

WORK SESSION JANUARY 13, 2009

Mayor Weinstein called the meeting to order at 7:04 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 2, 2008. 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 Weinstein, Deputy Mayors Swain and Tedeschi and Councilmembers Baratta and Trawinski.

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

Procedures

Mayor Weinstein stated that he would like to have the meetings end earlier. He agreed that the five minutes rule should be adhered to and any Closed Session meetings to discuss union negotiations should be held earlier in the evening. He suggested that 10:30 P.M. should be the ending time for Work Sessions and Council Meetings should end by 9:30 P.M. or 10:00 P.M. He urged everyone to work towards that goal and Councilmembers agreed.

Council Audit Committee

Mayor Weinstein stated that Councilmembers Trawinski and Baratta have conducted some reviews and he stated that the Council as a whole should be the audit committee. He explained that the Council hires the auditor and suggested that the Auditor should come to the Council for a pre-engagement meeting. At that time, the Council would discuss various concerns and other items that the Auditor should address and the Auditor would have the opportunity to review these things with the Council. The Council should be advised of any issues that come up regarding policies during the audit. There would also be a post engagement when the Council would receive an audit report containing a recommendation letter. Mayor Weinstein thought that it would be more effective if the Auditor would address items that occur annually with the Council and this would be part of the oversight as a Council.

Mayor Weinstein commented that there has been a lot of transition since he has been on the Council and it is important for the Council to conduct a review of policies. Acting Manager Kwasniewski indicated that many years ago Joe Garger put together two binders containing policies or practices. Mayor Weinstein said that it would be helpful for everyone to look at these policies particularly during budget procedures to see if there is proper oversight and if the policies are outdated or should be modified. The Council could then discuss recommendations for review rather than doing things haphazardly. This is a good starting point for everyone to get a feel of what is happening in the Borough.

Mayor Weinstein stated that recently there was a sign posted at the Recycling Center stating that it was closed when it was really open. He pointed out that there is nothing in writing regarding the policy of the recycling center and this is something that the Council might want to discuss and offer some proposals for change.

Mayor Weinstein spoke regarding the review of invoices and he suggested that two Councilmembers per month review the actual invoices in order to help with the budgetary process. Mayor Weinstein asked for comments regarding his suggestions from the Councilmembers.

Councilmember Trawinski agreed to Mayor Weinstein's recommendations, however, he was concerned about running afoul of the Faulkner Act and how it might conflict with the Manager's duties. Acting Manager Kwasniewski agreed and said Councilmembers would have to come to her office to review invoices. She stated that everyone gets the list of bills and could ask her questions. Mayor Weinstein agreed with this point.

Deputy Mayor Tedeschi pointed out that the Board of Education members look at every invoice. The designated Councilmembers would just be looking at the invoices and not processing them. He said that scanning the vouchers list in numerical order would be the easiest way to handle this and he noted that Councilmembers would just be reviewing the work product which is a Council responsibility. Deputy Mayor Tedeschi suggested contacting the League of Municipalities to see if they have any procedural recommendations.

Acting Manager Kwasniewski said that she will confirm the location of the policy book mentioned earlier and Councilmembers will be welcome to come in to review the book. She said that some new polices have been drafted but have not been adopted.

Councilmember Baratta asked Acting Manager Kwasniewski to explain how the Councilmembers would be crossing the line by examining the invoices. Acting Manager Kwasniewski stated that Councilmembers always have the right to ask for information and to ask questions and it is alright to examine invoices that have been paid. She said that when it comes to invoices that have not been paid it becomes problematic. She noted that each bill has supporting back up and she agreed that the list that is supplied lacks information.

Deputy Mayor Swain said that when she was the Library Treasurer she would review the bills once a month. This was helpful because it gave her a grasp of where the money was actually going.

Mayor Weinstein reviewed the three items and asked if there was a consensus by the Council to move forward. Councilmembers agreed to the recommendations and the Council will start with a review of the invoices. The Auditor will be advised that the Council wants to have a meeting sometime in April when they start to prepare for the audit. Acting Manger Kwasniewski will notify the Council when she has the policy book available for Councilmembers to review. She said that she was under the impression that these policies were the ones that were followed when she came to Fair Lawn fifteen years ago, however, she learned that these policies had not been adopted by the Council.

Councilmember Trawinski said that this will take a lot of time. He recalled that the Council had done this in 1996 for the police department. At that time every policy and procedure was reviewed and updated. Department Heads will have to be consulted to explain why certain items are included.

Council Liaison Reports

Councilmember Baratta reported that there were many applications at last night's Planning Board meeting. She talked about ordinance 2136-2009 regarding clothing bins and said that the Planning Board did not feel that site plan review was necessary. They recommended an administrative review and if the application was denied it would go to the Zoning Official and the Zoning Board. The Planning Board feels that a review should not come to them.

Councilmember Trawinski stated that when the Council discussed this ordinance they agreed that minor site plan approval was a compromise because many times these bins interfere with traffic flow and this is why the Council thought the Planning Board needed to look at applications in some capacity. Attorney Rosenberg pointed out that the State statute requires that determination needs to be made regarding whether or not the bin constitutes a safety hazard and this is why the Council felt that the Planning Board should determine how the overall site would function with the placement of the bins. He advised that this section be left in the ordinance.

Councilmember Trawinski said that the Planning Board has a statutory right or function to determine consistency or inconsistency of an ordinance. He stated that in Hasbrouck Heights when the Council submits an ordinance for review by the Planning Board the Board indicates that they have reviewed the ordinance for consistency or inconsistency by means of a notation on the ordinance. Any other comments are usually done in memo form. If the ordinance is not returned in a timely fashion the Clerk can return the ordinance back to Planning Board Secretary and tell her that they need some sort of report. Mayor Weinstein thought that this was a good idea and Councilmembers agreed.

Deputy Mayor Swain stated that the Planning Board could get bogged down with site plans for clothing bins. Councilmember Trawinski said that the Board could create a minor site plan review committee for this purpose who could meet before the start of the regular meeting. He added that the Board gets bogged down in engineering questions that the Board Engineer and the applicant's engineer should work out in advance between themselves. He pointed out that everything can't always be worked out and that is when the application would be brought back in front of the Board.

Deputy Mayor Swain reported that the Planning Board approved an awning at a beauty salon on River Road by Shoprite and the Dobrowski building on Banta Place was approved with modifications.

Councilmember Trawinski stated that he and Acting Manager Kwasniewski attended the Broadway Improvement Corporation meeting. Both the Broadway Improvement Corporation and the River Road Improvement Corporation have agreed to comply with the conditions of the Open Public Meetings Act. For security reasons these meetings cannot be held at the bank and Acting Manager Kwasniewski said that the meetings will be held in the Card Room at the Community Center. Councilmember Trawinski said that they will be presenting their Master Plan to the Elmwood Park Mayor and Council on February 12th and they will present this Master Plan to the Fair Lawn Mayor and Council on January 20th. Acting Manager Kwasniewski explained that the Improvement Corporations will be asking the Council to refer the Master Plan to the Planning Board. The two Special Improvement Districts (SIDs) are considering sponsoring a joint forum through the auspices of Senator Gordon's office to explain the invest New Jersey Business Grant Program, however, the date has yet to be determined.

Deputy Mayor Tedeschi stated that he didn't attend the River Road Improvement Corporation meeting because it was an executive meeting. He did attend the Environmental Commission's meeting where there was a discussion of administration and procedures. He is waiting to hear from Wendy Dabney regarding how the Borough can assist the Commission in order to get things done. They are hoping to bring in a speaker from the Environmental Protection Agency (EPA) and he has a telephone conference with them tomorrow morning. Communications between the Planning Board and the Environmental Commission were also discussed and the concern on the part of the Environment Commission is that information is not flowing through to them. Deputy Mayor Tedeschi said that Council may have to do something to try to keep them more involved. They also discussed increasing the size of the commission. He spoke with Attorney Rosenberg about this and he suggested changing the ordinance to stated that if people don't attend the Commission meetings they will be replaced. He anticipates that they are going to be asking for money for administrative help because they want to keep better minutes. The Commission also would like to benefit the community by bringing in better speakers.

Councilmember Trawinski stated that many towns routinely require that Planning Board applications be forwarded to the Environmental Commission, Historic Preservation

Committee, Police Department, Fire Department, DPW, etc. He said that the Borough could simply change the submission requirements.

Mayor Weinstein reported that he met with the former Fire Chief and current Fire Chief about communications with the Planning and Zoning Boards. This year the Fire Department has a liaison with the Planning Board to make sure that their reviews are done during the early stage of review. Attorney Rosenberg said that applications should be sent to all of these departments and they would decide whether their review was necessary. Deputy Mayor Swain stated that the Planning Board last night agreed that any application that has any type of environmental issue would be sent to the Environmental Commission. Mayor Weinstein asked if Councilmembers were in agreement and they indicated they were.

Councilmember Baratta asked whether new dry cleaners would require review by the Environmental Commission. Attorney Rosenberg said that he brought this up in the context of a new commercial development application. Councilmember Trawinski gave the example of the River House condominiums and said that Environmental Commission should have had the opportunity to comment on the impact of the height of the buildings on adjacent properties. He said that sometimes it can be painful for an applicant but in the long run it is in the best interests of the municipality. Councilmember Baratta suggested having two members of the committee review applications similar to what they had talked about regarding invoices earlier in the evening. Attorney Rosenberg will come back with a recommendation on February 3rd.

Competivization Committee

Mayor Weinstein asked if the Council wanted to invite the members of this committee to a Council meeting or should a sub committee meet with them at another date. Deputy Mayor Tedeschi suggested that the committee meet with the Council so that the committee has a clear understanding of the Council's expectations. Councilmember Trawinski recommended that the CFO attend this meeting and Acting Manager Kwasniewski will invite him. Deputy Mayor Swain suggested having them meet on their own to come up with an agenda. Mayor Weinstein disagreed and said that the Council needs to give them direction. He suggested that the Competivization Committee attend the first work session of February and Councilmembers indicated that they were in agreement.

Change Pay to Play Ordinance and Request for Further Research by Borough Attorney

Councilmember Trawinski reported that Acting Manager Kwasniewski's memo from 2006 had been given to Attorney Rosenberg. This memo reflects the changes in the Pay to Play ordinance that were made by the State of New Jersey. Councilmember Trawinski said that he believes that the applicable provisions of State law still cover the Victory accounts based upon the Attorney General's advice. While the Council has the authority to strengthen the

law, the Governor's comments, when the statute was enacted, were that things could not be done that were inconsistent with State law. Councilmember Trawinski stated if Attorney Rosenberg's interpretation changes somewhat the ordinance doesn't need to be amended, however, if his interpretation doesn't change and the Council disagrees regarding its meaning, the ordinance should be amended to make sure that all the alter egos are picked up.

Mayor Weinstein said that they need to look back over the Borough Attorney's comments at the time regarding how far the Council could go. Deputy Mayor Tedeschi stated that at the last meeting they used the phrase "joint candidate committee". This is where people are running for County wide offices where the local unit was located or they were caught in political action committees. Councilmembers agreed that further research is needed. This item will be on the February 3rd agenda.

FLTV – Funding and Administrative Support

Councilmember Baratta stated that Fair Lawn TV continues to lose volunteers and they are having problems with their equipment. In the past, Borough employees have received stipends for helping out. They are looking for whatever help they can get and they don't want to stop programming because they feel this is an important public service. She asked the Council to be as creative as possible to look for a way to help them out.

Mayor Weinstein recalled that when they last spoke about this he reached out to Marlene Casey regarding money. She had said there was no money available but that was several months ago and he will contact her again. He asked if the need for equipment has been brought up. Acting Manager Kwasniewski said that they have been given money but don't always spend it.

Deputy Mayor Tedeschi stated that in the past equipment had always been a problem. The other problem is how to motivate people to volunteer. Councilmember Baratta said that they would like to have somebody with some technical expertise. Councilmember Trawinski added that they never established a capital plan and they need to have the assistance of someone who is familiar with the budgeting process to provide assistance and guidance to put a request before the Council. He suggested that the Clerk research how this is handled by other municipalities and he pointed out that Fair Lawn has a volunteer who lives in Oradell.

Councilmember Trawinski referred to the time he spent in Leadership New Jersey and he stated that one of the things you learn quickly is that without communication society has problems and residents are interested in anything that goes on in the community. Acting Manager Kwasniewski said that she will reach out to other towns as well as other regions that do things a little differently.

Fran Moldow, 35-02 Fair Lawn Avenue, member of Fair Lawn TV, asked how many other towns have paid employees working on their TV systems as opposed to volunteers. She said

that she knows how to program, however, she only knows how to take care of certain problems and when she doesn't get any assistance she has to ask for help. She added that the system is outdated.

Barbara Nagpall, of Oradell TV, introduced herself and said she has been involved with Fair Lawn TV for the past seven years. They are a member of Jersey Access Group (JAG) which is another source where you can find out which towns have paid employees working on television systems along with other information. She will get this information to Acting Manager Kwasniewski. Ms. Nagpall said that in Oradell they have two volunteers who are involved with ABC TV. Councilmember Baratta said that she knows of an ABC employee living in Fair Lawn. Ms. Nagpall said that they need a serious commitment and they need to understand how to ask for things, how to make the budget and how to understand the operating capital.

Mayor Weinstein recommended that they review these details with the Acting Manager. Ms. Moldow said that she is president of the Senior's Club and last year they received a subsidy of \$2,600. This group is disbanding and she asked if the money could go to Fair Lawn TV. Councilmember Trawinski said that Fair Lawn TV could make its own request, however, this money could not go directly to Fair Lawn TV. She also questioned whether Ron Lauterman, a former member of Fair Lawn TV, could be paid a stipend for technical support. Mayor Weinstein said that they need to draft a plan including the objectives, equipment, staffing, and supervision and how they would go about solving the problems they have. After they meet with the Acting Manager, she may approach Ron Lauterman and see how this will fit into the budgetary process. Ms. Moldow indicated that she would be in touch with the Acting Manager to arrange a meeting.

Bid Specifications – Revision Regarding Performance Guaranty Language

Councilmember Trawinski said he was surprised to learn that the bid specifications in Fair Lawn do not include language stating that if a Performance Guarantee is not renewed within 30 days or 60 days before it is scheduled to expire, the Borough would receive notice directly from the surety. This is standard in the insurance industry and it needs to be included in the bid specs. Acting Manager Kwasniewski said that this would only apply to multi-year contracts such as garbage. She would have to see if this mandatory language could be changed for the solid waste contracts and she reiterated that this is the only multi-year contract.

Performance Guaranty Monitoring – Creation of Policy for Council and Administrative Oversight & Reporting

Councilmember Trawinski stated that a clear policy on administrative oversight and reporting obligations is needed. He said that the Council should be notified by the CFO regarding cancellation of old bond issues and cancellation of BCUA debt. He suggested that this be done annually only on the oversight and not the performance.

Deputy Mayor Tedeschi said that every policy requires a procedure and you have to ensure how these policies are going to be monitored. Councilmember Trawinski said that they need to ask the Manager to generate a policy. He said that the advantage here is that she is both a Manager and the Clerk and therefore aware of what comes through the Clerk's office on this. Acting Manager Kwasniewski stated that most of the bids do not have performance guarantees. Construction contracts are handled by the Engineering Office and they give the Clerk's Office performance guarantees. Most construction projects are less than a year and once the project is complete, a maintenance bond goes into effect. The engineer then sends a memo to the Clerk's office asking for release of the performance bond because the maintenance bond is now in effect. Maintenance bonds are usually good for one year.

Mayor Weinstein asked if there is a tickler system here. Acting Manager Kwasniewski said that the Engineering Department has to monitor their construction projects. Councilmember Trawinski stated that part of a Developer's Agreement is a guarantee which normally lasts for two years before the maintenance guarantee becomes effective. He asked what happened regarding Fair Lawn Commons and said it would be useful to get updates periodically. This would probably be as simple as getting a list from the Engineering Department every so often and he recommended that the Manager look into this.

Resolution of support for Assembly Bill 3519

Councilmember Trawinski stated that this bill is phrased for nursery schools, however, there is a provision regarding residential that states "no partial construction without a full site remediation". It would make sense for Fair Lawn to support this because the Department of Environmental Protection (DEP) could say that residential development is not allowed until the site is remediated. Mayor Weinstein reported that Senator Gordon is part of a committee to make the procedures of the DEP more rigid and he fully supports this. Councilmember Trawinski said that the Environmental Committee needs to be aware of this bill since they might want to take a position.

Sale of Recyclables

Acting Manager Kwasniewski reported that Greenstar has suspended payment to the Borough. Mr. Mulligan of Greenstar had agreed to put together a plan after Acting Manager Kwasniewski had reviewed the opinion of the Council with him. He was supposed to get this plan to her before tonight's meeting, however, she hasn't heard from him. She is concerned because the Council will have to take action. Acting Manager Kwasniewski will continue to reach out to him until the next meeting, but if she hasn't heard from him the Council will have to consider some other action.

Deputy Mayor Tedeschi asked what Mr. Mulligan was supposed to be doing and Acting Manager Kwasniewski said his company, Greenstar, was supposed to be paying Fair Lawn the floor price for recyclables. At the moment, the contract has been breached and Councilmember Trawinski said that this contract will have to be reviewed by Attorney

Rosenberg. Acting Manager Kwasniewski indicated that most towns now have to pay to have recyclables taken away. Fair Lawn is not paying but is also not being paid.

Deputy Mayor Tedeschi said the next step will be failure to pick up the recyclables if the markets get worse. Deputy Mayor Swain said that rather than waiting until the next work session, they need to have Attorney Rosenberg review the situation.

PUBLIC COMMENTS

Harvey Poster, 13-10 2nd Street spoke regarding Fair Lawn TV and said that unless you have a digital box it is impossible to get channel 77. He said that Cablevision had moved Channel 77 to a digital channel while the Borough is considering allocating more money for this service. They should have kept this community affairs channel where it was to be easily accessed by the residents. Councilmember Baratta remarked that this should be a job for the Cable Board.

Craig Miller, 5 Ramapo Terrace, asked if there was a supervisor, or someone in a higher position than Mr. Mulligan at Greenstar, that the Borough could contact regarding the recyclables. Mayor Weinstein said that Mr. Mulligan is the representative handling Fair Lawn's account.

Mr. Miller said that after the last snow storm the walkways in the Radburn section were a sheet of ice and he questioned whether there were separate policies regarding snow and ice removal. Councilmember Baratta said the policy is the same for ice as it is for snow which is that it is the individual homeowner is responsible to remove the snow or ice from his or her property within 24 hours.

Closed Session:

Upon motion by Councilmember Baratta and a second by Deputy Mayor Swain, the following closed session resolution was unanimously adopted at 8:20 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, Ethics Board, Historic Preservation, County Tax Board Attorney, Police Department, Holiday Celebrations, Property Maintenance, and Borough Manager, Contract negotiations – Supervisors Association.

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 Weinstein reconvened the Work Session at 8:45 p.m.

Mayor Weinstein asked that they begin the meeting earlier next week because of the Presidential Inauguration.

There was a consensus to start the meeting at 6:30 p.m. on January 20, 2009.

ADJOURNMENT

Upon motion by Councilmember Baratta and second by Councilmember Trawinski, the meeting was adjourned at 8:46 P.M.

Respectfully submitted,

Marilyn B. Bojanowski, RMC
Assistant Municipal Clerk

The undersigned have read and approved the foregoing minutes.

Mayor Steven Weinstein

Councilmember Jeanne Baratta

Deputy Mayor Lisa Swain

Deputy Mayor Joseph Tedeschi

Councilmember Ed Trawinski

