

REGULAR MEETING OF FEBRUARY 13, 2007

Mayor Weinstein called the meeting to order at 7:30 p.m. Municipal Clerk Kwasniewski read the following statement of compliance:

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 15, 2006. 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: Mayor Weinstein, Deputy Mayors Etler and Tedeschi and Councilmembers Baratta and Trawinski (late).

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

COUNCIL COMMENTS

Councilmember Baratta stated at the last Council meeting there was an enthusiastic discussion regarding the development at the Clariant property. They talked about a survey that a resident of Third Street, Mr. Baldino presented to the Council. She thanked Mr. Baldino for spending his time going out to his neighbors and talking about this important issue. The Baldino's are long time residents of Fair Lawn. Mr. Baldino attended last Tuesday's Work Session to explain the results of the survey he took and because it was discussed at our last public meeting, she wanted to reiterate the results of his survey. Mr. Baldino talked to seventy-five people in his neighborhood. He polled them and about 100% of them were not in favor of the Clariant's proposal as it was presented. When he asked them what they would prefer to see on this site the majority were in favor of an all senior or age restricted housing. The proposal they have is not for age restricted housing. After that option, the highest majority of people wanted to see open space or single family housing on that property. Other options were office space. The last choice that received the least amount of votes among the residents he polled was townhouses and that is what is proposed now. She thanked Mr. Baldino for all his time and efforts and for caring about the people in his neighborhood and for this town. He did a great job.

Deputy Mayor Etler stated they are expecting some very foul weather and he urged everyone to dress warm and be safe. The DPW is ready for any action that has to be taken.

Deputy Mayor Tedeschi had no comments.

Mayor Weinstein shared highlights from the last Work Session. One was from Shared Service Ad Hoc Committee that has been meeting with the Board of Education. In September, the Borough will share half the cost including salary and fringe benefits for a

Student Resource Officer in the school. It is a major step in shared services. The mechanic shop at the DPW, will start with the 54 seat buses this way the Board will not be going out of the Borough to have the vehicles repaired.

ORDINANCES: FIRST READING

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

Ordinance No. 2072-2007

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 150, ENTITLED "NOISE" TO PROVIDE FOR NOTICE TO AFFECTED PROPERTY OWNERS PRIOR TO COMMENCEMENT OF DEMOLITION

Attorney Rosenberg explained that no person is to perform work for which a permit and fee are required until such people can provide proof to the Construction Code Official that notice has been given to all property owners situated within 200 feet of the subject property at least 30 days prior to the commencement of such demolition work.

Upon motion by Councilmember Baratta and a second by Deputy Mayor Etler, Resolution No. 69-2007 introducing Ordinance No. 2072-2007 was unanimously adopted.

Councilmember Trawinski arrived at 7:40 p.m.

ORDINANCES: SECOND READING

Upon motion by Deputy Mayor Etler 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. 2069-2007

AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FAIR LAWN, 2000, BY AMENDING AND SUPPLEMENTING CHAPTER 232 ENTITLED "VEHICLES AND TRAFFIC", ARTICLE II, "PARKING", SUBSECTION 232-11, PARKING PROHIBITED DURING CERTAIN HOURS ON CERTAIN STREETS AND ARTICLE XI, PEDESTRIAN CROSSING RIGHT-OF-WAY SIGNS, SUBSECTION 232-68, PEDESTRIAN SIGNS

Manager Metzler explained that this ordinance had to do with petitions that were received from residents on 17th Street asking that parking be prohibited between 8:00 a.m. and

10:00 a.m. on the west side of the street between St. Ann and Columbia Street. That action was recommended by the Traffic Safety Officer. It also removes the placement of pedestrian right of way signs on Morlot Avenue and 17th Street, Morlot Avenue and Philip Street and River Road and Lyons Avenue and adds Pollitt Drive mid block north of Fair Lawn Avenue and River Road mid block north of Lyons Avenue.

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

Upon motion by Deputy Mayor Etler and a second by Councilmember Baratta, Resolution No. 70-2007 adopting Ordinance No. 2069-2007 was unanimously adopted.

Upon motion by Deputy Mayor Etler 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. 2071-2007

AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FAIR LAWN, 2000, BY AMENDING AND SUPPLEMENTING CHAPTER 94 ENTITLED "FEES", ARTICLE VI, SCHEDULE OF FEES, SUBSECTION 94-12, "MISCELLANEOUS FEES" AND CHAPTER 160 ENTITLED "PARKS AND RECREATION AREAS", SUBCHAPTER 160-6 "MEMBERSHIP FEES"

Allen Renfield, 9-15 Dewey Place, asked about the non swimmer's badge. He does not object to the \$5 fee, but heard a fence was going to be installed. Mayor Weinstein stated there were no funds put in the budget to install a fence. Manager Metzler stated there was a proposal by the Recreation Department to have a fence installed but the project is not moving forward. Mr. Renfield said he was concerned the pool was becoming a membership only club. Deputy Mayor Etler stated it will always be open to the public. Mr. Renfield felt maintenance of the pool comes out of everyone's taxes. Councilmember Trawinski stated he will keep his comments in mind. He said it was never the Council's intention to not allow walkers.

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

Upon motion by Councilmember Baratta and a second by Deputy Mayor Etler, Resolution No. 71-2007 adopting Ordinance No. 2071-2006 was unanimously adopted.

PUBLIC COMMENTS ON CONSENT AGENDA ITEMS ONLY

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

Harvey Rubinstein, 28 Rutgers Terrace, asked about the resolution concerning the appointments for COAH mediation representation. Attorney Rosenberg advised that under the State law, COAH is required to meet with representatives from Fair Lawn to mediate a resolution when an objection is brought up.

Mayor Weinstein explained that under the law, the Borough is required to have representatives. He stated that the following will be the representatives, Deputy Mayor Joseph Tedeschi, Special Counsel Richard A. Lustgarten, Planner Cheryl Bergailo, Vice Chairperson and Class IV member of the Planning Board, Peter Kortright, III.

Mr. Rubinstein questioned the agreement with Affiliated Management, Inc. for scavenger services. Manager Metzler stated the Borough is required by law to pick up or offer relief to apartment complexes or condo owners for their garbage pick up. This agreement is for the garbage pickup. Mr. Rubinstein felt Borough funds were doing this. Councilmember Trawinski said that under State law, the Borough is required to pay for the pick-up or let the owners do it and then the Borough would have to reimburse them. Mr. Rubinstein asked for the amount. Mayor Weinstein stated it was \$14,000.

Mr. Rubinstein questioned Resolution No. 80-2007. Mayor Weinstein stated it had to do with RCA's even though the Borough is not involved right now. Councilmember Trawinski stated in essence COAH has said the Borough can transfer their obligation to another town.

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

RESOLUTIONS BY CONSENT # 6-2007

Upon motion by Deputy Mayor Etlar and a second by Deputy Mayor Etlar, Consent Agenda 6-2007 containing the following items was unanimously passed.

- a. Resol. #72-2007 - Refund of Overpayment of Taxes
- b. Resol. #73-2007 - Approval of Minutes:
 - Closed Session 11/21/06
 - Work Session 11/21/06
 - Special Meeting 11/21/06
 - Regular Meeting 1128/06
- c. Resol. #74-2007 -Approval of Raffles & Bingo:
 - Warren Point PTA - on premises 50/50
 - Lyncrest Elementary School PTA - on premises 50/50
 - Lyncrest Elementary School PTA - Bingo
 - Sunrise Rotary - off-premise mdse
 - Temple Beth Shalom - Amend Bingo License No. 33-2006

- d. Resol. #75-2007 - Award of Bids: Emergency Water Main and/or Storm and Sanitary Sewer Repair Bid
- e. Resol. #76-2007 - Appointment of COAH Mediation Representatives
- f. Resol. #77-2007 - Authorizing the Execution of Agreement with Affiliated Management Inc. for Scavenger Services
- g. Resol. #78-2007 - Professional Services: Health Educator HARP
- h. Resol. #79-2007 - Extend Contract: Storm & Sanitary Sewer Cleaning & TV Inspection
- i. Resol. #80-2007 - Opposing A-3857 and S-2451
- j. Resol. #81-2007 - Approval of High School Annual Marathon
- k. Resol. #82-2007 - Appointment to Fair Lawn Borough Garden Committee
- l. Resol. #83-2007 - Appointment to Environmental Commission

RESOLUTION NO. 84-2007 - Approval of Raffles & Bingos:

St. Anne Church - off-premise 50/50

Upon motion by Deputy Mayor Tedeschi and a second by Deputy Mayor Etler, Resolution No. 84-2007 was adopted with Councilmember Baratta and Councilmember Trawinski recusing themselves.

MISCELLANEOUS PUBLIC COMMENTS

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

Harvey Rubinstein, 28 Rutgers Terrace, spoke about an article he read about the weir which said the Borough would have to use open space funds for it. He asked if anyone asked the County about this or for the Naugle House. Mayor Weinstein stated that the Council did ask the County a couple of months ago and are still waiting for an answer. Councilmember Trawinski stated that at the League of Municipalities Conference he and Deputy Mayor Etler spoke to Frank DeBari who works at the County asking them to take over the house. The Council had passed a resolution to hold off demolition for one year. Manager Metzler said he had the Engineering Department survey the area when the Borough applied for a grant. It would have allowed the Borough to acquire the land to the river. If they acquired it, the Borough would have given it to the County. Unfortunately, the Borough was not successful in obtaining the grant. Mr. Rubinstein wondered if the County would buy it. He asked again about the \$260 check paid to the Borgata Hotel in Atlantic City. Manager Metzler said the Health Officer stayed there during the League of Municipalities Conference. The assignment of the hotels are by the tourism bureau in Atlantic City. Mayor Weinstein stated that the Borough Clerk asks in June who is going to the conference.

Robert Gulack, 4 Bancroft Place, spoke about the Open Space Committee and the appointments. He said the voters were in charge, not the committee. He said Mayor Weinstein decided to fire Ms. Koplik and Mr. Shansky. Since this has happened, Mayor W

Weinstein has refused to discuss it. He felt who gets hired and fired is not a private matter. Just before the November election, one of these people wrote a letter that was published in the newsletter. The advocates of Open Space won. The people who wanted open space should be on the committee. Mr. Gulack felt that Mayor Weinstein treated the voters with contempt. The voters may decide they don't want him.

Mayor Weinstein responded that when he first was on the Council, he formed the EDC and the BID. In August of 2005, he realized there was an outcry for open space so he formed an Open Space Committee for all of Fair Lawn, not just Radburn. They worked hard to obtain the \$450,000 grant. The appointments were on the Consent Agenda, all of the Council voted unanimously to pass those appointments. He did everything properly. He felt the funny thing is that Mr. Gulack threatens that he will be thrown out of office. Mayor Weinstein said he would never threaten him.

Deputy Mayor Etlar stated this is the second or third time that Mr. Gulack has discussed the appointments. He wondered why Mr. Gulack would think that anyone on this Council would treat people with contempt. The right to appoint people is by the Council not by Mr. Gulack.

Mr. Gulack stated that until there was a major outcry, Mayor Weinstein and Deputy Mayor Etlar supported development of Daly Field. Deputy Mayor Etlar advised him not to say what he does or does not support. Mr. Gulack asked what did Mrs. Koplik or Mr. Shansky do to get taken off the board. Mayor Weinstein stated they were giving someone else a chance. Deputy Mayor Tedeschi stated that Mr. Gulack said Mayor Weinstein betrayed the people. They all did. Mayor Weinstein stated he did not fire anyone, he was just giving someone a chance. Deputy Mayor Tedeschi stated that Mr. Salerno is an outstanding person.

Councilmember Baratta stated that all of the Council voted to replace those people. She voted for the appointments. She has respect for the newly appointed people. At the last Work Session, they discussed enlarging the committee. Mr. Gulack asked what was the vote. Mayor Weinstein informed him it was 3-2.

Councilmember Trawinski stated he did not vote to remove people, just to appoint people. Technically, they can add one more person. He will bring the discussion back to the Work Session.

Kathy Moore, 13-16 Plaza Road, offered thanks to Richard Lustgarten for defending the Landmark suit. Mayor Weinstein stated the suit was pulled from Judge Harris. Ms. Moore stated that just because people have a difference of opinion does not make them good or bad. She also felt if these people were on the Open Space Committee, they should be in favor of open space. She suggested that everyone try to get along since no one is perfect. Councilmember Trawinski stated that the Landmark lawsuit is before COAH and not a judge. Deputy Mayor Tedeschi stated there are many things the Council is working on regarding that lawsuit.

Claude Bienstock, 39-11B Broadway, talked about the membership fees at Memorial Pool and how the single membership should be \$60 instead of \$75.00. He also said that he attends the FLASAP meeting under Sgt. Bastinck's leadership. He thanked Councilmember Baratta for her support with the underage drinking ordinance. He urged the Council to work closely with the committee. He suggested that they support open space and preserve open space.

Councilmember Baratta thanked him for his kind words. She said the underage drinking ordinance has been used ten times since it was adopted.

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

Mayor Weinstein stated before they close, he had a statement to make. He read this at the Work Session last week but not everyone was there. He felt it was an important statement regarding the Open Space Committee. On September 20, 2005, the Council passed Resolution No. 262-2005 establishing an Open Space Committee of eleven members, it now has twelve. The committee has several purposes. It is to inventory open space, identify sources of funding and examining appropriate utilization of recreation parks and other open spaces in the Borough. Effectively, it was established as a committee to give the Mayor and Council an overview of the open space in Fair Lawn and its current and potential uses. That resolution was given out at the last Open Space Committee meeting. At the January 2, 2007 reorganization meeting, the full Mayor and Council appointed four members and did not reappoint four members who had previously served. The letter to the two outgoing members thanked them for their services and contained language to the effect that the committee was going in a new direction. Unfortunately, these words have been misconstrued literally to mean that the Mayor and Council had somehow changed the directive to the committee as contained in Resolution No. 262-2005. This is not the case. When he used the words new direction, it meant nothing more or less than bringing people onto the committee who wish to serve and who would bring their point of view and experience to the committee as a whole. Those words in no way should have been interpreted as other than what they were. Simply speaking, they were a polite way to say thank you to the four members who were not going to be reappointed.

Many commentators have advised that the worse way to glean meaning from language is to literally interpret it. For many individuals have come before the dias to read into that language some hidden meaning that the Mayor and Council have somehow retreated from their commitment on Open Space. They are trying to create a conflict where it does not exist. They have also been asked to expand the committee. The resolution would permit that but in his opinion, a committee of twelve individuals plus the four is large enough. He does not believe the expansion of the committee will increase its efficiency nor is it appropriate at the present time. Once again, he thanked all of the members of the committee, those who currently serve and those who have served in the past for their contributions to the Borough. To sum up, there is no new direction. They are new people appointed to the board, who the resolution says represent a cross section of community interest. He hoped this non issue is to put to rest once and for all. He thanked them.

ADJOURNMENT

Upon motion by Deputy Mayor Etlar and second by Councilmember Trawinski, the meeting was adjourned at 8:29 p.m.

Respectfully submitted,

Marilyn B. Bojanowski, RMC
Assistant Municipal Clerk

The undersigned have read and approve the foregoing minutes.

Mayor Steven Weinstein

Councilmember Jeanne Baratta

Deputy Mayor Martin Etlar

Deputy Mayor Joseph Tedeschi

Councilmember Edward Trawinski