

WORK SESSION OF NOVEMBER 1, 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 Kruningen, Municipal Clerk/Deputy Manager Kwasniewski and Attorney Mondello.

POLICE DEPARTMENT-PATROL DIVISION 12-HOUR SHIFT PILOT PROGRAM

Chief Glen Cauwels was present.

Chief Cauwels stated that the PBA would like to institute a 12-hour work schedule for patrol officers only. The Traffic Unit and Community Policing Detectives' schedule would remain the same. Officers would work four 12-hour days and have four days off.

They currently have three platoons, which they would expand to four. Each platoon would have a lieutenant, sergeant and seven patrol officers. The current coverage varies from six to eight patrol officers per day, whereas the 12-hour shift would provide even coverage each day. It allows the Patrol Division to operate with three less officers, who could then be placed in the Traffic Division. Officers working 12-hour shifts will work 2196 hours per year instead of 2080, so the extra hours will be given back in time off that must be used by the end of the year.

He would like to try this schedule for a six month trial period. They are short one lieutenant, so they will make one sergeant an Acting Lieutenant for the trial period. If the Borough and PBA are happy with the program, they will add a Lieutenant to fill the position permanently. This schedule is operating successfully in other towns and the officers like it.

Mayor Cosgrove asked if the change in schedule affected the budget. Manager Van Kruningen stated it did not. As part of the agreement for the six month trial period, they have the right with 30 days' notice to go back to the current schedule. He recommends trying it as it will put more Police officers on the road and in the Traffic Division.

Councilmember Swain asked about the financial implications associated with promoting someone to Acting Lieutenant. Manager Van Kruningen stated there would be the cost of the one promotion. He will provide the figures tomorrow. Deputy Mayor Lefkowitz asked Chief Cauwels if he felt his officers would be able to handle this schedule. Chief Cauwels stated that officers often work an eight hour shift and then work an additional four hours monitoring construction sites or road work projects. Some work even longer hours on special details. There would be an

adjustment period initially and then it will become a regular work day. Councilmember Peluso stated that he spoke to several Police officers and firefighters who work 12-hour shifts and they feel it is beneficial to have four days off from a stressful job. He was in favor of trying it.

Councilmember Swain also wondered about overtime. Chief Cauwels stated officers would not be eligible to work overtime on patrol unless it was their day off. By law they cannot work more than 16 hours per day. Manager Van Kruningen explained that sick time and vacation time will be based on hours. Officers working the 12-hour shifts will not have extra days off. They will monitor it to see what occurs. They would like to start either January 2nd or January 15th.

There was consensus to allow patrol officers to work four 12-hour shifts, with four days off, for a six month trial period.

REVIEW OF MASSAGE ESTABLISHMENT ORDINANCE

Deputy Mayor Lefkowitz stated that she asked to discuss this Ordinance so they can best meet the needs of their residents. Attorney Mondello stated that he drafted an all-encompassing ordinance that covers everything related to a massage parlor.

He explained that a massage therapy establishment must first register with the State, who requires that the massagist be fingerprinted and the owner provide proof that he/she does not have a criminal history. After the establishment registers with the State, they must then apply to the Borough for a permit and license and pay the required fees. They must also supply the copy of the State registration and a copy of the establishment lease. The Health Department, Construction Department or Fire Prevention officials all have inspection requirements. If all requirements are not met, the permit will not be issued and/or renewed and the establishment will not be allowed to conduct business.

Municipal Clerk/Deputy Manager Kwasniewski stated it is her understanding that in order to obtain a State license, the applicant must have been fingerprinted and have a clean record. There are many courses they must take to obtain or renew a license. The licenses that the Council has been approving are for the massagists who do not have a State issued license. Currently, the Borough issued massage licenses expire on December 31, 2016. Once expired, they can no longer do business.

Attorney Mondello stated that he put the date of April, 2018 to make sure everyone had time to comply with the proposed ordinance. Municipal Clerk/Deputy Manager Kwasniewski asked what happens to the legitimate

licenses that expire on January 1st. Attorney Mondello stated they should be given an extension.

Deputy Mayor Lefkowitz did not think the current Ordinance is strong enough with regarding cause for closure and suspensions. She felt they should address that promptly. Conversely, they should take more time to discuss the requirements for licensing to make sure that current, legitimate businesses have time to comply.

Chief Cauwels stated they can rectify the issue immediately by doing inspections, because the non-legitimate massage parlors will not have licenses or background checks, and most of the massagists are not even residents of New Jersey. Councilmember Swain asked how they are able to set up businesses without meeting the proper requirements. Chief Cauwels stated that one person will obtain a license and open the business. They have transient workers who go in and out of the business until they get caught. Municipal Clerk/Deputy Manager Kwasniewski agreed this is a problem. When an applicant comes in for a license they always say they are doing the massages and her office has no way of proving otherwise.

Chief Cauwels thought a monthly inspection might be a deterrent. Mayor Cosgrove expressed concern that it would increase the workload of either the Construction Official or the Health Officer. Municipal Clerk/Deputy Manager Kwasniewski stated that there are 20 – 25 massage establishments in town. There are some in the cosmetology business, which will not be exempt if the Ordinance is amended. They do not license massagists in doctors' offices. People applying as physical therapists would need to provide adequate proof that they are indeed physical therapists.

Councilmember Swain felt it would be beneficial for Attorney Mondello to have Chief Cauwels's input. Chief Cauwels stated that his Detective Sergeant is familiar with the businesses in town. It would be helpful to include the key components in the Ordinance so they have the ability to go after businesses that are not legitimate. Attorney Mondello stated that the proposed ordinance is so strong it may close down some legitimate businesses.

Attorney Mondello understood they wanted more focus on the enforcement. He can work with Chief Cauwels to put in temporary measures to address the prostitution issues. However, they will still need to update their current Ordinance to comply with the State regulations. They must follow the law and shut down all establishments that do not meet the State requirements.

Deputy Mayor Lefkowitz suggested making the changes on a staggered basis so they can address the needs and concerns of the residents immediately by

strengthening enforcement and giving the legitimate establishments in town time to comply with the State requirements.

Chief Cauwels stated that the establishment they just dealt with had a State license and put a considerable amount of money into the office, which is why the inspection process is crucial. Municipal Clerk/Deputy Manager Kwasniewski stated that the current Ordinance does not provide for any inspections. Attorney Mondello stated that the establishment will argue that they removed the employee in question. If they try to shut them down the business will go to Superior Court and most likely win their case and remain open. Municipal Clerk/Deputy Manager Kwasniewski stated her office informs establishment applicants that they must see the licenses for the massagist. This particular establishment did have one massagist licensed with the State or the Borough. Attorney Mondello stated that the establishment's manager should provide a sworn, written statement that every employee has a massage therapy license with the State and he/she should provide the license number.

Manager Van Kruijning discussed a chiropractic business in another town that offers massage therapy and is required to meet all the criteria. An inspector does spot inspections and looks at the identification of the massage therapist and matches it with the license on the wall. The same criteria can be met in Fair Lawn. They just need to determine who will be doing the inspections. Deputy Mayor Lefkowitz did not feel that having an inspection once a year was burdensome. Attorney Mondello stated that he spoke to Construction Official Bolan that having a complaint might be the trigger instead of doing random inspections, because then they have the enforcement powers. Councilmember Swain suggested inspecting new businesses monthly, then again in three months and then in six months for the first year, followed by yearly inspections thereafter.

Deputy Mayor Lefkowitz questioned that by simply leaving it that inspections can be conducted whenever there is probable cause or whenever there is a tip, it might be disconcerting in terms of a constitutional argument that it was vague. She felt it was better to have random inspections. Attorney Mondello stated they wanted to treat all businesses uniformly so no one claims they received disparaged treatment. They want to make sure the legitimate businesses are complying with the State law, although it will be difficult for many of them to do so.

Municipal Clerk/Deputy Manager Kwasniewski noted that her office will be sending reminder letters for the massagist licenses that expire on December 31st. Attorney Mondello advised Municipal Clerk/Deputy Manager Kwasniewski that she should continue to do business as usual and indicate in the letter that they will need proof that the establishment is registered with the State and every massage therapist has a State license.

Councilmember Swain stated that she would like to review a hard copy of the Ordinance prior to the Council meeting on November 22nd. Deputy Mayor Dunay suggested having a Special Meeting before the next Council Meeting in case any Councilmembers have any changes or concerns.

There was consensus to have a special Work Session prior to the November 22nd Council Meeting to discuss this item only.

Melissa Ruffilo, 3-03 Lyons thanked the Council for taking such quick action. It is important to know that the massagists working in local establishments must be licensed by the State.

Mayor Cosgrove thanked Chief Cauwels.

NO-KNOCK ORDINANCE

Attorney Mondello distributed copies of the revised draft Ordinance, which includes significant fines. The Ordinance applies towards businesses soliciting money in exchange for goods and does not apply to religious or charitable solicitation from the members of the exempt organization or someone who has a petition or someone campaigning for an elected position.

Mayor Cosgrove wanted the public to be aware that the fine for a first offense is \$250, second offense is \$500 and \$1,000 for the third offense for vendors coming to homes with a "No Knock" sign on the front door. He suggested having a "No Knock" sign with the Ordinance number placed on the Borough website for interested residents to print. Manager Van Kruijning thought residents were going to purchase their own stickers. Mayor Cosgrove stated they put the Borough Ordinance numbers on signs pertaining to dogs or no smoking in parks, why couldn't they accommodate the residents by having a sign that they can print out and tape to their door. There is no cost to the Borough. Deputy Mayor Lefkowitz agreed. They could have a link on the website that takes residents to the sign.

Councilmember Swain stressed that she cares about the safety of the residents, but she felt they were close to stepping on first amendment rights. She expressed concern that the residents with "No Knock" signs will not understand there are exceptions such as the Girl Scouts or candidates running for office. There might be cases of harassment and the Borough might be sued. She read an excerpt from the League of Municipalities suggesting "municipalities impose reasonable time, place and manner restrictions on all door to door canvassing. Resident themselves may take steps and post "No Solicitation" signs on their property".

Attorney Mondello used the example of someone running for elected office. If the person sees the sign and knocks on the door, the homeowner has two options.

They can refuse to open the door or they can tell the candidate that they are not supposed to be knocking on their door. If the homeowner calls the Police they cannot issue a summons because the person is not selling anything. The homeowner does have the right to tell the person to get off his doorstep.

Councilmember Swain noted additional recommendations from the League include issuing solicitation permits to everyone who applies and maintaining a "No Solicitation" list for residents to sign up. The list allows solicitors to know ahead of time that a resident does not wish to be disturbed. Attorney Mondello stated the "No Knock" list was in the first draft of the Ordinance but the Council decided it was too onerous to maintain. There is another section for the permitting of peddlers and solicitors. Someone must be selling something in order to be given a summons and receive a fine.

Deputy Mayor Lefkowitz stated that anyone who felt violated and wanted to sue would have to meet the criteria of a lawsuit. She did not think such a lawsuit would be upheld. She asked Attorney Mondello if he saw any other scenario for a lawsuit. Attorney Mondello stated he did not. He noted that Councilmember Swain raised a good point about the Girl Scouts because they would be required to get a permit since they were selling goods.

Councilmember Peluso asked if the fine would be issued to the individual solicitor or the solicitor's company. Attorney Mondello stated that a violation would have to be given to an individual.

Mayor Cosgrove asked if vendors obtain a permit as an individual or as a company. Manager Van Kruijning stated they file both as an individual and under the name of the company they are soliciting for. Mayor Cosgrove asked if they could send the new Ordinance, once it is passed, to the vendors who have received permits in the past. Manager Van Kruijning stated that the permit application has the Ordinance on the back so all vendors will be aware. Councilmember Peluso asked if the permit was valid for a specific time period. Manager Van Kruijning did not know. Attorney Mondello stated that he could tweak the Ordinance to direct the Police officer to issue the summons to both the individual and the company.

Councilmember Swain stated the current Ordinance does not allow vendors to knock on residents' doors after 5:00 p.m. If they do the new Ordinance, it is only going to apply to the daytime hours. Attorney Mondello stated a vendor could receive two violations: one for knocking at 6:00 p.m. and one for knocking. Councilmember Swain asked how it would be enforced. Attorney Mondello stated that a resident could obtain the vendor's business card or not answer the door and call the Police. The fine for anyone soliciting after 5:00 p.m. is \$250.

Councilmember Swain understood some residents do not want to be bothered, but she was concerned about having an Ordinance that is not fully enforceable. If residents are afraid, they do not need an Ordinance to call the Police. She wants to make sure the new Ordinance serves a purpose that is not already in place. Mayor Cosgrove stated they were trying to send a message, similar to the "No Smoking in Parks" Ordinance. No tickets have been written for that but they did it to make people aware they should not smoke in Borough parks.

Mayor Cosgrove asked if any members of the public wanted to speak.

Christine Liggieri, 10-23 First Street stated that the 5:00 p.m. time limit for solicitation does not work, as vendors claim that no one at Borough Hall told them. She felt the permit should state that it expires at 5:00 p.m. She has a "No Solicitation" sticker and vendors no longer come to her door, but she has seen elderly neighbors showing their Public Service bills to solar panel vendors and she is concerned that it is a safety issue. She felt the Borough should prohibit solicitation.

Attorney Mondello explained that the Borough could not prohibit solicitation, but the homeowner has the right to say they do not want anyone knocking on their door. Ms. Liggieri felt passing the Ordinance would make the residents feel that the Council cared about their safety. Councilmember Swain reiterated that they do care but they were exploring all the options since an Ordinance is already in place.

Craig Miller, 5 Ramapo Terrace asked about solicitors going to apartment buildings where a landlord does not want signs on the apartment doors. Attorney Mondello stated that it would depend on the lease, but a landlord could not stop a tenant from putting something in their window.

Councilmember Swain encouraged residents to call the Police when solicitors are in violation of the 5:00 p.m. curfew so the Borough has a record of who is violating the Ordinance.

Attorney Mondello stated he can amend the proposed Ordinance so that both individuals and corporations violating the ordinance are issued a summons. Deputy Mayor Lefkowitz suggested they add a review of the revised ordinance to the Special Work Session next week.

There was consensus to have Attorney Mondello amend the draft, have the Council discuss it at the Special Work Session and introduce the Ordinance at the next Council meeting, with Councilmember Swain dissenting.

REVIEW OF TENTATIVE AGENDA

Municipal Clerk/Deputy Manager Kwasniewski stated she is adding a resolution regarding a grant for the body armor and the two Ordinances.

COUNCIL LIAISON REPORTS

Councilmember Swain reported that the correct date of the ADA Dance is November 18th, not November 11th as previously reported. She, Councilmember Peluso and Mayor Cosgrove attended the Knights of Pythias Dinner honoring Grand Chancellor Barry Winston. It was a nice affair.

Councilmember Peluso reported that the Garden Committee is taking advantage of the nice weather and is still out working throughout the town. The Finance Committee had a productive meeting at 6:30 p.m. He will report on some exciting ideas at the December Work Session.

Deputy Mayor Dunay reported that his committees were meeting next week. He will have a report at the next meeting.

Deputy Mayor Lefkowitz reported that the Alliance for Substance Abuse Prevention meeting was very powerful, as a new member discussed how he lost his daughter to a heroin overdose. Several students and Board of Education members were also present. She concluded by reporting that the Planning Board is continuing to hear the Barrister application.

Mayor Cosgrove stated that he, Councilmember Peluso and Councilmember Swain attended the Board of Education forum on heroin abuse. It was a good meeting with a lot of dialogue. He has copies of the book "Life After You", the story of a mother of a young man from Ramsey who died from a drug overdose, if any Councilmember would like a copy.

He and Deputy Mayor Lefkowitz attended a meeting of the Community Center 501(c)3 Committee. The Committee is going to apply for a Legalized Games of Chance license so they can have a fundraiser event. The Shade Tree Commission is doing a great job at the arboretum. He is receiving positive feedback from residents and people are looking at the interactive signs that have been installed. A resident would like to donate a park bench at the Arboretum, but he will need to discuss this with Jane Spindel and Jim Vanderbeck to see if they want to add any hardscape. Ms. Spindel had asked if non-residents could join the Garden Club and Attorney Mondello had advised him that was allowable.

He reported that "A Night for Makayla" fundraiser dinner will take place on November 10th. There are fabulous prizes and so far 300 people are attending. Glen Toyota is selling them a van at cost less the manufacturer's rebates.

He concluded by reporting that several residents have called him regarding the No Dogs in Park Ordinance, as they do not think dogs should be allowed in the fenced in area by the pool. Attorney Mondello stated that he can amend the Ordinance to specify that no dogs are allowed inside the fenced pool area.

CROUCHER DONATION TO THE BOROUGH

Manager Van Kruijning stated last November the Croucher family donated \$5,000 to beautify Fair Lawn. The Garden Committee and Shade Tree Committee have requested several items, but it is the Council's decision as to how the donation should be spent.

Councilmember Peluso asked if Mrs. Croucher approved of using the donation for a bicycle rack. Manager Van Kruijning stated he will ask her.

Manager Van Kruijning noted that the Shade Tree Commission had requested gator bags. He asked if the bags will be used in lieu of installing a water connection as previously requested. Mayor Cosgrove stated that he will check with the Commission. They wanted the gator bags to continuously water young trees so they do not die.

MISCELLANEOUS PUBLIC COMMENTS

Craig Miller, 5 Ramapo Terrace thought the Croucher donation could be used to purchase park benches for Memorial Pool or the Arboretum. Mayor Cosgrove explained that the Commission discussed whether hardscape items such as park benches with cement pads can be installed at the Arboretum since it is Green Acres land. Manager Van Kruijning stated it was not an issue. Mayor Cosgrove noted that he recently referred a resident who wanted to put in a bench at the Arboretum to Superintendent Graff.

CLOSED SESSION RESOLUTION

Upon motion by Councilmember Swain and a second by Deputy Mayor Lefkowitz, the following closed session resolution was unanimously adopted at 9:20 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 Contract Negotiations - Department Heads Association, Personnel - Appointments to Various Boards, Commissions, Committees and Appointments of Professionals and Municipal Clerk; and

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

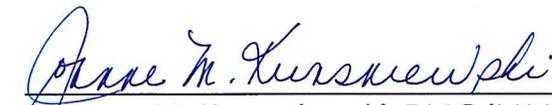
WHEREAS; minutes will be taken during this closed session and once the need for confidentiality no longer exists the minutes will be available to the public.

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

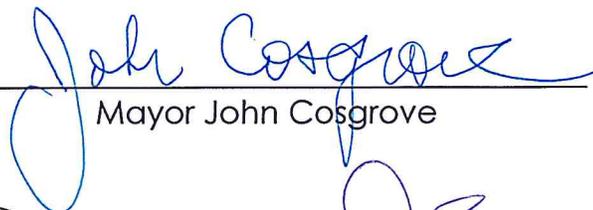
Upon motion by Councilmember Peluso and a second by Deputy Mayor Dunay, the Work Session was adjourned at 10:30 p.m.

Respectfully submitted,

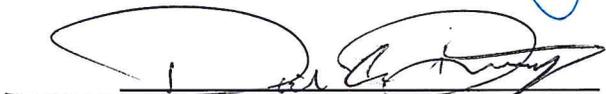


Joanne M. Kwasniewski, RMC/MMC
Municipal Clerk/Deputy Manager

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