

REGULAR MEETING OF MARCH 24, 2009

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

PRESENT: Deputy Mayor Swain, Deputy Mayor Tedeschi, Councilmember Baratta and Councilmember Trawinski

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

PRESENTATION – “EARTH HOUR”

Samantha Doherty and David Heller, 7th Grade Students from Thomas Jefferson Middle School, explained that “Earth Hour” was established in 2007 to help stabilize climate changes on our planet. Pollution and carbon dioxide levels have increased, causing the atmosphere to start deteriorating.

On the fourth Saturday in March from 8:30 – 9:30 p.m., people are encouraged to turn off as many lights as possible in office buildings, stores and homes, in every time zone. Since 2007 Earth Hour has involved 52 million people in over 35 countries. The idea was created by the Worldwide Life Fund. The first city to participate was Sydney, Australia. Atlanta, Chicago and Las Vegas have participated along with Hong Kong, Mumbai, Mexico City and Moscow. The students asked that Fair Lawn participate on March 28th by turning off the lights in the Municipal Building from 8:30 to 9:30 p.m. They hoped to get the word out to the community.

Mayor Weinstein thanked the students. He invited them to come back to share additional resources in the future.

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Swain, it was unanimously agreed that Acting Manager Kwasniewski turn off the lights in the Municipal Building on March 28th from 8:30 p.m. to 9:30 p.m.

Councilmember Baratta thanked Samantha and David for a wonderful presentation.

Deputy Mayor Swain stated that she was extremely proud of the students’ efforts, as they were the future. She encouraged them to keep spreading the word about their efforts.

PROCLAMATION: “CHEF CHRISTINE NUNN DAY”

Mayor Weinstein presented a proclamation to Christine Nunn, one of Fair Lawn’s finest chefs, who was honored for winning a cooking contest sponsored by Chef Central.

MANAGER’S REPORT:

Acting Manager Kwasniewski announced that on March 3rd the Community Center received an award for “Excellent Design – Class II” by the New Jersey Recreation and

Parks Association. Superintendent Graff, Assistant Superintendent Homa and representatives from the 501(c)3 Committee attended the awards dinner in Atlantic City. The plaque will be displayed in the Community Center.

She suggested they post a notice about Earth Hour on the Borough's website.

COUNCIL COMMENTS:

Councilmember Baratta stated that she was especially proud of Christine Nunn as they graduated Fair Lawn High School together. It was nice to honor a Fair Lawn resident who is also a friend. She stated that Ms. Nunn initially was a non-profit development director and special events planner. While attending the Culinary Institute of America, she was named top student chef in the country by Food and Wine Magazine. She is also a sommelier.

She attended the competition at Chef Central. She noted that Ms. Nunn's mother, who had recently passed away, would have been proud to see "Christine Nunn Day". She extended congratulations to Ms. Nunn.

Deputy Mayor Tedeschi stated that he and Councilmember Baratta attended the meeting regarding the Westmoreland Well Field superfund site sponsored by the Environmental Protection Agency (EPA). This issue will be discussed at the April 7th work session. There were several good questions raised that were not fully answered. He did not want the EPA to say that this was no longer a superfund site.

Councilmember Trawinski congratulated Christine Nunn.

He attended the evening EPA meeting and was impressed with how well informed the residents were and the quality of their questions. He was also impressed with Borough Engineer Garrison and his efforts to ensure the water quality remains first rate. There were initial concerns that the pollution in the well fields affected the quality of the drinking water. He stated that Borough Engineer Garrison explained that 25 years ago when the situation was discovered, all well fields in the Borough were shut down until they could be tested. Numerous tests are conducted daily by the Borough.

He was disappointed that the New Jersey Department of Environmental Protection Agency (NJDEP) did not attend either meeting, even though they selected Fair Lawn as a further test site to look for other compounds that may exist in our water supplies. He suggested asking Senator Gordon, Assemblywoman Wagner and Assemblywoman Voss to request that the NJDEP to attend future meetings.

He told the Thomas Jefferson students that other students had made important suggestions to Council over the years. As a result of one suggestion, the Council was looking for grant funding for a skateboard park. He noted that both students were extremely well spoken.

He asked to take a moment to pray for the four Oakland, California Police Officers that were murdered this week.

Deputy Mayor Swain encouraged the students to spread the word at school and to their friends, as parents often get information from their children.

She congratulated Ms. Nunn. She had the pleasure of tasting her delicious food as Ms. Nunn once catered an event for her.

She attended a grand opening of Reliance Gold on Broadway.

She and Mayor Weinstein attended a wonderful ceremony at Radburn School for Nat Bienstock, a crossing guard who was turning 85. He has been the crossing guard at Radburn School for 23 years.

There is an Arts Festival at the Community Center this evening until 9:00 p.m. Pictures will be posted in the lobby through March 29th.

Mayor Weinstein thanked Ms. Nunn for sharing her accomplishments with the Council.

He thanked Ms. Keelan, a teacher at Thomas Jefferson Middle School, for sharing the message of Earth Hour. He congratulated the students for doing a great job.

He noted that the High School performances of Thoroughly Modern Millie will begin on Thursday, March 26th and run through Sunday afternoon. He stated that the students and director, John Giresi do a wonderful job each year.

He stated that Fair Lawn High School Marathon 2009 will take place on May 15th and 16th. He encouraged everyone to support this fundraising event.

He stated that the Council will sponsor an Economic Resource Symposium on May 6th. Registration and information is available on the website. Five different organizations will be on hand to offer advice and assistance on how to help individuals and small businesses improve their situation. The free symposium will run from 3:30 p.m. to 6:30 p.m. at the George Frey Center for Arts and Recreation. The event is co-sponsored by the Chamber of Commerce, the EDC, RRIC and BIC.

He stated that the Health Department has indicated that supplies to the food pantry were becoming depleted. He asked residents to donate canned goods if possible.

Councilmember Baratta stated that All Sports Track and Field was having a fundraiser this Thursday at Maggie Moos Ice Cream Parlor in Ridgewood between 6:00 p.m. and 9:00 p.m. A percentage of the proceeds will go to All Sports Track and Field.

ORDINANCE ON SECOND READING:

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

**ORDINANCE NO. 2145-2009
(Resolution No. 126-2009)**

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR
LAWN 2000, SPECIFICALLY CHAPTER 150 ENTITLED "NOISE"
REGARDING HOURS OF OPERATION FOR CONSTRUCTION
ACTIVITIES OCCURRING ON FAIR LAWN BOARD OF EDUCATION
PROPERTY.**

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

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, Resolution No. 126-2009 adopting Ordinance No. 2145-2009 was passed with Deputy Mayor Swain dissenting.

PUBLIC COMMENTS ON CONSENT AGENDA ITEMS ONLY

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

Harvey Rubenstein, 28 Rutgers Terrace questioned the "Open Space Grant Agreement: Installation of Athletic Field and Pool Fencing" ordinance as it requested \$56,000 from the Open Space Trust Fund. Mayor Weinstein clarified the funds were from the County. Mr. Rubenstein wondered how they could request funds for a fence. He felt it should be used to buy land.

Mayor Weinstein explained that the funds could be used for the rehabilitation, improvement or enhancement of open space. Years ago County funds could only be used for acquisition. Some communities had few possible acquisitions, so the program was expanded to include improvements. He noted that they received State approval for a \$750,000 grant for the purchase of open space in Fair Lawn. Mayor Weinstein stated that the \$56,000 will be used for fencing around the turf field at Vander Plaat Field and around Memorial Park.

Mr. Rubenstein asked if the \$56,000 grant would be added to the estimated \$90,000 cost of the fence. Mayor Weinstein stated that the \$56,000 was a matching grant. The Borough will add \$56,000 for a total of \$112,000. Mr. Rubenstein asked if they had received the check for \$750,000. Mayor Weinstein stated they had not, but the process was proceeding.

Mr. Rubenstein inquired about the donation of a boat motor to the City of Passaic. He wanted to know more about the motor and the value of the donation. Mayor Weinstein stated that the Fire Department had a boat motor that wasn't being used. They had requested Council's permission to donate it. He asked Acting Manager Kwasniewski the estimated value of the motor. Acting Manager Kwasniewski stated it had no value; it would be used for parts.

Mr. Rubenstein asked if the motor was purchased by the Borough or the Fire Department. Acting Manager Kwasniewski stated that the Borough purchased it but the motor was already 20 years old.

Mr. Rubenstein inquired as to the value of the computers that were donated to the Paramus Police Department. Mayor Weinstein stated that some of the computers donated to Fair Lawn were made up of parts from various computers. Acting Manager Kwasniewski stated the computers had no value as they were obsolete and were not being used. Paramus will use the computers as spare parts since they do not have a new system.

Deputy Mayor Tedeschi stated that the original cost of the computers was \$36,675. They were purchased in 2003. Some of the computers were donated and ten were purchased at \$3,675 each.

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

RESOLUTIONS BY CONSENT #8-2009

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, Consent Agenda No.8-2009 containing the following items was unanimously passed.

- a. Resol. # 127-2009 - Approval of Minutes:
 - Work Session – 12/16/08
 - Special Meeting – 12/16/08
 - Closed Session – 12/16/08
- b. Resol. #128-2009 - Open Space Grant Agreement: Installation of Athletic Field and Pool Fencing
- c. Resol. #129-2009 - Transfer of Funds
- d. Resol. #130-2009 - Supporting Participation in the Sustainable Jersey Municipal Certification Program
- e. Resol. #131-2009 - Tax Reimbursement Certification
- f. Resol. #132-2009 - Refund of Overpayment of Taxes
- g. Resol. #133-2009 - Donation of Boat Motor to the City of Passaic
- h. Resol. #134-2009 - Donation of Obsolete Computers to Borough of Paramus
- i. Resol. #135-2009 - Appointments to the ADA Committee
- j. Resol. #136-2009 - Approving Fire Board Actions
- k. Resol. #137-2009 - Authorizing the Issuance of Requests for Qualifications for Professional Services for Grant Writer

PUBLIC COMMENTS:

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta it was unanimously agreed to open the time for public comments.

Arlene Rubenstein, 28 Rutgers Terrace stated that Fair Lawn was one of the few towns in Bergen County to have no municipal budget increase. Mayor Weinstein stated there was actually a decrease. Mrs. Rubenstein thanked former Manager Metzler and CFO Eccleston, as they were the engineers of the budget.

Deputy Mayor Tedeschi stated that Mr. Metzler's original budget with CFO Eccleston called for 21.5 points in 2006. The Council rejected that proposal. They reduced the budget by one third, saving the average homeowner \$130 per year off Mr. Metzler's original recommendation. The Council's assumptions proved to be correct.

Marv Levitt, 35-15 High Street stated that he found the recall petition of Deputy Mayor Tedeschi to be extremely offensive. The time to sort out issues is during election. A recall should only be used when a Councilperson violates a public trust, such as spending \$25,000 for an unauthorized car. He thought that Deputy Mayor Tedeschi was doing an excellent job.

He stated an article in the March 26th edition of The Record indicated the Recall Committee was made up of Republicans, Democrats and independent voters. He did an Open Public Records Act Request (OPRA) at the County Board of Elections, and learned that Joan Marks and Anne Burris were lifelong Republicans. Barbara Gremillot was a lifelong Republican until April, 2007 when she became a Democrat. In January, 2008 she became unaffiliated. In June, 2008 she became a Democrat.

Mrs. Rubenstein objected from the audience. Mayor Weinstein stated that he was running the meeting. He asked Mr. Levitt to continue.

Councilmember Trawinski stated he had a point of order. He inquired that since they opened the door to this topic of conversation, would they then open the door to anyone who wants to address the recall and not the Council's business and the people's business before the Council. Otherwise, other members of the Recall Committee or other members of the town who want to express their views on the recall may want to appear before Council. He would be happy to talk to anyone about the recall or anything else they want to after the meeting, but he felt the meeting should be for the residents' business that was on the agenda.

Mayor Weinstein asked Mr. Levitt to continue. Councilmember Trawinski stated that he would like to appeal the ruling of the chair to the entire Council. He felt they were starting down a slippery slope that will take their time at Council meetings away from the people's business by hearing anyone who wants to talk about the recall. If they open the door for this, then they have to open it for anyone who wishes to speak.

Deputy Mayor Tedeschi stated he was concerned that they did not have the right to shut the door. A recall is a public activity. Every person has the right to come to a Council Meeting to express their opinions. Councilmember Trawinski stated that he withdrew his request to appeal the ruling of the chair. He understood that the Council did not have the right to close the door to anyone who wished to speak. Deputy Mayor Tedeschi stated that he did not feel they had the right to be censors.

Mr. Levitt stated if the residents see Democrats, Republicans and Independents they would think the recall attempt was "across the board". Joan Marks and Anne Burris were lifelong Republicans. He suspected Barbara Gremillot changed from being a lifelong Republican to a Democrat after the president of her club, CCRF, decided to run in the Democratic primary. A few months later she changed her party affiliation from Democrat only to change it back a few months later. He thought she changed back to Democrat so that it would appear the Recall Committee was non-partisan.

Harvey Rubenstein, 28 Rutgers Terrace stated it was time to stop bringing up Manager Metzler's car. He attended the work sessions where it was expressly stated by Mr. Metzler and CFO Eccleston that there was no set policy in place regarding the purchase of a car. They made decisions based on the authority that they had. It was leaked to the press. Mr. Levitt was stirring this up again.

He stated that he was a lifelong Democrat who became a Republican. He votes for the best candidate, not along party lines. He does not believe these issues should be discussed at the Council meeting.

Mr. Rubenstein stated at the last work session the Fire Department came in and said to the Council that there was an excess Police car that has 100,000 miles on it, which in his opinion wasn't worth a dime, and they wanted it for the two new junior Fire Chiefs. It was taken under advisement; they would have to think about it; they needed an inventory, whatever. He didn't think the car was worth a dime and he thought it should be given to the Fire Department because, first of all, it was an incentive for people to join the Fire Department; it was an incentive for people to stay in the Fire Department; it was an incentive for them to go up the ladder in the Fire Department to become Chiefs. It's got a proper communication device in it and why should a junior Chief have to use his car to get to a fire. He said that at the work session and he was saying it again here at a public meeting, which is televised, so that everybody should know. If you went to sell it you would probably get peanuts, nothing for it, and it should go to the Fire Department.

Mr. Rubenstein inquired if Public Service had performed an energy audit. Acting Manager Kwasniewski stated that a PSE&G representative will be attending the April 22nd meeting to discuss this item.

Mayor Weinstein stated that the car request was discussed at a Fire Board meeting. This is why they have Department Heads come in and discuss their needs and present updates on things that are happening in their departments. There were a number of items brought up by other departments that also haven't been decided on. It is something they are considering.

He stated that although there was no policy in place regarding the Manager's car, there were State laws that prohibit anyone from purchasing anything that was not in the budget. That was confirmed when the completed report was sent to the State, who commented on it.

Deputy Mayor Tedeschi read from Article 4 – Description of Borough Manager, Item M which said “the Borough Manager shall ensure that no contract be entered into or undertaken until the necessary funds have been appropriated in the budget or by ordinance”. He cited New Jersey 48:457 paragraph 9 which says “local budget law forbids expending funds and incurring obligations for which no appropriations have been made”.

Councilmember Trawinski stated that he had a point of order addressed to the Borough Attorney. They have an agreement with the former Borough Manager of this municipality that Council shall not do anything to disparage him. He asked Attorney Rosenberg whether or not, by sitting silent on this or by commenting on the suggestion of a member of the public, that the Borough Manager violated the public trust when there was in fact no such finding in any of the reports nor were there any findings of State law being violated in any of the reports; they were placing the Borough in the position of being sued by the former Manager for violation of our non-disparagement agreement.

Attorney Rosenberg stated he would have to look at that. Briefly, they certainly cannot make statements that are contrary. The report that was prepared and submitted down to the Department of Local Finance speaks for itself. The findings are matter of public record.

Councilmember Trawinski inquired if there was anywhere in that report that says the Manager violated the public trust. Attorney Rosenberg read the findings that were made, adopted by the Borough Council in its entirety and submitted to the Division of Local Government Services.

Councilmember Trawinski reiterated his concern that they might be violating the agreement. He concluded as far as he was concerned, there was no finding that the Borough Manager violated the public trust.

Craig Miller, 5 Ramapo Terrace did not feel people should be allowed to attack a Borough resident who was not present. Mayor Weinstein agreed with him. He explained that he was not attacking anyone; he was trying to straighten out the facts as they were wrong. Mr. Miller stated that he was upset by the way things were projected.

Claude Bienstock, 39-11B Broadway stated that he was opposed to the recall petition. He thought that Deputy Mayor Tedeschi was a devoted, honest public servant with integrity. He felt the attacks in The Record and The Community News were slanderous. He felt he should be able to express his opinion at a Council Meeting.

Deputy Mayor Tedeschi stated the Recall Petition lists “No Statement Provided” under the reason for recall. He was not invited to the recall rally to speak, although people spoke about him. He wondered if there was a double standard.

Craig Miller, 5 Ramapo Terrace stated that he was referring to a resident’s comment that attacked someone who was not present. He did not feel it was appropriate to discuss someone’s political party.

Sylvia Zasloff, 9 Maltese Drive stated that the League of Women Voters, in conjunction with the PTA Council will be sponsoring a Candidates' Forum for the Board of Education election. The forum will take place in the High School cafeteria D on April 2nd at 8:00 p.m. Residents will have an opportunity to learn about the candidates. The election is April 21st. There will be a candidate sheet in the Community News with their answers to various questions.

Arlene Rubenstein, 28 Rutgers Terrace stated it was the citizens' right to recall any elected official with whom they disagree or whose policies they do not like. They do not have to give a reason for the recall. The Fair Lawn Action Committee is comprised of Republicans, Democrats and Independents. She stated that Mr. Levitt did not know who belonged to the Committee, and noted that he once asked her to change from Republican to Democrat to support his candidate in a primary. She felt strongly that only Council business should be discussed at public meetings.

Marv Levitt, 35-15 High Street clarified that he did not state that Mr. Metzler violated the public's trust, as implied by Councilmember Trawinski. He was merely stating that if a Councilmember bought a \$25,000 car without approval it would be a violation of the public's trust. Mr. Metzler's name was not mentioned.

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

Councilmember Trawinski noted that Mr. Levitt was concerned about keeping the record accurate. He requested that the record reflect Mr. Levitt individually, and perhaps with Peter Seiden, persuaded Suzanne DiGeronimo to change her party affiliation from lifelong Republican to Democrat so that he could run Ms. DiGeronimo in a Democratic primary.

He asked that the record also reflect that Mr. Levitt was the campaign manager for Deputy Mayor Tedeschi when he changed from Republican to Democrat and challenged Mayor Ganz and Alan Caan in the primary. It was only after he was unsuccessful in that that he turned to Councilmember Baratta to try to support Republicans. Mr. Levitt is well known for getting people to change their party affiliation.

He heard Mr. Levitt suggest that the prior Manager, by implication, violated the public trust. This was taken in the context of statements posted by Mr. Levitt on Fair Lawn Speaks when the Manager's hearing was underway that Mr. Metzler violated the law.

Mayor Weinstein advised Mr. Levitt that Public Comments was closed and that he would have another opportunity at a future public meeting. He stated that Mr. Levitt was an independent thinker, who supported the candidates that he felt were best for the job.

Deputy Mayor Tedeschi noted that Councilmember Trawinski had stated that Mr. Levitt and Mr. Seiden convinced Suzanne DiGeronimo to change parties. Councilmember Trawinski stated that he was surmising about Mr. Seiden. Deputy Mayor Tedeschi

