

## **REGULAR MEETING OF JUNE 28, 2005**

Mayor Ganz opened the meeting at 7:34 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:** Mayor Ganz, Deputy Mayors Etler and Weinstein and Councilmembers Caan and McCarthy.

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

### **MANAGER'S REPORT:**

Mayor Ganz stated the Manager's Report was on the front table. Manager/ Municipal Clerk Kwasniewski stated that the fireworks will be held on June 30 at Memorial Pool.

### **COUNCIL COMMENTS:**

Deputy Mayor Etler stated that he attended the wetdown that was held for Company 2's new fire truck. Everyone had a great time.

Deputy Mayor Weinstein stated he has been at Memorial Pool and the beaches has been great.

Councilmember Caan stated he attended the Care Plus dinner. They do a great job for Fair Lawn and its residents.

Councilmember McCarthy congratulated the recent graduates of Fair Lawn High School Class of 2005.

Mayor Ganz read the following letter from the United States Department of the Interior:

"I am pleased to inform you that Radburn in the Borough of Fair Lawn, New Jersey, has been found to possess national significance in the history of the United States. The Secretary of the Interior designated this property a National Historic Landmark on April 05, 2005.

Landmark designation recognizes and encourages the preservation of places that have exceptional value for commemorating or illustrating the history of the United States for the

inspiration and benefit of all Americans. The Historic Sites Act of 1935 authorizes the Secretary of the Interior to identify and recognize nationally significant places that best represent the American experience. Today, 2,392 properties are so designated, out of more than 78,000 listings in the National Register of Historic Places since establishment by the National Historic Preservation Act of 1966.

The Secretary of the Interior designates National Historic Landmarks only after careful study by the National Park Service, extensive opportunities for public involvement, and review and recommendation by the National Park System Advisory Board, in accordance with National Historic Landmark criteria set forth in 36 CFR Part 65. National Historic Landmarks are listed in the National Register of Historic Places which extends the safeguards and benefits provided by the National Historic Preservation Act of 1966 and other federal laws protecting historic properties.

We are happy to enroll Radburn as a National Historic Landmark, a designation that reflects the preservation of this property as an irreplaceable part of our nation's heritage". Signed by John W. Roberts, Acting Chief, National Register of Historic Places and National Landmarks Program.

Mayor Ganz stated he received a letter from Senator Coniglio's office informing him that the Borough will be receiving a grant in the amount of \$17,500 for a water slide for Memorial Pool.

Mayor Ganz said he attended the New Jersey Mayors' Institute on Community Design which was held at Princeton University. This program brought together the best planner and Mayors from five communities. One of the problems they dealt with was Radburn and Daly Field with the caveat that Daly Field had to remain green.

#### **ORDINANCES FIRST READING:**

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

#### **ORDINANCE NO. 2020-2005**

#### **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**

Upon motion by Deputy Mayor Etlar and a second by Deputy Mayor Weinstein, Resolution No. 198-2005 introducing Ordinance No. 2020-2005 was discussed.

Mayor Ganz stated that this ordinance is for the acquisition of a mini bus. The Borough will funds will be receive \$40,000 from the Community Development program. This bus is an important addition to the Borough's fleet.

There being no further discussion, Resolution No. 198-2005 was unanimously passed.

**ORDINANCE: SECOND READING**

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

**Ordinance No. 2019-2005**

**AN ORDINANCE CREATING THE BROADWAY SPECIAL IMPROVEMENT DISTRICT WITHIN THE BOROUGH OF FAIR LAWN AND DESIGNATING A DISTRICT MANAGEMENT CORPORATION**

Mayor Ganz stated that the Borough of Fair Lawn appointed the Business Leadership Committee in June 2003 to investigate the creation of a Special Improvement District. In June, 2004, the Business Leadership Committee recommended to the Mayor and Council creating a Special Improvement District and designating the Broadway Improvement Corporation, Inc. He felt it was the right way to encourage economic development to encourage the district's revitalization and to strengthen the district's economic and commercial contributions to residents and property owners.

Art Singh, 31-11 Broadway, stated this is the first information he received. He felt the property owners get to vote. Mayor Ganz stated that the Council votes on this according to law. Mr. Singh wondered if this was the only time they would be able to talk about it. Mr. Singh asked if it was mandatory. Mayor Ganz said it was.

Mary Mancuso, 27-11 Pellack Drive, asked what plan was used to implement success on River Road. Mayor Ganz stated there was no plan to measure success except for the new development and improved ratables, the traffic generated and the opinion of the businesses in the area. Ms. Mancuso asked if there were documents that say it will be successful. Mayor Ganz told her that would be up to the Board of Directors. Ms. Mancuso stated they were using words without benchmarks. Also she felt that the property owners were not given the opportunity to aye or nay it. Deputy Mayor Weinstein stated it has taken 30 years of the community trying to do something for Broadway. The Business Leadership Committee was formed in 2002. They did a lot of research, went to other SID's such as Englewood, Redbank, Maplewood, South Orange and Teaneck. The benchmark will be determined by the Board of Directors. He felt they would do small things first because they have to try.

Ms. Mancuso wanted to know if River Road had decided that it was a success. Deputy Mayor Etler stated they cannot measure benchmarks by trees. He remembers back in 1975 a former Mayor said it needed to be beautified. He assured her as a property owner she will be able to attend the meetings.

Harvey Rubinstein, 28 Rutgers Terrace, questioned how the SID was going to clean the area and what was going to be done. Mayor Ganz stated a private contractor will be hired

to take care of it. Mr. Rubinstein asked if every business owner has to pay this fee. Manager/Municipal Clerk Kwasniewski stated these are current assessments.

Arlene Rubinstein, 28 Rutgers Terrace, asked what happens if a business owner does not want to pay it. Mayor Ganz they have to according to this ordinance. Mrs. Rubinstein felt these people had no say especially since the chairman is a paid position. Deputy Mayor Weinstein stated there were a number of meetings. Flyers were sent out to all of the property owners about the meetings. Everyone had input to be on the board. There is no salary for the chairman. Mrs. Rubinstein asked if the chairman is a resident of the Borough of Fair Lawn and actively living in Fair Lawn. Councilmember McCarthy stated these people are involved in town. Mrs. Rubinstein asked if Mr. Smartt lived in Fair Lawn. He is paid to work on both the River Road SID and now the Broadway SID. Deputy Mayor Weinstein stated that the Board of Directors will decide if Mr. Smartt is successful.

George Konstantinidis, 39-10 Broadway stated for the better part of 20 years he has lived on Broadway at the Fair Lawn Star Diner. His family was there 18 years and he was not even notified about this Board of Directors being formed until he read about in the newspapers. He did not have any opportunity or say in the matter as far as where there meetings were concerned. He noted that the Supreme Court recently came down with the eminent domain finding. He was wondering if there was any type of transferring of property from one private owner to another. Mayor Ganz stated no, not by setting up a Special Improvement District. He added to the contrary, setting this up gives the property owners a substantial right over their own destiny.

Mr. Konstantinidis asked how the Board of Directors was determined. Deputy Mayor Weinstein explained from the beginning it was a Business Leadership Committee. Then they decided there should be a Economic Development Corporation and a Broadway Improvement District. He explained people who were interested in each area formed their group and selected the people who would be the officers and the boards of each entity. He added there are property owners on each board so they did have a say in what is going on.

Mr. Konstantinidis asked if the property owners or happenings of the tenants on Broadway had an opportunity to vote on who actually gets to be on the board who would represent each property owner's best interest. Deputy Mayor Weinstein stated there was a district management meeting about a month ago. Flyer and letters were sent out for people to come out and speak their minds and say if they wished to be involved and if they wanted to be on the board. He did not understand how Mr. Konstantinidis was not notified because there was someone from his firm who is on the board. Mr. Konstantinidis stated those were his tenants. He stated they have their interests to protect as property owners, where the tenant may not be as aggressive in pursuing what is best for the property owners. They are listed as the owners and were not notified at all. He added that he has had a adversarial relationship with the Municipality of Fair Lawn in the past and did not want any type of adversarial relationship continuing through the SID.

Borough Attorney Lustgarten stated that although this ordinance is modeled after the River Road ordinance it was tailored to fit Broadway. Mr. Konstantinidis asked if the taxes were as well. Mayor Ganz stated the taxes are actually less in this Special Improvement District than on River Road because the amount of the budget has been set is substantially less.

Mr. Konstantinidis asked about section three, paragraph F which states that the board of directors of the corporation shall include at least one member of the Municipal Council and asked who appoints that person. Deputy Mayor Weinstein stated the Council appoints the liaison. Mr. Konstantinidis has certain reservations about possible conflicts of interests but this is a corporation set up presumably to insulate itself legally. He stated if there is any private development that is awarded by the Council or the Board it could be a conflict. Mayor Ganz stated there are many things that could happen but he keeps going back to eminent domain and land sales and that is just not in the cards.

Mark Vermynen, Vice President of A. Zerega and Sons, Inc., 20-01 Broadway, stated that he and his family were happy in Fair Lawn. They do question the way that properties in the SID will be assessed for the ongoing cost of its operation. The creation of the SID is clearly intended to improve the retail business environment. He felt that an industrial plant like Zerega's benefits proportionately less from the operation of a SID than does a retail business with local clientele. Their customers are located across the United States and Canada, they rarely visit Fair Lawn. Mayor Ganz stated that ultimately if the SID does what it supposed to do, the value of their property would increase. Mr. Vermynen stated that Fair Lawn has been good to their family business since they moved from Brooklyn in 1951, and they continue to invest in their plant here. Mr. Vermynen stated that they will continue to lend their support to both the Broadway SID and the Economic Development Corporation. He asked that an equitable way be found for industrial concerns like A. Zerega's Sons to participate in the Broadway SID. Mr. Vermynen said that based on their six month budget, more than 40% will go to the consultant. He was shocked that this was not a long term plan. Mayor Ganz stated that is the budget plan. Deputy Mayor Weinstein stated that in this budget they are looking into working with New Jersey Transit to invest money for short and long term goals. This SID is the result of over thirty years of people trying to get this started.

Attorney Lustgarten advised that they can only budget for a short term because of legal constraints. They have had this discussion for many years. For many years nothing has happened. This SID is the fourth attempt to revitalize the Broadway area and this is the first time the Council invested money.

Craig Miller, 5 Ramapo Terrace, asked if letters sent out about this new district and were the people asked if they were for or against it.

Felice Koplitz, 6 Reading Terrace, asked if property owners of people who abut the district were notified. Manager/Municipal Clerk Kwasniewski stated that yes they were notified. She reminded her that the residential properties will not be assessed. Mrs. Koplitz asked if everyone in the 200 foot area will be notified. Mayor Ganz advised that the Borough follows the State statutes.

Harvey Rubinstein, 28 Rutgers Terrace, asked if they passed this ordinance tonight will the Borough be giving \$30,000 to the SID. Mayor Ganz stated it was already in the budget. Mr. Rubinstein asked if his suggestion that the SID report to the Council of what they have done was part of the ordinance. Mayor Ganz stated it is not part of the ordinance. He has

found that the Management has always given information when the Council asked for it. Deputy Mayor Weinstein reminded him that Manager/Municipal Clerk Kwasniewski will be part of the Board of Directors.

Attorney Lustgarten read from the ordinance the following subparagraph which read as follows: "(c) The budget shall be submitted with a report which explains how the budget contributes to goals and objectives for the Special improvement District."

Mr. Rubinstein asked if they would work on a calendar year like the Borough. Attorney Lustgarten stated that he assumed they would budget the same way the Borough does.

Bob Behslian, 10-05 Ellis Avenue, thanked the Mayor and Council for their hard work on this project. He thanked Deputy Mayor Weinstein for all of the work he has done. He suggested the residents contact him if they have any questions.

JoMarie Sacchinelli, 23-17 Ellington Road, asked if there would be a separate committee for residents since no residents presently sit on that committee. She felt it was important because their properties were affected. Mayor Ganz told her that the committee has not been formed yet. Once they take action, the Council will discuss forming the committee. Ms. Sacchinelli asked why they couldn't follow the current ordinances that are in the code book to clean up Broadway. She said one store in particular looks like a garage sale. She said the Council is quick to pass ordinances why can't they pass an ordinance for storefronts to be presentable. Attorney Lustgarten advised that the government does not have authority to knock on the door and tell them what to do unless there is something specific such as signs which is something they can enforce by notifying the Building Department.

Ms. Sacchinelli wondered why the Borough cannot get grants with out the help of Mr. Smartt. Deputy Mayor Weinstein stated Mr. Smartt's fee is \$42,500 which includes his staff. Ms. Sacchinelli asked if he would be paid the same amount next year. Deputy Mayor Weinstein informed her that the Board of Directors would decide next year.

Mary Mancuso, 27-11 Pellack Drive, stated that if the town cannot make the businesses look better and if the Borough had no legal right, what will the committee be able to do. Attorney Lustgarten stated that he did not say the Borough couldn't do it. He said the point was it has happened voluntarily. It is the nature of the people if they see some business improving and better upkeep, they will make efforts to improve their property. Attorney Lustgarten stated this was a quality of life issue. Once the area looks attractive, people will come. Ms. Mancuso asked if the Borough had a way legally to have the business do something to improve their storefronts. Attorney Lustgarten stated there is peer pressure.

John Nakashian, 2-09 27<sup>th</sup> Street, thanked the Council for passing the ordinance. He has been a resident since 1938. He has a business here. Forty years ago there were supermarkets, ladies' and men's clothing stores, now several stores are empty along Broadway. He hopes Broadway can be turned around like River Road has been.

Arlene Rubinstein, 28 Rutgers Terrace, disagreed with paying someone a salary to get the grants. She remembered when Capital Alternative worked for the Borough. They would get 10% of the grant money they bring in. She asked why they can't work with them instead of paying someone a salary. Mayor Ganz stated they have brought in millions of dollars of grants without Capital Alternatives.

Elyss Frenkel, 1-25 34<sup>th</sup> Street, felt that the issue seemed to be Mr. Smartt. As she has seen it, he has volunteered his time for two years. If it doesn't work out, changes can be made. She was amazed at how quickly people think they know everything. It was beyond her understanding why people say they didn't know anything about it since there were flyers sent out, it was advertised and they did walks on Broadway.

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

Upon motion by Councilmember Caan and a second by Deputy Mayor Weinstein, Resolution No. 199-2005 adopting Ordinance No. 2019-2005 was unanimously passed.

#### **RESOLUTION NO. 200-2005 Introduction of 2005 Broadway SID Budget by Title Only**

Upon motion by Deputy Mayor Etler and a second by Deputy Mayor Weinstein, Resolution No. 200-2005 was discussed.

Mayor Ganz congratulated the movers and shakers and the residents of the Broadway SID. He congratulated Deputy Mayor Weinstein for the outstanding effort in bringing this to the Council's for their consideration. He felt these were the same arguments they heard when the River Road SID was started.

Deputy Mayor Weinstein stated there have been many committees in the past reviewing what to do on Broadway. This time they want to make a difference.

Councilmember Caan congratulated Deputy Mayor Weinstein for putting this together. He felt that just like River Road it will take time to build. It is not just store fronts and cleaning the area up, the businesses there now have a resource to go to for marketing strategies and this will bring business to town.

Councilmember McCarthy stated he grew up in the area. Many of the businesses he remembers are no longer there. He does not believe congratulations are in order since the battle has just begun. In the years to come everyone will be able to see the results of these efforts.

Deputy Mayor Etler stated that in 1993 he was skeptical. It has taken twelve years to become a believer. Deputy Mayor Weinstein did a great job putting this together.

There being no further discussion, Resolution No. 200-2005 was unanimously passed.

**RESOLUTIONS BY CONSENT #20-2005**

Upon motion by Councilmember Caan and a second by Deputy Mayor Weinstein, Consent Agenda #20-2005 containing the following items was unanimously adopted.

- a. Resol. #201-2005 - Approving the LOSAP Certification List
- b. Resol. #202-2005 - Award of Bid: Hydrants and Hydrants Parts
- c. Resol. #203-2005 - Award of Bid: DPW Parking Lot Improvements
- d. Resol. #204-2005 - Appointment to the Garden Club
- e. Resol. #205-2005 - Authorizing Tax Bills to be Sent for Broadway SID
- f. Resol. #206-2005 - Approval of Grant - Division of Highway Safety: You Drink and Drive, You Lose 2005 Enforcement Project
- g. Resol. #207-2005 - Use of Walsh Pool - Fair Lawn Community School
- h. Resol. #208-2005 - Appointment of Community Development Representative

**Resolution No. 209-2005 - Appointment of Alternate Community Development Representative**

Upon motion by Deputy Mayor Etlar and a second by Deputy Mayor Weinstein, Resolution No. 209-2005 was adopted by Councilmember Caan and Mayor Ganz dissenting.

**MISCELLANEOUS PUBLIC COMMENTS:**

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

Harvey Rubinstein, 28 Rutgers Terrace, wondered if the Special Improvement District has the power to condemn or rezone parts of the district. Attorney Lustgarten advised that they do not have that power.

Mr. Rubinstein stated that Cingular wanted to put a 90 foot pole on the Radburn Building. Mayor Ganz informed him that it was not zoned for it. Mr. Rubinstein stated they were going before the FCC asking for public input. Attorney Lustgarten stated they would have to go to the FCC and then to the local Zoning Board. The Council can discuss it at a Work Session.

Mr. Rubinstein asked how much was in surplus. Mayor Ganz stated the Manager would get the information to him. Mr. Rubinstein asked if the State recommended keeping a certain amount. He also felt they should hire a planner to work with the Master Plan. Mayor Ganz stated that was not in the temporary budget.

Mr. Rubinstein stated that at the last Council Meeting, he asked about the chairs that were purchased for the Borough Attorney's secretary. He wondered if the Borough Attorney was a permanent position. Councilmember McCarthy stated the chairs were not for his personal secretary. Attorney Lustgarten stated that his secretary is also secretary to the Rent Leveling Board and the Prosecutor. The present chairs pre-exist him by 30 years.

Mr. Rubinstein asked about the \$490,000 Homeland Grant. Manager/Municipal Clerk Kwasniewski stated it went directly to property tax relief. That is the way the State said it had to be used.

Ann Broske, 11-12 Norma Avenue, stated she has had a year long battle with the Fair Lawn Jewish Center renting their gym. She has sent e-mails to the Mayor and Manager. The peace and quiet of the neighborhood has been ruined. She has tried to handle this privately. She wanted the Council to hear the background of her problem. Ms. Broske said she was advised to call the police which she find regrettable to call the busy police for this problem. A Police Officer told her the time limit was 11:00 p.m. Mayor Ganz stated that Attorney Lustgarten will research it and give her his opinion. Ms. Broske stated the Police Officer felt it may be different for a House of Worship. Attorney Lustgarten asked that she have her attorney contact him directly.

Felice Koplitz, 6 Reading Terrace, congratulated the Borough of Fair Lawn for having Radburn recognized as a National Historic Site. She hoped the Council realizes this and takes care of all of the zoning issues.

Robert Gulack, 4 Bancroft Place, stated that he hoped in the future, the people who want to put the ninety foot antenna on the Radburn Building will be turned down by the Mayor and Council. Mayor Ganz stated there are districts in town where they are permitted. The Council would consider allowing the antenna on the Radburn Building. Councilmember Caan stated he had no intentions of having a cell tower at the Plaza Building.

Craig Miller, 5 Ramapo Terrace, stated that one of the Council was against spending \$30,000 for the SID project. Deputy Mayor Etler stated when this was discussed there were two items, the Economic Development Corp and the Special Improvement District. He was not against the SID, it was the Economic Development Corp that he did not want to fund since he felt it had nothing to do with government.

Harvey Rubinstein, 28 Rutgers Terrace stated that Felice Koplitz and her husband worked hard to get Radburn the National Historic status.

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

**ADJOURNMENT:**

Upon motion by Deputy Mayor Etler and a second by Councilmember McCarthy, the meeting was unanimously adjourned at 9:14 p.m.

Respectfully submitted,

Marilyn B. Bojanowski, RMC  
Assistant Municipal Clerk

The undersigned have read and approve the foregoing minutes.

Mayor David L. Ganz

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Councilmember Allan Caan

Deputy Mayor Martin Etlar

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Councilmember Owen McCarthy

Deputy Mayor Steven Weinstein