

## WORK SESSION OF OCTOBER 17, 2006

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

**PRESENT:** Mayor Etler, Deputy Mayor Weinstein, Councilmembers Baratta, Tedeschi and Trawinski.

**ALSO PRESENT:** Manager Metzler, Assistant Municipal Clerk Bojanowski and Attorney Kates.

Mayor Etler announced that Joseph Tedeschi was sworn in by the Democratic Municipal Committee as Councilmember.

### **Review of Tentative Agenda:**

There were no changes or additions.

### **Redevelopment Proposal by Clariant:**

Mayor Etler stated that representatives were present from Clariant who was there at the pleasure of the Council. At the end of the meeting they will answer any questions the residents may have.

Michael Teague, Vice President of Clariant Corporation was present. He explained that Clariant operated a manufacturing plant in Fair Lawn which closed in 1992. Since 1989 they have worked with the NJDEP. A lot of the work they have done has been voluntary. Clariant has hired a firm to do the cleaning up. Since 1989 Clariant has spent six million dollars and has budgeted ten million dollars for additional remediation. This remediation will take a new turn. For eleven years the ground water has been taken out and cleaned. The DEP is watching over everything they do. The DEP knows this site. Clariant is going to try new technology called ISCO. It is a proven technology and the DEP has approved it for many sites around the nation. They will try to see if it will work at this site.

Mayor Etler wondered if it would be cleaned up to a residential level. Mr. Teague said the DEP would have to decide that. Councilmember Tedeschi asked what intention's Clariant had. Mr. Teague said they would stay there until it was complete and mediated. Deputy Mayor Weinstein asked if he knew what the estimated time was. Mr. Teague said their target date was two years but the DEP would have to approve but it could go on for three to four years.

Councilmember Trawinski said he had concerns about how they can assure the public that the remediation waste is taken care of. Mr. Teague stated that they have to abide by a lot of rules and regulations. They have to have a plan in place. There are

manifests that they have to comply with and it is very tightly controlled.

Councilmember Trawinski asked if the company made submissions to the DEP. Mayor Etlar stated that the report goes to the Health Officer, Carol Wagner who then gives it to the Environmental Commission.

Councilmember Trawinski stated he was concerned about the maintenance of the site and wondered if there was a way to monitor it. He asked if it would continue after construction began. He also wondered if the residents would be kept abreast of what is going on. Mr. Teague said the reports were public record.

Councilmember Trawinski asked if they would Page Two

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be willing to submit the information to the Borough. Mayor Etlar stated he read in the paper that Clariant slipped off the superfund site. Mr. Teague reassured him that they are overseen by the State DEP and the Federal DEP.

Councilmember Baratta questioned the new technology. She wondered if Clariant was waiting for approval from the DEP. She also wondered how deep the holes have been dug. Mr. Teague said they have gone down 60 to 70 feet and sometimes down to 400 feet.

Councilmember Baratta asked if the pollutant was agent orange. Mr. Teague said not on that site. Attorney Kates asked if chromium was present. Mr. Teague said it wasn't.

Randolph Kullmann, from Camp Dresser & McKee was present and explained that his company is working on the remediation at that site. He said there have been traces of chromium not hexachromium. Councilmember Trawinski said there were rumors about agent orange at that site. Mr. Kullmann said they do not have any of that pollutant. They are monitoring the site and investigating the contaminants they find. The area is contained. Clariant will be spending more money so that it does not have to go on forever.

Councilmember Trawinski stated that they were all aware that Clariant is a huge corporation but what happens if they go bankrupt, what assurances would they have that the site will be cleaned up. Mr. Teague stated that Clariant has invested a substantial amount of money in this project and will not walk away.

Councilmember Trawinski asked if there was something in their agreement with Shellmarc that they will continue to work on the remediation. Mr. Teague said the DEP will be held responsible since they sign off on the site but he would have to ask Clariant's general counsel. Councilmember Trawinski asked that their counsel get back to them.

Attorney Kates asked if the toxins get exposed when they move them or when doing work on the earth. Mr. Teague informed him that the whole site is not contaminated, only portions of it.

Mr. Kullmann explained that it was roughly an acre of land that is contaminated. Attorney Kates asked if there would be soil moving going on. Mr. Teague said the contamination is in the soil way below the surface. Attorney Kates asked if they could cap the area. Mr. Teague said they are trying to remove the contamination and they are not going to walk away. Attorney Kates said the Borough would prefer removal of the soil not capping it. Mr. Kullmann said there would be some capping but most of the contaminated soil would be removed. They are working on groundwater standards. Deputy Mayor Weinstein asked for a definition of capping. Mr. Kullmann explained that capping prevents direct contact with the contamination. Most of the pollutants are 30 feet below grade. He said that if he took samples from our backyards, they would not meet DEP standards.

Attorney Kates asked if they have identified if there has been any leeching. Mr. Kullmann stated they have monitored it and it has been contained.

Mayor Etler thanked them for attending the Work Session and answering their questions. The Council will continue to monitor it. Councilmember Tedeschi asked that whatever is sent to the DEP be sent to the Borough so that it can be copied to the Mayor and Council.

### **Towing and Towing Fee Schedule:**

Attorney Kates spoke about a tower for Pathmark that cannot comply with the new ordinance. He felt they did not mean to upset the balance. He thought they should extend the location to six or seven miles. Councilmember Baratta asked if that would affect the rates. Councilmember Trawinski felt it was not fair for a resident to have to travel six or seven miles to get their cars. Attorney Kates also suggested that if the person sees their

car being towed, the tower has to release it. Councilmember Trawinski stated that he would like to talk to the residents and towers to get more information.

There was a unanimous consensus to contact the residents and towers to hold a meeting in two weeks.

### **Sunrise Rotary 5K Run:**

Manager Metzler stated he had received a request from the Sunrise Rotary for permission to hold their annual 5k run on January 1. Mayor Etlar asked if they had supplied their route yet. Manager Metzler said they have only asked for permission.

There was a unanimous consensus to allow the Sunrise Rotary to hold their 5k run on January 1, 2007.

### **Public Hanukkah Holiday Display:**

Manager Metzler said that he had forwarded a copy of a letter he received requesting that a Hanukkah display be placed in front of the Municipal Building.

Attorney Kates stated this was not an unusual topic. He felt if they open up the public space it will be a secular setting where anyone can place something. He said he had the same opinion as former Borough Attorney Richard Lustgarten that it would be open ended and they should expect other groups to ask to place objects on the lawn.

Councilmember Trawinski stated they already allowed a Christmas tree. Attorney Kates stated it was a holiday lighting display. Deputy Mayor Weinstein said that this has been an annual issue. He felt it was a personal feeling. He would like to hear from the public about this. Mayor Etlar felt that was a good idea. Councilmember Baratta suggested sending an invitation to all the religious organizations. Deputy Mayor Weinstein stated if they cannot attend a meeting, they can e-mail the Council their thoughts on the matter. Councilmember Tedeschi stated this is an issue that he is familiar with. He thought hearing what the public says about this is good. He wondered why the Council has been afraid of free speech. Attorney Kates stated that he would be recirculate Richard Lustgarten's memo. Councilmember Trawinski wondered how other towns have a Hanukkah display and why can't the Borough of Fair Lawn.

Manager Metzler stated that if the Council agrees, do they want letters sent. Mayor Etlar felt the residents could send e-mails.

There was a consensus to hold a meeting on November 8, 2006 at the Community Center to discuss only the Hanukkah display.

### **Proposed Ordinance to Prohibit Underage Drinking on Private Property:**

Deputy Mayor Weinstein stated that he has done a lot of research. He had questions about the definition of underage drinking. Elmwood Park does not have an ordinance for it. He

felt they should open this up to the public for their input. Councilmember Baratta stated that it was ridiculous and thought they should just introduce the ordinance. It seems they take all the issues that they cannot agree on and bring it to the public. She felt if he was against this ordinance that was all right. She said she had a petition with hundreds of signature of people who want this ordinance adopted. The Council has gotten letters supporting this issue from the Freeholders and the Sheriffs Department.

Deputy Mayor Weinstein stated that out of six or seven towns he contacted, they did not know they had it. Councilmember Tedeschi stated the intent of this ordinance is to stop young people from getting into a drinking problem. Councilmember Baratta stated the ordinance does not give the Police more power. It would make it inconvenient for the kids. The Police cannot just walk into someone's home. Attorney Kates said they would need probable cause.

Sgt. Bastinck was present and said this ordinance is about helping kids. Currently a complaint is signed and the parents have to get the kids help. He also said the ordinance would not give the Police more power. Councilmember Tedeschi felt that educators and parents need to discuss this. Councilmember Baratta felt this is what the ordinance will do, it will add to whatever they are getting with the DARE program.

Councilmember Trawinski stated they should just introduce the ordinance, let the public comment on it and then make amendments to it later. Mayor Etlar said he has philosophical differences with it. The discussion should be open to the public by itself. Councilmember Trawinski stated that other issues were killed without a hearing. He felt if they start governing that way they should bring up all those other issues such as eminent domain. That is part of the ordinance process. Councilmember Tedeschi felt that if they want to help the kids, they can gather the community to ask the parents and educators for their input.

Councilmember Baratta told Deputy Mayor Weinstein if he was collecting information, he should share it with the rest of the Council. Deputy Mayor Weinstein said this is important to him and wants to hear what the public has to say. Councilmember Tedeschi said this was an important issue.

Councilmember Trawinski felt they should eliminate the five minute rule so they could hear what the people had to say. He also suggested they should talk about getting rid of the five minute rule.

Manager Metzler asked when they want to discuss the five minute rule. Mayor Etlar suggested they hold the underage drinking ordinance meeting on November 2.

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Councilmember Trawinski said the Police have been asking for several years for them to introduce this ordinance. Manager Metzler said they would notify the school districts, the PTA's and the Police about the meeting.

There was a consensus to hold a Special Meeting on November 2<sup>nd</sup> to discuss the underage drinking ordinance.

### **COWS / Cingular:**

Manager Metzler said the specs were written. They will be reviewed and then they will be ready to go out to bid.

### **Cooperative Parking Broadway Improvement Corp:**

Manager Metzler asked that this matter be discussed in Closed Session.

### **Professional Services - Pandemic Planning Grant:**

Manager Metzler said the Borough can receive a grant for \$4,500, 50% would go to the consultant to prepare a response plan for the Borough. Attorney Kates said this would be considered extraordinary services.

There was a consensus to authorize a contract for extraordinary services.

### **Endorsement of CDBG Application - EDC Sign Program:**

Manager Metzler said that the Economic Development Corporation applied for a grant for a sign program. Deputy Mayor Weinstein stated this was a grant that was received years ago that was used for the businesses and was successful.

There was a consensus to endorse EDC's application for CDBG grants for the sign program.

### **Reallocation of Office Space:**

Manager Metzler said after moving the Recreation Center to the new Community Center, the last phase of renovating the area was to begin. The Clerk was to get that office space.

Now new mandates have come down for security in the Courtroom. He advised that the Court offices will move upstairs to where the Manager's office suite is, the Manager's office will go down stairs to where the Legal Department currently is, Engineering will move into where the Clerk's office currently is, the Prosecutor and Attorney will be in the Purchasing office, the Mayor and Clerk's office will take part of the old Recreation Dept. The issue of Court security will be addressed. They are looking at installing doors in the hallway. There are capital funds that will cover the Court security. With the exception of the Clerk's office there will hardly be any construction.

Councilmember Trawinski thought they should install metal detectors or another set of doors and bullet proof glass. He wondered if the Police Department was satisfied with the level of security that the building has. Manager Metzler stated that he started the capital budget review and in their five-year plan they have a proposal for another building or redesign the area so that they can have upgrades for the communication center. Councilmember Trawinski felt they should proceed with this plan. He suggested when prisoners are delivered, they should be confined in a garage and thought that was

something they should look in to. Councilmember Tedeschi stated there was a plan to build along Parmelee Avenue. Manager Metzler stated that no one addressed bullet proof glass yet. Councilmember Trawinski felt they should address adding a section for the Police Department. Councilmember Baratta asked if this included a place for people to pay their fines. She also wondered if there were any grants available for this. Manager Metzler stated they are always looking for grants.

There was a unanimous consensus to reallocate the office space as described by Manager Metzler.

### **Ordinance Changes - Glenfair Road and Hartley Place:**

Manager Metzler stated he has received a memo from Traffic Safety Officer Franco regarding petitions he received from residents on Glenfair Road and on the fifth block of Hartley Place requesting relief from commuter parking. Councilmember Tedeschi stated he would support this because there is a commuter lot nearby.

There was a unanimous consensus to introduce an ordinance as described by Manager Metzler at the next regular meeting.

### **Special Meeting:**

Upon motion by Councilmember Baratta and a second by Councilmember Trawinski, the Work Session was recessed to the Special Meeting at 9:00 p.m.

Mayor Etler reconvened the Work Session at 9:01 p.m.

### **Public Comments:**

Suzanne DiGeronimo, 16 Beekman Place, spoke about capped landfills and about previous landfills that were left open that caught on fire. In capping the Engineering function is an inch or two of EDP material which is a conglomerate of polyurethane layers and rock and sand. On top of that there is four feet of clay and on top of that there is three feet of good material that they can plant things in. When they cap residential developments, they put something down that is similar to a shower curtain. Then there is eighteen inches of soil on top of that. So anything that goes over it such as a truck or even a bush can penetrate that capping layer. She stated that it has been historically shown from an Engineering and Planning standpoint that one cannot effectively cap for residential areas.

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Ms. DiGeronimo spoke about underage drinking. There were two Councilmembers that let thirteen million be spent without a public hearing and now with underage drinking they want a public hearing.

Councilmember Tedeschi stated that in regard to her statement about capping, he spent nine years at the BCUA as a commissioner. People have the impression that once you cap you are done. It never ends because once you cap they rip and move. The caps in the Meadowlands are checked on a continual basis because they move and present other

issues and problems.

Ms. DiGeronimo stated she agreed with him and that was her point. If the Clariant developers are coming in and saying they are saving the world by capping, they are not doing it right. Deputy Mayor Weinstein stated they did not say that tonight. Attorney Kates stated they were asked about that and they said they were not doing it. Councilmember Tedeschi said that Ms. DiGeronimo was correct, the Engineer did say they would cap in certain areas.

Joan Goldstein, 12 Bedford Place, stated that she found it very interesting the grandstanding that goes on. She spoke about the holiday displays. She had written a letter about the holiday display. She reminded them that there used to be a nativity scene outside of Borough Hall. There was a huge effort in the 70's to remove the creche. She felt they should compromise and take away the tree so they don't need to put up a menorah. She felt it might be possible to have a holiday display that was non-denominational, or maybe have a holiday display at another time of year. She felt there were many options that could be looked at that will make people happy. There is still a separation of state. She is Jewish and felt that a Menorah was not needed on the front lawn of the Municipal Building. Ms. Goldstein suggested that the Mayor and Council invite the Fair Lawn Jewish Council to the meeting along with the entire community.

Jane Diepeveen, 12 Ryder Road, spoke about the Clariant site and their fair share. She spoke about the couple of acres they have and about the topography of the area. She wondered what kind of fill would be used. Councilmember Trawinski stated they will get more information from the developer. Attorney Kates advised that there will be a discussion with the planner in Closed Session later that evening. Manager Metzler thought he understood that they would not be developing that area because it was considered wetlands.

Rita Golding, 14 Rutgers Terrace, asked what the major differences were in the proposed underage drinking ordinance to other towns. Deputy Mayor Weinstein stated when people were asked, they did not deal with private property.

Stewart Golding, 14 Rutgers Terrace, spoke about the contamination of the Clariant site. He felt that the cleaning up that was done previously leaves a lot to be desired. There are too many waste sites where residential are being built and people are getting sick.

Craig Miller, 5 Ramapo Terrace, welcomed Councilmember Tedeschi back to the Council. Page Eight

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He thought they would vote on the underage drinking tonight. He felt they were stalling. Mayor Etler said this was serious and they do not want to rush into it. He also stated that there was a new rule that only agenda items could be discussed. Mr. Miller stated at a

regular meeting anything can be discussed. Attorney Kates advised that the Borough could amend their code to limit what could be discussed.

**CLOSED SESSION:**

Upon motion by Councilmember Trawinski and seconded by Deputy Mayor Weinstein, the following closed session resolution was unanimously adopted at 9:20 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 Attorney/Client Privilege; and

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

**WHEREAS**, public disclosure of the results of these discussions relating to personnel upon formal appointment by the Mayor and Council of the Borough of Fair Lawn within 30 to 60 days and relating to Attorney / Client Privilege when the litigation with COAH is resolved;

**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 Baratta and a second by Councilmember Trawinski, the meeting was adjourned at 10:53 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 Etlar

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Councilmember Jeanne Baratta

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Councilmember Edward J. Trawinski

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Councilmember Joseph Tedeschi

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Deputy Mayor Steven Weinstein