

REGULAR MEETING OF MAY 8, 2007

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

SWEARING IN OF NEW AUXILIARY OFFICERS AND PROMOTION

Auxiliary Police Chief Nick Magarelli stated they would be swearing in two new officers, Roi Klipper and Howard Schlesinger and also promoting Andrew Flax from officer to Sergeant. He explained what the Auxiliary Police do. They assist the regular Police along with working with the Office of Emergency Management, Court security, and help out in times of crisis. These gentlemen completed a six-week program at the Bergen County Police Academy.

Mayor Weinstein swore in Roi Klipper and Howard Schlesinger.

Auxiliary Police Chief Magarelli promoted Andrew Flax to Sergeant. Mayor Weinstein swore him in as Auxiliary Police Sergeant.

PRESENTATION TO AUXILIARY POLICE CHIEF NICK MAGARELLI

Councilmember Trawinski arrived at 7:48 p.m.

Chief Rose asked his dispatchers to step up. He stated that Nick Magarelli in addition to being an auxiliary for twelve years, has been an employee of the Police Department as a dispatcher for ten years. He was the senior dispatcher and recently transferred to a new opportunity in the Police Department. He has been a terrific dispatcher. All of the dispatchers present, he has either trained or supervised. The dispatchers took it upon themselves to make up a plaque in recognition. He asked Andrew Flax to read the plaque and presented it to Nicholas J. Magarelli for the ten years he served as dispatcher in the Fair Lawn Police Department.

COUNCIL COMMENTS

Councilmember Baratta congratulated everyone tonight. On tonight's Consent Agenda, the Council is voting on a resolution on something called Grace's Law. Grace's Law would require insurance companies, the state health benefit plan and a New Jersey family care to cover expenses incurred when obtaining medically necessary hearing aids for children under fifteen years of age. The bill allows benefits to be limited to \$1,000 per year. It is upsetting that they do not have this in New Jersey. In 2002, New Jersey passed legislation that every newborn needs to be screened for hearing loss and unfortunately after the screening, if they do find hearing loss, they are not covered under their insurance for the hearing aids that are needed. This is an important bill and they hoped it gets passed. She urged everyone to go to the website, www.graceslaw.com. At the site, they will find a petition to sign.

Councilmember Trawinski congratulated everyone and stated he enthusiastically will endorse their resolution for Grace's Law.

Deputy Mayor Tedeschi stated that on April 26 he attended the awards ceremony of the 200 Club for Bergen County. He was proud to say that Fair Lawn was very well represented. Officers O'Shaughnessy and Macy's were awarded the humanitarian award. He read that Officer O'Shaughnessy then saw the actor pointing a loaded and cocked 57 Magnum hand gun at him at a close distance. He yelled to Officer Macys to take cover. Both Officers took cover, drew their weapons and finally the man dropped the gun and no one was hurt. It was a great piece of bravery and they should be commended.

The other award went to Fair Lawn Rescue because they pulled some people out of a river and the entire squad received the award.

Mayor Weinstein stated on April 30 in conjunction with the green initiative, he signed the Mayor's Climate Protection Agreement. This agreement is a resolution in which the Borough will urge the Federal and State governments to enact policies and programs to meet or beat the target of reducing global warming by 2012. This is one of many steps they will be taking as they move forward by empowering the Environmental Commission and the green initiative.

About a month ago, when they had the public hearing on the water budget, there was a discussion about payments. He had run into a resident who pays their bill electronically but it seemed to take more time than when they paid it manually. The issue is that the Borough is not set up to accept electronic payments and what happens is the bank receives the request but then had to print the check and forward it to the Borough. The Water Department said they receive these checks once or twice a month. This is something the Borough is looking into.

ORDINANCES: 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. 2079-2007

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 125, ENTITLED "LAND DEVELOPMENT", MORE SPECIFICALLY SECTION 125-77 ENTITLED "OFF-TRACT-IMPROVEMENTS"

Attorney Rosenberg explained that this ordinance amends Chapter 125 of the Land Development ordinance of the Borough. It will impose upon developers certain off-tract contributions relating to water, the sewer, drainage, street improvements that are deemed necessary as a result of the off-tract improvements that are proposed by any particular development application that is heard by the Zoning or Planning Boards.

Mayor Weinstein thanked Deputy Mayor Tedeschi for highlighting this issue and Councilmember Trawinski for his input on this as well.

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Tedeschi, Resolution No. 168-2007 introducing Ordinance No. 2079-2007 was unanimously passed.

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

Ordinance No. 2080-2007

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 150, ENTITLED "NOISE" TO LIMIT THE HOURS OF OPERATION OF CERTAIN COMMERCIAL FACILITIES

Attorney Rosenberg explained that this ordinance amends Chapter 150 entitled "Noise" so as to limit the hours of operation of any commercial facility which is located below or above a residential property. Those commercial facilities would now be limited in hours of operation where they could not operate between 11:00 p.m. and 6:30 a.m.

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, Resolution No. 169-2007 introducing Ordinance No. 2080-2007 was unanimously adopted.

PUBLIC COMMENTS ON CONSENT AGENDA ITEMS ONLY

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

There being no 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 # 14-2007

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, Consent Agenda 14-2007 containing the following items was unanimously passed.

- a. Resol. #170-2007 - Approval of Minutes:
Regular Meeting 3/27/07
Work Session 3/27/07
Closed Session 3/27/07
- b. Resol. #171-2007 - Interlocal Agreement for Use of Walsh Pool - Prospect Park
- c. Resol. #172-2007 - Approval of Raffles & Bingos:
Fair Lawn Rotary on premises 50/50
Amending Temple Beth Sholom Bingo BL27-2006
Amending Temple Beth Sholom Bingo BL33-2006
- d. Resol. #173-2007 - Supporting Grace's Law
- e. Resol. #174-2007 - Refund of Overpayment of Taxes
- f. Resol. #175-2007 - Authorizing Competitive Contracting for Grant Writer and Implementation of Local/wide Area Network
- g. Resol. #176-2007 - Reject bid: Municipal Building Generator
- h. Resol. #177-2007 - Interlocal Services Agreement with Ridgewood: Health Officer
- l. Resol. #178-2007 - Appointment to the Fair Lawn Borough Garden Committee
- j. Resol. #179-2007 - Appointment to the Advisory Committee on the Americans with Disability Act
- k. Resol. #180-2007 - Provide Periodic Cost of Living Increase to LOSAP
- l. Resol. #181-2007 - Establish a Policy for Videotaping Public Meetings
- m. Resol. #182-2007 - Urging Legislators to Strengthen Environmental Remediation Requirements

Mayor Weinstein stated that before they move onto the next resolution, he wanted to discuss Resolution No. 182-2007. This resolution will urge legislators to strengthen environmental remediation requirements which are two fold. First to strengthen the oversight by the DEP and secondly to eliminate the discretion by property owners and

developers and the DEP to decide the level of remediation when for example, an industrial site abuts a residential neighborhood.

RESOLUTION NO. 183-2007 - Approval of Raffles & Bingos: St. Anne Church - off-premise 50/50

Upon motion by Deputy Mayor Etlar and a second by Deputy Mayor Tedeschi, Resolution No. 183-2007 was passed with Councilmember Baratta and Councilmember Trawinski recusing themselves.

RESOLUTION NO. 184-2007 - Use of Walsh Pool - Fair Lawn Community School

Councilmember Trawinski said he believed the resolution was incorrect based upon a conversation he had with the Director of the Community School. He thought the correct rental fee was increased to \$2,500 instead of \$2,000 which was in the resolution. Municipal Clerk Kwasniewski stated she did not believe it was increased.

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta to amend Resolution No. 184-2007 to change the rental fee to \$2,500 was passed with Deputy Mayor Tedeschi recusing himself.

Upon motion by Deputy Mayor Etlar and a second by Councilmember Baratta, Resolution No. 184-2007 was passed with Deputy Mayor Tedeschi recusing himself.

RESOLUTION NO. 185-2007 - Person to Person and Place to Place Transfer of Liquor License: Omar A. Yuresko to BRC Catering, LLC.

Upon motion by Deputy Mayor Etlar and a second by Councilmember Trawinski, the time for the public hearing was unanimously opened.

Victor Herlinsky, Jr. from the law firm of Nowell, Amoroso, Klein and Bierman, was there on behalf of the proposed transferee, BRC Catering, LLC. He was there asking for their approval and to answer any questions they may have on this application.

Councilmember Trawinski asked Municipal Clerk Kwasniewski if all of the legal requirements were satisfied and no outstanding violations against the license. Municipal Clerk Kwasniewski stated what BRC Catering is doing is acquiring Omar's license which has been inactive for a number of years. Omar has agreed to sell his license to BRC Catering. The applicant has submitted all of the required paperwork and all of the fees have been paid.

Upon motion by Councilmember Baratta and a second by Councilmember Trawinski, the time for public comments was unanimously closed.

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, Resolution No. 185-2007 was unanimously passed.

RESOLUTION NO. 186-2007 - Interlocal Agreement with Ho-Ho-Kus: Health Officer

Upon motion by Deputy Mayor Etlar and a second by Councilmember Baratta, Resolution No. 186-2007 was passed with Councilmember Trawinski recusing himself.

MISCELLANEOUS PUBLIC COMMENTS

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

Arlene Rubinstein, 28 Rutgers Terrace, talked about all of the people that came before the Mayor and Council regarding the flooding problems on Jasper Road and 2nd Street. She felt it wasn't an act of God, it was simply an antiquated system that could not handle the flow. She felt that because of the flooding, Fair Lawn cannot allow any more apartments.

Mayor Weinstein stated this past Saturday he went to all of the people who spoke at the meeting because he was not at the meeting to talk to them. Yesterday he sent a memo to the Borough Manager regarding this issue and how something has to be done.

Mrs. Rubinstein said they should not allow any more apartments. She felt River Road looked terrible. There are a lot of vacancies. The only thing the RRIC did was improve the sidewalks. Something has to be done about the signs in the windows. If they want people to shop on River Road, it would have to be classy.

Councilmember Trawinski said the issue of Jasper Road and 2nd Street is scheduled to be on the next work session. He understood that Jasper Road is at a low point in the system. The low point will flood in a 100-year flood.

Mayor Weinstein felt that Jasper Road and 2nd Street were both low points. Acting Manager Garrison said 2nd Street was in a low area.

Councilmember Trawinski stated he serves on the RRIC and was not sure there were vacancies. He believed it was fully occupied.

Stuart Golding, 14 Rutgers Terrace, asked if the letter dated March 14, 2007 was responded to. Councilmember Trawinski said this was discussed at a previous work session and is on Attorney Rosenberg's list to do.

Harvey Rubinstein, 28 Rutgers Terrace, said to Mayor Weinstein that he was not at the meeting when the people came in about the flooding. He felt this was a technical problem

and suggested they send letters to Assemblyman Gordon, Congressman Rothman, County Executive McNerney and the County Freeholders about the flooding problem. He also suggested sending a letter to Congressman Rothman about money for open space. He needs a letter from the Mayor of Fair Lawn to start the ball rolling.

Mr. Rubinstein talked about the Firehouse on George Street. He said they just received another request for a donation. He thought the Borough owned all three Fire Companies. Deputy Mayor Etler explained that only Co. 2 on Route 208 is owned by the Borough.

Mr. Rubinstein asked about Ho Ho Kus paying to use our Health Officer. He wondered what it entailed. He asked if it was just advice and would she neglect Fair Lawn. Municipal Clerk Kwasniewski said for the most part she can do the work over the phone. In this case they are buying her license. The staff at both towns will rely on Health Officer Wagner's advice in the day to day operations of the department.

Mr. Rubinstein said that Saddle Brook was planning on allowing a large development to be built on the border of Fair Lawn. That area in Fair Lawn has a problem with flooding and he felt this development would affect that area.

Deputy Mayor Tedeschi said he had spoken to Saddle Brook Mayor D'Arminio about the drainage problem by Arcadia Road. He said he will go to the County because they have problems with Fleischer Brook. He also felt the area needs to be fixed. Mr. Rubinstein asked if the Borough was noticed. Municipal Clerk Kwasniewski said no because it was not a zone change.

Bob Gremillot, 1 Bristol Place, asked for an explanation of Ordinance No. 2079-2007. Attorney Rosenberg explained when a development impacts such things as water, sewer, drainage and the requirement for street improvements as a result of the development project, that developer will now be assessed a pro-rata share for the impact of those particular off-site or off-track improvements that have to be made as a result of the development that is being proposed. It would be within the Planning Board or the Zoning Board to look at and ascertain, with consultation from the Borough agencies and the Mayor and Council, exactly what kind of impacts those are.

Councilmember Trawinski stated that he wanted to point out that the Municipal Land Use law, NJSA40:55D-12.d requires that notice of hearings on applications for development involving property located within 200 feet of an adjoining municipality shall be given by personal service or certified mail to the Borough Clerk in such municipality. He asked that the Municipal Clerk check on the service list with Saddle Brook and if Fair Lawn was not on the service list, it should have been and if it wasn't noticed Saddle Brook would have to have the applicant re-notice it. When the Borough is served, he would like to have the Municipal Clerk bring it to our attention so they as a Council can make a judgement whether they want to authorize someone to appear for the Borough.

Municipal Clerk Kwasniewski said the copies of the notices go to the Planning Board. She did not believe they had received a notice from Saddle Brook. She will check.

Albert Palmieri, 23-33 Arcadia Road, stated he has lived on Arcadia Road for 30 years. Arcadia Road and Berkshire Road have been known to flood. But in all the time that it has flooded he had water in his basement once which was during Tropical Storm Floyd. For 30 years the Council has been saying they are going to have it fixed. Last fall new drainage was put in. Unfortunately the drainage is not connected to the County's system. During the Noreaster several weeks ago, every house on Arcadia Road had water in the basement. He had two sump pumps running from 10:00 P.M. to 10:00 A.M. and the best he could do was keep the water at one foot. He was not able to get into his basement to clean it up for several hours. After cleaning it up, several more inches of water were there. He noticed that the water didn't start receding in his basement until the storm drain in front of his house started draining. Seems the only thing the drainage lines that were put in were collecting water. He felt they did the job for the people on Berkshire Road because all of that water flowed onto Arcadia Road. He understood from one of his neighbors that the contractor was back to try to do something and they found the drainage pipes were still half full with water. The storm was more than three weeks ago and the water is still sitting under the street. The street is starting to collapse. Cars going down Berkshire Road have to stay to the left because it is so bumpy. He just wanted to know what is going to be done. What do they have to do to have the County tie into the system? As Mr. Rubinstein mentioned about the proposed development in Saddle Brook, there will be 135 units, 40 townhouses and flats. That is going to make the drainage even worse.

Deputy Mayor Etler said the problem really is that there are two pipes that go down Midland Avenue and empty into Fleicher's Brook. The brook has to be dredged out. If you take a look at this right now, you will see that the pipes that come down Midland Avenue are half full of water and the reason is because it has to go uphill to drain into the Passaic River.

Mr. Palmieri thought the new pipes were connected. He asked if they were under the road just collecting water when it rains.

Acting Manager Garrison stated the storm sewer system is still operating the same way it did before they replaced the pipes. All they did was increase the size of the pipes. It still has to drain through Saddle Brook into Fletcher's Brook.

Mr. Palmieri said almost every house on Arcadia Road had water in the basement. That drainage was not going anywhere. The quality of life on Arcadia Road is not good.

Councilmember Trawinski stated this will go back on their Work Session Agenda. He apologized to him and other residents because this is not that job that the Council authorized in 1997 and 1998 when they applied for the grants. There was an issue at that time, the very issue the problems with Fletchers Brook. Councilmember Tedeschi was

there when they went to the County Engineer to get permission from the County Engineer for the Borough of Fair Lawn to tie directly into the County's drainage system and bypass Fleischers Brook. He had asked the question a year ago. He was sure they were connecting to the County's system and bypassing Fletchers Brook because he knew the problems at Fleischers Brook had not been corrected. He was not happy about what is going on. They will look into this further. They promised him that they would solve this problem and will do everything in their powers to solve this problem.

Robert Schaefer, 23-33 Berkshire Road, stated he lives on Berkshire Road and does not want to rehash everything. He has seen holes on Arcadia Road but does not drive on it fearing falling into one of the holes. Down Berkshire Road to Fair Lawn Parkway where they replaced the sewer lines, it is a really shabby job. He remembered being here a year ago when they talked about the traffic situation. He had talked to then Mayor Etler who told him the funds that for the traffic control were being used to pave the road. There was a grant to look at a traffic study on Berkshire Road. His portion of the street has no holes. His basement had water in it. He is concerned. All of his neighbors had water in the basement too. He knows it was a bad storm but wondered if this would be status quo. Mayor Weinstein said it would not be status quo. They will follow up on it. Councilmember Trawinski stated it will not be status quo. Acting Manager Garrison stated that just today they had received bids for roadway improvements which will include Arcadia and Berkshire Roads. Deputy Mayor Tedeschi stated that he wasn't an engineer but he would make sure that underneath the road is good before you go over the top of the road.

Anna Dinardo, 13-06 2nd Street, said she had a question about the lights that are on the field at Memorial. They come on at 3:00 p.m. and go off at midnight. She assumed the other fields may be on the same timer. Mayor Weinstein asked Acting Manager Garrison to follow up with the Parks Department. Ms. Dinardo said she had called the Board of Education to see who was paying the electric bill and they told her the Borough was. Mayor Weinstein stated that Memorial Field is used by All Sports Baseball. He did not know why they were on at 3:00 p.m. in the afternoon and why they are going off at midnight because most of the games are done by 9:30 p.m. the latest. Ms. Dinardo said this was ridiculous. She said everyone is talking about going green and suggested changing the timer on these poles.

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.

Municipal Clerk Kwasniewski said they need to go back to Resolution No. 184-2007 regarding the Community School because the Council has changed something that is incorrect. She had in front of her a memo from the Superintendent of Recreation which also had a letter attached to it from the camp coordinator, plus she had her notes. It is \$2,000 everywhere, they never approved \$2,500. Councilmember Trawinski said the letter was incorrect. He suggested she take a look at last year's amount because it was \$2,500.

Municipal Clerk Kwasniewski said that they agreed to \$2,000. Councilmember Trawinski said they agreed to keep the same amount as last year. Municipal Clerk Kwasniewski said she would go back to the tape because her notes and all of her papers say \$2,000. Councilmember Trawinski said if it is incorrect, they will come back to it. Mayor Weinstein said they all agreed to \$2,500 and if that is incorrect they will change it.

ADJOURNMENT TO WORK SESSION

Upon motion by Councilmember Baratta and second by Deputy Mayor Etlar, the meeting was adjourned to work session at 8:25 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