

REGULAR MEETING OF MARCH 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.

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

Mayor Weinstein congratulated Municipal Clerk Kwasniewski on her wedding anniversary. He said he had an important announcement to make. John Cosgrove would be making a presentation to the Council.

John Cosgrove, 31-08 Heywood Avenue, presented a check in the amount of \$274,733.76 that would be the next payment for the Community Center. The 501(c)3 saved enough money out of the \$12 million to make this payment and the payment they made last year in the amount of \$80,000. They will also make next year's payment in the amount of \$500,000. He recognized Lou Weiss, Chairman of the 501(c)3 who helped have the center built on time and under budget.

Mr. Cosgrove stated that at a recent meeting the committee unanimously decided to recommend to the Mayor and Council renaming of the Fair Lawn Community Center the George Frey Center for Arts and Recreation. They all know that George's legacy will live on longer than his years through his children and all of his accomplishments. The people of Fair Lawn have and will always will benefit from the work that George had done while he was Superintendent of Parks and Recreation. They can only hope that the citizens of Fair Lawn will long remember how George touched and helped so many people. After speaking with his wife, Joan, and his family, the members of the 501(c)3 committee believe that they could never adequately thank him for what he has done for Fair Lawn. They were asking the Council to bestow this honor on George so that future generations will remember this man for all he has done for Fair Lawn.

Mayor Weinstein stated he wholeheartedly supports this request. There have been a lot of tremendous ideas out there over the last few months for naming opportunities for George Frey and his family. It seems that now that all roads lead to the Community Center. It truly, in the last year, has become a hub for Fair Lawn. George was a good friend of his and all of Fair Lawn and wherever you look you think of George today and for many years

to come. He supports this recommendation and in fact he asked for a consensus among the Council to move forward with this recommendation. Deputy Mayor Etlar seconded his motion. Councilmember Trawinski felt they could not lawfully do this at that time without it being on the Agenda. Attorney Rosenberg agreed. Mayor Weinstein said he will put this on a Work Session and that this was just a consensus. Councilmember Trawinski said if this was an informal consensus he would support it.

COUNCIL COMMENTS:

Mayor Weinstein congratulated the members of the Fire Department who extinguished a working fire in a house on Paterson Street in sub freezing weather. He mentioned that next week there will be an open public forum regarding the environmental issues at the Clariant site and that the municipal budget hearing date is April 10.

Councilmember Baratta stated she wanted to recognize Kevin Pepitone and who participated in the New Jersey Special Olympics in the winter and in the spring. In the winter he won a gold medal for ice hockey and just recently he won a gold medal for basketball. She just wanted to congratulate him on his hard work in the Special Olympics.

Deputy Mayor Etlar stated the municipal budget hearing will be April 10 and they invite public comment.

Councilmember Trawinski stated he had no comment except to echo those that have been given.

Deputy Mayor Tedeschi stated that today was the first day of practice for the Fair Lawn All Sports Track and Field Program. He wished Coach Mike Aversa and Charlie Crignola good luck. He was astounded to hear that there were 170 boys and girls, ages seven to fourteen who signed up for this program. Perhaps the most astounding thing is that there were forty juniors from the High School who have signed on as volunteers to work with these kids. It is a great sign of community participation. He thanked the Board of Education for letting them use the track.

ORDINANCES: FIRST READING

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

Ordinance No. 2074-2007

BOND ORDINANCE APPROPRIATING \$2,730,000 AND AUTHORIZING \$2,600,000 BONDS OR NOTES OF THE BOROUGH FOR VARIOUS IMPROVEMENTS AND PURPOSES AUTHORIZED TO BE UNDERTAKEN BY THE BOROUGH OF FAIR LAWN, IN THE COUNTY OF BERGEN, NEW JERSEY

Mayor Weinstein stated the \$2,730,000 includes the 5% down payment of \$130,000. He said the amount of money was pared down due to the hard efforts of the CFO, the Manager and the Department Heads. This is the Capital Budget for 2007.

Manager Metzler explained the highlights. There has been money set aside for acquisition of land under the open space plan. The Borough has applied for another open space grant that will allow for improvements at the Vanderplatt field in the form of replacing lighting, upgrades to the pools and some emergency equipment for the Borough's emergency service units.

Upon motion by Deputy Mayor Etlar and a second by Councilmember Trawinski, Resolution No. 98-2007 introducing Ordinance No. 2074-2007 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. 2075-2007

AN ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK FOR THE CALENDAR YEAR 2007 (N.J.S.A. 40A: 4-45.14)

Councilmember Trawinski explained that he understood they were not necessarily appropriating funds in excess of the CAP this year other than the cost of living increase that is otherwise authorized. Adopting this ordinance enables the Borough to take advantage of the fact that they can bank or save for future years, one percent of what they could have otherwise appropriated in the CAP. It will give them the flexibility next year if there is something that the Manager or CFO determines that they need they can purchase it without seeking a CAP exception.

Manager Metzler stated the budget is under CAP in the amount of \$69,506.50.

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Etlar, Resolution No. 99-2007 introducing Ordinance No. 2075-2007 was unanimously adopted.

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

Ordinance No. 2076-2007

"AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN, 2000, BY AMENDING CHAPTER XII, ENTITLED 'WATER', SUB SECTION 12-4.2, 'WATER RATES' "

Manager Metzler explained the increase in the water rates is the result of a six percent drop in water usage in 2006. This adjustment of fees will allow them to offset this deficit

through 2007.

Upon motion by Deputy Mayor Etlar and a second by Councilmember Trawinski, Resolution No. 100-2007 introducing Ordinance No. 2076-2007 was unanimously adopted.

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

Ordinance 2077-2007

AN ORDINANCE AMENDING ORDINANCE NO. 2071-2007 ENTITLED "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"

Upon motion by Deputy Mayor Etlar and a second by Mayor Weinstein, Resolution No. 101-2007 introducing Ordinance No. 2077-2007 was unanimously adopted.

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

Ordinance No. 2078-2007

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

Manager Metzler explained this was a salary ordinance that addresses changes as per labor negotiations. Some salaries have been reduced in with addressing a new clerk typist in Finance because it was not identified as payroll clerk.

Upon motion by Deputy Mayor Tedeschi and a second by Councilmember Trawinski, Resolution No. 102-2007 introducing Ordinance No. 2078-2007 was unanimously adopted.

ORDINANCES: SECOND READING

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. 2073-2007

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR
LAWN 2000, SPECIFICALLY CHAPTER 125, ENTITLED "LAND
DEVELOPMENT" TO PERMIT TEMPORARY WIRELESS
TELECOMMUNICATIONS INSTALLATIONS IN THE CA COMMERCIAL
ANTENNA ZONE**

Attorney Rosenberg explained that this ordinance amends the Land Use Ordinance to allow temporary telecommunications antennas on the three CA zones within the Borough. This ordinance is to allow for temporary cell towers only. Mayor Weinstein stated the zones have not changed. Municipal Clerk Kwasniewski stated that this afternoon the Planning Board Secretary gave her a memo that the Planning Board recommended its adoption after they did their statutory review.

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

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Etler, Resolution No. 103-2007 adopting Ordinance No. 2073-2007 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.

Barbara Gremillot, 1 Bristol Place, asked about the water rates going up. Manager Metzler explained the six percent drop in usage which created a deficit in the amount of \$445,241.18. Mrs. Gremillot said if the residents save water, the rates go up. She also asked about the temporary cell towers. Attorney Rosenberg advised they are on wheels.

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 # 9-2007

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, Consent Agenda 9-2007 containing the following items was unanimously passed.

- a. Resol. #104-2007 - Approval of Minutes:
 - Work Session 12/19/06
 - Special Meeting 12/19/06

Reorganization Meeting 1/2/07

- b. Resol. #105-2007 - Approval of Raffles & Bingo:
Fair Lawn Rotary - off premises 50/50
- c. Resol. #106-2007 - Refund of Overpayment of Taxes
- d. Resol. #107-2007 - Authorizing Submission of Recycling Tonnage Grant Application
- e. Resol. #108-2007 - Cancelling Year 2006 Sewer Use Charges - Block 3513 Lot 1
- f. Resol. #109-2007 - Confirmation of Fire Board Actions
- g. Resol. #110-2007 - Designating March as "Women's History Month"
- h. Resol. #111-2007 - Award of Bid: Generator Maintenance
- i. Resol. #112-2007 - Extending Professional Services Contract with Stuart Turner & Associates
- j. Resol. #113-2007 - Approval of Grant - Division of Highway Safety: Click It or Ticket
- k. Resol. #114-2007 - Authorizing the Mayor to sign the Letter of Agreement for the Municipal Alliance 2007 Grant
- l. Resol. #115-2007 - Change Order - Municipal Building Renovations

RESOLUTION NO. 116-2007 - PERSON TO PERSON TRANSFER OF LIQUOR LICENSE: CROSS-ROAD BAR & LIQUORS TO KMM, LLC

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, the time for public comments on Resolution #116-2007 was opened.

Harvey Rubinstein, 28 Rutgers Terrace, asked where the license was being transferred to. Municipal Clerk Kwasniewski explained this was a person to person transfer and is staying at the same location.

Councilmember Trawinski asked if all of the statutory requirements have been met. Municipal Clerk Kwasniewski said they have been. She informed the Council the new owner was in the audience.

Upon motion by Councilmember Baratta and a second by Councilmember Baratta, Resolution No. 116-2007 was unanimously passed.

RESOLUTION NO. 117-2007 INTRODUCTION OF 2007 BUDGET BY TITLE ONLY

Councilmember Trawinski stated he would like to compliment the Borough Manager and the CFO and the employees of the Borough of Fair Lawn. Last year the Borough Manager laid out a course that he decided he would take a wait and see attitude about. Having the opportunity to wait and see, not only has the Borough Manager, in his opinion, charted his course, but he believed the Borough Manager, with a little bit of luck, has charted that course successfully. He thought the Manager has gotten the message through to the entire

building. He believed that the Borough employees are as much a part of the solution to the budget problem generally as are the Manager and CFO. It is worthy to note that this budget represents an increase in taxes which is below \$100 for the average assessed house that is now \$404,000 which is well below where the budget had been in years prior. It also represents the smallest amount of an increase between the Borough, County and School Board. The average assessed house in Fair Lawn will see an increase of \$98 as a result of the municipal budget. Giving the economic climate that municipalities face and the fact that the Borough has not received any increase in State aid, effectively there has been a decrease in the aid from the State. He thought this represents a phenomenal effort. He would have liked to see it better, but frankly, to cut this budget any deeper would have resulted in cuts in services and cuts in people, both of which would have been unacceptable. He gave his compliments to the Manager and CFO and to the Borough employees and Department Heads who worked very hard on this budget. The actual discretionary part of the budget for the departmental budgets represented a decrease. He thought that was incredible in this day and age.

Mayor Weinstein stated that he too complimented the Manager, CFO and the Department Heads. Last year he did not take a wait and see attitude and he did not sit on the fence and he was part of the process, as were two other Councilmembers because it was a two to three vote. He said that Deputy Mayor Tedeschi also had input into this as well. It was the right move last year. The Manager and the CFO were strong about this point of view and moving forward. The average increase on a \$404,000 was up \$98 this year. One resident came in to see him tonight and their taxes went up \$12.84 for the year. He congratulated the Manager and CFO and again all the Department Heads and employees of Fair Lawn.

Deputy Mayor Etlar stated the residents should be reminded that they were talking about municipal taxes, not the school tax.

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Etlar, Resolution No. 117-2007 was unanimously passed.

RESOLUTION NO. 118-2007 INTRODUCTION OF RIVER ROAD IMPROVEMENT DISTRICT BUDGET BY TITLE ONLY

Mayor Weinstein stated this is for the budget for the River Road Improvement district which has been discussed in prior years. It is a self funded district. The property owners of the district pay into it and run their own corridor based on that funding. No taxes come in from other residents in Fair Lawn. If you had a home in that district, a resident does not pay into this, only property owners that have commercial property pay into it.

Deputy Mayor Tedeschi asked Attorney Rosenberg to explain how pay to play reaches out to the special improvement districts.

Attorney Rosenberg stated that based upon an opinion that he rendered last month, he concluded that the River Road Improvement District and the Broadway Improvement Corporation and the Economic Development Corporation are subject to the Borough's pay to play ordinance to the extent that any monies are appropriated by the Borough for those special improvement districts. He also opined those districts are also governed by the State pay to play statute.

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, Resolution No. 118-2007 was unanimously passed.

RESOLUTION NO. 119-2007 INTRODUCTION OF BROADWAY IMPROVEMENT CORPORATION BUDGET BY TITLE ONLY

Upon motion by Deputy Mayor Etler and a second by Deputy Mayor Tedeschi, Resolution No. 119-2007 was passed with Councilmember Baratta and Councilmember Trawinski recusing themselves.

RESOLUTION NO. 120-2007 - SPECIAL ITEM OF REVENUE - COMMUNITY CENTER

Councilmember Trawinski thanked John Cosgrove and Lou Weiss for the great job they did with the Community Center.

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, Resolution No. 120-2007 was unanimously passed.

RESOLUTION NO. 121-2007 - SPECIAL ITEM OF REVENUE - ADDITIONAL WATER RATES

Upon motion by Deputy Mayor Etler and a second by Councilmember Baratta, Resolution No. 121-2007 was unanimously passed.

MISCELLANEOUS PUBLIC COMMENTS

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

Fran Davis, 14-01 Morlot Avenue, announced that the PTA and the League of Women Voters is holding a candidate forum for the School Board election on Wednesday, March 28 at the Community Center at 8:00 p.m. She reminded everyone that the last day to register to vote was March 27th. The election is being held on April 18, and the polls will be open from 7:00 a.m. to 9:00 p.m. She said that registration forms can be picked up at the Library. Municipal Clerk Kwasniewski stated the Clerk's office will remain open until 9:00 p.m. that day and the registration forms are available in that office.

Stan Hayden, 12 Beekman Place, spoke about Clariant and the information he found about the contamination on that site and about the pollution from the plant across the river. Mayor Weinstein reminded him that he will not vote on an ordinance that would endanger anyone. He will wait to hear what the experts say.

Councilmember Baratta stated she is interested in the research Mr. Hayden had done. She had spoken to an expert who told her that the dye was not migrating across the river. Mr. Hayden said he would send her a copy of what he found. Deputy Mayor Tedeschi said he was looking forward to next week's meeting so they could get answers from the professional people.

Harvey Rubinstein, 28 Rutgers Terrace, asked about the scope of the attorney's fees. Mayor Weinstein stated the discussion was not about the fees, just the service. Mr. Rubinstein said in regard to the Community Center, he felt they were taking money from one pocket to another. He suggested that someone from the Council attend the forum in Morris County. Councilmember Trawinski informed him that he will be one of the speakers.

Claude Beinstock, 39-11B Broadway, suggested that the Council hire someone to clean up the soil. He felt if the problem is not corrected, it could effect the home values. He supported the idea of naming the Community Center after George Frey. It will honor his memory. Deputy Mayor Etler stated the Clariant site has been under remediation since 1997.

Arlene Rubinstein, 28 Rutgers Terrace, stated she did not understand why they need two attorneys. Mayor Weinstein stated that both law firms were offered a higher rate and refused. Mrs. Rubinstein thought Richard Lustgarten would be handling the Heyward litigation. Deputy Mayor Tedeschi asked what Mr. Lustgarten is handling. Manager Metzler described the pending cases he is taking care of. He assured them that the two attorneys are not working on the same cases. Councilmember Baratta said there was a consensus that Richard Lustgarten would stay on for the Landmark lawsuit and various tax suites. She assumed wrong. She said hoodwinked was not far from the truth. Mayor Weinstein read the resolution appointing Richard Lustgarten and what his duties would be. He said it was a shame that it is silly season. Councilmember Trawinski said the issue is the not the quality of the services or the fees. It was a misunderstanding of what Richard Lustgarten would be handling. There are pieces he is handling in 2007 that he thought Attorney Rosenberg would be handling.

Richard Lustgarten is doing a phenomenal job on the tax appeals and Landmark. Councilmember Baratta said the first time there was a lot of discussion about this but not this time.

Stuart Golding, 14 Rutgers Terrace, thanked the Manager for a tax increase of \$98 a year. He had a problem with the water rate increase. He understood that the less water they use, the more the rates go up. Councilmember Trawinski explained that the water utility

must balance each year. Rainfall has an effect on the rates and usage. The water utility cannot operate on a shortfall. He went on to say that it depends on the weather. Deputy Mayor Tedeschi stated it is driven by the amount of rain they receive. Manager Metzler stated the Municipal Clerk read the resolution, it was based on facts and figures. He also explained that when less water is used, a deficit is created. He said the Borough will add a charge of \$5 per quarter when the bills are paid late. Mr. Golding said if he ran a business the way the Borough is run, he would be bankrupt. He asked what the increase percentages were for salaries. Manager Metzler said the average was 4%.

Rita Golding, 14 Rutgers Terrace, asked where the CA zones were located. Manager Metzler told her the locations.

Kathy Moore, 13-16 Plaza Road, wondered whether the Attorney's are salaried or paid hourly because they will end up with the same amount of hours at the end of the year. Mayor Weinstein stated he would ask Manager Metzler to get the billable hours.

Barbara Gremillot, 1 Bristol Place, asked if the water rate would return to the lower amount. CFO Eccleston was in the audience and responded to her question. He explained that it was not a good idea to lower the rate. He liked to advise the Council to hold the surplus and keep the rate steady. The water usage went down 6% in 2006. If they have a rainy season and people don't pay, the rates go up. CFO Eccleston went on to say that when there is a deficit the Council must raise taxes to meet the deficit. He explained that the Borough purchases water from Passaic Valley and United Water and the rest comes from the Borough's wells.

Laurie De La Carrera, 343 Owen Avenue, asked what happens to people who don't pay. CFO Eccleston stated that the Borough charges \$15.00 per quarter. It gets monitored during the year and interest will be charged to their bill.

Arlene Rubinstein, 28 Rutgers Terrace, thought if someone does not pay for their water, a lien would be put on their house. CFO Eccleston said yes and also 18% interest is added on to the lien. He said the Borough eventually collects the money. Usually the property owner waits until the tax sale to pay it.

Stan Hayden, 12 Beekman Place, spoke about Clariant and the toxins he read that are on that site. He felt Clariant was doing a fine job with the remediation. He assumed it would be another thirty-six years before they would be able to build on it.

Peter Seiden, 13-50 Finn Terrace, asked if there would be experts from Clariant and Shellmarc present at the meeting on March 20. Mayor Weinstein stated the DEP would also be there.

Joan Goldstein, 12 Bedford Place, thanked John Cosgrove and Lou Weiss for the money they returned to the Borough. She also thanked the Manager and CFO for the new

budget. She thanked the three Councilmembers who did not take a wait and see attitude last year. Councilmember Trawinski stated that last year's budget was a fourteen point tax increase which was the ghost of David Ganz. Mayor Weinstein stated that if no one voted on the budget, it would have gone to the state.

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

ADJOURNMENT

Upon motion by Councilmember Baratta and second by Councilmember Trawinski, the meeting was adjourned at 9:10 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 Etler

Deputy Mayor Joseph Tedeschi

Councilmember Edward Trawinski