

## **REGULAR MEETING OF FEBRUARY 28, 2006**

Mayor Etler called the meeting to order at 8:04 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 14, 2005. 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 Etler, Deputy Mayors Weinstein and McCarthy, Councilmembers Baratta and Trawinski.

**ALSO PRESENT:** Acting Manager Metzler, Municipal Clerk Kwasniewski, Assistant Municipal Clerk Bojanowski and Attorney Kates.

### **PRESENTATION TO RETIRING ENVIRONMENTAL COMMISSION MEMBERS:**

**Mary Burdick  
Elaine Winshell**

Mayor Etler stated there were several presentations tonight but the first one was for Mary Burdick and Elaine Winshell. Both women have been outstanding and good citizens and have contributed much to the Borough of Fair Lawn. The entire Council gave them the Certificates of Appreciation in their honor.

Mary Burdick thanked the Mayor and Council. Whatever small contributions she has made to Fair Lawn were only possible with the support of a great number of people who know who they are.

### **PRESENTATION TO MEMORIAL MIDDLE SCHOOL RIVERWALK VOLUNTEERS**

Mayor Etler stated they were going to be giving certificates of merit to the teachers to give to the volunteers who helped clean up the river walk behind Memorial School with the help of Bob Devita from Passaic Valley Sewerage Commission.

Mayor Etler read the following letter, addressed to the Mayor and Council, is in support of the river walk project. In October, members of Girl Scout Troop 291 from Franklin Lakes were committed to participate in this well organized community project. Under the enthusiast leadership of Craig Cohen and Peter Arts, these 6<sup>th</sup> grade girls enjoyed an opportunity to learn about the Passaic River, the environment and local wild life. In addition, they benefitted from being able to contribute to the community working along with the Fair Lawn students, parents, faculty members, administration and other participants to clean up along the river. We commend you for your past support for this worthwhile endeavor and hope that this support will continue.

What a wonderful way to educate our youth about the environment and community service.  
Signed by Linda Shlep, Girl Scout Troop 192.

Mayor Etler felt it was a worthy letter to read into the minutes. He said they had a presentation to all of the members that worked on the river walk. He said that on behalf of the himself and his colleagues he wanted to thank them for their efforts because it looks great.

### **PRESENTATION ON MEMORIAL PARK RIVERWALK**

Mayor Etler stated that there was going to be a power point presentation given.

Jack O'Neil stated that on behalf of the Environment Commission, he wanted to thank the Mayor and Council for allowing them to give this presentation at a Council Meeting. He introduced the Memorial School Environmental Club. Two members of the faculty were going to do the presentation.

Craig Cohn and Peter Arts thanked the Mayor and Council and the Environmental Commission for their support. They developed an idea of creating a river walk on the Passaic River. They presented the slide show on what they have done so far on the walk and what they envision for the future.

Bob Devita stated that he has been involved with the project and has been very pleased with the support the town has given them. He would be happy to do an extension down at the river.

Wendy Dabney, Chairperson of the Environmental Commission, said she had great expectations for a walk down by the river. She felt the river was not degraded but there are things that need to be removed. She does not know the number of man hours it would involve. Mayor Etler told her it was a very worthwhile project.

### **MANAGER'S REPORT**

Mayor Etler said the reports were on the table. Acting Manager Metzler said there were no changes or deletions.

### **COUNCIL COMMENTS**

Deputy Mayor Weinstein complimented all of the volunteers that worked on the riverwalk and also Elaine Winshell and Mary Burdick. He felt that was the theme tonight, volunteers.

Deputy Mayor Weinstein said that last night they had the first Open Space meeting and they have come up with a plan that has to be done by April 14, 2006.

Councilmember Trawinski thanked the students and faculty for working on the riverwalk. He congratulated them on a job well done. He also thanked Mary Burdick and Elaine Winshell for all of the work they have done for the Borough.

Councilmember Baratta congratulated all of the volunteers.

Deputy Mayor McCarthy thanked the teachers from Memorial for the work they did with the students at the riverwalk. He said he graduated with them so it was good to see that the system worked. He also thanked Elaine Winshell and Mary Burdick for all they have done.

Mayor Etler said he echoed everyone's comments. He thanked Memorial School and Passaic Valley Sewerage Commission for all they did.

### **MAYOR'S APPOINTMENTS - HISTORIC PRESERVATION COMMISSION**

Mayor Etler announced his appointment to the Historic Preservation Commission was Louis A. DiGeronimo, Class B member with a term that expires December 31, 2008.

### **ORDINANCES: SECOND READING**

Upon motion by Deputy Mayor Weinstein and a second by Councilmember Trawinski, it was unanimously agreed to read the following ordinance by title and open the time for public comments.

#### **Ordinance No. 2042-2006**

#### **AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 125, ENTITLED "LAND DEVELOPMENT", MORE SPECIFICALLY SECTION 125-32 ENTITLED "NONCONFORMING LOTS, USE AND STRUCTURES"**

Mayor Etler stated the purpose of this ordinance was to be the first step in reining in McMansions. It will repeal Section 125-32 entitled "Nonconforming lots, uses and structures". The Council will be working on a floor area ratio ordinance next. He felt this was a very important first step.

Deputy Mayor Weinstein stated they did receive a memo from the Planning Board who recommend this stop gap measure. They believe there are other measures they can be put into place to help relieve this problem.

Rose Shapiro, 39-22 Vanore Drive, stated she is a real estate agent and is a developer in this town. When you take out this part of the ordinance you have created the need for variances. She estimates that 90% of the lots are conforming.

Everyone that wants to build will have to get a variance. There are too many lots that are 50 x 100, to build a house without a variance she would need 75 foot frontage. There is not one lot on her street with that type of frontage. She felt before they did this ordinance they should check what percentage of non conforming lots they have in this town. By adopting this ordinance they just created a big problem.

Zur Davidi, 8 Sandow Court, stated they are creating a situation that whatever he wants to do to his house he will have to beg to get a variance because his lot is non conforming. No one will be buying houses and no one will be selling. He felt if they wanted to control the size of the house they should work on the floor area ratio.

David Merker, 13-11 Fairhaven Place, questioned the purpose of this ordinance and how they defined non conforming lots. He felt they were making it more restrictive for the residents. Mayor Etler explained that back then houses were built with only ten feet between them and the lots where a minimum of 6,500 square feet. Over the years people have found loopholes in the ordinance. Mr. Merker stated the lots are small and the houses are small. He asked if this has anything to do with a certain street. Mayor Etler said it did not. Mr. Merker asked if a resident wanted to expand their house would they have to go before the Zoning Board. Councilmember Trawinski stated the change they are making relates to the structure. If they are expanding the structure on a non conforming lot, they will need to come before the Zoning Board. The Council has agreed to revisit this issue in September. Deputy Mayor Weinstein stated the Council did discuss the hardship it would cause the homeowners. Councilmember Trawinski said this was just a stop gap measure and they wanted to see how it works. Deputy Mayor McCarthy stated the Council will address the homeowners concerns.

There being no further comment from the public, upon motion by Deputy Mayor McCarthy and a second by Deputy Mayor Weinstein, the time for public comments was unanimously closed.

Upon motion by Councilmember Trawinski and a second by Deputy Mayor McCarthy, Resolution No. 102-2006 adopting Ordinance 2042-2006 was unanimously passed.

Upon motion by Deputy Mayor Weinstein and a second by Councilmember Trawinski, it was unanimously agreed to read the following ordinance by title and open the time for public comments.

#### **Ordinance No. 2044-2006**

**AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FAIR LAWN, 2000, BY AMENDING AND SUPPLEMENTING CHAPTER 94 ENTITLED "FEES", ARTICLE VI, SCHEDULE OF FEES, SUBSECTION 94-12, "MISCELLANEOUS FEES"**

Mayor Etlar asked Attorney Kates to explain this ordinance. Attorney Kates explained that this ordinance was amending the fee schedule that was established by the Mayor and Council for the parks and recreation areas. Acting Manager Metzler stated the new fees reflect that the camps will be open a week longer this summer.

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

Upon motion by Deputy Mayor Weinstein and a second by Councilmember Trawinski, Resolution No. 103-2006 adopting Ordinance 2044-2006 was unanimously passed.

### **PUBLIC COMMENTS ON CONSENT AGENDA ITEMS ONLY**

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

There being no comment from the public, upon motion by Councilmember Baratta and a second by Deputy Mayor McCarthy, the time for public comments on agenda items only was unanimously closed.

### **RESOLUTIONS BY CONSENT #7-2006**

Upon motion by Councilmember Baratta and a second by Deputy Mayor McCarthy, Consent Agenda 7-2006 containing the following items was unanimously passed.

- a. Resol. #104-2006 - Award of Bid: Roadway Improvements
- b. Resol. #105-2006 - Refund of Overpayment of Taxes
- c. Resol. #106-2006 - Approval of Raffles and Bingos:
  - H.B. Milnes PTA, non-draw raffle
  - John A. Forrest School PTA, on-premise 50/50
  - Temple Beth Sholom, off-premise merchandise
  - Fair Lawn Jewish Center, Bingo
  - Fair Lawn Jewish Center, instant Raffle
  - Fair Lawn Jewish Center, on-premise 50/50
  - Rotary Club of Fair Lawn, off-premise 50/50
  - Fair Lawn High School PTA, on-premise merchandise
- d. Resol. #107-2006 - Supporting Legislation to Require Democracy in Radburn
- e. Resol. #108-2006 - Authorizing the Execution of the Critical Incident Command and Communications Task Force Mutual Aid Agreement
- f. Resol. #109-2006 - Interlocal Agreement for Use of Walsh Pool by Saddle Brook

- g. Resol. #110-2006 - Professional Services - Bond Counsel
- h. Resol. #111-2006 - Amending CDBG Agreement - Roadway Improvements
- l. Resol. #112-2006 - Amending CDBG Agreement - Senior Center Improvements
- j. Resol. #113-2006 - Professional Services - Landscape Architect and Professional Planner - Open Space
- k. Resol. #114-2006 - Appointments to Health Advisory Board
- l. Resol. #115-2006 - Appointment to Zoning Board

**RESOLUTION NO. 116-2006 - APPROVAL OF MINUTES:**

Work Session 11/22/05  
 Closed Session 11/22/05  
 Regular Meeting 11/22/05  
 Work Session 12/6/05  
 Closed Session 12/6/05

Upon motion by Deputy Mayor McCarthy and a second by Deputy Mayor Weinstein, Resolution No. 116-2006 was passed with Councilmember Baratta and Councilmember Trawinski abstaining.

**MISCELLANEOUS PUBLIC COMMENTS**

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

Harvey Rubinstein, 28 Rutgers Terrace, complimented Acting Manager Metzler for creating the Resident Complaint Form. It goes to the heads of the different departments. His complaint was taken care of, he received a letter from the Borough Manager and he was very happy with the system that has been started.

Mr. Rubinstein talked about commuting on the train everyday for twenty-nine years and he noticed on the northeast side how the people are shivering standing outside. He suggested the Borough contact New Jersey Transit to put in a shelter.

Mr. Rubinstein also spoke about the \$150,000 given to the Borough from the County for the Easton Tower. No one seems to know what it is for. Acting Manager Metzler said the tower is not in Fair Lawn it is by the mill off of Saddle River Road and believed it is on the Paramus side of the border.

Mr. Rubinstein spoke about the Recreation Center and how he became aware of money for solar voltaic systems that are available from the public utility companies. The city of Bayonne took advantage of that to a tune of \$350,000 for their school system. He thought that they could retro fit the system for the Recreation Center.

Mr. Rubinstein stated it pained him to say this but he was sworn thirty years ago to protect and defend the flag. He has been threatened, not by hoodlums, not by gangster, not by real estate developers, but by card carrying members of the Democratic party of the Borough of Fair Lawn. The message came to him through his wife, that he should stay away from Zoning Board meetings. As a homeowner and a tax payer, he has every right to go to Zoning Board meetings and to stand up and talk about the integrity of the Borough's zoning laws. He asked if any card carrying member of the Democratic Party of this town that wants to tell him something to his face about staying away from Zoning Board meetings, let them come in front of him and tell him why he has no right to go to these meetings

Don Morris, 1 Addison Place, stated he moved to Fair Lawn in 1972 from New York. He became a member of the Radburn Board of Trustees in January of last year. He is the current president of the Radburn Board of Trustees. He thanked Mayor Etlar, Deputy Mayor Weinstein and Deputy Mayor McCarthy for their support in opposing that ordinance a couple of weeks ago and to Attorney Kates for that very professional candid advice. He appreciates the time and courtesy that was extended to himself and Mrs. Orlando, the Manager of the Radburn Association, by Mayor Etlar and Deputy Mayor Weinstein. It was an open and productive meeting. In his corporate years, he has been judged by performance and results without emotions and personal conclusions. He has brought this view to the Radburn Trustees. Radburn is a unique community with a stellar record of performance and results. It has withstood the test of time. This community that has been studied and visited by architects, planners and students from all over the globe. A community that was awarded historic status by the Department of Interior five years ago.

Mr. Morris said their by laws and architectural guidelines and their unfailing enforcement of them are the secret of their success. The Board of Trustees functions as a totally non political body with no special interest, no special agenda and no constituencies. They are able to be decisive, focused and timely. There is one common goal - the preservation and protection of Radburn. With a responsibility like this, they cannot afford to make mistakes. In 2005 Radburn faced three serious challenges to their architectural guidelines at a cost of almost \$100,000 to their residents in professional fees. They prevailed in all three. Had they not, Radburn and Fair Lawn would have been changed forever for the worse. Radburn has been a good neighbor and a taxpayer and a good draw. Their community recently spent \$50,000 of their money insuring that the Radburn Building was reconstructed to it's former self. In addition, they spent \$25,000 in professional fees insuring that the Radburn School addition was up to code.

Mr. Morris stated that their residents have been very active. The library, football fields, gym, auditorium, the high school, have been named in honor of Radburn residents. The Board is not against change, only change for change sake. Through the efforts of his predecessor, Bob Matule, the Board of Trustees has agreed to amend their by laws to allow for open meetings, alternate dispute resolutions, and access to records and documents. The Twin Rivers case has been helpful. He said that change will come in

time. They should be in place by the summer. Recently a CCRF flyer called for a new Radburn and personally he felt there was nothing wrong with the old beloved Radburn.

Robert Gulack, 4 Bancroft Place, stated that Mr. Morris spoke about the awards that Radburn received for it's positive aspects not for it's lack of free election. The list of things that he spoke about had no assurance of open voting and meaningful elections. He wondered if Mr. Morris is afraid to put this matter to a vote. Are the other trustees afraid to have open elections. He wondered what American denies his neighbor open voting. He felt the Radburn Board of Trustees was nothing but an arrogant, self-appointed clique that is afraid to put their case before the Radburn community in a fair and open election. They hear nothing from the Radburn Association except for disdain and disrespect for the law. After thirteen years, there is no excuse for this delay. He felt all they do is lie. The Manager was not there for further details, she was there because she was chastised by the Historic Sites Council for providing misinformation to the Fair Lawn School Board which led them to go into construction without the proper clearances.

Mr. Gulack suggested they look at Radburn's record. In February 2004, they signed a secret deal trying to sell Daly Field and make the ballfield into townhouses. They did not tell the Radburn community what they were up to, they just signed the contract in secret. The crucial element was obviously how many townhouses had they agreed to. They had agreed to as many as 175 but when they sent out a letter, they left out the number. The only reason Mr. Morris is talking about those things Radburn said they would change is because the State has threatened to fine them if they don't come up with a program. In February 2006 the trustees wrote to the Radburn community stating that Attorney Kates talked about pre exemption. How can Radburn insist that PREDA doesn't exist in Radburn but would preempt any local statue that did apply to Radburn. These people are careless about information and clearly what Mr. Morris doesn't say to you is that he has no intention of moving forward with free elections. They turned down the issue to talk about this for two years. He read a letter from a veteran that offered his support and told him to keep up the fight. He will keep up the fight in Radburn until they get free elections in Radburn.

Ron Coll, 10 Ramapo Terrace, stated that a lot of details have been given by Mr. Gulack and Mr. Morris. He suggested that everyone look at the big picture which has been that Radburn has been operating for seventy-five years and no one has ever had to ask for democracy. It seems that Radburn has hit an iceberg with the sale of Daly Field. They did the deal in secret and here they are two years later with absolutely no progress. He reminded the Council that two weeks ago he asked them to tell the Radburn Trustees to work something out or pass an ordinance which would in fact be one heck of a position for the Council to take. He felt the reason they need democracy is so this does not happen again.

Craig Miller, 5 Ramapo Terrace, said no one should believe what the trustees say. He then asked whether it was Cablevision or Verizon that wants to put a cell tower on the municipal building. Acting Manager Metzler said it was neither of those vendors. The Borough has received a request to place a monopole at the municipal building. He thought

they should take a look at it since the current tower is near its end. The Police Department has made a request to change the cabling coming down the tower. The new tower would be taller with more frequencies. It will be reviewed further. Mr. Miller asked if the vendor would do wiring at a backup location. Acting Manager Metzler said the repeater was on the water tower off of Morlot Avenue and also on the top of the Nabisco building.

Mr. Miller suggested that since the public comment has been limited to five minutes for the public, he felt it should be applied to everyone during all of the meeting.

June Meyers, 15 Ballard Place, questioned the taping of the last meeting and wondered what happened to it. A lot of people depend on Channel 77 rerunning the meeting to see what is going on. She hoped it would not be repeated and they don't lose the tape tonight. She said she was going to have to repeat her comments from the last meeting which included her strong support of the Planned Community Democracy Ordinance. She was still asking the Council to support it as well. The Radburn Trustees do not believe the Twin River's ruling applies to them. She felt it was the Council's duty to meet the Radburn resident's needs.

Pam Coles, 13-34 George Street, stated she was not a Radburn resident but it hurt her to see that discussing democracy still exists in this Country. She felt by not adopting the Planned Community Democracy Ordinance the Council is leaving Radburn behind. She requested that they meet with Radburn to bring democracy to the residents there. She suggested July 4, 2006 as a good day to bring democracy to Radburn.

Ms. Cole spoke about the sale of the property in Paterson on the other side of the Fair Lawn Avenue bridge. Home Depot is in the process of getting the required permits and the ground should be broken in 60 - 90 days. She voiced her concerns about the traffic that will be traveling on Fair Lawn Avenue. She wondered if any of them had a discussion with Paterson about the traffic it will cause. Mayor Etler stated that two years ago he had approached them and as a result the Council passed an ordinance limiting the weight on the streets approaching the bridge. Home Depot's traffic experts told him that most of the traffic would go down Route 20. Ms. Coles wondered if the Borough could limit access to Route 20 north of Route 80 since that was going to be vital.

Stewart Shaw, 19-32 Chandler Drive, stated the Council sold the judgeship for \$23,000. Mayor Etler said no money came to this Council and suggested that he does not make that implication. Mr. Shaw said it was in the paper and he saw Mr. Winston defending pay to play. Mr. Shaw also hoped the tape would not be lost again because on that tape they heard a young man saying he could not understand how the Council could not support democracy. On this tape, the residents saw that the Council was not supporting the Planned Community Democracy Ordinance because the Borough Attorney advised against it. He was disappointed in the Council.

Stan Hayden, 12 Beekman Place, stated that a house divided against itself cannot stand. He urged the Council to take a step and mediate the situation. The basic issue is the

voting. It seems that Radburn is afraid of sudden change. He suggested an election with four trustee seats staying and voting for four seats. Currently the Radburn Trustees are appointed for life. George Washington set the tradition to be in power for one term and step aside.

Robert Gremillot, 1 Bristol Place, said he was a resident since 1961. Basically he is in favor of the Planned Community Democracy Ordinance. He wondered why the Borough Attorney did not include the Twin River's case in his opinion.

Barbara Gremillot, 1 Bristol Place, asked if there were minutes available for the meeting between Mr. Morris, Mayor Etler and Deputy Mayor Weinstein. Mayor Etler said no minutes were taken during the discussion. Mrs. Gremillot said they were an unheard group, they have yet to see the contract selling Daly Field since it is still a secret by the trustees.

David Merker, 13-11 Fairhaven Place, asked the Council to have two police officers stationed on his street to give out tickets to the people who speed down the street. He also asked for a stop sign to be installed.

Ferdinand Caldarone, 15-09 George Street, stated he thought the McMansions were good. Mayor Etler said yes they are but are out of character for the neighborhood. Mr. Caldarone said the reason the people do this is because they don't want to move to Franklin Lakes.

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

Councilmember Trawinski stated they all received a letter advising them of the passing of former Chief Risacher who served the Borough for twenty four years as Chief. He offered his condolences to his family and to the officers of the Fair Lawn Police Department.

Deputy Mayor Weinstein stated he wanted to comment on the attacks on the judge. The judge deserves our respect and suggested that it be put to rest. He also wanted to make it clear that he was 100% in favor of democracy. He felt the residents are sick and tired of the fighting. He said it was time to work together with Radburn but the ordinance was not the way to go.

#### **ADJOURNMENT:**

Upon motion by Deputy Mayor McCarthy and second by Councilmember Trawinski, the meeting was adjourned at 9:40 p.m.

Respectfully submitted,

Marilyn B. Bojanowski, RMC  
Assistant Municipal Clerk  
Regular Meeting

The undersigned have read and approve the foregoing minutes.

Mayor Martin Etler

\_\_\_\_\_  
Councilmember Jeanne Baratta

Deputy Mayor Owen McCarthy

\_\_\_\_\_  
Councilmember Ed Trawinski

Deputy Mayor Steven Weinstein