

REGULAR MEETING OF MAY 22, 2012

Mayor Baratta called the meeting to order at 7:31 p.m.

In accordance with the Open Public Meetings Act, annual notice of meetings from April through August 2012 was published in "The Record" issue of March 23, 2012. Notices were also posted on the bulletin board located on the first floor of the Municipal Building; copies were mailed to The Community News and posted on the Borough of Fair Lawn website. The annual notice identified the meeting location and the time of Council Meetings and Work Sessions.

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

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

COUNCIL COMMENTS:

Councilmember Peluso congratulated the Fair Lawn Class of 2012 for putting on another great Marathon. He also congratulated the Knights of Pythias for putting on the Hands of Friendship event which supports special needs adults.

Councilmember Peluso congratulated Timothy Godfrey and Kevin Northrop on attaining the rank of Eagle Scout. He thought it was amazing to see so many Eagle Scouts living in Fair Lawn which shows the leadership at the top and the great kids living in Fair Lawn.

Last Tuesday, he toured the Municipal Building. He thanked Borough Manager Metzler for taking time to introduce him to the staff. He also thanked the Borough employees for taking time out of their busy schedules to show him what they do.

He just came from the annual Green Team Fair being held at the Fair Lawn High School. He reminded everyone that there will be a paper shredding event on June 3rd at the Recycling Center.

Deputy Mayor Cosgrove advised that the Sunrise Rotary Club will be hosting a Senior Picnic on June 3rd. It is free for all seniors and is being held at Memorial Park. The Ambulance Corps will be there to go over Vials of Life.

He attended the 70th Anniversary of the Men's Progress Club of the Fair Lawn Jewish Center. It was a great event. He thanked them for inviting him and for the contributions they have made.

He attended the Marathon and threw out the first pitch. It was an enjoyable event.

Lastly, Monday is Memorial Day and it is a day to remember those who made the ultimate sacrifice. There will be a parade and he hoped that everyone turns out for it.

Councilmember Swain stated if people were watching on TV it was not too late to go to the Green Fair which is open until 9:00 p.m. in the high school cafeteria. There are a lot of exciting things there. She showed the white pine tree that she will plant in her back yard.

She congratulated Columbia Bank for being very supportive to Fair Lawn throughout the years.

She announced that Fair Lawn All Sports in conjunction with the Saddle Brook Soccer Association is sponsoring a new soccer program for children with special needs ages 5-16. Registration is under way for Camp Shining Star which is a summer camp program for children ages 5-18 with special needs. Registration packets for both programs can be obtained at the Recreation Department, on the Recreation Department and on the ADA Committee's website.

On June 15 there will be a dance for adults with special needs 18 and over at the Community Center with a luau theme. There will be a \$5.00 cover charge for refreshments and music will be provided by DJ Tommy Tunes. On June 22nd they will be holding a movie night at the Community Center for teens with special needs ages 13-18. There will be more information coming shortly.

The ADA Committee is planning a trip to a Jackals game in August at Yogi Berra Stadium in Montclair and it will be followed by the fireworks show. Patch and the Community News will have more information.

Councilmember Swain stated the ADA Committee will be having a booth at the Radburn Street Fair on June 10th.

Deputy Mayor Trawinski echoed what Councilmember Peluso and Deputy Mayor Cosgrove said and added to all those who have served and to the families who have served in our Armed Forces, whether they are currently serving or to anyone in the Borough who has served, he offered a heartfelt thank you for their service.

Mayor Baratta stated this morning she and Deputy Mayor Cosgrove were at the corner of 30th Street and Broadway and were able to see plans for pedestrian safety. That is where Warren Point School is. She said they take pedestrian

safety very seriously. At the last Work Session they unanimously decided to bring back the Pedestrian Safety Committee.

Mayor Baratta mentioned the three young girls in the audience who have asked to make a presentation to them. She met these young ladies in her office a couple of months ago and has had a few meetings since then; they are very smart and caring girls. They came to her with an idea to help St. Jude's Children's Research Hospital. They had an idea of having either a bike marathon or a bike rodeo to raise money for St. Jude's Hospital.

Rachel Lekht, 13-54 Comerford Place, introduced her friends, Melanie Griffiths and Kamiya Patel. They had an idea that could change kid's lives. Their idea was to have a bike marathon to help kids with cancer. They would like to hold it in early fall and every penny they get will go to St. Jude's Hospital. Mayor Baratta said they were thinking about doing this at the Canoe Regatta but it is not working out so Rachel and her friends will be at the Regatta collecting money to help fund their bicycle rodeo. These girls will be seen at various locations. She encouraged everyone to stop by and visit these young ladies and be generous. She realized they were looking for start up money so there are a few people in the audience that want to help them out.

Rich Seibel, 33-07 Halsey Road and Janet Dunay, 30-02 Garrison Terrace were present. Ms. Dunay told the young ladies that they made an excellent presentation and should be very proud of themselves. Last week they came to the Council meeting and were disappointed that it was not on TV because they wanted to get as much awareness as possible. In the mean time, the Fair Lawn Republican Committee had their meeting and Mr. Seibel mentioned this and asked all of the members to contribute in some way and they had it for them this evening. She thanked them for being such a positive influence in Fair Lawn. If they continue to do what they are doing, they will impact so many people's lives.

Mayor Baratta said that Ms. Dunay has a lot of enthusiasm too. Because they changed the date from the spring to the fall, Rachel's Dad was worried they would lose motivation so she volunteered Ms. Dunay to encourage them.

MANAGER'S REPORT:

Manager Metzler stated the Manger's Report was on the table without any changes.

ORDINANCES ON SECOND READING:

Upon motion by Deputy Mayor Trawinski and a second by Councilmember Swain it was unanimously agreed to read the following ordinance by title and open the time for public comments.

ORDINANCE NO. 2236-2012

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 125, LAND DEVELOPMENT, BY REZONING THE OBS-2 ZONED AREAS IN THE VICINITY OF BROADWAY TO THE B-2 ZONE

John Biercuk, 0-84 Elden Place wondered what the difference was between the two zones and why they want to change it at this time. The zones have been in place since the early 70's.

Attorney Mondello explained the difference between the two zones. The OBS-2 zone is much more restrictive as to which businesses are allowed to open up. He gave an example of an ice cream store by CVS on Broadway which was in the OBS-2 district had to go before the Zoning Board because that business was not permitted in that zone. The purpose behind this change is to make it more aligned with the rest of the area and more generous with respect to the businesses that can open up there.

Mr. Biercuk wondered if the agreements made between the Borough and the builders still stand. Attorney Mondello advised that they would. Deputy Mayor Trawinski said the agreements govern the use or the lay out are considered conditions for site plan approvals. In the last six years they have made changes to the ordinance to make those more available for public notice. One of the things they have imposed on the Zoning and Planning Boards is that conditions in of approval have to be recorded in the County Clerk's office. That way anyone who wants to see it can get from the public records. Deputy Mayor Trawinski said if there are specific issues that Mr. Biercuk has he can either contact Don Smartt or himself and they will follow up to make sure the conditions are being lived up to. The Council may also ask the Manager to follow up depending on the nature of the problem.

Mr. Biercuk said that there have only been one or two little things and they get along well with the two businesses. Deputy Mayor Trawinski said these zones do not encroach on any residential zones that are there. It simply changes what the permitted uses are. Mr. Biercuk wondered if they knock the building down, could they build a larger one. Deputy Mayor Trawinski advised if they acquire a big enough property to meet the zone lot size, they could. This ordinance will just take away the unfairness of the two zones. Attorney Mondello suggested he stop by his office so he could show him the various uses and how they compare.

Reverend Jeffrey Leininger, 1-16 17th Street, stated that Warren Point Presbyterian Church sits right in the middle of this zone and not too far away is St. Anne's School and R.C. Church and wondered if there is a change in the zone what consideration will be giving to approving businesses coming into an area with two churches and a school. He also wondered about parking because it is already difficult. Mayor Baratta stated it should not have any effect. Deputy Mayor Trawinski stated the parking requirements in the B-2 zone which is the vast majority of uses on Broadway will not be changed by this ordinance. It goes by the use of the property. In terms of the church use, the Borough of Fair Lawn permits Houses of Worship in every zone in the municipality. Congress has said that Houses of Worship have special preferences in zoning right down to the municipal level. Mayor Baratta said that the rest of Broadway is actually a B2 zone. This change was just for a certain section.

Bob Beshlian, 10-05 Ellis Avenue, President of the Broadway Special Improvement District thanked the Mayor and Council on moving forward with this OBS conversion. He thought this would help minimize the time the stores stay vacant.

There being no further comments by the public, upon motion by Deputy Mayor Cosgrove and a second by Deputy Mayor Trawinski, it was unanimously agreed to close the time for public hearing.

Upon motion by Deputy Mayor Trawinski and a second by Councilmember Swain, Resolution No. 162 -2012 adopting Ordinance No. 2236-2012 was passed.

PUBLIC COMMENTS ON CONSENT AGENDA ITEMS ONLY:

Upon motion by Councilmember Peluso and a second by Deputy Mayor Trawinski, the time for public comments on Agenda items only was opened.

There being no comments from the public, upon motion by Councilmember Swain and a second by Deputy Mayor Trawinski, the time for public comments was unanimously closed.

RESOLUTIONS BY CONSENT #11-2012:

Upon motion by Deputy Mayor Trawinski and a second by Councilmember Peluso, Consent Agenda 11-2012 containing the following items was unanimously passed.

- a. Resol. #163-2012 – Approval of Minutes:
Budget Meeting 4/3/12
Work Session 4/3/12

Closed Session 4/3/12
Regular Meeting 4/10/12
Closed Session 4/10/12

- b. Resol. #164-2012 – Authorizing the Issuance of Estimated Tax Bills
- c. Resol. #165-2012 – Professional Services: Planner of Record
- d. Resol. #166-2012 – Appointment of Alternate Prosecutor
- e. Resol. #167-2012 – Refund of Overpayment of Taxes
- f. Resol. #168-2012 – Extension of Contract: Ductile Iron Pipe, Fittings and Valves
- g. Resol. #169-2012 – Extension of Contract: Hydrant and Hydrant Parts
- h. Resol. #170-2012 - Change Order – Project #2175 - Senior Center Exterior Improvements
- i. Resol. #171-2012 - Change Order – Project #2189 - Roadway Improvements 2011
- j. Resol. #172-2012 - Inter-local Agreement with the Borough of Saddle Brook for Use of Memorial Pool
- k. Resol. #173-2012 - Inter-local Agreement with the Borough of Elmwood Park for Use of Memorial Pool
- l. Resol. #174-2012 – Award of Bid: Library Roof Replacement
- m. Resol. #175-2012 – Professional Services: Labor Attorney
- n. Resol. #176-2012 – Dedication by Rider – ADA Committee

RESOLUTION NO. 177-2012 – Professional Services: Auditor

Upon motion by Deputy Mayor Trawinski and a second by Deputy Mayor Cosgrove, Resolution No. 177-2012 was discussed.

Councilmember Swain stated she will not be voting for this Auditor because the Auditor the Borough has had for the past ten years has been doing an excellent job. She does not subscribe to the theory that they should change Auditors every ten years. There is no reason why they should change the Auditor that has been doing an excellent job.

Councilmember Peluso stated he would also be voting no for this resolution for the reasons that Councilmember Swain stated. The Bergen County Freeholders switched Auditors and went back to Wielkotz. He felt switching was not good and releasing people. This was not a good precedent for Fair Lawn to set. There have been no issues with the Wielkotz firm or their work. He will be voting against this resolution.

Deputy Mayor Trawinski pointed out that the Bergen County Freeholders have not made a switch to the Wielkotz firm. They put forth a resolution but it has not been approved because it is in litigation between the County Executive and the Freeholders. They attempted to make a switch but it has not occurred.

Councilmember Peluso apologized to Deputy Mayor Trawinski and stated that the Freeholder Board did have a vote and the majority did vote to make the switch to Wielkotz.

Mayor Baratta stated she would be supporting this resolution because she has been sitting on this Council for seven years and have never supported this Auditor. Steve Wielkotz is a major pay to play Auditor. He violated the Pay to Play ordinance in Teaneck and was removed. In her opinion he did the same in this town. When he was the Auditor for the BCIA in Bergen County, he failed to uncover the mortgage fraud that was going on and as an Auditor that is something he should have been aware of. She will be supporting this resolution.

There being no further comments, Resolution No. 177-2012 was passed with Councilmember Peluso and Councilmember Swain dissenting.

RESOLUTION NO. 178-2012 – Introduction of Budget by Title Only

Upon motion by Deputy Mayor Trawinski and a second by Deputy Mayor Cosgrove, Resolution No. 178-2012 was discussed.

Councilmember Swain stated she would not vote to introduce this budget because it wasn't too long ago that she was out campaigning and the number one concern she heard from the residents were their taxes. She is not about to turn her back to them. She felt this budget has too high of an increase that the residents are not ready for. It also included a water tax. For just those two reasons alone, she would not vote to introduce this budget.

Deputy Mayor Cosgrove commented that he would be voting in favor of this budget. He thought the Manager did a good job by closing the budget gap with the help of the Department Heads. It is one of the problems that have happened in the past that the Council does not listen to the Department Heads. This Council sat through about four to five weeks of budget hearings where they reviewed the department budgets with their respective Department Head and none of these issues were raised then like they have now at the eleventh hour. Anyone who studies management knows that they have to rely on the Managers. The Borough Manger and the Department Heads did a good job. The budget is tight. There are no furloughs or layoffs. He thanked the Borough employees who have done a fantastic job with almost thirty less employees over the last year and they suffered with fourteen furlough days two years ago.

When they had the budget hearing and the dollar figure that these two Councilmembers wanted, it came out to twenty-eight furlough days. That would be closing the Borough for over a month. He does not think that is right. They want to maintain the services in Fair Lawn. He will be supporting the

introduction of this budget. There was no tax increase last year and now under the two percent cap, they have to do what is right.

Councilmember Peluso disagreed with what Deputy Mayor Cosgrove said. They did look at furloughs days but after looking at the numbers with Manager Metzler he now does not support furlough days. He does support looking for ways to help the residents. He agrees they should listen to Department Heads and take what they say into consideration. They have to remember that they are serving the residents of Fair Lawn first. The residents of Fair Lawn want to keep and stabilize the taxes. All of the editorial pages say they need to keep the 2% cap. People are moving out of this town because they cannot afford the taxes even though they love this town. He would support any budget that maintains that 2% cap but once they exceed that 2% cap he will not support it.

Deputy Mayor Trawinski stated to the two Councilmembers that will not support even introducing this budget, which means the people of Fair Lawn would not have a chance to comment on it. He would like to make a motion for the two in the minority to tell the people of Fair Lawn what their proposed budget was. Mayor Baratta seconded that motion.

Councilmember Peluso stated they did attempt to do that. They had the Borough Manager put together two budgets, one with the cuts they made and one without the cuts they suggested. There was a vote during the Work Session not to present those two budgets instead they went through a list of possible ways to save money. Towards the end of the discussion, the Mayor said she did not respect his vote on this and she was appealing him, like she does her children. That discussion was quickly cut off. They did attempt to have two budgets to present to the public but the Mayor and the majority of the consensus was to have just one budget.

Deputy Mayor Trawinski said the problem with that was Government was going forward since January 1. While the Government was going forward, Councilmember Peluso and Councilmember Swain sat there participating in the process and did not make any suggestions. Government does not work by sitting on the side lines. Government works when collectively the five of them participate in what they think is a good faith budget process by sitting down and reviewing the budget.

He does not want to raise taxes but the taxpayers of this Borough demand services from the Government. The cuts that Councilmember Peluso proposed were too deep. He has close to eleven years sitting on this Council; Mayor Baratta has over seven years sitting on this Council. He told Councilmember Peluso that he cannot sit there for four months and not participate in the process and then say he wants to cut taxes. Deputy Mayor Trawinski said that

Councilmember Peluso even voted against the cap bank which has been voted for unanimously by every Council since there has been a cap. The reason that is done is because it gives them and future Councils some flexibility.

He stated that Councilmember Peluso had to participate in these discussions if he wanted to make these kinds of changes. Every single taxpayer in this town, with a few exceptions would say they want their taxes cut but when it comes to their services to be cut, then they don't want that. They would not want cuts to the Senior Center, the Library, the pool, the fees, etc. It is very easy to say they will cut the budget without hurting the taxpayers that is why they all agreed to give the Manager direction to have a survey go out with the next set of tax bills to have the people tell them what they want to cut. To make the kinds of changes they have to make in the face of a 2% spending cap and a 2% tax cap means one thing only, they have to change the way the Borough of Fair Lawn does business. Fortunately Fair Lawn is in better shape than other municipalities but they do have to face that reality. He is going to make the difficult and painful decision to vote in favor of this budget which represents an overall spending cut from last year's budget. Spending is down. The problem is they have to make up the differential in the surplus that was spent last year so that a zero tax increase would be delivered to the tax payers. Taxes have increased but they have not shot up as in the prior times when there were zero increases.

Deputy Mayor Trawinski felt they could not deliver to the people zero tax increase budgets without cutting services. Seventy percent of this budget is salaries and wages; they have to cut programs to cut the salaries.

Mayor Baratta said she would be supporting the introduction of this budget and thanked the Manager, CFO Palermo, Department Heads and employees for the hard work. She reiterated what Deputy Mayor Trawinski said. They did cut spending this year by a few thousand dollars. Also this budget was cut by a million dollars. She understood that no one wanted to have their taxes raised. In the past, there were gimmicks they used such as furloughs which don't work. When there are furloughs there is more overtime and less hours that the borough offices would be open. Also the previous majority took two millions dollars out of surplus explaining that equals \$150 per household. They have to build that surplus back up. They are also aware of the fact that next year they are facing a shortage of \$500,000. She felt they have to start working on that right away. Everyone is for cutting taxes. With this budget they are trying to be responsible and do what the people of Fair Lawn elected them to do.

There being no further discussion, Resolution No. 178-2012 was passed with Councilmember Peluso and Councilmember Swain dissenting.

RESOLUTION NO. 179-2012 – Introduction of River Road Improvement Corporation Budget by Title Only

Upon motion by Deputy Mayor Trawinski and a second by Councilmember Swain, Resolution No. 179-2012 was unanimously passed.

RESOLUTION NO. 180-2012 – Introduction of Broadway Improvement Corporation Budget by Title Only

Upon motion by Deputy Mayor Trawinski and a second by Councilmember Swain, Resolution No. 180-2012 was unanimously passed.

PUBLIC COMMENTS

Upon motion by Deputy Mayor Cosgrove and a second by Councilmember Peluso, it was unanimously agreed to open the time for public comments.

Katherine Aliotta, 23-05 High Street, expressed her concerns about pedestrian safety in particular Abbott Road and Fair Lawn Avenue. Mayor Baratta informed her that the Council has been discussing pedestrian safety. Years ago the Borough had a Pedestrian Safety Committee which will be brought back. Ms. Aliotta would like to join the committee. Mayor Baratta told her to contact the Municipal Clerk's office.

Deputy Mayor Cosgrove stated that there is a total disregard for pedestrians. He asked the Manager to have the Chief look into this and possibly increase enforcement.

Sylvia Zasloff, 9 Maltese Drive, expressed her concern about the intersection of Fair Lawn Avenue and Saddle River Road.

Howard Mark, 12-23 Ferry Heights, felt in regard to the Auditor, anyone that was involved and did not see what was going on with the Community Center should be removed.

Jack Sheehan, 39-42 Pellington Drive, stated that nothing has really changed. He knows that everyone is trying to work on it and he appreciates that. He will come back next month for an update.

Manager Metzler advised that instructions were given to the patrol units when available to give extra attention. The Auxiliary Police have also been given instructions to check the park at night. He hasn't seen any more complaints from the residents. Mr. Sheehan said thankfully they have had bad weather which has stopped them from coming to the park. Manager Metzler said if Mr.

Sheehan felt there was illegal activity going on in the park, he should call the Police Department. He reassured Mr. Sheehan and the Council that instructions were to give that park extra attention. Mr. Sheehan said he does not doubt that notification went out but they doubt if anything was done about it.

Deputy Mayor Trawinski asked the Manager to get from Chief Rose a report as to what the actual efforts are that they have made in response to the written request submitted to them. Perhaps they can have this by the next Work Session.

Rich Siebel, 33-07 Halsey Road, presented a new American flag to replace the worn flag at Route 208 and Fair Lawn Avenue. This flag was being donated by his family as a gesture of appreciation to the people of Fair Lawn for the continued ongoing leadership and support for the veterans and armed forces. Throughout America's history young people have been called upon to serve and sacrifice. Today's 17, 18 and 19 year olds were too young to make sense of what happened on 9/11. This presentation is being made as this County prepares for Memorial Day. This is also a time to remember those who have fallen in battle. Our town has seen 43 of its citizens give the last full measure of devotion. The American flag flies because of all that serve and have served. All that he asks is to remember the families that have fallen.

Every day he gets an e-mail from the Department of Defense that identifies a casualty. Today's casualty was Specialist Samuel T. Watts, 20 years old of Wheaton, Illinois who died May 19th in Bethesda, MD from wounds sustained in Afghanistan. Mayor Baratta stated that Mr. Siebel was a true American patriot and they are lucky to have him in Fair Lawn. On behalf of the Mayor and Council she thanked him and his family for this wonderful flag.

Craig Miller, 5 Ramapo Terrace, felt that the Fair Lawn High School Marathon should be held on Memorial Day weekend. He wondered about the vehicles that have the white and blue lights on their vehicles. He wanted to know if that allows them to act like cops. Deputy Mayor Cosgrove explained that if they get a blue light in New Jersey they are required to obey all traffic rules and regulations.

Mr. Miller suggested that someone check the signals to cross the street on Fair Lawn because he felt they may be mistimed. He felt that instead of a Police car sitting in front of the Ambulance building they should sit on Fair Lawn Avenue.

Councilmember Peluso encouraged Mr. Miller to contact the PTA about changing the date of the Marathon.

Howard Mark, 12-23 Ferry Heights, asked about the new person in the Water Department. His neighbor went to the Tax Office to have a paper filled in and signed and they were told to either come back in a week or they would mail it. Mayor Baratta explained that they need to leave the form but she would ask the Manager to look into it.

There being no further comments, upon motion by Deputy Mayor Trawinski and a second by Deputy Mayor Cosgrove the time for public comments was unanimously closed.

Deputy Mayor Trawinski informed everyone that Operation Goodie Bag will take place, this Friday at East Brook Middle School in Paramus. They will be packing 250 bags that will be sent to Iraq. The Navy Seals will be present at the school. He suggested if anyone was interested to go there and volunteer to help pack the bags.

ADJOURNMENT TO WORK SESSION:

Upon motion by Deputy Mayor Cosgrove and a second by Deputy Mayor Trawinski, the meeting was adjourned to the Work Session at 8:55 p.m.

Respectfully submitted,

Joanne M. Kwasniewski, RMC, CMC, MMC
Municipal Clerk

The undersigned have read and approve the foregoing minutes.

Mayor Jeanne Baratta

Deputy Mayor John Cosgrove

Councilmember Kurt Peluso

Councilmember Lisa Swain

Deputy Mayor Trawinski