

SPECIAL MEETING OF NOVEMBER 2, 2006

Mayor Etler called the meeting to order at 7:36 p.m. Assistant Municipal Clerk Bojanowski read the following statement of compliance:

In accordance with the Open Public Meetings Act, annual notice of this special meeting of the Borough of Fair Lawn was published in The Record issue of October 27, 2006. 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 Mayor Weinstein and Deputy Mayor Tedeschi and Councilmembers Baratta and Trawinski.

ALSO PRESENT: Manager Metzler, Assistant Municipal Clerk Bojanowski and Attorney Ellis, of the law firm of Nashel, Kates, Nussman, Rapone & Ellis, LLP.

PROPOSED ORDINANCE TO PROHIBIT UNDERAGE DRINKING ON PRIVATE PROPERTY

Mayor Etler read the following statement:

Good evening and welcome. The purpose of this meeting is for the Mayor and Council to hear your comments on the proposed under age drinking ordinance. Simply put, the ordinance would allow the Police to enter a house where under age drinking is suspected.

People in favor of the ordinance argue that this is a needed additional tool to protect young people from getting drunk and potentially hurting themselves, others, and destroying property.

The argument, on the other side of the coin, is that there are sufficient laws in place relating to under age drinking and that to allow the Police into one's house, for this purpose, is an invasion of privacy and a violation of the sanctity of one's home.

Advocates for and against this ordinance are passionate and fully believe in their position. The ultimate responsibility for the adoption or non-adoption of this ordinance rests with the Mayor and Council. Tonight is to hear from everyone, who wishes to comment, either for or against the adoption of this law. Any other comments relative to the issue will also be received. The Mayor and Council have agreed to accept e-mails and letters for those who cannot appear tonight or who do not wish to speak in public.

The purpose of the meeting is to allow the Mayor and Council to get a sense of the community on this important issue. The procedure that we will use tonight is as follows. Everyone will have approximately five minutes to state their views. I say approximate because we don't wish to cut anyone off but, as the same time, we want to give everyone an opportunity to make a statement. When you are making a statement and you have reached five minutes, we will give you a brief amount of time to summarize and finish before we go onto the next speaker.

This will not be a debate in the sense that anyone will be cross-examined for his or her views. The Council may have a question or two for a particular speaker, but it is my fervent wish that the Council not engage in speeches or lengthy questions and answers. We want to hear from you so that the ultimate decision of the Mayor and Council is based on as much input as we can reasonably obtain.

In order for tonight's forum to work, I request that everyone refrain from any comments while there is a speaker at the microphone. In other words, please don't cheer or boo depending on whether you agree or disagree with the speaker. That type of action is not productive and will merely delay the proceedings. Obviously, no one should engage in personal attacks on any other speaker because, in a true democracy, we should all respect the other person's views even if we disagree with them.

Under these flexible guidelines, I would like to call the first speaker.

Thank you all for coming and let us begin.

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

Dave Rieter, a board member of the Chamber of Commerce and All Sports stated he has contact with the youth and felt there is a problem. He has heard from 13 and 14 year olds about what is going on in town. The Police need tools to help them stop this epidemic. He felt they need to help parents control their kids who are doing drugs and drinking.

Bob Nulman, from Wayne, vice president of the Morris chapter of MAD stated that he is the father of a 22-year-old son that was killed by a drunk driver. He is a former Mayor of Clinton, New Jersey. This evening he was representing New Jersey State MAD and he sees plenty of results of underage drinking, the ravages and the terrible tragedies of drunk behavior. One of MAD's primary missions is to reduce drunk driving and also underage drinking. Underage drinking is a problem that is serious to the community. He believed that a mixed message is being sent out. Underage drinking is illegal. He believed they need a consistent message and consistent enforcement. He thought it was only proper to give the Police the tools they need. It is important to note that a lot of the surrounding communities have an ordinance in place. He would not want to see Fair Lawn as an island of unenforcement. He felt that the Police uses their discretion in other areas and in this one they will too. Since the other towns have this ordinance they would not want them to think they could get away with it in Fair Lawn. Mr. Nulman felt it should be a State law. They should do everything in their power to stop drunk drivers and underage drinking. He thanked the Mayor and Council for this public hearing.

Arlene Rubinstein, 28 Rutgers Terrace, felt this ordinance was very important to Fair Lawn and to the kids. The parents should not have blinders on. This ordinance will not allow the Police to knock down residents' doors but it will help prevent kids from getting drunk and driving. It is a known fact that most drunk drivers don't hurt themselves but others. She felt this was a good ordinance and should be passed. It has the support of the Police Department. No one

would want to see a headline that a Fair Lawn kid was killed because Page Three

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of underage drinking. A lot of parents don't want to deal with this problem. She begged them to introduce this ordinance.

Pat Leonard, 20th Street, stated that her concern was about the parents having kids over their house and allowing them to drink. She knows there are 12 and 13 year olds that have become addicted because of this. Mayor Etler asked if this ordinance would help. Ms. Leonard felt it would help the parents have more clout.

Kirsten O'Leary, 17 Barry Place, thought it was illegal to serve alcohol to minors. Attorney Ellis advised that right now they do not have the authority to go into a home and take appropriate action if someone is drinking underage on private property. Ms. O'Leary asked if someone was breaking the law and can you file a complaint against that person and can they be charged. Attorney Ellis advised that the charge occurs when someone is drinking on public property.

Chief Rose stated it is illegal for you to provide alcohol to a child. The purpose of this ordinance would be going after the underage kids that are drinking on private property. If they were under the age of 18 they would get a juvenile petition and if they are over that age they would get a Borough ordinance summons. The purpose of this is to address it where the kids are doing the violation. This ordinance is a deterrent. Glen Rock has had an ordinance in place for more than 15 years, it is not something that is used all the time. It is their hope that it doesn't become used all the time. The ideal law is when it prevents something from occurring. This does not go after the parents, this does not go after the homeowner, it goes after the children who are on private properties who are drinking alcohol. Right now that is the void. The officers respond to the situation, but if kids are drinking on private property they cannot be cited. This is what the ordinance is going to achieve.

Attorney Ellis stated that in addition to what was mentioned there are certain exceptions that the State mandates including if the drinking is conducted in the presence of or with the permission of a parent, guardian or relative who has obtained legal age.

Ms. O'Leary said she understood and wanted to make sure they know she is against underage drinking.

Sgt. Bastinck stated the whole idea of this ordinance is not so much the punishment but helping kids that have a drinking problem. It would force follow up. Kids drink, they binge drink, the parents pick them up and then nothing gets done.

Ms. O'Leary felt the fines should be more defined. The six-month license suspension is too vague.

Deputy Mayor Tedeschi stated he talked to the Mayor of Saddle Brook where the ordinance has been in place for more than five years. He loves the ordinance because it is a deterrent. Kids think twice before they do it. They had severe problems with kids renting hotel rooms. The biggest benefit is the deterrent because there would be consequences.

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Councilmember Baratta stated that Ms. O'Leary asked very good questions. She knows that a lot of people are here and don't know what this is about. Maybe some people are not getting up even though you have questions. She asked that Sgt. Bastinck be allowed to explain the ordinance. Mayor Etlar said he will have his opportunity to speak after everyone is heard.

Ms. O'Leary asked when an officer can walk into someone's home. Do they have to think something is happening? Attorney Ellis said that goes to the issue of probable cause. There are a whole series of cases on that. Just because the Mayor and Council see fit to adopt this ordinance, this does not give the Police Officer the right without probable cause to enter someone's home. He gave examples of probable cause. The Police Officer would have to look at the circumstances. There is a constitutional basis if they do it in violation of that, they would be violating the fourth amendment. Ms. O'Leary said she would not want to spend her time in Court fighting them.

Councilmember Trawinski this ordinance does not change existing law with respect to the fourth amendment. Whether they pass this ordinance or don't, whatever rights and obligation's Police Officers have to conduct searches, they will have. This does not change this at all. Ms. O'Leary asked why they wouldn't vote on this as a referendum. Mayor Etlar said it could be but they can vote it up or down. He felt it should not go to a referendum. Deputy Mayor Weinstein stated they felt it was a good idea to hold this meeting tonight because the key to this is getting information from the public. Hopefully residents will send letters and e-mails which will be good.

Attorney Ellis advised that as most of them may be aware, this is an informational meeting. In the event the Council sees fit to go forward, and approve the introduction of the ordinance, the Council would then have to schedule a public hearing and everyone can come out and be heard.

Councilmember Trawinski spoke about the attendance, there is another meeting with seven towns that are discussing the same topic.

Claude Beinstock, 39-11 B Broadway, stated he supports this ordinance 100%. He urged the Council to support it too. He has seen the tragedy of underage drinking. The Council has to give the Police Department the tools to do their job. The problem will not go away. He wondered if this had to do with parents who are drinking at home and allowing their kids to drink. Sgt. Bastinck said this ordinance is not a problem solver. The parents have to do their job.

Bea Sparber, 76 Kingsland Court, stated she could not comment on the ordinance because

drinking going on. The Borough has to do something.

Chief Rose said if there was no probable cause they would not be able to go into the house.

Deputy Mayor Weinstein stated that was a good point about the Police responding to a call about loud noise. They shut the music. What can the Police do at that point? Attorney
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Ellis stated the Police would have a problem. There is the fourth amendment which prohibits unreasonable searches and seizures. The bottom line does the officer have probable cause. The mere fact that there is loud music is not enough.

Ms. Mead said if the Police were called back several times and if it was at her house, she would want them to come into her home.

Sgt. Bastinck has never gone to a loud party where a nice person comes to the door, usually there are two hundred kids running out the back door. The second or third time they go, they issue a summons. They also camp out to see what is really going on. Once kids are drinking at a party, it is out of control. Councilmember Baratta said if he does go to the door, and sees drinking, then what can he do. Attorney Ellis stated they would have probable cause to take action. Chief Rose said without this ordinance, all they could do is shut down the party, if the kids are drunk taking them in and calling the parents. There is nothing to charge them with. Once they can charge them, it becomes a deterrent. The other kids hear what goes on from other kids. They get tickets and have to go to Court. Ms. Mead said she was in favor of the ordinance but it should be stricter.

Dorothy Hamilton, 12-26 Edward Street, stated that her house abuts a house that had a drug bust. For several years the Police have been called to that house six to nine times. The problem has only gotten worse. She explained what went on and felt she should have spoken to the Chief about it. She thought that the youth of today does not care, and they show no respect for anyone. She would like this ordinance to be introduced.

Joan Hughes, 12-63 4th Street, stated that drinking is a problem. She appreciates what the Police Department is doing. She had questions about the violation part of the ordinance. She wondered if a minor gets caught, would there be something on their record. Sgt. Bastinck stated it would not go on their criminal record. Ms. Hughes wondered how the information would be given to the kids. Sgt. Bastinck stated he would meet with the Superintendent of the Board of Education to set up a meeting to find out how it goes.

JoMarie Sacchinelli, 23-17 Ellington Road, stated she was in favor of the ordinance. When she was younger there were safe houses. She is sure that there are several in town. As soon as the ordinance passes, it will be a deterrent. She hoped it did pass.

George Frey, 28-06 Madison Terrace, asked Attorney Ellis if out of the fifty communities that have this ordinance, have there been any legal cases that reverted back to the Borough. Attorney Ellis said no. Mr. Frey stated he knows the Chief and Sgt. and back them 100% as a resident of Fair Lawn. He felt this ordinance should be passed. If it does not work, tweak it. If it does not work amend it. What do they have to lose? We have a

chance of losing a child. He did not want to see that happen. Speaking as the Board President, they do endorse this ordinance and will do everything to help educate this community and save a child. They would be glad to get the word out.

Rich Shone, 96 Lenox Avenue, Maywood, felt this ordinance may save a life. The risk of a girl being raped increases. He was glad to see that people were in favor of this. He felt the DARE officers would not abuse their powers.

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Bob Kneer, stated he has spent 33 years as a police officer by passing this ordinance would save the children. Fifty-three towns in Bergen County have passed this ordinance. He explained that most of the underage drinking is done at home. He said that more than 40% of people that drink before they are 15 will develop a problem such as alcohol abuse, date rapes and poor school grades. He felt that it takes a community to build a community. This ordinance would be for the safety of the kids.

Jose Martinez, 3-14 Alyson Street, said he was in complete support of this ordinance.

Laurie Osback, 23-13 Cambridge Road, stated the majority of the parents that heard about this ordinance were happy about it. She asked if the child that was not drinking would get into trouble. Sgt. Bastinck stated no they would not get into trouble.

Becky Greene, 35 Wayne Road, said she did not think anyone here was in favor of underage drinking. It saddens her that parents are not home with their kids. That seems to be the crux of the problem. She implored the parent to think about this and how they can educate themselves to work on these problems.

Maureen Grippo, 27-06 Morlot Avenue, stated she was in favor of the ordinance. She felt this could be a wake up call for parents.

Lorraine Flemming, 26-09 Fair Lawn Avenue, said it was different from when people drank years ago, the kids of today drink different kinds of alcohol. They do jello shots and don't feel it right away. She spoke about parents that felt it was all right to buy liquor for their kids. These people should be held accountable. She is in favor of the ordinance.

Janet Lebo, from the Licensed Beverage Association, commended the Mayor and Council for holding this hearing and possibly introducing the ordinance. Her association knows that the alcohol comes from home. Through many years they have tried to regulate this problem. They know that enforcing an ordinance is effective and sends a message to the kids.

Laurie Kearns, 12-18 Sumner Place, said she was not in favor of the ordinance. By passing this ordinance they are not doing the parents a favor. She felt it was their responsibility and it would just give the parents an out. This is not a good thing. She felt they should not pass more rules. People will drink no matter how many ordinances the Mayor and Council pass. Also, a lot of parents drink so this will not make a difference. The concept is good but it is not necessary because it should not be the town's responsibility. Deputy Mayor Tedeschi gave her an example if she was at the beach and a child was being pulled in, would she want to help. Ms. Kearns said she would try but did not feel this

Marilyn B. Bojanowski, RMC
Assistant Municipal Clerk

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The undersigned have read and approve the foregoing minutes.

Mayor Martin Etler

Councilmember Jeanne Baratta

Deputy Mayor Joseph Tedeschi

Councilmember Ed Trawinski

Deputy Mayor Steven Weinstein