

## **REGULAR MEETING OF JULY 22, 2008**

Mayor Weinstein called the meeting to order at 7:31 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 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, Assistant Municipal Clerk Bojanowski and Attorney Rosenberg.

### **MANAGER'S REPORT**

Manager Metzler announced that the Meals on Wheels program were featured in a French magazine that was published in France. He was told it was a very positive article. He complimented the men and women in the Health Department for what they do.

He acknowledged some of the members of the Public Works staff and the Pool Maintenance staff that was assigned to Parks and Recreation. There was a serious problem at Walsh Pool where they had a clogged chlorine line which resulted in having to drain the pool. They worked diligently to get the pool up and running. He wanted to acknowledge their efforts.

He also acknowledged Officer Lou Failla who is assigned to the Traffic Bureau. He has developed an expertise on commercial vehicle enforcement. He made a presentation to Chief Rose that all vehicles that pass through Fair Lawn are coming through the neighboring towns therefore by enhancing the enforcement in those towns it would make the Borough safer. He did this on his own time to train the Officers in Glen Rock on commercial vehicle enforcement.

### **COUNCIL COMMENTS:**

Councilmember Baratta stated the summer music festival was in full swing. The concerts are held on Sunday nights at 8:00 p.m. at Memorial Pool. She acknowledged the sponsors such as Columbia Bank, Fair Lawn Rotary Club, Kuiken Brothers, Fair Lawn Rescue, the River Road Improvement Corporation, Shop Rite of Fair Lawn, Community Bank of Bergen County, the Knights of Pythias, the Fair Lawn Community School, Wrubel Communications, the Sunrise Rotary Club, the Cosmos, Sandvik, Fair Lawn Chamber of Commerce and Lazon Paints. She extended the Council's thanks for making those concert series possible. She suggested residents check out the

Borough website because there is a new feature from the Human Services Department listing a whole page of volunteer opportunities. She knew that Fair Lawn has always been a good volunteer town. If anyone is interested, they can go to the website, click on volunteer opportunities and will see different types of things that can be signed up for.

Deputy Mayor Swain reminded everyone that parents and grandparents should wear helmets. She knows that parents and grandparents are diligent about their children wearing helmets but they are not wearing them themselves. They should set a good example for the children by wearing helmets.

Councilmember Trawinski stated all too often they get letters of concern or complaints but recently they received a letter from Valley Hospital Director of Emergency Services telling them about the excellent work Patrol Officer Graziano, Patrol Officer Wood, Patrol Officer Franco and Officer Manning under the leadership of Sgt. Metzler did along with a comprehensive and detailed investigation by Detective Corcoran. It is a real tribute to the Police Department and those officers when the Director of Emergency Services at Valley Hospital takes the time to point this out to the Mayor and Council. He complimented all of the officers and senior officers of the department for the training they received and were given.

Councilmember Trawinski stated that the people of Fair Lawn should note that in the case of 12-67 River Road Associates versus Fair Lawn Fire Prevention and Bergen County Construction Board of Appeals, the Borough was enforcing the Borough's fire code. The business owner felt he was being discriminated against and lost in the trial court, lost in the Appellate Court and appealed to the Supreme Court of New Jersey who declined to hear the case. Once again it was an example of how this municipality takes enforcement action and follows through. He complimented Special Counsel Lustgarten for handling this case through to the conclusion.

Councilmember Trawinski stated that estimated tax bills will be out in the mail and will show a one point increase in municipal taxes. He stated that they had all agreed to put a letter into the tax bills but because they were already done they determined not to include the letter. The letter would have advised the people of Fair Lawn that if the State of New Jersey simply reimbursed the Borough for the items that they mandated the Borough do, the residents of Fair Lawn would have no tax increase whatsoever. He thought it was important that the people of Fair Lawn understand when Trenton mandates programs, it has a real impact not just on the quality of lives but their pocketbooks. He asked if they spoke to Senator Gordon they should mention this if the State mandates something on the municipality they should fund it.

It impacted him when he saw that a program the Council unanimously supported on the recommendation of the Borough Manger to try to keep property taxes in control for the next several years was rejected by the State of New Jersey. They had proposed what

many businesses are doing which is an early retirement incentive program. If every employee that was eligible had opted in, the Borough would have saved close to four to five million dollars. The State has allowed early retirement incentives to their employees but will not allow for the municipality to do the same. He encouraged residents to speak to Senator Gordon and ask him to please support a modification to the State program to allow municipalities to do that.

Deputy Mayor Tedeschi reminded everyone to attend the concerts in the park. The Community School has a brass band in addition to a symphonic orchestra and will be performing led by Mike Christensen.

He thanked everyone including Valley Hospital where he was a guest for five days for all the calls and cards he received. He addressed his thanks to the Knights of Pythias for making contributions to Deborah Hospital as get well gestures for him.

Mayor Weinstein complimented Borough Engineer Ken Garrison, who has been with Fair Lawn as the Municipal Licensed Water Operator since 1992 and has been a member of the New Jersey American Water Works Association for many years. He received recognition from them by becoming a trustee. Engineer Garrison has been a major asset to Fair Lawn.

Mayor Weinstein stated commended Attorney Rosenberg, Manager Metzler, the Engineering Department and the Traffic Safety Division for all the work and efforts regarding the issue that occurred off of Saddle River Road on Williams Street. They just don't talk about saving open space, they took action.

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

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

#### **ORDINANCE NO. 2121-2008**

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 13 ENTITLED "FIRE DEPARTMENT" SO AS TO CREATE THE RANK OF A BATTALION CHIEF AND ASSISTANT CHIEF WITHIN THE BOROUGH AND TO CODIFY OTHER AMENDMENTS TO THE ORDINANCE REQUESTED BY THE FAIR LAWN VOLUNTEER FIRE**

Upon motion by Councilmember Baratta and a second by Councilmember Trawinski, Resolution No. 212-2008 introducing Ordinance No. 2121-2008 was discussed.

Mayor Weinstein stated as Fire Liaison he knew this ordinance has been worked on by the Volunteer Firefighters for over a year. This will add to the smoother transition to

Chief each year. It will give the officers a chance to understand policy and be part of the policy making over a three year period. It will make the administration of the Fire Department much smoother.

Manager Metzler stated there would need to be a modification to the title. The intent is not to create a Battalion Chief in each of the four companies but to create the additional title of Battalion Chief and Assistant Chief within the department.

There being no further discussion, Resolution No. 212-2008 introducing Ordinance No. 2121-2008 was unanimously adopted.

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

**ORDINANCE NO. 2122-2008**

**BOND ORDINANCE APPROPRIATING \$2,642,000, AND AUTHORIZING THE ISSUANCE OF \$2,516,000 BONDS OR NOTES OF THE BOROUGH, FOR VARIOUS IMPROVEMENTS OR PURPOSES AUTHORIZED TO BE UNDERTAKEN BY THE BOROUGH OF FAIR LAWN, IN THE COUNTY OF BERGEN, NEW JERSEY.**

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Swain, Resolution No. 213-2008 introducing Ordinance No. 2122-2008 was discussed.

Mayor Weinstein stated this ordinance includes the purchase of an Ambulance, improvements to the Borough roads, paving of the hockey courts, installation of rubber mulch at the playgrounds and other various improvements including improvements to the sewer system.

Manager Metzler stated this is the municipal capital budget which was introduced and approved by Council. This ordinance allows the Borough to make the acquisitions.

There being no further discussion, Resolution No. 213-2008 introducing Ordinance No. 2122-2008 was unanimously adopted.

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

**Ordinance No. 2123-2008**

**BOND ORDINANCE APPROPRIATING \$92,400, AND AUTHORIZING THE ISSUANCE OF \$87,900 BONDS OR NOTES OF THE BOROUGH, FOR VARIOUS WATER SUPPLY AND DISTRIBUTION SYSTEM IMPROVEMENTS OR PURPOSES AUTHORIZED TO BE UNDERTAKEN BY THE BOROUGH OF FAIR LAWN, IN THE COUNTY OF BERGEN, NEW JERSEY.**

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Swain, Resolution No. 214-2008 introducing Ordinance No. 2123-2008 was discussed.

Manager Metzler stated this is the capital improvement budget for the water utility which includes acquisition of one vehicle, improvements to the infrastructure and the replacement of some equipment for testing of the utility services.

There being no further discussion, Resolution No. 214-2008 introducing Ordinance No. 2123-2008 was unanimously adopted.

**ORDINANCES 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. 2119-2008**

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN, 2000, SPECIFICALLY CHAPTER 125, ENTITLED "LAND DEVELOPMENT" TO READOPT SECTION 125-32.C REGARDING ENLARGEMENT OF VALID NONCONFORMING RESIDENTIAL BUILDINGS OR STRUCTURES"**

Mayor Weinstein stated that the Council invited Peter Kortright, Chairman of the Planning Board to speak about this ordinance.

Peter Kortright, 16-24 Ellis Avenue, stated that the Planning Board looked at this ordinance and thought it was a very comprehensive ordinance. Four members were not comfortable voting in favor of it. The issue is they were never involved in the history of this ordinance. If they had copies of memos and some of the background, they would have said yes. They felt their planner should get involved and gave them a timeline to get back to them by their next meeting. They would like some input about the conditions. They generally were in favor of this ordinance but they did not want unintended consequences. That was why they voted to look into it more.

Councilmember Trawinski stated he would like to put Mr. Kortright's mind to ease and also suggested a change in the internal procedures. The ordinance that the Council proposes is to add back into the Zoning Ordinances something that they removed prior to the FAR ordinance. On July 18, 2007 they received a memo from Dennis Kolano, the Construction Official, which reported as of July 20, 2007, the Zoning Board had 17 meetings, 10 of which were special meetings and still had a back log which will result in 25 meetings that year. The Council needed to alleviate unnecessary variances. Attorney Rosenberg suggested reinstating Section 125-32.c that might help.

Councilmember Trawinski stated there was another memo was received from Ann Peck, the Assistant Zoning Officer indicating that with the FAR ordinance eliminates the McMansions so reinstating that section of the Code would eliminate the burden on non-conforming lots. At the next Work Session they will ask the Manager when they receive a memo relating to Zoning issues that the Planning Board routinely gets copied. This would have addressed the issues the Planning Board members raised.

Mr. Kortright stated one recommendation they would like would is to see the history. There are four new members and they take pride in being deliberate. They wanted to make sure they are consistent with the FAR. If they had seen a memo they would have known there was some history to this. They wanted to make sure internally they are getting communications. They want to make sure there are no McMansions.

Mr. Kortright said the next meeting will be in a couple of weeks and at that time they will hear from their planner. Councilmember Trawinski stated those documents should be given to the Planning Board.

Scott Levy, Zoning Board Chairman, 15 Barry Place, understood that the ordinance was adopted this evening. Mayor Weinstein stated they invited the Planning Board Chairman to attend because of the memo the Planning Board sent that said they needed to bring in their planner to go over the issues. Mr. Levy stated the ordinance as it stands, is the same ordinance that was taken out. When it was taken out, the number of applications increased dramatically. When they reviewed the applications, they realized if the ordinance had stayed in place, these people would not have been there. The Zoning Board has a lot of work to do. He is at a loss why this would need further review. Mayor Weinstein explained that the procedure is to send it to the Planning Board who sent a memo that said there were new members who were not 100% sure of this chapter in the codebook. Over a year ago he had asked to put this back in place. Out of respect to the Planning Board they invited the Chairperson to the meeting. This ordinance will be adopted. They will just have to wait another month.

Mr. Levy felt it behooved everyone that this ordinance goes back in place, this in relation to the FAR, would help. It would eliminate a lot of people from needing a variance. It would relieve the amount of work the Zoning Board which is desperately needed because there are things that are coming in that are pressing issues.

Municipal Clerk Kwasniewski stated that when someone comes in with an application before the Building Department and are told they will need a variance, they could also be told that this ordinance was under consideration and should be adopted in another month and if they chose they could take their chances and wait. That might help alleviate some burden on the Board.

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

Upon motion by Mayor Weinstein and seconded by Deputy Mayor Tedeschi, Resolution No. 215-2008 adopting Ordinance No. 2119-2008 was tabled. Councilmember Baratta wanted to make sure this would not be costing the Borough more money to pay the Planner. Mayor Weinstein stated the planner would be paid by the Planning Board. Councilmember Baratta stated they were all in agreement and just doing a courtesy to the Planning Board to let them have more time, she would hate to have this cost the Borough. Mayor Weinstein felt it was more than a courtesy because there are many ordinances that are on the books that they have adjusted along the years. He felt it was worth it to go through the process.

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. 2120-2008**

#### **AN ORDINANCE FIXING THE SALARIES OF CERTAIN EMPLOYEES OF THE BOROUGH OF FAIR LAWN, BERGEN COUNTY, NEW JERSEY AS AMENDED**

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.

There being no further discussion, Resolution No. 216-2008 adopting Ordinance No. 2120-2008 was unanimously passed.

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

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

Craig Miller, 5 Ramapo Terrace, questioned Resolution No. 218-2008. Manager Metzler explained it was authorizing an agreement with the County for the Borough to plow their roadways.

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

### **RESOLUTIONS BY CONSENT # 18-2008**

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, Consent Agenda No. 18-2008 containing the following items was unanimously passed.

- a. Resol. #217-2008 – Approval of Minutes:
  - Work Session 4/22/08
  - Special Meeting 4/22/08
  - Closed Session 4/22/08
  - Regular Meeting 4/29/08
  - Joint Meeting with Board of Education 5/5/08
  - Work Session 5/6/08
  - Closed Session 5/6/08
- b. Resol. #218-2008 - Authorization to Execute Municipal Snow Plowing Agreement with the County of Bergen
- c. Resol. #219-2008 – Refund of Overpayment of Taxes
- d. Resol. #220-2008 – Confirmation of Fire Board Actions
- e. Resol. #221-2008 – Professional Services Agreement – Health Education Services (Pandemic Influenza Mini Grant Phase III)
- f. Resol. #222-2008 – Grant Agreement – Barrier Free Improvements
- g. Resol. #223-2008 – Grant Agreement – Dobrow Field Renovation
- h. Resol. #224-2008 – Authorizing Estimated Tax Bills
- i. Resol. #225-2008 – Supporting S-445 Transparency in Government Act
- j. Resol. #226-2008 – Appointment to Advisory Committee on the Americans with Disabilities Act
- k. Resol. #227-2008 – Renewal of Liquor License 2008 – 2009 – **Removed**

Mayor Weinstein stated that one of the resolutions they just passed was for a grant agreement in which the Borough is receiving \$300,000 from the County of Bergen for the Dobrow Field renovations for the turf field. Last week he met with Manager Metzler, Superintendent of Parks and Recreation Graff, a representative from All Sports and one of the turf companies who advised them about the turf fields. They are working towards protecting the children in the use of that field. It was interesting to find out that there are probably more lead chromates found in home carpets than on this turf field. He thought one of the advantages of going through a time like this with all of the articles written about turf fields is there have been a lot of research on the fields and the product the Borough will receive is a new upscale one. The field will be environmentally inspected, the turf itself will be guaranteed and each year they will also have it environmentally tested. There will be a swipe test because of the discussion about dust. They are moving forward and have taken a lot of precautions. Yesterday the Manager met with All Sports and Recreation Superintendent.

Manager Metzler stated they are in a position that they are 100% confident that the prudent thing to do was to move forward with the project. They have been able to review some of the analysis that was done on other fields and are confident that this is what they should do. They are excited about the opportunities it will present for the children.

**RESOLUTION NO. 228-2008 – Approval of Minutes**

Regular Meeting 10/9/07

Upon motion by Councilmember Trawinski and seconded by Councilmember Baratta, Resolution No. 228-2008 was approved with Deputy Mayor Swain abstaining.

**PUBLIC COMMENTS**

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

Ron Cole, 10 Ramapo Terrace, thanked the Council and the Police Department for making Fair Lawn Avenue safer with the pedestrian crosswalks. The crosswalk by Abbott Road is very dangerous. He thought the message had gotten out because people are actually stopping ahead of the crosswalk. He suggested they put up visible signs of what the penalties would be so that the drivers are aware.

Mr. Cole also thanked the Council for their decisive action they took in regard to Williams Street. It sent a strong message to the residents of this town. The Council did not take any nonsense and did their best. He complimented them for the way they handled it.

Mr. Cole stated that when he exits Ramapo Terrace the Hayward tract is ugly and felt they should create open space in that area.

Suzanne DiGeronimo, 16 Beekman Place, stated she had 414 petition signatures from people who would like the Mayor and Council to put a question on the ballot in November 2008. Generally, the petitioners would like the Mayor and Council to approach the property owner to purchase the Hayward tract for the public purpose of creating municipal open space on that tract. If the owner refuses the Council should use eminent domain for this public purpose, providing fair market value to the owner using open space trust funds, grants and other funds available such as through the trust for public lands. There would be no taxes created. The owner brought the tract for \$1.4 million. This is a simple opportunity to let those citizens from all over Fair Lawn who voted to pass the open space trust fund tax three years ago to vote in the affirmative on purchasing the Hayward tract. The question the petitioners pose is as follows: "Shall the Borough of Fair Lawn create a park (a public purpose) by acquiring Block 3610 Lot 1 (the Hayward tract, currently owned by a developer) using the Borough's power of

Eminent Domain; using the existing Open Space Trust Fund, plus grants and other financing methods; and creating no new additional tax?"

Mrs. DiGeronimo said that the Committee of Petitioners was willing to obtain sufficient numbers of signatures under the Faulkner Act, Municipal Ordinance Initiative and Referendum, to place the question on the ballot to use the petition's exact wording as binding public vote. The Committee of Petitioners is also prepared to work with the Mayor and Council to find an acceptable wording so that the Mayor and Council can support the question voluntarily on the ballot in November 2008. This is a once in a life time opportunity to purchase this vacant parcel for open space for future municipal public purposes.

Howard Mark, 12-23 Ferry Heights, questioned why the petition did not want to save any other areas of town. The Hayward tract is an area that cannot be used for years. Other areas of town should be included in this question.

Councilmember Trawinski asked him to get whoever he speaks to at the DEP to tell Judge Harris and the Council on Affordable Housing and now the Appellate Division where the developer has appealed arguing that property is readily developable. The Borough has asserted that position before COAH and has been rejected. Judge Harris rejected it. Now the Borough is appealing to the Appellate Division trying to persuade it that COAH was wrong to tell them that the property is developable. The State of New Jersey has the power to intervene in the Borough's appeal to the Appellate Division. If they are interested in doing that they should speak to Special Counsel Lustgarten. That is the kind of support they need as a municipality. The Council has heard loud and clear that the Hayward tract should not be developed and yet that is not the position that COAH has taken.

Suzanne Fishbein, 12 Bancroft Place, spoke about the drivers on Fair Lawn Avenue by the Library. The drivers do not stop for pedestrians in the cross walk. The crossing guard even has concerns about that post. She has noticed that even municipal employees do not stop.

Ms. Fishbein stated the bus shelter by the Exxon Station on Plaza Road is disgusting and should be replaced. Manager Metzler stated he has reported on this many times. They were told it would be replaced in May then June. In the 1990's the town installed bus shelters with advertising and it seems there is a discussion about the agreements. He will follow up on this again.

Bob Gremilot, 1 Bristol Place, stated he was a foot soldier for the petition that was handed in by Suzanne DiGeronimo. He said that a cross section of Fair Lawn residents signed the petition not even asking where it was as long as it had to do with saving open space. He asked the Mayor and Council for their support in saving as much green in Fair Lawn as possible.

Walter Weglein, 128 Ramsey Terrace, thanked them for doing a great job in regard to the County and Williams Street. He asked what was happening with it. Attorney Rosenberg advised that the County had until August 1 to work out an agreement with Oceanos Restaurant to gain another access. Mr. Weglein said that was the nicest stretch of parkland and would be ruined with a parking lot. He did not know why the people could not walk to the fields.

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

**CLOSED SESSION RESOLUTION – Attorney/Client Privilege - Nagy Soliman Matter and Personnel – Grievance No. 2008-02**

Upon motion by Councilmember Baratta and a second by Deputy Mayor Swain, the following Closed Session was read at 8:40 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 Attorney / Client Privilege – Nagy Solimon Matter and Grievance No. 2008-02; and

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

**WHEREAS**, minutes will be taken during this closed session and once the need 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 TO CLOSED SESSION**

Upon motion by Councilmember Baratta and seconded by Deputy Mayor Swain, the meeting was adjourned at 9:55 p.m.

Respectfully submitted,

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Marilyn B. Bojanowski, RMC  
Assistant Municipal Clerk

The undersigned have read and approve the foregoing minutes.

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Mayor Weinstein

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Councilmember Jeanne Baratta

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Deputy Mayor Lisa Swain

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Deputy Mayor Joseph Tedeschi

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Councilmember Ed Trawinski