

WORK SESSION OF MARCH 27, 2007

Mayor Weinstein reconvened the meeting at 8:50 p.m.

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

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

REPORT OF COUNCIL LIAISONS

Councilmember Baratta reiterated that ASAP will be holding a town hall meeting on May 24 at the High School on alcohol abuse with many good speakers. The Bicycle Rodeo will be held on May 5.

Deputy Mayor Tedeschi reported that the Broadway Improvement Corporation awarded the professional services contract for the planner for the Broadway study.

Mayor Weinstein and Deputy Mayor Etler reported that the Borough was awarded CDBG grants in the amount of \$25,000 for barrier free improvements, \$40,000 for improvements at the Senior Center and \$5,000 toward a part time employee at the Senior Center and \$105,000 for the EDC for sign and facade improvements.

CLARIANT REZONING

Mayor Weinstein proposed that they not move forward with the second reading of the ordinance. He proposed that they be more proactive with this site. He spoke to Wendy Dabney. He suggested they ask the Environmental Commission to put together a plan and a budget for the clean up of the site. They would work with the owners of the property.

Deputy Mayor Etler stated that the Health Department is receiving the DEP reports. Deputy Mayor Tedeschi stated there a number of people on the Environmental Commission who are very zealous about the environment and who will keep track of what is going on. They can only supplement the reports that are being received. Perhaps they can ask better questions. Deputy Mayor Etler wanted to know what funds would be supplied and for what.

Councilmember Trawinski thought the Environmental Commission should look at the homes to the south to be tested for sub slab conditions and vapor intrusions. He would like to see if the Borough should be insisting on some proactive action to protect the well field. He thought the Environmental Commission is very dedicated to these issues.

Deputy Mayor Etler wanted to know why the Borough should be funding them. Councilmember Trawinski thought there were many things they could be doing in their volunteer status. He wanted to see the plan before they commit to spending any funds. The Borough may want to explore having its own environmental expert. Councilmember Baratta stated that there is a volunteer environmental expert who she would like to see added to the Commission. Deputy Mayor Tedeschi felt the Council needs to get more information about Clariant. They should use all the assets the Borough has available.

Deputy Mayor Etler stated that he can find the information from the Health Department or the State website. He did not see the necessity of hiring an expert to tell the Council what needs to be done.

Manager Metzler suggested that the Council go to Wendy Dabney and ask for an action plan. She has been frustrated with the lack of turn out at the meetings. She should tell the Council what resources she would like to add to the Commission to make it more valuable.

Councilmember Baratta wanted to know what triggers testing for vapor intrusion. The Environmental Commission submitted a comprehensive report on the Clariant proposal which the Council did not discuss. The Council needs to take the Commission more seriously.

There was an unanimous consensus to request an action plan with resources in the Borough from the Environmental Commission.

There was a consensus to ask for a proposed budget, with Deputy Mayor Etler dissenting.

Mayor Weinstein thought they should go to Assemblyman Gordon to ask for assistance in obtaining State funds. Councilmember Trawinski agreed adding that they should ask for assistance in obtaining funds for remedial activity, testing activity or acquisition.

Deputy Mayor Tedeschi stated that the ordinance is scheduled for a second reading. Councilmember Trawinski thought they needed to vote the ordinance up or down. Deputy Mayor Tedeschi agreed. Attorney Rosenberg stated it is scheduled for April 10. Municipal Clerk Kwasniewski pointed out that the proper notice has not been given and it has not been readvertised. She felt that if they voted on it, it would be a defective ordinance. Attorney Rosenberg concurred. Municipal Clerk Kwasniewski stated that giving notice to the property owners takes a great deal of time and is expensive particularly when the Council is not planning to vote for the ordinance. Councilmember Trawinski stated that if they vote the ordinance down, it will be dead because they voted against it and the notice is defective. They do not have to waste the taxpayer's money to give notice. He proposed just leaving it on and voting it down. Attorney Rosenberg stated that it will fail on the vote and because the vote was procedurally defective. Councilmember Trawinski pointed out that they have no obligation to cure the defect. Councilmember Trawinski stressed that the reason they are leaving the ordinance on the agenda is not to approve it but to do what they have said they will do which is vote it down.

Councilmember Trawinski suggested looking at rezoning the parcel in view of the threats. They may need environmental help. If it is left zoned industrial and Clariant is saying that they may not clean it up to residential standards, they should talk about rezoning it to single family homes which are consisted with the neighborhood. They could make it clear in the rezoning that they do not contemplate any building until the clean up is completed. They need to have a further discussion in Closed Session.

FAIR LAWN CULTURAL DIVERSITY DAY

Councilmember Baratta indicated that she would like to finalize the list for the committee by the end of May. Rabbi Saltzman would like to be on the committee. The 501(c)3 would like to have Benny Salerno be their representative. Mr. Salerno would represent the

trustees and the Cosmos Club. Deputy Mayor Tedeschi reminded Councilmember Baratta that he wanted to participate with her on this project. Councilmember Baratta also mentioned the Buddhist, Hindu and the Filipino community.

This item will be scheduled for the end of May.

ESTABLISHMENT OF REASONABLE RULES TO ALLOW PUBLIC VIDEOTAPING OF COUNCIL MEETINGS.

Councilmember Trawinski stated that the Supreme Court in Taurus vs. the Borough of Pine Hill decided that there is a common law right to video tape Council meetings subject to reasonable restrictions. He thought that before the Council is faced with a request, the Manager should make recommendations for reasonable guidelines. Attorney Rosenberg stated that he had sent the decision to Municipal Clerk Kwasniewski when it came out. He presented a copy to Manager Metzler. He noted that Pine Hill has not adopted regulations yet.

The consensus was to have Manager Metzler draft recommendations.

RESOLUTION OPPOSING A3872 DISGUISED WATER TAX BY THE PASSAIC VALLEY WATER COMPANY

Councilmember Trawinski stated that they received a letter from Assemblyman O'Toole asking that they oppose A3872. The impact of this proposed legislation affects residents of Fair Lawn. He explained that the Passaic Valley Water Commission of which Fair Lawn is a user but not a member wants to collect a franchise fee from Fair Lawn residents and give the revenues to Passaic, Paterson and Clifton. Deputy Mayor Tedeschi added that Fair Lawn pays a disproportionate share since they pay a different rate than the member towns.

The consensus was to adopt a resolution opposing this legislation.

RECONSIDERATION OF COUNCIL'S PREVIOUS DENIAL OF RE-DO OF THE MASTER PLAN

Councilmember Trawinski stated that the sentiment did not exist to look at appropriating the funding next year. It is too big a fiscal impact to do this year. Fair Lawn does have a master plan. There are developmental pressures now that did not exist when the master plan was done. They have not done a full reexamination that involves all the visioning sessions that take place and the massive public input that is required. The process takes between eight months and sixteen months. He thought they could come to a vision for Fair Lawn for those sites that are under developmental pressure. It is time to do it in 2008.

Deputy Mayor Tedeschi wanted to know how the visions of the Broadway plan, the River Road plan that was done, the Route 208 corridor study that is being done get incorporated into the master plan. Mayor Weinstein stated that the Open Space Plan has already been incorporated into the master plan and so has the existing River Road plan. EDC is doing the study on Route 208 with the grant. He felt that they are amending the master plan as they go but at some point in time it has to be put together.

Attorney Rosenberg stated that every six years the State requires a reexamination report. Fair Lawn must do the reexam in 2010. Councilmember Trawinski stated that the Municipal Land Use Law allows them to do it more frequently. They cannot afford to delay Kodak.

Councilmember Baratta stated it is very important to do a complete master plan. All the ideas from the groups need to be taken into consideration for a new master plan. She thought they should be proactive instead of reactive. Deputy Mayor Etlar suggested that they wait until next year. Deputy Mayor Tedeschi wondered if there was anything that could be done to start the process. Councilmember Trawinski stated that they could start working on a RFQ.

Deputy Mayor Tedeschi stated that the outline for Teaneck's master plan is 12 pages. He has not been able to find out the cost. Mayor Weinstein volunteered to talk to the CFO in Teaneck and Councilmember Trawinski will speak to Boonton.

This matter will be on the May 15 agenda.

DEVELOPMENTAL IMPACT FEES

Attorney Rosenberg stated that he was asked to look at off site contributions by developers. He has reviewed many different ordinances. He presented a draft which is a compilation of the ordinances he has looked at. He thought they could consider it. They have to decide what kind of off tract improvements they want, how will they will be paid for and what the pro rata share will be. There must be a rationale nexus between the development proposed and the off site improvement which is being asked to be paid for. He added it to Section 125-77 of the existing code. He was not sure that the kind of formula that he has seen will work for Fair Lawn.

Councilmember Trawinski stated the draft seems to be a reasonable balance. They are a substantially developed community. He would like to study it further.

This item will be on the agenda on April 24.

RFP FOR GRANT WRITER

Attorney Rosenberg stated that the Council asked for a RFP for grant consulting services. He presented a draft. He thought they could use what he has prepared as a model for future RFP's as the need arises.

Deputy Mayor Etlar stated that the terms should be that there is no payment unless a grant is received. Deputy Mayor Tedeschi stated the last the time a grant firm received an administrative fee, but the payment was not made until the first grant was received.

This item will be on the agenda on April 24, 2007.

FEES FOR MARRIAGES AND CIVIL UNIONS

Attorney Rosenberg stated that the Attorney General issued an opinion concerning the adoption of ordinances to govern the way fees are collected for marriage

the Municipality. He stated they need to decide if they want to continue the policies they have used in the past and if they meet the Attorney General's guidelines. Deputy Mayor Etler stated that he asks for a donation to the Library. Attorney Rosenberg stated that they cannot ask for donations. They can only suggest it and it must be after the wedding.

It was the consensus to continue the practice of suggesting a donation.

FILMING REQUEST

Manager Metzler advised that he has received a request from a production company to film a scene on the Fair Lawn Avenue Bridge during the overnight hours of May 3 and 4. The filming agreements only allow filming from 7:00 a.m. to 7:00 p.m. They want to film from sundown to sunrise. Councilmember Trawinski asked if it was under the auspices of the New Jersey Motion Picture and Television Development Commission. Manager Metzler stated the production company came directly to him. They have permission from Paterson. Two cars will be chasing one car. There will be an exchange of gun fire. They have met with the Police Chief. The nearest homes are 400 feet from where they will be filming. They intend to ask Power Tech if they can use their site for the generators. He told them that they would have to notify the residents in the immediate area that they are filming.

Deputy Mayor Tedeschi indicated he was not in favor of it. Councilmember Trawinski stated the New Jersey Motion Picture and Television Development Commission has standards for municipalities and they work with the filming company and the municipality. They have to define the potential positive economic impact for Fair Lawn and Paterson. Manager Metzler will raise the question. Deputy Mayor Etler stated he was against it.

Manager Metzler will explore this further and email the Mayor and Council.

Councilmember Trawinski stated they received a memo from the United States Conference of Mayors about the Senate Cops funding sign-on letter. The deadline is March 30. He thought they should authorize the Mayor or the Manager to send a letter indicating the Mayor and Council's support that Congress appropriate the full \$1.15 billion.

The consensus was to send a letter supporting the program.

MISCELLANEOUS PUBLIC COMMENTS:

Harvey Rubinstein, 28 Rutgers Terrace wondered who was paying for the sidewalk along the railroad tracks by the Recreation/Community Center. He also asked if the Health Officer works with the Environmental Commission. He suggested that they ask Congressman Rothman for his assistance in obtaining funds. He wondered what the impact fees would cover. He mentioned the meeting Councilmember Trawinski attended in Morristown and wondered how they could get the County to support Fair Lawn.

Councilmember Trawinski stated the meeting was on eminent domain and whether or not it still had viable uses. It

has been established that the municipality can use the power of condemnation to take property that is under threat of development for residential use for open space even if it is not included on the open space plan. The other point that was discussed is the legitimate use of redevelopment in the urban areas. They also discussed Page Six Work

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the need for Assemblyman Gordon's bill to build in greater procedural protections when a municipality is using the power of eminent domain. It has been killed in the Senate. Assemblyman Gordon is working on getting back on track.

Attorney Rosenberg explained that the areas of improvements that the impact fee ordinance covers include sewers, drainage and street improvements.

Manager Metzler stated that the sidewalk is being paid for by a grant.

Kathy Moore, 13-16 Plaza Road felt neglected by the Borough concerning Topps. Although there is material at the Library, she thought there is no one knowledgeable in the Borough. There is no advocate for her. She thought more people should be incorporated into dealing with the environmental issues in town. She asked if the Council had taken a position on the slapp suit in Radburn.

Councilmember Trawinski stated that they asked the Borough Attorney to send a letter to the two attorneys saying that there were inaccuracies in the complaint. They took exception to the statement that the Council had taken action. They had never adopted a resolution. They felt it was misleading to the court. Councilmember Trawinski read a portion of the letter. Attorney Rosenberg has asked them to fix the pleadings and if they did not the Council will take action. They do not believe there is a role for the Borough to formally intervene in the suit.

Howard Mark, 12-23 Ferry Heights raised the question of steep slopes at the Naugle House. Councilmember Trawinski stated that the issue is the percentage of slope in proportion to the mean of the property. The Borough is so flat that they do not have a steep slope ordinance.

Mr. Mark mentioned the Passaic River Coalition and the Highlands Coalition that may be helpful.

Arlene Rubinstein, 28 Rutgers Terrace did not think it was up to the EDC to write the master plan. She has many years of experience with filming. If a staff member is with them, they will adhere to the agreement. It is important to notify the people who live in the

area because of the lights and noise.

Claude Bienstock, 39-11B Broadway stated the production company has to follow the rules and regulations.

CLOSED SESSION RESOLUTION - Pending Litigation

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Tedeschi, the Closed Session resolution was unanimously passed.

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 pending litigation - Landmark; contract negotiation - DEP Water Treatment Plant, Fair Lawn Commons and Department Head Contract; and

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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:

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, the meeting was adjourned at 11:10 p.m.

Respectfully submitted,

Joanne M. Kwasniewski, RMC/CMC/MMC
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