

WORK SESSION OF MARCH 27, 2012

Mayor Baratta called the meeting to order at 6:35 p.m.

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

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

FLOOD ISSUES IN FAIR LAWN:

Mayor Baratta stated they were there to discuss flood issues in Fair Lawn. Albee Palmieri, the liaison to the Flood Committee that the County put together last year after all the storms, was present. He has been attending the meetings on behalf of the Borough because for many years he has lived with his own horrors of flooding.

Mr. Palmieri stated that basically what the committee was doing right now was fact finding. They are trying to get as much information from the towns as possible. A letter was sent to all the municipalities in Bergen County asking various questions. Unfortunately Fair Lawn was one of the towns that did not respond. Saddle Brook is very involved with this committee. Their Mayor is always at the meetings. Mr. Palmieri said he was the only non-elected person on that committee. They want to get the whole picture so they know where the problems are in the different areas. Apparently there are areas in New Milford and Oradell that flood drastically.

Mayor Baratta asked Acting Manager Metzler to give them update on where the Borough was in regard to FEMA and Blue Acres funding. Acting Manager Metzler explained that FEMA did not allocate any funds to Fair Lawn. A grant application was made to Blue Acres but in the latter part of 2011 the Borough was advised that there were no blue acres funds available but the Borough's application was moved to Green Acres' funding. The State began the process of reviewing those applications on February 15. No one has been advised that Green Acre's funding was coming.

Mayor Baratta stated the main reason that they had the meeting was to hear their concerns so that they can prioritize and make sure they do not leave any one out going forward. She suggested letting the public speak on this.

Lori Wisse, 5-02 Second Street, stated they know what her concerns are. She was thankful that they had a dry winter and have not flooded lately, but now they have to wait for September. When the FEMA money was brought up it

sounded very encouraging and she believed it at that time. She knows that it is not possible but was told the Borough was applying for the second tier level. Mayor Baratta stated they had talked about a first and second round. Acting Manager Metzler stated that Fair Lawn has not been approved for anything by FEMA. He explained the way the FEMA funding program works. They look at people who have repetitive losses. In Lincoln Park, there was a particular subdivision with 38 homes that had water to the second floor and yet all of those homes did not qualify for a FEMA buyout. The reality is when you consider the number of homes that have been damaged in the area and the amount of money that is allocated, it will be awhile before Fair Lawn will see money from the Federal Government. As properties are being torn down upstream it reclaims the wetlands which reduce flooding downstream although the reduction might not be noticeable.

Mrs. Wisse said Mr. Dube told her that he did receive a contract from the Borough to buy out his home. She understood the whole concept of the river walk but they still have the same damages. The river walk will not be done this year. She wondered why it was just that one home. She would rather that nobody gets bought out or all of them. They are constantly living with flooding with feces running through it. Now they have been wondering since September whether or not the Borough would be buying them out. Her house is sinking, so she does have structural damage. Mayor Baratta asked her if she was back in her house and Mrs. Wisse said she was.

Barry Wisse, 5-02 Second Street stated that two years ago that had to take a loan from the SBA for \$50,000 for sink age problems and now it is sinking again.

Florence Lopez, 5-16 Second Street, stated that they know the area floods perennially. She has lived there for 45 years and it is not the first flood. It is the most serious with 20 plus inches of water. Their entire first floor was destroyed. Luckily she has been living at her parents' house in Elmwood Park. If she had not had that FEMA would only offer her \$2,000 for two months rental. While submitting the application FEMA asked if she had another residence. She has a summer home at the shore. She received a letter from FEMA that they wanted the money back for the rental. Manasquan was within 70 miles from Fair Lawn and she would be expected to commute back and forth.

Ms. Lopez stated the problem has existed for many years. When she moved in 1967, she used to walk her dog where the Dube's house is located. They would canoe from that area. A builder put the two houses on those lots. Whoever approved the building of those houses knew that the river would eventually come into those houses. It has cost her another \$27,000. Previously several years ago they only received a couple of inches of water. Ms. Lopez wondered

if a study was being conducted to see how that area can be dredged or filled to prevent the water from coming into that area.

Deputy Mayor Trawinski stated her section of the river cannot be dredged but in the lower Passaic, the U.S. Department of Environmental Protection Agency has agreed to consider possible dredging all the way out to the end of the Passaic River Basin. It will help those upstream to a limited extent. It is the first break in 70 years despite the persistent environmental objection to the Passaic River dredging. It looks like they are two years away before they issue the necessary permits. It should stop the flooding in Lyndhurst and Wallington with the exception of the 500 year flood. Hurricane Irene and Tropical Storm Lee were the 500 year flood events. There is strong environmental opposition to dredging that area because of the danger of the dioxins. They are looking at expanding the facilities in New Jersey that can treat it.

Ms. Lopez wondered if there were any means of tax relief offered to those who have been flooded. Deputy Mayor Trawinski said that was something she would have to talk to an attorney about. The matter of property flooding is the subject of a lot of controversy at the State Tax Court and by the County Board of Taxation. Ms. Lopez said her assessment was lowered. Deputy Mayor Trawinski said there is tremendous debate on the Passaic River, Saddle River and Hackensack River flooding issues and the lawyers that do tax appeals are discussing this every day before the County Board of Taxation.

Karen Lebowitz, 5-21 Second Street, has lived there her whole life. She does not know how the original CO was issued because she pumps all day and all night, all year. The house was built low. She called PSE&G to make sure they did not shut her side of the town down because she would flood. If she goes away, she has to have someone there to make sure the pumps continue to pump. Ms. Lebowitz said she has two pumps and a battery back-up. She had 6 and half feet of water in her basement and over five feet of water on the main level. The first thing she gets is the sewer back up. She has to leave the house during each storm. This is the fifth time she has put a claim into her homeowner's insurance.

Deputy Mayor Cosgrove asked what year her home was built. Ms. Lebowitz said in 1964. Mayor Baratta said this was the first time this has been brought to the Council's attention that she pumps all day all year.

Richard Cirello, 39-07 Jasper Road, wondered when they will be cleaning the easements. They used to clean the easements out when he moved in 40 years ago. A few years ago they came to the Council complaining about the easements and it was cleaned out. The problem was pretty much solved.

Councilmember Swain stated that the Manager had an update two weeks ago. She also had a meeting with a number of people present tonight. Acting Manager Metzler stated they found three grates that were covered. They cleared them off, and cleaned the lines last month. In late January they checked the lines after a heavy rain to make sure it was flowing. Mayor Baratta wondered if there was a regular schedule to clean out these lines. Acting Manager Metzler said they do have a regular schedule for doing all of the lines. It is a case of mixing preventative maintenance with emergency repairing. They do go around and blow out lines. As a result of the residents concern they went out and took care of it.

Cheryl Cashin, 1 Glenfair Road, stated they had sewerage again during Hurricane Irene. They had \$6,000 in damage. A couple of years ago she used to come to every meeting, then finally \$30,000 was allocated for a study of Glenfair Road. Mayor Baratta said that was done. Ms. Cashin said when she asked about it she was told the money was put back into surplus. She never heard anything after that. She never saw any action on the street. Acting Manager Metzler said it would cost \$3 million to fix the problem which was to increase the pipe size. Ms. Cashin wondered if it was just the size of the pipe or other issues. She has lived there since 1983 so they did not start having that problem until after the sewer treatment plant on Saddle River Road was closed. They have had five or six major sewer backups. She never heard about the study. Acting Manager Metzler said he does not personally know what the study found because it came in before he returned to this position. He had a discussion with the Engineer about projects and he knows to correct the problem on Jasper Road would run about \$3 million. Mayor Baratta asked if they can get her a copy of that report.

Ms. Cashin said there are people on her street whose pumps continuously run and especially during the summer months it is worse.

Richard Safer, 5-01 First Street, remembered there was a gentleman at one of the meetings telling them that they had the funds and there was a deadline to spend the funds. Mayor Baratta, Councilmember Swain and Deputy Mayor Trawinski said what Mr. Safer said was correct. Mr. Safer wondered if he should be looking for another house. Now Mr. Metzler has told him that there is no money. He does not understand what has happened.

Mr. Safer said that he has only flooded once in 27 years. Over the years he has asked for the drainage next to his house to be cleaned. He was told that the DEP would not allow it because it would stir up the contamination. He wondered what the residents were breathing in when it floods or what is left on his lawn after it recedes. He actually does not have a lawn, only an inch of dust left from the river. He was concerned about the children that live on the street.

Mr. Safer also commented about the sewer system and how it is the first thing to back up. Acting Manager Metzler said the situation with the sewer system and the backups they are having in that area is because the south siphon is dumping into the Passaic Valley Sewer's trunk line across the river in Paterson. Paterson's system unlike Fair Lawn's combines both sanitary and storm water. The trunk line becomes inundated and Fair Lawn has no place left to pump the sewage to so it starts backing up. Mr. Safer wondered if there were any other pumps along the river besides that one because this one is not working out. Every hurricane and every big storm they deal with this. He said he was paying a fortune in taxes and felt something should be done about this. He also said it did not make sense that the river could not be dredged but it is alright that it floods into everyone's house.

Mayor Baratta said they don't want to dredge it because of these contaminates that are down below. She thought it should be dredged. Mr. Safer suggested redirecting the sewer. Deputy Mayor Trawinski said they cannot do that without a DEP permit.

Mr. Safer referred back to what Mr. Hakim said at a public meeting about having enough money to buy the homes. Deputy Mayor Trawinski stated that Mr. Hakim said the DEP has a pot of money that has to be allocated and the DEP primarily dedicated it to the Wayne area and Hoffman Grove. There was not enough money to fill the requests that were made. Mr. Hakim said they had to put in their request or they would be shut out for any funds. The application was put in but the Borough did not receive any money.

Deputy Mayor Trawinski said they need help from the Passaic Valley Sewerage Commission since they know that there are several towns that have the combined sewer system but has consistently refused to do something about it. It's not that Fair Lawn's system does not work, it just does not have anywhere to go. Fifteen years ago they researched a different permit that would allow the Borough to discharge in a different area.

Mr. Palmieri stated that one of the things he has gotten from this committee is that a lot of dredging has to be done and the Army Corps. of Engineers has to be involved. Now they would be talking national. The Freeholders are trying to attack Rothman and or Pascrell because it has to be resolved.

Ms. Wisse understood that in order to receive the FEMA money the town has to be classified or categorized as a severe repetitive loss. She thought that Fair Lawn is not on the list. Mayor Baratta said that is correct because Fair Lawn cannot be compared to other places such as Wayne. Ms. Wisse wondered if Fair Lawn could get on that list. Acting Manager Metzler explained that FEMA is

tracking anyone that has FEMA flood insurance. The Borough's flood maps are up to date and show the properties that are in the flood plain. Those flood maps show what the water levels are in the 100 and 500 year floods. The problem is there is only a certain amount of money and it only goes so far. The amount of loss which is repetitive in other areas along the Passaic River far exceeds the losses experienced here. He felt they were better with the State funds. He has spoken to Senator Gordon repeatedly to increase the amount of money in Blue Acres. He has followed major events around the country. He gave an example that Florida puts a surcharge on homeowner's insurance and they use that money to offset the 25% FEMA pays. There are hundreds of ideas out there. He did not think the answer was coming from the Federal government and it was not coming in the short period of time.

Adonna Zaklin, 5-15 Canger Place, stated this was her 6th year in her home and every year it has flooded with sewer backups. She wanted to know if the town was going to fix it or not. Mayor Baratta stated that the town cannot fix it because they do not have resources to fix it. On the County level and the State level they have put committees together to let the people have their voices heard but higher up than just the Mayor and Council. They have to put the pressure on DEP and the Environmentalist. They know what the problems are now they have to move forward and let the higher up people hear them and make some changes.

Barry Wisse expressed concern that the big development being built in Elmwood Park would affect them.

Mr. Safer wondered if the Council could get the DEP to a meeting with the residents. Deputy Mayor Trawinski said it was less likely to happen here than it would at the committee that Mr. Palmieri is on. They have a Freeholder leading it and a bi-partisan membership which he felt that was the better place to be heard. Mr. Palmieri said someone from the DEP was there. The public is invited to these meetings. The Saddle Brook Mayor brings a contingency with them. Mayor Baratta suggested getting a schedule of these meetings so it can be put on the website.

Councilmember Swain wondered if everyone in the room was on the Borough's e-mail list and if not they should give the Manager the information so in case of an emergency they would be updated via e-mail.

Jim Sheehan, 5-11 Canger Place, stated he was glad they had this meeting and knows that people are upset about what happened. They do have to look at what they have to do in the future. They should work with surrounding communities to mitigate the problem. There is a lot of dead trees and debris in the river. He thought there were a number of people along the river that would

help to clean up the river, especially if the town would support it. Everyone in Fair Lawn that flushes their toilet is involved in the sewer system. He thought there were things they could do to lessen the impact. On their street, as soon as the water starts to rise, they get their last shower in and stop using the sewer system. If other people did that and lessen the use of the system, it might help. Having some activism in regard to the Paterson and the Passaic Valley Sewerage Commission would be good because they have to correct the problems.

Deputy Mayor Trawinski said they could have the Manager and the DPW look to see if Fair Lawn's side of the river has snags and tree trunks. They can do it and the County can provide some heavy equipment. The minor problem they face is the areas they typically need to get access to, the residents won't give them access. Asking people to slow down the use of the sewer system is a good idea. They should know it affects their neighbors on the western side of the town. He thought it might be time for the Council to solicit other towns to go in a combined action where people have the problem. He expects that Glen Rock experiences it too. The comments are well appreciated.

Ray Richter, 19-15 Jordon Road, asked Manager Metzler for a copy of the report that he is sending to Cheryl Cashin. In The Record there was an article about Saddle Brook getting the DEP and the Bergen County Mosquito Commission to dredge the Saddle River in their town. Deputy Mayor Trawinski said the story was incorrect. They de-snagged the river. Mr. Richter said behind Edison School by the Jordon Brook there is a lot of debris in the brook which causes flooding in heavy rain. Mayor Baratta said they are working on cleaning up the debris. Acting Manager Metzler said the efforts right now are on Beaver Dam area and the properties behind Sunnyside. The problem is the equipment is so heavy. They have started clearing out the common land that the Borough owns.

Mr. Richter wondered about the sump pumps that are going into the sewer system. He wanted to know how they could correct that because that would lessen the amount going into the sewer system. Deputy Mayor Trawinski said the only thing they could do was on the CCO put on the re-sales they can look for that. They do not have a right to go into someone's home and say they think there is something improper going on. Mr. Richter said in Waldwick they passed an ordinance authorizing them to go door to door to make inspection. Mayor Baratta said it was an interesting point. Deputy Mayor Trawinski said if they did that, they get into the question of allocation of resources because they might be able to theoretically do it but they are at the point employee wise there is no more fat to cut. They either cut programs or raise taxes to accommodate these services.

Cheryl Cashin questioned what kind of impact the new development on Daly Field will have on the sewer system. She is really concerned about it because they are talking about 165 units with toilets, showers, etc. Deputy Mayor Trawinski said they would redirect the flow. He stated that the Council has fought this for five years in Court and the judge said they have a right to build there. It will go to the Passaic Valley Sewerage. The judge refused to look at the local impact this will have on the Fair Lawn system. Our Attorneys argued this point strongly. They asked for them to test the integrity of the system because it is over fifty years old but the judge refused.

Mayor Baratta stated it was already after 7:30 p.m. and they need to go into their public meeting. They will have to come back to the Work Session to do the other items. She realized this was frustrating for all of them and they did not have answers for them but the Council wanted to get all their information.

MESSINA SETTLEMENT RESOLUTION:

Mayor Baratta stated this topic is on the Work Session so they will not be able to vote on this at the Public Meeting. Deputy Mayor Trawinski suggested discussing this now and start the meeting later.

Mayor Baratta stated at the last meeting they tabled the Messina resolution. Councilmember Swain said she would like to make a motion that they go into Closed Session to discuss this because this as Pending Litigation.

Attorney Mondello said if they are simply discussing the dollar amount or attaching the agreement that would not be enough to go into Closed Session.

Mayor Baratta said if they were discussing strategy. Councilmember Swain said she has things she would like to discuss with the Council which to her are strategy. Attorney Mondello said in Closed Session there was a vote by Councilmembers in favor of settling that, however, there was no resolution authorizing the settlement. Technically speaking, it is not settled.

CLOSED SESSION RESOLUTION:

Upon motion by Councilmember Swain and a second by Deputy Mayor Trawinski the following closed session resolution was unanimously adopted at 7:39 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 – Messina Settlement Resolution; 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 the 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 Trawinski, the Work Session was adjourned to the Public Meeting at 7:50 p.m.

Respectfully submitted,

Marilyn B. Bojanowski, RMC
Assistant Municipal Clerk

The undersigned have read and approve the foregoing minutes.

Mayor Jeanne Baratta

Deputy Mayor John Cosgrove

Councilman Kurt Peluso

Councilwoman Lisa Swain

Deputy Mayor Ed Trawinski