

## **REGULAR MEETING OF DECEMBER 9, 2008**

Deputy Mayor Tedeschi 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 annual notice identified the times and locations of the Council meetings and work sessions.

**PRESENT:** Deputy Mayors Swain and Tedeschi and Councilmembers Baratta and Trawinski. Mayor Weinstein was absent this evening.

**ALSO PRESENT:** Acting Manager Kwasniewski, Assistant Municipal Clerk Bojanowski and Attorney Rosenberg.

### **MANAGER'S REPORT AND STATEMENT**

Acting Manager Kwasniewski stated that the report was on the table and is shorter than usual because it is two weeks early. Those departments that have not submitted a complete report will have it added to the January report.

### **COUNCIL COMMENTS**

Councilwoman Baratta reported on a ballet performance at the Community Center on December 13<sup>th</sup> at 6 p.m. by the Fair Lawn Russian Club and the Borough of Fair Lawn entitled Darfur. This will be the only performance in New Jersey. Tickets are \$25 and \$30 and are available at the Recreation Center, Borough Hall or by calling 201-794-5346.

Councilwoman Baratta wished everyone Merry Christmas, Happy Hanukah and a blessed New Year.

Deputy Mayor Swain stated that attended the memorial service for the Avorham family this morning. Their 10 year old daughter was recently killed in a tragic car accident. She said that the Avorham family is an inspiration.

Deputy Mayor Swain also attended the grand opening of Anthony's Fine Jewelry on River Road in Fair Lawn and she encouraged everyone to shop locally to help sustain

the community. She reminded everyone that toys are being collected in the foyer of the Municipal Building until Friday, December 12th.

Councilman Trawinski said that a memo was recently received concerning Traffic Safety Officer Tim Franco and how he quietly goes the extra mile for people. This incident is in connection with the Torah Dedication Ceremony honoring the Fair Lawn Jewish Center that took place on Sunday, November 16, 2008. In this case, Officer Franco voluntarily moved his scheduled day off to work on Sunday. This had a huge impact on the Events

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Committee and they took note of it in their pamphlet. He thanked Officer Tim Franco for a job well done.

Deputy Mayor Tedeschi thanked everyone who attended the Concert of Thanksgiving last Saturday night. He thanked the organizers who included: The Knight of Pithius, Fair Lawn Rotary, the High School Music Program, the American Legion, the VFW, the Cosmos Club, the National Council of Jewish Woman (Jersey Hills Section), the Maryanne Collura Fund, the Fair Lawn Heavy Rescue, the Fair Lawn Ambulance Corps, the Fair Lawn Fire Department, the Filipino American Association, the Chamber of Commerce and the Inter Religious Council for the Homeless in Bergen County. Deputy Mayor Tedeschi said that over \$6,000 had been raised and each of these organizations had sold tickets and would be receiving ticket proceeds. Donations of frozen turkeys are still being accepted at the Community School and the noted that the Food Pantry at the Municipal Building and at St. Anne's Church remain in need of groceries. He thanked everyone for their generosity and wished everyone a Merry Christmas, Happy Hanukah and Happy New Year.

Deputy Mayor Swain announced that the Fair Lawn Sunshine Rotary will be holding its annual First Day 5K run on January 1, 2009 at 11 A.M.

#### **ORDINANCES ON SECOND READING:**

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, it was unanimously agreed to remove this ordinance from the table.

#### **ORDINANCE NO. 2133-2008**

#### **AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 49 ENTITLED "AFFORDABLE HOUSING" TO CREATE A NEW AFFORDABLE HOUSING COMPONENT OVERLAY DISTRICT FOR CERTAIN PROPERTIES LOCATED IN THE B-4 RIVER ROAD BUSINESS DISTRICT**

Attorney Rosenberg stated that the Council has received a memo from the Planning Board outlining certain recommendations. He advised the Council to table this ordinance in order to consider the recommendations at the December 16<sup>th</sup> meeting. These recommendations include the waiver of fees for residences on the first floor of a

mixed use building and the removal of Lot 2, which is the Shoprite Building, from the ordinance.

Upon motion by Deputy Mayor Swain and a second by Councilman Trawinski, it was unanimously agreed to table Ordinance 2133-2008 to the meeting of December 16<sup>th</sup>.

**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.

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Councilman Trawinski asked that the October 7<sup>th</sup> Closed Session minutes be pulled from the agenda.

Harvey Rubenstein, 28 Rutgers Terrace, asked for details regarding Resolution No. 322-2008 – Local Government Energy Audit. Deputy Mayor Tedeschi explained that this is an application to the BPU to be considered as part of a program for energy conservation. Mr. Rubenstein inquired about any cost to the Borough and Deputy Mayor Swain stated that if the Borough makes any changes as a result of the audit, the Borough is reimbursed for the costs of these improvements.

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

**RESOLUTIONS BY CONSENT #31-2008**

Upon motion by Councilmember Baratta and a second by Councilmember Trawinski, Consent Agenda 31-2008 containing the following items was unanimously passed.

- a. Resol. #330-2008 – Corrective Action Plan
- b. Resol. #331-2008 – Fair Lawn Cops in Shops
- c. Resol. #332-2008 – Local Government Energy Audit
- d. Resol. #333-2008 – Approval of Minutes
  - Work Session – 10/7/08
  - Special Meeting – 10/7/08
  - Closed Session – 10/7/08
- e. Resol. #334-2008 – Refund of Overpayment of Taxes

**RESOLUTION NO. 335-2008 – Approval of Minutes  
Closed Session 1/7/08**

Upon motion by Councilmember Baratta and a second by Deputy Mayor Swain Resolution #335-2008 regarding the Closed Session Minutes of 1/7/08 was unanimously passed.

**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.

Harvey Rubenstein, 28 Rutgers Terrace, suggested that regarding Ordinance No. 2133-2008 on affordable housing the Planning Board look at underground parking standards for garden apartments which is number #11 and #13. The Borough needs to have a definition of slight" in as it pertains to an increase in parking.

Mr. Rubenstein was also surprised to learn that no reference was made to the meeting of the Planning Board next Monday to discuss affordable housing.

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Mr. Rubenstein said he spoke about Ordinance #2093-2007 at the Planning Board meeting. They were not aware of the ordinance that refers to filing applications with the County. Several Board Members asked for proof from Mr. Rubenstein and he read from the Minutes of the Council Meeting of October 23, 2007, regarding an amendment that was unanimously approved. Mr. Rubenstein asked the Council to consider removing Mr. Winston, a Planning Board Member, from the Board because of comments he made when Attorney Dennis Cummins presented a case.

Mr. Rubenstein referred to a bill presented by Senator Mr. Gordon requesting that the COAH legislation be put off for another six months. He suggested that the Borough not rush into anything at the meeting on Monday.

Mr. Rubenstein stated that he has learned that Acting Manager Kwasniewski has an SUV from the town for her use. He asked the Council who is paying for the gas for this vehicle.

Mr. Rubenstein focused on the cost of water to the Borough. He referred to an article from one of his trade magazines regarding waterless urinals that are being put into municipal buildings across the country. This fixture save an average of 40,000 gallons of water a year and should be considered by the Borough.

Mr. Rubenstein referred to the minutes dated February 21, April 19 and May 16, 2006 regarding a ban of the Pay to Play Ordinance. He said that at no time was the ban on Pay to Play about preventing donations to the Salvation Army, United Way or Goodwill. It was about donations to PACs and political organizations.

Craig Miller, 5 Ramapo Terrace, stated that several weeks ago he had asked about the bus stop that was moved from Plaza Road, in the vicinity of Ramapo Terrace, to Warren Road just passed a "no parking here to corner" zone. He asked if there had been any comments from the Traffic Safety Officer as to why this had been done. Acting Manager Kwasniewski said she would follow up on this.

Mr. Miller asked if there is a Special Improvement District (SID) in Fair Lawn for the Radburn section. Councilmember Trawinski said there was not. Mr. Miller stated that he recently attended a Board of Trustee Meeting and was told that the Radburn Association would be giving the Fair Lawn Economic Development Corporation (EDC)

\$2,500 in order to have someone on the Corporation give input on the Radburn section of town. He wondered why if there is no SID does the Radburn Association have to pay? He suspects someone on the Board is being paid by the organization which would mean that this is not a volunteer organization.

Councilmember Trawinski said that people on this Board are not being paid and this is an economic development corporation which is structured by the trustees. Mr. Miller stated that he found this contribution disturbing. Councilmember Trawinski said that a \$2,500 contribution from the Radburn Association to the Fair Lawn EDC is an average

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sized contribution for the State. Deputy Mayor Tedeschi indicated that the Radburn shopping area benefits from the efforts of the EDC.

Mr. Miller referred to the paving on Howard Avenue and Abbott Road which is being funded by a DOT improvement grant. He found it puzzling that part of the parking lot at Abbott Road was paved at the apartments but not the parking lot section at Howard Avenue which is part of the school.

Arlene Rubenstein, 28 Rutgers Terrace, asked if the Acting Borough Manager is in possession of, or is about to receive, an SUV. Acting Borough Manager Kwasniewski stated that as Borough Manager she is entitled to have a car as was every other Borough Manager. The only available vehicle was a 2000 SUV with 119,000 miles. Ms. Rubenstein commented that the gas mileage is probably 10 to 15 miles per gallon.

Ms. Rubenstein said that Fair Lawn was supposed to have the most comprehensive Pay to Play ordinance in the State. The ordinance prevents wheeling and she indicated that giving money to a Victory 2007 Democratic Campaign is wheeling. She stated that whoever the consultants are who donated this money should be disqualified from serving in Fair Lawn because this is a violation of the Pay to Play ordinance. Deputy Mayor Tedeschi stated that the Mayor and Council are looking into this. He added that the ordinance in Fair Lawn is comprehensive and not one penny has come in.

Walter Weglein, 18 Ramsey Terrace, said that he wanted to discuss the EDC that was defeated at the last meeting, but he will postpone his comments due to the absence of Mayor Weinstein. Mr. Weglein referred to his water bill which seemed unusually high for this time of year. He called the Water Department who told him that the rates went up 70% in April.

Mr. Weglein asked what percentage of the tax bill can be attributed to the Recreation Center. Councilmember Trawinski estimated that it is 2% of the total tax bill. Mr. Weglein said that these two items have a common denominator in that residents are in need of help because they can't afford these things. Money has to be saved and a lot of cities are cutting back. Rock salt has increased by 20% this year and revenue from recyclables has collapsed. Mr. Weglein pleaded with the Councilmembers to think of their fellow residents and stop increasing the costs of government.



Seymour Karas, 11 Lamring Drive, stated that he has noticed street lights on during the day in a section of River Road and today he noticed a street light on in the vicinity of Shoprite. He mentioned that there seems to be a lot of electricity wasted on River Road. Acting Manager Kwasniewski stated that she has been in contact with PSE&G over the last six months regarding this issue, however, fixing these lights and timers are not one of their priorities. She will mention this to the Engineering Department again. Mr. Karas suggested that these PSE&G bills be challenged. \ Deputy Mayor Tedeschi agreed and stated that PSE&G should be put on notice that the cost per street light will be calculated and subtracted from the bill.

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Mr. Karas said that he had inquired at a previous meeting whether a Special Improvement District is required to publicize the date and time of their meetings. Attorney Rosenberg said he will be prepared to discuss this at the December 16<sup>th</sup> meeting. Mr. Karas said that the Economic Development Corporation is not a SID but a private non-profit organization and it is legal to charge a trustee to be a member. He said that Councilmember Trawinski had commented that SIDs do charge for members to be on the Board of Trustees or Board of Directors, however, Mr. Karas, said he couldn't find any reference to this contained in the Statute although he said it may be the custom. He commented that locally requiring a member of the Board to pay a certain fee restricts and controls a small group who is a member of the Board. He asked that this be addressed.

Councilmember Trawinski stated that none of the SIDs in Fair Lawn have mandatory contributions for trustees. Mr. Karas disagreed stating that this is the case for River Road. Councilmember Trawinski stated that the SIDs that typically require contributions would function as this last one that was proposed recently in Fair Lawn would function. This means that in addition to being a SID it would also be and EDC. Mr. Karas stated that if it had become a SID it would be subject to a different set of laws because it would have become a quasi corporation. He compared this to the Council in that it is a public board even though the members are elected officials and he asked that this be explored.

Bob Landzettel, 65 Cummings Court, Mahwah and President of the River Road Special Improvement District, stated that the District budgets estimated revenue from Trustee commitments of \$3,000 per year. These are not mandatory but anyone who has served has willingly contributed to the Board, such as banks, to support and encourage the efforts of the SID. There are resident members who suggested contributions should be in the area of \$100 and this is not mandatory. He referred to the comment regarding the contribution of the Radburn Association and stated that this would give the Radburn residents an opportunity to have a say in what is going on in the business community and the Borough. He said that the potential improvements to the train station and the signage that had been provided for most of the improvements in the area of Panera Bread were subsidized by grants arranged by the SIDs. The EDC would look into traffic situations in the Radburn district along with train station and intersection improvements which would constitute sensible planning for this area. Mr. Landzettel indicated that he

hopes to see the EDC move forward one way or another and hopes for the continued support of the Radburn district.

Seymour Karas, 11 Lamring Drive, referred to the new building next to the Chase Bank on River Road. He has learned that they were short of parking spaces and have entered into an agreement with the Borough to rent parking spaces on the Fair Lawn Avenue parking area. He asked if a fee has been fixed for these spaces. Councilmember Trawinski said that the fee has been fixed by ordinance. Mr. Karas said that one house had been purchased by the municipality and subsequently demolished to create a parking lot. The Borough entered into an arrangement whereby the River Road Improvement Corporation paid 25% of the cost. He said that it was never expected that parking would be free when the property was purchased and the reason

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the site was chosen was to provide parking for residents across the street and also for the merchants. He recalled that a sample ordinance had been provided to the former Council as an example of monthly, daily and hourly parking rates but for some reason it was never pursued. There is a lot of parking here and the Borough and River Road is losing a lot of money because there is no fee structure for parking on this site.

Councilmember Trawinski stated that the use of the common area parking by businesses has been in place for a long time. A 1996 or 1997 resolution appropriating the funds to acquire the lot contained a list of conditions only some of which were instituted. Deputy Mayor Tedeschi recalled that a permitting process was supposed to go into effect but the question was whether it would be implemented by the Borough or River Road and it somehow fell through the cracks. He said that there was no reason why it couldn't be back on the table and the question was who would develop and monitor the permitting process. Councilmember Traswinski recalled an ordinance being presented to the Council in 1999 and Acting Manager Kwasniewski said there was a vote not to implement the parking fees. Councilmember Trawinski suggested this be resurrected.

Bob Landzettel recalled that an ordinance was enacted to provide the mechanism to collect the fees on that site when Mayor Ganz was in office. The ordinance contained provisions regarding parking meters, etc., however, it was determined that the cost of administering the project would overcome the anticipated revenue. Mr. Landzettel said that the business owners are using it during the day and the residents are using it at night. He thought there was a fee for overnight parking of \$50 or \$100 per year.

Harvey Rubenstein, 28 Rutgers Terrace, referred to the filing of resolutions and said that attorney Burn said that this ordinance was not presented to the Planning Board. He asked the Borough Attorney if an ordinance of this nature had to be presented to the Planning Board.

Councilmember Trawinski stated that he was sure the ordinance had been communicated to the Planning Board, the Zoning Board and the Building Department. Mr. Rosenberg stated that last night the Planning Board said it had not been presented to them. Councilmember Trawinski said he has no doubt that the Borough Clerk's Office had transmitted the ordinance to the Planning Board and Zoning Board. Acting

Manager Kwasniewski stated that she spoke to the Assistant Zoning Officer today who indicated that she did have the ordinance. She has gone through every application since this ordinance had been adopted and found only one application that might possibly pertain to the ordinance and the Zoning Board attorney is reviewing this application. The Planning Board has also reviewed their files and could find no applications that met the criteria of that ordinance.

Deputy Mayor Tedeschi asked if the Council could restate the intent of the ordinance to the Planning Board to ensure that it is clearly understood. Mr. Rubenstein read from the ordinance and then asked if the Council can go back on resolutions that have been passed since October 23<sup>rd</sup> or would they be void.

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Attorney Rosenberg stated that after the last meeting, when this was raised by Mr. Rubenstein, he also followed up with the Zoning Officer. He found that both the Zoning Board and Planning Board were aware of the ordinance. They reviewed their files and found only one application that may be affected and this is being investigated. Therefore, since October 2007 when the Council adopted the ordinance none of the approvals issued rise to a requirement of any covenant that needs to run with the land. The Council will make sure that there is compliance and if a Deed has to be modified they will make sure that the conditions memorialized and that any successor owner is bound by such a condition.

Mr. Rubenstein said there is a zoning regulation that a nursery school must be more than 75 feet from and intersection. He asked if this is from the center line of an intersection, or centerline of a driveway, or from the driveway of an intersection. Attorney Rosenberg would have to research the exact language.

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

## **ADJOURNMENT**

Upon motion by Councilmember Trawinski and second by Councilmember Baratta, the meeting was adjourned at 8:41 p.m.

Respectfully submitted,

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Marilyn B. Bojanowski, RMC  
Assistant Municipal Clerk

The undersigned have read and approved the foregoing minutes.

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Mayor Steven 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