

REGULAR MEETING OF MAY 25, 2004

Mayor Ganz called the meeting to order at 8:20 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" issue of December 19, 2003. Notices were also posted on the Bulletin Board located on the First Floor of the Municipal Building and at the Maurice Pine Free Public Library, copies mailed to The North Jersey Herald and News. The Annual Notice identified the meeting location and the time of the Council Meetings and Work Sessions.

PRESENT: Mayor Ganz, Deputy Mayor Etler and Councilmembers Caan and McCarthy.

ABSENT: Deputy Mayor Weinstein

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

COUNCIL COMMENTS

Councilmember Caan attended a meeting at Bergen County where they talked about servicemen that are serving in Iraq and Afghanistan. They spoke of the obligations they have not only working at their jobs there but trying to maintain some order in their home lives and the obligations they still have here. They go over seas but still have to provide a mortgage payment and those things don't go away while their gone. He stated he would be asking the Mayor and Council to include any active service member and their family who live in Fair Lawn in the Veteran and Volunteer Program.

Councilmember McCarthy congratulated the four officers in the Police Department on their promotions.

Mayor Ganz also congratulated the officers and those who were receiving citations and awards from Detective Boone. He congratulated Matt Greenfield on a special award he received from the State.

MANAGER'S REPORT

There were no additions to the Manager's Report

POLICE PROMOTIONS

Detective Boone summarized the events that transpired the night of Officer Collura's death, and thanked the people who came to help that night.

Manager/Municipal Clerk Kwasniewski stated it was her honor to announced the promotions.

Manager/Municipal Clerk Kwasniewski stated the first promotion was Erik Rose to Chief. She stated Erik has been the Acting Chief and has done an exemplary job. He has served the Department and the Borough of Fair Lawn well and will make a fine leader. He will continue the long standing tradition of improving the Borough's fine force and making it even better.

Manager/Municipal Clerk Kwasniewski announce the Captain's position will be filled by Lieutenant Joseph Cook. She stated as Lieutenant Joseph Cook was an exceptional officer and leader. He will bring a great deal to the position of Captain and will help Chief Rose.

Manager/Municipal Clerk Kwasniewski stated the next promotion was to Lieutenant and that is Glen Cauwels. She stated Glen served exceptionally as a Sergeant. He does his job above and beyond and is well respected by his fellow officers.

Manager/Municipal Clerk Kwasniewski stated the next promotion was to Sergeant and that is Ronald Patterson. She stated Ron was at the top of the Civil Service list which means that not only did she have to promote that person but in this case she wanted to, which is not always the case. She added he is a fine Police Officer and will continue that as a Sergeant.

The new officers were sworn in.

PRESENTATION OF AWARDS

Mayor Ganz announced that Matt Greenfield received an Award as a State finalist for participating in the New Jersey League of Municipalities future Municipal Leader Scholarship competition. They presented him with a certificate from the League together with a scholarship.

Detective Boone asked the new officers to come back up to receive plaques from the PBA.

Upon motion by Deputy Mayor Etler and a second by Councilmember Caan, it was unanimously agreed to recess at 8:01 p.m.

Upon motion by Deputy Mayor Etler and a second by Councilmember Caan, it was unanimously agreed to reconvene at 8:18 p.m.

PROCLAMATIONS:

Assistant Municipal Clerk Bojanowski read the proclamation for Myasthenia Gravis Awareness Month

ORDINANCES: FIRST READING

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

Ordinance No. 1980-2004

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 125, ENTITLED ALAND DEVELOPMENT@, MORE SPECIFICALLY, SECTION 125-67, ENTITLED APRELIMINARY MAJOR SUBDIVISION AND SITE PLAN APPROVAL@ AND SECTION 125-68 ENTITLED, AFINAL APPROVAL OF MAJOR SUBDIVISIONS AND SITE PLANS@

Upon motion by Deputy Mayor Etler and a second by Councilmember Caan, Resolution No. 181-2004 introducing Ordinance No.1980-2004 was discussed.

Borough Attorney Lustgarten stated this ordinance is to amend the land use ordinances to establish a sunset clause for final or preliminary site plan approvals that have not been acted upon by the applicant.

There being no further discussion, Resolution No. 181-2004 introducing Ordinance No. 1980-2004 was unanimously passed.

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

Ordinance No. 1981-2004

AN ORDINANCE TO AMEND CHAPTER 59, ENTITLED AMUSEMENT DEVICES@ OF THE CODE OF THE BOROUGH OF FAIR LAWN 2000, MORE SPECIFICALLY SECTION 59-7.

Upon motion by Councilmember Caan and a second by Councilmember McCarthy, Resolution No. 182-2004 introducing Ordinance No.1981-2004 was discussed.

Mayor Ganz stated the purpose of this ordinance is to allow amusement devices or video games to be placed in bowling alleys, indoor tennis facilities and other recreational facilities.

Deputy Mayor Etler stated he would be voting against this, he felt this is the wrong step.

Borough Attorney Lustgarten stated these are video games, not games of chance they are not gambling advises. He added they would be put in limited locations.

There being no further discussion, Resolution No. 182-2004 introducing Ordinance No. 1981-2004 was passed with Deputy Mayor Etler dissenting.

ORDINANCES: SECOND READING

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

ORDINANCE NO. 1977-2004

AN ORDINANCE FIXING THE SALARIES OF CERTAIN EMPLOYEES OF THE BOROUGH OF FAIR LAWN, BERGEN COUNTY, NEW JERSEY AS AMENDED

Borough Attorney Lustgarten stated this sets up a minimum/maximum salary for the newly created full time position of Emergency Management Coordinator in conjunction with next ordinance 1978-2004 which defines that department.

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

Upon Motion by Councilmember McCarthy and a second by Councilmember McCarthy, Resolution No. 140-2004 adopting Ordinance No. 1983-2004 was unanimously passed.

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

ORDINANCE NO. 1978-2004

AN ORDINANCE AMENDING CHAPTER 2 OF THE CODE OF THE BOROUGH OF FAIR LAWN 2000, MORE SPECIFICALLY ARTICLE XIII, ENTITLED, ADEPARTMENT OF PUBLIC SAFETY@, AND CREATING ARTICLE XIII.A, ENTITLED, ADEPARTMENT OF EMERGENCY SERVICES@

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

Mayor Ganz stated this ordinance put Fair Lawn squarely in the forefront of communities not only in Bergen County and in New Jersey but in the United States. He added they have been fortunate to have an Emergency Management Coordinator in the form of Tom Metzler who is very knowledgeable about all emergency service matters.

Deputy Mayor Etler agreed with Mayor Ganz.

Mayor Ganz thanked Deputy Mayor Etler and Councilmember Caan for the time spent for making this happen.

Councilmember Caan stated Emergency Management has come more to the forefronts since September 11th. Everyday they get more information. Having someone do this full time as a department head having more resources available will give the Borough an advantage over many communities. They may end up showing them how to do things after

they have put it in place. He added by having a director it will let the other groups in town coordinate their budgets which will help save additional dollars.

Councilmember McCarthy echoed what everyone else had said. He stated because of September 11th, the death of Officer Collura and the fire at the Radburn Building and ones they can not even imagine they need a full time Emergency Management Coordinator.

Upon Motion by Deputy Mayor Etler and a second by Councilmember Caan, Resolution No. 184-2004 adopting Ordinance No. 1978-2004 was unanimously passed.

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

ORDINANCE NO. 1979-2004

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, MORE SPECIFICALLY CHAPTER 94 ENTITLED AFEES@ AND CHAPTER 111 ENTITLED AFOOD HANDLING@

Borough Attorney Lustgarten explained that vendors of foods at all special events which are defined as temporary events are required to obtain a permit from the Health Department Vendors who have food prepared outside the Borough and bring it in to the Borough have to show proof that they been licensed in another municipality.

Arlene Rubinstein of 28 Rutgers Terrace asked if a rabid squirrel is in the middle of the street and somebody calls for a pick up is the homeowners charged the fee. Manager/Municipal Clerk Kwasniewski stated it is when it is on someone=s property. Mrs. Rubinstein stated people will kick the animal into the street. Manager/Municipal Clerk Kwasniewski stated other animals already have a fee. Squirrels were the only small animal that did not have a fee. She stated they could pick up a squirrel and put it in the garbage.

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

Upon Motion by Deputy Mayor Etler and a second by Councilmember Caan, Resolution No. 185-2004

adopting Ordinance No. 1979-2004 was unanimously passed.

RESOLUTIONS BY CONSENT #13-2004

Upon motion by Deputy Mayor Etlar and a second by Councilmember McCarthy, Consent Agenda 13-2004 containing the following items was unanimously adopted.

8. Resol. #186-2004 - Award of Bid: Printed Supplies: Recycled Paper
9. Resol. #187-2004 - Professional Services Tax Maps
10. Resol. #188-2004 - Authorizing Issuance of a Duplicate Tax Sale Certificate
11. Resol. #189-2004 - Cancel and Refund Property Taxes
12. Resol. #190-2004 - Refund of Overpayment of Taxes
13. Resol. #191-2004 - Authorizing Participation in the State Development and Redevelopment Plan Cross-Acceptance Process
- g. Resol. #192-2004 - Recommendation to Planning Board re: Cross-Acceptance Representative
- h. Resol. #193-2004 - Use of Walsh Pool - Fair Lawn Community School
- i. Resol. #194-2004 - Authorizing Renewal of Agreement with Bank of New York
- j. Resol. #195-2004 - Appointment to Cable Television Board
- k. Resol. #196-2004 - Approval of Raffles & Bingos:
 - St. Anne Church, On-Premise 50/50
 - St. Anne Church, On-Premise mdse.
 - St. Anne Church, Non-Draw

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.

Louis DeGeronimo, 16 Beekman Place read a letter that was sent to Mayor Ganz regarding the historic district of Radburn and a copy of which is attached as Schedule AA@. Mr. DeGeronimo stated his intention was to avoid an embarrassing situation between the Borough and the rulers of the State of New Jersey. He has looked over the Municipal Master Plan and was amazed that this is not included. It is included in bits and pieces but it is not on the zoning map.

June Meyerson, 15 Ballard Place stated she was opposed to the development of Daily Field and does not understand how the Council could ever consider any housing development on parkland since the State encourages open space. The Council should keep Daily Field open space and should purchase the Hayward Property as parkland. Mayor Ganz stated the Council, Zoning Board and Planning Board are not considering anything right now. He added there is no proposal to take any action at all. Ms. Meyerson stated housing on these sites will have a devastating effect and create burdens on the services required by Fair Lawn. The traffic at the intersection of Fair Lawn Avenue and Plaza Road is extremely dangerous already and additional traffic would make it even worse. She asked how the Council states any plans are far in the future when the developer and the land owners have already signed contracts and exchanged money for the development of townhouses on Daily Field and the Hayward Property. She added this issue cannot be put off by the Council. Mayor Ganz stated there is nothing before them to consider.

Michael Roney, 14 Burnham Place wished to make it known that there is a lot of people that think this development is wrong. They believe this development is illegal under Federal guidelines. The Council should be proactive and consider what is good for Fair Lawn, the desires of the people of Fair Lawn and the irreplaceable historic character of Radburn. He added pending development of Daily Field and the Hayward

Property really strikes at the heart of what Radburn is all about. People live and move to Radburn because of its open space. Developing twenty five percent of Radburn is open space would undermine that character. It would further the creeping urbanization of Fair Lawn. The traffic is horrible and the last thing Fair Lawn needs is up to 160 townhouses on Plaza Road. He urged the Council to consider proactive action and when proposals do come to them please take all of this into account.

Chris Antonelli, 30-17 High Street inquired about the plan to get rid of the geese at Memorial Park. Mayor Ganz stated they have had the geese eggs addled and chemicals have been put down. Manager/Municipal Clerk Kwasniewski stated the eggs were addled at the end of March. She stated one application of flight control which is a chemical deterrent because the geese do not like how it feels or taste has been applied. She added they are looking for geese chasers. The Recreation and Pool staff and night watch staff for the pool are being trained to chase the geese. She stated as long as there is water the geese are attracted to it and they are pattern animals so they come back. She stated they need to change the pattern to make it a uncomfortable place for them so they don't come back and that's what they are in the process of doing. Mr. Antonelli asked if they hire geese chasers who is going to manage them throughout the night and make sure there not sleeping. Manager/Municipal Clerk Kwasniewski stated they will be able to tell if they have been sleeping. Mr. Antonelli asked if anyone had considered the liability of people running around the dark park at night. Manager/Municipal Clerk Kwasniewski stated they will be outfitted with flashlights, reflective vests and there will always be two people there.

Mr. Antonelli asked if anything else was considered because there are a lot of technical advances now. Manager/Municipal Clerk Kwasniewski stated they have tried many other things, including decoys and squawking devices. The egg addling and flight control is the latest technology that is available. Mayor Ganz stated the general thought is that over a period of three years they can change the geese behavior. Mr. Antonelli asked what other plans are there if this does not work. Deputy Mayor Etlar stated there other devices that give off high frequency noises. Mr. Antonelli's concern was they paid \$20,000.00 for a company in Rutherford to explore this while he became knowledgeable on geese control with a \$49.00 internet connection and a Goggle search. Mayor Ganz stated the \$20,000.00 includes the work that they are actually doing, the actual addling of the eggs, the putting down of the chemicals, the commercial fencing and everything else. Councilmember McCarthy stated Federal licensing is required to addle eggs and the noise devices can disturb the residents in the area.

May Hayden, 12 Beekman Place stated she received information that an electrical wire has been strung across Plaza Road at the intersection of the proposed development. Mayor Ganz stated that would be handled by PSE&G.

Saul Robins, 12 Randolph Terrace was concerned about the proposed development of Daily Field. There are people on the Board of Trustee who he assumes have participated in brokering a land deal, and who should recuse themselves should any proposal come before the Planning Board. Mayor Ganz stated that is a legal question and the legal officer would have to answer that should it ever arise.

Dan Whalen, 7-17 Manor Avenue wanted to know what the Council and Mayor Ganz, as Mayor as well as Freeholder is going to do to preserve Daily Field as an open field. Mayor Ganz stated if an issue comes before the Council they will be responsive. He will not prejudge any application that comes before them nor will he offer an opinion on it before he heard both sides of the testimon. Mr. Whalen wanted to know as Mayor of Fair Lawn and a Freeholder what is he going to do. Mayor Ganz replied he is going to give the same answer. He stated as County Freeholder he can speak clearly on the issue of open space, applications for open space are now being accepted for 2006. Mr. Whalen asked what they can do to preserve open space on Daily Field. Mayor Ganz stated he could buy it.

Mike Roney, 14 Burham Place stated there are 15-18 people here tonight representing concerned citizens for Radburn's future who are upset about Daily Field development. He stated they represent hundreds of

people. Mayor Ganz stated they should consult with the Radburn Association which represents them. Mr. Roney stated they are in constant touch with the Radburn Association, but it does involve the Borough and will come to their office soon or later. Since they put their committee together they have heard weekly from people who expressed their sympathy and support for their cause of keeping Daily Field green and have even sent money. They want the Council to consider the concerns and the will of the Fair Lawn people.

Borough Attorney Lustgarten stated there may be a misconception about what the Council does and does not do. He stated in theory the Council could rezone this track into a zone that could be undevelopable but case laws indicates if municipality zone into inutility it=s called inverse condemnation. This mean the town would be obligated to buy the property at fair market value. The town does not have the financial resources to do that. If there is a legal impediment to build on Daily Archery Plaza because of the national register issue that issue could go before the Planning Board. If the application went to the Zoning Board for some type of zoning variance the same rules apply. He repeated what Mayor Ganz said, there is no application or proposal before the Zoning or Planning Board that they are aware of or any request that has come before the Council relating to any proposed development. Borough Attorney Lustgarten stated the most directly involved people in this issue is the Radburn Association and that is where the initial views and opinions should be aired. If anything comes to the Council, there will be public hearings, public notice and it will be in the newspaper. The Council has made it a practice on issues of public importance to post it on the Borough website to make sure it does not get lost in the classified legal section.

June Meyers, 15 Ballard Avenue asked who has the final responsibility about zoning and allowing development in Fair Lawn. Mayor Ganz stated it is the Courts. They have a Zoning Board of Adjustments and Planning Board. They are two separate boards that are made up of volunteers. They meet once or twice a month and an application has to be done in accordance with the Municipal Land Use Law.

Mike Roney, 14 Burnham Place stated he served on the Radburn Board of Trustees for three years. He stated the Board of Trustees does not really represent the interest of the citizens of Radburn Association. Nominations are done from within the Board so it=s a self perpetuating process. He understands that is a Radburn problem but wanted to make the Council aware of their concerns. The town should have their own historical experts look at the area and make decisions independently and not rely on the Radburn Association as the ultimate authority on what good for Radburn.

Chris Antonelli, 30-17 High Street asked who has the final say as to what happens to that property. Mayor Ganz stated if the application does not require a zoning variance then they can get a permit and build. Mr. Antonelli asked what was the Radburn Association=s concern when they asked the Council to rezone it. Borough Attorney Lustgarten stated they did not own the Hayward Property and their concern was that the owner of the Hayward Property could build more industrial uses on that site. If you own a piece of property then you control what is built on it.

Leonid Vilikhin, 10 Randolph Terrace expressed his concern that they will lose this historical value. Borough Attorney Lustgarten stated they do not lose the status of historical designation just because of new construction. Mr. Vilikhin stated there is a huge amount of houses. Borough Attorney Lustgarten stated if he was talking about the character of the area he understands that but from a legal standpoint the fact that there is new construction if it is permitted in the district they will not lose the historic district designation because it=s new.

Rita Golding, 14 Rutgers Terrace stated she was member of concerned citizens for Radburn=s future. She stated they have been counting cars coming off of Route 208 and coming onto Route 208 on Plaza Road at the intersection of Berdan and Plaza by Daily Field. She does not know who they are. Mayor Ganz stated he does not know who they are either. Ms. Golding asked if this had anything to do with the town. Mayor Ganz stated it is not uncommon for someone who is going to do development work or site work to anticipate that a

request is going to be made for a traffic study. He stated that study will probably be presented to the Planning or Zoning Board. Ms. Golding mentioned the problems that the building there is going to entail including more police, air quality, traffic and the tax increases. She expressed concern about building on a contaminated site.

Harvey Rubinstein, was happy to hear something is being done about the geese problem at the pool. Mr. Rubinstein believes that brownfield sites cannot be developed.

Leonid Vilikhin of 10 Randolph Terrace asked if Radburn could sell this field to the Borough so they could keep their historic place. Mayor Ganz stated they cannot afford it.

Arlene Rubinstein, 28 Rutgers Terrace stated she was aware of brownfield regulations and thinks that it is a possibility that Hayward Property may come under that portion of the development law because it states that land that has not been fully remediated and fully cleaned up cannot have housing built on it. It can have office space, warehouse space, parks, recreations, hotels but nothing that encompassed twenty four hour a day, seven days a week residency. She felt the members of the association that were there tonight should investigate that.

Dan Whalen, 7-17 Manor Avenue asked if the Borough or Mayor Ganz as Freeholder applied for or received grants to help out with Daily Field. He understands that the Borough has been polled about a one percent tax to pay for Daily Field. Mayor Ganz stated he has investigated as a Freeholder and the open space funding for this is not available. He added the sum that would be involved would exceed the entire assets of the open space trust fund for the entire County. He stated the polling was done by a private organization and has no further comment on that.

Elizabeth Maresca, 8B Townley stated that Fair Lawn is the fifth largest city in Bergen County and they are fighting urbanization. She is concerned about the burden this development will have on the police, fire, emergency services.

Stan Hayden, 12 Beekman Place stated he is interested in preserving Daily Field. He stated he played ball on the field as well as his son and his daughter. They need as much green space as they can have in this town and throughout all of New Jersey and the Country. He believes he not only has ethical and moral rights but a legal right to demand the use of Daily Field not be taken away from him. He thinks the Courts need to determine that but every citizen of Radburn has the right to use Daily Field and cannot be taken away without due process.

Harvey Rubinstein of 28 Rutgers Terrace stated that Municipal Land Use Law was mentioned earlier. He remembered a key point for the authorities of a Borough or town that was the general health and welfare of the community has to be protected.

Felice Koplitz, 6 Reading Terrace stated Ridgewood bought the Horse Farm that was privately owned for the purpose of keeping open space in their town. Ridgewood did not have the money themselves but they were able to tap into State Department of Environmental Protection and Restructure Trust Loan. They got money from the Bergen County Open Space Trust Fund and the Green Acre Grants. This type of money would be available to Fair Lawn. She stated maybe that is the direction things have to go if Radburn Association is not going to be the ones to help with this matter. Mayor Ganz stated the Borough has aggressively sought grants for hundreds of thousands of dollars for many different things. She is talking about grants for the year 2005 or 2006. It is improbable that in a short period time the resources necessary could be found without subjecting the Borough to substantial liability.

There being no additional comments from the public, upon motion by Deputy Mayor Etler and second by

Councilmember McCarthy, the time for public comments was unanimously closed.

ADJOURNMENT

Upon motion by Deputy Mayor Etler and second by Councilmember McCarthy, the meeting was recessed to the Work Session at 9:58 p.m.

Respectfully submitted,

Marilyn B. Bojanowski, RMC
Assistant Municipal Clerk