

WORK SESSION OF APRIL 17, 2012

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

PRESENT: Mayor Baratta, Deputy Mayor Cosgrove and Councilmembers Swain.

ABSENT: Deputy Mayor Trawinski and Councilmember Peluso.

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

Deputy Mayor Cosgrove asked for a moment of silence in honor of the 9th Anniversary of Mary Anne Collura's passing.

OPEN SPACE ITEMS:

Michael Hakim was present on behalf of the Open Space Committee. The Committee would like to continue to pursue two properties that are pre-approved by Green Acres for acquisition using grants previously awarded to the Borough. The two pre-approved properties were selected because they responded in a positive manner to the letters that were sent out by the Open Space Committee seeking levels of interest in selling.

Mayor Baratta wondered what generated sending that letter and why the properties were pre-approved.

Mr. Hakim explained that these properties were on the Open Space Inventory as properties that could be eventually acquired from the Borough. Green Acres will give a certain amount of money which can be used on any pre-approved properties. There are further requirements that could prevent the property from being ineligible for Green Acres.

The Wagaraw Road property was on the list because it is river front property. The Open Space Committee has expressed a desire to create a river walk along the Passaic River. There are also flooding issues along that property.

The property adjacent to the Naugle site and surrounded by either the Naugle or Vander Platt properties was always on the Open Space inventory as a target property. Both of these property owners responded positively that they would be willing to sell their properties.

In 2006 the Borough received a \$450,000 Open Space Grant from Green Acres and in 2009 a \$750,000 grant from the same program, totaling \$1.2 million. They were also granted approximately \$600,000 from Bergen County to assist in the purchase of the Naugle House property.

The Dube property which was not on the Open Space Inventory because it is not river front property but it happened to be on Blue Acres list. There were properties that they sought money for but were unsuccessful in getting funding for them. That is important because although they were not awarded funds through the Blue Acres Fund, Green Acres agreed to roll over those properties to this year's funding round. That does not put them on the Open Space Inventory, which simply makes them eligible for this year's funding. While all of this is going on, they applied to Green Acres for an additional installment to the grant in the amount of \$900,000 which are matching funds.

The new Commissioner of the Department of Environmental Protection, Bob Martin has established a policy that no community should hold on to Open Space Grant funds for a period of more than three years. His rationale is that the supply of funds is far exceeded by the demand and if the community is unable to use the funds within a three year period then someone else might have an opportunity to use those funds.

He felt that policy may make sense in rural New Jersey but in Northeastern New Jersey property values are the highest, property availability is the lowest and when they deal with a whole series of complex regulations in terms of environmental work and surveys and appraisals, it is difficult to close on a property in three years. He did not think it was appropriate for this area. They have to live with this new policy so that means that the \$750,000 grant is becoming three years old. The balance of that is in jeopardy. He did not advocate spending money to just hold on to the grant.

Mr. Hakim said the properties he has been discussing are riverfront properties. The money in jeopardy is \$280,000. That means that in 2012, the Open Space Committee is looking to acquire a property for twice that amount. He explained his miscalculation that brought the amount down from \$750,000 to \$560,000.

Mr. Hakim said the Mayor and Council's support of the Open Space Committee does not commit them to anything. What it really does is allow the discussions with the property owners to go forward. If they get no more grant money, they will not be able to purchase both. The market value for the properties on Dunkerhook is just a little over \$450,000. The other properties on Wagaraw Road are actually two lots adjacent to one another and just south of the Lackland site are worth about \$365,000. If they get no additional money they would only have \$525,000 to spend. If they get an installation this year it could be used to fund this. He did not hold out a strong hope for getting another award this year except for the fact that Fair Lawn is rated a high performance community in terms of Open Space Acquisition. Since 2006 they have had two successes and they are very close to closing on the Blue Hill Property.

Mr. Hakim said they wanted to send Green Acres a letter to advise them that they have entered into negotiations with the two property owners, they have willing sellers and they have some of the money necessary but not all. The intent is to enhance the

application before them. The Open Space Committee and Deputy Mayor Trawinski felt they should wait and see if the Council would support this effort before they do that. They are at a point where they either do it or not do it. It will not be very long before they announce these awards. He is not that optimistic because they have been told by the Governor's office to slash what they originally had available.

Mr. Hakim said he was not sure how the Dube property would factor in. If the funds are coming from Open Space that would reduce the amount available to use. Mayor Baratta said it was coming from Open Space. She wondered about the potential of adding properties to the Recreational Open Space Inventory list. Mr. Hakim said they do not get added to the list. The Open Space Recreation Plan is what the Borough created – the wish list. The ROSI has to be amended. That is the document that encumbers every open space or recreation property in the Borough as the result of receiving green acres funds. It prevents the Borough from converting it into some alternate use. Amending the OSRI Plan to add the Blue Acres properties takes a letter report from the Open Space Committee needing to make an argument why these properties are more than just flooded properties that in fact fit into the OSRI scheme. It would be reviewed. Mayor Baratta said that when they started the Open Space Committee in 2006 they started the long tedious process where the committee looked for sites to add to the plan. It needed to be approved by the State. Mr. Hakim said they have since amended the plan two or three times to add property that became available that they thought fit into the scheme. They have always had a legitimate reason. He did not know if these properties would pass muster.

Manager Metzler stated the Dube house was being acquired on the pretense that it will be the southern end of the river walk. The river can be seen from their backyard. There are houses on both sides of the Dube property that are still impacted by the river flood. There is a legitimate argument that could be made that there could be an entrance to the river walk with a park attached to it which would address the concerns with the property owners that continuing issues. Based upon the recollection of 2006, they looked at neighborhoods and saw they did not have a pocket park and the access to a park was a number of blocks away. He felt that might be an opportunity to do that as well since they identified the Dube house as the entrance to the park. He felt they could add additional properties down in that neighborhood and then look at the other ones on an individual basis and see what is available.

Mr. Hakim reminded him that on the Blue Acres Inventory list most of the properties were in that neighborhood but not all, there were some along the Saddle River. He thought the Mayor's question was could they add the entire inventory from Blue Acres into Green Acres Open Space. He thought if they wanted to do that and go beyond their pre-approval for this year's funding they would have to make a case. It might be possible to do it by a neighborhood area. It has to be a credible argument. Mayor Baratta said that is why she wanted him to explain the process.

Manager Metzler stated the State has to be credible too because they took homes that were on the Blue Acres and when funding wasn't available they told the property owners that for this year they would be put into Green Acres. So that is all Fair Lawn would be doing is following the State's lead. Even if it isn't in the letter, they should reach out to Senator Gordon. They need to pursue this. The residents impacted by this realize this is going to be a process that is going to go on for decades. It is an important first step.

Mr. Hakim said they could make that argument. Mayor Baratta said that the Open Space Committee would have to look at all the properties.

Councilmember Swain wondered about the cost of the properties. She wanted to know what was left after the Naugle House purchase, what has to be matched and what can be purchased with that money.

Mr. Hakim explained that they had \$1.2 million dollars, they expended \$150,000 on the Fire House property, they expended \$595,000 and they are about to expend \$180,000 on Blue Hill leaving a balance of \$280,000 that has to be matched. That makes it a \$560,000 purchase. If it is not on the list, most of the Blue Acres are, then they would have to get them pre-approved first.

Councilmember Swain asked for verification that they could use the \$560,000 to purchase the Wagaraw, Dunkerhook and Dube properties. Mr. Hakim stated that they could choose from any of the Blue Acres properties. Attorney Mondello stated that he thought the acquisition of the Dube property could only be done through Open Space. Mr. Hakim explained that the State made an exception this year which allowed them to use Open Space funds for their Blue Acres inventory. He believed all the properties on the Blue Acres list were fair game for 2012. Mayor Baratta asked if this could be done even if they had not added the properties or gotten them approved. Mr. Hakim stated that was correct. The terminology was "for this year's funding". He was unsure whether that meant if they received a grant this year or whether it meant the balance they have from 2009.

Deputy Mayor Cosgrove asked how much Open Space funding would be spent acquiring the Dube's property. Attorney Mondello explained that it would be half of the purchase price, plus matching funds from the Borough. Mr. Hakim stated they were able to use Green Acres money for this purchase. Attorney Mondello felt it made the most sense to use Green Acres funding, since that is a contract they have executed and must purchase.

Deputy Mayor Cosgrove stated they were led to believe the property on Wagaraw Road would be adjacent to the property they were gifted, but that isn't the case. If they proceed with the river walk, there will be two properties in between their new properties. He inquired if there was a definitive plan in place regarding the

Dunkerhook property. Mr. Hakim stated there is a schematic plan for the Naugle property, which was used to convince Green Acres and Bergen County that these were worthwhile properties. It would be beneficial to the Borough if Bergen County took ownership of the whole block because it is contiguous to the County Park. They broached the subject to the County but they were not interested.

Councilmember Swain asked if they would lose any leftover funds. Mr. Hakim explained that this was a policy statement; there was no hard or fast rule. He may be able to convince their case manager in Trenton to work on their behalf so the funds were not taken away. They currently have \$280,000 available with no acquisitions.

Mayor Baratta wanted to know the exact location of the Wagaraw Road property. She was not interested in acquiring the property if there were other properties in between. The Dunkerhook acquisition, however, has been a plan for a quite some time. Deputy Mayor Cosgrove asked if there was consensus from the Open Space Committee to acquire the Dunkerhook property. Mr. Hakim stated that was the Committee's first choice but they also supported the acquisition of the Wagaraw Road property. Most greenways are put together piece meal with all the pieces eventually coming together. Mayor Baratta stated that she understood that process, but with limited money available they had to prioritize.

Deputy Mayor Cosgrove agreed that the Council needed to see a breakdown and receive clarification on the Dube property. He would also like to know how much it would cost to obtain the Dunkerhook property. Manager Metzler stated that he will have the information ready at the next Work Session.

Mr. Hakim stated there have not been any appraisals completed on the Dunkerhook and Wagaraw Road properties. The figures were based on assessed values and did not seem unreasonable. The half acre of Dunkerhook property was assessed at \$452,000 and the two Wagaraw Road properties were assessed at \$365,000.

REVIEW OF TENTATIVE AGENDA:

Assistant Municipal Clerk Bojanowski stated that she is adding Closed Session minutes for March 13, 2012, an award of bid for Tree Planting and a Proclamation for Arbor Day.

COUNCIL LIAISON REPORTS:

Councilmember Swain stated that the ADA Committee and the Green Team were meeting on Thursday. She and Deputy Mayor Cosgrove met with the architect who prepared a conceptual drawing for an inclusionary playground, skate park, Splash Park and other components at Walsh Pool. The playground location will be discussed

further by the ADA Committee. The playground design has different stations that would allow children of all abilities to play together.

She felt sad about the fire that occurred at Brookdale Park. She hoped they would do everything possible to speed up the replacement process of the playground. Manager Metzler explained that commercial playgrounds are anchored by huge balls buried underground, which will have to be excavated. Superintendent Graff is reaching out to the person who originally installed the playground to make sure all the anchors are removed, because tremendous costs could be incurred if anchors are discovered during construction. There are no salvageable pieces; the playground was a total loss.

Deputy Mayor Cosgrove stated that he attended the Fire Board meeting last Wednesday. Company 1 and Company 4, who received tentative approval on their Capital budget for the purchase of two new pieces of equipment, are having their Truck Committees prepare specifications for those items.

Over the weekend the Fire Department responded to a brush fire in Glen Rock, and one Fair Lawn firefighter was overcome by the heat and taken to the hospital. He spoke with the firefighter on Sunday and he was feeling better.

The Shade Tree Committee is still working on revisions to the ordinance. Once the changes are complete, a draft will be given to the Borough Attorney to review.

POOL FEES:

Manager Metzler stated that Superintendent Graff and Assistant Superintendent Homa recommended using the following fee schedule: \$325 for a family, \$160 for an adult and \$95 for seniors for the sponsored non-residents. These fees are consistent with the inter-local fees they charged Saddle Brook, Elmwood Park, Prospect Park and Haledon in 2011.

In order for a non-resident to buy a pool pass they must be sponsored by a Fair Lawn resident. Superintendent Graff felt that the resident sponsor should be a pool member. The sponsor shall be limited to sponsoring no more than two families, two adults and two seniors.

There was consensus that residents who are members of Memorial Pool be allowed to sponsor up to two non-resident families, two non-resident adults and two non-resident seniors for membership at Memorial Pool.

FEES FOR USE OF THE COMMUNITY CENTER/POOL BY THE BOARD OF EDUCATION:

Manager Metzler stated that he was reviewing fees for use of the Community Center, which have not been updated since 2008. The Shared Services Committee discussed costs incurred by the Board of Education for use of the Center. Currently the Board of Education is not charged for the use of the building. Since the Borough incurs cost for the sound and light technicians, however, the Board of Education is charged the hourly rate for those services. He proposed that they not be charged the \$60 for the piano unless they ask that it be tuned.

The consensus was not to charge the Board of Education for the use of the Community Center.

Manager Metzler advised that the Community School Camp is a revenue generating program that pays a fee to the Borough to use Memorial Pool.

The consensus was to continue to charge for the use of Memorial Pool.

Mayor Baratta noted that the lights at the ball fields are always on even though the Council has been assured that the lights are on timers. She learned that the coaches have keys to the box to turn the lights on and off and it appears that the coaches are not turning the lights off. Manager Metzler will look into the situation.

POLICE DEPARTMENT PROPOSED RULES AND REGULATIONS:

Manager Metzler stated that he had pointed out to the Council several issues that he felt needed to be addressed. He has spoken to the consultant who assured him that the issues are covered in the rules and regulations. They must be adopted by ordinance.

The consensus was to adopt the rules and regulations as proposed.

ALARM ORDINANCE:

Manager Metzler noted that he and the Police Department had proposed that the alarm ordinance be changed to increase the fines for false alarms. He was asked to see what the other communities were doing about a registration fee. They canvassed the neighboring towns and several of the larger municipalities. Every town they contacted does charge a registration fee and the fines for false alarms vary quite a bit. He recommended that a warning be issued for the first and second false alarm, a fine of \$65 for third, fourth and fifth false alarm, \$100 for sixth through tenth, \$150 for the eleventh through fifteen and more than that \$200. He suggested that they consider a registration fee again at a later date.

Manager Metzler pointed out that the requirement is that all alarms are supposed to be registered. They need to let the residents know that they need to register their alarms.

There was consensus to amend the ordinance to issue warnings for the first and second false alarm, a fine of \$65 for third, fourth and fifth false alarm, \$100 for sixth through tenth, \$150 for the eleventh through fifteen and \$200 for each false alarm thereafter.

RECOMMENDATIONS ON RFQ'S:

Mayor Baratta stated that they did not have a full Council present to discuss the RFQ's. Manager Metzler stated that there was time to discuss the RFQ's, although they needed an alternate prosecutor.

LANDMARK AT RADBURN:

Attorney Mondello stated that he followed up on several of Deputy Mayor Trawinski's questions on the status of the public park. His recommendation was that the Council accept the dedication of the footpaths; however, the agreement would need to be clear that the Radburn Association, Landmark and its successors are to maintain the footpaths and must also maintain the contiguous areas that surround the footpaths. The benefit of the Borough accepting the dedication is that anyone can walk on the paths. Attorney Mondello stated that he would have to begin negotiations with Landmark as well as the Radburn Association, whom he felt would want to be responsible. This would be the same arrangements that have been in existence with the Radburn Association since 1929.

Mayor Baratta inquired about the 0.3216 acres piece of property. Attorney Mondello confirmed that the Borough did not want to accept dedication on that piece of property. Councilmember Swain asked if that section will remain open to the public. Manager Metzler stated that the footpath will be open to the public.

Attorney Mondello stated that the residents of the Landmark complex will have the same rights as a Radburn resident. They will be able to vote on the slate of trustees and will also pay association fees. He researched whether PREFDA gave the residents any additional rights and from what he can tell from previous court cases the answer was no.

ZONING BOARD ANNUAL REPORT:

Mayor Baratta asked to defer this item until Deputy Mayor Trawinski was present.

INTERLOCAL AGREEMENT WITH HALEDON FOR USE OF MEMORIAL POOL:

Manager Metzler stated that Haledon had requested the use of Memorial Pool by its residents. The residents would pay the same rates approved in the ordinance change but they would not require a sponsor.

There was consensus to allow residents from the Borough of Haledon to purchase memberships to Memorial Pool.

MISCELLANEOUS PUBLIC COMMENTS:

Barry Wisse, 5-02 Second Street stated that Mr. Hakim had mentioned that the residents who applied for Blue Acres funding could have their names added to the Green Acres funding list. There are 38 flooded properties. He would like to know where his home was on that list. Mayor Baratta clarified that the list was not compiled by priority. Manager Metzler stated that the first important step was having the Council agree to put Mr. Wisse's property on the list. The next step is deciding how priorities will be established. He stressed that he did not want to give Mr. Wisse false hope, but there were other mitigation opportunities available through the Federal Government that the Borough was investigating. Mayor Baratta stated that they will be asking the Open Space Committee to look at all of the properties; however, any properties they choose must be part of a bigger picture of an open space area.

Mr. Wisse was glad that the Council was buying the Dube's house but questioned why they were chosen. Councilmember Swain stated that Deputy Mayor Trawinski was at the Open Space meeting when the decision was made and would be able to provide more information. Mayor Baratta stated that she will ask to review the meeting minutes. Councilmember Swain noted that Senator Gordon was still drafting legislation to see if additional funds could be made available. Manager Metzler recalled OEM Director Marks stating that the Borough, in conjunction with the Dubes, had applied for a FEMA buyout and was denied. Based on the process FEMA follows for acquisition, the Dubes house would be the most desirable unit because an application was already on file.

Mr. Wisse stated that there is 20 feet of Borough property next to their home. He wondered if it would help to buy the property. Mayor Baratta stated that would help when the Open Space Committee looks at the property.

Laurie Wisse, 5-02 Second Street stated that there is a vision for the Dunkerhook property and Naugle House. There could be a vision for an open space park on Second Street which could be accomplished by acquiring those properties. It is a pretty area.

Rich Seibel, 33-07 Halsey Road thanked the Council, Borough Manager and everyone else who paid respects to Staff Sgt. DeAgustine, a marine from Waldwick who was killed in battle.

As a real estate appraiser, he felt the Dunkerhook properties present a real opportunity. Something wonderful was unfolding and he did not want it to be overlooked. He suggested putting a flag pole with a Betsy Ross flag at the Naugle house.

Pam Coles, 13-34 George Street inquired if the portion of the Master Plan approved in last year's budget had gone forward. Mayor Baratta explained that there was no Master Plan approval. There was a sub-committee that worked with the Planning Board. She did not have an update. Councilmember Swain stated that there weren't any funds to move forward.

Ms. Coles asked about the process to rezone the Naugle House as historical. Attorney Mondello stated that the Council could decide to rezone the area but he didn't know the benefit. Ms. Coles thought the house was rezoned several years ago for condo developments. She felt the property should be rezoned back to its original intent. Mayor Baratta stated that Attorney Mondello will look into having the property rezoned as historical.

Ms. Coles stated that her mother plays bridge at the Community Center but is not allowed to bring her friend from out of state. She asked if there was policy where out-of-town residents could participate in the bridge program for a small fee. Mayor Baratta stated that there was a policy that allowed out-of-town grandchildren to come to the Community Center with their grandparents. Deputy Mayor Cosgrove stated that there was a fee for out of town residents who used certain activities such as the Art Association. Mayor Baratta stated that non-residents are allowed in the Senior Center, provided there is room. She asked Manager Metzler to speak to Superintendent Graff to see if there was a need to establish a fee for non-residents to participate in the bridge program.

Manager Metzler clarified that when he said he was in the process of reviewing fees at the Community Center, he meant the fees for the use of the theater. He will speak to Superintendent Graff as he oversees the recreational fees.

Ms. Coles asked about the time frame of the false alarm violations they discussed. Manager Metzler clarified that it was false alarms incurred per year.

Ms. Coles clarified that the residents of the Landmark units would have to pay Radburn Association fees and their own condominium fees. Mayor Baratta stated the Borough does not have any jurisdiction over those fees.

Ms. Coles stated that the Naugle site would be great as a historic brownstone site. She noted that Paramus was having difficulty with their Zabriskie Slate House and wondered if it could be transported to the Naugle site. Mayor Baratta stated that negotiations are underway to move the Zabriskie House to Bergen Community College.

Ms. Coles concluded by stating that their current historical ordinance needed to be strengthened. She would like to see the ordinance applied to all historical sites in town.

Craig Miller, 5 Ramapo Terrace felt the Police Department should turn the field lights off.

Larry Koplik, 6 Reading Terrace felt it was dangerous to postpone the Master Plan. There is compliance issues involved with the Master Plan, particularly the ten year rule where it has to be reviewed, the plan becomes perfunctory and the Borough becomes subject to lawsuits. A priority has to be made to get the Master Plan completed.

It would be beneficial to have the Naugle property made an exempted, dedicated park property like other parks in town. They did not want to have it a residential area, although this would probably be covered by the Green Acres rules.

He asked if they will be reimbursed for maintaining the paths in the development. Mayor Baratta stated they would not. They will have to pay for the upkeep and plowing, although Attorney Mondello is still negotiating this. Mr. Koplik asked if they were taking any streets. Mayor Baratta stated the issue was before the Planning Board.

Mr. Koplik asked if the sidewalk in the public way and outside a tenant's lot belonged to the Borough. Mayor Baratta stated that it did but it was the property owner's responsibility to maintain it.

Mr. Koplik stated that the Radburn entrance sign at Landmark was in the right of way, but Radburn has always maintained it. He asked whether that property was Landmark's property or Borough property. Attorney Mondello stated that if the sign was in the Borough's right of way it meant the Borough owned it.

Mr. Koplik concluded by stating that it may be true that PREDFA applies but PREDFA is functionally unenforceable in that the requirement to disclose different pieces of information is routinely not complied with and there is no mechanism to cause it to be complied with. Attorney Mondello stated that the Planning Board will make a reasonable request of the developer to make sure the disclosure statements explain the tenant's rights.

Felice Koplik, 6 Reading Terrace stated that two or three years ago the Historic Commission received an email from the Planning Board stating that they were preparing to do the Master Plan and wanted the Commission's input. When the Master Plan comes back on the drawing board, she asked that the Historic Commission and other appropriate organizations be given adequate notice as there is a lot of research involved in upgrading the historic element of the existing Master Plan. Attorney Mondello explained that this is typically correlated to the age of the Master Plan. They could spend hundreds of thousands of dollars updating the plan, which is why the Governor changed it from a six year to a ten year plan. He will find out how old it is.

Ms. Koplik stated that it would be great if the Commission could have a planner to help out. They need somebody at the help who can get this portion accomplished in a fraction of the time.

CLOSED SESSION RESOLUTION:

Upon motion by Deputy Mayor Cosgrove and a second by Councilmember Swain, the following closed session resolution was unanimously adopted at 9:04 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 Attorney/Client Privilege – Reconsideration of possible mal practice suit against Chris Botta and Anticipated Litigation – DeSesa Engineering Protest – Installation of New Chiller; 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 Cosgrove the Work Session was adjourned at 9:16 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

Absent
Councilman Kurt Peluso

Councilwoman Lisa Swain

Absent
Deputy Mayor Ed Trawinski