

## **REGULAR MEETING OF MAY 26, 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

### **MANAGER'S REPORT:**

Acting Manager Kwasniewski stated that Detective Sergeant Michael Uttel will receive the Investigative Excellence Award from the Bergen County Prosecutor's Office for his work regarding burglaries targeting families of Indian descent. Captain Anthony Serrao received the UJA Distinguished Citizen Award from Congressman Rothman, in honor of his continuing commitment to providing top first responding care through cooperation and training abroad.

A news release was sent out stating that there were a few mild cases of Swine Flu in the Borough. The Fair Lawn Board of Education and the Health Department are conducting case investigations to track and slow down the spread. People feeling ill with high fevers, cough and sore throats should stay home and see a physician. People are encouraged to cover their nose and mouth when coughing or sneezing and wash hands thoroughly and frequently throughout the day. More information is available at the CDC website [www.cdc.gov/h1n1flu](http://www.cdc.gov/h1n1flu). They are working closely with the Board of Education, who does not feel it is necessary to close the schools.

### **COUNCIL COMMENTS:**

Mayor Weinstein stated he attended the 81<sup>st</sup> annual Governor's Safety Awards Dinner sponsored by the North Jersey Safety Committee. The Borough won many safety awards. The Rescue Squad has had no safety issues in 24,145 hours of service calls, training, etc. Award recipients included the Parks Department, Mechanics Department, Department of Public Works, Sewer and Roads Department. Kraft and Thermal Fisher Scientific also won award and attributed that to the success of their Local Emergency Planning Council (LEPC).

Councilmember Baratta thanked the Recreation Department and parade participants for a nice Memorial Day celebration. She also thanked the residents who came out to watch and honor those who made the ultimate sacrifice for our country.

The Borough, in conjunction with the Health and Human Services Department and Chamber of Commerce will be hosting a networking employment event on June 17<sup>th</sup> from 5:30 p.m. to 7:30 p.m. More information will be in the Community News and on the Borough website.

The second annual Canoe Race is scheduled for Saturday, June 6<sup>th</sup>. Only six spots remain. The race begins at 10:00 a.m. until 3:00 p.m. Breakfast and lunch are served. For more information call the Manager's assistant, Jim Van Kuiningen.

Deputy Mayor Tedeschi thanked everyone who attended the Memorial Day services; there was a wonderful turnout. The Borough employees did a super job. It was a good day to honor our veterans. He congratulated St. Anne's Church, who had a float in the parade in honor of their 100<sup>th</sup> year.

Deputy Mayor Swain agreed it was a wonderful day. It was a pleasure to honor the veterans.

She felt the Borough was in good shape because they are prepared in many ways. They are prepared with the budget. They win awards because they are prepared for emergencies. She reminded everyone to be prepared as they get into the summer months. Always have water available and use sunscreen.

Councilmember Trawinski echoed the Council's comments on the Memorial Day events.

He stated that Sgt. Bastinck, Officer Cauwels and Chief Rose conducted an interfaith security meeting last Thursday regarding safety for houses of worship. Twenty three houses of worship were invited and ten sent representatives. It was an interesting and informative meeting. He encouraged residents to let their pastors and rabbis know that this was not "big brother" watching them. This was government providing help to ensure their safety.

He stated that Emergency Management has established a program called the File of Life Program for non-disabled residents. There is a magnetized packet for the refrigerator that lists the patient's name, emergency medical contact, insurance policy information, health care proxy, etc. Designed originally for special needs patients, the program is open to all residents.

#### **ORDINANCE ON FIRST READING:**

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Swain, it was unanimously agreed to read the following ordinance by title.

#### **ORDINANCE NO. 2155-2009**

**BOND ORDINANCE PROVIDING FOR THE ACQUISITION OF LANDS IN AND BY THE BOROUGH OF FAIR LAWN, IN THE COUNTY OF BERGEN, NEW JERSEY, APPROPRIATING \$3,139,500 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$2,990,000 BONDS OR NOTES OF THE BOROUGH FOR FINANCING SUCH APPROPRIATION.**

Mayor Weinstein asked Attorney Rosenberg if Deputy Mayor Swain should be recused. Attorney Rosenberg agreed that she should be recused.

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Tedeschi, Resolution 195-2009 introducing Ordinance No. 2155-2009 was discussed.

Mayor Weinstein stated this is the funding that would be set aside for the possible purchase of the 5.5 acres at Daly Field.

There being no further discussion, Resolution No. 195-2009 introducing Ordinance No. 2155-2009 was unanimously passed, with Deputy Mayor Swain recusing herself.

Upon motion by Councilmember Baratta and a second by Councilmember Trawinski, it was unanimously agreed to read the following ordinance by title.

**ORDINANCE NO. 2156-2009**

**“AN ORDINANCE TO PROVIDE FOR A CERTAIN CAPITAL IMPROVEMENT IN THE BOROUGH OF FAIR LAWN AND TO PROVIDE FOR THE RECEIPT, ACCEPTANCE AND DEPOSIT OF FUNDS THEREFORE.”**

Upon motion by Councilmember Baratta and a second by Councilmember Trawinski, Resolution 196-2009 introducing Ordinance No. 2156-2009 was discussed.

Mayor Weinstein stated that they received County funds in the amount of \$56,500 for the fencing at Vander Plaats Field and Memorial Pool.

There being no further discussion, Resolution No. 196-2009 introducing Ordinance No. 2156-2009 was unanimously passed.

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Swain, it was unanimously agreed to read the following ordinance by title.

**ORDINANCE NO. 2157-2009**

**AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FAIR LAWN 2000 TO REPEAL CHAPTER 190 ENTITLED “SEX - OFFENDER – FREE ZONE”**

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Tedeschi, Resolution No. 197-2009 introducing Ordinance No. 2157-2009 was discussed.

Attorney Rosenberg stated that Chapter 190, adopted in September, 2006, attempted to restrict convicted sex offenders from residing or loitering in areas where children regularly meet. On May 7, 2009 the Supreme Court of New Jersey decided that an ordinance enacted by a municipality was pre-empted by the State Law known as Megan’s Law. He had advised Council that the ordinance would have to be repealed. Legislation was pending that would allow municipalities to enact this type of sex offender ordinance again. Until such time, however, it must be repealed.

Councilmember Baratta stated that although she did not agree with the State Supreme Court ruling, she took an oath to uphold the laws of the State of New Jersey. She does not support this repeal and will abstain.

Councilmember Trawinski stated that he will vote to repeal it although he vehemently disagrees with the ruling of the New Jersey Supreme Court. They are left with no choice at this moment. He asked residents to contact Senator Gordon, Assemblywoman Wagner and Assemblywoman Voss and ask them to support the proposed legislation giving municipal elected officials the authority to adopt a sex offender ordinance to keep their children safe.

There being no further discussion, Resolution No. 197-2009 introducing Ordinance No. 2157-2009 was unanimously passed, with Councilmember Baratta abstaining.

#### **ORDINANCE ON SECOND READING:**

Mayor Weinstein acknowledged that people may feel passionate about these issues. He stated that everyone had a right to their opinion and everyone had a right to advocate their position. No one, however, had the right to be unruly or disrespectful to others. They are all part of a community and must work together in the proper fashion.

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

#### **ORDINANCE NO. 2151-2009**

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#### **AN ORDINANCE AUTHORIZING THE ACQUISITION OF DALY FIELD (BLOCK 3610/LOT 2) CONSISTING MORE OR LESS OF APPROXIMATELY 5.5 ACRES BY EMINENT DOMAIN**

Arlene Rubenstein, 17-38 Chandler Drive stated that she strongly opposed eminent domain because it was being used incorrectly. Eminent domain was enacted to take property that was blighted. Daly Field was neither blighted or in need of complete renovation. She applauded Deputy Mayor Swain for her refusal. She felt that she had ethics and did not go where she has a personal interest, unlike Deputy Mayor Tedeschi. Mayor Weinstein reminded Mrs. Rubenstein that her comments should address this ordinance only. He would not allow personal attacks.

Mrs. Rubenstein did not think the government should have the right to take over private property. She found this highly objectionable; it would hurt Fair Lawn's legacy.

Mark Wall, 14 Allen Place asked if they had looked into acquiring the Hayward property instead. Mayor Weinstein stated there was a lot of discussion. Mr. Wall asked why they decided to focus on Daly Field for senior housing when Hayward

was next door. He noted there was a plan for development that included both parcels. In planning any development, an integrated plan over the entire parcel makes more sense. One or two of the alternative plans did provide for as much open space as now exists with Daly Field being retained. He did not feel they fully investigated these options. He felt the Council should have legislated a density for the entire parcel to ensure that things developed in a proper manner, rather than trying to do it piecemeal.

Bob Gullack, 4 Bancroft Place stated that under the contract between the Radburn Association and the Landmark developer, Landmark has the right to build 175 units. The Borough has proposed spending \$4 million dollars to seize Daly Field and build up to 162 units. He questioned spending such a large amount of taxpayer money for a decrease of only 13 units. He felt the better option would be to seize the Hayward property, at a savings of \$1 million dollars, and use it to build 40 COAH units. This would save Fair Lawn from the impact of 135 units for \$3 million dollars. In this scenario they are spending \$22,000 for each unit not built and the cost of each unit not built has gone down by more than 90%. In the Borough Council scenario, Fair Lawn suffers the impact of 162 housing units at Fair Lawn Avenue and Plaza Road and pays \$4 million dollars. In the Hayward property scenario, Fair Lawn suffers the impact of 40 units and saves \$1 million dollars on land acquisition.

He stated that the Council continuously indicates that they have run out of time and cannot study and implement the Hayward property option. The Borough was warned two years ago that they faced losing control on the center of town and that the proper way out was to acquire the Hayward Property. The Council's negligence will force the construction of 122 new units in the center of town; the difference between 162 units in the Borough's proposal and 40 units in the Hayward proposal.

He noted that when Special Counsel Lustgarten made his initial presentation two weeks ago before the public, he did not supply the total figure of 162 units, even though that figure represents the real impact on the community. It will turn Fair Lawn into an urban nightmare. Special Counsel Lustgarten only provided that number in response to a question he posed. That was not acceptable; the number should have been volunteered.

He stated that Special Counsel Lustgarten had insisted that an all or mostly COAH development on Hayward was not permitted under COAH regulations. This was not accurate. While COAH regulations encourage integration with the general community, they do not require it. This was not acceptable conduct from Special Counsel Lustgarten, who has been paid hundreds of thousands of dollars over many years to serve as our community's COAH expert.

He concluded by stating that the negligence in the Council's response to this long term emergency, the lack of candor in setting forth the total impact on the community and the misleading depiction of COAH regulations do not create the impression that the town is being managed in an intelligent, constructive and far-sighted manner or that the voters are being treated respectfully by the Council. For the past five years, the voters of Fair Lawn have proven that they did not wish

to see a substantial development in the center of town. Their wishes are being ignored and the town is being dealt a blow from which it may not recover. They are being forced to pay huge sums of money to make these things happen. This may be a good day for politicians and developers, but it is not a good day for Fair Lawn.

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

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Tedeschi, Resolution No. 198-2009 adopting Ordinance No. 2151-2009 was discussed.

Councilmember Trawinski stated that he had discussed several remarks with Attorney Rosenberg, who advised him not to make those statements in view of the pending litigation. He suspected that other Councilmembers would have similar comments, but would also be prevented from speaking based on Attorney Rosenberg's advice. Attorney Rosenberg confirmed that.

Councilmember Trawinski clarified for Mrs. Rubenstein that eminent domain did not come from the Rehabilitation Statute and the Area in Need of Redevelopment; it comes from the Constitution of the United States and the New Jersey Constitution. He believed that as a last resort for legitimate public purposes it was incumbent upon a governing body to exercise that power. If the Court tells them that they need affordable housing, he believed that was a legitimate public purpose.

Contrary to Mr. Gulack's allegation of negligence, he felt the Council has diligently and vigorously pursued this matter. He wished he did not have to make this decision, as his first and only choice was that Daly Field remains green and that Hayward be integrated into that greenery. The Radburn Trustees have again declined to speak to them. Without their participation, this is the Council's only option. This does not mean that they will condemn Daly Field; it means they have the authority to do so. He hoped they could reach a resolution with Landmark representatives at tonight's meeting.

There being no further discussion, Resolution No. 198-2009 adopting Ordinance No. 2151-2009 was passed, with Councilwoman Baratta dissenting and Deputy Mayor Swain recusing herself.

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. 2152-2009**

**AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FAIR LAWN 2000 TO**

**REPEAL SECTION 162-2 ENTITLED "PERSONS INTOXICATED OR DISORDERLY"**

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

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Swain, Resolution No. 199-2009 adopting Ordinance No. 2152-2009 was discussed.

Attorney Rosenberg stated that this was the repeal of Section 162-2 of the Borough Ordinances, which is inconsistent with a class action lawsuit that has been filed on behalf of individuals who have been prosecuted under this ordinance. It was his recommendation that this ordinance be repealed.

There being no further discussion, Resolution No. 199-2009 adopting Ordinance No. 2152-2009 was unanimously passed.

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

**ORDINANCE NO. 2153-2009****AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FAIR LAWN, 2000, BY AMENDING AND SUPPLEMENTING CHAPTER 232 ENTITLED "VEHICLES AND TRAFFIC", ARTICLE XI, PEDESTRIAN CROSSING RIGHT-OF-WAY SIGNS, SUBSECTION 232-68, PEDESTRIAN SIGNS**

There being no further comments by the public, upon motion by Deputy Mayor Swain 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 Deputy Mayor Swain, Resolution No. 200-2009 adopting Ordinance No. 2153-2009 was discussed.

Acting Manager Kwasniewski stated that this ordinance would allow them to add pedestrian signs at the intersection of Harristown Road and DeBoer Drive and Maple Avenue and Henderson Blvd.

There being no further discussion, Resolution No. 200-2009 adopting Ordinance No. 2153-2009 was unanimously passed.

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. 2154-2009****AN ORDINANCE AUTHORIZING THE ACQUISITION BY PURCHASE OF DALY FIELD (BLOCK 3610/LOT 2) CONSISTING MORE OR LESS OF APPROXIMATELY 5.5. ACRES**

Harvey Rubenstein, 17-38 Chandler Drive asked why this was separated from Ordinance No. 2151-2009. Attorney Rosenberg stated that the first ordinance dealt with eminent domain. This ordinance was in the event that there was a negotiated settlement with respect to the acquisition.

Walter Weglein, 18 Ramsey Terrace inquired if the Borough had requested a survey in the vicinity of the Hayward property, as he noticed a truck with the word "survey" on it. Mayor Weinstein stated that census work was in progress. Mr. Weglein presented the Council with copies of a comparison of the Daly Field/Hayward property with the surrounding area. Any development will grossly impact residents on Ramsey Terrace, Ramapo Terrace, Reading Terrace, Townley Road, Sanford Road, a portion of Plaza Road, Remington Terrace, Ryder Road, Ruskin Road, Rutgers Terrace and Randolph Terrace; approximately 180 homes. He noted that these homes, almost the same number they were proposing, were in an area three times the size of Daly Field and Hayward combined.

Plaza Road has exceedingly heavy traffic all day long. He was concerned that the exit for the development would be across from Ramsey Terrace. They have not given Fair Lawn residents an opportunity to understand this. He respects Councilmember Baratta for voting against this. They cannot just answer to the courts. They must also answer to the people of Fair Lawn.

Craig Miller, 5 Ramapo Terrace stated that there are nine Radburn Board members who have not listened to the residents of Radburn. He knows that the Radburn Association was invited to meet with the Council.

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

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Tedeschi, Resolution No. 201-2009 adopting Ordinance No. 2154-2009 was discussed.

Councilmember Trawinski stated that Mr. Weglein's comment that the project was laid out as six units per acre was correct. Two years ago they rezoned Daly and Hayward to six units per acre but Judge Harris, at the request of Landmark, declared the ordinance unconstitutional this spring.

He stated that Councilmember Baratta made it clear that she agrees with his views and those of Mayor Weinstein and Deputy Mayor Tedeschi publicly. She is not supporting this, however, because she does not believe that this is a proper exercise of eminent domain. She voted in support of them replenishing their funds by borrowing money for the condemnation.

There being no further discussion, Resolution No. 201-2009 adopting Ordinance No. 2154-2009 was unanimously passed, with Deputy Mayor Swain recused.

### **PUBLIC HEARING ON 2009 BUDGET**

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

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

### **RESOLUTION NO. 202-2009 - ADOPTION OF 2009 BUDGET**

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, Resolution No. 202-2009 was discussed.

Councilmember Trawinski thanked CFO Eccleston for his 30 years of service to the Borough; he did a phenomenal job. Mayor Weinstein stated that the new CFO will be well trained by CFO Eccleston. He thanked CFO Eccleston as well.

Councilmember Baratta asked CFO Eccleston to explain the benefits of having a surplus. CFO Eccleston stated the main reason was to have available cash to pay the normal bills such as utility, water, etc. Taxes are collected four times a year, causing a cash flow problem during the non-collection periods. There must be sufficient cash on hand to pay operating expenses until the next collection period. Fair Lawn has a 99% collection ratio. Most of the tax funds are collected in the August and November quarter.

They also collect School Board and County taxes, which have statutory payment due dates. The County's payments are due 15 days after their tax collection time. The School Board, according to the way the State statute is structured, is paid when they need it. If they did not have the funds to pay the School Board, they would be required by law to borrow the money. That actually occurred back in 1980 when he first became CFO and their surplus was very low. It is important to maintain a stable balance.

There being no further discussion, Resolution No. 202-2009 adopting the 2009 Budget was unanimously passed.

### **PUBLIC HEARING ON RRIC BUDGET AND CONSIDERATION OF ASSESSMENTS IN THE RIVER ROAD IMPROVEMENT DISTRICT:**

Upon motion by Councilmember Baratta and a second by Deputy Mayor Swain, it was agreed to open the time for public comments, with Councilmember Trawinski recusing himself.

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

**RESOLUTION NO. 203-2009 – ADOPTION OF RRIC BUDGET:**

Upon motion by Councilmember Baratta and a second by Deputy Mayor Swain, Resolution No. 203-2009 was discussed.

Mayor Weinstein stated that the RRIC is self-funded by property owners who pay into a fund, which is used solely for that district. There have been many improvements in the past 15 years. They are working hard to fill the vacancies. The RRIC will also be instituting a program called "River Road Dollars" to help the businesses.

There being no further discussion, Resolution No. 203-2009 was passed, with Councilmember Trawinski recusing himself.

**PUBLIC HEARING ON BIC BUDGET AND CONSIDERATION OF ASSESSMENTS IN THE BROADWAY IMPROVEMENT DISTRICT:**

Upon motion by Councilmember Baratta and a second by Deputy Mayor Swain, it was agreed to open the time for public hearing, with Councilmember Trawinski recusing himself.

Upon motion by Deputy Mayor Swain and a second by Councilmember Baratta, it was agreed to open the time for public comments, with Deputy Mayor Tedeschi and Councilmember Trawinski recusing himself.

George Konstantindis, 39-10 Broadway asked how much was collected through the Broadway assessment. Mayor Weinstein stated that the total amount assessed was \$118,200. Mr. Konstantindis asked how much had been accumulated over the years. Mayor Weinstein stated that nothing has accumulated; the funds have been used over the past three years. CFO Eccleston stated that last year's assessed amount was the same, but he did not know the prior year as it was a partial year.

Mr. Konstantindis asked when the improvements were coming. Mayor Weinstein stated that money was spent on the Master Plan, which will be presented to the Planning Board. NJ Transit has agreed to do many improvements. The Council is sending a letter to the Department of Traffic and NJ Transit requesting signage, bump outs, reduced speed limits and improvements for a safer pedestrian crossway by the train station. Mr. Konstantindis questioned where the \$118,000 was spent. Mayor Weinstein stated that the BIC has a cleanup crew that maintains Broadway. They are helping businesses obtain grants for signage, facades, and designs. They have worked with businesses that have incorrect signage to correct that situation.

Mr. Konstantindis asked if the budget and ordinances could be posted on the Borough's website. Acting Manager Kwasniewski stated that the BIC had their own website. A copy of the budget was mailed to all Broadway businesses. Mr. Konstantindis stated he did not receive it. Mayor Weinstein suggested that he give his address to the Manager so that he could be sent another copy.

There being no further comments by the public, upon motion by Deputy Mayor Swain and a second by Councilmember Baratta, it was agreed to close the time for public hearing, with Councilmember Trawinski recusing himself.

**RESOLUTION NO. 204-2009 – ADOPTION OF BIC BUDGET:**

Upon motion by Deputy Mayor Swain and a second by Councilmember Baratta, Resolution No. 204-2009 was discussed.

There being no discussion, Resolution No. 204-2009 was passed, with Councilmember Trawinski recusing himself

**PUBLIC COMMENTS ON CONSENT AGENDA ITEMS ONLY:**

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

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

**RESOLUTIONS BY CONSENT #15-2009:**

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, Consent Agenda No.15-2009 containing the following items was unanimously passed.

- a. Resol. #205-2009 - Approval of Minutes:
  - Closed Session – 2/17/09
  - Work Session – 2/17/09
  - Closed Session – 2/17/09
- b. Resol. #206-2009 - Authorizing Extension of Bid: Industrial Supplies
- c. Resol. #207-2009 - Authorizing Estimated Tax Bills
- d. Resol. #208-2009 - Refund of Overpayment of Taxes
- e. Resol. #209-2009 - Award of Bid: Printed Supplies
- f. Resol. #210-2009 – Appointment to Fair Lawn Borough Garden Committee
- g. Resol. #211-2009 – Authorizing Tax Appeal Settlement – V. Stillman Trust
- h. Resol. #212-2009 - Authorizing Tax Appeal Settlement – Hadco
- i. Resol. #213-2009 - Authorizing Tax Appeal Settlement – Mahler Tuckman Realty
- j. Resol. #214-2009 - Authorizing Tax Appeal Settlement – 15-00 Pollitt Drive Associates
- k. Resol. #215-2009 - Authorizing Tax Appeal Settlement – Kinzler
- l. Resol. #216-2009 - Authorizing Tax Appeal Settlement – Moshe Winer
- m. Resol. #217-2009 - Authorizing Tax Appeal Settlement – 37-10 Broadway, LLC

- n. Resol. #218-2009 - Authorizing Access & Use Agreement with New Song Church – Farmers Market

**RESOLUTION NO. 219-2009 – OPPOSING ASSEMBLY BILL #3686:**

Upon motion by Councilmember Baratta and a second by Councilmember Trawinski, Resolution No. 219-2009 was discussed.

Mayor Weinstein stated that after reading the report from the Governor's Council on Alcoholism and Drug Abuse (GCADA) and hearing the comments from Assemblywoman Wagner, he would not support this resolution. The audit proved the accusations were not true. He felt the audit was a good way to proceed as it protected the volunteers, the organizations and the residents of New Jersey. He stated that he wholeheartedly supported the volunteers and this will not affect that support.

There being no further discussion, Resolution No. 219-2009 was passed, with Mayor Weinstein dissenting.

**PUBLIC COMMENTS:**

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

Harvey Rubenstein, 17-38 Chandler Drive stated that he wanted CFO Eccleston to know that at the last work session, the Borough auditors complimented him on his expertise and knowledge of State guidelines. He recalled CFO Eccleston stating that he followed State guidelines when they were discussing "cargate".

He wondered if Judge Harris would have decided differently if the Master Plan was the same as the zoning. Mayor Weinstein stated the issue had nothing to do with the Master Plan; it had to do with what was presented and followed in putting together their second round of COAH. Attorney Rosenberg confirmed that was correct.

Mr. Rosenberg stated that at last week's Zoning Board meeting, the attorney representing the applicant for 334 Lyncrest Avenue, Case No. 2009-015, argued against their FAR ordinance. A statement by Councilmember Trawinski supporting the use of the word "McMansions" in the law was introduced as evidence. The attorney argued the statutory interpretation. The variance being sought for height was granted. He felt the Council should review this again with the Zoning Official, as it may set a precedent for other cases where there is slope to the land. The Planning Board struggled greatly to have correct measurement, but someone could come in and go five feet above the required 30 feet. He suggested they pull the record and review the case.

Arlene Rubenstein, 17-38 Chandler Drive stated that CFO Eccleston will be sorely missed. She enjoyed working with him when she was a member of the Board of Education. He is the best CFO in the State. She inquired as to the status of the search for Borough Manager.

Mayor Weinstein stated that Acting Manager Kwasniewski was doing a very good job as Acting Manager and did a good job as Manager before that. They are reviewing resumes, which will be discussed at some point in time. Mrs. Rubenstein stated that the search was taking a long time.

She thanked Councilmember Baratta for having the courage to vote against eminent domain. She cautioned the Council to find out who the current three principals of Landmark were, as she has been told that they changed.

Rick Mainardi, Margand Enterprises, owner of the Radburn Shopping Center, Dave Anderson from Panera Bread and Rich Singer from Goodman's Hardware were present to discuss the problems they are experiencing with teenagers and vandalism. Currently 25 – 30 kids hang out and he is concerned things will become worse during the summer. He has tried several things to no avail. He asked for help from the Council.

Dave Anderson, General Manager of Panera Bread read a letter from a customer and nearby resident, who expressed concern over "several rowdy teens" who spend countless hours, day and night, hanging out. There have been as many as 30 teens at one time. The resident felt the kids' presence would deter seniors from walking in for coffee. It would be nice to have quiet prior to the curfew hour of 11:30 p.m. The resident asked that the store request that the Police Department patrol the area.

Mr. Anderson stated that there has been damage to the building and broken chairs. Mr. Mainardi stated that the kids are discouraging patrons from coming into the store. When they first discussed this project, they had some fears about this. They had hoped that an upscale tenant like Panera would bring in the right crowd, and it does, but the kids are hanging out without buying anything. The Police have not offered any good ideas. They suggested they hire private security. He tried that in other areas, but it doesn't work because they have no authority. He has used off duty Police Officers, who did nothing. They would leave at the end of the night and kids would still be hanging out. There is no reason for children to be hanging out there after the store has closed at 10:00 p.m. He gives the Police Department his full permission to patrol the area. It is the dead center of town. If the Police are not driving by several times then they are not doing their job.

Mayor Weinstein stated there was a recommendation to install a video camera. A River Road business resolved an issue this way, as they were able to identify the individuals and notify the authorities. He invited them to attend a work session with Chief Rose to discuss the matter further. Mr. Mainardi stated a camera could be used to deter the teens from doing damage, but he needed the Police to prevent the large group of teens.

Councilmember Trawinski stated some of these issues were discussed at the Interfaith Security Meeting with Sgt. Bastinck. If the teens are not committing a crime or doing something illegal, they have a right to be there. The Police cannot just say "leave". If they are engaging in criminal activity or causing damage, the

Police have a right and obligation to take action. He asked the Police about the number of complaints received about Panera and he was told there were none.

Acting Manager Kwasniewski stated that she discussed this issue with Chief Rose after receiving Mr. Mainardi's phone call two weeks ago. From January through May there have been 65 calls reported between Plaza Road and Abbott; 4 on the north side and the rest on the south side. There were 26 calls regarding CVS, eight at Sensations, eight at Panera Bread, six at Capital One Bank and the rest were spread out. There have been two criminal mischief complaints filed: someone had their car keyed at Panera Bread and a customer knocked over a display at Fair Lawn News. The Police are not getting called. The manager should call the Police immediately when the children knock over the tables and damage them. She stated that Police Chief Rose indicated he would be willing to meet with Mr. Mainardi again, but he should keep in mind that this is private property. They are limited as to what they can do.

Mr. Mainardi stated that when a large group hangs out bad things happen. There is damage to the building. Mayor Weinstein stated that he will schedule this for an upcoming work session. He thanked the business owners for attending.

Claude Bienstock, 39-11 B Broadway stated that he supported the use of eminent domain if it would prevent 200 – 250 housing units from being built. The increase in traffic would be detrimental to the Borough.

He stated that he opposed Assembly Bill 3686, because he did not feel it would be good to have this under the auspices of Human Service. He wanted the Alliances to be able to continue as is.

Lisa Yourman, 66 Nottingham Road stated that she has seen teenagers loitering at Panera's and Dunkin' Donuts. She suggested that they increase the hours at the Community Center, as the gym closes at 4:45 p.m. At least one basketball court should be available during the evening.

June Myerson, 15 Ballard Place thought that there would be less loitering if Hayward and Daly Field were available for the teenagers to use. She felt they should use eminent domain on the Hayward Property in conjunction with Daly Field. She encouraged them to make this happen.

Bob Gremillot, 1 Bristol Place stated that he has spoken several times about protecting green space in Fair Lawn. He implored the Council to try to save as much green areas as possible. He strongly supported eminent domain on the Hayward tract for many reasons.

Pam Coles, 13-34 George Street stated that the Radburn Association has forced them into a difficult decision. She did not envy the decision that they had to make regarding eminent domain. Mayor Weinstein stated that every member of the Radburn Association since 1930 has volunteered their time, trying to do the best they can. They have reached out to them, but they have declined to come to the table on the advice of their counsel. They are faced with the pressures of the dollars before them and it is a stressful situation for a volunteer. It is not them

against us; we are living in this community together. There is a difference of opinion that is trying to be worked out.

Ms. Coles felt the actions of the Radburn Association have compromised the entire community. She felt they should speak to the Council. They were not showing the residents common courtesy. She felt that the prior Board that made these decisions did so without the best interests of Fair Lawn in mind. Voting should be mandated as a right in Radburn, so that these decisions were not made by nine members. She stressed that she had nothing against Radburn and thought it was a beautiful part of our community.

Ms. Coles stated that there is no venue in town for teenagers to develop their social skills. If there was a locale in the center of town where they could gather, perhaps in partnership with the Alliance, this would produce a better society for all of us.

Anthony Villano, 35-02 Lenox Drive stated that when he began teaching in Fair Lawn in 1969, the kids hung out at Beaver Dam and eventually moved through all the parks. Driving the kids out of the CVS parking lot will just push them somewhere else. He agreed with Mrs. Yourman that the Community Center should be open in the evening for teenagers with high school age programs. Most recreational programs end in eighth grade. The churches no longer have functioning youth groups. He felt this matter should be addressed.

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

Deputy Mayor Tedeschi stated that he would like to request that the Clerk attach to the minutes a copy of the memo from Attorney Rosenberg dated September 26, 2007, regarding recusal issues as being a member of the Board of Education, which states there is no conflict of interest. This is the fourth opinion.

#### **CLOSED SESSION:**

Upon motion by Councilmember Baratta and a second by Councilmember Trawinski, the Closed Session resolution was unanimously adopted at 9:05 p.m.

**WHEREAS;** the Open Public Meeting act of the State of New Jersey permits the public to be excluded from certain matters to be discussed by the Governing Body; and

**WHEREAS;** the Mayor and Council of the Borough of Fair Lawn desire to discuss Pending Litigation – Landmark; and

**WHEREAS;** these matters are ones which permit the exclusion of the public from such discussions; and

**WHEREAS;** minutes will be taken during this closed session and once the need the confidentiality no longer exists the minutes will be available to the public.

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Borough of Fair Lawn that the public be excluded since these matters as set forth above are ones which permit the exclusion of the public from such discussions.

**ADJOURNMENT:**

Upon motion by Councilmember Baratta and second by Councilmember Trawinski, the meeting was adjourned at 12:48 a.m.

Respectfully submitted,

Marilyn B. Bojanowski, RMC  
Assistant Municipal Clerk

The undersigned have read and approve the foregoing minutes.

\_\_\_\_\_  
Mayor Steven Weinstein

\_\_\_\_\_  
Councilmember Jeanne Baratta

\_\_\_\_\_  
Deputy Mayor Lisa Swain

\_\_\_\_\_  
Deputy Mayor Joseph Tedeschi

\_\_\_\_\_  
Councilmember Ed Trawinski