

## **REGULAR MEETING OF JULY 18, 2006**

Mayor Etler called the meeting to order at 7:34 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:** Manager Metzler, Municipal Clerk Kwasniewski, Assistant Municipal Clerk Bojanowski and Attorney Kates.

### **Swearing in of OEM Coordinator**

Deputy Mayor Etler stated they would be swearing in Ira Marks as the new Office of Emergency Services Coordinator.

Borough Manager Metzler acknowledged all volunteers. He also acknowledges the support the Mayor and Council have given.

Borough Manager Metzler explained that Ira Marks has been the Deputy Emergency Services Coordinator since 1999 and is a C.E.M. and was very proud and extremely confident in his abilities. He added it was his honor to swear him in this evening.

### **COUNCIL COMMENTS:**

Deputy Mayor Weinstein complimented the Mayor on the FAR Ordinance and explained how Mayor Etler has motivated the Council as well as the staff. He believed with all the information they have received in the past week that they should have the FAR Ordinance in effect by September.

Deputy Mayor Weinstein added the Manager had two meetings on Wednesday of which he had attended one of them with the Board of Education on the Shared Services Program. He explained the Board of Education has their third meeting and it was a very progressive meeting regarding to the buses hopefully moving to the D.P.W. complex. He complimented Superintendent of Public Works. Ron Conte for putting together an excellent power point presentation which went over the whole complex and gave a good understanding of how it was running and where the space would be available and how it could work for the Board of Ed. He explained the importance of this was that the buses

(24 approximately) could not only be parked there and share the fuel supply and in the mechanic shop. The bottom line would be a savings for the tax payers.

He added through the Central Bergen shared services it may be possible for the Borough to rent to other communities some vehicles. The Borough would charge for the usage.

Manager Metzler explained there are ten towns including Fair Lawn that will make up the Bergen County Cooperative. He added five of the those communities have resolutions in place and this Council will have on its agenda an inter-local agreement that will form the co-op. He agreed with Deputy Mayor Weinstein on his explanation of how this would be a benefit to the community. He added the equipment and the operator would be available to another community to borrow.

Manager Metzler stated they were also looking at a road re-paving program. The next meeting will include the 2007 anticipated Capital budget items to see if there are any opportunities to group together any vehicles or equipment for purchase. He added two of the towns have gone out to bid on various occasions for things such as police cars and were able to get a price a bit better than a state contract. He stated they would group together all of the police cars that would be purchased by the ten towns to see what type of savings they could realize. He stated this was moving forward but with some caution because they want to make sure it is done right. They are receiving guidance from other cooperatives and his expectation is that they should realize some of these savings in the 2007 budget year.

Councilmember Trawinski congratulated Ira Marks and his willingness to serve. He added it was his belief that Ira would be an insurance policy to this community if an emergency should come up that would require his services. He also thanked Manager Metzler as the outgoing Emergency Management Coordinator for his services.

Councilmember Trawinski recapped how he and Councilmember Baratta have been trying to end McMansions on Fair Lawn. He added they have a long way to go but the Council is moving in the right directions. He explained that Mayor Etler has asked to take the lead on this and stated all that matter is that they put an end to this so the people who have argued to keep the integrity and quality of neighborhoods and quality of life can be assured that they will continue to work on this matter. He implored the residents of this town to let the Planning Board know that the Council next year will budget the funds to enable them to redo the Master Plan for the first time in its entirety in more than two decades to create a new vision for Fair Lawn. One that helps maintain the quality of life to the extent they can do that and a vision that enables them to stop planning by zoning variance and instead by good sound planning. He was confident with the leadership the Mayor has shown on this issue that he and the other Councilmembers will follow him and move in that direction next year.

Councilmember Baratta congratulated Ira and believed Fair Lawn was blessed to have him.

Councilmember Baratta explained she would be recusing herself from the raffle resolution due to the fact that she is an employee of St. Annes. She wanted people to understand the reason and that she was not for or against it but there was a conflict of interest. She explained at the last meeting both herself and Councilmember Trawinski recused themselves from another resolution last meeting because of a conflict of which they have received a small contribution from Don Smartt's company and they felt they should be recuse themselves because of that. They were both in favor of the Broadway Improvement Corporation.

Deputy Mayor McCarthy thanked and congratulated Ira Marks for his service and echoed his confidence as well in Ira in his new position.

Deputy Mayor McCarthy stated he and Deputy Mayor Weinstein attended the All-Sports Association Scholarship Night. The All-Sports Association provided six scholarships to former members of association who are moving from high school to college. This program has been one of the true benefits of the Borough and has touched the lives of many young children including himself. He thanked Kenny Marks who has been involved for thirty-five years of continued service as well as all of the members who sponsor our programs.

Mayor Etlar believed the shared services needed a little more attending to and that they are dealing with about ten towns and this town is the lead agency in a shared services operation. He gave the names of all ten towns that were involved in this service. He added all these towns are facing the same problems as Fair Lawn.

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

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

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

### **RESOLUTIONS BY CONSENT #21-2006**

Upon motion by Councilmember Trawinski and a second by Deputy Mayor McCarthy, Consent Agenda 21-2006 containing the following items was unanimously passed.

- a. Resol. #250-2006 - Approval of Minutes:
  - Special Meeting 3/21/06
  - Regular Meeting 3/28/06
  - Closed Session 3/28/06
  - Special Meeting 4/4/06
  - Closed Session 4/4/06
  - Work Session 4/4/06
  - Closed Session 4/4/06
  - Regular Meeting 4/11/06

- b. Resol. #251-2006 - Refund of Overpayment of Taxes
- c. Resol. #252-2006 - Confirmation of Fire Board Actions
- d. Resol. #253-2006 - Approval of Raffles & Bingo:
  - Temple Beth Sholom - Bingo
  - Resol. #254-2006 - Award of Bid: Industrial Supplies
- e.
- f. Resol. #255-2006 - Approval of Knights of Pythias Circus
- g. Resol. #256-2006 - License Agreement - 16-10 Mandon Place
- h. Resol. #257-2006 - Amending Professional Services Agreement - Tax Map Preparation

**RESOLUTION NO. 258-2006 PLACE TO PLACE TRANSFER OF LIQUOR LICENSE: B&B LIQUORS INC.**

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, the time for public comments on Resolution #258-2006 was opened.

Councilmember Trawinski complimented the applicant on revitalizing River Road. He added the facility was superb and wished them luck.

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, Resolution No. 258-2006 was passed with Deputy Mayor Weinstein recusing himself.

**RESOLUTION NO. 259-2006 APPROVAL OF RAFFLES & BINGO: ST. ANNE'S CHURCH - OFF PREMISES 50/50**

Upon motion by Deputy Mayor Weinstein and a second by Deputy Mayor McCarthy, the time for public comments on Resolution No. 259-2006 was opened.

Upon motion by Deputy Mayor Weinstein and a second by Deputy Mayor McCarthy, Resolution No. 258-2006 was passed with Councilmember Trawinski and Councilmember Baratta recusing themselves.

**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.

Arlene Rubinstein, 28 Rutgers Terrace read the perceptions from a 17-year old woman visiting from Texas who had been in attendance at the Council meetings for the last two months.

Ron Cole, 10 Ramapo Terrace stated the Radburn trustees have spent \$62,000 in attorneys fees trying to figure out how they can not respond to the law and finally settle their position. Mr. Cole quoted from a citizen's association meeting that "we have agreed to disagree with the State of New Jersey and the only way for this to be resolved is through

litigation". He added as a laymen he believed that meant they were in contempt of the government. He added they still have hope and never give up. He stated an accounting firm had been hired to do an audit so maybe sometime they would find out how their money was spent. Mr. Cole stated were also told there would be a provision for alternate dispute resolutions by the summer and that still has not happened. He explained how the citizens were told there would be open meetings that they could attend to see what happens at board meetings but the door is still locked.

He explained ten citizens got together and they drafted some proposals on how Radburn could become more democratic in its election process. He stated there were three trustees in that group and although they do not believe they would adopt any of this at least there will be some suggestions in place that can be referred to that may be among.

He stated they have been collecting signatures on a petitions to put the democracy ordinance that this council has not passed on the ballot. He advised anyone who wished to sign the petition that they could go to the Post Offices this Saturday and do so.

Harvey Rubinstein, 28 Rutgers Terrace believed that the FAR regulations on the McMasons rules would not solve the height of these buildings. He explained at the Zoning Board meeting this month there was a house on Sanford Road that is going four feet higher than the existing house next door which was already altered. He believe that either they enforce the 30 foot or go to 35 feet because independent architects have come before the Zoning Board and said they could not design a modern home with modern bedrooms upstairs without going to the 35 foot height. He stated if they did not want to do it themselves then they should put it on the referendum and let the people vote.

Mr. Rubinstein stated the letter sent out by the Broadway Improvement District, RRIC and the Economic Development concerning the Clariant property is untrue. It is a lie and should be corrected by them in the next letter. He stated the Council unanimously sent the Clairiant property to the Planning Board, and they sent it back with one dissension. He asked if Attorney Kates has already written the ordinance then what does the Council want back from all the board they sent it to.

Felice Koplik, 6 Reading Terrace agreed that the Master Plan should be redone. She explained the Master Plan should reflect the goals and objectives of the community today in 2006. She added with everything that is going on with development in Fair Lawn, including large townhouse developments, McMasons, road work, traffic lights, pedestrian traffic patterns, rezoning of properties, proposals for our business districts, changes to our industrial properties etc, they need to ask themselves if these are changes that have been thought out before hand. They need an overall objective and the community to give their input.

Stuart Golding, 14 Rutgers Terrace stated the legal action against Fair Lawn kept being brought up and the silence from the Council is chilling. He believed the Council interest was little or none at all. He has not been able to speak with Attorney Kates because

Attorney Lustgarten was handling this and no one on the Council speaks up. This routine has been going on for several months. The Council has stated in the past they wanted to save Daly Field and Open Space, low density and if that were the truth they would be monitoring very closely the legal events relevant to the lawsuit. He had an issue with Attorney Lustgarten represented Fair Lawn because he was not the Borough Attorney and therefore works for a different boss.

Mayor Etlar stated Attorney Lustgarten is a fine attorney and was the Borough attorney for 22 years and he was familiar with the case. He believed the case was in good hands.

Councilmember Trawinski believed the case was in good hands and that Attorney Lustgarten had the knowledge. He believed Mr. Golding was wrong about the Council not caring about this litigation. He added the lawsuits are worse than government, they plod along at their own pace. This matter has been on a number of closed session agendas including tonight with Attorney Lustgarten and Attorney Kates. They need to let the litigation work itself out.

Deputy Mayor Weinstein believed that Attorney Lustgarten was the right choice for this case. He added with regard to not caring he believed the less that is said is better especially when something is in litigation.

Stan Hayden, 12 Beekman Place spoke about the Clariant property and felt it was a toxic dump and did not know what the rush to raise a high density, grade height and increase taxes in town because of the children was that will be there. For every dollar that is raised that it cost a \$1.25 - \$1.50 so why do this. He stated the Council has acted unanimously and if everyone is thinking the same way in the room then someone is not thinking. He brought copies of a newsletter from the DEP and explained New Jersey is very interested in getting rid of the brown field which are great for playground for 8 hours not 24/7. There are many contaminants and it is a disaster waiting to happen. He believed the Council needs to do something collectively and actively before something happens that would be bad to this town. Why not wait to see what happens, perhaps a commercial enterprise will want to use it.

Deputy Mayor Weinstein stated the owner has put in millions of dollars of clean up. The actual development looks good for the area and many of the residents who live there are positive about the development. He was not rushing to do anything.

Robert Schafer, 23-33 Berkshire asked the status regarding the traffic study being done on one way streets. His concern was for the children in the area riding their bikes and was worried there would be terrible accidents. Manager Metzler apologized for not being aware of the study but would contact Officer Franco first thing and get a report on that and get in touch with him with the results.

Mr. Schafer asked about the spray painting on the pavement and whether they were planning to do something. Manager Metzler believed they were from the sewer department regarding the storm drain project.

Mr. Schafer asked about the intersection of Broadway and Plaza Road where the Broadway Adult Daycare Center and all the additional traffic there now. He has recently seen a significant number of vans coming in and out. There is also the health club and a new spa. Mayor Etler stated that was a permitted use and have licenses. Mr. Schafer stated as a resident of Berkshire Road he thought he would have heard something and would prefer knowing what is going on in his community. Manager Metzler stated someone raised a question about the number of buses/vans that were being left on that property. He reviewed the resolutions that allowed them to occupy that space. It was determined that they did not exceed the number of vans that were approved at that time. He added he would re-examine that issue now. He echoed what Mayor Etler said regarding the spa having all their permits and all inspections were done.

Jomarie Sachinelli, 23-17 Ellington Road stated during the testimony on the approval for the Broadway Daycare Center the owner stated she would only have 6-8 buses on the property. The final resolution did not state anything about a minimum.

Barbara Gremilot, 1 Bristol Place stated there is a mass exodus in this community. There are for sale signs all over. The older and younger couples are struggling. People cannot afford to live in this town anymore. It is too expensive and with the Recreation Center that was put up without a vote it makes it impossible for some people to stay here. She believed it was time for the Council to start listening to the people. Mayor Etler stated the Borough of Fair Lawn generates over 500 house for sale per year and believed the cause was due to the high value people were getting selling their homes.

Walter Weglein, 18 Ramsey Terrace thanked Manager Metzler for having the satellite dish at 1 Ramsey Terrace removed.

Mr. Weglein was puzzled about the Daly Field law suit. Although he appreciated all Mr. Lustgarten was doing, he did not understand why Mr. Kates who is a land use attorney and the Borough Attorney was not handling this. Mayor Etler stated Daly Field is not in litigation, the Hayward Tract is. Mr. Weglein asked what happens if they lose. Councilmember McCarthy stated Mr. Kates and Mr. Lustgarten do speak and work together. Mr. Lustgarten has been involved with this from the beginning and has lived in town and been involved with the Borough for a long time. He has a stronger position to be aware of the history. Mr. Kates believed there should be report and they will make it and let them know what the status is.

Brian Behan, 23-33 Berkshire Road asked Councilmember Baratta about the grant she had stated at election time that had money left over for the streets. Councilmember Baratta stated that money had gone to have the street repaved.

Mr. Behan asked about the construction with the gas and drainage line on Berkshire and what was going to be done since they just paved it and why pave if they would have to dig is up again. Mayor Etler stated there is a public service line there now that needs to be repositioned. Manager Metzler stated there was going to be a lot of digging and echoed what Mayor Etler. Mayor Etler stated those lines would connect from Berkshire to Midland Ave and down to the Fleisher Brook. He hoped this would finally stop the flooding.

Mr. Behan expressed concern about the traffic on Broadway and Plaza. The number of accident is high and asked if they ever considered making both sides no parking. Mayor Etler stated they would take a look at that.

Mr. Behan stated the new spa which is so extravagant inside looks terrible outside. He asked why the Broadway Improvement Corporation did not do anything to better that.

Rita Golding, 14 Rutgers Terrace stated she did not know the timing with the developer on the Clariant property and what is going to be built there. She stated they do not know how long it was going to take for Landmark vs. Fair Lawn to go through. If Clariant goes through first and they let them build a huge project and then they lose to Landmark, Fair Lawn is going to be in the middle of a horrible sandwich of high rises and population growth. She hoped whatever they have planned for the Clariant property that it would be kept to as much of a minimum of building as they can. Mayor Etler stated both applications stand alone. Councilmember Trawinski disagreed with Mayor Etler on these projects standing alone. He believed each application before a planning or zoning board stands or falls on its own merits. He felt there is a significant legal and practical inter-relationship between Clariant and the Mt Laurel obligation.

Bob Gremilot, 1 Bristol Place stated the people who lived in the area were asked about the Clariant property and if they wanted this type of development and they were for development. They were not asked, however, if they wanted single family homes. Now they have the comparison between Landmark and Clariant. He just heard about the pollution and chemical wasteland and felt before they move ahead they have to have this cleaned up. Mayor Etler stated they are in the process of cleaning this up. Mr. Gremilot stated they should take the time to clean it up before they move to the next step.

Deputy Mayor Weinstein stated each area stands on its own merits. He is not in the position that any neighborhood is above any other and he looks at it for the value of that particular area. He heard from the residents after seeing the actual project and what was being built and they approved of it. He added a number of them asked for applications to sign up to buy an apartment or townhouse.

Deputy Mayor McCarthy added one fact that was appealing to the residents was that they wanted to stay in Fair Lawn and were getting older and no longer wanted to have to maintain a home.

Mr. Gremilot hoped it was cleaned up before anything took place. Councilmember Baratta she has not made up her mind and was also concerned about the cleanup of that site.

Mr. Gremilot wanted to add another option, what if the residents were shown a park. He believed they would be very positive about that or anything that was not industrial.

Councilmember Trawinski stated he had with him a August 2001 report from the River Road Improvement Corp by its then planners. He read from the report where it stated the Clariant site offers the largest development parcel for River Road, it sits to the North of the center beside the Passaic River with a view of Paterson and Route 20. The site

encompasses a number of river front acres behind 3<sup>rd</sup> Street north to Range Road. It will undoubtedly have brown field issues as well as wetland issues along the river. The topography of the site includes a significant slope but will also offer an interesting building opportunity for luxury townhouses. Residential is the recommended use for this site to bolster consumer population for River Road and senior component should be considered as in any residential development. Mr. Trawinski stated planning that started in August of 2001 is anything but rushed planning.

Harvey Rubinstein, 18 Rutgers asked if the planners were using the integrity of the zoning ordinance or if they were recommending the higher intensity and density.

Mr. Rubinstein added at the Zoning Board meeting last night a well known figure politically connected to the majority of the Council came before the Zoning Board with an application. This application had existing 52% impervious coverage on the property and going to 53%. Nothing was done or said about the increase except that it was existing. He stated anyone who comes in with anything above 35% or 40% is told to cut back a walkway, pathway etc. He believed this applicant should have been told the same and the zoning regulations should be something this council should fight hard to retain. Mayor Etler believed it would be fair to have the applicant at this meeting when he is talking about it.

Deputy Mayor Weinstein added regarding the Master Plan, the only thing he agreed to was to send it to the Planning Board for their opinion. They have not funded or agreed to any funding of that at this time.

Stan Hayden, 12 Beekman Place stated if the Sandoz property is built on then the pollution is going to stay in the ground and put impervious coverage, asphalt and concrete over it. Mayor Etler stated they use sparging, which pumps fresh air into the ground where it is contaminated and bad air comes up and is grabbed. They have been doing this since 1987. Mr. Hayden did not think the EAP could be trusted. Mayor Etler stated the State and Federal EPA can be trusted. Mr. Hayden talked about kids, pregnant women and seniors living there and being at risk and did not think this decontamination would be successful.

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

### **CLOSED SESSION RESOLUTION - Pending Litigation**

Upon motion by Deputy Mayor McCarthy and a second by Councilmember Trawinski, the following Closed Session Resolution was passed.

**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

**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 conclusion of these matters by the Mayor and Council of the Borough of Fair Lawn.

**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 TO CLOSED SESSION:**

Upon motion by Deputy Mayor Weinstein and second by Deputy Mayor McCarthy, the meeting was adjourned at 9:00 p.m.

Respectfully submitted,

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Marilyn B. Bojanowski, RMC  
Assistant Municipal Clerk

The undersigned have read and approve the foregoing minutes.

\_\_\_\_\_  
Mayor Martin Etler

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

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Deputy Mayor Owen McCarthy

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Councilmember Ed Trawinski

\_\_\_\_\_  
Deputy Mayor Steven Weinstein