

WORK SESSION OF JUNE 7, 2006

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

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

ALSO PRESENT: Manager Metzler, Municipal Clerk Kwasniewski, CFO Eccelston and Rob Pierson, Esq. for Attorney Kates.

37th STREET PETITION:

Manager Metzler distributed a sample resolution received from Officer Franco. As a result of the May 16th work session instead of putting an ordinance in place, Officer Franco suggested adopting a resolution which would allow the Borough to designate 36th Street from 37th Street to Broadway as one-way southbound for 90 days.

Michael Obsuth, 1-21 37th Street stated that the residents discussed closing the entrance making it one way out. He wanted to know what will happen after the 90 days. Councilmember Trawinski advised that the Council would seek to get feedback from the residents on how it is working.

Lou Silvestro, 1-30 37th Street asked for clarification on the 90 days. Councilmember Trawinski stated the Council would adopt an ordinance if it works. Mr. Silvestro added that the chain has been down the past two weeks. Deputy Mayor McCarthy added that this is a trial. During the 90 days, please contact any councilmember or the Manager. It is a first step in addressing this problem.

Domenick Szabb, 1-38 35th Street, supported the resolution for 36th and 37th but wanted to know how the traffic is going to affect 35th Street.

Helen Pallesen, 1-42 35th Street indicated that while she sympathized with their problem, they already have the tow trucks on Rosalie Street in front of their house. She does not think that making it one way will solve the problem. She is concerned about the traffic on the block. Councilmember Baratta indicated that the Council will be discussing two other issues that may affect the residents on 35th Street. If during the 90 days, it creates problems, she should let the Council know.

Tracy Tapp, 1-45 36th Street raised the issue of speeding.

The consensus was to adopt the resolution.

Councilmember Trawinski asked for a report on the traffic issue on Rosalie from Chief Rose.

McDONALDS POSSIBLE ZONING VIOLATIONS:

Mayor Etler stated they are putting the vehicles on the street which they should not be doing. The Manager indicated that he had spoken to the Zoning Officer and the Borough

Attorney. The zoning violations are under the jurisdiction of the Courts. Borough Attorney Kates has asked the Zoning Department to develop a list of all existing violations. Councilmember Trawinski stated that the Borough Attorney is supposed to draft an ordinance prohibiting the towing company from using public streets to warehouse vehicles. Mayor Etler added that cruising is also supposed to be prohibited.

Councilmember Trawinski stated that McDonalds and IHOP received a number of violations. McDonalds asked the Judge to hold the Municipal Court proceeding in abeyance because they were going to get zoning relief. McDonalds pulled the proceedings from the Zoning Board and went to Superior Court. He wanted to know if they were going back to the Municipal Court Judge because McDonalds has not lived up to what they said. Manager Metzler stated that he was under the impression that the matter was in Hackensack. Councilmember Trawinski thought they should not allow McDonalds to dictate that this matter is in Hackensack. This is a Fair Lawn zoning enforcement issue. They should go back to the municipal Judge to enforce it.

Michael Osbuth, 1-21 37th Street stated there is an ordinance that says there should be a double buffer zone. McDonalds does not have it. Councilmember Trawinski stated they received variance relief many years ago. Mr. Osbuth continued that landscaping was taken out. Councilmember Trawinski indicated that if the landscaping is on the site plan, it is a violation.

TOWING ORDINANCE:

Manager Metzler stated that he received a copy of the proposed ordinance and discussed it with the Police Department. They have scheduled a meeting with Attorney Kates. The Police Department has suggested that they include the fee schedule change. He expects it to be on the next work session agenda.

There was a consensus to include a prohibition of cruising which is in the Hackensack ordinance.

RECREATION/COMMUNITY CENTER FEE SCHEDULE:

Councilmember Trawinski asked if this item could be continued because he wants to walk through some of the rooms with the fees in hand.

This matter will be on the June 20 work session agenda.

FLTV PRODUCTIONS:

Mayor Etler reported that Wayne Robbins was employed by RRIC to do TV snapshots. He received a fee from RRIC and then received fees from the business. He did not think this was right. Municipal Clerk Kwasniewski reported that two years ago she spoke with the Borough Attorney when this matter was raised. Mr. Lustgarten stated that it was not the Borough's business except for content. They are not commercials. RRIC has now severed their relationship with Mr. Robbins. Manager Metzler stated that he spoke to Stu

Pace several months ago who had a few concerns but it was not a problem. He had spoken to Attorney Kates. Mr. Robbins was collecting a fee but it was covering his production costs. It was not a profit making operation. He has now told Attorney Kates that this is a side job so Attorney Kates has changed his opinion.

Mayor Etlar thought the Council should not allow this type of thing. Manager Metzler thought they need to allow Attorney Kates to tell them what he thought. If it was a business, it should not be on the public access channel.

Councilmember Baratta thought Channel 77 makes the decision. Deputy Mayor McCarthy believed there was a discussion when he first came on the Council that the Council would not get involved in programming decisions. This seems to be a situation that needs to be addressed. Councilmember Trawinski stated that if they were holding this matter for the Borough Attorney, he would like to see minutes of any discussion.

Frank Moldow, 35-02 Fair Lawn Avenue, stated she was a member of Fair Lawn TV and had spoken to RRIC who said that Wayne Robbins is paid for his time and material. She did not think that was bad but she did not think the merchants should have to pay.

Jane Brook, 27-27 Park Avenue thought he was leading the businesses to believe that he is part of the Fair Lawn TV which he is not.

This matter will be referred to the Borough Attorney for the next work session.

Manager Metzler stated after Mr. Pace resigned, he met with Arturo the current president. They discussed the commitments required. Arturo asked about the possibility of some type of incentive; i.e. a stipend or dinner to bring members in and after training them being able to keep them. It is difficult to get volunteers and then to keep them.

Arturo Mintepara, 9-09 Canger Place stated they are looking for some kind of incentive like they have for the other volunteer groups. They would set some rules to qualify for the reward. They have six or seven volunteers who are very committed. He has established a schedule. It is difficult because they have other commitments and there is no incentive. Councilmember Baratta wondered if he reached out to Creative Cable and the High School to work together. She was concerned about a stipend. In the past there was someone who was a paid employee and there were problems. Councilmember Trawinski suggested that the Manager give it some thought and come back to the Council with a recommendation. He was concerned about the impact on other volunteer groups who may start asking for incentives. They do a great job but an incentive has serious implications. Deputy Mayor McCarthy was also concerned that an incentive may be setting a dangerous precedent.

Deputy Mayor Weinstein arrived at 8:15 p.m.

Jane Brook, 27-27 Park Avenue thought they should have their expenses reimbursed for the shows they produce. CFO Eccleston stated that they have a \$10,000 line item every year.

Pam Coles, 14-34 George Street suggested that they contact the local University Communications Department.

This matter will be on the July 11 work session.

REVIEW OF TENTATIVE AGENDA:

Municipal Clerk Kwasniewski stated that she would like to add resolutions awarding the bid for the HVAC Senior Center and the Maintenance and Cleaning Service. Councilmember Trawinski stated that he will be recusing himself from voting on the resolution awarding the bid for trucks so this item cannot be on the Consent Agenda.

BUDGET WRAP UP:

Manager Metzler stated that they had presented their recommendations. They have had feedback from the public. It is now up to the Council. CFO Eccelston stated that he spoke to John Cosgrove who advised that it is their intention to make the September payment of \$524,021 that reduces the budget from 18 points to 15.9. He also has \$44,000 in other grants to be added although they have no impact on the tax rate. He suggested that they introduce a resolution to amend the budget on June 13. The amendment has to be published and then they have to have a hearing on the amendment. They could have the hearing and then adopt the budget on June 20.

Deputy Mayor Weinstein stated that he agreed with the Manager and Chief Financial Officer but he did hear what the residents said about taxes being too high although the residents also said they do not want services cut. He thought they could cut another two points to 14 which would amount to about \$266 increase for the average homeowner. CFO Eccelston stated that there will be sufficient surplus since the surplus is \$2 million.

Councilmember Trawinski stated that the Chief Financial Officer gave them a chart that said if they used more surplus the projected increase for 2007 would be 19.1 points. CFO Eccelston stated at the time he did not have some of the grants and the debt service payment.

Mayor Etlar thought it was prudent to reduce the increase by two points. Deputy Mayor McCarthy wanted to know the impact of 14 points. CFO Eccelston stated that he could run the numbers again. Councilmember Trawinski wanted to know if the trustees will be able to make any payments in 2007. CFO Eccelston stated that John Cosgrove thought they would have about \$400,000 left so they should be able to make the March payment and perhaps half of the September payment. In 2008 the Borough will have to make the full payment. Manager Metzler indicated that he would be more comfortable with the higher increase because of the reval.

Councilmember Baratta wanted to know if they are positive that the trustees will make the payments. CFO Eccelston stated that all of the funds are maintained by Amboy Bank who will make the payment directly. John Cosgrove could only guarantee the September 15 payment. They are working on the final accounting. Manager Metzler added that a final punch list has been prepared. They are in the process of an audit which will be supplied to the Council.

The consensus was to amend the budget to 14 points, with Councilmember Baratta and Councilmember Trawinski still undecided.

CABLEVISION RENEWAL:

Councilmember Trawinski recused himself.

Manager Metzler spoke to Gary Shaw who advised that their proposal is still tied up in their Legal Department. They expect that the proposal will be prepared in two to three weeks. As soon as he receives it, this item will be on a work session agenda.

Deputy Mayor Weinstein asked if they were interested in moving their studio to the Community Center. Municipal Clerk Kwasniewski stated that Cablevision had been asked that in the earlier discussions and they were not because they had just entered a new lease for the River Road location.

BANNING PAY TO PLAY ORDINANCE:

Deputy Mayor Weinstein stated that he sent a memo to the Borough Attorney asking for a written opinion on his original proposal. Councilmember Baratta thought they received a redlined version. Deputy Mayor Weinstein stated that the Borough Attorney had given him an article from the Code at that meeting. Councilmember Baratta did not know they were still waiting something on this matter. Deputy Mayor McCarthy stated that the Borough Attorney included something in their packages this afternoon although he had not had time to review it. Councilmember Trawinski believes that it is covered under the Ethics ordinance so if they want to make the Ethics ordinance as strong as Deputy Mayor Weinstein's language they have to get approval from the Department of Community Affairs. It involves a different section of the Code. He thought they were going to move the ordinance they have forward because the other ordinance comes under the other section. He thought they could ask Borough Attorney Kates to prepare the other ordinance but they should not delay introducing this ordinance.

There was a consensus to introduce the draft and then ask Borough Attorney to draft the language for the resolution to the DCA.

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

Manager Metzler advised that he has not received the final report from the Police Department. He will follow up with them.

RECREATION/CENTER COMMUNITY FEE SCHEDULE CONTINUED:

Deputy Mayor Weinstein wanted to know the procedure for the groups that have residents and nonresidents. Manager Metzler stated that Superintendent Frey met with the organizations advising them that the Borough is going to charge nonresidents to use the facility. There is a concern about the fee among the smaller clubs. One of the things that Superintendent Frey has reiterated is that art is a form of recreation. This is going to be

a topic for ongoing discussion and some of the groups may want to form clubs under the umbrella of the Recreation Center. He thought the per seat occupied charge should be applied to the theatrical groups. They would also have to pay for the sound and light operators. Many grants are available for the arts. It is in Fair Lawn's best interest to encourage the use of the facility for the arts. They also have to develop policies on dress rehearsals. Manager Metzler concluded that if an instructor wanted to rent the facility a fee would be charged. For members of the Art Association which is under the guise of the Recreation Department, residents will use the room for free and nonresidents will be charged a membership fee.

REZONING CLARIANT PROPERTY:

A presentation was made on May 2. The request for a zoning change was referred to the Planning Board. The Planning Board was in favor of creating a new zone. Borough Attorney Kates will have a draft for next work session.

Councilmember Trawinski stated that this is an opportunity to take care of the COAH obligation, a run down brownfields site next to the Passaic River and possibly being able to obtain a contribution toward the River walk. He reviewed the COAH submissions which indicate that the Borough's obligation is 22 units. The 15% set aside for COAH units will provide more than the Borough's obligation. He would like the Borough Attorney to look at this and confirm his analysis. If that analysis is correct, he thought they should look at the off track improvements, i.e., a traffic light at Bergen Avenue. He is absolutely satisfied that zoning to address the public welfare is not spot zoning.

Deputy Mayor McCarthy stated that Clariant is on the Planning Board agenda for Monday but if there is no ordinance, it may be premature.

Councilmember Baratta questioned the height the developer has requested in his proposal. Deputy Mayor McCarthy thought they can set the height restriction the Council deems appropriate. Councilmember Trawinski thought 45 feet was high enough.

Councilmember Baratta asked if they have to create a new zone or can they use one that already exists. Borough Attorney Kates should look at that as well as the other bulk requirements and have Doug Berg look at the ordinance in the draft form. Councilmember Baratta was concerned about the environmental issues, the river walk and the traffic light at Bergen Avenue.

Peter Kortright pointed out that the traffic signal is probably more appropriate on 3rd Street.

The consensus was for Borough Attorney Kates to give the Mayor and Council a draft for June 20.

NJ BROWNFIELDS PROGRAM:

Manager Metzler stated that they received a memo from DCA which explained the NJ Brownfields program. In order to participate in the program the municipality must name an

individual to be their representative. He asked if they were interested in participating in this program.

Councilmember Trawinski suggested that perhaps someone from the Open Space Committee might be interested in serving as the representative.

REQUEST FOR PERMISSION TO INSTALL FENCE (18 MADELYNE PLACE):

Mayor Etlar thought it was an innocuous request. Councilmember Trawinski did not see any issues. Manager Metzler indicated that the Engineering looked at the request and had no problems with it.

The consensus was to approve the request.

Manager Metzler indicated that Engineering suggested that the Mayor and Council defer the requests for fences to be installed in the easement to Engineering and the Construction Department. Mayor Etlar did not want to allow the decision to be taken away from the Council. Councilmember Trawinski indicated he was not prepared to give away that authority.

COUNTY FIRE TUCK LOAN:

Manager Metzler withdrew this item.

SHARED SERVICES CENTRAL BERGEN:

Manager Metzler reported that 10 communities in Bergen County who are trying to put together a shared services program. He asked the Council to consider allowing Fair Lawn to be the lead agency. Several items are being discussed including paying dues to offset the costs to the lead agency. Deputy Mayor Weinstein indicated that it was his understanding that the lead agency would be rotated among the communities depending on the project. Manager Metzler added that they will use the FEMA formula for reimbursement of the wear and tear on the equipment and the cost of the personnel. Mayor Etlar indicated that lending equipment is not a good idea because others may not take care of the equipment. Buying supplies is a good idea. Councilmember Trawinski disagreed with the Mayor and thought they should try it. Obviously there would be an agreement that if the equipment is damaged the municipality that did the damage would have to repair it. Manager Metzler added that for the specialized equipment, the operator would be hired to use it.

Manager Metzler stated that as the process continues, he will ask the Council what they want to participate in. He thought it would be extremely difficult to get communities to share fire apparatus but he thought there would be an opportunity for savings if they could agree on a single set of specifications and take advantage of economies of scale. The consensus was that Fair Lawn would be a lead agency.

Councilmember Trawinski suggested that they explore grants for shared services.

FLOOR AREA RATIO:

Mayor Etler suggested hiring a professional to draft the ordinance. He suggested using Boswell Engineering. Councilmember Trawinski noted that he wanted to add proportionality to the scope of services.

The consensus was for Attorney Kates to draft a scope of services.

SPECIAL MEETING:

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

Mayor Etler reconvened the Work Session at 9:30 p.m.

PUBLIC COMMENTS:

Craig Miller, 5 Ramapo Terrace complimented the Police Chief regarding the response to a suspicious car parked several days in the same spot. The car was ticketed. He expressed concern about holding major events during the football season at the Fair Lawn Community Center. He wondered if it was possible to use a Borough vehicle to transport Fair Lawn TV Production's equipment until they receive the van from Cablevision.

Walter Weglein, 18 Ramapo Terrace expressed concern about the McMansions and in particular the one on Mandon Place. Councilmember Baratta pointed out that they are talking about a floor area ratio and proportionality ordinance. The members of the Zoning Board have gotten very strict. They are looking at the aesthetics of the neighborhood. The house on Mandon Place did not come before the Zoning Board. Manager Metzler added that the Zoning Department has looked at the house and there are no violations.

Arlene Rubinstein, 28 Rutgers Terrace indicated that she was told that they did not go outside the footprint but she does not believe it. She reminded the Council that they promised that the only building that would exceed the three story height requirement would be on Municipal owned property. She did not think the zoning should be changed for the Clariant property. She also expressed concern that food was not allowed in the Community Center gym on Election Day. Municipal Clerk Kwasniewski indicated that they have ordered a tarp that will be used not only for elections but for other times when the gym is rented. Once the tarp is available Board workers will be able to eat in the gym. She had gotten them a table and chairs in the kitchen which was not a problem.

Harvey Rubinstein, 28 Rutgers Terrace did not believe that the house on Mandon Place was not expanded beyond the footprint. He expressed concern about the lights on the field all night. He thought the Borough's professionals were qualified to draft an ordinance that would satisfy the needs of the residents. They should not be spending money for outside professionals.

Pam Coles, 13-34 George Street thought the development on the Clairant property was not aesthetically appropriate to the neighborhood. She expressed concern about the

impact on the schools. She thought they need to get a master plan. The fishing weir is on the corner of that spot which should be available for everyone to see. The development is too intense. She suggested that there are other ways to develop this area.

Mayor Etler reminded her that this is an industrial site and the development will be an improvement. Councilmember Trawinski suggested that the engineer compare the footprints. The number of students in the school system from Fair Lawn Commons is less than what the developer projected. The master plan for River Road was redone in 1996 or 19987 and the recommendation was for a residential component. If he was faced with the opportunity of saving Daly Field, the Hayward tract and Archery field at the cost of allowing a development that is not a really dense project, it was a good trade off. The residents have not been against the project. There is no developer for single family residential housing. They must give them a density bonus for the Mount Laurel component.

Deputy Mayor McCarthy said the Borough will be setting the height restrictions. They can insist that they be two bedroom units. Judge Harris recently struck down all the zoning ordinances in two municipalities in southern Bergen County. It is a compromise.

Jane Diepeveen, 14 Ryder felt they need to do a new master plan. There was an indian village on the Clariant property. Assembly Gordon has asked her to try to get the weir on the registry. She asked that the Mayor and Council consider doing an archeological study, She thought 45 feet was too high. The Community Center is not pedestrian friendly. A cross walk is needed. Councilmember Trawinski indicated that there is no issue with the need for a master plan, but it is a question of cost.

Suzanne DiGeronimo, 16 Beekman Place mentioned that there is a go-green grant for Municipal Buildings from the DEP. She felt that Fair Lawn needs to be more proactive.

Rita Golding, 14 Rutgers Terrace questioned why they use \$180,000 as the average house. She questioned why they are using the reval company that has been criticized in the paper. Deputy Mayor McCarthy stated that the Council did not use that firm.

CLOSED SESSION:

Upon motion by Deputy Mayor McCarthy and seconded by Councilmember Trawinski, the following closed session resolution was unanimously adopted at 10:00 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

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;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Fair Lawn that the public be excluded since these matters as set forth above are ones which permit the exclusion of the public from such discussions.

Adjournment:

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Weinstein, the meeting was adjourned at 10:15 p.m.

Respectfully submitted,

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

The undersigned have read and approve the foregoing minutes.

Mayor Martin Etlar

Councilmember Jeanne Baratta

Deputy Mayor Owen McCarthy

Councilmember Edward J. Trawinski

Deputy Mayor Steven Weinstein