nearby corporation had a rule as to the number of parking spaces per square foot, but now the space is leased out and there are empty parking spaces. Manager Van Kruijning stated that he calls the owner each month to see if he is interested but he does not get a response.

Deputy Mayor Dunay asked if Manager Van Kruijning if there was a breakdown of the number of residents and non-residents who park at the station. Manager Van Kruijning stated that he cannot tell the Council who is parking on a daily basis, but he can tell them the number of parking permits that were purchased. He will email the information to the Council.

There was consensus to increase the non-resident parking fee for the Radburn Train Station to \$5.00 per day and \$50 per month effective January 1, 2017. Resident fees will remain the same.

MAINTENANCE AGREEMENT WITH THE RADBURN ASSOCIATION

Attorney Mondello stated that he forwarded a revised agreement, which gives the Association \$10,000 to take care of certain properties. He, Manager Van Kruijning and Engineer Garrison decided to stay away from snow removal since they recently passed the sidewalk ordinance that makes property owners responsible for their own sidewalks. Manager Van Kruijning stated there are certain grassy areas that fall within close proximity to Radburn Association property, so it is easier for them to maintain. The Borough is maintaining the islands on Plaza Road, even though it is Radburn property.

There was consensus to approve the Agreement with the Radburn Association, with Deputy Mayor Lefkowitz and Deputy Mayor Dunay recused.

SPECIAL MEETING

Upon motion by Councilmember Peluso and a second by Councilmember Swain, the meeting was adjourned to Special Meeting at 9:05 p.m.

Mayor Cosgrove reconvened the meeting at 9:07 p.m.

MISCELLANEOUS PUBLIC COMMENTS

Craig Miller, 5 Ramapo Terrace wondered if it would be trespassing if a solicitor went on the property of a resident on the No Knock list. Attorney Mondello stated it would not. The New Jersey trespassing statute requires that a property owner give open, apparent and obvious notice such as signs stating "No Trespassing" "No Solicitors" or "Stay off my Property" before someone would be in violation.

Mr. Miller felt they should pro-rate the fee if someone loses a pool tag. Manager Van Kruijning stated they were doing that but there was no confirmed fee structure yet. They based the replacement cost on the amount of pool use remaining.

Mr. Miller stated there are two dead end streets on Reading Terrace and Randolph Terrace that have parking at the end. One of the properties between the island and the sidewalk have extremely high hedges that have not been trimmed in years. Manager Van Kruijning stated he will look into it.

CLOSED SESSION RESOLUTION

Upon motion by Councilmember Swain and a second by Deputy Mayor Dunay, the following closed session resolution was unanimously adopted at 9:10 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 Pending Litigation – Markovic and Personnel – Sewer Department and Open Space Committee; and

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

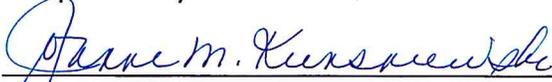
WHEREAS; minutes will be taken during this closed session and once the need for confidentiality no longer exists the minutes will be available to the public.

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

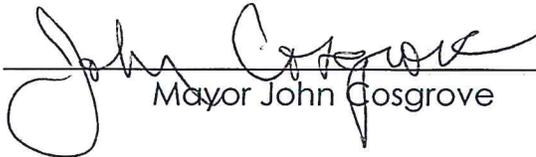
Upon motion by Councilmember Swain and a second by Deputy Mayor Dunay, the Work Session was adjourned at 9:50 p.m.

Respectfully submitted,



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

The undersigned have read and approve the foregoing minutes.



Mayor John Cosgrove



Deputy Mayor Daniel Dunay



Deputy Mayor Amy E. Lefkowitz



Councilmember Kurt Peluso



Councilmember Lisa Swain

