

REGULAR MEETING OF OCTOBER 24, 2006

Mayor Etler called the meeting to order at 7:30 p.m. Assistant Municipal Clerk Bojanowski 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 Mayor Weinstein, Councilmembers Baratta, Tedeschi and Trawinski.

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

SWEARING IN OF DEPUTY MAYOR OF COMMUNITY AFFAIRS JOSEPH TEDESCHI

Councilmember Joseph Tedeschi was sworn in by Judge David Lafferty. Upon motion by Deputy Mayor Weinstein and a second by Mayor Etler it was unanimously agreed to name Councilmember Tedeschi as Deputy Mayor of Community Affairs.

Councilmember Trawinski stated they needed to fill the liaison position to the Planning Board. He felt all Deputy Mayor positions should be abolished or that all Councilmembers be appointed as a Deputy Mayor.

Upon a nomination by Mayor Etler and a second by Councilmember Trawinski, it was unanimously agreed to appoint Deputy Mayor Tedeschi as Planning Board liaison.

PRESENTATIONS TO DANIELLE PETTINEO, JOHN COSGROVE AND ALLEN WEITZMAN

Danielle Pettineo was acknowledged as a Bergen County Volunteer of the Year in recognition of her volunteer service to the Borough and was presented with a plaque by Mayor Etler.

John Cosgrove was recognized for his work on the Community Center. Deputy Mayor Weinstein thanked him for a well-planned facility and Mayor Etler presented a Letter of Commendation acknowledging his work as Chairman of the Community Center Committee.

Allen Weitzman was presented with a Letter of Commendation by Mayor Etler in recognition of his work as architect of the Community Center.

COUNCIL COMMENTS:

Deputy Mayor Weinstein stated that he would put forth a resolution at the next Work Session to acquire the Naugle House and surrounding property from the County and also the rights to the Vanderbilt property and extend it as part of the County Parks system, in essence preserving all Open Space. He asked for support from Council and the Open Space Committee.

Councilmember Trawinski referred to the brochures printed by the Recycling Coordinator, Ron Lottermann and stated how this saved the Borough substantial money since it did not have to go out to bid. He mentioned the improved willingness of Borough employees ready to go the extra mile and thanked Ron Lottermann and the Borough Manager for their efforts on this project.

Councilmember Baratta announced that the annual Halloween parade would be held on October 28 at 10:00 a.m. and that Council was holding a special meeting on November 2 at 7:30 pm to discuss a proposed ordinance on Underage Drinking on Private Property. She reminded residents that Tuesday, November 7th was Election Day and Wednesday, November 8 was a scheduled Council Work Session discussing the placement of religious items on municipal property. She encouraged input from the community. The River Road Street Fair was held last weekend and she thanked the Chamber of Commerce and the RRIC. There was a large crowd at the street fair and everyone enjoyed themselves.

Deputy Mayor Tedeschi stated he would bring forward at the next Work Session a resolution calling on the elected leaders in New Jersey and Washington to urge the national Government to form a bipartisan committee to work at solving the problem in Iraq. He felt it was time a municipality spoke up.

Councilmember Trawinski told Deputy Mayor Tedeschi he was pleased that he was here and hoped that it would change the mind of Mayor Etler who has previously refused to act on resolutions of this nature.

Deputy Mayor Tedeschi stated he had no desire to talk about past Council behaviors and thought the Council should face the problem of dealing with taxes, maintaining services for citizens, maintaining open space, and work on shared services. He would like to create a robust business environment so that businesses could become fair tax payers along with residents.

ORDINANCES ON FIRST READING:

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

Ordinance No. 2066-2006

AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FAIR LAWN, 2000, BY AMENDING AND SUPPLEMENTING CHAPTER 232 ENTITLED "VEHICLES AND "TRAFFIC," ARTICLE II "PARKING"

Upon motion by Deputy Mayor Weinstein and a second by Councilmember Trawinski, Resolution No. 340-2006 introducing Ordinance No. 2066-2006 was discussed.

Attorney Kates explained that this ordinance will prohibit parking on Hartley Place from Ward Street to Morlot Avenue. Parking will also be prohibited between 8:00 a.m. and 10:00 a.m. on the east side of Jasper Road to a point 225 feet northerly and on the west side of Jasper Road to a point 395 feet northerly.

Manager Metzler explained that the ordinance accomplished a no parking zone on Hartley Place from Ward Street to Morlot Avenue. With the case of Glenfair Road, petitions were submitted to Council with regards to the parking issues there.

There being no further comment, upon motion by Deputy Mayor Weinstein and a second by Councilmember Trawinski, it was agreed to close the time for public hearing. Deputy Mayor Tedeschi abstained.

There being no further comment, Resolution No. 340-2006 introducing Ordinance No. 2066-2006 was passed.

ORDINANCE: SECOND READING

Upon motion by Deputy Mayor Weinstein and a second by Councilmember Trawinski, it was unanimously agreed to read the following ordinance by title and open the time for public comments.

Ordinance No. 2061-2006

AN ORDINANCE TO PROVIDE FOR A CERTAIN CAPITAL IMPROVEMENT IN THE BOROUGH OF FAIR LAWN AND TO PROVIDE FOR THE RECEIPT, ACCEPTANCE AND DEPOSIT OF FUNDS THEREFORE

Manager Metzler explained this was a \$25,000.00 grant from the Bergen County Open Space Trust Fund.

There being no further comments, upon motion by Deputy Mayor Weinstein and a second by Councilmember Trawinski it was unanimously agreed to close the time for public hearing.

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Weinstein, Resolution No. 341-2006 adopting Ordinance No. 2061-2006 was unanimously adopted.

Upon motion by Deputy Mayor Weinstein and a second by Councilmember Trawinski it was unanimously agreed to read the following ordinance by title and open the time for public comments.

Ordinance No. 2062-2006

AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FAIR LAWN, 2000, BY AMENDING AND SUPPLEMENTING CHAPTER 232 ENTITLED "VEHICLES AND "TRAFFIC", ARTICLE VII "TRAFFIC"

Attorney Kates explained the ordinance will allow a bus stop to be moved on Fair Lawn Avenue between Parmelee Avenue and George Street. It will also designate 36th Street south from 37th Street to Broadway as a one-way street.

There being no further comments, upon motion by Councilmember Trawinski and a second by Deputy Mayor Weinstein, it was unanimously agreed to close the time for public hearing.

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, Resolution No. 342-2006 adopting Ordinance No. 2062-2006 was unanimously adopted.

Upon motion by Deputy Mayor Weinstein and a second by Councilmember Trawinski, it was unanimously agreed to read the following ordinance by title and open the time for public comments.

Ordinance No. 2063-2006

AN ORDINANCE TO MEND CHAPTER 220 OF THE CODE OF THE BOROUGH OF FAIR LAWN 2000 ENTITLED, "TOBACCO", SPECIFICALLY SECTIONS 220-2, 220-3, 220-10, 220-11 AND 220-12

Attorney Kates explained that this ordinance will amend the age from 18 to 19 years to comply with state law inn selling tobacco items. It also amends the first offense category.

There being no further comments, upon motion by Councilmember Baratta and a second by Councilmember Trawinski, it was unanimously agreed to close the time for public hearing.

Upon motion by Councilmember Baratta and a second by Councilmember Trawinski, Resolution No. 343-2006 adopting Ordinance No. 2063-2006 was unanimously adopted.

Councilmember Trawinski thanked Sgt. Bastinck for bringing this matter to Council's attention and for pointing out the change in the ordinance to eliminate the warning notice.

Upon motion by Deputy Mayor Weinstein and a second by Councilmember Trawinski , it was unanimously agreed to read the following ordinance by title and open the time for public comments.

Ordinance No. 2064-2006

AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FAIR LAWN 2000 BY AMENDING AND SUPPLEMENTING CHAPTER 125 ENTITLED "LAND DEVELOPMENT", MORE SPECIFICALLY SECTION 125-70 ENTITLED "CHECKLISTS"

Attorney Kates explained that this ordinance is amended by requiring a checklist of land use approval to obtain a requirement that the applicant fill out a checklist for variances.

Donal Meyers, 8-22 Mayfair Terrace, congratulated Council on bringing this checklist to this point as it is an important part of the ongoing efforts of Council to ban "pay to play" activities in Fair Lawn and bring disclosure to the application process for the Zoning and Planning Boards.

There being no further comments, upon motion by Deputy Mayor Weinstein and a second by Councilmember Trawinski, it was unanimously agreed to close the time for public hearing.

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Weinstein, Resolution No. 344-2006 adopting Ordinance No. 2064-2006 was unanimously adopted.

Upon motion by Deputy Mayor Weinstein and a second by Councilmember Trawinski, it was unanimously agreed to read the following ordinance by title and open the time for public comments.

Ordinance No. 2065-2006

AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 125, ENTITLED "LAND DEVELOPMENT", MORE SPECIFICALLY SECTION 125-24 ENTITLED "B-1 RESTRICTED BUSINESS, B-2 GENERAL BUSINESS AND B-3 BUSINESS ZONES"

Attorney Kates explained that this ordinance amends the permitted uses in the B-1, B-2 and B-3 zones.

Councilmember Trawinski stated for the record that he voted for this because it reflects what our ordinances always reflected but will close any legal arguments in effect and make sure this kind of decision will apply from this point forward not only in court cases but in applications that will be impacted.

There being no further comments, upon motion by Councilmember Baratta and a second by Deputy Mayor Weinstein, it was unanimously agreed to close the time for public hearing.

Upon motion by Deputy Mayor Weinstein and a second by Councilmember Trawinski, Resolution No. 345-2006 adopting Ordinance No. 2065-2006 was unanimously adopted.

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 comment from the public, upon motion by Deputy Mayor Weinstein and a second by Councilmember Trawinski, the time for public comments on agenda items only was unanimously closed.

RESOLUTIONS BY CONSENT #28-2006

Upon motion by Councilmember Baratta and a second by Deputy Mayor Weinstein, Consent Agenda #28-2006 containing the following items was unanimously passed.

- a. Resol. #346-2006 - Corrective Action Plan
- b. Resol. #347-2006 - Adopting Changes to Existing Deferred Compensation Plan
- c. Resol. #348-2006 - Extend Contract: Water & Sewer Pump Station Maintenance - Primary Vendor
- d. Resol. #349-2006 - Extend Contract: Water & Sewer Pump Station Maintenance - Secondary Vendor
- e. Resol. #350-2006 - Extraordinary Services: Pandemic Flu Preparedness
- f. Resol. #351-2006 - Endorsement of CDBG Application: EDC Sign Program
- g. Resol. #352-2006 - Appointments to the Fair Lawn Borough Garden Committee

RESOLUTION NO. 353-2006 - Professional Service: Route 208 Corridor Planning Study.

Deputy Mayor Weinstein stated this study began in the summer and should be completed sometime in January. The funding came from a New Jersey State Grant and will study both Glen Rock and Fair Lawn and Route 208 which will help them determine what kind of development is appropriate in that area.

MISCELLANEOUS PUBLIC COMMENTS:

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

Harvey Rubinstein, 28 Rutgers Terrace, mentioned a previous work session agenda which discussed Clariant and benzene. He stated there was a connection between cancer and benzene even in small amounts and quoted State Environmental expert Lisa Jackson about following tougher standards and removing tainted soil rather than shoveling it with clean asphalt. As with 9/11 cleanup when workers were told the environment was initially safe, he urged Council not to endanger a single life needlessly.

He asked Council to look again at the Clariant concept of January 5, 2006 as the fronts of the houses would be facing court side with the backside facing 3rd Street. He also questioned where we stood with the Landmark case.

Diane Albarella, 3-45 Hartley Place, stated she was tired of hearing about Radburn issues and felt there were other items relevant to all of Fair Lawn that should be addressed. She thanked Mayor Etler and the Council for their efforts and stated she was tired of hearing derogatory remarks from other residents at Council meetings. She encouraged the Council to work together and be our leaders.

Craig Miller, 5 Ramapo Terrace, stated that he could not attend the meeting on underage drinking but supported the ordinance. He asked about Municipal Clerk Kwasniewski's progress and wished her well. Manager Metzler stated that the Municipal Clerk had stopped in to see the Assistant Municipal Clerk last week and was due back on November 7.

Donal Meyers, 8-22 Mayfair Terrace congratulated Deputy Mayor Tedeschi. He stated that this is the first time since the Community Center was built that Council did not have any members involved in the pay to play financing of the center and the polluting of costs involved. He feels an audit is in order so that we can find out why the costs escalated several million dollars. He asked Deputy Mayor Tedeschi to make good on a campaign promise from two years ago when the Community Center was front and center and urged him to schedule an audit. He feels the community cannot afford this building.

Deputy Mayor Weinstein agreed there should be an audit. He stated the Community Center is used by a large number of residents and children, which was his original vision of the Center and that vision has come into play.

Donal Meyers stated that Fair Lawn residents were entitled to know why the original plans were changed and who increased the budget.

Arlene Rubinstein, 28 Rutgers Terrace stated she was at the Planning Board work session the previous night. She questioned whether it was true that Judge Harris turned back our

Zoning Regulations regarding the overlay zone and the Landmark Decision and asked Attorney Kates for an explanation.

Attorney Kates explained that Judge Harris determined that the Ordinance could not stand as presently constituted. He did not turn it back and say "try again". The Council will be meeting in closed session tonight and go over a report from the planner on how to essentially make that ordinance correct. Arlene Rubinstein asked how many days the Council had to do this. Attorney Kates explained there was no time frame but that Council would move expeditiously to correct this. They would not be changing the density bonus enacted in a previous ordinance, but would create standards to support those appropriate bulk requirements of lot dimensions, lot square footage, side yards and set backs, etc. Arlene Rubinstein questioned if this could go on indefinitely since there was no time frame. Attorney Kates stated no. The ordinance will be reenacted in the proper form.

Arlene Rubinstein commented on the Clariant project. She questioned why the Council would rush to rezone an area that is not going to be totally remediated. She felt they should wait until they have something concrete and then they would have the choice of what they want to do, rather than rush into changing the Borough's high density restrictions.

Stuart Shaw, 19-32 Chandler Drive, welcomed Deputy Mayor Tedeschi. He would like to form a Citizens Committee to examine exactly how the Community Center was built and how decisions were made. He would like it be a nonpartisan committee. Mr. Shaw stated this building is part of the COAH responsibility done on our first submission and that 16 people are supposed to be working here. To his knowledge only one person is here full-time yet we are responsible for 16 and that should be changed. We also have the Clariant responsibility and that should be changed. Before we submit any changes in our report to COAH he felt it should be reviewed by the public to see if they agree with the change.

Barbara Gremillot, 1 Bristol Place, stated that developers have a free pass in Fair Lawn. She felt Mayor Ganz sold us out by conspiring to build a 178-town house development per COAH in his September 25, 2005-report. Residents are saddled with more traffic, overcrowded schools, and more policemen because Council does not care about the quality of life in our town. She stated residents want to be heard because Fair Lawn belongs to the people and not the Democratic Party. She questioned how much taxes have been paid by the developers and was concerned for our town and the common good. The Council should keep in mind the people that elected them. Mayor Etler assured Mrs. Gremillot that the Democrats are concerned with quality of life.

John Cosgrove, 31-08 Heywood Ave thanked the Mayor and Council for his award and he accepted it on behalf of the entire committee. He also congratulated the other award recipients and mentioned there would be a Comedy Night at the Center on November 10.

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

unanimously closed.

Upon motion by Deputy Mayor Weinstein and second by Councilmember Baratta, it was unanimously agreed to move into Closed Session.

Councilmember Trawinski asked to make a statement in response to Michael Kates previous comment that he knew what the Council was going to do on the Landmark decision. He stated he did not have a discussion with Attorney Kates or anyone else and felt he did not mean his comment literally as he himself did not know what Council was going to do until it was discussed.

Deputy Mayor Tedeschi thanked the other two nominees for Council, Larry Metzger and Peter Kortright and thanked Peter Kortright for his advice on land use and planning, as he was a wonderful resource.

CLOSED SESSION RESOLUTION:

Upon motion by Deputy Mayor McCarthy and a second by Councilmember Baratta, the following Closed Session Resolution was passed at 8:40 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 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:

Upon motion by Mayor Etlar and second by Deputy Mayor Weinstein, the meeting was adjourned at 9:39 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 Joseph Tedeschi

Councilmember Ed Trawinski

Deputy Mayor Steven Weinstein