

## **WORK SESSION OF SEPTEMBER 19, 2006**

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

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

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

Manager Metzler made a statement about the gang related incident at The Empress Dinner the previous weekend. He congratulated the police officers for a job well done.

### **REVIEW OF TENTATIVE AGENDA:**

Manager Metzler added the two following items to the agenda, authorizing execution of an agreement with the County for water fillable barriers and a raffle.

### **PROPOSED ORDINANCE TO PROHIBIT UNDERAGE DRINKING ON PRIVATE PROPERTY:**

Deputy Mayor Weinstein asked that this be carried for a couple of weeks so that he can obtain information from other towns. Councilmember Baratta thought he had done that already. Deputy Mayor Weinstein felt this was the right way to go with this since it is a private property issue. He asked that the Manager to have Chief Rose provide guidance on this topic.

### **TOBACCO ORDINANCE:**

Attorney Kates said this also was an open issue that should be referred to Chief Rose for his opinion. The question is whether it would be a verbal warning or a fine. Councilmember Trawinski suggested they carry it until they hear from the Chief.

### **CLARIANT PROPERTY REZONING:**

Councilmember Trawinski asked Attorney Kates if there was anything in the Zoning ordinance that would prohibit them from making this project age restricted. Attorney Kates said no. Councilmember Trawinski asked if there was anything in the Municipal Land Use Law that would allow the Borough to encourage or zone the project to be a fully age-restricted project. Attorney Kates said no they could not. Councilmember Trawinski wanted to know if there was any way the Borough could require the Mt. Laurel units be integrated into the rest of the project. Attorney Kates advised yes and thought that is what was in the spirit of the law. Councilmember Trawinski questioned whether or not it would be appropriate given the issues of environmental concerns at the site for the Council to hear from the property owner about the extent of the remediation and whether the property owner has posted any financial assurances with the DEP to ensure that the remediation takes place if the Borough rezoned this property. Mayor Etler stated that the property owner already has an agreement with the buyer and the buyer will not buy the property unless the remediation is done and the DEP signs off. He wondered what would be the

takes place if the Borough rezoned this property. Mayor Etler stated that the property owner already has an agreement with the buyer and the buyer will not buy the property unless the remediation is done and the DEP signs off. He wondered what would be the purpose of hearing from the property owners. Councilmember Trawinski thought the remediation could go on for ten to fifteen years. He would like to know before he votes on rezoning it that a corporation of that size and network of Clariant has posted the financial assurances to the DEP or the Borough has a commitment from Clariant that they are staying here to make sure the remediation is ultimately done. Mayor Etler felt it would not hurt to have the owners come to a meeting to talk to the Council.

Councilmember Trawinski stated there was an issue raised at a public meeting about why the Zoning ordinance was at 55 feet. He is not prepared to support 55 feet. He was desirous of putting the entire Mt. Laurels' obligation on that site. To do that, the height would have had to go 55 feet. He is not prepared to say the entire obligation should go on that site. He believed that would be unfair to the residents that live around Third Street. The obligation should be spread throughout the Borough. He is prepared to consider something in the 40 to 45 foot height ranges, which is actually what the applicant is asking for.

Attorney Kates stated there are a number of responses that he has collected. He read a response from the Planner, Cheryl Bergalio, who is working for the Borough, dated August 1 that was circulated tonight. He felt it contained many substantive comments that should be integrated into a final draft to support whatever number of COAH units they want to put on that site, but they will need these terms. He also received from the Planning Board a communication dated August 28 appending Master Plan reference August 22. A letter from the Fair Lawn Board of Education through the Manager spoke about the impact on the schools and lastly a letter from Jane Diepeveen dated September 7. Councilmember Baratta thought there were reports from the Environmental Commission also. Attorney Kates stated the Planning Board has given a more specific response dated September 13 and in that response they recommended a height limit of 45 feet. Mayor Etler said the total amount of townhouse units would be 178. He then opened the meeting for public comment.

Harry Poster, 13-10 2<sup>nd</sup> Street, stated he would rather see townhouses built there instead of the factory that is there now. He is not in favor of the height at 55 feet.

Anna Di Nardo, 13-06 2<sup>nd</sup> Street, thought it was a great project and was glad that the Mt. Laurels' obligation would be spread around town.

Toni Fazio, 12-61 2<sup>nd</sup> Street, stated she was not in favor of this development. She has talked to 43 residents and not one of them was in favor of this project. She expressed some of the concerns that were voiced to her such as building on contaminated ground, the height of the buildings, traffic and noise at night. She said there were also concerns about the Home Depot and Lowes being constructed on Route 20, which will bring heavy traffic to that area. There will be more children in the schools. All 43 residents would like

about the Home Depot and Lowes being constructed on Route 20, which will bring heavy traffic to that area. There will be more children in the schools. All 43 residents would like to see open space or single family homes. She said Fair Lawn residents do not want over development. She suggested they make an advisory committee.

Tania Stremmer, 3-06 Legion Place, stated she like the idea because it was better than what is there. She had concerns about the height and the density because it is a quality of life issue.

Ron Rizzio, 15-60 4<sup>th</sup> Street, said he agreed with this project wholeheartedly but has reservations about the height and the Mt. Laurel obligation. He would like to see it spread out throughout the Borough.

Al Scelzo, 15-27 4<sup>th</sup> Street, stated he wants to go along with this project because he is sick and tired of looking at that building. He suggested they do a survey of the people in the area to see who is in favor of it since it will affect them with traffic and noise.

John McGarry, 15-07 3<sup>rd</sup> Street, stated that he would like to see change and a height of 44 feet seemed good to him.

Anna Cosimano, 15-13 4<sup>th</sup> Street, said the town needs a project like this.

Frank Baldino, 12-62 3rd Street, thought the project was too high and too dense. He was sure that more than 11 children would be going into the school system and put a burden on the taxpayers. He suggested they build an adult community on that site.

Raymond Welsh, 3-11 Bergen Avenue, stated that he agreed with the height being 45 feet. He felt it would be a big improvement to the area. He did not know why the people are disagreeing about this.

Barbara Simon, 15 Schweid Court, stated she grew up on 3<sup>rd</sup> Street and felt it was a great idea. The area on Fair Lawn Avenue is an eye sore.

Todd Malkin, 16 Brearly Cresent, felt that rezoning it would get rid of an eye sore. He felt this was the only way to get the company to clean up the area.

Don Smartt, River Road Improvement Corporation, stated that their board has endorsed this project. This is a vision of what could be done on that location. A meeting was held with the residents eight months ago regarding rezoning this lot. The neighbors have supported the idea except for the height. They want to work with the residents. He asked the Council to embrace this vision for this site. Once they pass the rezoning concept, the Planning Board will work with it. It is up to the Council to provide for a vision.

Arlene Rubinstein, 28 Rutgers Terrace, stated Clariant has been removed from the superfund site. She has been a resident for over 30 years and felt this was an easy way

out for the Council not to redo the Master Plan. She felt that the Zoning ordinances should not be rewritten each time a developer wants to develop a parcel of land in the Borough. Mrs. Rubinstein said given the choice the majority of residents would not choose densely populated projects. She found it comical that the ordinance is the one the developer wrote. She spoke about the land being in remediation and housing being built on it. Mrs. Rubinstein said she would hate to see people getting sick. The other area is the schools, no one can estimate how many children will live in a development.

Jane Diepeveen, 14 Ryder Road, stated this ordinance appears to be based on what the developer, Shellmark, proposed. The project has a long facade of 108 feet without a break. She expressed her concerns about the density and about the zoning and the COAH regulations. She reminded the Council that they did not have to give the developer what he wants.

Suzanne DiGeronimo, 16 Beekman Place, stated that the developer offered to clean up the property and the State would be mandating that project. It will be clean regardless of whom the developer is. This is an example of spot zoning without it being studied. There are other options. She felt there were issues that the Planning Board should hear. Attorney Kates stated that it starts with the Mayor and Council and then goes to the Planning Board. Mrs. DiGeronimo asked if the Borough hired a planner. Attorney Kates advised that the planner has looked at it for the COAH obligation. This Council wants the comments from the residents who are reacting to this. This is just the first draft which does not mean it will be introduced as is.

Pamela Coles, 13-34 George Street, suggested that since Master Plan had not been revised since 1982, it should be reviewed. Ms. Coles continued that there are a lot of historical items in the area and they should be preserved such as the fish weir in the Passaic River. She felt the vision for that site should come from the residents. They are the heart, soul and spirit of the community. She also suggested looking at the impact of the trees that would be cut down which could cause a problem with flooding. Mayor Etlar stated it would survive the fifty-year flood. Ms. Coles said she did not want to see congested traffic which could impact the Police Department, Fire Department and the Ambulance in doing their jobs.

Harvey Rubinstein, 28 Rutgers Terrace, stated he is a homeowner and taxpayer and was the only one on the Planning Board to vote against this development, but he is not against developing this piece of property in another way. If they follow the zoning ordinance as it is, they will end up with COAH units. He said he would like to challenge Mr. Watson's statement of how much it costs to educate a child.

Ray Welsh, 3-11 Bergen Avenue, stated he has paid taxes for 26 years and is tired of looking at that eye sore.

Howard Mark, 12-23 Ferry Heights, stated he has heard promises before about the McBride project and the amount of children that would be going into the school system.

He asked about building an office building on that site. Mayor Etlar stated that no one has come forward to build an office building there.

Stewart Shaw, 19-32 Chandler Drive, stated he has a vision that when someone comes through on the train, they will see the slums of tomorrow. He wanted to know why the Council did not come up with something better. He felt the residents are under the control of Don Smartt. He asked them not to listen to the proposal because they should be in favor of open space. Deputy Mayor Weinstein stated that because people disagree with you, that does not mean they are under Don Smartt's thumb. Mayor Etlar asked him if he thought that the people who spoke tonight do not know what they are talking about. Mr. Shaw said he never said people did not know what they were saying.

Al Scelzo, 15-27 4<sup>th</sup> Street, stated he had a brain in his head. People call that area of town the sleazy end of town. The residents there have to look at the eye sore all the time.

Don Smartt, said that he serves the taxpayers of the community. Many have rich histories here. The Council asked him to get involved with the residents to see what they would want on that site.

Frank Baldino, 12-62 3<sup>rd</sup> Street, stated that he has been sitting there observing what the residents are saying. It is obvious that everyone wants change. Maybe other developers would be interested in that site. He wondered what they really want. This is a great town, and they should not restrict development. He thought they should form an advisory committee to see what can happen on that site.

Councilmember Trawinski suggested taking another look at this and getting the property owner involved. He thought they should look into having an age restricted development. The Planner had mentioned that the height should be 25 feet and it should be 25 feet back from the street. He suggested that Manager Metzler talk to the attorney for the developer, Mr. Quinn. He would also like to know the status of the remediation and what Clariant has set aside financially to take care of it.

Deputy Mayor Weinstein stated he would like to see the height at 45 feet. He did not want to make a decision tonight. He also felt they should look into an age restricted development.

Councilmember Baratta thought it was clear that something should be done on that site. There are environmental issues, traffic, density and COAH issues. She was concerned about the environmental issues in the area like the fish weir.

Manager Metzler stated he would have Clariant come to the next work session or whenever they can.

#### **RRIC - HOLIDAY LIGHTING UTILITY BILL:**

Councilmember Trawinski stated there is an issue of the holiday lighting.

Don Smartt stated it was a matter of principle and cost. For last eight years, the RRIC starts off the holiday season at the entryways into Fair Lawn. It heightens the community spirit. The Manager has passed a bill to RRIC to pay. The Board would like to see a contribution for the cost of the holiday lighting. He proposed that the Borough pay half of the \$1,400 bill. In the past it has been a public/private partnership. RRIC will be paying 50% of the traffic calming devices by the Post Office, and they are actively negotiating a deal with the Fire Company on George Street to swap land. He asked the Council to allow the Borough to join in sharing the cost of the holiday lighting. Mayor Etlar asked why they couldn't take it out of their budget. Councilmember Trawinski stated he would refer this to the Manager. The principle here is improving the Borough. The Council has committed to improving the business districts. There is a fair amount of merit to what Mr. Smartt has said. The residents of Fair Lawn benefit from the holiday lighting. They all benefit from the ratable base staying alive and healthy. If what they were talking about is \$800 for that bill, he would be prepared to go forward with it. He would not do it retroactively. Manager Metzler said that he confirmed that the bill is between \$1,400 - \$1,500 per year. The fact of the matter is, that the bill was not paid by the Borough was because there was no policy in place and he felt it was a Council call. Councilmember Baratta thought the program was a good one. She would not like to see it snowball out of control for every district. She would support this. Deputy Mayor Weinstein felt the holiday lighting was good for the community and he, too, would support this. Mayor Etlar thought the lighting was good but they should pay for it.

There was a consensus to pay half of the holiday lighting with Mayor Etlar dissenting.

### **AMENDING THE HISTORIC PRESERVATION ORDINANCE:**

Councilmember Trawinski stated when the Council got this draft, he reviewed it. He is not prepared to support this ordinance if they are going to apply it in any way, shape or form to the resident structures in the Radburn historic district. The focus of this was for historic sites such as the Naugle House, the Vanderplatt House, the Cadmus House, the Garrettson Forge, structures such as that nature and the fishing weir. He did not think any of them intended to provide another level of bureaucracy to review the decisions in whatever the Radburn Architectural guidelines pose for Radburn. It is a system that has worked well. He did not think they should interfere with it. He would like to see if they can get this commission to be more of an advisory commission.

Deputy Mayor Weinstein stated that when they established this committee, they used a resolution that was drafted in 2000 and in that resolution it was truly an advisory board. The committee and his intent to get this committee off the ground, was to do things such as obtaining historical information, preparing audio tapes for tours, identifying historical landmarks in town but the gist of it was purely advisory. This ordinance was giving another board another level of bureaucracy to this town. The other issue in this time of cutting cost, this commission would have its own budget and the analogy is that they formed an Open Space Committee. That committee has been very important in the last few months, in fact, they just raised \$450,000 from the State. The Council had the final decision to hire the Space Committee. That committee has been very important in the last few months, in fact

they just raised \$450,000 from the State. The Council had the final decision to hire the planner. Regarding this commission, that was not his intention. He would be happy to keep the historical committee in place.

Councilmember Baratta agreed with what Councilmember Trawinski said about the individual houses in Radburn. She felt there were a lot of good things in the ordinance. This commission would provide guidance. This is a first draft and this is something they need to discuss further. She would like the public's input.

Deputy Mayor Weinstein felt this ordinance was done already. The resolution that was passed in 2000 said it all. He felt no more time should be spent on this. His vote would be to keep the resolution as it is and move onto another topic.

Mayor Etlar agreed with Deputy Mayor Weinstein's comments. It was never the intent to create a commission that would have oversight and things like that on private property. When they formed the commission, it was only to be advisory and they were supposed to categorize historical houses. Suddenly, there is an expansion of this committee. He thought this was a done issue and the original resolution was for his committee. As far as he is concerned, this is dead.

Councilmember Trawinski stated he would like to hear from the Borough Attorney. They have historic structures that are under the threat of developers wrecking ball right now. They put a stay on the Naugle House. He felt they can work off of the original Resolution creating it. They should ask the Historic Preservation Commission and the Borough Attorney to take their comments and go back to the drawing board and give them an ordinance that is more advisory. What they did in the past, has not worked. They need to find that middle ground. They never intended to add another level of bureaucracy to the residents in Radburn.

Mayor Etlar stated the Council prevented the demolition of the Naugle House. The Council took immediate action. Councilmember Trawinski felt there may be some legal advice they could use.

Attorney Kates thought there were some valuable aspects of this ordinance. He would like to see by ordinance not by resolution, a process to freeze demolition of the historic sites for at least a year to give an opportunity to either be acquired or saved in some fashion. The Council did pass a resolution but he had concerns about it's legal efficacy. The reason is the moratorium that is in the municipal land use law relating to historic preservation is to create a survey and census of sites, and not to deal with demolition. He assured the public that this a first draft. It is a draft by the volunteer commission; these are not paid people, these are citizens of the Borough. Ms. Koplik is here to introduce the subject and get it remanded.

Felice Koplik, 6 Reading Terrace, stated she is the Chair of the Historic Preservation Commission. She thanked the Mayor and Council for supporting this commission. The commission has been working with the Borough Council and the Borough Attorney to create this draft ordinance. At this time, the ordinance is a work in progress and she agrees with all the Councilmembers on the points that they made. They expect to get much input and comments from the residents. They will continue to work to get this ordinance into its final form. It was important to emphasize that the final ordinance is to be advisory in nature and it will not over ride present review processes. The commission will provide useful information that the owner, applicant and Borough can use to make the best decisions in the normal application process.

Although this ordinance is common in New Jersey, it is new for Fair Lawn. Other towns in Bergen County that have similar ordinances include Teaneck, Closter, Mahwah, Tenafly. They are now aware of how important it is to preserve the Naugle House. They see the need for a local ordinance to provide effective tools to use in these preservation efforts. Recent circumstances demand that the ordinance created in an unusually short time, without the usual period of community participation and information dissemination, which has caused a real challenge for the commission, Council and the Borough Attorney. The commission never had the intent to impose any part of this ordinance on the public or the Council, without a back and forth discussion between the Council, the public, the Borough Attorney and this commission. They are there to hear the comments from the residents and Council to get any information that will make this ordinance effective. She looked forward to working with the Borough Council and the community in an ongoing process. The ordinance presented tonight is a first draft and she invited everyone's input. At the July 11<sup>th</sup> Work Session the Council made a decision to save the Naugle House. That was a very important decision. The Naugle House application at the time was before the Planning Board. The decision was made to look at other town's ordinances for guidance. The steps the Council made at the July 11<sup>th</sup> meeting, were very bold and exhibited foresight and responsibility which would enable the Councilmembers to save the Naugle House and well as other historic sites in town that may be at risk. This commission was created to protect historic sites in our community. They want the children growing up, and the business owners to know about the history of the community. These historic sites do bring visitors to Fair Lawn. At this time, a lot of money is being invested into the commercial districts and it is well documented that people come to see the historic sites. These sites contribute to Fair Lawn's economic stability. She believed they should treat this carefully and think about it.

Donald Wise, 354 Owen Avenue, stated he was a resident of Radburn. He was presented the rules when he had the choice of living there. Groups of planners have come through and have been bowled over by the beauty of Radburn. Councilmember Trawinski said the comments were supposed to be about the historic ordinance. He asked Mayor Etler to direct that all comments should be about the ordinance. Mr. Wise said he saw this ordinance as a threat to his life.

Louise Orlando, 12 Arlington Place, spoke about Councilmember Baratta's comments about Radburn School. Those were technical issues that were never subjected to the State's historic committee. The changes at Radburn School were approved by the Architectural committee. Councilmember Baratta stated she was not laying blame on anyone. She read in the minutes that the Radburn Association had to submit the plans for Radburn School to the State Historic Committee. Ms. Orlando stated the only thing missing was a walkway from Howard Avenue. The landscape plan was submitted and there was nothing wrong. Councilmember Baratta stated they looked at the windows, trees and just made sure that history stays the way it was. Ms. Orlando stated it was a technical error by the construction company.

Jane Diepeveen, 14 Ryder Road, stated she was the Borough Historian. Radburn was designated as a historical landmark because of its plan not the residences. Some towns decide they want this ordinance to prevent tears downs. The Borough's Master Plan has a Historical Plan element in it. She strongly agreed with the commission's recommendations. The ordinance does need work, but it is only the first draft. She understood that the Planning Board asked for a stronger ordinance. They just need to fine tune it.

Kathy De Ritter, 13-20 6<sup>th</sup> Street, stated she was not changing her house, just making improvements to it. She did not realize she was living in a historic home.

Dave Drahouzal, 9 Barry Place, stated he and his family are the owners of the Dutch House. They are in the process of making improvements. They want to keep the beauty of the site. They have already gotten approval from Radburn to do these improvements. He did not want this ordinance to stop what they are doing. Mayor Etler told him to proceed with what he was doing.

Ken Trynosky, 2 Bristol Place, stated he was against the ordinance. He felt things could get out of hand.

Laura Policastro, 13-18 6<sup>th</sup> Street, referred to a letter she received from Municipal Clerk Kwasniewski. She felt a lot of people were not notified. She opposes this ordinance.

Deputy Mayor Weinstein asked who instructed Municipal Clerk Kwasniewski to send the letter. Attorney Kates advised that the Council did.

David Orr, 12-66 5<sup>th</sup> Street, expressed concern about the buffer zone. He has great concerns about this ordinance.

Joseph Monico, 40-10 Morlot Avenue, stated he was on the historical committee with Mayor Etler. This ordinance would be too restrictive. They do not need more beauracuracy and more control.

Craig Miller, 5 Ramapo Terrace, stated he received a bulletin from Radburn about their guidelines. He is glad that the Council is letting this go back to the Historic Commission to rework it. The historic sites should be preserved.

Kathy Moore, 13-16 Plaza Road, thanked the commission for the work they did. Once a historic site is gone no one can bring it back. The house that George Washington slept in is in the history books. They should take advantage of the hard work that the residents have done. They should not have to force the Mayor and Council to do the right thing. She thought Mayor Etler was rude to Felice Koplik.

Pam Coles, 14-34 George Street, stated she wanted to apologize to everyone if this letter that went out caused any problems. She did not know these letters were sent out. The members of the Historic Commission spent hundreds of hours on this ordinance. She apologized professionally and personally for any confusion this ordinance may have caused. She read the list of historical places that are on the Master Plan. These areas are considered significant. She did not want to lose any more historical sites.

Maureen Moriarity, 14 Burnham Place, stated she would never support anyone going over the Radburn restrictions. The commission was given a short window of time to prepare this ordinance. She would never support this ordinance. The members of the Council say it should be advisory.

Manager Metzler addressed the issue of the letter that was sent from the Municipal Clerk for the Mayor and Council. A lot has been said. She was instructed to send to everyone on the list. It was the intent to hear the pros and cons from the residents. It was the Council that instructed her to send the ordinance to people on the list.

Larry Koplik, 6 Reading Terrace, felt it was unfortunate that this draft was released. As was seen tonight, the residents made it clear that they did not want any restrictions. The commission is advisory, and it was just getting information. At least they now know the intention is to get information out to the public. He felt it was a good idea to develop an advisory approach. It will open up resources from the government.

Arlene Rubinstein, 28 Rutgers Terrace, thanked Felice Koplik and Pam Coles for the long unpaid hours they worked on this ordinance. If she could, she would discipline the Mayor for his outbursts.

Robert Glassiest, 8 Burlington place, questioned what was historic, the planning or the houses.

Jim Thomas, 13-06 5<sup>th</sup> Street, thanked the people on the commission. He lives in a historic house. It needs paint right now but felt he would never want to be dictated to by a group of people telling him what he could and could not do.

Councilmember Trawinski stated they should scrap it and send it back to the Commission to rework it. He suggested it be advisory only and follow the blue print of the Resolution passed in 2000.

Deputy Mayor Weinstein stated he would like to stick with the Resolution that passed in 2000. He also felt the commission should be advisory only.

Attorney Kates stated the Council may have to find funds to preserve these sites.

Upon motion by Deputy Mayor Weinstein and second by Councilmember Trawinski, the meeting was recessed at 10:00 p.m.

Mayor Etlar reconvened the meeting at 10:07 p.m.

### **STATUS REPORTS:**

Councilmember Trawinski stated he would like to discuss several items that are on the task performance list.

9-11 Memorial Wall: Manager Metzler stated that bids were received and will be awarded at the next meeting.

Checklist for Campaign Disclosure Ordinance: Manager Metzler stated this is in the Legal Department. Attorney Kates stated he would have a draft of this ordinance by the next work session.

Banning Council from Exercising Power of Eminent Domain Under Guise of Economic Development Ordinance: Manager Metzler stated this was in the Legal Department. Attorney Kates stated it was on hold. Councilmember Trawinski stated he would like to see a draft in two weeks.

Study on Improvements to Council Chamber Sound System: Manager Metzler reported that the vendor had come in with a recommendation for upgrades to the system. There will be mandatory upgrades that they need to make to the Courtroom. He will discuss this further at the work session on October 3<sup>rd</sup>. He would also like to discuss moving offices around in the building.

Maynard Management Co. License Agreement: Manager Metzler stated no further action is required.

Appraisal Services Proposals: Manager Metzler stated this also needs no further action since it has been completed.

C-O-W-S; DPW tower in the wrong location: Attorney Kates stated they were in negotiations with the vendor. Manager Metzler said the vendor has asked the DEP for a letter of noncompliance. Engineer Garrison contacted the Attorney General for guidelines. Councilmember Trawinski asked if they had looked at the lease agreement. He wanted the Council to make this a priority.

There was a consensus to make this a priority to move forward quickly.

Report due from EDC, RRIC, BIC, Chamber of Commerce re: types of business they would encourage: Manager Metzler said a letter was sent on May 16<sup>th</sup>. He has received

the Economic Development Corp which he will pass out.

Revaluation Status: Manager Metzler will attach the report above the revaluation to the monthly reports he does. As of September 1, 5,291 houses have evaluated, 6,000 photos have been taken. Councilmember Trawinski asked if they were on target with their schedule. Manager Metzler said he would check on their schedule and confirm it.

Financial Report from 501©) 3: Manager Metzler said he expects to have the audit report done in another month.

Mayfair Terrace Traffic Issues: Manager Metzler stated that the Police Department used Glen Rock's equipment to test the average speed. They tested two different times and found that 85% of the cars were traveling at 30 mph. Chief Rose recommended no change. Councilmember Trawinski asked if the resident who brought this to the Council's attention was aware of this. Manager Metzler will advise him.

Demolition Permit Notification Procedure Ordinance: Manager Metzler stated this is the Legal Department. Councilmember Trawinski felt that anyone who was getting a demolition permit should notify the people surrounding the property.

Draft Easement Agreements for George Street Parking Lot: Attorney Kates stated he had met with Don Smartt to discuss this, however, he believed it is a policy decision which they should talk about in two weeks.

Explorer Ride Along - Response from JIF: Manager Metzler stated he would distribute a letter he received from the JIF which suggested guidelines they should follow. The Police Department is not prepared to move forward at this time.

Dry Cleaners - appropriate use: Manager Metzler stated this is in regard to new dry cleaner on River Road. There were concerns about the planning and construction. Councilmember Trawinski said they should talk about going to River Road Improvement Corp. and the Broadway Improvement Corp. Attorney Kates advised that they are talking about a commercial retail establishment which is a permitted use in that zone. They would have to change the ordinance.

Low Speed Vehicle Ordinance: Manager Metzler said this was deferred to Attorney Kates. Councilmember Trawinski stated the Council had taken a consensus to check with the Police Department. Attorney Kates questioned what was low speed. Mayor Etlar said below 50cc. Councilmember Trawinski stated this topic came from the League of Municipalities. Attorney Kates felt that they already have a good ordinance for this purpose. Councilmember Trawinski felt this should go back to the Police Department for their input.

Free analysis to determine if it is possible to purchase electricity on the free market: Manager Metzler stated he signed the paperwork and is waiting for the firm to get back to him.

Relocation of Bus Stop on Fair Lawn Avenue Ordinance: Attorney Kates stated this

ordinance was under review and in a draft form. Traffic Safety Officer Franco would like to add some things. He advised that he will be able to produce this in two weeks.

Berkshire/Arcadia alternate routes for pipes: Manager Metzler reported that work is under way for this project. Councilmember Trawinski wondered what the County intended to do. Mayor Etler stated it will go down those street and then under a bridge. Councilmember Trawinski thought it was going to be done further down. Manager Metzler stated he was at a meeting with the County. They have a commitment to work on Midland Avenue. They plan on connecting to the brook. RFP's have been sent out. Councilmember Trawinski said it sounded like the County was cooperating.

Sale of Property at 28<sup>th</sup> Street and Pellack Drive: Manager Metzler stated he had done the research, there is no other information. Councilmember Trawinski wanted the manager to talk to the property owner.

### **REQUEST TO INSTALL SWIMMING POOL IN EASEMENT - 5-06 SIXTH STREET:**

Manager Metzler stated that he was asked to go back to the Engineer to determine how much would be on their easement. Engineering said that 19 feet will be in the easement. The policy has been not to place pools on the easement. A fence was suggested.

There was a consensus to not allow a swimming pool in the Borough easement, with Councilmember Baratta abstaining.

Manager Metzler asked the Municipal Clerk to advise the resident of the Council's decision.

### **AMENDING PROFESSIONAL SERVICES RESOLUTION RE SPECIAL ATTORNEY:**

Manager Metzler stated that the amount of money that was allotted to Richard Lustgarten has been spent. He has calculated that it should cost around \$28,000 more for defending the Landmark case and pending tax appeals. Attorney Kates said it was fine with him.

There was a consensus to authorize the amount of \$28,000 for Richard Lustgarten which will be done by Resolution at the next meeting.

### **REDUCTION OF SERVICES:**

Manager Metzler explained the changes he planned to make such as eliminating sewer rodding which would eliminate one full time employee and one vehicle; eliminating Saturday pick up of Recycling which would reduce the over time cost in that department, and not replacing the Legal Secretary who is planning on retiring in April of 2007. He asked his secretary to contact several communities all of which did not have a Legal Department. He also said there would be changes in the telephone provider that will give the Borough a savings of \$24,000. In Closed Session, he will explain proposed personnel changes. He requested that this item stay on the agenda so he can give updates. He continued with the other changes that he was looking into, such as the pistol range and

analyzing purchasing equipment and supplies.

Deputy Mayor Weinstein asked about the employees in regard to sewer rodding. Manager Metzler said it would happen through attrition. Deputy Mayor Weinstein asked if a resident could pay for the service. Manager Metzler stated there are a lot of services in the free market. Fair Lawn is the only town in Bergen County that offers this service. Deputy Mayor Weinstein asked if he had checked the cost. Manager Metzler said that generally when a back-up occurs the resident wants someone right away. The Borough would be getting away from having someone sit there all weekend. Deputy Mayor Weinstein said he would like to speak about this further. Councilmember Trawinski felt it was a Council policy. It seemed like it was a piece of reassurance for the residents. Deputy Mayor Weinstein felt it was a worthy and valuable service to the residents. Manager Metzler stated that as they go along and fine tune, they will realize that this is not an essential service to the residents.

Councilmember Baratta asked about the holiday pick up. Manager Metzler explained the number of trucks and pick ups. He suggested having Superintendent Conte come into the next work session to discuss this further.

### **PROPOSED PROFESSIONAL SERVICES CONTRACTS:**

Computer Consultant: Manager Metzler stated they have contacted a consultant, ATON Computing to do a system assessment of the computers in Borough Hall and to network the computers in Borough Hall. The total for the services is \$3,680.00. Councilmember Trawinski asked if the ancillary buildings would be reviewed also. He also suggested they should check into satellites. He also suggested that they check the company for pay to play.

There was a consensus to authorize a professional service contract to ATON Computing as proposed by Manager Metzler.

Hakim Associates: Manager Metzler explained that Hakim Associates did work on the Open Space grant and committee. There is now more paperwork that has to be completed. Hakim Associates submitted a proposal in the amount not to exceed \$4,000.00 until the end of the year.

There was a consensus to authorize a professional service contract to Hakim Associates as proposed by Manager Metzler.

### **GATEWAY SIGN PROGRAM:**

Manager Metzler stated that the Broadway Improvement Corp. reached out to his office about a resolution they need to proceed to put signs up in the entryway to Fair Lawn. This resolution is required by the DOT. The BIC will be paying for the signs, but they just need the resolution authorizing the execution of agreements with the New Jersey Department of Transportation regarding the welcome signs.

There was a consensus to pass the resolution to execute the agreement with DOT.

## **ENDORSEMENT OF CDBG APPLICATIONS:**

Bridge Haven Housing and Care Plus of NEW JERSEY Inc.: Manager Metzler stated that as the Council knows, these applications for CDBG funding need the Council's endorsement.

There was a consensus to pass the endorsing resolutions for Bridge Have Housing and Care Plus of NEW JERSEY Inc.

## **SPECIAL MEETING:**

Upon motion by Deputy Mayor Weinstein and a second by Councilmember Trawinski, the meeting was recessed to the Special Meeting at 10:50 p.m..

Mayor Etler reconvened the Work Session at 10:59 p.m.

## **PUBLIC COMMENTS:**

Harvey Rubinstein, 28 Rutgers Terrace, talked about what took place at the Zoning Board meeting the night before regarding the Mac Brothers development. It went to Court and came back with compromises. Their attorney suggested multi-family residences and he thought this Council should take it into consideration.

Mr. Rubinstein spoke about the drinking ordinance. He was in favor of it. He talked about the sewer services and how the senior citizens in Fair Lawn complain about their taxes going up and he thought that would be a problem to give up that service.

Mr. Rubinstein asked about dissolving the Legal Department and wondered where all of the legal records would be held. This is something they should look at.

Councilmember Trawinski stated there is merit to review this matter of where they are going with this drinking ordinance. The Manager and Attorney can talk with the Chief to see if there is a way where they are not interfering with the Chief's discretion or the police officer's discretion and yet has that added measure of protection. He believed that the police officers have that discretion already. He did not think they could tell the Chief how to exercise the discretion but could they get guidance and direction for the ordinance. They would like either the Chief or the shift commander to look at it. He felt they were charting into an area that we as a Borough have never gone into.

There was a consensus to have the Manager talk to the Chief about the underage drinking ordinance, with Mayor Etler dissenting.

Craig Miller, 5 Ramapo Terrace, said he noticed that Mayor Etler is not consistent. He does attack people at the meetings with their five minutes and yet other people he gives extra time. He had emailed Manager Metzler about the crossing signals at Fair Lawn

Avenue and he thanked him for his reply. He mentioned that about ten years ago they

paved his street but now there is a large crack going across Ramapo Terrace. Manager Metzler said he would look into it. Mr. Miller said he was in favor of the underage drinking ordinance and it was about time the Borough took a stand.

Joan Goldstein, 12 Bedford Place, stated it is very difficult, for people who do volunteer work. It is at times thankless. Although she did not agree with the work that was done by the committee, she thanked them for their time and effort. Every person on this Council is a volunteer and she thanked them for the work they do. Mayor Etler has the toughest job because in these contentious times people with yelling and being rude and not keeping their wits about them, and letting their emotion get the best of them, he is the one that has to take all of it. She felt he has the hardest job in Fair Lawn.

Don Smartt, thanked Manager Metzler, Deputy Mayor Weinstein and Councilmember Trawinski for their diligence in making this public/private partnership. He thanked them for meeting in the Council Chambers tonight. It made a difference to have the room and to have the ability to be heard.

Deputy Mayor Weinstein stated he selected Joseph Tedeschi as the replacement for Owen McCarthy. He worked with Peter Kortright for many years and he has a lot of respect for him. Larry Metzger is on the Rent Leveling Board and the Property Maintenance Board. Joe Tedeschi is a former Councilmember and Mayor. He felt he was the right man for this time. That is why he voted for him.

Councilmember Trawinski stated his no vote emanates from a commitment Joe Tedeschi made when he was Mayor in 1996 when he accepted the position at the Community School. He assured him and the other Councilmembers when questions were raised whether it was ethical or not, that he would serve out his term as Mayor and not seek another term as Mayor, or seek reelection to the Council. It is a private assurance that he gave to the other members of the Council at the time. He felt Joe Tedeschi was back pedaling on that position. This does not speak to anything about Joe as a person.

Deputy Mayor Weinstein stated he never knew about this but does not see it as a conflict. Mayor Etler stated he did not see that a conflict either. He felt that Joe Tedeschi was well qualified for the position.

**CLOSED SESSION:**

**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 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 resolution of this matter by formal action by either the Mayor and Council or the Borough Manager;

**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 Deputy Mayor Weinstein and a second by Councilmember Trawinski, the meeting was adjourned at 11:40 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 Etler

\_\_\_\_\_  
Councilmember Jeanne Baratta

\_\_\_\_\_  
Councilmember Edward J. Trawinski

\_\_\_\_\_  
Deputy Mayor Steven Weinstein