

WORK SESSION OF FEBRUARY 19, 2008

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

PRESENT: Deputy Mayor Swain, Councilmember Baratta and Councilmember Trawinski (arrived late)

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

Review of Tentative Agenda (2/26/08):

Municipal Clerk stated she needed to add an award of bid for Tree Planting and a resolution indemnifying Police Chief Rose. Manager Metzler stated that they had taken bids for Ambulance Services but the low bidder returned the contract unsigned and pulled the bid. He is meeting with Hackensack Hospital, who offers a similar service for the same price, under a shared services arrangement.

Council Liaison Reports:

Councilmember Baratta stated that the Tree Committee held its first meeting on February 7th. She was informed by Municipal Clerk Kwasniewski that formal action was required to name Jim VanderBeck as Chairman. The Committee inquired if they would have voting abilities. Attorney Rosenberg stated that he would prepare By-laws. Councilmember Baratta stated that the Committee will be using the Library display case in March to educate the public about the new tree ordinance, and has asked to include information in the Borough's spring newsletter. Manager Metzler suggested they submit an article to his office.

Deputy Mayor Swain stated that the EDC would be making a presentation to the Planning Board on March 3rd. She noted that the Board approved a site plan for the Rotella building. She reported that she and Manager Metzler attended the energy conference at Bergen Community College. A speaker discussed how compact, mixed use developments are very easy to maintain and get cars off the road as people are living and working in the same area. Once these developments are put in place they justify further involvement of public

transportation. A municipality can look at green organizations. There are companies that will certify if in fact a company is really green.

Councilmember Trawinski stated that the EDC has given notice, as requested by Council to all the property owners and tenants and approximately 40 businesses that attend their meetings.

Shade Tree Advisory Committee - Letters to Tree Specialists:

Councilmember Baratta stated it was the intention of the Committee to advise the tree specialists of the new ordinance. Attorney Rosenberg offered to draft a synopsis of the ordinance. Manager Metzler expressed concern as to what staff member would be assigned this project. He stated that he expressed concern to Municipal Clerk Kwasniewski about various committees and commissions posting minutes on the

Page Two

Work Session

February 19, 2008

Borough Website, as some committees make recommendations to the Council that are contrary to the opinion of the Borough Attorney. They need to ascertain the criteria.

Municipal Clerk Kwasniewski stated that she had informed Jane Spindel that her staff did not have time to research the companies and prepare a mailing. Ms. Spindel indicated that she would be willing to obtain the names of tree specialists in the area. She has about 25 names so far. Councilmember Baratta stated that phone calls were made to a few companies, some of whom expressed interest in receiving a copy of the ordinance.

Municipal Clerk Kwasniewski stated that developers and home owners are given a copy of the ordinance when they come into the Building Department. Manager Metzler wondered where the education was needed. Councilmember Baratta stated that residents might not know about the ordinance but the tree specialists would be aware. Deputy Mayor Tedeschi noted that the responsibility of the homeowner is not lessened as a result of the tree

specialists being informed. Attorney Rosenberg stated that the main purpose of the letter was to notify the tree specialists in the area that the ordinance had been enacted. It is not a substitute for compliance by the homeowner. Councilmember Trawinski felt it made sense to notify the affected people.

Councilmember Baratta suggested the Committee work on this project. She explained that the Committee wanted the mailing to be the first step, followed by articles in the newsletter and on the Borough website. They also considered making a video for Channel 77 that shows the proper way to plant trees. Councilmember Trawinski suggested a letter be included in the Welcome Packets for new residents. He suggested the Committee write a letter and give it to the Manager or Borough Attorney for approval.

It was the consensus of Council that the Tree Committee draft a letter for approval by the Manager and Borough Attorney.

Food Handler/Minor Site Plan Applications:

Attorney Rosenberg presented the proposed amendments that were recommended by the Planning Board and Board Secretary. This will enable the Secretary to determine whether or not certain types of changes require a public hearing regarding Food Handler's licenses. The Planning Board secretary will not have the authority to waive the requirements of a public hearing before the Planning Board when there is change in seating or exterior of the structure.

Councilmember Baratta inquired if the \$100 fee was changed. Attorney Rosenberg stated it was not. Municipal Clerk Kwasniewski thought that the fee was reduced to \$25. Councilmember Trawinski suggested a fee of \$50.

Councilmember Trawinski felt this was a sensible return to where they were before the Kenny Rogers situation. The Planning Board Secretary now has the first review of the application to see if there is a need for it to go to the Planning Board. The Planning Board should give them a report in a year or so as to how this is working but did not feel it

was necessary to include this in the ordinance. He suggested that they notify the Chamber of Commerce about this change.

It was the consensus of Council that Attorney Rosenberg reduce the application fee to \$50. Attorney Rosenberg will make the change.

Tree Plantings along the County Roads:

Manager Metzler stated that the Tree Committee had requested that 79 Borough trees be planted along County roads. DPW Superintendent Conte and Walter Neill, Superintendent of the Shade Tree Department have proposed 61 trees along Morlot Avenue, 20 along Fair Lawn Avenue, 12 along River Road and seven along Saddle River Road for a total of 100 trees. They have given a list of each location and the number of trees to be planted to Jim VanderBeck and have notified the County to make sure they do not have any objections. He inquired if residents were going to be asked if they wanted a tree or if the trees were being planted without notice.

Councilmember Trawinski stated there have been arguments pro and con regarding Borough streets, but noted that they were planting in the public right of way. He felt there would be problems if they planted without asking first. Residents might harm a tree to cause its premature death. He asked if Mr. Neill, Manager Metzler or Mr. Vander Beck had any recommendations. Manager Metzler stated that Superintendent Neill opposed planting without asking first. He and Superintendent Conte feel there is a deficit on trees on a regular basis now. A decision must be made as to whether a concerted effort should be made to replace all the trees that have been taken down throughout the years. Councilmember Baratta felt they were headed towards losing their status as a tree city.

Manager Metzler stated that the Department of Transportation was going to replace the entire buffer zone with evergreens on Route 208 North from the Route 4 split up to the water tower. The Fair Lawn Avenue exit will be weeded in the spring. Councilmember Baratta wanted the trees to be planted. She noted that Superintendent Neill leaves information on how to care for the tree with the resident when a new tree is planted. Manager Metzler noted that each location would be marked before the tree was planted and suggested leaving a note indicating that the property has been marked for the planting of a shade tree. He felt that would be a reasonable compromise.

Deputy Mayor Tedeschi asked what the objective was for planting trees. Manager Metzler stated the number one way to combat greenhouse gases are trees. Deputy Mayor Tedeschi felt if they gave residents the choice some people would be upset. If residents aren't given a choice some may damage the tree. The ultimate objective is to improve things. He felt the homeowner should be notified that the tree plantings was part of a plan to beautify and green Fair Lawn, and ask the resident to do their small part to help the environment.

Deputy Mayor Swain stated there are gator bags to help with watering. Councilmember Baratta stated that Superintendent Neill did not think watering was a problem but he was concerned about mulching and damage to the trees by lawn mowers. The Tree

Committee will pursue grants for trees. She hoped that the fees could go back to the Tree Department so that items like gator bags could be purchased. Deputy Mayor Tedeschi felt it was reasonable to say they wanted trees planted and convince the resident why it should be there. Manager Metzler will draft a sample letter.

Request to have Manager Obtain Applicant's Submission from Paramus Planning Board:

Manager Metzler stated that the Engineering Department reviews the information as it comes in. Councilmember Trawinski asked to borrow the information so that he could review it. Deputy Mayor Tedeschi suggested that he write notes for the Council. Councilmember Trawinski stated that he would look to see what the potential impact would be.

Speed Humps:

Manager Metzler stated that he sent an SOG to Council on December 14th, which is a working guideline that calls for signage and explains what the criteria would be for placing the humps. The Council wanted the opportunity to place speed humps where there were cases of repetitive speeding issues, strictly as a temporary remedy to see if speeding was reduced. He reached out to Glen Rock, Morristown, the DOT, Chief Rose and Traffic Safety Officer Franco. The humps will be moved around and will not be put down during snow season. The signs and humps have not been purchased yet.

Councilmember Trawinski had a concern about the Initial Request from the Community, sub paragraph B, which he felt was a chronic problem. The DOT Standards uses an 85th percentile speed of at least ten miles over the posted speed limit. Whenever they test for that, traffic slows down because the tracking device can be seen. A device was placed near a school on a busy street in Morristown and there were no findings. Parents borrowed hand held radar guns from the County Police and stood on the street. It was determined that everyone on the street, including the school parents, were speeding down the street. He does not think that works at determining whether or not there was speeding.

Manager Metzler explained that the intent was to set up traffic control devices for a period of time followed by enforcement with unmarked cars and radar guns. There are Police officers whose sole assignment is traffic enforcement. He felt that would make a difference and noted that the numbers of violations issued for speeding have increased.

Deputy Mayor Tedeschi inquired as to the outcome if they do not meet the threshold. Councilmember Trawinski noted that the Police Chief could recommend to the Manager the installation of temporary speed humps. He felt it should state that the Council can also direct it regardless of the outcome. Attorney Rosenberg stated that he would research to see if the DOT would allow that. Councilmember Trawinski felt they would not allow it as it wasn't in their 2004 regulations for the installation of speed humps. Councilmember Trawinski felt it should allow for a review by the Council if the Police

February 19, 2008

Chief decides against taking action. Attorney Rosenberg will report back to Manager Metzler with his findings.

Report of Findings of Investigation (Council to determine whether Open Session or Closed Session by Consensus)

Deputy Mayor Tedeschi stated this and the two items concerning establishing Council policies would not be discussed tonight as Mayor Weinstein was ill and was not present. He proposed scheduling a work session after next week's public meeting, subject to the Mayor's availability, to discuss only these items. Municipal Clerk Kwasniewski noted that there was a budget meeting scheduled for 6:00 p.m., followed by a public meeting at 7:30 p.m. Deputy Mayor Tedeschi felt the public meeting would be over by 9:00 p.m.

It was the consensus of Council that a special Work Session be scheduled after next week's Public Meeting, pending Mayor Weinstein's availability, to discuss the following two agenda items.

Status of unexpended balances from prior years:

Deputy Mayor Tedeschi thought that they had requested the status of unexpended balances from prior years and project paid through prior unexpended funds, but Municipal Clerk Kwasniewski could not find it in the minutes. Municipal Clerk Kwasniewski stated that they had asked for the list of projects that had not been completed. Councilmember Trawinski thought that they had asked for that also. He felt a good time to receive this would be when they did the Capital Budget. Manager Metzler stated that during the Capital Budget process the Council usually inquires about the projects that were not completed from the prior year. They are in the process of closing out some of the Bergen Bank projects. Council approved the purchase of a truck and a plow. \$81,000.00 was appropriated, with \$9,259.00 unexpended. That occurs in almost every item.

Councilmember Trawinski suggested they discuss at a later date the formation of a policy that states using or closing accounts requires Council approval. Deputy Mayor Tedeschi stated that in 1996 there were unexpended balances and Department Heads were told, by the Manager, that purchases would be cancelled if not completed by August. Manager Metzler stated Department Heads were informed that the Bergen Bank funding would be closed out if not used by the end of 2007. There were a few holdover projects, such as the generator. In 2005 OEM looked to purchase computers for the emergency vehicles. The vendor could not deliver what was needed and the purchase was held. Deputy Mayor Tedeschi noted that was different as there was a project upon which the funding would be spent.

Councilmember Trawinski recalled CFO Eccleston issuing a report once that listed the open items he recommended be closed and the accounts he felt should remain open. Municipal Clerk Kwasniewski stated that unexpended funds are closed out every year. Councilmember Trawinski felt there were times it made sense, as a matter of policy, to

February 19, 2008

keep open accounts open without a specific project so they don't have to go out and float a bond issue or borrow on bond anticipation notes. He reiterated that the two policies should still require Council approval and authorization.

Establish Council Policy Regarding Unexpended Funds in Capital and Operating Budgets:

This item was deferred due to the absence of Mayor Weinstein.

Establish Council Policy on Purchasing Vehicles:

This item was deferred due to the absence of Mayor Weinstein.

Report on RFQ's:

Municipal Clerk Kwasniewski stated that she had received six RFQs for Bond Counsel and one for Grant Writer. She inquired if Council wanted a copy of each RFQ packet received as they packets were quite large. Councilmember Trawinski suggested they ask CFO Eccleston and Attorney Rosenberg to review the submissions and prepare a summary. He suggested the packets be reviewed in the Municipal Clerk's office if necessary to spare the expense of copying. Deputy Mayor Tedeschi stated that after determining if the company is qualified the next issue would be the cost. Municipal Clerk Kwasniewski stated that each RFQ contained background information on the company. Attorney Rosenberg stated that he and CFO Eccleston will prepare a summary.

Councilmember Trawinski noted that he arrived late for the Tentative Agenda discussion. He noted there was a minor error in the Closed Session Minutes for December 3rd under Contract Negotiations, which stated that "Councilmember Trawinski was recused". He suggested wording it "Councilmember Trawinski recused himself".

It was the consensus of the Council to make that revision.

Public Comments:

Harvey Rubenstein, 28 Rutgers Terrace stated that the prior Councils discussed speed humps and bumps and he recalled Traffic Safety Officer Franco being against them because of the noise. He wondered if they looked into speed tables or speed strips. Manager Metzler confirmed that they looked into speed tables and strips, but there was a range of speed where they can be used. He will review his notes as he could not recall the information. He had no previous knowledge of speed tables. Deputy Mayor Swain asked Mr. Rubenstein if speed tables are used locally. Mr. Rubenstein stated that he did not know.

Mr. Rubenstein stated he saw Subdivision Order 99-09 on the County's website, an ordinance amending the County of Bergen's subdivision review resolution to acquire tree plantings, which contained several regulations. He wondered if the Borough would be

Page Seven

Work Session

February 19, 2008

violating the County regulations. Manager Metzler stated that the County was notified of their intentions, as he wanted to be sure there were no upcoming projects that would require the trees to be removed.

Bob Wallace, 11-06 Alexander Avenue wondered if they had looked into the Water Department's inability to process electronic payment. Manager Metzler stated that he spoke with Mrs. Wallace, who uses Chase Bank to make electronic payments. He had the Water Department photocopy the date the check was received. They found there were two or three mailings per month, with ten or twelve checks that had varying dates. He did a follow up with Mrs. Wallace who did not think that was the case, as Chase indicated her payment was mailed on a specific date. He has copies of check received from Chase that far exceeded the mailing date the bank indicated. He suggested residents give themselves ample time, because if a payment is received late there will be a penalty.

Mr. Wallace stated that his October water bill was paid 14 days in advance. It has been 90 days and yet the check was not cashed. He stressed that the Water Department should be upgraded to accept electronic payments so that a check was not necessary. Manager Metzler stated the Borough was in the process of networking the building for the first time. He will look into whether or not the Tax Department will have that capacity with the upgraded software. Councilmember Trawinski stated that the Toms River Municipal Utilities Authority has a new direct debit program which deducts payments from personal accounts. He agreed that the world was moving towards electronic payments, and suggested Manager Metzler look into how Toms River set up their program.

Councilmember Baratta inquired if Court was able to accept electronic payments. Manager Metzler stated they were not. Municipal Clerk Kwasniewski stated the DCA does not allow it. Violations can be paid by credit card through an outside service for a fee. Councilmember Trawinski stated that he paid his daughter's court fees in South

Jersey to the Court Clerk with a credit card. He questioned how it could be done if the DCA does not allow it. Manager Metzler stated he will follow up on this issue.

Mr. Wallace inquired about the road work being done on the corner of Welsh and Norma. Manager Metzler will check with the Engineering Department.

Stan Hayden, 12 Beechman Place reiterated his previous concern that he did not feel it would be feasible to have anyone living along Route 208. He presented a New York Times article from January 30, 2007 concerning highway exhaust stunting lung growth.

Felice Koplick, 6 Reading Terrace inquired about the Tree Ordinance and wondered if they had any control over what Public Service does with the trees. Attorney Rosenberg stated they did not because the New Jersey Board of Public Utilities expressly states that they cannot regulate the activities of any utility. Ms. Koplick stated that she lost a tree because of tree trimming, which the town has taken down. The Borough will now have to spend more money to remove the stump even though the tree was healthy before the work was done. She indicated she would like another tree.

Page Eight

Work Session

February 19, 2008

Deputy Mayor Tedeschi stated that Public Service informed him they were going to trim some trees. He informed them that he did not want them trimmed and was advised that Public Service would come and speak with him, but they never came. Mrs. Koplick asked Public Service not to touch her trees and informed them that she would pay a tree person to do the work. Public Service made her sign a form, but was told as soon as a supervisor saw the tree was not trimmed he would request the work be done. She ended up supervising Public Service as they did the work.

Deputy Mayor Tedeschi inquired if Public Service was required to follow any standards. Attorney Rosenberg stated that all of the utilities operated under a Federal Energy Regulatory Commission (FERC) guideline, which came up about a year ago because of the blackouts in August. The utilities were told to trim all the trees. Public Service is following a Federal mandate to clear the areas and deliver power, and the State and municipality are powerless to stop them.

Councilmember Baratta suggested they send a resolution. Attorney Rosenberg offered to work on a resolution with Manager Metzler and send it to the appropriate State and Federal authorities. Councilmember Trawinski suggested they write Congressman Rothman as well. Councilmember Baratta stated she will discuss this matter with the Tree Committee.

Sergey Shevchuk, 15 Gurney Terrace suggested that they look into accepting automatic bank check and credit card payments of property taxes. Municipal Clerk Kwasniewski stated that they can pay by credit card using the outside service, which charged a fee. She explained that was the only way the Borough was allowed to do credit card payments under the State regulations. Mr. Shevchuk stated that the Tax Department required that the tax slip be enclosed. If he does an online payment through his bank,

the bank sends the check on his behalf. The lot and block number can be referenced on the check. Councilmember Trawinski reiterated that Manager Metzler would be looking at electronic payments for all departments.

Mr. Shevchuk thanked Manager Metzler for responding to his letter about the Badminton Club. He explained that he did not respond to an offer of extra playing time in the summer because he was respectful of Council's time and did not want to go into a lengthy discussion about the history of prior communications. He noted that Manager Metzler's letter did not address the few basic questions raised in his letter. He wondered if there were any guidelines with regards to the fair use of the main court in accordance with the best interest of the Fair Lawn taxpayers. He asked if additional time could be allocated now for the Club. He noted that the Club played on Thursday nights from 7:00 p.m. to 9:00 p.m. for a four month period. They asked Superintendent Graff to hold the time slot as they had an overwhelming response, yet the time slot was taken away from them without any explanation and remained unused for many weeks. He asked for clarification as to how the Community Center is managed.

Manager Metzler stated that every organization within the Borough requesting use of the Community Center has their request reviewed by the Recreation Department staff. No requests have been denied. The Badminton Club is the only program that has been

Page Nine

Work Session

February 19, 2008

offered two nights and a few organizations are waiting for open times. He will look into the matter of the court remaining unused. There were no programs other than Family Nights scheduled during the month of August as they were doing their annual maintenance. He felt it was unfair to say they did not have an interest in the Club as the Community Center has the only basketball court with boundary lines for badminton. Mr. Shevchuk did not feel a schedule existed, as events were listed on individual pieces of paper. He felt it could be better organized. Deputy Mayor Swain stated that she and Mayor Weinstein will be attending a Recreational Facilities Committee Meeting next Monday. She will look into this.

Sheryl Cashin, 1 Glenfair Road felt they should not build housing near Route 208 if there are known health risks. She inquired why there were no sound barriers on Route 208. Deputy Mayor Tedeschi stated the value of a sound barrier is limited. There were many residents who did not want them. The State did not have money for this project. Councilmember Trawinski noted that legislation for sound barriers passed, subject to the availability, but the DOT had no funding. He believed the cost was \$1 million per mile. He felt the residents who testified against the barriers ended the State's interest. The Borough installed fencing in some areas.

Ms. Cashin wondered if a disability had to be service related for a disabled veteran to obtain a discount on property taxes. Deputy Mayor Tedeschi confirmed that it did. There were defined periods of time during which the veteran had to be disabled.

Larry Koplick, 6 Reading Terrace noted that the DOT also trims trees aggressively to keep the road clear. He suggested that residents have a write in campaign to make

people aware that destroying the trees is in conflict with the Federal Government's policy of trying to encourage tree growth for the conservation of energy. He felt Fair Lawn was beginning to look barren.

Closed Session:

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, the following closed session resolution was unanimously adopted at 9:00 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 Personnel – Youth Advisory Committee - Historic Preservation Committee – Fair Lawn Recreational Facilities Committee – Property Maintenance/Face Lift Committee – Actions as the Result of the Findings of Fact; Contract Negotiations – Garbage Contract – Condo/Apartment Pick Up.

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

Page Ten

Work Session

February 19, 2008

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 9:25 p.m.

ADJOURNMENT:

Upon motion by Councilmember Baratta and second by Councilmember Trawinski the meeting was adjourned at 9:25 p.m.

Respectfully submitted,

Joanne M. Kwasniewski, RMC/CMC/MMC
Municipal Clerk

The undersigned have read and approve the foregoing minutes.

Absent
Mayor Steven Weinstein

Councilmember Jeanne Baratta

Deputy Mayor Lisa Swain

Deputy Mayor Joseph Tedeschi

Councilmember Ed Trawinski