

WORK SESSION OF AUGUST 14, 2007

Deputy Mayor Etler called the meeting to order at 7:30 p.m.

PRESENT: Deputy Mayors Etler and Tedeschi, and Councilmembers Baratta and Trawinski (late)

ABSENT: Mayor Weinstein

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

Review of Tentative Agenda (8/21/07):

Municipal Clerk added a resolution for a Friends of Music Raffle Application. She will do one resolution for the two Fire Board confirmations.

Council Liaison Reports:

ASAP - Councilmember Baratta reported everything is proceeding as planned.

Garden Committee - Councilmember Baratta commended the Committee for maintaining the gardens throughout town.

Fair Lawn Cultural Diversity Day:

Councilmember Baratta asked that this item be deferred to September as people were away on vacation. She received the paperwork for the resolution from Municipal Clerk Kwasniewski. Deputy Mayor Tedeschi requested that Councilmember Baratta meet with him prior to the September meeting. This item will be placed on the September 18th Work Session Agenda.

Clothing Bins:

Attorney Rosenberg drafted an ordinance requiring minor site plan approval and licensing for donation clothing bins. Any existing or proposed clothing bins must receive approval from the Planning Board together with a license from the Zoning Official. The ordinance will ensure that clothing bins are licensed and properly located on properties and that adequate information about charitable uses is obtained. The license fee will be \$250 annually for each bin located at the Recycling Center and \$500 annually for each bin located on any other property. Failure to comply would allow the Zoning Official to issue fines and revoke the license. The ordinance is effective immediately.

Deputy Mayor Tedeschi suggested the fine be stipulated by ordinance. Attorney Rosenberg stated the fines are provided by Chapter 1 General Provisions, Article 3. He suggested fines be issued for failure to maintain. Manager Metzler stated fines could be issued if the clothing bin causes a nuisance or is hazardous or in an unsafe condition. Deputy Mayor Tedeschi suggested a first offense fine of \$100, \$250 for second offense and revocation of license for third offense. Manager Metzler felt they should consider a fine per day. The licensee's phone number will be on the bin. The Zoning Official could call and give 24 hours to clean up the site before issuing a fine.

Deputy Mayor Tedeschi noted that charitable organizations will be issued a license in their name and would be responsible for maintenance. Manager Metzler felt the organizations should be given a chance to resolve problems that may not be their fault. He did not think they should be held responsible for cleaning up the mess left behind by other people. Councilmember Baratta stated that business owners should keep the area clean as they received a share of the profit from the bins located on their property. Deputy Mayor Tedeschi stated the charitable organizations, as beneficiaries, should assume the maintenance of the bins. He felt there should be a 48 hour period before a fine is issued. A summons would be issued if clean up did not take place within that time period. Deputy Mayor Etler suggested removing a bin if more than two violations were issued.

Attorney Rosenberg clarified the clothing bin ordinance would require minor site plan approval together with a license issued by the Zoning Official. There will be a 48 hour cure period. A \$100 fine would be imposed for the first offense if no compliance within 48 hours. A \$250 fine would be imposed for the second offense. The license would be revoked on the third offense.

It was the consensus of Council to have Attorney Rosenberg draft the ordinance. Municipal Clerk Kwasniewski inquired if they would be reviewing the ordinance again or introducing it next week. It was agreed to introduce the ordinance.

Proportionality Ordinance:

Councilmember Trawinski generally agreed with the League of Women Voters' comments and thanked them for their efforts. He did not agree with the League's comments where they asked if the MLUL had been changed to permit site plan approval for one and two family houses. The MLUL has not been changed. The League also commented on 4.3 for one and two family houses and questioned if that would violate the statute. He stated the intention was a floor area ratio review by the Zoning Board or by the Zoning Officer or whoever is determined to be the correct person by the Manager and Borough Attorney.

Councilmember Trawinski did not agree with the League's comments about regulation for matching doors, window and architectural style for additions. McMansions were a problem because of their size and because they do not look like they belong in the neighborhood. One way to make sure they fit is to make sure that the additions meet the guidelines. They are not regulating design. A resident can do what they want if consistent with the F.A.R. provisions. This was created to offer an incentive to people to try to reduce the appearance and the fact that these houses do not fit in.

Councilmember Trawinski wondered if they should wait for the comments from the Planning Board Sub-Committee. Municipal Clerk Kwasniewski stated it was sent to them at the same time it was sent to the League of Women Voters. Deputy Mayor Etler indicated that the Planning Board said they would look at it in the future. Councilmember Trawinski suggested that Attorney Rosenberg make the changes consistent with the League's memo and highlight any questions or concerns. This item will be discussed by Council at the last Work Session in September.

Filming Standard Operating Guideline:

Manager Metzler stated there were previous concerns about charging \$1.00 for a permit. Teaneck does not charge a permit fee but charges \$500 per day for filming on public property and Page Three
Work Session
August 14, 2007

\$1,000 per day on private property. Montclair charges \$75 per day for a permit, \$25 for non-profits and no daily rate, \$500 for basic filming, \$1,500 for major motion pictures and requires the posting of a \$500 maintenance bond. They do not charge for any service provided by the municipality. South Orange charges \$100 for the permit fee, \$750 fee for use of public land, \$25.00 permit fee for a non-profit group, \$500 per day for all filming and a maintenance bond of \$500. The film commission indicated many towns do not have formal filming agreements or permit fees.

Manager Metzler clarified that there was process to obtain reimbursement for services they provided. Council requested an ordinance fee schedule so they could be reimbursed for services they provided. The Council asked him to check with the NJ Film Commission which they did. The issue raised was concerning charging a \$1.00 permit fee. They needed to decide the permit cost and if that fee would include services they provide or have a permit fee with an ordinance in place to recoup expenses for services they provide.

Deputy Mayor Etler suggested a \$500 operating fee. He felt there should be a standard fee in place for the Police and DPW workers. Councilmember Trawinski thought this was already included in the new policy. He agreed Borough expenses should be reimbursed. He wondered if there should be a permit fee for filming on private property. Manager Metzler stated filming on private property was taking place this weekend. The film company filled out the agreement but there were some issues. The film crew wondered why filming on private property became a Borough issue. Manager Metzler explained it could be a disruption to the neighborhood and many equipment trucks could be involved. The film company will give a letter to every resident within 200 feet. Traffic Safety Officer Franco met with the individual to make sure the equipment would not disrupt the flow of emergency vehicles.

Deputy Mayor Etler asked who granted permission to film on private property. Manager Metzler explained a crew will scout for a house and then contact the owner directly. The filming is done inside the house but still presents the potential of impacting the Borough. The production company applies for the permit, not the resident. The fees are retained by the Borough and the property owner is compensated by the production company. Attorney Rosenberg stated this would be an impact fee. Councilmember Trawinski felt this may help them recover miscellaneous costs.

It was the consensus of Council to change the permit fee from \$1.00 to \$500 per day. Attorney Rosenberg draft a fee schedule. Manager Metzler felt they should follow the FEMA per-hour formula for motorized vehicles. Attorney Rosenberg will prepare a draft ordinance for the September 18th Work Session.

PODS:

Attorney Rosenberg presented the draft ordinance to regulate temporary storage units. Residential owners will have to apply to the Zoning Official and provide a survey plan showing the proposed location. Only one temporary storage unit per residential property for a maximum of ten calendar days will be permitted. An extension could be requested with good cause at the discretion of the Zoning Official. Deputy Mayor Tedeschi suggested the Zoning Official be empowered to allow one seven-day extension. Councilmember Baratta inquired if additional

extensions would be allowed under extraordinary circumstances. Attorney Rosenberg tried to envision natural disaster scenarios.

Councilmember Baratta expressed concern that the ordinance does not take into account that PODS were designed to be filled, removed and returned when construction is finished. She wondered if they would be required to get two permits.

A discussion ensued about the feasibility of creating a cycle. It was agreed that a cycle would be 12 months from the issuance of the permit. The permit will be for seven days to load and seven days to unload. Attorney Rosenberg will make the changes and the ordinance will be introduced at the next meeting.

Recording of Site Plan Conditions:

Councilmember Trawinski explained there was no central process where conditional resolutions of approval were recorded. He was aware of two municipal buildings that were destroyed by fire and the resolutions were lost. There is a Court case that suggests that, without a county or state wide recording system, municipalities record applicants' resolutions in their chain of title as an addendum. They could record the entire resolution or just the conditions. There is a condition in the resolution that the deed has to be recorded in the chain of title. A copy of the deed would be provided to the Board Attorney and Board Engineer for review and approval. The Planning Board secretary or Zoning Board secretary must be provided with a copy of the recorded deed. It becomes a checklist item on the issuance of the CO. It is a modest expense that offers protection for the residents.

Councilmember Trawinski stated this would ensure that new property owners were aware of any conditions, as it would appear in a title search. He felt this should be added to the site plan or variance review. Attorney Rosenberg will amend Chapter 125.

Implementation of a No-Smoking Policy at Memorial Pool:

Attorney Rosenberg stated Mayor Weinstein asked him to review this. He wanted Council's input on implementing a No Smoking Policy at Memorial Pool. Currently there is no policy. The code falls under section 160 which governs parks and recreation areas and includes pool areas. Section 160-13 pertains to restricted areas for eating and use of beach umbrellas. State statute 263D-63 governs smoking in indoor public places and outside areas involving schools. They have the ability to adopt an ordinance limiting or restricting smoking and can designate a smoking area. The ordinance would apply to both Memorial and Walsh Pools.

Deputy Mayor Etlar wondered if they should prohibit smoking entirely or set up a designated smoking area. Councilmember Baratta felt smoking should be abolished from the pool area and that a smoking area should be established.

It was the consensus of Council to abolish smoking from the beach area and establish a designated smoking area.

Councilmember Trawinski suggested extending this policy to ballfields and parks. There is no smoking allowed on school property or athletic fields. He suggested Manager Metzler contact Superintendent Graff and All Sports for their opinion. Municipal Clerk Kwasniewski suggested they wait and do one ordinance, as pool season was almost over.

Kipp Street Parking:

Deputy Mayor Tedeschi felt they should correct parking on Kipp Street. Residents were initially told parking would only be allowed on one side of the street. TSO Franco has measured the street and deemed it to be safe. He does not agree as a child was hit by a car. There is little passing room when cars park on both sides of the street. He asked Council to limit parking to one side of the street as the problem will only get worse as membership increases.

Deputy Mayor Etler stated that Kipp Street, Cadmus Place and Bellair Avenue was designated as parking for the High School. Deputy Mayor Tedeschi felt the residents of Kipp Street were bearing the brunt of the parking problems. Municipal Clerk Kwasniewski recalled that Council told the residents they would take another look at the situation. They did not promise parking on one side of the street. Deputy Mayor Tedeschi asked Council to look into this matter again and consider limiting the parking. Councilmember Trawinski felt it made sense to review this again. Deputy Mayor Etler was concerned about the loss of parking spaces. The residents would occupy the majority of spaces.

Councilmember Trawinski suggested Councilmember Baratta and Deputy Mayor Tedeschi discuss this issue at a 501(c)3 meeting. Manager Metzler stated there were two sets of plans drawn by the Engineering Department. If cars entered and exited through the Community Center lot there was enough Borough owned property for 63 spaces. If the cars entered on the Community Center side and exited on Burke and Bellair, it would require the acquisition of some property from the Board of Education. They would obtain 101 spaces. The Borough owns the right of way and could build parking spaces on this site. The Borough Engineer recommended entering in the rear of the Community Center and continue straight through parallel with the railroad tracks. There would be parking on both sides. Cars would exit on the far side of the property, which is owned by the Board of Education. Deputy Mayor Etler would support one sided parking if this property could be obtained for a parking lot. Manager Metzler stated this issue was pulled from the last Shared Services meeting agenda. The Board of Education has requested a meeting with full Council and Board Members to discuss land acquisition specific to that project. The only other option would be for cars to enter and exit from the same location, which would make matters worse. Deputy Mayor Etler did not feel this was an impediment and thought they should make an exit outlet at the same location cars came in. Deputy Mayor Tedeschi felt that would increase traffic on Kipp Street.

Manager Metzler will contact Joanne Wilson, Board of Education Business Administrator, to schedule this issue on the September Shared Services meeting. Councilmember Trawinski suggested having the meeting at the Community Center so they could do a walk through and thought they should include the 501(c)3 Committee. Manager Metzler will provide drawings. Councilmember Trawinski suggested scheduling a meeting with the full Council and full School Board. Councilmember Baratta reminded Council that there were more parking spaces on the opposite street side. Residents would not be able to park in front of their homes if parking was

limited to one side. Deputy Mayor Etler was in favor of purchasing the Board of Education

property to alleviate the situation. Manager Metzler felt the Board of Education would view the 101 off street parking spaces for students as an incentive. The next Shared Services meeting is scheduled for the end of September.

Review of Borough Policy re Alcohol Use in Borough Fire Houses:

Deputy Mayor Tedeschi asked Manager Metzler to publicly reiterate the policy used by the Borough. Manager Metzler stated the Borough has zero tolerance towards drinking and driving. There have been three cases in the past ten years involving alcohol abuse which resulted in strong suspensions. The policies were distributed to Council. The Municipal Handbook also addresses alcohol and drug abuse. The Fire Department standard operating procedures addresses drinking and use of fire equipment, as does the Rescue Squad's. The Ambulance Corps has every member sign a statement acknowledging that abuse of the policy is cause for immediate termination.

Deputy Mayor Etlar thought it was a broad policy. He felt all the Fire Houses had beer. Deputy Mayor Tedeschi stated his intent was to reaffirm and underscore the importance of proper alcohol use within the Fire Department. He felt the Fire Department and other emergency departments were policing themselves through the Borough Manager and he wanted Council to be aware. Manager Metzler assured Council that the policy positions have been restated.

Passaic River Flooding Commission:

Councilmember Trawinski spoke to Mayor Romana in Wayne and Mayor Zabo in Oakland after the April floods. The Passaic River Task Force is holding a series of meetings with the Army Corps of Engineers and the North Jersey Water Supply District to look at what can be done to alleviate the repetitive flooding. The Mayors sent him information which will be forwarded to Council. One of the answers he has given residents was that part of the flooding involves what is happening in Newark. The Task Force is taking a hard look at the entire Passaic River basin. He felt a representative from the Engineering Department should attend the meetings.

The Task Force was able to get liaisons from the offices of Congressman Pascarella, Senator Menedez and Senator Lautenberg to participate, in addition to the Army Corps. He felt the Task Force was attempting to address a situation that could not be handled by a single municipality. This will impact on residents all along the Passaic River. It will not solve the problem for the Jasper Road residents but may help the Second Street residents. The Passaic River basin includes the Saddle River.

Councilmember Trawinski suggested Council authorize Manager Metzler to have them participate in the meetings. There is no cost to the Borough. Deputy Mayor Etlar requested that this be deemed advisory only. He did not want statutory rights issued to the commission to speak on behalf of the Borough. Councilmember Trawinski clarified that the Task Force was to ensure that this side of the Passaic River basin was represented. He felt they should notify Elmwood Park, Saddle Brook and Lodi. Councilmember Baratta felt it would be beneficial to have a Fair Lawn representative present at the meetings to present their concerns.

Councilmember Trawinski stated the North Jersey Water Supply had turned control of certain

floodgates over to the Army Corps. This did not occur automatically based on pre-set conditions, but was done manually. An oversight aggravated a flooding issue on the western portion of the Passaic River. He suggested Manager Metzler designate a representative from Engineering to attend the meetings. He would be willing to attend if Council input was needed.

It was the consensus of Council that Manager Metzler send a representative from the Engineering Department to the Task Force meetings and periodically report back to Council. Councilmember Trawinski thanked Council for their support.

ADA Committee Items:

Councilmember Trawinski stated the Committee held an organizational meeting which was very productive. The Committee requested that Council establish a policy whereby complaints or inquiries relating to ADA issues would be referred to the Committee. They requested a resolution requesting that NJ Transit provide wheelchair accessibility at train stations. NJ Transit stated they would try to accommodate them if a request was made.

Deputy Mayor Tedeschi questioned the Committee's request regarding complaints. Councilmember Trawinski clarified that the Manager would deal with the resident's complaints following his standard procedure. The Committee would be notified that a complaint was registered, which may prompt a review of the issue. Manager Metzler will send the standard citizen complaint form to the Committee to keep them apprised of complaints.

Deputy Mayor Tedeschi stated that the original ADA Committee drifted apart because they misunderstood their responsibilities. Councilmember Trawinski stated the committee will focus on issues that people without disabilities may not understand. Councilmember Baratta wondered if the Committee would obtain help for people with disabilities, such as when people call for help with snow shoveling. Councilmember Trawinski stated the Committee would serve as a liaison who would reach out to Council and have the issue addressed.

It was the consensus of Council to support a resolution requesting that NJ Transit provide wheelchair accessibility at train stations.

Renewal of Membership in the Bergen County Municipal Joint Insurance Fund:

Manager Metzler explained a resolution was needed to renew the Borough's membership in the Joint Insurance Fund. The premiums for 2007 were \$408,900. Deputy Mayor Etlar felt they provided very good service.

Renaming the Fair Lawn Recreation/Community Center:

Manager Metzler discussed the recommendation from the 501 (c)3 that the Community Center be re-named the George Frey Center for Arts and Recreation. A formal adoption was needed from Council. The dedication ceremony is scheduled for September 30th. Councilmember Trawinski recalled a petition from a group of students with the same request. Manager will notify them of the dedication ceremony.

start at 11:00 a.m. and last for one hour. A bronze plaque with an inscription and raised picture of George Frey will be placed in the theater. The sign near the road will be changed to reflect the new name. The ceremony will be invitation only but will be filmed by Fair Lawn TV. There will be a slide presentation with music.

Councilmember Trawinski asked if they could hold the ceremony outside if the weather was nice. Manager Metzler explained they were showing a slide presentation in the theater. Councilmember Trawinski wondered if there could be a second program open to the community. Mr. Cosgrove stated the family felt overwhelmed and preferred a simple program. Fair Lawn TV will play the slide show as part of the program.

It was the consensus of Council that the Community Center be renamed the George Frey Center for Arts and Recreation.

Proposed Ordinance to Allow Municipal Clerk to Issue Raffle and Bingo Licenses:

Municipal Clerk Kwasniewski explained this would eliminate the need for the Mayor and Council to do a consent calendar resolution for raffle and bingo licenses. She would be able to issue licenses to organizations that have met the proper requirements, reducing the amount of time needed to process licenses. This would make the process easier for organizations who deal with volunteer turnovers. Manager Metzler stated Municipal Clerk Kwasniewski will amend her monthly report to include the names of the organizations that were issued licenses. He supports the change.

It was the consensus of Council to support an ordinance authorizing Municipal Clerk Kwasniewski to issue raffle and bingo licenses.

Public Comments:

Harvey Rubenstein, 28 Rutgers Terrace inquired how a false statement made to the Zoning Board under oath is handled. He wondered if a governing body reviews the Zoning Board decision or if the matter went to Superior Court as an appeal. Attorney Rosenberg was not aware of the jurisdictional authority of the governing body to oversee or act upon a decision of the Zoning Board. Mr. Rubenstein asked if an issue would go to the governing body if Council discovered the Zoning Board had approved an application that was not in the public interest. Attorney Rosenberg stated the governing body has the authority to appeal the decision in Superior Court.

Mr. Rubenstein inquired if the resolutions for the upcoming meeting would be posted on the website. Municipal Clerk Kwasniewski stated the resolutions are always posted by noon on the Monday preceding a meeting.

Mr. Rubenstein inquired if the fee for the storage containers would be a special fee or would it fall under the fees charged by the Planning Board. Attorney Rosenberg stated the fee would be separate and distinct.

Mr. Rubenstein felt it was too restrictive to limit smoking at the pool. Deputy Mayor Etler explained that people stick their cigarettes in the sand and leave them there.

Kate Puchinsky, ? was unhappy about the increase in her property taxes. She felt home improvements make the neighborhood look nicer and feels she is being punished for improving her home. She received a \$3,000 increase last year and an \$1,800 increase this year.

She lost two prospective buyers for her home because of the taxes.

Ms. Puchinsky was upset that her son has to walk 1.6 miles to school and feels courtesy busing should be provided. She thought the parking lot on Route 208 and Fair Lawn Avenue was a disgrace and was a safety issue for the children who walked past it on their way to school. The parking lot is unlined and cars park all over the lot.

Ms. Puchinsky felt the current tax system was unfair. Deputy Mayor Etler suggested she see the Tax Assessor, Tim Henderson. She felt the smaller home sizes in Fair Lawn necessitated the need for expansions.

Deputy Mayor Tedeschi inquired about the price of her addition. Ms. Puchinsky stated that renovations totaled \$90,000. Deputy Mayor Tedeschi stated property taxes were an issue throughout New Jersey. The average home in Fair Lawn was assessed at \$404,000 and received a tax increase of \$82.26. When a home is improved the value is increased. It is a statutory order that houses be at 100%.

Councilmember Trawinski stated the parking lot on Fair Lawn Avenue was owned by the Department of Transportation. They asked the Department of Transportation not to make improvements as they would lose parking if the spaces were lined. Ms. Puchinsky suggested placing a crossing guard at that location.

Ms. Puchinsky thought it was unfair for the Police to issue parking tickets to parents attending school events, as limited parking was available. She received a ticket on her second day in town because she forgot to move her car into the driveway. Councilmember Baratta felt the parking laws needed to be strictly enforced near the schools as illegal parking could cause safety issues for the children.

Craig Miller, Ramapo Terrace wondered who paid for the fencing around Memorial Pool as Council had previously stated they did not authorize the fence. Manager Metzler explained Council had decided not to replace the fencing last year. When Superintendent Frey passed away that information was not relayed to the new Superintendent, Jim Graff and the fence was installed. There have been no new incidents on the beach requiring Police action since the fence was installed. There is better control and sales for swimming passes were up. Council decided to leave the fence up. The funds for the fence came from the Parks operational budget.

Mr. Miller stated that the Left Turn Only sign on Fair Lawn Avenue at Route 208 was paved over and needed to be repainted. Manager Metzler stated that the County Engineer was already contacted about this matter.

Closed Session:

Upon motion by Councilmember Baratta and a second by Deputy Mayor Tedeschi, the following closed session resolution was unanimously adopted at _____ p.m.

WHEREAS; the Open Public Meeting 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 - Yirce; Personnel - ADA Committee; Potential Litigation - DEP Notice of Violation; and

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 the 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.

Deputy Mayor Etler reconvened the meeting at _____ p.m.

ADJOURNMENT:

Upon motion by _____ and second by _____ the meeting was adjourned at _____ p.m.

Respectfully submitted,

Joanne Kwasniewski, RMC/CMC/MMC
Municipal Clerk

The undersigned have read and approve the foregoing minutes.

Absent
Mayor Steven Weinstein

Councilmember Jeanne Baratta

Deputy Mayor Martin Etler

Deputy Mayor Joseph Tedeschi

Councilmember Ed Trawinski