

WORK SESSION OF SEPTEMBER 5, 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 and Attorney Kates.

REVIEW OF TENTATIVE AGENDA:

Municipal Clerk Kwasniewski advised that she would like to add the approval of a raffle for St. Anne's to the Consent Agenda for the next meeting. The Council concurred.

HOLOCAUST MEMORIAL:

Sol Horn was present and indicated that the plaque is ready so it can be installed. They would like to hold the dedication ceremony prior to October 17. They would prefer the dedication to be held on a Sunday. It was agreed to dedicate the plaque at 10:00 a.m. on October 15.

REZONING THE NAUGLE HOUSE:

Councilmember Trawinski stated that he reviewed the minutes when the prior Council rezoned the property. He thought it was time to put it back to single family homes. Mayor Etler thought there would be a law suit from the owner. Mayor Etler felt that it was not the right time to rezone it.

Attorney Kates noted that their application was denied. The moratorium has been imposed so the Borough is protected. He suggested they wait to see what the owner is going to do. If the owner files a complaint, the Council can revisit the issue.

Deputy Mayor McCarthy agreed that they should continue to monitor the situation. Councilmember Trawinski indicated that as long as they stay on top of it, he had no problem waiting. Everyone knows that Planning Board approval is required.

RESCUE SQUAD:

Manager Metzler reported that the Rescue Squad was not able to come to terms with the Department of Public Works on the site. DPW Superintendent Conte was concerned that development would impair the flow of the Water Department's work. The Rescue Squad is looking at another site but they are still in the preliminary stages

BANNING SEX OFFENDERS:

Attorney Kates stated that he was asked to define loitering which he did. He thought the definition will survive a court test. Deputy Mayor Weinstein indicated that although he was in favor of the ordinance, he thought the State was working on uniform standards. He suggested that they establish a safe haven program and proposed that two councilmembers, two police officers and a member of the Board of Education form a committee.

The unanimous consensus was to introduce the ordinance and form the committee.

TOBACCO ORDINANCE:

Attorney Kates advised that this item needs some more work based on Chief Rose's concerns. The Chief asked if the school staff could be responsible for the enforcement and felt that the fines should be increased. Attorney Kates will speak to the School Board attorney. Councilmember Baratta indicated that she will ask ASAP for their opinion.

This matter will be on the next work session.

CITY MAP PROJECT:

Manager Metzler reported that the Chamber of Commerce supports the concept. The next step will be to have a model letter prepared. There is no cost to the Borough. A letter from the Council is needed. He will send a sample to the Council and to Attorney Kates for their review and comments.

RESCHEDULE COUNCIL MEETING AT THE COMMUNITY CENTER:

Deputy Mayor Weinstein requested that they reschedule the Council meeting that is going to be held at the Community Center from October 10 to October 24.

The unanimous consensus was to reschedule the meeting.

REQUEST TO INSTALL SWIMMING POOL IN EASEMENT:

The request by the residents at 4-23 Alyson Street was discussed.

Manager Metzler reported that Engineer Garrison recommended that pools not be allowed on easements because they are structures. DPW Superintendent Conte agrees.

Councilmember Trawinski noted that many years ago Bill Davidson told him that they really only need 10 feet to work in. The easements are considerably wider than 10 feet. Fences are also structures but the Council allows them. Manager Metzler stated that fences can be knocked down quickly should the need arise to enter the Borough's easement. Swimming pools are entirely different.

This resident can apply to the Zoning Board for a variance to locate the pool in what is technically their front yard since they are located on a corner. In this particular case, if the Mayor and Council refuse to allow the pool to be located in the easement, the present location is the only one that is possible. They would have to make their case before the Zoning Board if they choose to do so.

Councilmember Baratta recused herself from the discussion of the request from the resident at 5-06 6th Street. Councilmember Trawinski noted that they are only encroaching onto a small

amount of the easement. He asked if they could make sure that they are going to straddle the easement.

The unanimous consensus was to deny the request by 4-23 Alyson Street and to ask the resident at 5-06 6th Street how far into the easement is the pool extending. The matter will be on the next work session.

PROPOSED ORDINANCE TO PROHIBIT UNDERAGE DRINKING ON PRIVATE PROPERTY:

Sgt. Derek Bastinek and Health Officer Carol Wagner were present. Sgt. Bastinek indicated that in June 2001 a bill was passed that allowed the municipalities to adopt an ordinance to police underage drinking on private property. They are trying to send a strong message to young people. Fifty municipalities in Bergen County now have this ordinance. In those towns there have been no complaints of police doing something they should not have. The law that is set in place will have the child's family involved. The police sign a complaint, and the child is sent to juvenile intake. They review it and unless the juvenile has a history, the case goes to the Juvenile Conference Committee. They can assign community service and can send them to C.H.A.T. Children should not be having these parties.

Deputy Mayor Weinstein asked what they can do with what they have to work with now, Sgt. Bastinek replied that if the kids have not stepped onto public property they call the parents and ask them to take them home. Sometimes they are called because it is a medical emergency. The idea of the ordinance is to send a message. He does not expect to sign more than one or two complaints. It says that Fair Lawn is not a party town. This ordinance is aimed at unsupervised parties.

Deputy Mayor Weinstein felt that parents must be responsible. He knows that some parents prefer to have their children drinking at home.

Attorney Kates asked how they prove consumption and possession. Sgt. Bastinek replied that if they smell beer on their breath.

Councilmember Baratta stated that right now if there is call because of noise the police can go but they cannot issue summonses. If they police find out there is a party, they can stop it before it gets out of hand. Councilmember Trawinski mentioned the Record editorial which urged every municipality to pass it. They should send a message that parents should not allow underage drinking on private property. If it becomes abused by the police, they can deal with it then.

Mayor Etlar stated that the police have the ability to act right now without this ordinance. This is just passing the responsibility from the parents to the police.

Sgt. Bastinek stated that kids know they can drink in their houses and there is nothing the police can do. The 14 and 15 year olds need to know it is a dangerous thing. It will send a message to the teens and their families that Fair Lawn has taken a stand against unsupervised parties.

Councilmember Baratta stated there is no deterrent right now. There are no consequences. Deputy Mayor Weinstein indicated to they would like to hold off on taking a vote so that he can speak to some of the communities that have the ordinance and those who do not.

Health Officer Carol Wagner pointed out that the number one substance abuse problem in Fair lawn is drinking. It creates many other potential problems.

This matter will be on the next work session.

COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION:

The applications are due October 6, 2007. Manager Metzler reported that staff has proposed making improvements to the Senior Center which includes replacing the roof, continuing the barrier free ramp project and the salary for the staff at the Senior Center to replace the funding that was cut by Bergen County.

The consensus was to submit the three applications.

ENDORSEMENT OF CDBG APPLICATION BY BRIS AVROHOM:

Bris Avrohom has requested that the Council endorse their application for \$40,000 for a youth program for elementary and middle school aged children and for \$12,960 for their E.S.L. and employment skills program.

The consensus was to endorse this application.

AMENDING PROFESSIONAL SERVICES RESOLUTION RE SPECIAL ATTORNEY:

Manager Metzler asked the Council defer this matter for two weeks because he does not have the supporting documentation.

TREE ORDINANCE:

Deputy Mayor Weinstein felt that the Committee should meet before discussing the proposal with the Council He asked the Manager to schedule a meeting.

CEREMONY FOR SEPTEMBER 11:

Manager Metzler stated that he is working on some type of ceremony for the employees. They will stop doing business at the time the towers came down.

MISCELLANEOUS PUBLIC COMMENTS:

Harvey Rubinstein, 22 Rutgers Terrace noticed that the traffic cones have been placed around the Borough again. He felt that the first cone next to the sidewalk should be removed so a bicycle rider can go through. He felt the underage drinking ordinance should only allow the police to respond to a call to protect the public from an overzealous officer.

Manger Metzler indicated that they will at every suggestion for the cones.

Walter Weglein, 18 Ramsey Terrace asked about the Enerson vs. the Borough case concerning the petition to place the democracy ordinance on the ballot. Attorney Kates explained that the judge qualified his decision. Both sides were represented and made their case. The Judge dismissed the complaint against the Municipal Clerk individually. The Judge sustained that the Municipal Clerk's method was correct. The Judge asked both sides what they would do if the decision went against them. The attorney for the Radburn Association indicated that they would go to the Appellate decision. The plaintiffs indicated that they would take an appeal. At this point the Borough is waiting for the Judge's decision.

Jane DiPeeven, 14 Ryder Road expressed concern over the Naugle House. She has written a reply to the letter to the editor concerning spending money on the Naugle House. She also questioned the rationale for Bris Avrohom receiving a CDBG grant since it is a religious institution. Mayor Etlar indicated that Bris Avrohom was eligible to apply and then it is up to the County to decide on the application. Deputy Mayor Weinstein added that the Council is only endorsing the application as is required by the program. Councilmember Trawinski concluded that the Congress authorized faith-based institution to apply. It is federally approved.

Felice Koplik, 6 Reading Terrace pointed out that the Historic Preservation Commission will only be an advisory commission. She was upset about the article in the paper. The cones are only a design tool. The goal is to get bump outs on the side roads. It does work. Manager Metzler stated that there will not be a bump out for the cyclist on the permanent bump out on River Road. They are seeking funding for the bump out on River Road by the Post Office.

Craig Miller, 5 Ramapo Terraced asked if an ordinance existed regarding speed bumps on private property. He felt the speed bumps at the Plaza Building were very harsh. He thanked the Council for the light at Chandler Drive. He expressed his support for the ordinance regarding underage drinking. The police should have the right to do something when things are out of control. He urged the Council to adopt the ordinance.

ANNOUNCEMENT BY DEPUTY MAYOR MCCARTHY:

Deputy Mayor McCarthy announced that he will be resigning from the Council following the September 12 meeting for personal reasons. Councilmember Trawinski asked Attorney Kates to prepare a memo outlining the proper procedure to be followed to fill the vacancy.

CLOSED SESSION:

Upon motion by Deputy Mayor McCarthy and seconded by Deputy Mayor Weinstein, the following closed session resolution was unanimously adopted at 9:05 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, Pending Litigation and Anticipated 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 regarding Personnel upon appointment by the Mayor and Council and regarding litigation upon formal resolution of the matter except for legal strategy.

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.

Mayor Etler reconvened the meeting at 9:25 p.m.

ADJOURNMENT:

Upon motion by Councilmember Baratta and a second by Councilmember Trawinski, the meeting was adjourned to work session at 9:25 p.m.

Respectfully submitted,

Joanne M. Kwasniewski, RMC/CMC/MMC

Municipal Clerk A

The undersigned have read and approve the foregoing minutes.

Mayor Martin Etler

Councilmember Jean Baratta

Deputy Mayor Own McCarthy

Councilmember Edward Trawinski

Deputy Mayor Steven Weinstein