

WORK SESSION OF MAY 1, 2007

Mayor Weinstein called the meeting to order at 7:30 p.m.

PRESENT: Mayor Weinstein, Deputy Mayor Tedeschi, Councilmembers Baratta and Trawinski

ABSENT: Deputy Mayor Etlar

ALSO PRESENT: Manager Metzler, Municipal Clerk Kwasniewski and Attorney Rosenberg

Mayor Weinstein announced Anderson Mulholland Associates will host a public meeting at the Fair Lawn Community Center on Monday, May 14, 2007 at 7:30 p.m. to discuss the remediation of the former Topps Dry Cleaners site.

Manager Metzler reported the sand was core tested. They have gotten the report back. He will be meeting with the Health Department. He obtained estimates if it becomes necessary to replace it. He stated that they had flood insurance and would be applying to FEMA for reimbursement. The Parks Department has done a decontamination with a bleach and water mixture to kill any bacteria.

The parks garage had water in it but all the vehicles were moved in anticipation of the storm so they did not suffer any losses. The water did not reach the height of the floorboards of the trailers although it came close.

Review of Tentative Agenda:

Mayor Weinstein reviewed the tentative agenda. Municipal Clerk Kwasniewski reported they would be rejecting the bid for the Municipal Building Generator and a resolution would be forthcoming.

Closed Session:

Upon motion by Councilmember Baratta and a second by Councilmember Trawinski the following closed session resolution was unanimously adopted at 7:35 p.m.

WHEREAS; the Open Public Meeting act of the State of New Jersey permits the public to be excluded from certain matters to be discussed by the Governing Body; and

WHEREAS; the Mayor and Council of the Borough of Fair Lawn desire to discuss Contract Negotiations -Department Heads Contracts and the Naugle House; and

WHEREAS; these matters are ones which permit the exclusion of the public from such discussions; and

WHEREAS; minutes will be taken during this closed session and once the need the confidentiality no longer exists the minutes will be available to the public.

Mayor Weinstein reconvened the meeting at 7:50 p.m.

Municipal Building Cell Tower:

Manager Metzler reported they had one presentation and drawing of the existing radio tower. He stated that Mr. O'Scanlon and Patrolman Mergler who oversees the radio communication system with the Police Department have been working together. The primary objective is to replace the radio antennae on the radio tower and improve Police communications. If they could also generate revenue, that is a bonus. He reported that Mr. O' Scanlon was present to review drawings and the tower height.

Mr. O'Scanlon stated that he wanted to improve municipal communications and locate the equipment on public property where they could benefit with the replacement of some communication infrastructure. They originally looked at a 180 foot tower which was not acceptable. He presented a design with a tower at 135 feet. The current tower is 100 feet. There were concerns about coverage gaps for the Police Department which would require some additional height. There is room for four carriers. There are four wireless carriers in the market. He felt this design would capture all the carriers and provide the coverage that they needed. He could not guarantee this but he felt they would be well served. He asked for permission to work on the bid specifications.

Councilmember Trawinski stated the original cellular ordinance included this site but it was eliminated because the residents did not want it. There are some noisy areas where an officer can hear headquarters but headquarters cannot hear the officer. He felt the extra height would make a difference, especially in the north end of town.

Mr. O'Scanlon stated that three out of four carriers have a need for coverage in this area. Carriers do not go away and are obligated to look for coverage areas, especially where they have a concentration of customers. Upon an inquiry from Deputy Mayor Tedeschi, Mr. O'Scanlon explained that he worked for Cingular Wireless but was designing the tower not specifically for Cingular Wireless' needs. Since Cingular would be giving the Borough money, Deputy Mayor Tedeschi felt it would be a conflict for him to represent the Borough and Cingular Wireless at the same time. Mr. O'Scanlon clarified he did not represent the Borough but cared about making this project work for all the parties.

Manager Metzler stated one of the options was a pole with the antennas mounted inside so it would look the same as the existing pole just higher. Mr. O'Scanlon stated the Municipal whip antennas must be on the outside. Councilmember Trawinski questioned if they would have to pay rent for the mono-pole that the antennas would be mounted on. Mr. O'Scanlon said the project would be designed so that the Borough expended as little funding as possible for the infra-structure with the carrier covering the costs. They would include some up-front money to cover the cost of the antennas and the carriers would be required to do the installation.

Councilmember Trawinski asked if it had been determined how much of the parking would be lost if four carriers were on the tower. Mr. O'Scanlon reported that two spaces would be lost under this scenario. Councilmember Baratta felt the old tower was more hidden and the

new tower would be more visible. She clarified that the current equipment could not be located inside the pole which meant the whips would add 20 feet making the total height 155 feet.

Councilmember Trawinski asked for assurance that this would solve the repeater problem. Patrolman Mergler stated that the higher the antenna the more coverage they would have. The issues on the north end of town. They need to get over the hills. Councilmember Trawinski asked if they could run a test to see if it will work. He asked if the antennas were high enough so that it would not impact on municipal employees. Mr. O'Scanlon stated it was possible that the employees would have less exposure because the whips will be higher than those on the tower now. Councilmember Trawinski asked if they would receive an RF analysis and was assured they would.

Mayor Weinstein stated the tower is now 135 feet and wondered why. Mr. O'Scanlon stated the 180 feet was driven by the municipalities desire for height. He stated that they had done an in-depth study based on the lower height and felt this would work and would give the carriers what they needed. Councilmember Trawinski asked Borough Attorney Rosenberg if a bid specification could require the successful bidder to test the plan and demonstrate that the whips will work. Attorney Rosenberg stated this tower has been designed for the four primary carriers. He was not sure how they could make sure that they all share in the cost. Councilmember Trawinski indicated that he did not care about that but wanted to be sure it worked. Deputy Mayor Tedeschi asked who would own the tower once it was installed. Mr. O'Scanlon stated that most municipalities want the carrier to retain ownership because of the insurance liability. It will be set up so the Borough has absolute right to put its equipment on it and have the right to revenue. The carriers will not handle maintenance.

Councilmember Baratta wanted to know what happens if the carriers abandon the tower. Mr. O'Scanlon stated if the Borough does not have a need, the carriers will have to remove it. Manager Metzler wondered what they are competing for if there are four carriers and four locations on the pole. Mr. O'Scanlon explained it is the location on the tower. The highest bidder will get the highest location and the right to construct the tower. Attorney Rosenberg stated the highest bidder is the lead contractor and the others co-locate.

Mayor Weinstein thanked them for their presentation.

Report on Closed Session - Contract Negotiation:

Attorney Rosenberg reported it was the unanimous consensus of Council to open up negotiations with the Department Heads' union for purposes of amending the contract to allow for comp time to be paid to workers who die during the course of their employment.

Council Liaison Reports:

Garden Committee - Councilmember Baratta reported that she helped sell bulbs at the Public Library over the weekend.

RRIC and Shared Services - Councilmember Trawinski reported there were no meetings.

Property Maintenance - Mayor Weinstein met with George Bate. The advertisement for tree planting request from residents is much smaller than what they used in the past. They will ask Walter O'Neill if the larger ad produced more requests for tree plantings.

Clothing Container Inventory:

Manager Metzler stated they requested an inventory which he forwarded to them. Construction Official Kolano had made a few recommendations. There are 23 bins throughout town. Mayor Weinstein stated the Property Maintenance Committee counted 27. The Zoning Officer inquired about a proposed ordinance change in Section 1B and item #6 and asked if this would be a Borough sticker. Mayor Weinstein reported that Property Maintenance had recommended that bins be located at the DPW complex which would reduce the number of bins and force groups to check their bins more frequently. Councilmember Trawinski felt they should limit the bins to non-profit groups. Councilmember Baratta did not want to be charged a fee to drop off items or have it be a hassle for people making clothing drops at the DPW site. She felt the new location might mean a drop in revenue for groups as the bins would no longer be in public view. Mayor Weinstein suggested they contact Detective Bastinck for his input. Manager Metzler suggested he have Engineering look at the site first and make a determination as to how many bins could fit. It was the consensus of Council to follow the Manager's recommendations and also survey the charitable organizations for their opinion.

Developmental Impact Fees:

Councilmember Trawinski stated he had reviewed the draft and felt it was fine. Councilmember Baratta agreed. Councilmember Trawinski suggested they introduce this ordinance next Tuesday pending a review of the ordinance by Mayor Weinstein and Deputy Mayor Tedeschi.

Volunteer Perks:

Manager Metzler discussed a request from Emergency Services for Council to amend the LOSAP resolution as they have reached the top of the scale. State mandates allow for periodic cost of living increases made by Council resolution; if they want to increase the dollar amount it would have to go to the voters. He calculated those costs over five years per member to be an increase of \$23.26 each year. The volunteer organizations do not want to go back to a referendum. If the Council decides to go to referendum, they want to increase the amount. He estimated the increase would cost \$7,400 over five years. It was the unanimous consensus of Council to approve an automatic cost of living increase from 2007 through 2011.

Video Taping Policy:

Manager Metzler discussed the standard operating guideline for video filming designed by staff members. It was the consensus of Council to introduce a resolution to implement this policy.

Insurance Issues:

Manager Metzler reported that Hurdy Gurdy has obtained insurance so this issue has been resolved.

High School / Community Center Parking Issues:

Deputy Mayor Tedeschi stated that he had spoken to the 501(c)3 about the proposed parking lot. He identified three parking problems in town: the lack of student parking at the High School, the need for increased parking at the Community Center and the problem that exists around that area and by the High School. The parking lot could be built through cooperation with the Board of Education and would create between 130 and 200 spaces. It would reduce the amount of traffic on Kipp Street and improve traffic flow. He reported that John Cosgrove would meet with Superintendent Watson to discuss the plan. Councilmember Baratta did not feel the high school students would want to use the new lot but agreed they needed to free up the streets near the High School. Her main concern was obtaining parking for the Community Center.

Councilmember Trawinski expressed concern that Deputy Mayor Tedeschi had discussed this issue with Superintendent Watson without Council authorization. He felt it was a conflict. Deputy Mayor Tedeschi felt he had a right as a citizen to discuss this and stated he did not make representation that he was there on behalf of Council. He suggested it go to the Ethics Board for review. Councilmember Baratta suggested they ask Borough Attorney Rosenberg for his opinion.

Attorney Rosenberg felt it was an issue of propriety and recommended Councilmember Baratta be the one to go forward on this parking issue as Council liaison to the Community Center. He felt either Mayor Weinstein or Councilmember Trawinski should step down from the Shared Services Committee so the Community Center liaison could attend instead. Deputy Mayor Tedeschi stressed that his only intent was to better the community. Councilmember Trawinski stated his issue is a concern that there is a need to keep this distance in Deputy Mayor Tedeschi's capacity as the manager of the Community School versus as a Councilmember, versus as a private citizen.

He stressed the issue had nothing to do with solving this problem. He stated Deputy Mayor Tedeschi had a relationship that is different from any other member of the public with the School Board and the Superintendent as he is their employee. He felt Deputy Mayor Tedeschi needs to be extra sensitive and should not have undertaken this in his capacity as Deputy Mayor. He thinks the parking lot is a good idea but does not feel the parking problem at the High School is the Borough's responsibility to solve.

Councilmember Trawinski asked that the Manager obtain a report from Traffic Safety Officer Franco and contact Engineering before going to the shared services meeting. Manager Metzler stated he would have a drawing by the next work session showing the number of spaces and the Borough's right of way. He stated Traffic Safety Officer Franco felt it should be a one way exit going towards Bellair Avenue.

Clariant Issues:

Mayor Weinstein reported that Clariant wanted assurance that Council would allow residential development if they completed the remediation to residential standards. He asked the Borough Attorney what steps could be taken to ensure they continue cleaning up the site and improve the appearance. Attorney Rosenberg stated they could not bind future Councils on governmental policy. He felt they could meet with Clariant representatives as there was no development proposal being discussed. A sub-committee could be formed to meet with Clariant and discuss the issues of concern, emphasizing the clean up. Mayor Weinstein, Councilmember Trawinski and Borough Attorney Rosenberg will attend a meeting if Clariant is willing to meet with them.

State Legislation to Strengthen Environmental Remediation Requirements:

Mayor Weinstein felt that neither property owners nor the DEP should be able to determine the level of remediation when a property abuts a residential neighborhood. This was necessary to protect current residents. He asked for a resolution to be sent to the Legislators and DEP requesting one level of remediation and an increase in the oversight ability of the DEP. Councilmember Trawinski felt it should also be sent to the Governor's Office. It was the unanimous consensus of Council to adopt such a resolution.

Zoning Issues - Naugle House:

Mayor Weinstein asked the Borough Attorney's opinion on re-zoning this property back to R-1-2. He questioned how this would affect the funds obtained by Freeholder Ganz, the \$90,000 matching grant and the current litigation taking place. Councilmember Trawinski felt the litigation issues should not be discussed publicly. Attorney Rosenberg stated he would research the issue.

Malinchek:

Councilmember Trawinski asked that this item be continued.

Interlocal Agreements - Health Officer Services:

Manager Metzler explained that the Borough would be entering into an inter-local agreement with Ho-Ho-Kus to provide health officer services. The agreement was pro-rated for nine months of service in the amount of \$4,293.75. They would also provide health services to Ridgewood for the same 2006 rate of \$7,300. It was the consensus of Council to approve these agreements with Councilmember Trawinski recusing himself on the Ho-Ho-Kus agreement.

Liaison Board of Education:

Manager Metzler stated this item could be dropped.

Property Sidewalk Snow Removal Seniors:

Manager Metzler researched the program offered by Cliffside Park. Individuals are paid by the Borough to remove only the snow on the front sidewalks and front steps. They do not do driveways. Cliffside Park funds the program with revenue received from summonses given to people who do not shovel their walks. He asked for a consensus from Council to move forward. They would use the revenues obtained from snow summonses issued to people able to shovel. Students would work in teams of two and be paid \$10.00 an hour. He reported that this idea came from Officer Failla who had been assigned to issue summonses this past winter and felt bad for those residents who were not able to complete this task themselves. He will discuss this idea with the Borough Attorney, the Chief Financial Officer and the Risk Manager and then present a formal proposal. It was the consensus of Council to go forward with this.

the next RRIC meeting. He felt they should also have Zoning look at the strip mall on 17th Street and Broadway as there were several neon signs in the window. He said the area in front of the tanning salon was not well maintained. Deputy Mayor Tedeschi would contact BIC.

Howard Mark, 12-23 Ferry Heights thought Naugle was spot zoning. He questioned comments made by Deputy Mayor Etlar in 2004 concerning the Naugle House and felt he was not well informed.

Joan Goldstein, 12 Bedford Place asked if the Topps remediation meeting was the same day as the Open Space Meeting. She felt many of the people would want to attend both meetings. Mayor Weinstein suggested moving the Open Space meeting to the Community Center. She asked if the Senior Snow Removal program could be part of a community service project for high school students. She requested two-sided printing for all copying projects.

Larry Greenberg, 15-21 Raymond Street thanked Mayor Weinstein and Council for their efforts towards environmental remediation requirements.

Closed Session:

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta the following closed session resolution was unanimously adopted at 9:50 p.m.

WHEREAS; the Open Public Meeting act of the State of New Jersey permits the public to be excluded from certain matters to be discussed by the Governing Body; and

WHEREAS; the Mayor and Council of the Borough of Fair Lawn desire to discuss Personnel - ADA Committee and Fair Lawn Garden Club and Anticipated Litigation - Sex Offender's Ordinance and Attorney/Client Privilege - Cingular C-O-W Bid; and

WHEREAS; these matters are ones which permit the exclusion of the public from such discussions; and

WHEREAS; minutes will be taken during this closed session and once the need for confidentiality no longer exists the minutes will be available to the public.

Mayor Weinstein reconvened the meeting at 10:05 p.m.

Mayor Weinstein commented on the memo Municipal Clerk Kwasniewski received from the Planning Board regarding residential areas over commercial property. The Planning Board inquired if they would fund the \$5,000. fee for a planner.

Municipal Clerk Kwasniewski questioned whether the Planning Board misunderstood the letter she sent them or if she misunderstood Council's intent. She asked for clarification on this issue. Deputy Mayor Tedeschi stated they requested input on residences located over businesses. Mayor Weinstein felt a letter should also be sent to Broadway, EDC and the Chamber of Commerce.

Attorney Rosenberg explained that this issue was the a result of a pending application on River

Road, which needed to be resolved quickly. The application pertained to a food handler's application and was not even in the context of a site plan application. He did not understand why the Planning Board Chairman had requested a planner. Councilmember Trawinski requested the Borough Attorney do a short term ordinance amendment, which would have to go to the Planning Board and get the opinions of the other Boards. This would put the ordinance in place if they decided to move forward. He asked if this would address the time constraints. Attorney Rosenberg stated this issue fell under Chapter 125 under the context of a food handler's application. Councilmember Trawinski stated that they needed to make it so a use variance was required. Attorney Rosenberg thought it was the issue of limiting the hours that was the scope of the analysis. Councilmember Trawinski felt that if they were going to do an ordinance limiting hours of operation in a zone that would not have to go back to the Planning Board. Mayor Weinstein suggested they do that amendment and seek out the opinions of RRIC, BIC, EDC and the Chamber of Commerce. Councilmember Trawinski felt it should be stressed they would discuss this with the various groups at a later date but needed to address this particular issue now. Otherwise it would create an enforcement nightmare. Attorney Rosenberg clarified the Council's request stating he would amend the ordinance, to prohibit businesses located under residences from being a 24 hour operation.

Deputy Mayor Tedeschi clarified an item from his presentation on the development of the parking lot stating that his discussion with the Superintendent occurred over eight months ago before he was on Council.

ADJOURNMENT:

Upon motion by Councilmember Trawinski and second by Councilmember Baratta the meeting was adjourned to at 10:15 p.m.

Respectfully submitted,

Joanne Kwasniewski, RMC/CMC/MMC
Municipal Clerk

The undersigned have read and approve the foregoing minutes.

Mayor Steven Weinstein

Councilmember Jeanne Baratta

Absent
Deputy Mayor Martin Etler

Deputy Mayor Joseph Tedeschi

Councilmember Ed Trawinski