

REGULAR MEETING OF SEPTEMBER 28, 2004
RADBURN SCHOOL

Mayor Ganz called the meeting to order at 7:31 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 Mayors Etler and Weinstein and Councilmembers Caan and McCarthy.

ALSO PRESENT: Assistant Municipal Clerk Bojanowski, Attorney Lustgarten and Acting Manager Frey.

MANAGER'S REPORT:

Acting Manager Frey reported there were no changes to the monthly report.

COUNCIL COMMENTS:

Deputy Mayor Etler reported that he had attended the monthly Fire Board meeting, American Legion picnic, block party on Lamring Drive, block party on Ruskin Terrace, quarterly ALitter Patrol, Planning Board meeting, Planning Board meeting on Daly Field, Center Rec opening of new field lights and the Bergen County picnic at Van Saun Park.

Deputy Mayor Weinstein thanked everyone for coming out in the rain. He stated there would be two Business Leadership Committee meetings, one on October 6, 2004 at the Fair Lawn Grange at 7:30 p.m. discussing the Economic Development Corporation and the other on October 21, 2004 at Warren Point School at 7:30 p.m. discussing the Broadway Improvement District. He invited everyone to come out because they would be interested in what everyone had to say.

Councilmember Caan welcomed everyone for and looked forward to hearing any questions they may have.

Councilmember McCarthy welcomed all of the Radburn 5th graders. He stated he graduated high school with Borough Attorney Lustgarten's daughter. He added it was great to see everyone there. He informed them that the email address is on the website and they welcome anyone's questions.

Mayor Ganz stated one of his daughters graduated from Radburn School and was delighted to see everyone here tonight.

MISCELLANEOUS PUBLIC COMMENTS FROM THE 5TH GRADERS:

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

Ann Lustgarten, 12-28 Burbank Street, stated the children read about government in their classes and they have questions.

Zak asked with all the development on Daly Field who owns that property. Mayor Ganz stated the property is owned by the Radburn Association and was conveyed to Landmark Property. Zak asked if it is developed will anything change in the Fair Lawn schools. Mayor Ganz stated if a family moved in with children they would have to go to one of the Fair Lawn schools. He added they have been told there would not be a lot of children there. Zak asked if there would be any additional traffic in the area. Mayor Ganz stated there would be more cars on the road.

Zak stated on the web page it says Mayor Ganz is supposed to be elected in 2005, Deputy Mayor Etler in 2006, Deputy Mayor Weinstein in 2006, Councilmember Caan in 2005 and Councilmember McCarthy in 2006. He asked if that was up to date. Mayor Ganz stated his term expires next year in 2005 and if he decided to run again which he was undecided about the election would be November of next year and Councilmember Caan term is up as well. He added Councilmember McCarthy=s, Deputy Mayors Etler and Weinstein were just elected this year so their term would expire in 2007. Councilmember Caan added the website is wrong.

Laura asked what is the percentage of the taxes goes to the school. Mayor Ganz replied it is about 63 percent.

Rachel asked why should they have to learn about elections if they cannot vote. Mayor Ganz stated when they become 18 years of age they can express themselves. He stated voting separated democracy from any other country in the world. He added thirty to forty percent of Iraq cannot vote. Councilmember McCarthy stated seven years from now may seem like an eternity but it goes by quickly and it is good to learn about government now. Deputy Mayor Etler stated being able to vote is one of the many things in life that is priceless. Deputy Mayor Weinstein added it helps you to learn how to work well with other people and gives the power of speech. Councilmember Caan stated there is a lot to learn about how the system works, what your vote means and what the process is. He added look at the other countries around the world they all do it different and how special our system is.

Dan asked if there were any laws that keep open space in Fair Lawn. Mayor Ganz replied the answer was yes and no depending on how you define open space. He stated that if you mean by open space can you buy a piece of property and build on it so there is no grass or green anywhere you cannot do that, the zoning laws do not allow that to take place.

Laura asked how do they decide to give 64% to the schools. Mayor Ganz stated the Board of Education puts together a budget and then puts it out to vote. He stated your parents and other citizens vote on the budget. The Board of Education then gives it to the Council who have to collect the money through taxes.

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

PROCLAMATIONS: National Breast Cancer Awareness Month

Assistant Municipal Clerk Bojanowski read the proclamation.

ORDINANCES: FIRST READING

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

ORDINANCE NO. 1992-2004

BOND ORDINANCE AUTHORIZING THE CONSTRUCTION AND COMPLETION OF VARIOUS GENERAL CAPITAL IMPROVEMENTS AND THE ACQUISITION OF VARIOUS PIECES OF GENERAL CAPITAL EQUIPMENT IN AND FOR THE BOROUGH OF FAIR LAWN, COUNTY OF BERGEN, NEW JERSEY; APPROPRIATING THE SUM OF \$1,459,500 THEREFORE; AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OR BOND ANTICIPATION NOTES OF THE BOROUGH OF FAIR LAWN, COUNTY OF BERGEN, NEW JERSEY, IN THE AGGREGATE PRINCIPAL AMOUNT OF UP TO \$1,390,000; MAKING CERTAIN DETERMINATIONS AND COVENANTS; AND AUTHORIZING CERTAIN RELATED ACTIONS IN CONNECTION WITH THE FOREGOING

Mayor Ganz explained that four votes are needed for the majority for a bond ordinance.

Borough Attorney Lustgarten explained this ordinance provides the funds for different departments to buy things they need such as equipment for the Fire Department.

There being no further discussion, upon motion by Deputy Mayor Etlar and a second by Deputy Mayor Weinstein, Resolution No. 281-2004 introducing Ordinance No. 1992-2004 was unanimously passed.

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

ORDINANCE NO. 1993-2004

BOND ORDINANCE AUTHORIZING THE CONSTRUCTION AND COMPLETION OF VARIOUS WATER UTILITY CAPITAL IMPROVEMENTS AND THE ACQUISITION OF VARIOUS PIECES OF WATER UTILITY CAPITAL EQUIPMENT IN AND FOR THE BOROUGH OF FAIR LAWN, COUNTY OF BERGEN, NEW JERSEY; APPROPRIATING THE SUM OF \$690,900 THEREFORE; AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OR BOND ANTICIPATION NOTES OF THE BOROUGH OF FAIR LAWN, COUNTY OF BERGEN, NEW JERSEY, IN THE AGGREGATE PRINCIPAL AMOUNT OF UP TO \$658,000; MAKING CERTAIN DETERMINATIONS AND COVENANTS; AND AUTHORIZING CERTAIN RELATED ACTIONS IN CONNECTION WITH THE FOREGOING

Borough Attorney Lustgarten stated the other bond ordinance they just spoke about is for capital improvements. This bond ordinance is for the water utility. He explained that bond ordinances allow the Borough to borrow large sums of money to pay for items instead of paying it out of the general funds.

Mayor Ganz stated Fair Lawn is fortunate to have water utility where other municipalities do not.

There being no further discussion, upon motion by Deputy Mayor Etlar and a second by Councilmember Caan, Resolution No. 282-2004 introducing Ordinance No. 1993-2004 was unanimously passed.

Mayor Ganz stated that Ordinance No. 1994-2004 entitled an AOrdinance to Amend the Code of the Borough of Fair Lawn 2000, Specifically Chapter 13, Entitled AFire Department@, and More Specifically Establishing the Position and Program of Junior Firefighter, by Creating Article XVIII, Entitled AEstablishment of Junior Firefighter Program@ would be pulled from the Agenda pending review by the Fire Board.

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

ORDINANCE NO. 1995-2004

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 125, ENTITLED ALAND DEVELOPMENT@, MORE SPECIFICALLY ARTICLE V.A, ENTITLED ACOOPERATIVE PARKING PLAN@, SECTION 125-25, SECTION 125-56.3.A., SECTION 125-56.6.B.(1), SECTION 125-56.8.A, AND SECTION 125-56.12.

Borough Attorney Lustgarten explained when a new business does not meet the parking requirements for that business they come to the Borough for an agreement. He added any business can trade spaces in each district and get a 25% reduction.

There being no further discussion, upon motion by Deputy Mayor Etlar and a second by Deputy Mayor Weinstein , Resolution No. 284-2004 introducing Ordinance No. 1995-2004 was unanimously passed.

ORDINANCES: SECOND READING

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. 1990-2004

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 170 ENTITLED, APROPERTY MAINTENANCE@, AND MORE SPECIFICALLY SECTION 170-7 ENTITLED ARESPONSIBILITIES OF OWNER, OPERATOR AND OCCUPANT TO BE INDEPENDENT OF EACH OTHER

Borough Attorney Lustgarten explained that currently only names and addresses are required. He added this ordinance requires a name, full address, phone number and email address. The purpose of this ordinance is to help the Borough and the Property Maintenance Committee track down the homeowners to make sure they are keeping the property in usable condition. Mayor Ganz stated this is the first time the Borough has ever asked for e-mail addresses.

Adam Feiner, 2 Ashland Place asked why the ordinance was being changed. Borough Attorney Lustgarten stated there was a fourteen day turnover time. Councilmember McCarthy stated it is not going to just be e-mail, there will be phone numbers and the traditional mailing address. Mr. Feiner asked if that information would be confidential. Mayor Ganz stated the information would be accessible under the Public Information Act.

Edward Dunn, 40-13 Kuiken Terrace asked if it would apply to the people who live on the property or rent it out. Borough Attorney Lustgarten stated that it applies to the owners.

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

Upon motion by Deputy Mayor Etlar and a second by Councilmember Caan, Resolution No.285-2004 adopting Ordinance No. 1990-2004 was unanimously passed.

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

ORDINANCE NO. 1991-2004

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 FROM THE STATE OF NEW JERSEY, DEPARTMENT OF TRANSPORTATION THEREFORE

Mayor Ganz explained this ordinance will allow the Borough of Fair Lawn to accept grant funds. Mayor Ganz thanked Senator Coniglio for his assistance in bringing this to the Borough.

Jane Diepeveen, 14 Ryder Road asked if there were any specific locations. Borough Attorney Lustgarten stated he did not recall but there are definite specific areas. Mayor Ganz advised Mrs. Diepeveen they would get that information to her.

Maureen Moriarity, 14 Burham Place asked what traffic calming devices were. Mayor Ganz explained they are lights, speed bumps, radar and other similar devices.

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 Deputy Mayor Weinstein and a second by Councilmember Caan, Resolution No.286-2004 adopting Ordinance No. 1991-2004 was unanimously passed.

RESOLUTIONS BY CONSENT #23-2004

Upon motion by Deputy Mayor Etler and a second by Councilmember McCarthy , Consent Agenda 23-2004 containing the following items was unanimously adopted.

a. Resol. #287-2004 - Approval of Minutes:

Work Session 9/7/04

Special Meeting 9/7/04

Closed Session 9/7/04

Regular Meeting 9/14/04

b. Resol. #288-2004 - Chapter 159 Recycling Tonnage Grant

c. Resol. #289-2004 - Approval of Raffles & Bingos:

St. Leon Armenian Church, Casino Night

St. Anne Church, Bingo

d. Resol. #290-2004 - 2004 - 2005 Snow Plowing Agreement

e. Resol. #291-2004 - Refund of Overpayment of Taxes

f. Resol. #292-2004 - Confirming the role of the Fair Lawn Community Center, Inc. Trustees

g. Resol. #293-2004 - Confirming Endorsement of CDBG Grant Application: Care Plus NJ, Inc.

h. Resol. #294-2004 - Confirming Endorsement of CDBG Grant Application: Alliance Against Homelessness of Bergen County, Inc.

i. Resol. #295-2004 - Community Development Block Grant Application - Senior Center Improvements

j. Resol. #296-2004 - Community Development Block Grant Application - Roadway Improvements

k. Resol. #297-2004 - Appointment to the Environmental Commission

l. Resol. #298-2004 - Confirming Endorsement of CDBG Grant Application :Fair Lawn Community Center, Inc.

MISCELLANEOUS PUBLIC COMMENTS

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

Donal Meyers, 8-22 Mayfair Terrace stated his wife went to Borough Hall to get the Resolutions by Consent

and the Borough Clerk refused to let her see the Consent Agenda. He stated the public is entitled to see these documents and see what they can do about open space. He added these documents have influence on what happens to Daly Field and the residents have a right to know what is going on. Acting Manager Frey explained the Borough Clerk was not in and her assistant approached him on this matter and he did not think these papers were available yet to the public because it was only the first reading and apologized for the misunderstanding. Mr. Meyers stated going back to the issue on Daly Field he had come to the conclusion that the rezoning on Daly Field was going to go through. Mayor Ganz stated there is nothing before the Council and that area is not in need of redevelopment. Mr. Meyers stated the Council sent this to the Planning Board to determine if the area needs to be redeveloped. He added the Planning Board hires a Planning Firm with taxpayer dollars, now the Planning Board has the backing to bring back to the Council that Daly Field needs to be rezoned. Mayor Ganz stated the meeting was on September 20, 2004 and the Planning Board decided unanimously that Daly Field was not to be designated an area in need of redevelopment. Borough Attorney Lustgarten stated the Planning Board rejected the area. Deputy Mayor Etlar stated he is a member of the Planning Board and it was an eight to zero vote against redevelopment.

Harvey Rubinstein, 28 Rutgers Terrace stated he understood the Planning Board turned down the redevelopment of Daly Field, but the developer will come back to the Planning Board, Zoning Board or the Council. He asked what will the notification procedure be to the people who live there. Mayor Ganz stated they would come for the zoning change or variance and everyone within two hundred feet would be notified and he would require the information be put on the website. Borough Attorney Lustgarten added everyone in that zone will receive notification of it. Mr. Rubinstein asked if it would be a website item or a regular meeting item. Mayor Ganz stated it would be initiated in a work session and mature from there to another work session or public meeting.

Arlene Rubinstein, 28 Rutgers Terrace stated Radburn Association owns Daly Field and Landmark Developer owns the Heyworth Property.

Barbara Gremillot, 1 Brystal Place, asked if the property was zoned or changed for townhouses. Mayor Ganz stated that for a long time it was part of the Master Plan.

Crystal Robbins, 12 Randolph Terrace asked what it would take to amend the Master Plan to make Radburn back to a National Landmark status. Borough Attorney Lustgarten stated there is a six year automatic review of the Master Plan. He added an application would have to go the Planning Board citing specific sections of the Master Plan requesting the change. They would have a hearing and then make a recommendation to the Mayor and Council. Mayor Ganz asked Borough Attorney Lustgarten to research that and come back to them. Ms. Robbins stated the question would be what they would have to do to retain it as open parkland and amend the Master Plan. Borough Attorney Lustgarten stated there is no test that would make it come before the Planning Board to say it should be open space. He added Master Plans are useful for a lot of undeveloped land. He stated applications to the Planning Board would be their majority judgment as to whether the Master Plan should or should not be amended. The statute provides for ordinance adoption in accordance or not in accordance with the Master Plan. Councilmember McCarthy added right now the property is zoned for single family houses and that is the only thing that can be built there. He added any change would be discussed at an open meeting.

Sol Robbins, 12 Randolph Terrace asked how long is the estimated process if someone wanted to change it. Borough Attorney Lustgarten stated if anyone wanted to make the application before the Planning Board, he estimated it could take months. He added this is not taken lightly.

Jane Diepeveen, 14 Ryder Road stated she was a professional planner for forty years and did not agree that they are limited to undeveloped lands. She added back in 1992 they had a lot of discussion about that track of land. She stated an attorney had just noted that if the Council adopts zoning that does not conform then it

shows Heyward tract as a business zone. She added the Council never revised that map until last year. The Council changed it to R-1-1 when Heyward was changed to R-1-1.

Mrs. Diepeveen asked for a copy of the resolution and wanted to know why the minutes were not posted. Mayor Ganz explained that the minutes were up to date and the webmaster has not posted them yet. He added there are two applicants that are coming in before the Planning Board and no business is able to find spaces within 700 feet. Mrs. Diepeveen asked for an explanation of the Community Development block grants. Mayor Ganz explained each one to her.

Howard Marks, 12-23 Ferry Heights stated he had gone to the County regarding the Naugle House. He was told to go back to the Borough. Mayor Ganz stated that the Mayor and Council had made a recommendation to the Planning Board to have that area developed for townhouses with the condition that the Naugle House be deeded over to the Borough.

Charles Coviello, 9-02 Saddle River Road stated that he had brought a number of items to the Council last week. He did research and there is an excess of \$54,000 in the Building Department. He felt it is the Borough that puts the price on the escrow fees. Attorney Lustgarten explained that the seller and buyer reach an agreement on the amount and if they cannot agree then the Construction Code Official will decide.

Harvey Rubinstein, 28 Rutgers Terrace, stated that Mrs. Diepeveen reminded him about the years that he sat on the Planning Board they were told to check the rules that apply and the right people should know what can be built on that area.

Maureen Moriarity, 14 Burnham Place spoke about a decision that the Planning Board made on September 20, 2004. She wondered if there would be a public hearing on this matter.

Crystal Robbins, 12 Randolph Terrace stated that Radburn pays an assessment and the residents should be notified. Mayor Ganz stated they will look in to it and the Borough will let them know through the website and Channel 77.

Louis DiGeronimo, 9-02 Saddle River Road, stated he was employed by Weichert Realtors and has had customers who have had a hard time applying for a CCO. He felt the Building Department was understaffed. Mayor Ganz stated there have been over 500 transfers. He stated they have taken steps to help the situation by adding two part time inspectors.

Jane Diepeveen, 14 Ryder Road, questioned how the Borough could have a meeting at the Grange when the Radburn Citizens will be using it. Deputy Mayor Weinstein stated they will use a different area in the building.

Ed Dunn, 40-13 Kuiken Terrace, stated he was wondering what happened with the violations on his street. Attorney Lustgarten explained that the gentleman was given a summons and failed to appear and if he does not appear there will be a warrant for his arrest. Mayor Ganz stated they cannot comment on something that is before the Court. Attorney Lustgarten explained that government does not have the right to go in and evict people. The Borough is frustrated at this situation but has to follow the process.

Maureen Moriarity, 14 Burnham Place, spoke about the Master Plan being an advisory guide and wondered if there was a standard for park land. Mayor Ganz stated the area would have to be rezoned by ordinance.

Sol Robbins, 12 Randolph Terrace, felt that if Radburn was declared a National Historic Landmark there should be a party. He also thought that if Landmark Developers unveiled a plan they should have a concept hearing. Mayor Ganz stated the Council has not seen anything from Landmark. They did a presentation of

what they have done in other municipalities.

Jane Dipeveen, 14 Ryder Road, felt it would be helpful if the address of a parcel was put in the ordinance.

Maureen Moriarity, 14 Burnham Place stated she wanted to trust everyone. She received a letter about the property being sold and in the letter it said it was smart growth. Mayor Ganz stated they did not see the plans.

Crystal Robbins, 12 Randolph Terrace, questioned the meeting on October 6 being held at The Grange. Deputy Mayor Weinstein stated they initially had scheduled the meeting for October 4 but decided to change it to October 6 to discuss business development.

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 Deputy Mayor Weinstein and second by Councilmember Caan, the meeting was recessed to the Work Session at 9:25 p.m.

Respectfully submitted,

Marilyn B. Bojanowski, RMC Assistant Municipal Clerk