

REGULAR MEETING OF MAY 27, 2008

Mayor Weinstein called the meeting to order at 8:05 p.m.

In accordance with the Open Public Meetings Act, notice of the change in time was published in The Record issue of May 16, 2008 as well as the annual notice of all meetings of the Borough of Fair Lawn was published in The Record issues of December 14, 2007. 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 notice identified the times and locations of the Council meetings and work sessions.

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

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

PROCLAMATION: – MYASTHENIA GRAVIS SCLERODERMA AWARENESS

Municipal Clerk read the two proclamations.

MANAGER'S REPORT

Manager Metzler said there were no changes to his report.

COUNCIL COMMENTS

Mayor Weinstein stated yesterday Fair Lawn had a wonderful parade and the Borough was honored by Governor Corzine's attendance.

Mayor Weinstein stated that next week, he and Councilmember Baratta have been working on the committee with the Manager for the first canoe regatta, which will be held May 31st at 8:00 a.m. Some of the co-sponsors are the Rotaries, Fair Lawn Alliance for Substance Abuse, the Chamber of Commerce, the Rescue Squad and one of the residents who have always been involved is Emil DeLuccia. He was looking forward to a great event. They have 18 canoes that will be involved.

Mayor Weinstein stated that the Borough has a tremendous number of truly involved employees and staff. Last Thursday night he and Superintendent Conte were at a reception in Princeton for Ron Lotterman who was honored for his outstanding track record for innovative programs and ongoing services of the Recycling Department. This is the fourth consecutive year that the Recycling Department has been recognized with an award. Previous awards were given in areas of enforcement and education, and last year the Skinner family was named volunteers of the year. Mayor Weinstein reminded

everyone that the next Litter Day is scheduled for Saturday, June 21st; from 8:45 a.m. to 12:15 p.m. Volunteers are asked to pre-register for this event by calling the Recycling Department.

Councilmember Baratta thanked everyone for coming out on Memorial Day for the Parade to honor our Country's heroes. She thanked all of the Emergency responders and the Civic organizations for participating. She also thanked the Recreation Department for their efforts.

There will be the first Canoe Regatta at 8:00 a.m. There will be a river walk tours, the boy scouts are involved and will be holding a catch and release fishing tournament. Another event happening on June 1st is the New Jersey Striders along with the Fair Lawn All Sports Track and Field are hosting a large invitational this weekend at Fair Lawn High School. A lot of groups in town have helped put this together. She felt it was good that they could show off this town to out of towners.

Deputy Mayor Swain stated she had a wonderful time at the parade. It was great to see all of our citizens out honoring the Veterans. She had the opportunity to meet with some of the students from Memorial School who came to the Borough Hall. They had a tour of the building. They asked a lot of questions. It was great to see them learn not only in school but what goes on in the building.

Councilmember Trawinski stated participated in the Memorial Day ceremonies by having the privilege of sailing on the U.S. Monterey, which is a guided missile cruiser, from Norfolk, Virginia through Fleet Week, up the Hudson River with a portion of the 8th Battle group from the Navy which will be deployed in the Persian Gulf come next September. He made it his business to thank as many Sailors, Marines and uniformed individuals for what they do for our Country. He felt that every American should spend time aboard a Navy ship to see the circumstances under which our young men and women live to defend our freedom. He wanted to publicly thank the crew of the Monterey for a sail of a lifetime.

Deputy Mayor Tedeschi stated he was on the USS Monrovia. Memorial Day was a day to honor those who gave their lives. Andy Rooney said it better on 60 Minutes, "They did not give their lives, their lives were taken". They were taken so that all of us could have a safe country so they can debate issues, practice Democracy and he thought they should remember that, no one gives their life away; they sacrifice it for the greater good. That puts a lot of pressure of them to do the right thing.

He hoped that next year instead of the elected officials and the politicians leading the parade, they let the veterans lead the parade.

ORDINANCE ON SECOND READING:

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. 2116-2008

AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FAIR LAWN, 2000, BY AMENDING AND SUPPLEMENTING CHAPTER 13 ENTITLED A FIRE DEPARTMENT@, ARTICLE XVII, "INTERMUNICIPAL MUTUAL AID FIRE EMERGENCY AID SYSTEM@, SUBSECTION 13-75, "PREAMBLE" AND SUBSECTION 13-76, "PARTICIPATIONC TO ADD THE FAIR LAWN OFFICE OF EMERGENCY MANAGEMENT AND THE CIRITICAL INCIDENT TASK FORCE"

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

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, Resolution No. 173-2008 adopting Ordinance No. 2116-2008 was discussed.

Manager Metzler stated this will add the Office of Emergency Management and the Critical Incident by ordinance to their inter-municipal mutual fire and emergency aid system.

There being no further discussion, Resolution No. 173-2008 adopting Ordinance No. 2116-2008 was unanimously passed.

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

ORDINANCE NO. 2117-2008

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 160, ENTITLED "PARKS AND RECREATION AREAS" TO LIMIT SMOKING AT MEMORIAL POOL AND WALSH POOL IN DESIGNATED AREAS

Claude Bienstock, 39-11B Broadway, thought this ordinance should be changed because it is no effective the way it is written. There are non-smoking signs on the beach and have not been enforced by the staff there. He sees people smoking everywhere. It is unhealthy. He also sees people eating on the beach which they should not do. The staff does not enforce the laws. There are cigarette butts all over the beach and sidewalks. It would not be effective to limit the smokers in one area because they will smoke wherever they want and no one stops them. Mayor Weinstein agreed that no ordinance is effective unless it is enforced. After much discussion was a way of trying to resolve this issue. The Manager will see that the no smoking is enforced on the beach. Mr. Bienstock felt smoking should be banned in the entire park. Councilmember Trawinski felt they where not able to do this in the past and that is what this ordinance would do, enable them to do that.

There being no further comments by the public, upon motion by Councilmember Trawinski and a second by Deputy Mayor Tedeschi, 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. 174-2008 adopting Ordinance No. 2117-2008 was unanimously passed.

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

ORDINANCE NO. 2118-2008

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 170, ENTITLED "PROPERTY MAINTENANCE" TO PROHIBIT PAVING AND OTHER DESTRUCTION OF BOROUGH RIGHT-OF-WAY

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.

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Swain, Resolution No. 175-2008 adopting Ordinance No. 2118-2008 was discussed.

Councilmember Trawinski thanked Harvey Rubinstein for bringing this to the Council's attention.

There being no further discussion, Resolution No. 175-2008 adopting Ordinance No. 2118-2008 was unanimously passed.

PUBLIC COMMENTS ON CONSENT AGENDA ITEMS ONLY

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

Harvey Rubinstein, 28 Rutgers Terrace, questioned Resolution No. 184-2008 which says that the agreement has been viewed and approved by Special Counsel at the request of the Borough Attorney. He wondered why they needed to have Special Counsel review it. Attorney Rosenberg stated he had a conflict with this agreement and therefore he asked Special Counsel, Mr. Lustgarten to review it. There was no additional charge to review it.

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

RESOLUTIONS BY CONSENT # 12-2008

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, Consent Agenda 12-2008 containing the following items was unanimously passed.

- a. Resol. #176-2008 - Award of Bid: HVAC Repair and Maintenance
- b. Resol. #177-2008 – Interlocal Agreement for Use of Walsh Pool - Prospect Park
- c. Resol. #178-2008 – Interlocal Agreement for Use of Walsh Pool - Haledon
- d. Resol. #179-2008 – Interlocal Agreement for Use of Walsh Pool – Elmwood Park
- e. Resol. #180-2008 - Interlocal Agreement for Use of Walsh Pool – Midland Park
- f. Resol. #181-2008 - Interlocal Agreement - Saddle Brook
- g. Resol. #182-2008 – Award of Bid: Project #2154- Well Service 2008
- h. Resol. #183-2008 – Change Order: Project #2147 – Municipal Building Generator Replacement
- i. Resol. #184-2008 – Authorizing the Execution of Agreement with Hackensack University Medical Center for EMS Communications Services

Resolution No. 185-2008 – Use of Walsh Pool – Fair Lawn Community School

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, Resolution 185-2008 was approved with Deputy Mayor Tedeschi abstaining.

PUBLIC COMMENTS

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

Arlene Rubinstein, 28 Rutgers Terrace, did not think they should be in any rush to rezone the Kodak site because that land is contaminated and a mixed use with a housing development would create more problems for the Borough. She felt that a referendum should be held so that Fair Lawn residents decide what should be done in town instead of the EDC determining what is best for this town.

Mrs. Rubinstein said a photo appeared in a recent Community News showing David Ganz, Mayor Weinstein and some other people with a ceremonial pool tag. The photo was taken May 3 yet the Council did not discuss the pool use by Paramus resident until May 6 and the resolution was not approved until May 13. She asked if any of the other Councilmembers knew in advance of May 3 that this would be passed. Councilmember Trawinski said no. Mayor Weinstein stated that the Recreational Facility Committee met and would have to check his records.

Mrs. Rubinstein questioned if the Mayor knew the vote would be cast prior to the Council meeting. She also wondered why David Ganz was in the picture. This town unelected him to the Council and he has no standing in Paramus so why was he in the picture. Mayor Weinstein said as a Freeholder he has standing in the County.

Mrs. Rubinstein wondered about the Ordinance for the 50 or 60 x 100 lots being grandfathered. Attorney Rosenberg advised that at the request of the Mayor and Council that issue has now been circulated to the Building Department and he is prepared to report on it at the next Work Session.

Councilmember Trawinski stated he was not aware of any photo opportunity and was surprised at the story. He wanted to know if either the Municipal Clerk or the Manager were aware of it. Mayor Weinstein stated that in concept they all agreed to share the pool with Paramus, details were to be worked out at the May 6 Work Session. They did have a Recreational Facilities meeting on May 3. The only other Councilmember present in the photo was Deputy Mayor Swain who is on the committee. He felt it was representation of shared services. Manager Metzler said that he was made aware of it by the Mayor. Councilmember Trawinski stated neither he or Councilmember Baratta were told about it although they should have been told about it. It was troubling that they created an impression with two Councilmembers outside the scope of the Open Public Meeting Act knew the decision had been rendered. Mayor Weinstein stated in concept they agreed to offer Paramus residents the use of Memorial Pool. The May 6 meeting was to work out the details. Councilmember Baratta stated they did not vote on that until May 13. Mayor Weinstein said they voted in favor of the concept and that the Manager would be working on the details with the Administrator of Paramus.

Stan Hayden, 12 Beekman Place, brought to their attention that highway exhaust stunts lung growth. In addition, there is poison in the ground. It should be cleaned up before they consider any type of building on the site. Mayor Weinstein stated the Council would have their environmental expert test the area. Mr. Hayden felt that would be a cover up because he was talking about the Federal government. The facts are there. They do not need any expert. Mayor Weinstein asked Mr. Hayden if he was an expert in this area. He asked who the Council should listen to the environmental expert or him reading from a report. Mr. Hayden said from the report from the United States government. Mayor Weinstein stated there are different interpretations of the report. Mr. Hayden stated the report is 41 pages long and is very clear. He has it on good authority that no one should be living there.

Mr. Hayden stated in 1978 the plume poisoned five well fields and the plumes from these properties are continuing to contaminate under the surface flowing from the property to the river. That has to be cleaned up before it is built on.

Suzanne Fishbein, 12 Bancroft Place, stated years ago when the Recreation Center was being built and they asked for it to be 40 feet high, the statement that was made was that building and the Plaza Building would be the only two buildings in Fair Lawn that would be 40 feet high. They are now talking about 50 foot heights for a hotel. She wondered what happened to that statement. Mayor Weinstein stated she was across the hall in their previous meeting, she heard the Planning Board Planner said this was what the developer was proposing. That was not what the Council said. They were listening to the planners. Ms. Fishbein said she was talking about the statement they made years ago about the 40 foot height. She just wanted to remind them. She is not happy hearing that a building would be 50 feet high.

Claude Bienstock, 39-11B Broadway, stated there is a problem with geese droppings at Memorial Pool. It should be cleaned up. He felt they should hire a private company to clean it up even though the budget is tight. He wants Fair Lawn to be cleaner and safer.

Bob Gremilot, 1 Bristol Place, stated he was at the Work Session earlier this evening. The conceptual plan developed by the EDC for the Route 208 Kodak site suggests there be an apartment development, office space and retail space. This would require a zone change from industrial to mixed use. The residential apartments would put additional strain on the schools and increase taxes. There would be additional traffic and congestion on Route 208 because they would have to turn around on Fair Lawn Avenue. If the existing zoning remains there would be no additional school taxes in the future, and there would not be that much traffic.

Walter Weglein, 18 Ramsey Terrace, quoted from an article in the New York Times "as much as affordable housing is needed, it should not be built at the cost of further paving over an over developed, over crowded State like New Jersey. There would be other pressures as now happens in the suburbs builders can use affordable housing

obligations as a covert for winning approval for projects containing many market priced houses.” He believed that the Supreme Court heard arguments involving a case that holds the fate of towns like Fair Lawn in the balance, reshaping the Mt. Laurel doctrine in favor of the so called builders remedy. He wondered if Fair Lawn had a case before the Court for Daly Field. Attorney Rosenberg advised that presently they are vigorously defending those lawsuits. The Council will adjourn to Closed Session after this meeting to get an update from Special Counsel Lustgarten on that issue.

Mr. Weglein felt more now than ever it is vital that the Council consider its options to do something about Fair Lawn’s ever shrinking open space which is now down to about 3 percent. He thought they could buy Daly Field and the Hayward Tract under eminent domain and make sure they have a little more park land. High density construction on the Hayward tract would create high volume of traffic in the center of Fair Lawn. He felt that new side streets would be needed off of Plaza Road and traffic signals will add to the traffic. Taxes will increase due to the cost of the services to 500 new residents. Radburn is about to renew part of the contract with Landmark in July once again without first involving the community. He thought it was time for something to be done to stop it.

Harvey Rubinstein, 28 Rutgers Terrace, thanked Councilmember Trawinski and Councilmember Baratta for Ordinance No. 2118-2008 prohibiting anything but a grass strip between the curb and sidewalk in a residential area. Hopefully this will ensure that Fair Lawn will continue to have some green lawn. The next thing to push for is regulations to govern circular driveways.

He found three additional parking spaces in the back by the dumpsters at the Recreation Center. He thought if they get rid of the dumpster by moving them or removing the ones the Borough owns. The recyclables could be put in cans on the curb.

Mr. Rubinstein expressed concern that the Borough does not have any green standards. There will be a green buildings expo in New York City on June 17 and 18. He thought some Councilmembers or the Borough Engineer should go to get ideas. Maybe there are things that could be put into the standards.

Mr. Rubinstein asked if they were going to have geese control for the pool this summer.

Kathy Moore, 13-16 Plaza Road, felt what could happen on Daly Field would affect the entire Borough. All of the schools and services will feel it. Last Wednesday they were told by the Radburn Trustees that they were going to be taking a vote fairly soon to decide whether or not they want to extend the contract with Landmark and if the majority of the Radburn community did not want to have that contract renewed, the Board would consider not renewing it. She was there tonight to plead with the Mayor and Council, the Manager or anyone who would be kind enough to pick up the phone and call Don Morris and ask him, for the entire Fair Lawn community, to reconsider

extending the contract with Landmark. Once this property is gone, it is gone for good. This issue has polarized the entire town. People are tired of talking about it. She asked if they could reach out to the Radburn Trustees to reconsider this.

Ms. Moore wondered about the trees in front of Rite Aid the grass is around it is very high and who was in charge of that strip mall. She said she would bring up the bus shelter at another meeting. Mayor Weinstein stated the Manager would look into the trees. Manager Metzler said if she was referring to the bus shelter by the Exxon station, that is due to be replaced and he believed that based upon the schedule he received, they are within weeks of that happening.

Peter Kortright, 16-24 Ellis Avenue, stated affordable housing is something that is not going to change. In his capacity working with the County, he has worked with at least ten towns and each one of them has been burnt. It is not conceptual, it is not speculation, it is a fact. The builders remedy is the most destructive force in the State. Under a builders remedy they have no choice, so whatever the builder decides to build, they will get. It may not be the vision of Fair Lawn. It is going to be ugly and it will be extremely dense and very undesirable.

Mr. Kortright stated the Planning Board is extremely sensitive to environmental issues. There will be no building unless the site is clean. They want a Performance Bond on the environmental clean up and the remediation.

Arlene Rubinstein, 28 Rutgers Terrace reminded the residents of Fair Lawn that the entire Council is meeting with the EDC on Thursday night at the American Legion Hall and every member of the public should make it their business to attend this very important meeting.

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

Councilmember Trawinski stated he wanted to respond on a few things. Mr. Rubinstein asked a question about geese this summer and he did not hear the Manager respond. Manager Metzler stated he did not believe they have contracted with the company that they put the coyote on the surfboard but they have been doing the egg addling. The fencing has been put up to control their flight.

Councilmember Trawinski stated Mr. Rubinstein raised the question about circular driveways and informed him that the Borough does prohibit those type of driveways but it is worded in 125-48.7c, regardless of anything else contained in the Zoning Code, no residential dwelling shall have more than one curb cut with a maximum width to exceed 20 feet. That effectively prohibits that driveway and they would need to seek a variance.

Councilmember Trawinski stated he was not sure as a Planning Board they could simply say no to any construction if the DEP would otherwise allow it under environmental circumstances because the DEP regrettably does allow piece meal construction on sites.

Councilmember Trawinski stated the builder's remedy is extremely powerful tool. He hoped at the next Work Session he could get the Council to talk about Fair Lawn leading the way, as Morristown has, which has joined together with all of the municipalities in Morris County, to challenge the new COAH regulations and specifically focusing on the builder's remedy portion of those regulations. He believed that there is strength in numbers perhaps they can take the lead in Bergen County to see if they can pull together the Bergen County towns to see if they are willing to do something similar to what was done in Morris County.

Deputy Mayor Tedeschi thanked Mr. Rubinstein for his suggestion on the sidewalks and as a matter of fact, every Councilmember voted in support of it. It was a good idea because it was unanimously passed.

Deputy Mayor Tedeschi stated Fair Lawn Commons is a product of a builder's remedy. It is the product of six applications being denied by the Planning Board and the builder finally telling the Court, they won't let me build and the Court let them build. It was over twenty acres of open space.

**CLOSED SESSION RESOLUTION – PENDING LITIGATION – TAX APPEALS;
LANDMARK AND LENTINI AND PERSONNEL – MANAGER'S EVALUATION**

Upon motion by Councilmember Baratta and a second by Councilmember Trawinski, it was unanimously agreed to go into Closed Session.

ADJOURNMENT

Upon motion by Deputy Mayor Swain and seconded by Councilmember Baratta, the meeting was adjourned at 10:30 p.m.

Respectfully submitted,

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

The undersigned have read and approve the foregoing minutes.

Mayor Weinstein

Councilmember Jeanne Baratta

Deputy Mayor Lisa Swain

Deputy Mayor Joseph Tedeschi

Councilmember Ed Trawinski