

WORK SESSION OCTOBER 20, 2009

Mayor Weinstein called the meeting to order at 7:30 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 16, 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 and Attorney Rosenberg.

Community Garden – Borough Garden Committee

Jane Spindel referred to the idea of a Community Garden and stated that the American Community Garden Association was helpful because it identified what was involved in getting this started. Ms. Spindel took some pictures of the Community Garden in New Paltz and Montville. She anticipated that there would be some interest in this project because eating healthy and eating locally grown produce has received a lot of interest recently. This is the type of activity that could be beneficial for everyone.

Mayor Weinstein stated that this concept would have Council backing. Councilwoman Baratta agreed and said that this is a wonderful idea. When this idea had been discussed several years ago a group from the High School had been interested and she recommended a location near the High School. Ms. Spindel said that if she had an advisor of some sort she would be willing to do whatever she could to get the program started. Mayor Weinstein suggested involving the Garden Club, however, Ms. Spindel said that they are overloaded but individuals might be interested.

Ms. Spindel stated that a few years ago Samson Park, consisting of 1 ½ acres, was identified as an area for a Community Garden. Letters were sent to the residents in the apartments, however, there wasn't much positive feedback. The area receives full sun and the Engineering Department indicated that there would be no problems providing irrigation in this area. The most expensive thing would be a fence but Ms. Spindel hoped that this cost could be covered through some type of grant. She explained that there could be several areas or pockets of community gardens.

Deputy Mayor Tedeschi said that they need to define the objective of the Community Garden and what it hopes to achieve. Will the food be donated or will people take plots of land for their own use. Ms. Spindel stated that it would be primarily for the use of the

apartment dwellers because they don't have access to a yard and any excess produce could be donated to a food bank.

Mayor Weinstein said that there is a community garden on Chandler Drive and perhaps the people there would be interested in taking the lead on this. Ms. Spindel said that there are many areas in the town that would work and the only pre-requisite would be access to the areas and adequate irrigation.

Councilmember Trawinski suggested that the Assistant to the Acting Manager contact Montville and Teaneck. Ms. Spindel said that she spoke to the Engineering Department in Teaneck who runs their Community Garden. The garden has been operating for 10 years with 100 participants. There is an annual renewable application which is free and the plots are 10 ft. x 10 ft. The area has water and is fenced in and everyone is on the honor system and has to leave the area by 10 p.m.

Ms. Spindel indicated that the Borough would have to clear the land initially and further maintenance would be the responsibility of the applicant. The applicant would also have to buy the seeds or plants. Mayor Weinstein stated that the Committee would decide whether to donate the food or to sell it at the Borough's Farmers Market. Ms. Spindel said that it should be up to the applicants on whether or not to donate the food or to keep it for themselves. Acting Manager Kwasniewski said that the Horticultural Club at the High School also might be interested in participating.

Mayor Weinstein asked Ms. Spindel if she would be willing to run the first meeting of the Community Garden group in order to gauge interest and Ms. Spindel agreed to this. Acting Manager Kwasniewski stated that they need to find out how many people are really interested in doing the work and the Engineering Department has to come up with the best location for the garden. The site that is chosen will determine the size of each plot and how many people would be able to participate. The Council agreed to advertise details regarding the meeting regarding the Community Garden.

Review of Tentative Agenda 10/27/09

Acting Manager Kwasniewski added three items which include: Confirmation of Fire Board Actions; Extend Contract on Uniforms through 12/11/10; and, presentation of a check for \$115,000 by Assemblywoman Wagner and Senator Gordon for re-paving.

Council Liaison Reports

Deputy Mayor Swain reported that the Green Team is meeting on October 29th. She said that there haven't been many parking complaints and Acting Manager Kwasniewski said that the complaints begin in February or March when more students receive their driver's licenses. Councilmember Baratta reported that some of the Fair Lawn High

School students have a Face Book page concerning restricting parking to one side of the street.

Councilmember Baratta referred to the Garden Committee and said she recalled that they had wanted to put a banner across the road earlier this year regarding the Farmer's Market and could not because it was a County Road. She asked Attorney Rosenberg if they could get permission from the County for next year. Councilmember Baratta said that when the sign was used attendance at the Farmer's Market increased. The Garden Committee also questioned whether there could be an additional fee included in what the vendors at the Market pay that could go to the Garden Committee. Deputy Mayor Tedeschi said he thought that the fee could be increased and the contributions to the Garden Club would subsequently be increased. Mayor Weinstein said that there is a banner across Cedar Lane in Teaneck advertising their Farmer's Market and he asked Acting Manager Kwasniewski to find out why it is allowed there.

Councilmember Baratta attended the Property Maintenance meeting. She forwarded the Dumpster Survey to the members who had requested it. Members questioned the traffic signal box at the intersection of River Road and Morlot Avenue. Acting Manager Kwasniewski did not think that this box was the Borough's responsibility but she will check into this further. The Property Maintenance Committee is conducting a Poster Contest in the schools that was approved by the Council. The Committee asked if the winner of next year's contest could be included in next year's calendar. Acting Manager Kwasniewski said that this would be fine, however, a parental release would be necessary. Councilmember Baratta said that the teachers are picking one finalist from each class. The Property Maintenance Committee members will pick the winners and the Knights of Pythias will provide the gifts for the winners.

Councilmember Trawinski said that he missed the September ADA meeting. He recommended that the Open Space Meeting be held before the October 26th meeting on Topps at the Community Center and he suggested 7 p.m. at the Card Room in the Community Center.

Councilmember Trawinski reported that he attended the Eagle Scout Elevation Ceremony for Michael Obsuth on behalf of the Council. Mr. Obsuth cleaned up and redid a park which is quite remarkable and he added that there are 102 Eagle Scouts from that troop.

Mayor Weinstein reported that he attended the Historic Preservation presentation last Wednesday. On Saturday, he attended a Cheerleaders Contest and the Fair Lawn seventh graders came in second in one of the contests. Mayor Weinstein stated that he attended the Open Space County Committee meeting. Acting Manager Kwasniewski and Michael Hakim attended also and the County seemed very receptive regarding the development which is presently before the Planning Board.

Fair Lawn Volunteer Ambulance Corps (FLVAC) Medical Information Packet

Mayor Weinstein stated that at the National Lights Out event Sandy Haft and Brian Lubroth made a suggestion that he thought should be brought up to the Council. Mr. Haft distributed information on a program that is used in Westchester County. Individuals in homes fill out cards with medical information. All residents in a home would place the information into a bag that hangs on the door knob of their bedroom door. All the necessary information regarding allergies, surgeries, languages, etc. that would help in a medical emergency such is included on the card. This program needs to be publicized because this information is important for the care of Borough residents.

Mr. Haft asked Councilmembers to take the form home and complete it. He said it should be filled out in pencil because medications do change. The phone number for the Ambulance Corps is listed on the bag along with the card. Mr. Haft stressed that every individual in the household needs to fill out this card. He said he would like to make a presentation on the program to the Senior Center, and at churches and synagogues. The more people who are involved the better and Mr. Haft said that informing the public could be an Eagle Scout project for a Boy Scout Troop. Councilmember Baratta noted that there is a large Russian population in Fair Lawn and Mr. Lubroth said that the information will have to be translated.

Resolution Endorsing the Green Acres, Water Supply and Floodplain Protection and Farmland and Historic Preservation of Bond Act of 2009

Mayor Weinstein stated that the Open Space Committee did a joint letter that was published in the paper and he recommended that the Council also pass a resolution because of its importance to Fair Lawn. Councilmember Trawinski suggested that the Governor and Legislators should be called upon to establish a permanent source of funding so that environmental groups don't have to go through this every year. Councilmembers agreed to add this recommendation to the resolution.

Follow Up on Location of Dumpsters

Acting Manager Kwasniewski distributed photos of various dumpsters. Deputy Mayor Swain said that some businesses have quite a few dumpsters and asked if businesses are recycling. Acting Manager Kwasniewski said that to her knowledge businesses are recycling. Deputy Mayor Tedeschi said that the dumpsters at the River Palm do not comply with the original approvals which is an enforcement issue.

Councilmember Baratta pointed out that this survey doesn't indicate compliance and she asked what the next step would be. Attorney Rosenberg stated that this survey will give an idea of the number of dumpsters and their locations. The dumpsters with enclosures are newer and were included in site plan approvals, however, to try to go back and do a survey of the older businesses would be labor intensive. Acting Manager

Kwasniewski said that if a neighbor calls in a complaint violation, a citation is issued and the Health Inspector is sent out if garbage is not picked up.

Councilmember Trawinski said that they could start by trying to locate the site plans for the dumpsters located in parking spaces along with those that are in disrepair or are overflowing. Cheryl Bergailo, the Planner, should be asked about the appropriate standards for dumpsters in this age of recycling. Attorney Rosenberg said that this could be part of the Master Plan re-examination along with the recycling component. Councilmember Trawinski suggested an amendment to the Land Use checklist requiring any application involving waste management to satisfy the criteria.

Acting Manager Kwasniewski said that many of these dumpsters are pre-existing and others are misplaced by haulers. Councilmember Trawinski stated that the Property Maintenance Officer should be directed to deal with those that are obvious problems based on photos. Deputy Mayor Tedeschi said that the Property Maintenance Officer should report back to the Council on what transpires with the dumpsters that were cited for a warning or violation.

Mayor Weinstein asked about the recycling dumpsters and Acting Manager Kwasniewski said that there is a recycling sticker on dumpster used specifically for recycling purposes. She said that Recycling Coordinator Lottermann follows up with those who do not recycle and he is vigilant, however, he is only one person. Deputy Mayor Tedeschi said that after looking at these photos he is concerned about the health risks and he asked if the Health Department could inspect the dumpsters. Acting Manager Kwasniewski said that enclosures would be an improvement in most of these cases and Attorney Rosenberg reiterated the importance of including specific requirements in the Master Plan. Councilmember Baratta asked about getting this survey and photos to the Property Maintenance Committee.

Resolution in Support of Democratic Elections in Radburn

Eric Schuetz, 14 Radburn Road, explained that there are nine seats on the Radburn Association Board of Trustees. Six seats are nominated by the sitting trustees and each year the trustees place four names on the ballot for two seats for three year terms. Each Radburn household receives a ballot with four nominees and no write-ins or petitions are allowed. Two residents per household can vote. In addition, two seats are selected by former trustees also known as members of the Radburn Association. They are directly selected by the trustees and are not selected by Radburn residents. To become a member, a trustee must be voted in by prior members at the conclusion of his or her term. The ninth seat on the Board is filled by the President of the Radburn Citizens Association. This seat is open to all residents of Radburn and nominations are taken from the floor at an annual Citizen Association Meeting. No trustee of the Radburn Association may serve more than five consecutive years. Mr. Schuetz stated that to his knowledge no new resident has received a copy of the Radburn Association by laws since 2004.

Phil Plotch stated that he is not aware of any Homeowners Association in New Jersey where residents cannot nominate Board Members. There have been write in campaigns, however, the Board does not acknowledge these write in candidates. There was a failed resolution three years ago supporting democracy in Radburn and Mr. Plotch said that this is a new resolution supporting democracy in Radburn.

Art Spinelli, 8 Bedford Place believes that this is "taxation without representation" which happened over 200 years later before the American Revolution. The Radburn Board says that homeowners must pay a fee without holding open elections. The Council is elected by the people and it is important to have Council support for this cause and he urged the Council to support this cause as they have in the past.

Marshall Chandler, 18 Ramapo Terrace, stated that democratic reform can bring important benefits for the people running the Radburn Association. If people feel they have a voice, they are more likely to support their leaders in difficult decisions. Mr. Chandler said that democracy is inevitable and deserves the support of the Council.

Suzanne DiGeronimo, 16 Beacon Place, stated that the bill for dues payable to the Radburn Association is \$3,000 per year. She pointed out that the Radburn Association doesn't provide garbage pick up, police protection, street plowing and maintenance. She has no say over how the \$3,000 is spent. She concluded that the Association is not being fair to either the Radburn residents or the municipality.

Crystal Robbins, 12 Randolph Terrace, said that they need to focus on how this lack of democracy will impact Radburn in addition to the entire community of Fair Lawn. Many Board Members are not well equipped to make financial decisions and lack the background to understand the impact on the community. She stated that to her knowledge none of the Board Members has seen the financial information for Landmark Developers. She questioned whether or not Landmark Developers would have the financing they initially anticipated.

Ms. Robbins asked how the nine trustees could feel that open meetings, books and negotiations should not be revealed to the Radburn residents who should benefit from the Association. She noted that the only one benefiting over the past three to five years seems to be the attorney. Last year Radburn spent \$550,000 in legal fees according to the latest tax returns and the amount is \$1.1 million over the past three years. Ms. Robbins asked the Council to support the fight for democracy and the greater good of the entire town.

Mike Roney, 14 Burnham Place, a member of the Radburn Association who served as a trustee from 1999 to 2001, pointed out that 99% of Radburn residents are not members and are disenfranchised under the system. The problem is that there is not accountability which results in deficit spending and millions of dollars going to a lawyer. He filed suit because of the amount spent on legal fees that had been going on for years. Mr. Roney reiterated that the capital reserve fund has been depleted due to the money spent on legal fees because there is no accountability. He asked the Council to

support the resolution to pass legislation stating that any homeowner in Radburn can run for the Board of Trustees which will introduce democracy and financial accountability as well as spur investments in the community.

Maureen Moriarty, 14 Burnham Place, stated that the Radburn Association will not admit that it is a community association. They have appealed financial disclosure, which she anticipates the Appellate Court will affirm. She explained that the By-Laws are not disclosed to residents, however, residents are given a Declaration of Restrictions from 1929 which states that as the population of Radburn increases and the residents and owners organize themselves, the right to designate trustees will eventually be in the hands of the residents and owners. The majority of homeowners want to be allowed to vote in open and fair elections. Ms. Moriarty stated that the Association doesn't want the homeowners to vote which is unfortunate because the founders of Radburn had democratic ideals. She thanked the Council for coming to the aid of the Radburn residents regarding eminent domain.

Councilmember Baratta asked if there is any information concerning Senator Gordon's thoughts on this matter. A resident had contacted her earlier stating that there is a Court decision on November 17th and wondered why this is being debated now. Mr. Plotch explained that this is separate from the Court case. Mr. Roney said that this refers to the Appellate Court hearing, Moore vs. the Radburn Association, for the democracy law. Mr. Plotch was questioned about the number of homes in Radburn and he said that there are 560 single and two family homes in Radburn and he has a petition with approximately 300 signatures.

Deputy Mayor Tedeschi asked what rights tenants would have in the Association. Mr. Plotch said that State legislation refers to homeowners exclusively when referring to homeowners associations. Councilmember Trawinski said that in many jurisdictions, a separate tenants association is allowed to participate with designated tenant's representation on the Board to a limited extent similar to what the Radburn Association allows for the citizens association right now. Tenants associations and homeowners associations are separate with one Master Board governing the entire group.

Ron Koll, 10 Ramapo Terrace, stated that tenants do get a vote and if democracy is successful everyone in the community will get a vote including the tenants. Tenants can't be on the Board and the building owner pays the assessment which is included in the rent.

Harry Poster, 13-10 Second Street, stated that he is not a member of Radburn and commented that he didn't believe that when people move into the Radburn neighborhood they don't have any idea of what they're getting into. Councilmember Trawinski said that in the past, as an attorney, he represented many people who moved into Radburn. Even as their attorney he didn't know that homeowners did not have a voice in electing their trustees and there was no documentation received or anything included in the title report which disclosed this fact. Other attorneys cannot believe that such an association exists where homeowners cannot vote in a real election.

Crystal Robbins, 12 Randolph Terrace, said that she did not discover until years after moving into Radburn that they are referred to as taxable land parcels and not members of the Radburn organization. The fees have more than doubled since Ms. Robbins moved in making homes extremely difficult to sell. Mr. Poster asked Ms. Robbins if she warns people considering moving to Radburn that this situation exists. Ms. Robbins said that her home isn't for sale and she doesn't interfere in the sale of other people's homes.

June Myerson, 15 Ballard Place, said she was told nothing about Radburn except that she had to pay dues and follow the architectural guidelines. She commented that it is difficult to believe that the real estate attorneys are so ignorant when they draw up a contract between a buyer and a seller.

Mayor Weinstein said the issue is whether or not there is democracy in Radburn and he questioned whether the Council belongs in this internal issue. He said that it would be improper for the Council to make any decision tonight until they hear from people with different points of view including Senator Gordon and Joan Voss. At that point, the Council could determine whether or not to pass this resolution or formulate another resolution.

Deputy Mayor Tedeschi asked whether the voting process had changed since 1929. Jane Diepeveen, 14 Ryder Road, stated that originally only the President of the Association had a vote. There is an election of two people every year for a three year term.

Saul Robbins, 12 Randolph Terrace, stated that this petition is the only measurable form of the number of people and there is a large dissenting opinion. Deputy Mayor Tedeschi said that he has had calls from people stating that they were never approached with the petition and that they would have signed it.

Suzanne DiGeronimo, 16 Beekman Place, explained that Radburn began in the 1890s as a reaction to the industrial cities and what remains is just a remnant. Everyone had a small yard and the excess land was pooled into a central parks system. The parks are the center of Radburn and from 1920 to the present, no other developer has picked up on these parks or the cul de sacs which are communal areas for people. Radburn is very much a community where people care about each other and this is why emotions run high.

Crystal Robbins, 12 Randolph Terrace, pointed out that the petition asks if the individual is in favor of democracy. She said that the people who are against the movement for democracy should show their numbers in a quiet way. They are trying to show that there are people in dire straits, who are not in control of what is going on and are affected when they want to sell their homes by the amount of the dues.

Marshall Chandler, 18 Ramapo Terrace, pointed out that failure to sign the petition doesn't indicate that an individual is opposed to democracy. Emotions run high in the community because people care deeply about the neighborhood.

Arthur Rubenstein, 17-38 Chandler Drive, said that he doesn't live in Radburn, however, he commented that members of the Radburn Board of Trustees must be aware of the fact that this topic is being discussed at the Council Meeting tonight and they should have made an appearance. Mayor Weinstein disagreed and said that this is not listed as a public hearing. Public Hearings usually bring a lot more people out.

Ron Koll, 10 Ramapo Terrace, said that he can't imagine that there are people in Radburn who want to maintain the status quo. The Radburn Board of Trustees are a small minority and have done everything possible to prevent a survey of the community that could be quantified. Mr. Koll said that there used to be a green book that was distributed to every new homeowner containing the qualifications necessary to become a Trustee. The new books do not include this information.

Mayor Weinstein asked the Councilmembers if the next step should be a public hearing in November. Deputy Mayor Swain recused herself. Councilmember Baratta agreed to a public hearing. Councilmember Trawinski also agreed and commented that what is going on in the Appellate Division has no bearing on his decision. Mayor Weinstein said that the court case may be what is stopping people from speaking. Councilmember Trawinski stated that not settling while litigation is ongoing is absurd. Deputy Mayor Tedeschi said that he would agree to a public hearing with the condition that elected officials are invited.

Acting Manager Kwasniewski pointed out that the November meeting is the Tuesday before Thanksgiving. After a short discussion, the Council agreed to schedule the public hearing for the meeting of Tuesday, December 1st.

Maureen Moriarty, 14 Burnham Place, stated that Mayor Weinstein did a wonderful job last night speaking before the Open Space Committee at the County level.

Proposed Amendment to Land Use Checklist

Acting Manager Kwasniewski stated that the Special Improvement Districts have complained that they are not always getting the Board applications and the easiest way to rectify this would be to make this requirement a part of the checklist. She suggested that the Council add the following to the list: Special Improvement Districts, Fire Department Liaison, Shade Tree and the EDC. The applicant will be put on notice that this is part of the requirements of the applications.

Councilmember Trawinski said that if the application does not pertain to the specific entity, they should still be required to send an email to the Secretary of the Planning or Zoning Board acknowledging receipt and stating that they have no comment.

Deputy Mayor Tedeschi asked if a reply date should be noted and if no comments are received by that date, it would be presumed that the entity had no comments. There was a consensus by the Council to add these entities to the checklist. Attorney Rosenberg will incorporate this into the checklist.

Endorsement of Community Development Projects Bris Avrohom E.S.L.

Acting Manager Kwasniewski stated that Bris Avrohom is asking for \$26,000 for the Youth Program and \$8,500 for the E.S.L. and Cultural Events program. This has no impact on the Borough's request for Community Development Block Grant. She explained that the CDBG will not look at their applications without an endorsement from the Borough.

Deputy Mayor Swain said that Bris Avrohom came before the Planning Board regarding a day care center and the Board asked for some improvements regarding landscaping. She asked if it would be fair to require compliance before an endorsement was forthcoming by the Borough and Attorney Rosenberg advised that the issues of enforcement by the Planning Board is a different issue.

The consensus was to endorse these applications.

Evergreen Planting along Route 208 by DOT

Acting Manager Kwasniewski recalled that a homeowner had contacted Senator Gordon regarding evergreen plantings. Due to the fact that the DOT is not planting 100 ft. tall evergreens the individual, who is trying to sell his mother's house, doesn't want the DOT to get involved. Paul Posage, from the State, contacted Acting Manager Kwasniewski to find out the Borough's position.

The consensus was to move forward with this project.

Public Comments

Craig Miller, 5 Ramapo Terrace, noted that the Borough flag pole light, that had been repaired, is out again. Deputy Mayor Swain said she thought there were problems with the lights at the Senior Center and Acting Manager Kwasniewski thought the timer might be malfunctioning.

Mr. Miller referred to a prior discussion regarding signs that are posted on Borough or State sign poles. There is a sign on the street sign where Fair Lawn Avenue narrows which was added by the owner of the Radburn Shopping Center in the right-of-way. Attorney Rosenberg said that the Borough had discussed proper signage regarding vehicles that are being towed with this property owner. Attorney Rosenberg indicated that the towing ordinance requires proper signage, however, he will check into this further.

Jane Diepeveen, 14 Ryder Road, referred to the Master Plan Re-examination and Attorney Rosenberg said that this was an error and that there would be a new Master Plan. She asked if the Historic Preservation Committee was on the list to receive notice of applications before the Boards. Acting Manager Kwasniewski said that this requirement is already contained in the ordinance.

Ann DiNardo, 13-06 Second Street, commented that the packet from the Ambulance Corps is a wonderful idea and added that this information needs to get out to people as quickly as possible. She stressed the importance of being able to identify house numbers and she asked if there is a requirement for these numbers to be clearly posted so they can be seen from the street. Councilmember Trawinski said that there is an ordinance requiring that house numbers be clearly posted. Councilmember Baratta pointed out that this is a big focus of the Property Maintenance Committee and members regularly check various streets and give a list of missing house numbers to the inspector who gives residents warnings. Mayor Weinstein said that this is a matter of enforcement.

Ms. DiNardo recalled that she was involved with a Community Garden at the McBride property in the past. She said that this is a wonderful idea.

Closed Session

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, the following Closed Session resolution was unanimously adopted at 9:45 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 – Library Board.

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.

Adjournment

Upon motion by Deputy Mayor Swain, seconded by Councilmember Baratta, the meeting was adjourned at 9:50 P.M.

Respectfully submitted,

Joanne M. Kwasniewski, RMC/CMC/MMC
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