

REGULAR MEETING OF JUNE 13, 2006

Mayor Etler called the meeting to order at 7:31 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.

COUNCIL COMMENTS:

Deputy Mayor Weinstein stated that last weekend he attended the grand opening of the Community Center. He thanked the not for profit group for their participation in the Community Center. He felt it was a beautiful facility and it was time for everyone to come on board.

Deputy Mayor Weinstein said the Council and the Board of Education have created an ad-hoc committee. He asked if anyone is interested in participating in this committee to send in their resume.

Deputy Mayor Weinstein stated that tonight the Council will be introducing a strong pay to play ordinance and that he is proud to be putting this into place.

Councilmember Trawinski stated he was pleased that the Council has come together regarding the pay to play ordinance. It will be one of the toughest in the State.

Councilmember Baratta felt the grand opening of the Community Center was a success. The programs were wonderful. She also attended the Street Fair in Radburn and thought it was also successful.

Deputy Mayor McCarthy thanked and congratulated Superintendent George Frey and his staff for the success of the Memorial Day Parade. In regard to the Community Center, he thanked the 501(c)3 for their hard work in making this happen. He urged everyone to use the facility to see for themselves how great it is.

Deputy Mayor McCarthy agreed about the pay to play ordinance. The five Councilmembers worked collectively on this. He thanked the staff for helping.

Deputy Mayor McCarthy stated that the FAA had extended its deadline to send letters of opposition to them regarding changing the air traffic pattern that will increase 8% over Fair Lawn.

Mayor Etlar stated this past Friday he attended Memorial School's Points of Life assembly. It was great. He met with the teachers and students and felt they will be hearing more about this in the future.

ORDINANCES ON FIRST READING:

Upon motion by Deputy Mayor McCarthy and a second by Councilmember Trawinski, it was unanimously agreed to read the following ordinance by title.

Ordinance No. 2056-2006

"AN ORDINANCE TO AMEND AND SUPPLEMENT THE CODE OF THE BOROUGH OF FAIR LAWN 2000, BY ADDING TO CHAPTER 2 ENTITLED "ADMINISTRATION, DEPARTMENTS AND BUDGET AND FISCAL PROCEDURES" NEW ARTICLE XXI ENTITLED "WITHHOLDING PUBLIC CONTRACTS FROM POLITICAL CONTRIBUTORS"

Upon motion by Councilmember Trawinski and a second by Deputy Mayor McCarthy, Resolution No. 205-2006 introducing Ordinance No. 2056-2006 was discussed.

Deputy Mayor Weinstein stated that when they received this ordinance there were arbitrary numbers of \$300 and \$600 and to make this the strongest ordinance in the state, they brought it down to \$0, so that Fair Lawn has no tolerance for contributions at all. Those vendors who are professional service providers would be precluded from any no bid contract.

Attorney Kates stated the hiring of the professionals service provider is not the lowest responsible bidder in terms of services. It is based upon the hiring authority's evaluation of the professional, experience, skills and commitment.

Deputy Mayor Weinstein in paragraph C of section one, they speak about individual spouses and just wanted to make sure that was constitutional and if it is, is there anything they want to do to separate that from a situation where the spouse made a separate contribution. Attorney Kates felt it was too fine a line. He has never seen that separation in the precedents that have created this kind of regulation. It is certainly constitutional to say one cannot hide behind a spouse and make a contribution. He advised at this initial stage to leave it alone. If it turns out there are violations, they can tweak it. He said that he picked up a couple of technical things that he would like to go over. On page 1, the now

therefore clause, the sentence that says “who knowingly make substantial political contributions”, that word substantial was because at one time we had the \$300 figure, we should change since the amount of the contribution has been changed to \$0. On page 3, section 4, the title of the section “Return of Excess Contributions, change the word excess to volative contributions because any contribution would be considered a volative. The clause itself, section 4, provides for a curative procedure that is to say that the contribution is returned within a definitive period of time, then that potential contractor or professional can receive a Borough job or position. It is keyed to the 30 days after the general election.

He did not think that made real sense in terms of what they are trying to do. What they are trying to say is if that person made a contribution, they would be barred from getting a contract with the Borough. That contribution does not necessarily mean it is tied into an election. He advised there should be something other than the general election. He suggested 30 days prior to the reorganization meeting. Deputy Mayor Weinstein wondered if the ordinance could be amended after it is introduced. Attorney Kates advised they should focus on it now, since that kind of change in the ordinance would require it to be readvertised.

Councilmember Trawinski stated he would support all three changes, with Mayor Etler, Deputy Mayor Weinstein, Councilmember Baratta and Deputy Mayor McCarthy agreeing.

Councilmember Trawinski stated that the people of Fair Lawn deserve all the credit for this. This ordinance became a reality with the election that took place last November. Had not the people of Fair Lawn decided to make the change they made, he thought it would be extremely unlikely sitting here discussing this amendment. If the people of Fair Lawn don't think they can make a difference, he would respectfully suggest to them that not only can they make a difference, they made a difference. The Freeholders have said they need to make this same kind of change. The people need to let their voice be heard this November. They need to end the culture of corruption that exists in New Jersey and exists in our County. He thanked the people of Fair Lawn for making this change.

Councilmember Baratta stated she wanted everyone to know how significant this ordinance is. They collectively worked on this, it was sent to the attorney who made changes and came back to the Council. They came together to introduce this and hopefully pass it.

Deputy Mayor McCarthy stated that since the 1st of the year, all five of the Councilmembers have supported this. This ordinance is one of the strongest in New Jersey.

There being no further discussion, Resolution No. 205-2006 introducing Ordinance No. 2056-2006 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.

Ordinance No. 2057-2006

“AN ORDINANCE FIXING THE SALARIES OF CERTAIN EMPLOYEES OF THE BOROUGH OF FAIR LAWN, BERGEN COUNTY, NEW JERSEY AS AMENDED”

Upon motion by Deputy Mayor Weinstein and a second by Councilmember Trawinski, Resolution No. 206-2006 introducing Ordinance No. 2057-2006 was discussed.

Councilmember Trawinski stated this ordinance is for the Manager’s salary and for new employees and titles in the Building Department. Manager Metzler stated that in the past the Borough did not have full time Electrical Inspectors. In the past there were dual positions held. In regard to his salary, he advised that he had given up the duties of the Office of Emergency Management Director. Councilmember Trawinski stated that he was in favor of hiring additional personnel in the Building Department to ease the backlog.

There being no further discussion, Resolution No. 206-2006 introducing Ordinance No. 2057-2006 was unanimously passed.

RESOLUTION NO. 207-2006: Amendment to the Budget

Upon motion by Deputy Mayor Weinstein and a second by Councilmember Trawinski, Resolution No. 207-2006 was discussed.

Councilmember Trawinski said he would like the word “approved” changed to “introduced”. CFO Eccleston stated that is the way the State wants it.

There being no further comment, Resolution No. 207-2006 was passed.

PUBLIC HEARING ON LIFTING DEED RESTRICTIONS - 22-40 MAPLE AVENUE, 22-44 MAPLE AVENUE AND 22-50 MAPLE AVENUE

Upon motion by Councilmember Baratta and a second by Deputy Mayor Weinstein, the time for public comments regarding the lifting of deed restrictions was open.

Attorney Kates explained that the property by Maple Avenue and the park were created as a buffer. The trees have grown now and the need has changed. The car wash had entered into an agreement with the Borough and had paid \$6,000 a year for encroaching on this land. Currently The Reduce Corp. has a pending application with the Planning Board. They came before the Mayor and Council to get relief from this deed restriction. Based on computation by the Tax Assessor, what the car wash paid already is a sufficient amount. It is in the public interest to vacate this property. Mayor Etler said at the next work session they will discuss this further to have a resolution

added to the next meeting.

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Weinstein, the time for public comments was closed.

PUBLIC COMMENTS ON CONSENT AGENDA ITEMS ONLY

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

Councilmember Trawinski asked that item "O" be removed from the Consent Agenda so they could discuss it.

Harvey Rubinstein, 28 Rutgers Terrace questioned the award of bid for Fire Department & Fire Prevention Uniforms. Manager Metzler told him that Fire Prevention employees are required to wear uniforms.

Howard Mark, 12-23 Ferry Heights, had a question about the Naugle House. Councilmember Trawinski informed him to ask about this during the public comments section.

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

RESOLUTIONS BY CONSENT #18-2006

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Weinstein, Consent Agenda 18-2006 containing the following items excluding Resolution No. 222-2006 was unanimously passed.

- a. Resol. #208-2006 - Approval of Minutes:
 - Budget Meeting 2/28/06
 - Regular Meeting 2/28/06
 - Work Session 3/7/06
- b. Resol. #209-2006 - Award of Bid: HVAC Repair and Maintenance
- c. Resol. #210-2006 - Renewal of Liquor Licenses 2006-2007
- d. Resol. #211-2006 - Use of Walsh Pool by Oakland Summer Recreation
- e. Resol. #212-2006 - Refund of Overpayment of Taxes
- f. Resol. #213-2006 - Authorizing Issuance of Massagist License - Larisa Remennik
- g. Resol. #214-2006 - DOT Grant Application - Roadway Improvements for Berkshire Road, Plaza Road and Arcadia Road
- h. Resol. #215-2006 - DOT Grant Application - River Road Safety Improvements
- i. Resol. #216-2006 - Authorization to Execute Municipal Snow Plowing Agreement with the County of Bergen

- j. Resol. #217-2006 - Reject Brick Facing and Window Replacement Bid
- k. Resol. #218-2006 - Reject Boomer Compact Tractor Bid
- l. Resol. #219-2006 - Award of Bid: Fire & Fire Prevention Uniforms
- m. Resol. #220-2006 - Award of Bid: Senior Center HVAC System
- n. Resol. #221-2006 - Award of Bid: Maintenance & Cleaning Services
- o. Resol. #222-2006 - Removed
- p. Resol. #223-2006 - License Agreement - 18 Madelyne Place
- q. Resol. #224-2006 - Authorizing Execution of Borough Manager's Contract
- r. Resol. #225-2006 - Special Item of Revenue - Fair Lawn Community Center
- s. Resol. #226-2006 - Traffic Regulation - 36th Street

RESOLUTION NO. 222-2006 - Amending Fair Lawn Code of Ethics

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Weinstein, Resolution No. 222-2006 was discussed.

Councilmember Trawinski felt this was the first in the State. Before it was ethical to solicit funds from someone doing business in Fair Lawn. This will make it unethical to do that. He felt this will clean up the cancer of politics that has spread in Fair Lawn. He hoped that other towns will follow this lead. Councilmember Trawinski said that initially Deputy Mayor Weinstein brought this to the Council's attention, then it went to the Borough Attorney who advised them how to do this. This will apply to Councilmembers within a two year period before the election. He felt this was a giant step forward. He complimented Deputy Mayor Weinstein, all of the Council and Attorney Kates for working on this. He felt the residents of Fair Lawn deserve the Council's trust.

There being no further comment, Resolution No. 222-2006 was unanimously passed.

RESOLUTION NO. 227-2006 - Award of Bid: Trucks

Upon motion by Deputy Mayor Weinstein and a second by Deputy Mayor McCarthy, Resolution No. 227-2006 was passed with Councilmember Trawinski recusing himself.

MISCELLANEOUS PUBLIC COMMENTS

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

Arlene Rubinstein, 28 Rutgers Terrace, asked if wheeling was included in the ordinance. Councilmember Trawinski said that the burden would be on the business entity since they would have to disclose everything.

Stewart Shaw, 19-32 Chandler Drive, asked if there was a penalty for breaking the law. Attorney Kates advised that according to the Borough Code, there is a \$200 fine. Mr. Shaw asked if this pertained to the judges. Deputy Mayor McCarthy stated it applied to all professionals.

Howard Mark, 12-23 Ferry Heights, asked if deed restriction on Maple Avenue will affect Daly Field. Councilmember Trawinski advised that the deed restriction on Archery Plaza would have to be lifted by a judge.

Rita Golding, 14 Rutgers Terrace, thanked the Council for taking this giant step amending the code of ethics. Deputy Mayor McCarthy instructed her to write letters to their legislative leaders to endorse this. Councilmember Baratta said the addresses are on the Borough's website. Deputy Mayor McCarthy said the addresses of where to send the letters will be on the website.

Harvey Rubinstein, 28 Rutgers Terrace, discussed several items from the Work Session on June 7th and asked for the status on the fees for the Community Center, Mandon Place, and the traffic issue on Mayfair Terrace. He also said the new members of the Zoning Board do not visit the sites they are going to discuss and their meetings run too late. He felt that they should hire professional from around this area not South Jersey. Manager Metzler gave him an update on all of his questions. He also explained how they were managing the fees in the Community Center. He said their goal was to make it a revenue generating facility.

Stewart Shaw, 19-32 Chandler Drive, asked about the deed restriction on Maple Avenue. Attorney Kates explained how the deed restriction worked. Mr. Shaw said the Council voted in favor of development on the Clariant site. Attorney Kates advised that no decision has been made yet. Mr. Shaw said the Council was considering it and he thought it was crazy. He wondered how they could want more density and more height on this development. He also asked about COAH. Deputy Mayor McCarthy stated it is complicated and that the Borough is a defendant in COAH litigation. Mr. Shaw said is there any other reason besides COAH why the Borough would want this development. Mayor Etler said it was a good use for this property. Deputy Mayor McCarthy said a lot of residents were at the meeting and are in favor of the development. Mr. Shaw asked if the Borough had a salaried employee that kept track of the COAH obligation. He asked Attorney Kates to see the third round certification.

Craig Miller, 5 Ramapo Terrace, stated he was upset with the Council for having a timekeeper. If they want to improve customer service, they should look at themselves and take anger management classes.

Stewart Golding, 14 Rutgers Terrace, asked about the ad-hoc committee with the Board of Education. Deputy Mayor Weinstein stated that two members of the Board of Education along with Councilmember Trawinski, Manager Metzler and he met and felt it was time to work together to share services. One of the first topics was using the same fuel, the maintenance garage and parking lot. Mr. Golding asked who to write to in the FAA. Deputy Mayor Weinstein informed him where to find the names and addresses.

Suzanne DiGeronimo, 16 Beekman Place, stated that the developer for the Clairant site was asking for a variance which would allow for five stories. Mayor Etler said they

would not be high rises. Councilmember Trawinski said there would be thirteen units per acre. Mayor Etler said there will be 175 units in total. Ms. DiGeronimo said that she attended a conference where there was a presentation on COAH and found that the municipality sets the obligation. Mayor Etler said the State sets the obligation. Ms. DiGeronimo said if the Borough increased the density, they also added more to the COAH requirement. A lot of stress will be put on the Borough services. Deputy Mayor McCarthy stated that it would be up to the judges to say what the zoning will be. The builders will file for a remedy. Ms. DiGeronimo said that since they have such a good attorney, they should not have to run away from the Builders. She discussed several options the Borough has. Deputy Mayor McCarthy said that the Borough has gotten credits for several areas. Attorney Kates invited her to look at the third round submission. He advised her that the Borough has hired a planner who will be tweaking it. He said they invite her expertise on this matter.

Arlene Rubinstein, 28 Rutgers Terrace, stated that she seemed to recall a certain Councilmember when the McBride property was discussed, said this development would satisfy the COAH obligation. She felt creating a new zone in Fair Lawn would create an eye sore. She is not in favor of smart growth but is in favor of intelligent growth. Ms. Rubinstein felt this discourtesy from the Council had to stop. If they want respect, they have to give it.

Stan Hayden, 12 Beekman Place, stated that it seemed the Council was working on a budget that will keep taxes low. It seemed obvious that as density increases, the budget increases. He knows that building will go on. How and what you build is the problem. He felt there should be a limitation. There are two developments that will send taxes sky high. He suggested zoning the Clariant site as an R1-1 and felt that would be the best arrangement. Mr. Hayden stated that the site was not environmentally safe and in twenty to thirty years a lot of people may be getting sick. He suggested if the Council wants to stabilize taxes they should control growth.

Stewart Shaw, 19-32 Chandler Drive, asked what the COAH obligation was. Attorney Kates advised it was between 53 and 63 units.

Paul Shansky, 9-05 12th Street, said he had a meeting with other residents about the Clariant site. They had concerns about the speeding, traffic and the density of the town and the strain this development would have on the Borough services. He asked why it could not be left alone. He also wondered if the High School would have to be modified again. Deputy Mayor Weinstein stated that although they put the Clariant site on the Open Space list, the Borough will not get money for the brownfields part of it. Furthermore, it would not make sense for a builder to build single family homes on that lot, it is not conducive for that. The developer is still in the process of doing an analysis. Mr. Shansky said he was against changing the zone. He did not want the developer to think they could come into town and create density. Attorney Kates advised that the maximum height would be four stories or 55 feet. He reminded him that this is only a proposal. Mr. Shansky reminded them that the general feeling of the residents in that area is that they don't want this development. He suggested they try to preserve the area and should consider that the Home Depot will be built in Paterson across the river. Councilmember

Baratta stated the Council has not approved anything yet. She was glad that he shared his feelings with them.

Harvey Rubinstein, 28 Rutgers Terrace, said the Councilmembers should ask themselves about owing fifty-one million dollars.

Councilmember Trawinski stated that in regard to the Clariant site, the Council has not made any recommendations and have asked for additional information. He discussed the project that Carlstadt has been forced to accept with over 800 units. In regard to the Landmark suit, he felt the most powerful weapon the Borough had was the fact that Landmark did not have a builders remedy.

Councilmember Trawinski responded to Mrs. DiGeronimo's comment about COAH informing that every option has been reviewed by Ron Mondello and the Council. He thought that maybe he should go back and take another look. He felt the Borough will get their COAH obligation met. He understood the concern about the services and the economics involved with this project. He wanted to make sure that everyone understood that he does not support market rate townhouses in Fair Lawn. Councilmember Trawinski concluded that he would like the CCRF to continue their fight to keep Daly Field green.

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

ADJOURNMENT:

Upon motion by Deputy Mayor McCarthy and second by Deputy Mayor Weinstein, the meeting was adjourned at 9:19 p.m.

Respectfully submitted,

Marilyn B. Bojanowski, RMC
Assistant Municipal Clerk

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