

WORK SESSION JANUARY 19, 2010

Mayor Tedeschi called the meeting to order at 7:44 P.M.

In accordance with the Open Public Meetings Act, annual notice of all meetings of the Borough of Fair Lawn was published in the Record issues of December 18, 2009. Notices were also posted on the bulletin board located on the first floor of the Municipal Building and the Maurice Pine Free Public Library. Copies were mailed to The Community News and posted on the Borough of Fair Lawn Website. The annual notice identified the times and locations of the Council meetings and work sessions.

PRESENT: Mayor Tedeschi, Deputy Mayors Swain and Weinstein and Councilmembers Baratta and Trawinski.

ALSO PRESENT: Acting Manager Kwasniewski, Assistant Municipal Clerk Bojanowski and Attorney Rosenberg.

Closed Session

Deputy Mayor Swain recused herself from this portion of the meeting.

Upon motion by Councilmember Baratta and a second by Deputy Mayor Weinstein, the following Closed Session resolution was unanimously adopted at 7:44 P.M.

WHEREAS; the Open Public Meetings 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 – Landmark.

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.

Mayor Tedeschi reconvened the Work Session at 8:45 p.m.

Rescue Squad Presentation on Storage Building

Eric Van Kruiningen, of the Rescue Squad, introduced himself and said that he hoped that everyone had a chance to review the packet that had been distributed. He reviewed the packet and the photos that were enclosed. He highlighted some of the

ideas that had been proposed for expansion in the past which didn't work out. At this time, he is approaching the Mayor and Council with a new proposal for the demolition of an existing building that will be replaced by a 35 ft. by 60 ft. building. The Rescue Squad, working with the Borough, will secure all plans, approvals and permits. They have been assured that there is no piping underneath and that the building and has no historical significance. The building contains one toilet which is used by the camp.

Mr. Van Kruiningen said that the final picture shows Rescue Squad's building with the new prefab building to be located across the street. It is important to have the new building located in close proximity to their building as well as having it located on Borough property. Mr. Van Kruiningen stated that Lou Weiss has offered his services for as long as they are needed. Mr. Weiss' company, WFM Projects, has come up with an estimated price for a 1,700 sq. ft. building.

Councilmember Trawinski asked how long this building would provide for the needs of the Rescue Squad and if the proposed building could be expanded if needed. Mr. Van Kruiningen replied that a building of this size should be more than adequate for the future. A 10 ft. by 20 ft. section would specifically support the needs of Jim Graff and would contain a unisex bathroom along with an exterior door. The door frames would be large enough to accommodate the Hazmat or Rescue Squad truck or another large rig in the event of an emergency.

Deputy Mayor Weinstein stated that this building has been used by the High School for outdoor education. Mr. Van Kruiningen said that the apron in front of the building would not be as long as in a typical firehouse. The current fence will be replaced by a higher fence to prevent balls coming over from the adjacent ball field.

Mayor Tedeschi asked where the Rescue Squad equipment is being stored and Mr. Van Kruiningen said that they have encountered numerous problems because equipment is scattered all over Fair Lawn. In emergency situations, time is of the essence and everyone is scrambling to get from one location to the other with the appropriate equipment. There is also the problem of wear and tear on equipment that is left outside which requires frequent replacement.

Upon questioning by Mayor Tedeschi regarding ownership of the Rescue Squad building, Mr. Van Kruiningen said that it is owned by the Squad itself, however, the Borough owns the property on a 99 year lease. Mayor Tedeschi asked how the building would be financed and Mr. Van Kruiningen asked that the Borough fund half of the project and the Rescue Squad Association would fund the remaining half and act as the general contractor.

Deputy Mayor Weinstein thanked the Squad for their patience and he stated that the Council needs to address this as soon as possible for the town. They could use the grant writer to look into grants as well as the Community Development. Mayor Tedeschi said that he supports the concept but everyone understands that this is a bad year for finances. Mr. Van Kruiningen stated that the price, which includes union wages of \$85 per hour for the 1,750 sq. ft. building, would be \$158,000. Mr. Weiss stated that 20% of the cost could be eliminated if they can solicit local support.

Mayor Tedeschi stated that they first have to decide if this is a good project for the town. He knows of a company in Colorado that does these types of buildings probably at a lower price. He pointed out that there is an unused Borough owned building on Heights Road and he questioned the idea of selling the lot and using the proceeds from that sale for this project. This would be a revenue neutral project particularly if a house were built which would bring in tax revenue.

Acting Manager Kwasniewski said that she had the Tax Assessor do a preliminary assessment of this concept. Mayor Tedeschi asked if the Council wanted to pursue this idea and the Council indicated they wanted to learn more. Acting Manager Kwasniewski will put this on the first work session agenda in February.

Upon questioning from Deputy Mayor Swain regarding funding, Michael Rosenberg, President of the Rescue Squad, said that the Rescue Squad would probably take out a local or State loan. He added that they would roll some upgrades of the fire system into the project.

Mayor Tedeschi said that he favors swapping a bad property for something that is in the best interests of the public. Councilmember Trawinski said that he understands the advantage of having the equipment in the same location and he isn't sure about the Heights Road location because time is critical when dealing with emergency services. He echoed Deputy Mayor Weinstein's comments regarding Mr. Van Kruiningen's persistence and said that he was happy to see that Mr. Rosenberg is here in his role as School Board member to be part of the solution.

Mr. Rosenberg said that they wanted to have a consensus regarding the location. Deputy Mayor Swain asked about the pre-fab construction and Mr. Van Kruiningen said that the steel part of the building is pre-fab and Mayor Tedeschi said that these buildings can be very well done aesthetically. He reminded the Council that in 1996, the original cost for the DPW building was \$2.7 million; however, a pre-fab building was ultimately used at a cost of 1.7 million. The pad and the utilities are the responsibility of the purchaser.

Councilmember Trawinski said that the Council is investigating work with the Naugle House and he suggested to Mr. Van Kruiningen that stones could perhaps be used on one of the historic sites if this building is demolished.

The Council indicated a formal consensus on the proposal regarding the location suggested by the Rescue Squad.

Review of Tentative Agenda – 1/26/10

Acting Manager Kwasniewski asked that Resolution #96-2010 be changed to Renewal of Establishment and Massagists – BRC Sauna to include more than one massagist.

Council Liaison Reports

Councilmember Baratta reported on the accomplishments of the Garden Club in 2009. They received new membership through the Farmer's Market. She said that a meeting on the Farmer's Market is planned in February and contracts will need to go out shortly after that. Attorney Rosenberg is pursuing the County regarding the possibility of a banner across the street that would help to bring in more traffic and attract additional vendors.

Acting Manager Kwasniewski reported that there is a County program which distributes coupons to senior citizens for \$10 that can only be used at various Farmers Markets. Councilmember Baratta said that some customers at the Farmers Market had asked about these coupons. Acting Manager Kwasniewski said that the program is run through the Senior Division at the County and it is worth exploring because it would bring more people to the market.

Councilmember Baratta reported that the League of Women Voters were not contacted regarding the Master Plan. Acting Manager Kwasniewski said that at this time only the Request for Proposal (RFP) have been solicited from the Planners and this is not connected with the actual Master Plan. Mayor Tedeschi asked Attorney Rosenberg for advice regarding the input of various groups regarding the Master Plan. Attorney Rosenberg stated that the Council needs to make sure that the Planning Board is aware that they need to solicit input and involve these various groups.

Acting Manager Kwasniewski explained that the letter went out for the RFP from Planners and people seem to be misinterpreting that the deadline mentioned is for comment from the different groups which is not the case. She suggested that a memo be sent from the Mayor and Council to let these groups know that they are in the initial stages and that the Planning Board will want to include input from all of the groups. Attorney Rosenberg agreed and added that the Master Plan document itself requires every group to have a say.

Councilmember Baratta stated that there are approximately ten people interested in participating in the Community Garden and a meeting will take place early in February to discuss goals. The Council had indicated an interest in exploring the arboretum and plans are being put together.

Councilmember Trawinski reported that the Shared Services Committee meeting had been cancelled.

Deputy Mayor Weinstein stated that he is looking forward to the first ADA committee meeting and he added that there was a Fire Committee meeting last night. The All Sports has moved forward on the background checks. There are a lot of people signing up to coach as well as for the finger printing which is required every two years. Deputy Mayor Weinstein stated a Community Development meeting is scheduled for next Thursday.

Deputy Mayor Swain reported that the Planning Board had their Reorganization meeting last week. There was a speaker whose topic was Eco Gardens at the Green Team meeting last week. She said that she met with a small group regarding parking that

included the principal of the High School and two students and they discussed ways to reduce litter. They will have recycling containers at all of the entrances and the Board of Education indicated they would also place garbage cans at the entrances.

Councilmember Baratta said that there are residents near 2nd Street who have a problem with standing water in the area. The water is now frozen and is in the area of a school bus stop and she asked Acting Manager Kwasniewski to look into this.

Mayor Tedeschi stated that the Environmental Commission is planning a symposium on February 26th. Acting Manager Kwasniewski said that two of the topics include "Pedestrian Friendly" and "Stormwater Management". Mayor Tedeschi announced the 501(c)3 meeting tomorrow night at 7 P.M. He said that they are inviting the directors of all the Senior Centers to a production to show them what they are offering. There will be Broadway shows presented locally along with lunch, which will create a revenue stream for the 501(c)3.

Discussion of RFQs for Special Attorney(s)

Mayor Tedeschi said that there is a need for special attorneys from time to time to deal with issues outside of the scope of the Borough Attorney. He proposed obtaining RFPs from attorneys which would create a bank of attorneys who would be available on an as needed basis. He asked how this could be managed. Acting Manager Kwasniewski said they would put an ad in the paper and on the Borough website and the Council would decide what to do with responses once they come in. The RFP will be written in a way that does not promise employment to anyone.

Mayor Tedeschi indicated that the inventory of qualified attorneys would be available at a specified rate. Attorney Rosenberg stated that the attorneys would be required to quote their fees in the statement of qualifications as well as a proposal in connection with special matters. Councilmembers agreed to go forward with the RFP.

Time Limits of Meetings

Deputy Mayor Swain suggested looking at ways to shorten meetings and she suggested imposing a time limit of 11 P.M. She recommended reassessing their priorities at 10 P.M. and added that an emergency would not be subject to these limitations.

Councilmember Trawinski said that he would agree particularly since she mentioned that there would be flexibility if there was an emergency situation. Mayor Tedeschi stated that they have to be aware of the time for public comment. After a short discussion, Councilmembers agreed with this recommendation.

Tracking Compliance of Ordinance No. 2165-2009

Councilmember Trawinski stated that this is the ordinance that dealt with the implementation of conditions on resolutions. He recalled that he had requested copies

of resolutions from the Planning and Zoning Boards, however, the Boards are ignoring this request. He is unhappy about this because each Board Member took an oath to uphold the law which they are not doing. There are resolutions where applicants agree to stipulations that are not recorded in the conditions section of the resolution. In some cases, the conditions are relatively minor but there are other instances they are substantial and the Council needs to be able to see that the applicant is doing what is required.

Councilmember Trawinski recommended that the Board Secretaries report to the Mayor and Council on whether an application was approved or denied and whether or not the Board imposed conditions mandated by the ordinance. He suggested that perhaps first Attorney Rosenberg and or Acting Manager Kwasniewski send a strong message to the Board Attorney and the Board Secretaries that the Mayor and Council is serious about what is specified in the ordinance.

Acting Manager Kwasniewski questioned whether or not this was really the responsibility of the Board Secretaries. Councilmember Trawinski said that the secretaries have indicated to him that they have reminded the Board Attorneys of this from time to time and the Board Attorneys have not presented this to the Board Secretaries. He said that there are at least a dozen substantial resolutions or resolutions where conditions were a concern either to the Board or to adjacent neighbors which are not required to be recorded in the chain of title and not reflected in the conditions section of the resolution.

Mayor Tedeschi said that if this is not being done correctly the Council must first tell the Attorneys what is right. Deputy Mayor Weinstein agreed that the Board Attorneys need to be made aware that it is apparent that the ordinance is not being followed and the Council doesn't understand the reasons. The Council would like to know if there is confusion that needs to be cleared up. If not the Council expects the ordinance to be followed.

Mayor Tedeschi said that the protocol needs to be explained again and that it is expected to be followed. Acting Manager Kwasniewski indicated that a letter will have to be sent to the attorneys and Attorney Rosenberg said he will take care of this immediately. He added that Board Members would be free to make recommendations to amend the ordinance to the Council.

Councilmember Trawinski stated that these conditions are very important in areas where residential property abuts commercial property. Mayor Tedeschi agreed and added that this will become more relevant with the development of River Road particularly River House Condominiums. Attorney Rosenberg said that these conditions have to be contained in a recordable document such as a deed. The ordinance is clear and, if there are questions, the ordinance may have to be amended and the Council will have to consider the materiality of conditions.

Inviting Guests and Other Matters Such as Proclamations on Public Meeting Agenda

Councilmember Trawinski said that he sometimes feels left out when guests are invited after agendas are set. He especially felt this way about the Anniversary of the League of Women Voters. He realizes that the Mayor's office often gets these requests at the last minute but he asked if the Municipal Clerk's office could send additions out even as late as Monday.

Adding Items to the Agenda after the Thursday Deadline

Councilmember Trawinski said that this had been covered with the preceding item.

FLHPC Attendance by Electronic Means

Attorney Rosenberg said that late last year he had received a letter from Felice Koplek, President of the Historic Preservation Commission. She questioned whether or not it would be appropriate to have members of the Commission attend a meeting telephonically. The Open Public Meetings Act recognizes that it is possible to attend a meeting telephonically and whatever the Council decides will be the policy for all of the Boards and Commissions. Attorney Rosenberg strongly advised that the Council not to allow this. He felt that it is extremely important to have people physically in attendance because it has a chilling affect on the members of the public and he recommended that the Council not allow this precedent.

Ms. Koplek agreed with Attorney Rosenberg and pointed out that this would not work if drawings or photos were being discussed. Deputy Mayor Weinstein also agreed and said that there is a community involvement that would be missing if the phone were to be used. Meetings work better if they are person to person, face to face.

Mayor Tedeschi said that he concurs except in the case of emergency conditions. Attorney Rosenberg said that this is about establishing a quorum. Councilmember Trawinski felt it wouldn't work in the case of a Planning or Zoning Board because you need to see the witnesses. He agreed that other than emergency circumstances he would find this procedure problematic.

Attorney Rosenberg reiterated that this should not be allowed in order to avoid setting a precedent. This would be the case for all Boards, including the Council, except for emergencies. Councilmembers were in agreement.

Professional Services

Health Educator - Acting Manager Kwasniewski explained that in the past they have used HARP for Health Education, however, HARP does not want to renew the contract this year. Carol Wagner, the Health Officer, has received a proposal from Valley Hospital for 225 hours at \$45 per hour or \$10,125. Valley Hospital is very involved with Fair Lawn and they will do the education programs that are required. Deputy Mayor Swain asked how the cost compares to HARP and Acting Manager Kwasniewski said that it is similar. Councilmembers agreed to the proposal, however, Mayor Tedeschi recused himself.

Survey for George Street - Acting Manager Kwasniewski stated that Green Acres requires a survey in order to close out this project. Councilmember Trawinski said that he was under the impression that they could receive a partial reimbursement for the survey. Attorney Rosenberg said that a normal survey would cost \$750, however, this will cost \$5,000. Councilmember Trawinski said that this is another example of an unfunded State mandate and he suggested that they make the League of Municipalities aware of this particular issue.

Attorney Rosenberg said that he asked Canger Engineering to try to convince Green Acres that there was no need for a new survey but it is impossible. It is the only thing remaining on the check list and there was a consensus among Councilmembers to move forward.

Miscellaneous Public Comments

Harry Poster, 13-10 2nd Street, referred to the comments on the affect that telephonic meetings would have on the public. He said that there are often people scheduled to speak during meetings who finish and leave meeting. The public doesn't get the opportunity to ask questions or make comments on what the speaker said until quite some time after they leave. He suggested that these people be put on the agenda at the end of the meeting. Mayor Tedeschi said he understands what Mr. Poster is saying, however, the Borough is usually paying these people and wants to get them out quickly.

Councilmember Trawinski recommended that the Municipal Clerk's Office be contacted the next day for information on how to reach that particular speaker. Councilmember Baratta suggested that, in the type of situation like they had with the Emergency Services presentation tonight, they should give the public five minutes to ask questions. Mayor Tedeschi said he would support the suggestion if they take a Council consensus before the speaker begins and he cautioned against turning the meeting into a debate especially when there is a long agenda.

Mr. Poster spoke about compliance enforcement and stated that on Fair Lawn Avenue there is a business called Topco where people have recently started parking cars on the sidewalk. He asked if this is something that had been allowed by the Planning Board. Councilmember Trawinski said that the only body governing the public right of way is the Mayor and Council. Acting Manager Kwasniewski said she would bring this to the attention of Police Chief Rose.

Craig Miller, 5 Ramapo Terrace, said that there are some meeting dates for Borough meetings that are not on the website including the Open Space meeting and they are not on the calendar either. Councilmember Trawinski stated that that schedule has not been finalized and Acting Manager Kwasniewski said that once the schedule is finalized it would be posted.

Mr. Miller pointed out that the first street hockey court that was built appears to be in disrepair. There are sections missing and it doesn't look like it is being used and he asked if it could be fixed. Acting Manager Kwasniewski indicated that she would look into this.

Mayor Tedeschi stated that people ask the Acting Manager to look into different things and he asked if there could be a brief follow up report on responses to these types of questions at work sessions. Acting Manager Kwasniewski said that she generally follows up with an e-mail depending on what it is but she can make a report back at the next work session.

Felice Koplek, 6 Reading Road, thanked Councilmember Trawinski for referring the Rescue Squad to her regarding the reuse of the stone on the building that will be demolished.

George McDunna, an applicant for the position of Borough Manager, said that he was a former administrator in Hopewell. In Hopewell, when dealing with last minute additions to the agenda he would e-mail Councilmembers and he also had a special cc link that would go to all the Councilmembers and the Borough Attorney.

Closed Session:

Upon motion by Councilmember Baratta and a second by Councilmember Trawinski, the following Closed Session resolution was unanimously adopted at 10:04 P.M.

WHEREAS; the Open Public Meetings 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 Personnel – Appointments including IDA Proposal; Dispatcher; Policy on Attendance at Trials (Victims), Risk manager, Broker of Record – Medical and Dental; Hakim Associates – Naugle House; Library Board, and Environmental, and Contract Negotiations – Supervisors; Blue and White; Department heads; Bergen County Prosecutor; and, PBA/SOA

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.

At 11:46 P.M. Councilmember Baratta made a motion to return to the Regular Meeting, seconded by Councilmember Trawinski.

Adjournment

Upon motion by Deputy Mayor Swain, seconded by Councilmember Trawinski, the meeting was adjourned at 11:40 P.M.

Respectfully submitted,

Marilyn B. Bojanowski, RMC
Assistant Municipal Clerk

The undersigned have read and approved the foregoing minutes.

Mayor Joseph Tedeschi

Councilmember Jeanne Baratta

Deputy Mayor Lisa Swain

Deputy Mayor Steven Weinstein

Councilmember Ed Trawinski