

WORK SESSION OF FEBRUARY 4, 2008

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

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

ALSO PRESENT: Manager Metzler, Municipal Clerk Kwasniewski and Attorney Rosenberg.

Closed Session:

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, the following closed session resolution was unanimously adopted at 6:05 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 – Yirce, Messina and Indemnification and Representation of Chief Rose; Personnel – Acquisition of Vehicle and Gwen Wolfish Indemnity and Contract Negotiations – 10-11 Fair Lawn Avenue (Fair Lawn Deaf Program)

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.

Mayor Weinstein reconvened the meeting at 7:00 p.m.

Report on BRC Sauna & Spa:

Health Officer Carol Wagner was present.

Manager Metzler stated that the Council had some questions on the health issues at the BRC Sauna & Spa and Broadway Day Care and the Planning Board process. He distributed the Planning Board minutes and resolutions.

Health Officer Wagner stated that she received a call from people who went to the Spa on December 30 and then became ill. She also received a report from a physician's office. They are still investigating. Fifty-two people reported illness, although they are not all confirmed cases. They are still gathering information. No one was hospitalized. The symptoms are similar to the flu. The Spa has hired their own environmental consultant who has a great deal

of experience working with these types of facilities. The owner of the Spa took action to remediate this situation which included super chlorinating the water system. All the employees have been tested and have come back negative. The State Health Department has also been to the facility. She continued that the owner has indicated that they are going to put in a back up water system since it may have been caused by the malfunctioning of the hot water system. They have a private lab to do weekly tests.

Attorney Rosenberg stated that under Chapter 144 the basis for not renewing the license is a finding by the Council that the applicant is of bad character or morals. They would have to determine that it is not in the public interest to renew.

Stuart Liebman, Esq. stated that it was a health issue which had nothing to with renewing the massage license. They voluntarily did the testing. Remediation was being done even before the test results came back. They may or may not find the cause but all the steps are being taken to make sure it does not happen again. He assured them that they will install the back up system which is already on order. They will supply the results of the tests to the Health Department.

Health Officer Wagner stated that although Pontiac fever was found in the Spa there was one case of Legionnaire's disease at the Day Care Center. They are still investigating to find the source. The Day Care Center also did remediation in their water storage and service system. They are two separate water systems.

The consensus was to renew their license.

Fee Ordinance

The consensus was to approve the ordinance as submitted.

Joint Meeting Between the Board of Education and Council

Manager Metzler stated that the Board of Education would like to schedule a meeting some Thursday in March. The consensus was to schedule the meeting for March 13 at 7:30 p.m. in Room 201.

Wrongful Death Legislation Resolution

Manager Metzler had previously distributed a copy of the letter from the MEL indicating that the legislation may increase the costs by six to ten percent. They sent a sample resolution they would like the municipalities to adopt.

The consensus was to adopt the resolution.

Wine and Cheese at the George Frey Center for Arts and Recreation

Manager Metzler stated that the Borough Code allows the Borough Manager to make a determination if alcoholic beverages should be allowed at any Borough facility. The Risk

Manager has said that the Borough is covered as long as the events are not considered usual and common. He proposed that they allow the Chamber and Commerce to hold a wine and cheese party in the atrium. The Borough would like to sponsor a wine and cheese party for the different production companies in April. The sculptures will also be dedicated.

The consensus was to permit alcoholic beverages at the two events.

Sale of Borough Land – Block 3524, Lot 29, Morlot Avenue/Plaza Road

The synagogue would like to acquire a strip of land that is to their north. Total square footage is 2,419. The Engineering Department has determined that the property is not needed for Borough purposes. The Tax Assessor has estimated the value of the property. He recommended that the Borough enter into negotiations to sell that piece of land and put the funds into the Open Space Fund.

Councilmember Trawinski disclosed that seven years ago, he represented the synagogue in its land use applications. He has not done anything for them since. He does not have any ongoing relationship so he did not feel he had to recuse himself. Attorney Rosenberg concurred.

Councilmember Trawinski indicated that the synagogue maintains that strip of land now. It is their intent to upgrade the site so they will be making a site plan application.

The consensus was to enter into negotiations to sell the land.

Green Acres Appraisal:

Manager Metzler stated that two appraisals are required by an approved appraisal company. He distributed the qualifications of Maurice Stack which came from Assessor Henderson. The estimate is \$3,000.

The consensus was to appoint Mr. Stack.

Request for Zone Change Route 208

Councilmember Trawinski recused himself and was excused. Manager Metzler left the meeting to attend the wake of his secretary's stepson.

Stuart Liebman, Esq. appeared on behalf of the Fair Lawn Promenade owners of the property on Route 208, which is the former Kodak site. Scot Loventhal, one of the owners was also present. They want to redevelop the property with a mixed use concept. They are requesting that the zoning be changed from I-1 to a new mixed use zone. He submitted a planning evaluation prepared by their planner Peter Steck who was also present. He also provided a preliminary traffic impact study prepared by Langan Engineer who was also present.

They met with the EDC and they have appeared before the Council to discuss concept for the redevelopment of the property which is the most southern property in the Route 208 study

area. The property encompasses approximately 10 acres. They have the ability to interconnect the property to the Fair Lawn Commons development because there is common ownership between the two sites. They could add a private road so that people could enter and leave Fair Lawn Commons without going on Fair Lawn Avenue. It will be pedestrian friendly and will introduce a variety of uses.

They would have some retail, some office, some residential which could satisfy some of the COAH requirements. Some residential could be above the retail stores. There would be a promenade down the middle with some benches and gathering areas. The site would have its own identity. There would be sidewalks to make it pedestrian friendly. The residential component could be apartments or condos or a combination of those uses. He mentioned some possible uses.

There is no definitive plan. They have a concept. They have provided a proposed ordinance that respects the corridor study.

Peter Steck, professional planner for Maplewood, indicated he reviewed the Route 208 corridor study. This property meets what the State is looking for under smart growth. All the pieces are there and they are all economically viable. It is a great retail site. It is within walking distance of the train station. It is the fourth largest site in the study area. It is essentially ready to proceed to development since the applicant owns the property.

He highlighted the differences. He suggested that they have to refine the mix of the buildings. The applicant is willing to put in housing that will satisfy COAH. In order to do that, there must be incentives such as a bonus density or a third or fourth story. The Route 208 study was an ambitious study. It is very visible and can easily trigger other development to occur. It is critical in this market that the project is doable. He concluded that they are very eager to work with the Council.

Dan Disario of Langan Engineering indicated that he reviewed the corridor study and the site. He thought they could create a new connection to Route 208 northbound. The development of this site would allow people to have another opportunity to get to Route 208 northbound. He envisions a new roadway connecting to Pollitt Drive. He encouraged a mixed use type of development. It is an inherent advantage to locate office and retail uses on the same property because that will generate less traffic. The proximity to the train station is very attractive.

They presented an artistic rendering. The residential component would not be upfront. The parking is not visible from Route 208.

Scot Loventhal explained that Kodak remains responsible for completing the environmental clean up which has been going on for almost 10 years. This site can be developed now but there is an open case file that is being completed by Kodak. Kodak has submitted a comprehensive report to the DEP. Monitoring takes place of ground water on viable sites. The majority of the site is not contaminated. The level of contaminants is low. It is an extremely low priority site and one that poses no threat to health and safety. Kodak expects that their latest submission is a final report. Hopefully there will be a soil sign off.

Attorney Liebman indicated that they would welcome the Borough's environmental expert looking at this site. Mayor Weinstein indicated that the Council would expect them to assume the cost of the environmental expert. Scot Loventhal indicated that they rely on an environmental attorney and consultant who are working with Kodak's environmental consultants and they would submit the information to the Borough's consultant so they could draw their own conclusions.

Deputy Mayor Swain wondered if there was sufficient room on this site for everything they have envisioned. She also asked about adding a park. Scot Loventhal indicated that there is no room for active recreation but they have tried to provide an aesthetically pleasing streetscape, attractive landscaping and a fountain that would provide passive open space. They do not plan on creating additional impacts on municipal services since the roads will remain private maintained by them.

Peter Steck stated that the Route 208 corridor study has six zones. There is one zone for this property. It is a transitional site.

Councilmember Baratta expressed concern about the traffic from the north. Scot Loventhal pointed out that mixed uses generate less traffic. During peak hours retail generates the least impact. He added that if the site was developed under the existing zone, there would be more traffic than what a mixed use development would generate. This site cannot take on the burden of a flyover or other things that are unrealistic for this corridor.

Councilmember Baratta expressed concern that too many uses were permitted in their proposed zone change. She also questioned the proposed density. Attorney Liebman noted that if this site is going to provide more than its fair share of the COAH obligation, there must be some type of incentive in the form of allowing additional units. Without the added bonus, the maximum would be 150 units based on 10 acres. Councilmember Baratta wondered if they would consider age restricted housing. Scot Loventhal indicated they would consider it but this type of development would be marketed toward young couples and singles. It is not a project that is conducive to children.

Deputy Mayor Tedeschi pointed out that this project will not satisfy the Borough's COAH obligation. Attorney Liebman agreed but the Route 208 Corridor Study calls for this property to generate something significant toward affordable housing and to create a general residential opportunity as well as offices and retail. They are trying to find the right balance.

Deputy Mayor Tedeschi indicated that the major problem is the traffic. The entrance is fine but he did not think that it was going to solve the traffic problem. Scot Loventhal reminded them that the traffic exists now. Also, if the site was developed as an industrial property under the current zoning, the traffic would be worse. Attorney Liebman added that this type of use would not generate truck traffic.

Scot Loventhal explained that in mixed use developments, the majority of the parking can be shared parking because these uses have varying peak hours which means that it may be possible to have less parking on site but still meet the parking demands of the site.

Mayor Weinstein wondered if a food store needed to be on Route 208. He thought that would be the establishment that drew customers into the site which would help the other businesses. Scot Loventhal indicated that a destination user with appropriate signage may be able to be toward the back. He stressed that this is a concept plan.

Mayor Weinstein asked for a description of the promenade. Scot Loventhal indicated that they are proposing paver block surfaces and grass and landscaped areas. They will create various crosswalks so that it will not be a thoroughfare. They are narrow travel lanes so they are not designed for fast travel.

Mayor Weinstein wondered if the State would help with the traffic since this project fits the criteria of smart growth. Although at this point it is an empty site so it is not going to get the State's attention. Scot Loventhal indicated that they have not met with the Smart Growth office on this project. Peter Steck indicated that hopefully they and both municipalities could generate enthusiasm with the State. Attorney Liebman thought that now that things are happening on the property, they could get the attention of the DOT. Scot Loventhal indicated that their application would trigger a review by the DOT. When the scope of study which must be prepared at the developer's expense is in place and is reviewed by the DOT, improvements will have to be made. They would be willing to explore applying for grants.

Mayor Weinstein suggested sending the proposed ordinance to the Planning Board, the Environmental Commission, the Open Space Committee and the League of Women Voters for their input. He also wanted to proceed with the RFQ for the environmental expert.

The consensus was to follow Mayor Weinstein's suggestions.

Bob Landzettel, a member of the EDC and chairman of the Route 208 Study, indicated that this is part of the process of figuring out what can happen in the future in the entire Industrial Park. This property is zoned industrial. Property has gotten more expensive in this area and there are demands for other type of uses. The plan as presented is substantially similar to the vision plan in the 208 study. It provides a transitional use. It provides an area for people who work in the Industrial Park to stay within the Park. The exits and the new road off Route 208 look good. The EDC did not discuss density, height, or bulk requirements. The EDC is willing to review the proposed ordinance and make comments on it.

Public Comments:

Felice Koplik, 6 Reading Terrace wondered what would happen if the spaces did not rent.

Harvey Rubinstein, 28 Rutgers Terrace expressed concern that the synagogue has cut down trees and not replaced them. He emphasized that they must consider the additional traffic generated by the development.

Sheryl Cashin, 1 Glenfair Road expressed concern that the children from this development will burden the school systems. She also mentioned that Fair Lawn Commons has a problem with break-ins.

Stan Hayden, 12 Beekman Place expressed concern about the effects of the fumes from the traffic on the children.

Michael Roney, 14 Burnham Place felt that high density housing is a net loss in revenue to the community. He wanted to see a comparative study of the various options.

ADJOURNMENT:

Upon motion by Councilmember Baratta and second by Deputy Mayor Swain the meeting was adjourned at 8:25 p.m.

Respectfully submitted,

Joanne M. Kwasniewski, RMC/CMC/MMC
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