

WORK SESSION OF FEBRUARY 7, 2006

Mayor Etler called the meeting to order at 7:35 p.m.

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

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

Mayor Etler announced that item 7 (Annual Telephone Savings Potential) was going to be pulled and item 6 (Planned Community Democracy Ordinance) would be discussed in Closed Session. He concluded that each speaker would be limited to five minutes during the public comments portion of the meeting.

CLOSED SESSION:

Upon motion by Deputy Mayor McCarthy and seconded by Councilmember Trawinski, the following closed session resolution was unanimously adopted at 7:40 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 Pending Litigation and Attorney/Client Privilege; 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 shall be made upon the resolution of this matter within 180 days except for legal strategy.

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.

Mayor Etler reconvened the meeting at 8:40 p.m.

REVIEW OF TENTATIVE AGENDA:

Municipal Clerk Kwasniewski stated that she would like to add the approval of minutes for the meetings on November 1 and 14, 2005. Councilmember Trawinski questioned the bid for the uniforms for Public Works. Acting Manager Metzler advised that although only one bid was received, they have provided excellent service in the past.

PRESENTATION BY FAIR LAWN RECREATION/COMMUNITY CENTER, INC.

John Cosgrove distributed a power point presentation. They want to hire an Executive Director to rent out the cultural side of

the building. The Center is 95% completed. A temporary Certificate of Occupancy should be issued next week. The landscaping will be Page Two

Work Session

February 7, 2006

done in the spring, the final parking lot paving, the sidewalk from Kipp Street and touch up painting will be done after the Recreation Department moves in. Superintendent Frey and his staff had a walk through the building. He thanked Superintendent Frey for his assistance. The lights are on a timer and will go off at 10:15 p.m. They are exploring additional ways to shield the lights.

The Committee met with the subcommittee of Councilmember Baratta, Deputy Mayor McCarthy, Acting Manager Metzler and CFO Eccelston. The Center is unique because of the theater. The existing staff of Borough employees has too much to do in running the building. The trustees would raise funds and hire an Executive Director to go out and rent the theater to the business community. He proposed a salary of \$30,000 and a 15% commission. They have \$27,000 already. There would be no costs to the Borough and no benefits would have to be paid. The trustees would write a job description. George Frey is in charge of the building and will run it. Events will have to be scheduled through George Frey. All monies received will pay down the debt. The corporation might get a host liability insurance policy so that liquor could be served. The committee has looked at every aspect of the project to save money. He estimated that they are \$1 million under budget.

Councilmember Trawinski pointed out that the liability issue should be reviewed by Attorney Kates. He wondered if the Borough had to sublease the building back for events and if \$30,000 would be sufficient. Mr. Cosgrove indicated that they will do an extensive search to find someone.

Acting Manager Metzler recommended that the Council give the Committee time to work out the details and then submit them to the Council. Everyone agrees that the cultural side of the building can bring in revenue. The Committee expects to raise \$250,000 in revenue the first year.

Although Councilmember Trawinski and Deputy Mayor McCarthy wanted to hear the details, the consensus was for the Trustees to work out the details for an Executive Director. Their attorney will contact Attorney Kates.

Mr. Cosgrove anticipates that the Recreation Department will be moving in around April 1. The groups will be moving back into the building in May. A grand opening will probably be held in June.

NAMING OF PLAQUE AND PAPER STREET - RECREATION/COMMUNITY CENTER

Acting Manager Metzler stated that John Cosgrove had contacted him about the names that should be on the bronze plaque for the dedication for the facility. They need to order the sign.

He continued that the trustees have requested that the paper street generated by the exit way be named. Mr. Cosgrove stated they made that recommendation because there is one individual on the committee who has saved the Borough thousands of dollars and put thousands of hours into this project. Acting Manager Metzler recommended that the request be referred to the subcommittee for their recommendation.

Page Three

Work Session

February 7, 2006

There was a consensus that the plaque and naming of the paper street will be discussed again at the next work session.

REQUEST FOR LICENSE AGREEMENT FROM MAINARDI MANAGEMENT CO.

Steve Mainardi, Esq. of Mainardi and Mainardi, representing Margand, LLC, Rick Mainardi, Property Manager and Alan Weitzman, architect were present. Margand, LLC owns the Shopping Center at Plaza Road. They requested a license arrangement to permit them to use a portion of the right-of-way for a outdoor seating area for their newest tenant Panera Bread. When Martys Shoes left a Dollar Store approached them. Deputy Mayor Weinstein and Don Smartt met with them and asked that they try to find a use that would attract more people to the area. They intend to improve the area by putting on a new facade and installing new sidewalks. Mr. Weitzman prepared plans for a facade improvement. Goodmans is moving into Martys Shoes space.

They are finalizing a lease agreement with Panera Bread. The agreement is contingent on Panera Bread getting the outdoor seating area on the Plaza Road side of the store where the bus stop is currently located.

They are voluntarily making improvements to the shopping center which will cost between \$100,000 and \$200,000. They want to improve the seating area at their own expense. They will install pavers, landscaping and benches. They would be willing to maintain that area at their own expense. They want to try to work with the EDC and they would be willing to help contribute to some of the improvements.

Mayor Etler did not think the Council should be giving agreements away. There should be some type of fee. Councilmember Trawinski felt there had to be some type of licensing agreement.

Acting Manager Metzler had been asked to check with Engineering who has advised that this is a policy issue to be decided by the Council.

Mr. Mainardi pointed out they will be making a substantial improvement to the area at a great expense. Panera Bread requires the outdoor seating area.

Deputy Mayor McCarthy felt it would be a great improvement to the area. The license agreement should not be cost prohibitive to the applicant. It is a great opportunity for the Borough Deputy Mayor Weinstein stated this is a major injection of vitality to the

community. It has been the goal of the Business Leadership Committee and the EDC to attract good businesses to Fair Lawn. It will spur revitalization of the area. The Council needs to be fair.

Mayor Etlar indicated that the Council will discuss a fee in Closed Session. They can get in touch with the Borough Attorney.

Mr. Mainardi reminded them that time is of the essence. Mr. Weitzman presented an overview of the conceptual plan.

Page Four

Work Session

February 7, 2006

Stu Herrmann, Chairman of the EDC, stated that the Mainardi family appeared before the EDC. The EDC is behind the project conceptually although they are many details to work out.

Attorney Kates asked if the use of the right-of-way will have permanent fixtures. Mr. Mainardi indicated that there will be four tables which will be seasonal.

ALAIMO SIGN

Acting Manager Metzler indicated that the dedication will be held at April 29 at 10:00 a.m. He met with Mrs. Collura who thinks John Alaimo has made significant contributions to the community and had no problem with the field at Berdan Grove being named in his honor.

The consensus was to name the ballfield at Berdan Grove in honor of John Alaimo.

RIVER ROAD TRAFFIC CALMING DEVICES

Deputy Mayor Weinstein reported that the first subcommittee meeting was held. The only area that they agreed on was River Road by the Post Office. They agreed to create bump outs on both sides of the street. They recommended telling the Traffic Safety Officer and the Engineer to ascertain the actual costs and to see if there are any grants available. Mayor Etlar wanted a chance to see it before they do it. Acting Manager Metzler indicated that the Engineer wanted to know that the Council was willing to go forward. They would do drawings and bring it back to the Council.

Deputy Mayor McCarthy wondered about the cost and the amount of labor involved in removable speed bumps. Councilmember Trawinski stated the Engineer had sent a memo that it costs about \$6,000 and it would take a crew two to three days to move and relocate them. He did not know how they stood up to the rigors of snow plowing. Deputy Mayor Weinstein indicated that they will bring this matter back to the subcommittee.

The consensus was to have Engineering proceed.

GEESE MANAGEMENT PROGRAM

Acting Manager Metzler recommended that they ask Superintendent Frey to prepare an RFP. The program over the last three years has been very successful.

The Council concurred.

ADMINISTRATION OF FAIR LAWN COMMONS AFFORDABLE RENTAL UNITS

The administration and oversight have been transferred to New Jersey Housing and Mortgage Finance. Fair Lawn Commons has requested permission to transfer the administration to Piazza & Associates, Inc. He referred it to Planning who has no objection to their handling it.

Page Five

February 7, 2006

The consensus was to approve the request. A resolution will be adopted at the next meeting.

DATES FOR FIREWORKS

The consensus was to hold the fireworks on July 2 with a rain date of July 3.

FAIR LAWN HIGH SCHOOL MARATHON 2006

The consensus was to approve the request for the annual marathon. A resolution will be adopted at the next meeting.

MESSAGE ESTABLISHMENTS/MASSAGISTS LICENSE APPLICATIONS

Municipal Clerk Kwasniewski advised that she had received several applications. She has received the fingerprints back from the State Police and the applications are now ready for the Council to approve. She asked if they wanted to review each application or could she put the resolution for approval on the Consent Agenda.

The consensus was that as long as the applicants meet all the conditions for approval the resolution could be placed on the Consent Agenda.

MCDONALDS/IHOP

Councilmember Trawinski questioned whether the zoning officer had applied the standards fairly to both McDonalds and IHOP. He wanted to be sure that the ordinances were being enforced even handedly. McDonalds was allowed to maintain temporary cones which he thought was a clear violation of the site plan. IHOP received a violation for a sign although McDonalds has had banners. Also the fence at McDonalds has not received a violation for the fence.

Manager Metzler replied that McDonalds' attorney was informed of the violations of the site plan approval. They will return to the Zoning Board on February 23. McDonalds also changed the sign on the building across the street. They received a violation for that change. They will have to apply for a variance for that sign. McDonalds received a violation for the fence and McDonalds has come in for a permit which has been denied. They need to remove it or include it in their amended site plan application.

On January 6 all the businesses on Broadway were inspected and 16 violations of the sign ordinance were issued. They reinspected on January 25 and the violations were abated. During the visit at the council's request for the McDonalds' fence, they saw the sign on the IHOP and a violation was issued. The banner was removed and the violation was abated.

Councilmember Baratta stated that the residents on 37th Street advised her that there was another police incident over the weekend.

Page Six

February 7, 2006

PLANNED COMMUNITY DEMOCRACY ORDINANCE

Attorney Kates stated that he in order to render his opinion, he reviewed the governing documents of the Radburn Association, the Certificate of Incorporation, the bylaws, the correspondence from Acting Commissioners Richmans letter to Assemblyman Gordon, correspondence from Ed Hanneman of DCA to Robert Matule, the draft bill introduced by Assemblyman Gordon, the statutes and case law.

He indicated that they had to look at municipal intervention. Radburn by its bylaws has excluded its residents from the nominating process and there appears to be a distinction between residents and voting members. He is operating on the assumption that there is anti democratic procedures in the community. The criterion that justifies the governing body acting includes a threat to the general welfare, safety, health or convenience of the public or that there is an interference with governmental assets or functions or that there is municipal sponsorship at Radburn. He does not see this situation rising to the level of any of those categories.

The laws and statutes that govern the not-for-profit corporations seem to authorize them to govern themselves. There is a 50-year history of the community under these rules. He does not feel that the municipality has the right to intervene and challenge Radburn's rules of governance. The residents have the absolute right to intervene. The Appellate Division on behalf of a community in Toms Rivers determined that those rules of governance were not democratic. However, it was the individual members of the community asserting their rights not the host town.

The public treasurer is being asked to be used to fight what is really a private battle.

He then discussed preemption and the Teaneck case regarding block busting. He did not think this case was the same. He was not concerned about the preemption issue. He just does not see a public interest that would justify the Council's intervention. He thought if the ordinance was challenged, they would have a difficult time sustaining it.

Councilmember Trawinski stated that the existing trustees and members of Radburn are not willing to allow democracy in Radburn. He thought their action in adopting the ordinance would help move the bill in the Senate. He thought it was exactly like the Teaneck case. There is nothing more fundamental to the residents of Radburn than democracy. Democracy is not a private battle. It is a public battle. If he has to spend

public dollars to bring democracy, he was willing to do so. He read an excerpt from Congressman Rothman's letter. He hoped that the Council would support the ordinance.

Deputy Mayor Weinstein stated that he agrees that there might be something wrong in Radburn. The ordinance would continue to splinter and fracture the neighborhood of Radburn. This is a serious issue and he agrees that something has to be done but it is not the place of the Borough to spend tax dollars for a lawsuit they would lose. He disagreed totally with the penalties in the ordinance. He will not be supporting this ordinance.

Deputy Mayor McCarthy stated that he would defer to Attorney Kates opinion. He is comfortable with him. He is highly respected in the area of municipal law. If he thinks the

Page Seven

February 7, 2006

Borough does not have the authority to involve itself in this dispute, he trusts that opinion. While they have personal feelings about what is going on in Radburn, he is obligated to rely on the Borough Attorney.

Councilmember Baratta stated that Attorney Kates did a very thorough and thoughtful job researching this issue, but she agrees with Councilmember Trawinski. She is willing to take the risk for democracy. She would like to see the ordinance introduced. If the Council does not intervene, then it is condoning what is happening in Radburn.

Deputy Mayor McCarthy suggested passing a resolution in support of Assemblyman Gordon's bill and the companion bill in the Senate.

Mayor Etler stated that he cannot have the Borough entangled in a law suit. This is a private fight between the residents of Radburn and the trustees. He could not support spending public money for this fight. The governance of Radburn is undemocratic and he has empathy for those residents but passing the ordinance is not the solution. He added that A-897 passed 71-0 in the Assembly. It is stalled in the Senate, but they have started to hold hearings. He would be willing to send letters of support to them.

The consensus was not to introduce the ordinance with Councilmember Baratta and Councilmember Trawinski dissenting.

SPECIAL MEETING:

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

Mayor Etler reconvened the Work Session at 10:20 p.m.

PUBLIC COMMENTS:

Daniel Capozzi, 19-14 Hunter Place, expressed concern about crossing at Plaza Road and Fair Lawn Avenue. He thought the signal time should be extended. Deputy Mayor Etler stated that the lights are going to be retimed when the Chandler Drive light is finished. Councilmember Trawinski added that Gary Ascoles, County Engineer was at that intersection in 1997 and the crossing time as 45 seconds. He suggested having the Manager ask the County to look at it again.

Don Oliver, 18-32 Mitchell Place, stated that narrowing the roads may work as a traffic calming device, but he wants to see some enforcement. Although he is against spending tax dollars, he thought the Radburn democracy issue was one to undertake.

Harvey Rubinstein, 28 Rutgers Terrace, asked that the attorneys review the uses that are permitted in the B-2 Zone.

Arlene Rubinstein, 28 Rutgers Terrace, that thought the public should be able to ask Mr. Smartt questions. She criticized Deputy Mayor Weinstein for criticizing Councilmember Trawinski.

Page Eight

February 7, 2006

Bob Gremillot, 1 Bristol Place, expressed concern about the cones. Mayor Etlar explained that there will be bump outs to narrow the road. The Council will be looking at the plans before they are installed.

Mr. Gremillot then asked if the master plan had been approved. Deputy Mayor Weinstein replied that it was.

Jo Marie Sacchinelli, 23-17 Ellington Road, wanted to know why they discussed appointments to the various boards in Closed Session. Mayor Etlar explained that it was personnel. Attorney Kates said it is a public position and it makes no difference whether they are paid or volunteers. The Council does not want to embarrass people by discussing them in public session.

Larry Koplik, 6 Reading Terrace, thought the Panera Bread project for the Radburn area was very exciting. He thought it should look more like the Plaza building. He thought it would be good for the town.

Craig Miller, 5 Ramapo Terrace, expressed concern that the Council was voting on the party lines. He felt strongly that the Council take a stand and help the residents of Radburn. He felt if the Borough Boards could ask an applicant if they have Radburn approval, the Council should get involved.

Bob Gulack, 4 Bancroft Place, pointed out that the Borough Attorney said that the Democracy ordinance is not preempted so it is for the Council to make a judgment call. The Borough will not get State money until there is democracy in Radburn. There is no guarantee the Gordon bill will pass. The ordinance would bring healing to Radburn. He felt the Council betrayed the ideals of democracy.

Donal Meyers, 8-22 Mayfair Terrace, thought the Council spent money without any thought on many other items. He urged Councilmember Baratta and Councilmember Trawinski to put the resolution on the agenda and let the other members tell the people of Fair Lawn why they were opposed to democracy.

Stuart Shaw, 19-32 Chandler, thought the Council had made a disgraceful and horrific decision not to pass the planned democracy ordinance.

June Meyerson, 15 Ballard, was disappointed in the Council's decision. Congressman

Rothman made it clear that no action would be taken on Open Space unless the issue of Radburn democracy is resolved. This is a Fair Lawn issue. She asked them to reconsider their decision.

Heather Blecher, 38-54 Van Riper Place, invited the Council to participate in a ribbon cutting ceremony of the TJ and Milnes Carnival 10-year anniversary.

Kathy Moore, 13-16 Plaza Road stated that the Radburn Association and in particular Louise Orlando did not tell her about the pollution under her house so she has been

Page Nine

February 7, 2006

harmed both financially and possibly health. She worked hard to get the open space initiative on the ballot and was concerned that they would lose it.

Louise Orlando, 12 Arlington Place, stated there was contamination that showed up in the monitoring well directly behind Topps in 1995 in testing done by BASF. To date no one knows where that pollution plume is going so there is no way she could have known where it is going. She felt that it is incorrect to say that only a small clique of people are nominated to stand for election. They are a diverse group of people. They have to function as a business. The Board acts as a nominating committee of the whole. People have been on the Board of Education and on the Council.

It was the intent of the developer to turn control over to its residents. Its residents are the trustees. People can nominate themselves. The residents and the tenants, who would not be eligible to vote under PREDA, have the opportunity to vote. The Board has been working with DCA to figure out ways to accommodate alternate dispute resolution and open public meetings. It is incorrect to say that the majority of people in Radburn are being in bondage.

Barbara Gremillot, 1 Bristol Place, pointed out that Daly Field was sold without the residents knowledge.

Bob Gulack, 4 Bancroft Place, stated that 75% of the people who voted voted for June Meyerson and her slate of reform candidates. The write-in votes were discarded.

Martha Paszek, 6 Bedford Place, stated everyone knows how dedicated that she has been to reforming Radburn governance and preserving green space, however, she thought the ordinance was a little disingenuous. Councilmember Baratta and Councilmember Trawinski ran on an anti-tax, pay to play platform. If the ordinance does not work, the citizen will be paying the fees to Radburn and the counsel fees through their taxes. It is wrong to berate the Council for their decision. They represent all of Fair Lawn.

Councilmember Baratta stated that there is no price tag for democracy.

CLOSED SESSION:

Upon motion by Councilmember Trawinski and seconded by Deputy Mayor Weinstein, the following closed session resolution was unanimously adopted at 11:05 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 personnel and contract negotiation; and

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

Page Ten

Work Session

February 7, 2006

WHEREAS, public disclosure of the results of these discussions shall be made upon the resolution of this matter by formal action by either the Mayor and Council or the Borough Manager;

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.

Mayor Etler reconvened the meeting at 11:40 p.m.

JOINT MEETING WITH THE BOARD OF EDUCATION:

It was agreed to meet with the Board of Education on March 13, 2006 at 7:30 p.m.

Adjournment:

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Weinstein, the meeting was adjourned at 11:45 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