

REGULAR MEETING OF JANUARY 25, 2005
Thomas Jefferson Middle School

Deputy Mayor Etlar called the meeting to order at 7:35 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 18, 2004. 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 North Jersey Herald and News and the Shopper. The annual notice identified the times and locations of the Council meetings and work sessions.

PRESENT: Deputy Mayors Etlar and Weinstein and Councilmembers Caan and McCarthy.

ALSO PRESENT: Manager/Municipal Clerk Kwasniewski, Assistant Municipal Clerk Bojanowski and Attorney Lustgarten.

ABSENT: Mayor Ganz

COUNCIL COMMENTS

Deputy Mayor Weinstein complimented DPW for the snow plowing. He added no other town compares with Fair Lawn.

Councilmember McCarthy echoed what Deputy Mayor Weinstein said and stated Supervisor Conte and everyone working should be congratulated for the conditions of the roads in Fair Lawn. He reminded everyone the procedure for the removal of snow is listed on the website and Channel 77.

Councilmember Caan reported that last year the Fair Lawn Prescription Drug card saved residents more than \$138,000.00. He attended the presentation to Mary Ann Collura's mother, and the High School Hockey team is dedicating this season in Mary Ann's memory. He showed the patch that each member of the hockey team is wearing this year. He congratulated the Fair Lawn Hockey team on doing a great job this year.

Deputy Mayor Etlar echoed the remarks on a great job the DPW did with snow removal. He also stated Manager/Municipal Clerk Kwasniewski did a good job as well.

MANAGER'S REPORT

Manager/Municipal Clerk Kwasniewski stated the town had ice skating on Saturday from 9:00 a.m. to 12:00 a.m. There were seven children skating. If they do not get more snow, they will be able to get the ice smooth again for skating.

Manager/Municipal Clerk Kwasniewski commended Superintendents Conte and Frey, the people in the DPW and Parks and Recreation Department on a great job. She added they also have a few dispatcher and Records Room Clerk who also help them plow. They had 55 trucks out there. She also thanked the residents who took the time to email them and let them know what a great job the town did with snow removal. She also urged the residents who have a fire hydrants in front of their house to take a few minutes to shovel them out. She stated it was for not just for their safety but that of their neighbor and it is critical for the Fire Department to be able to find the hydrants.

ORDINANCE: FIRST READING

Upon motion by Councilmember Caan and a second by Deputy Mayor Weinstein, it was unanimously agreed to read the following ordinance by title.

Ordinance No. 2001-2005

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 125, ENTITLED "LAND DEVELOPMENT," MORE SPECIFICALLY SECTION 125-59.A(9)

Borough Attorney Lustgarten stated this ordinance is to amend the time the Planning and Zoning Board's minutes stay on the website.

There being no further discussion, upon motion by Councilmember Caan and a second by Deputy Mayor Weinstein, Resolution No. 50-2005 introducing Ordinance No. 2001-2005 was unanimously passed.

RESOLUTIONS BY CONSENT #4-2005

Upon motion by Deputy Mayor Weinstein and a second by Councilmember McCarthy, Consent Agenda 4-2005 containing the following items was unanimously adopted.

- a. Resol. #51-2005 - Approval of Raffles and Bingos:
 - Fair Lawn Rotary, Off-premise 50/50
 - Fair Lawn Jewish Center, Instant Raffle
 - Fair Lawn Jewish Center, Bingo
 - Fair Lawn Jewish Center, On-premise merchandise
 - St. Nicholas Greek Orthodox Church, Off-prem merchandise
- b. Resol. #52-2005 - Refund of Overpayment of Taxes
- c. Resol. #53-2005 - Award of Bid: Electrical Repair
- d. Resol. #54-2005 - Award of Bid: Storm Drain Improvements 2004
- e. Resol. #55-2005 - Award of Bid: Senior Center Improvements

- f. Resol. #56-2005 - Award of Bid: Smithco Sweep Star 60G Turf Sweeper
- g. Resol. #57-2005 - Authorizing Execution of Grant Agreement
- h. Resol. #58-2005 - Professional Services Planner
- i. Resol. #59-2005 - Approval of Minutes
 - Work Session 11/23/04
 - Regular Meeting 11/23/04
 - Closed Session 11/23/04
 - Special Meeting 12/9/04

MISCELLANEOUS PUBLIC COMMENTS

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

Chris Antonelli, 30-17 High Street questioned what the Senior Center Improvements would be and what the Smithco Turf Sweeper was used for. Manager/Municipal Clerk Kwasniewski explained it picks up things such as goose droppings and other things and can be used on grass and sand. She stated the Senior Center Improvements was a Community Development Block Grant.

Mr. Antonelli asked how to obtain a permit for a baseball field. Deputy Mayor Etlar advised him to contact the Recreation Department. Mr. Antonelli asked if there were any other requirements besides being a resident. Borough Attorney Lustgarten stated organized sports, High School and other groups can use the fields. He also advised him to speak with George Frey in Recreation. Mr. Antonelli inquired about a fee. Councilmember Caan explained depending on what they would be using the field for there may or may not be a fee.

Harvey Rubinstein, 28 Rutgers Terrace stated the D.P.W. did a wonderful job with the snow removal but there is still a problem on Fair Lawn Avenue in front of Eckers. There is still snow there and it will be dangerous when it freezes. He added on the corners where the bank is, Eckerd and by the railroad they need someone to be responsible for cleaning the snow from those areas. In the back of that area where people get dropped off by the train the land is covered with snow so they have to climb over the snow.

Mr. Rubinstein stated he brought up questions last month about houses of worship and asked if anything had been looked into on that. Borough Attorney Lustgarten stated he asked how they measure the distance of the street. The ordinance measures it to the property line.

Mr. Rubinstein stated that Mr. Trawinski made a request to the Planning Board that the Master Plan is brought into agreement with the ordinance. He asked at the Planning Board meeting this month what the status was on that. Mr. Winston advised him that Mr. Trawinski was going to get a letter from the Planning Board Attorney and that it was a matter for the Council. He asked where in the Municipal or State ordinance it says

that bringing the Master Plan and the ordinance into agreement are a Council situation rather than the Planning Board. Deputy Mayor Etlar stated the process starts with the Planning Board. They have to study it and make a recommendation to the Mayor and Council. Mr. Rubinstein stated Mr. Winston stated the opposite.

Borough Attorney Lustgarten explained you can have an ordinance that is part of a land development with the Zoning Board that does not conform to the Master Plan as long as the Mayor and Council give a reason why the ordinance does not match the Master Plan. Mr. Rubinstein asked if it should begin at the Planning Board and then go to Council. Borough Attorney Lustgarten stated at either level, when someone requests a change in Zoning it goes to the Manager, Mayor and Council and then it would be turned over to the Planning Board and they make a recommendation. Deputy Mayor Weinstein stated the Planning Board Chairman deferred to the Council because they are in the process of hiring a planner. Mr. Rubinstein felt hiring a planner is a Planning Board job instead of the Council. He expressed concern about using taxpayer dollars to hire the planner.

Mr. Rubinstein asked about the Naugle property, he notice they are going before the Zoning Board on January 31, 2004. He hoped that since it came before the Council that they testify at the Zoning Board that there is a zoning deficiency on the plan. Deputy Mayor Etlar stated they have two R1-5- districts. He has a little short of two acres there and is asking that 18 units be allowed.

Mr. Rubinstein stated on the web page Fairlawnonline there is a story about the Topps Properties being contaminated and the Council knows that and they should make it public. Deputy Mayor Etlar stated it is public knowledge and the DEP has assigned a case manager to it.

Donal Meyers, 8-22 Mayfair Terrace thanked the men and women for the snow plowing they did in town, he felt they did an excellent job. He expressed his approval of hiring a planner to study Daly field, the Heyward tract and Archery Plaza. He was also pleased with the part of the proposal where Burgis will meet with the community to get their opinions. He felt this would be a valuable input into the process.

Mr. Meyers added at this point there is no need for the Borough to be involved with a planning study of Topps Property. Deputy Mayor Etlar stated there is a difference between the Topps Property, Heyward, Archery Plaza and Daily Field and they felt because of the contamination of Topps they needed a separate planner for that. Mr. Meyers felt the planning study money is given to the Bergen County Democrat's contributor.

Mr. Meyers expressed his dismay over the contamination of the Topps Property which has spread to the houses on Plaza Road and this Borough's inaction on this matter. Manager/Municipal Clerk Kwasniewski told him that other than any documents in Assistant Municipal Clerk Bojanowski's files the Borough had no documents. He added the only document was a three-year-old file of hot spots in Fair Lawn. He mentioned to Manager/Municipal Clerk Kwasniewski that the situation was bad and the Borough should be advising the residents on Plaza Road. Her response was that the Topps Property was private property.

Mr. Meyer read letters from 1990 from the Department of Environmental Protection which were not in the Clerk's files about contamination of water by the Exxon Station. There was a document in the Borough's files that the Borough knew of the contamination. In 1995 a letter from Mr. Van Hook to the owner of Topps in regards to an 8,000 gallon oil tank that was not properly closed and no permits were taken out. He did not get any answers because in July of 1995 Mr. Van Hook wrote to D.E.P asking them to open up the investigation on the closing of this tank. Mr. Meyers did not know what became of this D.E.P. investigation and has no other documents relating to that, but he had a document dated December 1, 2004 which notes that the tank was reportedly closed in place, however, contamination still exists in one of the tanks and could affect the soil around the tanks. He gave his opinion of how he felt about Mr. Van Hook and what he did and did not allow happen.

Deputy Mayor Weinstein advised Mr. Meyers that Mr. Van Hook was not in the room to defend anything that was or was not done. He added that Mr. Meyers has a habit of coming to these meetings saying he does not have all the facts. He should have all the facts and sit down with the Manager, the Department Heads, the Council and ask questions in a calm fashion and get all the facts. He added all he wants to do is make noise. Deputy Mayor Weinstein stated he was proud to be on the Council and working with the Manager and Department Heads. He stated they are honest people and they work hard for the Borough. He was proud to be on the Council to protect the residents and taxpayers of this town from a person like him.

Mr. Meyers stated he sent in an OPRA request to the D.E.P and was advised that there is a 600-page file waiting for his review. He advised them that he would be back discussing what he found on that report.

Borough Attorney Lustgarten asked Mr. Meyers what is the point in all of this. Did he want to know if something was done or should have been done. He stated Mr Meyers makes statements that plant the seed in the homeowners head that they may have a problem. He felt that it was not a fair statement if he did not have accurate facts. He asked him if he thought about the type of panic and sensationalism he is causing to the people who live there. He added without facts he leaves it in the realm of those people and he should make a statement one way or the other to alleviate any fear they may have as a result of his prior statement.

Mr. Meyers stated everything he has discussed so far is old news and no one on this Council was there then. On December 1, 2004 D.E.P. copied the Borough on a letter to Anderson Moholland which indicated that the reported levels of PCE, which is dry cleaner fluid, are indicative of a major release and a source of ground contamination. The report also states that there was PCE in the sanitary sewer in Topps. The presence of PCE in the sanitary sewer could pose a hazard to sewer workers. He asked if the sewer workers were told about this. He doubted it because when he asked Manager/Municipal Clerk Kwasniewski if there was a problem there, and she knew nothing about it.

Mr. Meyers talked about a letter dated December 20, 2004 from the D.E.P. to Anderson Moholland which was copied to Carol Wagner, the Health Officer, which stated there was potential for indoor vapors to pose a health risk to the residents along Plaza Road.

Borough Attorney Lustgarten stated what he just read reported there was a potential hazard and it needed to be investigated. The letter just came to them a few weeks ago. He stated Mr. Meyers is leaving the inference that the D.E.P has all this information, it being conveyed to the Borough, the ball is being dropped and no one is doing anything when exactly the contrary is the case by his own admission. Mr. Meyers stated the point is that the residents are not being told. By reading that letter to a group of people and not the residents that are living there that they somehow satisfy their obligation to notify the residents that live on Plaza Road. Mr. Meyers stated this is about people's health and the residents deserve better than this.

Manager/Municipal Clerk Kwasniewski stated she had a conversation with Health Officer Wagner, who stated the D.E.P. is in the process of investigating. None of the claims that Mr. Meyers has thrown out have been substantiated. They have a process they follow and they are in the process of doing so. They have offered to keep the Borough in the loop. This is a private property which D.E.P. is working with the property owner. Their reports are no where near being done according to D.E.P. They take samples and if something comes back that they do not like they go to the next set of samples.

Maureen Moriarity, 14 Burham Place stated as a resident of Radburn they have known about the contamination of Archery Plaza since 1998. She has spoken to the D.E.P. and wanted to tell them and the residents of Fair Lawn that she is impressed with the case manager and the people who are working at D.E.P. She added Manager/Municipal Clerk Kwasniewski is right they are testing and do not know yet. They will test the areas close to those homes. They just have to wait and see what the test shows. Deputy Mayor Etlar stated the wells are continually tested on a twenty four, seven day a week basis and there should be no implication that the water that is being pumped into the water taps is contaminated. Ms. Moriarity stated she was not concerned about the water, but about Archery Plaza. She added D.E.P. is top notch.

Borough Attorney Lustgarten was pleased that Mrs. Moriarity made those comments because it is very important that the residents hear them. He was concerned about Mr. Meyers making comments. He felt that is a disservice to everyone who lives on Plaza Road unless they have proof positive from D.E.P. that there is a problem.

Harvey Rubinstein, 28 Rutgers Terrace urged the Council to be proactive.

There being no further comments from the public, upon motion by Councilmember McCarthy and second by Councilmember Caan, the time for public comments was unanimously closed.

