

## **REGULAR MEETING OF JANUARY 26, 2010**

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

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, 2009. 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 Community News and posted on the Borough of Fair Lawn Website. The annual notice identified the times and locations of the Council meetings and work sessions.

**PRESENT:** Mayor Tedeschi, Deputy Mayor Swain, Deputy Mayor Weinstein and Councilmember Baratta.

**ABSENT:** Councilmember Trawinski

**ALSO PRESENT:** Acting Manager Kwasniewski, Assistant Municipal Clerk Bojanowski and Attorney Rosenberg

### **PROCLAMATION – NATIONAL WEAR RED DAY FOR WOMEN:**

A proclamation for National Wear Red Day was read.

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

Acting Manager Kwasniewski stated that proceeds from Casual Friday were donated to the American Heart Association.

She attended a meeting with Congressman Rothman and other managers and mayors from his district. Congressman Rothman spoke about earmarks and asked for a "wish list" of items they would like to see funded. The deadline is February 15<sup>th</sup>. There is a good chance that Fair Lawn can receive some funding for capital items as Congressman Rothman sits on the Appropriations Committee.

### **MAYOR=S APPOINTMENT:**

Karen Botkin Charipper and Robert Kahn were appointed to the Library Board.

### **COUNCIL COMMENTS:**

Councilmember Baratta stated that a "Taste of Fair Lawn" was held last night at the Community Center. It was a nice night and was well attended. She sampled food from restaurants throughout Fair Lawn. All proceeds will go to the Human Services Department. She thanked the Chamber of Commerce for sponsoring this event.

She stated that there will be a presentation at Memorial Middle School on Thursday, February 11<sup>th</sup> at 7:00 p.m. about cyber bullying entitled "Sticks and Stones". This is an important issue; she hoped there will be a good turnout. The movie, put together by

the Bergen County Prosecutor's Office, is extremely powerful. Children under the age of 13 years of age should not attend. She encouraged parents and grandparents to attend.

Deputy Mayor Swain stated that she also attended the "Taste of Fair Lawn" but arrived late and missed out on some of the wonderful food. It was a good reminder that they should support local restaurants.

She attended the National Honor Society Induction Ceremony that same evening. She congratulated the inductees from the Class of 2010 and 2011. It was a beautiful ceremony.

In honor of Wear Red Day, she acknowledged women around the world, especially in Haiti, who are working so hard to take care of their families. She acknowledged Hillary Clinton, who has been working so hard in Haiti. She offered prayers for her as she moved back in Afghanistan. Empowered women can make good things happen.

Deputy Mayor Weinstein reiterated Deputy Mayor Swain's comments about Haiti. We need to help out with that terrible situation.

He was proud of All Sports' leadership and the hundreds of coaches who have applied for their background checks. It is about caring for Fair Lawn children. The process is moving along very well.

Mayor Tedeschi thanked the Chamber of Commerce for sponsoring "Taste of Fair Lawn". The food was good and the proceeds were going to worthy causes: the Borough's food pantry and the pantry at St. Anne's. He reminded everyone to drop off canned goods from time to time to help the residents in need.

He was praying for things to get better in Haiti. He is proud of his son, a trauma physician at Columbia Presbyterian, who was going to Haiti next week to volunteer his services.

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

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

#### **RESOLUTION NO. 75-2010 (ORDINANCE NO. 2169-2010)**

**AN ORDINANCE TO AMEND THE CODE OF THE  
BOROUGH OF FAIR LAWN, 2010, BY AMENDING  
CHAPTER 241, ENTITLED "WATER", SUB SECTION 241-  
50, "WATER RATES"**

Upon motion by Deputy Mayor Weinstein and a second by Deputy Mayor Swain, Resolution No.75 -2010 introducing Ordinance No.2169 -2010 was discussed.

Mayor Tedeschi stated that the 20% rate increase was the result of a shortfall of \$570,000 in Water Department revenues, of which \$300,000 was made up by old ordinances still on the books. The balance will have to be made up this year with a rate increase. It highlighted water usage issues that they will need to be more careful about.

There being no further discussion, Resolution No.75 -2010 introducing Ordinance No. 2169 - 2010 was unanimously passed.

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

**RESOLUTION NO. 76-2010  
(ORDINANCE NO. 2170-2010)**

**“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  
COUNTY OF BERGEN.”**

Upon motion by Councilmember Baratta and a second by Deputy Mayor Weinstein, Resolution No.76-2010 introducing Ordinance No.2170 -2010 was discussed.

There being no discussion, Resolution No.76-2010 introducing Ordinance No. 2170 - 2010 was unanimously passed.

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

**RESOLUTION NO. 77-2010  
(ORDINANCE NO. 2171-2010)**

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

Upon motion by Deputy Mayor Weinstein and a second by Deputy Mayor Swain, Resolution No.77-2010 introducing Ordinance No.2171-2010 was discussed.

Acting Manager Kwasniewski stated that the ordinance creates a position required by Civil Service.

There being no further discussion, Resolution No.77-2010 introducing Ordinance No. 2171 - 2010 was unanimously passed.

Mayor Tedeschi asked Attorney Rosenberg to explain the following ordinances. Attorney Rosenberg stated that Ordinances No. 2172 – 2178 were mandated by a judicial order imposed on the Borough by Judge Harris on July 29, 2009, with respect to the Borough's compliance with the Affordable Housing mandate. Each ordinance is being introduced and, if adopted, will be done so under protest. He stressed that even if the ordinances were adopted, they were not waiving their rights to challenge them on appeal.

He explained that one ordinance rezones the property known as the Kodak site; one rezones the Clariant site; one is the imposition of fees for affordable housing; one provides planned development upon the Clariant site; and another is to impose the appointment of an administrator to administer affordable housing. With the adoption of these ordinances they will be in compliance with Judge Harris' order. However, each ordinance has a caveat that it is being done under protest.

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

**RESOLUTION NO. 78-2010  
(ORDINANCE NO. 2172-2010)**

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 49 ENTITLED "AFFORDABLE HOUSING" TO CREATE A NEW AFFORDABLE HOUSING DISTRICT AT §49-17 ENTITLED "MU MIXED-USE PLANNED DEVELOPMENT" FOR BLOCK 4801, LOT 1, KNOWN AS THE FORMER KODAK PROPERTY**

Upon motion by Deputy Mayor Weinstein and a second by Deputy Mayor Swain, Resolution No.78-2010 introducing Ordinance No.2172-2010 was unanimously passed.

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

**RESOLUTION NO. 79-2010  
(ORDINANCE NO. 2173-2010)**

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 49 ENTITLED "AFFORDABLE HOUSING" TO CREATE A NEW AFFORDABLE HOUSING DISTRICT AT §49-16 ENTITLED "R-5-4 INCLUSIONARY MULTI-FAMILY RESIDENTIAL PLANNED DEVELOPMENT" FOR BLOCK 5729, LOT 2, KNOWN AS THE CLARIANT PROPERTY**

Upon motion by Deputy Mayor Weinstein and a second by Deputy Mayor Swain, Resolution No.79 -2010 introducing Ordinance No.2173 -2010 was unanimously passed.

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

**RESOLUTION NO. 80-2010  
(ORDINANCE NO. 2174-2010)**

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 49 ENTITLED "AFFORDABLE HOUSING" AT §49-15 ENTITLED "B-4 WITH AFFORDABLE HOUSING COMPONENT OVERLAY DISTRICT" TO AMEND THE BOUNDARY TO DELETE BLOCK 5723, LOT 7 AND TO ADD BLOCK 5723, LOT 5**

Upon motion by Deputy Mayor Weinstein and a second by Deputy Mayor Swain, Resolution No.80-2010 introducing Ordinance No.2174-2010 was discussed.

There being no discussion, Resolution No.80 -2010 introducing Ordinance No. 2174 - 2010 was unanimously passed.

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

**RESOLUTION NO. 81-2010  
(ORDINANCE NO. 2175-2010)**

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 49 ENTITLED "AFFORDABLE HOUSING" BY CREATING A NEW SECTION §49-18 ENTITLED "DEVELOPER'S FEE ORDINANCE" TO COLLECT MONEY FOR AN AFFORDABLE HOUSING TRUST FUND.**

Upon motion by Deputy Mayor Weinstein and a second by Councilmember Baratta, Resolution No.81 -2010 introducing Ordinance No.2175 -2010 was unanimously passed.

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

**RESOLUTION NO. 82-2010  
(ORDINANCE NO. 2176-2010)**

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 49 ENTITLED "AFFORDABLE HOUSING" BY REPEALING §49-2 THROUGH §49-11 AND CREATING A NEW SECTION §49-2 ENTITLED "AFFORDABLE HOUSING ORDINANCE" TO ADMINISTER AFFORDABLE HOUSING CREATED IN THE BOROUGH IN ACCORDANCE WITH THE NEW JERSEY COUNCIL ON AFFORDABLE HOUSING'S RULES.**

Upon motion by Deputy Mayor Weinstein and a second by Deputy Mayor Swain, Resolution No. 82 -2010 introducing Ordinance No. 2176 -2010 was unanimously passed.

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

**RESOLUTION NO. 83-2010  
(ORDINANCE NO. 2177-2010)**

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 125 ENTITLED "LAND DEVELOPMENT" BY ADDING A NEW SECTION §125-47.1 ENTITLED "GENERAL DESIGN STANDARDS FOR COMMERCIAL, MIXED-USE AND MULTI-FAMILY RESIDENTIAL DEVELOPMENT."**

Upon motion by Deputy Mayor Swain and a second by Councilmember Baratta, Resolution No. 83 -2010 introducing Ordinance No. 2177 -2010 was unanimously passed.

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

**RESOLUTION NO. 84-2010  
(ORDINANCE NO. 2178-2010)**

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 125 ENTITLED "LAND DEVELOPMENT" BY ADDING A NEW SECTION §125-45.4 ENTITLED "SUPPLEMENTAL STANDARDS FOR PLANNED DEVELOPMENT."**

Upon motion by Deputy Mayor Weinstein and a second by Councilmember Baratta, Resolution No.84 -2010 introducing Ordinance No.2178 -2010 was unanimously passed.

### **PUBLIC COMMENTS ON CONSENT AGENDA ITEMS ONLY**

Upon motion by Councilmember Baratta and a second by Deputy Mayor Weinstein, it was unanimously agreed to open the time for public comments on Consent Agenda items only.

There being no further comments, upon motion Councilmember Baratta and a second by Deputy Mayor Weinstein, the time for public comments on Consent Agenda items only was unanimously closed.

### **RESOLUTIONS BY CONSENT #3-2010**

Upon motion by Councilmember Baratta and a second by Deputy Mayor Weinstein, Consent Agenda #3-2010 containing the following items was unanimously approved.

- a. Resol. #85-2010 – FEMA Grant Application: Purchase of a New Pumper
- b. Resol. #86-2010 - FEMA Grant Application: Class II Harness and Personal Escape Equipment
- c. Resol. #87-2010 - Supporting Participation in the PARIS Grant Program
- d. Resol. #88-2010 - Professional Service: H1N1 Vaccination Clinic Dr. Edward Sciano
- e. Resol. #89-2010 - Professional Services: Special Counsel –Calo Agostino, PC
- f. Resol. #90-2010 - Refund of Overpayment of Taxes
- g. Resol. #91-2010 - Approving Fire Board Actions
- h. Resol. #92-2010 - Approval of Minutes:
  - Closed Session 10/6/09
  - Work Session 10/6/09
  - Special Meeting 10/6/09
  - Closed Session 10/6/09
  - Regular Meeting 10/13/09
- i. Resol. #93-2010 - Award of Bid: Ambulance Corps' Supply
- j. Resol. #94-2010 - Extension of Bid: Emergency Water and/or Sanitary Sewer Repair
- k. Resol. #95-2010 - Extension of Bid: Electrical Repair and Maintenance
- l. Resol. #96-2010 - Authorizing Amendment to Open Space Acquisition Agreement
- m. Resol. #97-2010 - Renewal of Massage Establishment and Massagists Licenses – A1 Style
- n. Resol. #98-2010 - Renewal of Establishment and Massagists Licenses – BRC Sauna and Spa

- o. Resol. #99-2010 - Professional Service: Naugle House -  
Professional Planner – Hakim Associates
- p. Resol. #100-2010 - Appointment to the Environmental Commission
- q. Resol. #101-2010 - Appointment to the Green Team
- r. Resol. #102-2010 - Professional Service: Green Acres Survey  
George Street – Canger Engineering  
Associates

**RESOLUTION NO. 103-2010 – PROFESSIONAL SERVICES: H1N1 FLU CLINIC –  
VALLEY HEALTH SYSTEM**

Upon motion by Deputy Mayor Weinstein and a second by Deputy Mayor Swain, Resolution No. 103-2010 was discussed.

There being no discussion, Resolution No. 103-2010 was passed with Mayor Tedeschi recusing himself.

**RESOLUTION NO. 104-2010 – PROFESSIONAL SERVICES: HEALTH  
EDUCATOR – VALLEY HEALTH SYSTEM**

Upon motion by Deputy Mayor Weinstein and a second by Councilmember Baratta, Resolution No. 104-2010 was discussed.

There being no discussion, Resolution No. 10-2010 was passed with Mayor Tedeschi recusing himself.

**PUBLIC COMMENTS:**

Mayor Tedeschi welcomed everyone, including those watching the meeting at home. He explained that a large crowd was present because of concern regarding possible changes to the Borough employees' health care plan. He assured everyone that they would have an opportunity to address the Council.

It was unfortunate that many rumors had circulated the Municipal Building as to what the Council was doing or not doing regarding the Borough's health insurance coverage. There may have been misstatements. He respected the fact that some speakers represented constituencies. He knew that they would address the Council with passion and candor on behalf of those who they represent.

The Council's responsibilities lie not only with the Borough employees, but also to the Fair Lawn residents and taxpayers. He wanted to discuss some facts that he hoped would dispel rumors about what the Council was doing, and alleviate the employees' fear and anxiety.

Health care is a serious issue. The Council was considering switching the Borough's health insurance plan from a private commercial carrier to a self-insurance program. The details have not been worked out and no contract has been signed to date. Because of that fact, his comments would be limited.

He acknowledged that as per the labor contracts the Borough has entered into with the employees, any switch of health insurance must be equal, equivalent or better than the existing coverage. He reiterated that statement. The ability to switch programs was agreed to by the PBA, SOA and Blue and White Collar Association. This option has been included in all of their labor contracts for many years and the Council has every intention of honoring that, not only because it was legally required but also because it was the right thing to do.

The Council was considering changing plans because of anticipated savings to taxpayers. These savings amount to hundreds of thousands of dollars in premium payments. Under a self-insurance program, the Borough budgets the amount of potential claims, pays administrative fees for processing the claims but avoids having to pay a premium to the health insurance company for this coverage.

In 2010, they were given an estimate by their carrier that it would cost the Borough approximately \$7.2 million dollars for health care; a 25% increase. Currently, the Borough pays \$20,000 a day for health coverage for its employees. If the employees can receive equal, equivalent or better coverage than currently exists and they can save the taxpayers a significant amount of money, it creates a win-win situation. He believed that over the course of 14 months the savings could reach \$1million dollars.

In 1986 or 1987, the Borough transitioned from commercial liability coverage to commercial workers compensation insurance to self insurance. The savings to the Borough over the years have been great. There was another time when the Borough switched from one commercial health carrier to another and the same fears and anxieties surfaced. When employees were given the facts and an explanation of how it worked there were no longer any concerns. They are in a similar situation today. The clear message that they have received from taxpayers is to cut costs, maintain services and not increase taxes.

Over the last three years, he was proud of what the Council has accomplished. When the State said they were only required to pay half of the pension and could make pension payments later on, they paid them all to save interest costs. No employee has ever been furloughed, "riffed" or laid off. They should all be proud of that.

Saving a tremendous amount of money over time by going to self insurance benefits for employees is something they must do. As elected officials, they have been charged with the responsibility of looking at all reasonable ways to accomplish savings. He agreed with the Council majority that this was the way to go because it does not hurt employees and helps taxpayers. He values every employee and their worth to the community. He also valued every taxpayer, including senior citizens on fixed incomes, young couples with small children and those who are out of work.

He reiterated that the new plan must be equal or better than what exists. There is no other option for the Council. It would be like ripping off the current cover of the insurance handbook and putting on a new cover. That is the sum total of the changes.

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

David Boone, President of Fair Lawn PBA Local 67 spoke on behalf of the PBA and SOA members. Last year, the PBA made it known that they believed there was a major communication problem between the Council and them. Initially Council disagreed, but it became apparent that they realized a problem did exist. The PBA and the Council made an attempt to eliminate this problem in the best interests of the Borough and its residents, but he now believed the situation has gotten worse.

He felt the Council's definition of negotiation was that PBA accept what the Council puts on the table and nothing else, although that is not the true definition of negotiation, which is to discuss with a view of reaching agreement. He felt the Council should have sat down with the union leaders to discuss changes in health benefits, which are negotiable items, especially since there are ongoing contract negotiations with many of the Borough unions.

He wondered why the Council told the PBA and SOA at a Friday meeting that they were simply getting presentations on a new healthcare plan the next Tuesday, and then voted to change the health care plan that same night. He questioned why they disregarded the advice of their healthcare broker who stated that changing to this self-insured plan would not result in a comparable coverage for employees. He was concerned that the Council made such a quick decision on something that would greatly impact past, current and future employees and their families, without taking an adequate amount of time to examine this change and the affect it will have on Fair Lawn.

He asked why they denied his Open Public Records Act request on the new health care plan if it did not detrimentally affect employees. He did not understand the secrecy and asked that they release the information that the PBA was rightfully and legally requesting. He expressed doubt that the Borough was in financial distress. He objected to the tactics being used by the Council. He pointed out that many of the employees were also volunteers. He asked them to put the "fair" back into Fair Lawn and come back to the negotiating table.

He concluded by reading two quotes from a book that Mayor Tedeschi had recommended to him, The Speed of Trust. The first quote stated "whether you are on a sports team or in an office or a member of a family, if you can't trust one another there is going to be trouble". The second quote stated "tell the truth in a way people can verify. Get real and genuine, be open and authentic, err on the side of disclosure, operate on the premise of what you see is what you get. Don't have hidden agendas, don't hide information". This is the challenge before them.

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

**CLOSED SESSION:**

Upon motion by Councilmember Baratta and a second by Deputy Mayor Weinstein, the following closed session resolution was unanimously adopted at 8:25 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 – Health Benefits and Affordable Housing Litigation; 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.

**NOW, THEREFORE, BE IT RESOLVED,** by the Mayor and Council of the Borough of Fair Lawn that the public be excluded since these matters as set forth above are ones which permit the exclusion of the public from such discussions.

**ADJOURNMENT**

Upon motion by Councilmember Baratta and second by Deputy Mayor Weinstein, the meeting was adjourned at 9:10 p.m.

Respectfully submitted,

Marilyn B. Bojanowski, RMC  
Assistant Municipal Clerk

The undersigned have read and approve the foregoing minutes.

\_\_\_\_\_  
Mayor Joseph Tedeschi

\_\_\_\_\_  
Deputy Mayor Lisa Swain

\_\_\_\_\_  
Deputy Mayor Weinstein

\_\_\_\_\_  
Councilmember Jeanne Baratta

\_\_\_\_\_  
Absent  
Councilmember Ed Trawinski