

REGULAR MEETING OF SEPTEMBER 13, 2005

Mayor Ganz called the meeting to order 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, Attorney Lustgarten and Assistant Municipal Clerk Bojanowski.

Mayor Ganz asked for a moment of silence for the victims of Hurricane Katrina.

PRESENTATION TO AABC STATE CHAMPIONSHIP PLAYERS

Mayor Ganz thanked the 11 year olds that were present tonight for leading them in the Flag Salute. Mayor Ganz explained the AABC State Championship Title has a number of participants in it including the player and coaches. The Council presented each of them individually with a Certificate of Appreciation.

**PROCLAMATION: Prostrate Cancer Awareness Month
 POW/MIA Recognition Day**

Assistant Municipal Clerk Bojanowski read the proclamations.

COUNCIL COMMENTS

Deputy Mayor Etler read his monthly activity report and attended the EPA meeting, Fire Board meeting and the Planning Board meeting. The Planning Board meeting included discussions about the Master Plan and what they currently have zoned for Daly Field, Haywood Tract and Archery Plaza.

Deputy Mayor Weinstein extended his prayers to the victims of Hurricane Katrina on behalf of himself and his family. He also complimented the Planning Board, Barry Winston and Attorney Burn and Schoor De Palma for adjusting the Master Plan in coordination with the zoning of the Daly, Haywood and Archery Fields. He added it is a credit to their commitment to the Borough of Fair Lawn and the residents.

Councilmember Caan stated he spoke to many senior citizens in the past few weeks and found out there are some tax programs available to them that they are not aware of. He advised anyone who wished to find out more about these programs to contact the tax office in town to get more information. He explained the Property Reimbursement Program which is designed to reimburse senior citizens 65 and older and disabled persons for property tax increases. He suggested calling the tax collector office to see if they qualify and if so to get the paperwork in by October 17th which is the deadline.

Councilmember McCarthy attended the ground breaking ceremony for the 911 Memorial which will be constructed outside of Borough Hall. He stated it was a somber and moving ceremony ensuring that all the lives of the Fair Lawn residents that have been lost to terrorism will always be memorialized and preserved in the history of our great nation.

Councilmember McCarthy added there is also a list of organizations on the Borough website accepting donations for the Hurricane Katrina relief.

Councilmember McCarthy attended the Planning Board meeting, he believed they deserved congratulations, all the professional and individual members for the reasons they articulated. He thanked the public who have attended both Planning Board and Council meetings ensuring that opinions were presented to both.

Councilmember McCarthy offered his best wishes to the athletes at the High School and the All Sports program as the fall sports season is starting.

Mayor Ganz reminded everyone that October 9th was the Street Fair at River Road and invited everyone to attend. He added they will be having a classic car show and vendors.

Mayor Ganz stated the events of the recent days in New Orleans and the Gulf Coast with Hurricane Katrina brought to his mind whether or not Fair Lawn would be similarly prepared or not in the event of comparable emergency. He had a conversation with OEM Director Metzler who assured him that they not only have a plan but it is one that should be shared with the community. He asked Mr. Metzler to speak with Manager/Municipal Clerk Kwasniewski and discuss putting a public portion of that on the Borough website.

Mayor Ganz congratulated the Planning Board and Chairman, Barry Winston, for doing an outstanding job bringing to fruition a revision to the Master Plan.

Mayor Ganz spoke about the 911 memorial. He stated Fair Lawn is unique among communities in that they are also honoring a resident, Frank Connor, who died on January 24, 1975 when the FLAN bombed Francis Tavern in New York City. It was the first attack of terrorism in modern times and he will be remembered with a plaque along with the three other victims from the Borough who perished September 11th.

Mayor Ganz had the pleasure of attending the All Sports Mayor's Cup for football. He stated the pee-wee league played very well as did everyone. The children had a lot of fun and so did everyone else.

ORDINANCE: FIRST READING

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

Ordinance No. 2027-2005

“AN ORDINANCE TO AMEND CHAPTER 125 OF THE CODE OF THE BOROUGH OF FAIR LAWN 2000, ENTITLED “LAND DEVELOPMENT”, AND SPECIFICALLY SECTION 125-10 ENTITLED, “OFFICIAL ZONING MAP”

Borough Attorney Lustgarten explained this ordinance amends the Borough’s zoning code specifically relating to the Haywood Tract. This is a re-enactment of Ordinance 1945-2003 and now the ordinance will be consistent with the Master Plan.

There being no further discussion, upon motion by Deputy Mayor Weinstein and a second by Councilmember Caan, Resolution No. 244-2005 introducing Ordinance No. 2027-2005 was unanimously passed.

ORDINANCES: SECOND READING

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

Ordinance No. 2021-2005

“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”

Borough Attorney Lustgarten explained this is a procedural ordinance for the Borough to accept \$23,000 for the improvements for the Library. The grant is being given through the State of New Jersey, Statewide Livable Communities Program.

There being no comments by the public, upon motion by Councilmember McCarthy 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 Councilmember McCarthy, Resolution No. 245-2005 adopting Ordinance No. 2021-2005 was unanimously passed.

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

Ordinance No. 2022-2005

“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”

Borough Attorney Lustgarten explained this another Statewide Livable Communities Program grant. The Borough will receive \$20,000 to upgrade and replace certain municipal equipment.

There being no comments by the public, upon motion by Councilmember McCarthy 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. 246-2005 adopting Ordinance No. 2022-2005 was unanimously passed.

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

Ordinance No. 2023-2005

“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”

Borough Attorney Lustgarten explained this is the third grant given by the Statewide Livable Communities Program. The Borough will receive \$17,000 for the acquisition of a water slide.

There being no comments by the public, upon motion by Councilmember McCarthy 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. 247-2005 adopting Ordinance No. 2023-2005 was unanimously passed.

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

Ordinance No. 2024-2005

“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”

Borough Attorney Lustgarten explained this is a fourth grant, however, this grant is from the State of New Jersey Department of Transportation. The Borough will receive \$95,000 for road improvements for Bellair Avenue.

There being no comments by the public, upon motion by Deputy Mayor Weinstein and a second by Councilmember McCarthy, 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. 248-2005 adopting Ordinance No. 2024-2005 was unanimously passed.

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

Ordinance No. 2026-2005

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 108, ENTITLED "FLOOD DAMAGE PREVENTION", MORE SPECIFICALLY SECTION 108-7, ENTITLED "BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD HAZARD"

Borough Attorney Lustgarten explained properties in municipalities, counties and states that are located near flood ways or flood plains are eligible for Federal flood insurance. In order for the citizens of this town to be eligible for flood insurance the ordinance has to be updated.

Mayor Ganz explained this is required in the event of a flood situation for someone to collect under the National Flood Insurance policy. Borough Attorney Lustgarten stated this is actually one step earlier. If they did not adopt this the people of this town would not be eligible to purchase the flood insurance.

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

Upon motion by Councilmember McCarthy and a second by Deputy Mayor Etler, Resolution No. 249-2005 adopting Ordinance No. 2026-2005 was unanimously passed.

RESOLUTIONS BY CONSENT # 26-2005

Upon motion by Councilmember McCarthy and a second by Councilmember Caan, Consent Agenda 26-2005 containing the following items was unanimously adopted.

- a. Resol. #250-2005 - Approval of Minutes:
 - Work Session 5/31/05
 - Special Meeting 5/31/05
 - Closed Session 5/31/05
 - Work Session 6/14/05

Closed Session 6/14/05
Regular Meeting 6/14/05
Work Session 6/21/05
Closed Session 6/21/05
Regular Meeting 6/28/05
Special Meeting 6/29/05
Work Session 7/12/05
Closed Session 7/12/05
Closed Session 7/12/05

- b. Resol. #251-2005 - Auction of Surplus Equipment and Vehicles
- c. Resol. #252-2005 - Audit Report
- d. Resol. #253-2005 - Authorizing Execution of Memo of Understanding with Bergen County for Specialized Decontamination Equipment
- e. Resol. #254-2005 - Authorizing Acceptance of Community Development Grant - Senior Center Improvements
- f. Resol. #255-2005 - Authorizing Acceptance of Community Development Grant - Roadway Improvements
- g. Resol. #256-2005 - Refund of Tax Overpayments
- h. Resol. #257-2005 - Award of Bid: Water & Sewage Pump Station Maintenance
- i. Resol. #258-2005 - Requesting Fuel Cost Cap Exception
- j. Resol. #259-2005 - Authorizing Tax Appeal Settlement - Hadco Company
- k. Resol. #260-2005 - Change Order: Painting Cadmus Water Tank #2
- l. Resol. #261-2005 - Renewal of Leaf Composting - Millbrook Landscape Corp.

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.

Leon Wender, 7-22 Manor Avenue stated there are many seniors in the this town and it is our responsibilities to see to the welfare of our elders. This town put up a nice center for them where they can meet, socialize and eat. The latter activity had been reduced to less than enjoyable sandwiches from what was an enjoyable hot lunch. He explained this is because of the kitchen renovation which has taken too long to complete. The seniors do not even have coffee available, they were told when they plug in the coffee the circuit overloaded. They have been deprived of in house coffee for weeks now. The center was just recently used by the Civilian Police Academy Graduates and to celebrate Sergeant Boyle's retirement where coffee and tea were enjoyed by all. They did not have any problem using that overloaded circuit for that event.

Mr. Wender wanted to know when the sidewalk on River Road between Harrison Road and Park Avenue is going to be fixed. He has been complaining about for three years. He also asked when motorists are going to obey traffic signs. There is a sign on River Road going into Berdan Avenue going

west that says to use that for turns only and no one pays attention to it and there is going to be an accident. He also wanted to know about the Jay Walking ordinance because the people on River Road are a hazard with their walking habits. He also asked about the orange stands that are narrowing the roads. He could ticket 20-30 motorists a day which would Page Seven

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be a year without raising taxes. He asked when the tax bill for the rest of the year and the first half of 2006 would be received. He also asked about the Volunteer and Veteran Program if they would be getting new cards or the old cards updated.

Mayor Ganz stated the estimated tax bills are going out on September 26th. The Mayor and Council received a memo from Manager/Municipal Clerk Kwasniewski in their mail yesterday.

Councilmember Caan explained the cards that are expiring this year for the Volunteer and Veteran Coalition will be replaced with new cards. They do not need new photos because the photos are saved in the computer so they can just reprint new cards and those cards will be distributed in October. There will also be new books printed.

Mayor Ganz stated the traffic cones are put in the street as a temporary measure designed to try and find an appropriate traffic controls. He added if they are happy with them after several months then they will be replaced by something more permanent. He added they have discovered that some of the places and the way people have to turn have a bad turning radius. If they had just poured concrete they would have had the concrete in place with a bad turning radius. He explained as part of a grant from the Federal Government these cones have gone in a number of places throughout town and it does seemed to have slowed the traffic down and made it more pedestrian friendly.

Harvey Rubinstein, 28 Rutgers Terrace questioned the traffic tubes because he noticed either the whitewash or the paint that is under them now goes all the way down Fair Lawn Avenue to Saddle River Road up to Morlot. He was wondering if that was for putting more of those traffic tubes out or if when the truck went by it just dropped the paint. Manager/Municipal Clerk Kwasniewski was not sure but said she would find out and let him know.

Mr. Rubinstein noticed markings on Broadway in the orange T36 along the area where the bank is on Broadway and asked if the resurfaced Broadway is going to be ripped up again or whatever is going to go in there. Manager/Municipal Clerk Kwasniewski explained they are not our marking and suspected they were utility markings but she would find out and let him know.

Mr. Rubinstein commended the Planning Board for unanimously passed the repair to the ordinance to the Master Plan. He asked if that would be the final step. Borough Attorney Lustgarten explained the introduction of the zoning ordinance change will go to the Planning Board for review. Then it will come back to the Mayor and Council for second reading and if it is adopted it will be part of the ordinance book. A copy will be filed with the County Planning Board and that will end the process.

Mr. Rubinstein stated at the work session last week following the public session, an Open Space Committee was discussed. It occurred to him this Borough has always had an Open Space Committee, it is called the Planning Board. He suggested as a former Planning Board member that they let the Planning Board do what the law requires them to do and if they do not want to work, dismiss them and start all over with new volunteers. Mayor Ganz thanked him for his opinion and explained the Council has a different vision and invited him to come to the work session following the regular meeting where they will be discussing the Open Space Committee.

Mr. Rubinstein stated asked where he could find out what the capital budget will cover. Mayor Ganz suggested he file an OPRA request with Manager/Municipal Clerk Kwasniewski and she would be happy to give him that entire document, which is 100's of pages long.

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Mr. Rubinstein stated at the end of the last Zoning Board meeting there was a letter from the League of Women Voters who wanted a meeting with the Zoning Board. Doug Charipper wanted to see the report before anything was done. He believed that should be relayed to the Zoning Board, if they have a meeting with League of Women Voter it should be made public. Mayor Ganz asked if they were requesting a meeting or just having a meeting. Mr. Rubinstein stated it was a request. Mayor Ganz was sure that the Zoning Board and their attorney were well award of the requirements and if there is a meeting of more than a quorum of the Zoning Board there has to be a sunshine notice.

Mr. Rubinstein stated he would not be available on September 27th when the Naugle House and Saddle River Road projects are presented. He added in both instances it is over development. Mayor Ganz stated this Council cannot comment on a matter that is before a different board but he was free to make his comments. Mr. Rubinstein stated on the Naugle House there are three buildings, #1 which is next to Century Road and on the plans it shows the County can take away 13 feet so if that building remains there will only be 7 feet between the road and the building and he did not believe it belonged there. He added two members of the Planning Board, one who is an architect and the other works for the County Planning Board came at the first meeting to argue against. He added if they follow the R-5-1 bulk regulations and the Naugle House should sit on either 50x100 or 75 x100 and if they run 100 feet back from the proposed road it cuts into 17th and 18th building. He asked Mayor Ganz how he could vigorously fight the Radburn lawsuit if he did not defend our ordinance bulk requirements and minimum lot sizes. He question if this was deliberate avoidance of a minor subdivision that would probably go to the Planning Board with reference to the Naugle House.

Stuart Golding, 14 Rutgers Terrace asked about Ordinance 2027-2005, the Master Plan. He wondered why it states the property is commonly believed to be deed restricted. He stated it is not believed to be, it is deed restricted. He believed those words should be taken out. He also asked about where there is a land use plan amendment and shows Archery Plaza with single family residential detached houses. The property is deed restricted so it should show nothing except the zoning R-1-1. He added if this plan is going to be signed by someone it should be numbered so they know that all the pages are there.

Arlene Rubinstein, 28 Rutgers Terrace thanked the Planning Board and members who did a marvelous job in respecting the public that they serve. She added they are the public advocates of

Fair Lawn.

Ms. Rubinstein asked if the Veterans cards are mailed to the veterans. Mayor Ganz stated they are not mailed. Ms. Rubinstein did not believe they should have to come to Borough Hall to pick them up. She added most of them are older and it is an inconvenience. Mayor Ganz stated they are distributed at the Post meetings. Councilmember Caan stated they were able to pre announce these meetings and get a large crowd to the Post which also attracted new members. He explained this was a request from the Veterans Posts to do it that way.

Ms. Rubinstein asked if it was proper procedure for an attorney for an applicant to say to the residents of the community in which the project is planned for development who disagree with the project that they should meet in one of their houses and they can make coffee and he would explain it to them since they disagreed. She believed it was proper procedure for residents and attorneys to air their problems out in public so everyone is aware of the problems and solutions. Borough Attorney Lustgarten stated taking into consideration the hear say element he believed it is inappropriate for an attorney for an applicant to try to have private conversations with potential witnesses, objectors, commentators or whatever. He believed it violates the spirit and

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letter of the because certain things could be conveyed between the two of them that may be relevant to the community as a whole and the board members. He stated the Council and Administrative staff would not support private conversations. Ms. Rubinstein believed they should discuss that with the Zoning Board Chairperson because she encouraged that. She added the same person attempted to intimidate her husband and her tone of voice in addressing him was disrespectful. She was very upset about this and the fact that a lot of the members of the Zoning Board do not even go to the properties. She wanted to know how they could vote on a request if they had never seen the property.

Andrew Poley, Esq. appearing in the capacity as the attorney for the tenant, M.J.S.M.A.P. Enterprise d/b/a business as Solas Spa, is a tenant in the Plaza Building. He was there to raise a grievance in respect to the issue of a Certificate of Occupancy. Mayor Ganz stated the Council was not going to comment on a Building Department issue but may be able to accomplish what he wanted in work session. Attorney Poley explained they had gone back and forth with the Building Inspector and believed this is abuse of power and was letting them know what is going on. Mayor Ganz explained again this need to be discussed in work session.

James Frangione, 8-07 Mayfair Terrace thanked them for the proclamation for the POW/MIA and being a member of the Navy was very appreciative. He read a memo that was previously distributed to the Mayor and Council regarding the traffic safety problems on Mayfair Terrace which is included as Schedule "A". Mayor Ganz invited him to come to the Work Session where they would discuss this further.

Anita Mendez, 7-07 Mayfair Terrace expressed her concern about this issue as well. She was worried about the speeding and believed this has to taken care of now.

Suzanne DiGeronimo, 16 Beekman Place thanked the Mayor and Council and Planning Board for the amendment to the Master Plan to adjust it the zoning regulations. She stated there was a piece of history missing from the report from Schoor De Palma. Daly Field was purchased from the City Housing Corporation in the 1930's and it was transferred to the Radburn Association in the mid 30's with the same deed restriction that now exist on Archery Plaza. For some reason in 1947 the deed restriction was lifted only on Daly with Archery Plaza maintaining that same deed restriction. She added Daly has stayed recreational from the 1930's to current time and even the National Park Service when they did their two year review of the history and use of Daly Field had noted that it had stayed a park for all that time. There is no historic data ever that this property had ever been

used or intended to be used as industrial or residential space. Looking forward to the future after this Master Plan amendment she hoped they could look to some zone that could be established as a park which would protect all of their parks. She added not just Archery but some of the other parks in Fair Lawn like Berdan Grove that are zoned R-1-1 and could stand to have some development threaten them. Mayor Ganz stated that statement was not correct, Borough parks are not subject to being developed.

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

ADJOURNMENT

Upon motion by Councilmember McCarthy and a second by Councilmember Caan, the meeting was adjourned to work session at 9:51 p.m.

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Respectfully submitted,

Marilyn B. Bojanowski, RMC
Assistant Municipal Clerk

The undersigned have read and approve the foregoing minutes.

Mayor David L. Ganz

Councilmember Allan Caan

Deputy Mayor Martin Etlar

Councilmember Owen McCarthy

Deputy Mayor Steven Weinstein