

SPECIAL MEETING OF JULY 26, 2005

Mayor Ganz 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 Etler and Weinstein, Councilmembers Caan and McCarthy.

ABSENT: Mayor Ganz

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

PUBLIC HEARING ON BROADWAY SID BUDGET

Upon motion by Councilmember McCarthy and a second by Deputy Mayor Weinstein, the time for the public hearing on the Broadway SID Budget was open.

Charles Tregidgo, 12-68 4th Street, stated he was there as a representative of the Broadway Special Improvement District. He thanked the Mayor and Council for their consideration and the time and effort they put forth in making this happen.

Deputy Mayor Weinstein stated that a lot of time and effort has been devoted on this project. He believed this budget will help move it forward.

Deputy Mayor Etler stated it was a long time coming. He remembered back in 1975 talking to Borough officials about fixing up Broadway.

Manager/Municipal Clerk Kwasniewski stated the budget will be adopted at the August 16, 2005 meeting.

There being no further comments from the public, upon motion by Deputy Mayor Weinstein and Councilmember McCarthy, the time for public hearing was closed.

RESOLUTIONS BY CONSENT #22-2005

Upon motion by Deputy Mayor Weinstein and a second by Councilmember Caan, Consent Agenda 22-2005 containing the following item was unanimously adopted.

- a. Resol. #220-2005 - Amendment to the Municipal Budget

MISCELLANEOUS PUBLIC COMMENTS

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

Donal Meyers, 8-22 Mayfair Terrace, asked if the \$350,000 Gordon grant was supposed to be earmarked for property tax. Deputy Mayor Etlar stated it was. Mr. Meyers wondered why it was the amount of money to be raised by property taxes was only decreasing by approximately \$320,000. That \$30,000 difference seems to be made up in this line item, 8 General Appropriations - Mayor and Council, which is going up by \$30,000. He asked if they could explain why they are adding \$30,000.

Mr. Meyers stated before it was \$149,500 with this amendment it is \$179,500, that is \$30,000 difference. Deputy Mayor Etlar stated the \$360,000 is melded in the total amount of money that has to be raised by taxes. That reduced the tax liability by a point and a half. Now on an average assessment of \$182,000 the homeowners will be paying \$100 extra a year. That comes to approximately 4.5 points.

Manager/Municipal Clerk Kwasniewski stated it is \$350,000 and they have had to increase the budget to include two items that were not included at the time that the budget was introduced. Had they not gotten the \$350,000, they would have had to increase the budget and the amount to be raised by taxes. They are still getting property tax relief with the \$350,000.

Mr. Meyers thought the petition that the citizens gathered was fairly clear and fairly legal. The wording was adopted from a similar measure that was adopted in Mahwah. He understood that it is similar to what is currently in effect in Paramus. Yet he is hearing rumbles that the Mayor would like to make changes to the wording of the referendum.

Attorney Lustgarten stated he did not know what he meant by rumbles that the Mayor would like to change the wording. Mr. Meyers stated he has heard that the wording will not be as signed by the citizens rather some other wording. Attorney Lustgarten stated the petition has to conform to the statutory requirements. It is absolutely his opinion that the thrust and scope of the petition will be reflected on the ballot. He advised that it would have to be in a form of a question, which the petition was not, it has to be clearly stated that it is a non-binding referendum and it must comport to the statute. If there are rumbblings out there, all he can say is that he suggested and the Council agreed to bring the leaders of the petition drive to the Work Session in August to satisfy the requirements of the statute and make sure the thrust of what they want is on the ballot. The Council supports the question going on the ballot. He is only concerned that they do according to the Statute. He sees the Council and the petition leaders working toward the same goal.

Mr. Meyer's stated thought the people of Fair Lawn were very concerned that the open space question was nothing more than an excuse for this Mayor and Council to grab more tax money which can then be syphoned off and used for play to pay contracts and no bid professionals which is why the open space question was defeated last year.

Deputy Mayor Etlar explained that the money collected, no matter how much it is, goes to a dedicated fund. There are only six items that it can be used for. They cannot put it into the general funds.

Councilmember McCarthy stated no decision has been made concerning the wording of the language. At the last meeting when they agreed to put it on the ballot, they said they would work with the interested groups to develop the language at the next Work Session. He felt a lot of these comments are perhaps two weeks premature. At the next Work Session, they will listen to everyone's concerns. He reminded him that the Mayor is only one vote and three other affirmative votes would be needed to put a petition on the ballot.

Attorney Lustgarten stated that anytime a lower level of government requests funds from either the County or the State or the Federal agencies, they must meet certain requirements. This Mayor and Council and this municipality seek out as many funds as they possibly can from other levels of government. He reiterated the Open Space Statute which is NJSA40:12-15.1, at least in the first three sections talked about acquisition, maintenance and preservation of what we call Open Space and that is the essential criteria of the statute. His concern is that when that question gets on the ballot, that it is absolutely clear to the voters of Fair Lawn and that money will be dedicated to the proposition of acquisition, maintenance and preservation of Open Space. He thought when the question is written that way, it is crystal clear then the voter can vote yes or no. This is a collaborated effort with the leaders of the petition drive, this is not where the Council wants to impose it's will on the question.

Mr. Meyers stated they have been talking past each other. The people that he knows that have signed it and who have been working on getting this referendum on the ballot, are not looking to create a fund for maintenance of current facilities. The people who have signed this are looking to acquire and preserve open space. Maintenance of Open Space should come out of the operating budget. Lighting for the ballfields should come out of the operating budget not out of dedicated funds for Open Space preservation. And that is where they differ.

Attorney Lustgarten stated they do not differ. What he said was the Statute had those out of the six, those three criteria. If the Council and the leaders of the petition drive decide that the word maintenance should not be on the ballot, it will be on that ballot. You have to wait to the Work Session in August. Mr. Meyers stated he looks forward to working with the Council in August.

Mr. Meyers stated that he has reviewed the Minutes of the Budget Meetings and no where in the minutes has he been able to find the discussion of how the \$2,395,000 in anticipated surplus was arrived at. He felt it discussion was omitted from the minutes, intentionally or accidentally. Deputy Mayor Etlar stated that when the budget is discussed, there is a number that they have to agree to that the CFO advises them to carry and what surplus they have to carry and it is openly discussed. Mr. Meyers said he understands that. His problem

is that he cannot find it in the minutes. Manager/Municipal Clerk Kwasniewski stated that minutes are not transcripts. He is welcome to come in to listen to all of the tapes of the budget meetings. They are not word for word. Mr. Meyers stated he understood that but yet when he was reading the minutes of the budget meetings, he sees \$50 cuts but felt that item was

completely omitted. Mr. Meyers wanted to know at what meeting this was discussed. Manager/Municipal Clerk Kwasniewski stated that Mr. Meyers can come in and listen to the tapes.

There being no additional comments from the public, upon motion by Deputy Mayor Etlar and second by Councilmember McCarthy, the time for public comments was unanimously closed.

ADJOURNMENT:

Upon motion by Councilmember McCarthy and a second by Deputy Mayor Weinstein, the meeting was adjourned at 8:00 p.m.

pectfully submitted,

Marilyn B. Bojanowski, RMC
Assistant Municipal Clerk

The undersigned have read and approve the foregoing minutes.

Absent

Mayor David L. Ganz

Councilmember Allan Caan

Deputy Mayor Martin Etlar

Councilmember Owen McCarthy

Deputy Mayor Steven Weinstein