

WORK SESSION OF AUGUST 8, 2006

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

PRESENT: Mayor Etler, Deputy Mayors McCarthy and Weinstein, Councilmembers Baratta and Trawinski (late).

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

REVIEW OF TENTATIVE AGENDA (8/15/06):

Municipal Clerk Kwasniewski stated that she had several resolutions she would like to add to the Consent Agenda including approving an off-premise raffle for Friends of Music Association, supporting You Drink and Drive You Lose 2006 Statewide Crackdown, endorsing CDBG unprogrammed funds application for Bris Avrohom ESL Youth Program and authorizing execution of the CDBG grant agreement for Barrier Free Improvements.

PANDEMIC FLU PLANNING:

Health Officer Carol Wagner and OEM Coordinator Ira Marks were present. Health Officer Wagner presented a fact sheet for flu pandemic preparedness. The County has put together a preparedness plan which is still under review.

OEM Coordinator Marks reviewed the supplies that may be necessary for emergency responders and critical employees. They submitted a list of recommendations including masks, goggles, coveralls, sani-clothes and no rinse gel for a cost of \$19,951.30. All of the items could be used by other departments if there is no flu epidemic.

They have met with the LEPC and some of the companies are considering doing their own planning.

Manager Metzler indicated that this plan only addresses the continuity of government. Some of the manufacturers have indicated that they will be limiting the quantity they will sell. Education of the public will be very important.

The consensus was to purchase the recommended supplies since they can be used for other purposes if they are not needed for the flu epidemic.

Councilmember Trawinski asked the Manager if he had explored this matter with the Central Bergen Co-op or the Board of Education. Manager Metzler indicated he had not but he will take the information to the next meeting of the Central Bergen group. He knows that some of the supplies will be limited so it may not be possible to purchase these items in large quantities. He asked OEM Director Marks to meet with the Board of Education. This is only part of a larger program. The residents can be confident that they can protect the employees and the responders so that they can continue to work with the public.

PROPOSED ORDINANCE TO PROHIBIT UNDERAGE DRINKING ON PRIVATE PROPERTY:

Sgt. Derek Bastinek and Health Officer Carol Wagner were present. Councilmember Baratta distributed literature from the National Council on Alcoholism and Drug Dependence - New Jersey.

Sgt. Bastinek reported that 50 of the 70 towns in the County have this ordinance in place. This ordinance allows the Judge in Hackensack to suspend their license. The police powers do not change.

Mayor Etler asked why they need this ordinance. He expressed concern that it was a further increase in police powers. Councilmember Baratta stated that the police believe it is a valuable tool that would help them. Councilmember Trawinski pointed out that there is a loophole that makes it not illegal to possess alcohol on private property. Sgt. Bastinek concurred that drinking inside of the house is not illegal. As soon as the person is outside, it is illegal.

Deputy Mayor Weinstein expressed concern that there may be too many unintended consequences. Councilmember Trawinski mentioned several studies that indicate that the children are drinking at a younger age. Deputy Mayor Weinstein indicated that he did not think this ordinance would solve that problem.

It was agreed to defer further discussion to the first work session in September.

RESCUE SQUAD BUILDING RENOVATION PROPOSAL (LAND LEASE):

Manager Metzler advised that the Rescue Squad still has not met with Mr. Conte so he requested that this matter be deferred until September.

TELVue VIRTUAL TELEVISION NETWORK PRESENTATION:

Councilmember Trawinski recused himself.

Manager Metzler advised that Cablevision has sent a letter objecting to TelVue Virtual Television Network's proposal. Cablevision believes that the proposed service is commercial programming which is prohibited on PEG channels under their franchise agreement. TelVue has withdrawn their proposal until they have resolved the problems with Cablevision.

BANNING SEX OFFENDERS FROM RESIDING WITHIN 1000 FEET OF ELEMENTARY SCHOOLS, PLAYGROUNDS OR CHILDCARE CENTERS:

Attorney Kates reported that he spoke to Detective Ietto who is responsible for tracking sex offenders in Fair Lawn. He does not believe that he needs this ordinance. This is an enforcement issue. The numbers are not that high.

Deputy Mayor Weinstein wanted to know if the Police Department had proposed any changes to the distance. Councilmember Trawinski wanted to introduce the ordinance. Councilmember Baratta thought the other communities around Fair Lawn would be adopting this type of ordinance and she did not want Fair Lawn to become a haven for sex offenders.

The consensus was to introduce the ordinance in September.

NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS) TRAINING:

Manager Metzler advised that the training is scheduled for August 23, 2006 at 7:00 p.m.

FAIR LAWN TV PRODUCTIONS INCENTIVES:

This matter was deferred to the next meeting.

RESOLUTION BANNING DUAL OFFICE HOLDING:

Attorney Kates pointed out that the statutes permit dual office holding. Councilmember Trawinski noted out that they have received four or five requests from the League of Municipalities to take positions on various subjects and they have done resolutions urging other governmental bodies to take action. It is a major issue because there are dual office holders in both parties. Mayor Etler indicated that while he personally does not like it, he believes that it is up to each person to make that decision. Deputy Mayor Weinstein indicated that he would be in favor of a resolution banning it in Fair Lawn only. He would be willing to have that resolution circulated to other communities. Councilmember Trawinski stated that he would support that resolution also as a first step. The Council should not be acting in a vacuum.

A resolution will be on the agenda at the next meeting.

CLOSING EMERGENCY EXIT BY MCDONALDS

Mayor Etler felt strongly that McDonalds has taken advantage of the emergency entrance to allow deliveries. Emergency services do not need that entrance. He wanted it closed immediately. Attorney Kates stated that the Zoning Board could reexamine the site plan approval that was given. However what the Council is doing is exercising their police powers. Councilmember Baratta asked if there were any legal repercussions for taking this action. Attorney Kates believed that they have the right to protect the public.

Attorney Kates will draft a resolution.

HOLDING COUNCIL MEETING AT FAIR LAWN COMMUNITY/RECREATION CENTER

Deputy Mayor Weinstein thought it would be a good idea to hold a Council meeting in the theater at the Community/Recreation Center. He suggested holding the October 10 meeting at the Center. The meeting could still be televised.

Councilmember Baratta did not want to do it. It is a burden to the Municipal Clerk and the Assistant Municipal Clerk and the volunteers of Channel 77. Councilmember Trawinski thought they should ask the Manager about the impact on staff. If it is an impact, he would like to reconsider it. Manager Metzler did not think it would be a problem for a one time meeting at the Center.

The consensus was to hold the October 10 meeting at the Fair Lawn Community/Recreation Center with Councilmembers Baratta and Trawinski dissenting.

REQUEST TO AMEND MARCH 21 WORK SESSION MINUTES:

Councilmember Trawinski stated that the March 21 minutes do not accurately reflect what he said concerning the budget. He asked Municipal Clerk Kwasniewski to listen to the recording of the meeting.

Municipal Clerk Kwasniewski stated that she had listened to the recording of the meeting and Councilmember Trawinski started to say that he would support a budget with a 19.8 increase but then corrected himself to say that he would support introducing a budget with a 19.8 tax point increase.

Councilmember Trawinski stated that he asking that the minutes be amended. Deputy Mayor Weinstein stated that he would agree that the minutes could be amended as long as the language is exactly what Municipal Clerk just read.

The consensus was to amend the March 21 work session minutes.

PLANNED COMMUNITY DEMOCRACY INITIATIVE:

Councilmember Trawinski stated that he received a request that Ms. DiGeronimo and Mr. Gulack be allowed to address the Council on this issue.

Ms. DiGeronimo advised that Mr. Gulack was away. She then stated that they have submitted 131 petitions containing 2666 signatures seeking to place a municipal question on the November ballot. The question, if passed, would enact the Radburn democracy ordinance. They need 1617 signatures. CCRF hired several college students to review the petitions and make sure that the signatures were valid.

Municipal Clerk Kwasniewski stated that she would not rely on those students review because they checked many who were not valid. She indicated that she has been working

on verifying the petitions nonstop since they were received. Work in the Municipal Clerk's office has just about come to a halt. Many of the signatures were not valid because they were illegible, not registered, duplicate or impossible to verify.

Mayor Etler asked her when she expected to have the process complete. Municipal Clerk Kwasniewski indicated that although the statute allows her 20 days to complete the process, she expects to be finished and make her determination by Friday so she can make her report to the Mayor and Council by the next meeting.

Attorney Kates stated that he has said it is a valid question. The Municipal Clerk will have to certify whether or not there are sufficient signatures.

Ms. DiGeronimo distributed correspondence from the State of New Jersey concerning Radburn and its election process.

Deputy Mayor Weinstein commended the efforts of those who collected the signatures on the petition. He still does not think it is the proper tool to resolve the issue. This is a private matter that should be solved by the members of Radburn.

Mayor Etler did not believe this ordinance was good government. He believed it is a private dispute between the trustees and those who live in Radburn.

MCDONALD'S & IHOP POSSIBLE ORDINANCE REGULATING TOWING ON PRIVATE PROPERTY:

Councilmember Trawinski stated that a resident pointed out that Charlotte, N.C. had an ordinance that dealt with towing on private property. He thought the ordinance strikes a balance between the police powers and violating property rights. He did not think any municipality in New Jersey has such an ordinance. Attorney Kates indicated that he liked the Charlotte ordinance but he had some concerns. Mayor Etler did not think Charlotte's ordinance was as good as the one that they are drafting.

The consensus was to introduce the ordinance.

SMOKING ORDINANCE:

Deputy Mayor McCarthy reported that on April 15, 2006 the age to purchase cigarettes was raised from 18 to 19. The Borough's ordinance should be changed to reflect the new law.

The consensus was to amend the ordinance. The ordinance will be introduced on September 12.

TELEPHONE CARRIER SAVINGS:

Councilmember Trawinski recused himself.

Manager Metzler reported that he received a proposal from Cablevision LightPath for telephone carrier service and internet access for a three-year agreement. He anticipates that they would save about \$26,000 a year. He was able to negotiate installation so that there would be no cost. This proposal would give the Borough 50,000 message units a month. Currently the usage is about 16,000 message units. It is all fiber optics. Staff has thoroughly researched this offer. He recommended proceeding with it.

The consensus was to enter into an agreement with Cablevision Light Path. A resolution will be adopted at the Special Meeting later this evening.

POLICY FOR FEE TO BE CHARGED FOR USE OF PUBLIC FACILITIES BY CIVIC ORGANIZATIONS:

Manager Metzler stated that the commercialization of the Fair Lawn Community/Recreation Center is going to be during the day time hours. He felt that there were a number of civic organizations that want to use the facilities in the evening for a meeting place. They should be able to do so at no charge. He listed the following: Rotary, Lions, All Sports as an example. If the facility is available, he thought they should be able to use it.

Deputy Mayor McCarthy suggested leaving it to the discretion of the Manager and the Superintendent of Parks and Recreation for the rest of the year. The Council should get a report in December.

COMMUNITY SERVICE WORKERS:

Manager Metzler stated that in the past they have had an agreement with the Probation Department to accept those people who are serving their community service ordered by the Court. They are usually people who have committed minor infractions. That agreement is due for renewal.

The consensus was to renew the agreement. A resolution is required to authorizing the execution of the agreement.

ZONING CHANGE HEIGHT RESTRICTIONS FOR FIRE & RESCUE STATIONS:

Manager Metzler explained that with the height that the ground level bay must be to accommodate the modern fire apparatus and a meeting room above it, the Fire Companies and the Rescue Squad cannot meet the zoning requirement. They must apply to the Zoning Board for a variance. He recommended they amend the ordinance to allow 35 feet for the fire and emergency services facilities. The properties should be identified in the ordinance.

The consensus was to amend the Zoning Ordinance.

AFFILIATED MANAGEMENT GARBAGE COLLECTION SERVICE:

This matter was moved to the Closed Session.

AMENDMENT TO THE HISTORIC PRESERVATION ORDINANCE:

Attorney Kates distributed a proposed amendment to the Historic Preservation Ordinance. He proposed deleting the current ordinance in its entirety and adopting the draft he presented. The current ordinance does not provide any protection against demolition of the historic sites. There are some other items that should be modernized. The ordinance reduced the number of members to five. The Commission's decision can always be appealed. He suggested that they send it to the Planning Board, Zoning Board, Open Space Committee, BIC, RIC, the Borough Historian, the Radburn Association and ask for their comments and send it to the owners of the historic properties telling them that ordinance will be discussed at the September 19 work session.

LICENSE AGREEMENT - 13-29 SUNNYSIDE DRIVE:

Mayor Etlar stated that they received a request from Mr. and Mrs. Ademek to install a fence over the Borough's sewer easement. He visited the site and thought they should authorize it. Manager Metzler added that the Engineer has recommended that it be approved.

The consensus was to grant the request subject to the usual license agreement.

SPECIAL MEETING:

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, the Work Session was recessed to the Special Meeting.

Mayor Etlar reconvened the Work Session at 9:15 p.m.

PUBLIC COMMENTS:

Irving Beinstock, 40-11 Tierney Place objected to George Frey being a Department Head with the Borough of Fair Lawn and being on the Board of Education. Attorney Kates stated that is permitted by statute is under the jurisdiction of the Board of Education not the Local Ethics Board.

Howard Mark, 12-23 Ferry Heights did not think that anyone told people about the legal fees when they signed the petition for the Radburn democracy ordinance. It is misleading. He wanted to know if all the residents in Fair Lawn will be able to use the Radburn facilities.

Harvey Rubinstein, 28 Rutgers Terrace asked why the staff cannot ask people where their pool badge I so that the fence would not be needed. The fence looks terrible and should

be taken down. He wondered if anyone had checked to see if there were Homeland Security funds for the pandemic flu preparedness. He then wanted to know if anyone had spoken to Don Smartt about the Clariant property. Deputy Mayor Weinstein indicated that he will speak to him.

Mayor Etler stated the fence was put up temporarily to prevent people from using the pool illegally. The fence has forced them to go to the checkpoints.

Manager Metzler stated that Fair Lawn did receive a grant of \$9500 for planning costs. He added that he had received ten emails about the fence, three against and seven in favor of it. Councilmember Trawinski indicated that he objected to the aesthetics not the purpose.

Arlene Rubinstein, 28 Rutgers Terrace objected to the discourteous and uncouth manner of some members of the Council.

Ken Ayers, 4 Arlington Place stated that the Radburn democracy ordinance has the Borough stepping into the affairs of a corporation. He wondered if that will apply to every corporation.

Victor Amato, 41 Lowe Avenue stated that his street has no parking from 8:00 a.m. to 10:00 a.m. Monday through Friday. On June 19 a professional visited his house and received a summons. He thought the professional service personnel were exempt. He spoke to Captain Cook who told him that there was no exception. He went before the Judge but he was not allowed to plead because the ticket was not for a car registered to him. He believed that some discretion should be used. If every car is supposed to be ticketed, he wanted to know why the truck in the pictures he presented was not ticketed.

Manager Metzler stated that they have increased traffic and parking enforcement by the addition of the traffic division. He was aware that some residents have called in asking for relief during construction. Mr. Amato stated that the idea of the ordinance was to prevent commuters. He asked that they use discretion.

Ron Coll, 10 Ramapo Terrace stated that there will never be democracy in Radburn unless government steps in. Assemblyman Gordon has worthy intentions but even if the bill becomes law, the only thing that would work is that the attorney general would sue the Radburn Association. He urged them to pass the ordinance before it goes to the people. If the Radburn trustees had not made a deal to sell Daly Field, the Borough would not be defending against Landmark.

Mayor Etler indicated that he believed that the ordinance is bad legislation.

Craig Miller, 5 Ramapo Terrace wanted to know when the light at Chandler Drive will be in operation. Manager Metzler replied that the milling is scheduled for August 10 and the

paving is to begin on the 11th. He reminded everyone that this is a County project. Manager Metzler added that the County will not turn on the light until the road is finished.

Jane Diepeveen, 14 Ryder Road wanted the work sessions to be held in a room where everyone can fit.

Michael Roney, 14 Burnham Place disagreed with Mayor Etler's assessment that the ordinance is bad legislation. Councilmember Trawinski stated that this ordinance is coming through the initiative process. The Mayor and Council has no say whether it gets on the ballot or not or whether the people vote for it or not. It is the right of the people to present the ordinance through this process.

Joan Goldstein, 12 Bedford Place felt it was a Radburn issue. She thought the people who distributed the petition might not have been so forthcoming. Radburn is a homeowners association. She moved to Radburn because she liked a park and a pool. Everyone is for democracy. They have a vocal group that is spreading their version of the truth. She was dismayed that CCRF has chosen this forum.

Rita Golding, 14 Rutgers Terrace wondered how the residents will come to the Municipality in the event of a flue pandemic. She suggested selling a kit to the public at a small mark up. She hoped that the Radburn trustees would offer something toward democracy. She is concerned that they may sell other fields. They need a voice in Radburn. The trustees have done nothing.

Perry Bolkin, 1-42 36th Street was shocked that Fair Lawn is introducing the first ordinance in the State about towing on private property. The state legislation should have statewide regulations. He commended the Council for closing the emergency exit on 37th Street. He concluded that the Borough should have standards to address aesthetics.

Maureen Moriarty, 14 Burnham Place urged the Council to support the revised Historic Preservation Commission ordinance.

Louise Orlando, 12 Arlington Place, questioned the draft Historic Preservation Ordinance and when it would be available to the public. Attorney Kates advised her that it would be available on Monday.

Pam Coles, 13-34 George Street, stated that the Historic Preservation Commission revised the ordinance so that it would protect the historic properties in Fair Lawn. They have done a great deal of research on this matter. She thought the Borough has an obligation to protect anything that is a historic resource. She thought it was a disgrace that there is no democracy in Radburn.

CLOSED SESSION:

Upon motion by Councilmember Baratta and seconded by Deputy Mayor McCarthy, the
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following closed session resolution was unanimously adopted at 10:10 p.m.

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 contract negotiations, personnel and pending litigation; and

WHEREAS, these matters are ones which permit the exclusion of the public from such discussions; and

WHEREAS, public disclosure of the results of these discussions upon the conclusions of these matters;

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 Baratta and a second by Deputy Mayor McCarthy, the meeting was adjourned at 10:40 p.m.

Respectfully submitted,

Joanne M. Kwasniewski, RMC/CMC/MMC
Municipal Clerk

The undersigned have read and approve the foregoing minutes.

Mayor Martin Etler

Councilmember Jeanne Baratta

Deputy Mayor Owen McCarthy

Councilmember Edward J. Trawinski

Deputy Mayor Steven Weinstein