

WORK SESSION OF DECEMBER 1, 2009

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 16, 2008. 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 Weinstein, Deputy Mayor Tedeschi and Councilmembers Baratta and Trawinski. Deputy Mayor Swain was absent this evening.

ALSO PRESENT: Acting Manager Kwasniewski and Attorney Rosenberg.

Mayor Weinstein announced that Deputy Mayor Swain had planned to be here this evening and to recuse herself from the discussion regarding Democracy in Radburn. Unfortunately she is ill and asked Mayor Weinstein to convey to the public that it is inspiring to see such passion and commitment on these issues.

Mayor Weinstein thanked everyone for coming tonight and he added that many e-mails were received on this subject. The Council will hear all views on a request that the Council adopt a resolution relating to the relationship between residents in Radburn and the existing voting procedures of the Radburn Association. Everyone on the Council believes in democracy and tonight the Council is going to listen, however, Mayor Weinstein didn't think a decision should be made tonight because they need to reflect and review what has been forwarded to them. In the interest of fairness, Mayor Weinstein stated that the five minute rule would be used and the Council is prepared to stay late so that everyone can be heard. He asked for the behavior to be appropriate with the decorum of a public meeting. Mayor Weinstein hopes there will be information reported about this meeting in the local newspapers so that anyone not able to attend this meeting will be able to forward their opinions to Councilmembers. When Councilmembers have had the opportunity to review all points of view and have received the advice of the Municipal Attorney, as to how far the Council can get involved with a private organization, Mayor Weinstein said the Council would take up this issue again with proper notice to the public.

Review of Tentative Agenda (12/8/09)

Acting Manager Kwasniewski reported on two items added to the agenda for next week's meeting which includes minutes of the Special, Closed and Regular Meetings of August 18th and she advised on a change regarding contract negotiations and appointments.

Democracy in Radburn

Mayor Weinstein stated that Senator Gordon had sent Jennifer Mancuso, his Chief of Staff, to the meeting on his behalf. He explained the sequence of speakers stating that there will be a speaker on behalf of the petition speaking first alternating with a speaker who does not agree with the petition.

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

Phillip Plotch, 17 Bancroft Place, stated the Council unanimously voted 3 ½ years ago agreeing that Radburn is governed under undemocratic rules. They urged the State Legislature to pass a bill sponsored by then State Assemblyman Bob Gordon, which never made it to the Senate floor. He presented a resolution asking the State Legislature to clarify an existing law. The most important legislation pertaining to homeowners associations in New Jersey is the Planned Real Estate Development Full Disclosure Act (PREDFDA). This was passed in order for the government to protect owner's rights and states that Boards are elected by and responsible to the homeowners associations. The problem is that the legislature did not define the word "member". Every homeowners association in the State considers a homeowner to be a member and all associations have democratic elections except for Radburn. In Radburn only a small group of people, known as members, can chose who is going to be on the Board of Trustees. If PREDFDA was clear there would be no need to waste time in Court arguing what the legislature meant by the word "member".

Mr. Plotch said that they are asking the Council to pass a resolution calling on the Legislature to define the word "member" and to say that any Radburn resident can run for an elected Board position. He stated that he presented a petition signed by 439 Radburn residents to the Council last month. The petition was in support of making every homeowner a member of the Radburn Association and supporting free elections. Radburn consists of 557 one and two family homes and signatures were received from 289 homes or more than half. Mr. Plotch said that he believes the Trustees care about Radburn but the problem lies with the system.

Mr. Plotch thanked Mayor Weinstein for having this forum where different perspectives can be heard. He said he hopes to receive the support of the Council again since the State Senator and Assemblywoman will be looking to the Council for guidance on this issue. It makes sense to have the Legislature clarify their language and to support democracy.

Donald Morris, 1 Addison Place, stated that he has served as President of the Radburn Association for the last four years and he will be leaving the Board in January. The eight decade legacy of excellence in Radburn proves that this system works. Mr. Morris said that Radburn is studied by groups everywhere in the world and they have attained status as a national historical site as well as national landmark status.

Mr. Morris stated that the system in Radburn is apolitical. The trustees don't have constituents or agendas and they are not running for re-election. Their only concern is what is best for the community at large and they put this before their own self interests. The Radburn form of government is legal and this was reinforced by lower court Judge Contillo's ruling in April 2008 and it is now being heard by the Appellate Division who heard oral arguments on November 17th, 2009.

Mr. Morris said that there is a common belief that the Board is against change and will not consider modifying their current structure. It is the Board's position that if change is to come it will be after input from the residents and deliberation by the Board allowing time to review the facts and making a collective and informed decision. He said that June Myerson created a committee and crafted proposals for the board's review in June 2006. These proposals were delivered in late August 2006 and the Board was to begin a review of the proposals. Within a few days, the Radburn Association was served with a 21 count lawsuit which must have been in the works for months that resulted in the expenditure of hundreds of thousands of dollars and which is still ongoing. The Board has been precluded from any actions on these proposals since they are the subject of litigation.

Mr. Morris stated that any changes affect only Radburn residents and are only a Radburn issue. This should be settled internally and he is asking the Council to allow them to do just that.

June Myerson, 15 Ballard Place, said that she served as the past President of the Radburn Citizen Association for four years and her duties consisted of bringing the concerns and needs of the Radburn community to the Board and reporting their responses back to the community. The Board consists of nine trustees. One trustee is democratically elected by the community and is known as the President of the Citizens Association. A total of six are hand picked by the current board to become candidates for trustee. Of those six, two trustees are elected each year to serve a three year term. The remaining two trustees are appointed by the Radburn Association Members to serve a one year term. Only current and past trustees are members of the Radburn Association and only those members who actively live in Radburn can vote. There are approximately 70 members and only about 33 members currently live in Radburn. These 33 members control the fate of 3,000 homeowners and renters. The current 9 member board is responsible for making all policy and administrative decisions. Each trustee may serve for five years and then take a three year break before being eligible to serve for another five years. Ms. Myerson stated that the trustees are not accountable to the community. The only input the homeowners have is through the Citizens Association. Many resolutions were given to the Board for consideration, however, none were accepted and the Board made it impossible for anyone in the community to meet and discuss how the nomination process could be democratized.

Ms. Myerson stated that the Board's attitude that the system has worked for 80 years is untrue. In 2008, according to IRS records, the Radburn Association spent \$647,000 on legal fees. This represents 50% of the Association's revenues of \$1.3 million. The

projected budget for legal fees in 2008 was \$350,000 and a vote was never taken to spend an additional \$300,000. The assessed residents didn't have the opportunity to vote on whether they wanted to spend \$647,000 in 2008 to fight democracy. Ms. Myerson stressed that it is important that the Council pass this resolution and any argument against democracy is an affront to what the country stands for.

Robin Stohl, 8 Ramsey Terrace, said that she has lived in Radburn happily for many years. She stated that there have been many fine trustees in Radburn who have taken their jobs seriously and they have done what they felt best for Radburn. Not everyone agrees with the decisions of the trustees all of the time but the trustees have given a lot of their time and to service Radburn as best they can.

Ms. Stohl said that she hasn't seen a lot of democracy in action with the last Association president. Any changes to the governing of Radburn should come from Radburn residents themselves and there shouldn't be constant lawsuits against the Association. Radburn has the right to defend itself by using excellent legal counsel which tends to be costly. Ms. Stohl asked that the Council not get involved in this and she noted that the survey was very biased in her opinion.

Craig Miller, 5 Ramapo Terrace, agreed that Radburn is a private matter. He stated that in a normal election everyone in a household who is over 18 can vote, however, in Radburn only two people from each household over 18 can vote and the others have no say. Mr. Miller urged the Council to get involved so that every individual in Radburn can be given the right to vote.

Michael Alyania, 11 Ryder Road, said that he moved to Radburn in 2008 and he noted that the current structure of government is not illegal according to the Courts. Many are complaining about the form of government in Radburn and Mr. Alyania reminded everyone that they are not forced to live here. The form of government is sound and legal and represents a spirit of volunteerism and not politics. Mr. Alyania commented that those who are complaining about the increased dues as a result of legal fees are the ones who sued the Association in the first place and have no reason to complain. He said that the Council should allow Radburn to deal with its own issues and should not be involved.

Ron Coles, 10 Ramapo Terrace, stated that an essential part of democracy is recourse which is the tool the public can use to effect change. Mr. Coles said that the President of the Radburn Association has spent five years in that position on the Board of Trustees. He wasn't elected but was appointed five times in a row by the trustees and former trustees and this is not democracy.

Mr. Coles said that they only want one change which is to have everyone who owns a home in Radburn be a member and to give all members the opportunity to serve as a trustee selected by the 1500 adults who can make this determination. Art Murray was elected as the President of the Citizens Association and he clearly stated that he was against the way things were being done in Radburn's government. Mr. Coles pointed

out that in a real democracy there would be other methods of recourse other than through lawsuits. They are only asking the Legislature to amend the PREDFDA law to read that every home owner must be a member of the homeowners association so that every homeowner has the opportunity to be a trustee. Mr. Coles commented nobody communicated the rules and by-laws of the Radburn Association to him when he purchased his home in Radburn.

David Rosenberg, 11A Beekman Place, stated that Mr. Coles' comments regarding the Board's attitude towards the plaintiffs as belligerent is false. He has found all of the trustees to be accountable and receptive whenever he speaks to them. He referred to Mr. Plotch's petition and said that he was never approached or told by anyone that this petition was being circulated. He said that the petition was presented as a survey and its purpose was not made clear to those who were asked to sign it. Many people were shocked to learn that it was being presented to the State Legislature. Mr. Rosenberg said he would support having a real petition be circulated throughout the community describing the open issues as well as a clearly stated purpose.

Mr. Rosenberg said that when he moved into the community he was presented with a book outlining the political structure and the architectural guidelines. This information is available for everyone to view at the Grange and is public knowledge. Mr. Rosenberg pointed out that President Morris and the other trustees are not appointed but are nominated in a manner that is not open to the entire community, however, when these people are nominated ballots are distributed to the entire community for people to vote. He would encourage people to participate more in the current system and he said that there is only a 30% response rate to the ballots delivered to the community.

Mr. Rosenberg noted that these issues have only surfaced due to the sale of Daly Field and before that everything seemed to run fairly well. This meeting, the lawsuits, and the petition are an over reaction to the issues in the community and Radburn should be able to govern itself accordingly.

Walter Weglein, 18 Ramsey Terrace, commented that people moving into Radburn were given the guidebook explaining the rules, however, they were not told that in 2004 one of the parks that Fair Lawn has been using was taken away by the Radburn trustees and this is what started the whole thing.

Howard Moore, 12-23 Ferry Heights, asked whether the people living in the apartments would have the opportunity to vote. He said that the sale of Daly Field and Heyward will affect everyone's taxes not just those of the Radburn residents. He recalled that there was discussion of selling Daly Field in 1987; however, this didn't go forward because of the pollution problem.

Joan Goldstein, 12 Bedford Place, said that there is a lot of anger. She agreed with Mr. Weglein that it goes back to the situation with Daly Field. She was not asked to sign the petition because the people circulating it know that she doesn't agree with them on every point. Radburn is a business and the trustees run it as a business and the

trustees must do what they feel is best for Radburn as a whole. They handle and manage all of the risks which allows individual homeowners to be free of the risks of running the business.

Ms. Goldstein indicated that the trustees do a lot of things that she doesn't agree with. She feels that everyone should be able to air their disagreements in a productive manner that will foster discussion and negotiation and then come to a consensus. There had been a discussion of changing the way trustees are nominated and Ms. Goldstein said that she was part of that committee which consisted of people with differing points of view. The suggestions were published on a website and heard at a Citizens Association Committee meeting but the timing was not right for the trustees to evaluate the suggestions before the litigation began. Ms. Goldstein stated that the trustees have a fiduciary responsibility to defend Radburn against the lawsuits. The issue is whether Radburn should be run as a business or as a quasi government.

Ms. Goldstein indicated that she is happy to have a business model that fosters slow, deliberate change in Radburn. She wishes that change would be allowed to proceed because these are Radburn issues that should be dealt with that way.

Kathy Moore, 13-16 Plaza Road, thanked the Council for making the time to listen to everyone and stated that she had been a write in candidate for Radburn Trustee. She noted that those seeking democracy in Fair Lawn are scorned and those seeking open nominations and elections are treated with disdain. When she and her husband purchased their home in Radburn, they were not given the by laws and they still are not given to prospective home buyers now. After a year, they learned about the pollution from Topps lurking under their home and that the park adjacent to their back yard was to be sold to a developer without notice to the community. The Radburn Association was aware of the pollution. She wanted to make changes which she assumed she could do as a homeowner. She submitted a letter to the trustees asking to run for the Board, however, her request was turned down. She decided to run on a reform platform as a write-in candidate in the Board election and she received 199 votes, however, they seated the candidate with 132 votes instead. They said that Radburn's by-laws didn't mention write-in candidates but she argued that there was nothing in the by-laws stating that there couldn't be write-in candidates, however, she was not allowed not represent the community that elected her.

Ms. Moore went to the Department of Community Affairs who told her that PREDFDA applied to Radburn; however, Radburn disagreed and told her that she would have to sue if she wanted any changes. Radburn needs to change its ways now because it is not good for the people or for the taxpayers of Fair Lawn. Ms. Moore urged the Council to support democratic elections.

Michael Alyania, 14 Ryder Road, referred to the comment that the sale of Daly Field is what has sparked this debate. He said that he has done research and has spoken to a lot of people to try to understand the circumstances leading to that decision. He learned that the decision of the Board of Trustees was not made in an open way, however, they

felt that they were acting in the best interests of Radburn. Mistakes were made which they have admitted and everyone must remember that this group has governed itself for 80 years without incident and everyone needs to come together and decide how to govern going forward.

Art Spinelli, 8 Bedford Place, stated that our forefathers scarified their lives for justice and free elections and Americans continue to fight in foreign lands to give people the right to free elections which is what the people in Radburn are fighting for today. It is the duty of the Council to ensure that the rights of the residents of Radburn are protected. He asked the Councilmembers to do their duty and pass the resolution.

Han Broekman, 4 Allen Place, said that he believes the Radburn Association is a business. When someone buys a house they, along with their attorney, must read all the terms and conditions of the contract. Mr. Bookman said that the resolution before the Council is a petition to interfere with the private corporate rights of the Radburn Association. The Association has acted in the best interests of all of the citizens of Radburn. Mr. Bookman pointed out that to make Radburn a homeowners association would abrogate the rights of the renters who live there.

Bob Gremillot, 1 Bristol Place, said he has lived in Radburn since 1960 and the trouble seemed to begin when Daly Field was sold. He noted that they had been paying their association dues to support the upkeep of Daly Field. The properties in Radburn are small and residents have paid their assessments on the parks. If Daly Field was going to be sold there should have been some discussion among the residents of Radburn who think of the field as "my land".

Mr. Gremillot said that he was in Trenton several weeks ago to hear the case on the Radburn situation that was brought before the Appellate Division. The Chief Judge said that what the Radburn residents want is a proper nomination process in a democratic way. He told Mr. Zucker, the attorney for Radburn Association, that in the democratic process if people aren't satisfied with the situation or the governing they have a recourse which is the process of voting people out of office. Mr. Zucker was forced to say that the people of Radburn have no recourse.

David Rosenberg, 11A Beekman Place, referred to comments by Ms. Moore and said that the sale of Daly Field directly affects her property. The character of her property will be dramatically changed and this event seems to have signaled the beginning of all of the differences in Radburn. Mr. Rosenberg said that Radburn is not a civil organization like the Mayor and Council which serves the residents of Fair Lawn. He agreed that there should be civil, frank and open discussions in the community of Radburn but as long as the Association has to defend themselves from a lawsuit they can't move forward to solve their problems internally. Mr. Rosenberg said that Radburn is a special place but it has deteriorated because neighbor has been pitted against neighbor and he would like to see this stop.

Eric Schutz, 20-14 Radburn Road, asked for the support of the Mayor and Council on the proposed amendments to PREDFDA. Mr. Schutts quoted from the original 1929 Radburn declaration of Restrictions stating that as the population of Radburn increases and the residents and owners organize themselves, the right to designate one or more trustees of the Radburn Association will be given to their representatives and that eventually the entire administration of and membership in the Radburn Association will be in the hands of the residents and owners and their representatives. Mr. Schutts believes that the majority of Radburn residents support open nominations and that this has been a long standing issue within the community. He cited more evidence that many efforts had been made by review committees calling for open elections, however, no changes were ever made. History and the petition demonstrate that the citizens of Radburn want free and open elections and a Board elected by and responsible to its members. He again asked Councilmembers and State representatives to amend the law and fulfill the promise of fair and open elections.

Amy Plotch, 17 Bancroft Place, stated that she respects the time and effort of the Radburn Trustees. She said that Radburn is not a business but a non profit community organization. The residents of Radburn have good ideas but they cannot express them because these voices are not allowed to be part of the discussion because there are no elections.

Janice Pessar, 321 Plaza Road North, said that she understands that this meeting is not a referendum on Daly Field but about democracy and she feels she is not properly represented. She stated that her grandmother was a Suffragette and screamed and protested for the right to vote. Her grandmother was told that by demanding the right to vote they were going to rip apart the fabric of society and that their husbands and fathers had been doing a fine job of running the country. This illustrates that change is necessary in Radburn to make the community a better place to live.

Marshall Chandler, 18 Ramapo Terrace, asked whether a community that is divided over a secret development deal working great for 80 years and perhaps a Borough Council that is subjected to a dense new development in its midst by nine individuals is thinking that Radburn is not working great anymore. Democracy advocates have been criticized for not coming forward with a complete proposal for how democracy would be implemented. Mr. Chandler reminded everyone that the Constitution was not ratified by all the States until 1791. A panel of residents could prepare their best ideas on self government and submit it to a vote by all residents and he asked for Council support in this vital endeavor.

Maureen Moriarty, 14 Burnham Place, stressed that the initial form of government in Radburn was not meant to last forever. She said that Mr. Chandler submitted his name to be nominated but because he believes in open and fair nominations he was not chosen. Those who oppose the petition have eight representatives and those who support open and fair nominations have only one representative. Ms. Moriarty stated that 98% of homeowners in Radburn are disenfranchised because they cannot run for the Board and are not members of the Board. PREDFDA does not preclude a common

interest association from conferring membership rights on tenants or other persons who are not unit homeowners from paying assessments, however, it does not require it. Ms. Moriarty said that everyone is very civil in Radburn and all they are asking of the Radburn trustees is to allow them to vote for or against democratic elections.

Eric Meeks, who lives at 12-22 Burbank Street although his legal address is 33-17 Southern Drive and another house at 350 Plaza Road North stated that the homeowners who had been paying the taxes on Daly Field should have had the right to make the decision on its ultimate fate. He referred to the Radburn Board of Trustees as a self-perpetuating aristocracy who have absolute power with the potential for absolute corruption. Mr. Meeks asked the Council to pass this resolution and added that the residents have a right to choose who is going to govern them.

Crystal Robbins, 12 Randolph Terrace, said that she is speaking in favor of the petition. Ms. Robbins was provided with a booklet entitled "Architectural Restrictions" at her real estate closing but not the by-laws. Her attorney was told that there were no other documents needed at the closing so they were surprised to discover that they had no vocal or voting rights in their community. She commented that admiration for Radburn is confined to its architecture and not its government. Ms. Robbins stated that the Radburn Trustees have not acted in a responsible fiduciary capacity and they are not familiar with the percentage of income that should be spent by a 501C4 on maintenance or legal fees which have absorbed most of the assets. There is no concern shown for the needs or wants of the majority of Radburn homeowners. Homes in Radburn have decreased in value and home buyers are under more scrutiny from lenders who look at the lack of capital reserves by the Radburn Association.

Ms. Robbins noted that the sale of Daly Field is another 501C4 violation and she asked at that meeting if there were other competitive bids to determine the value of the Daly Field sale and was told that there was not. She said that the trustees state that they are a private corporation however, as a 501C4 she wants taxpayers in Fair Lawn to realize that they are being subsidized as having tax favored status from the federal government. She asked taxpayers if they want to endorse discounts and favored tax treatment to an organization that is not democratic.

Igor Yeliseyev, 6 Bancroft Place, said that twenty years ago he came from an area in Eastern Europe that was occupied by Soviet troops. Presently, in Russia elections are held and there is more than one party for voters to choose from. He pointed out that in Radburn, there is one party only and he thanked the Mayor and Council for their time tonight.

Samuel Bushkin, 7 Audobon Place, read from a letter he had submitted to Councilmembers today. He said that the crux of the dispute in Radburn is the mechanism by which a small circle of individuals continues to maintain a stronghold over all Radburn homeowners. In the absence of judicial intervention this abuse of power will not stop. There is no rational argument to explain why a small group of insiders should be able to dictate to the vast majority of homeowners paying due in

Radburn. There is no basis to fear an open nomination process and he urged Fair Lawn Councilmembers to embrace their patriotic duty to recommend to the New Jersey Legislature that they right a wrong that affects the lives of hundreds of citizens in Fair Lawn.

Michael Roney, 14 Burnham Place, said that he is a former Radburn Trustee and considered to be a member of the Radburn Association. He stated that the vast majority of Radburn residents want nominations and fair elections in the community. In 2004, June Myerson ran for Radburn's only freely elected office which is President of the Citizens Association. She generated a record turn out and won with 75% of the total vote. Kathy Moore and Felice Koplik ran as write in candidates for the Radburn Trustees in 2004. They beat the Radburn Associates' hand picked candidates who were on the ballot but Kathy and Felice weren't seated. In 2006, June Myerson ran for re-election and five days prior to the election she joined her neighbors in filing a Democracy Lawsuit against the Radburn Association. Ms. Myerson won the election. In 2008, Art Murray, another democracy advocate succeeded Ms. Myerson as President of the Citizens Association.

Mr. Roney gave a brief history of Council elections dating back to 2005 when Ed Trawinski and Jeanne Baratta won on a platform including democracy for Radburn. Councilmembers Trawinski and Baratta won handily in the two Radburn voting districts that normally vote democratic. Both Councilmembers have supported democracy in Radburn over the past four years and they were re-elected in the Radburn districts by a significant margin.

Mr. Roney noted that there is a difference between a petition and a survey. Over the past five years, he has repeatedly asked the Radburn Association to conduct a survey to assess exactly how many people are for or against democracy in the community. The Association has refused to sponsor or condone a survey because they fear the results. Radburn homeowners have no say in what goes on in the community and are forced to appeal to the Legislature. Mr. Roney asked the Councilmembers to support democracy in Radburn and pass the resolution for open nominations.

Julia Enerson, 17 Beekman Place, thanked the Council for giving both sides a chance to speak. In 2002, she ran for the Board of Trustees and received a letter of rejection. In 2004, her neighbor and friend Susan DiGironomo told her how upset she was over the situation at Daly Field and Ms. Enerson suggested forming a group called Concerned Citizens for Radburn's Future. She was involved in this group because she didn't like the way the decision was made. Ms. Enerson pointed out that things have changed and the Board is not made up of the same people every year. Change is good and anyone who thinks she is on the side of the Board of Trustees is wrong. Change is needed in Radburn, however, all residents must be involved and this is the biggest issue she has with the petition. Ms. Enerson said that this needs to be a Radburn issue again

Art Murray, 7 Ramsey Terrace, said that it is important that Councilmembers express themselves on the resolution. He commented that he cannot understand how some of the speakers can defend a system that excludes almost every resident in Radburn from the political process when it involves assessments and the sale of land in the community. There is no place in Radburn for people who disagree with the system. Mr. Murray said that the Council is being asked to support a simple and sensible thing which is when people own property or live in a community and decisions are going to be made that affect their lives profoundly they should have the right to an effective vote and voice in what happens. He asked the Council to endorse who they are and what they represent which is the democratic process.

Ron Coles, 10 Ramapo Terrace, stated that the Trustees previously announced that they disagreed with the DCA and the only recourse was to sue. Donald Morris has been appointed as President of the Board of Trustees five consecutive times. When Mr. Coles closed on his house many years ago, he was given a copy of the restrictions in Radburn but not the by-laws. Only the original home purchasers in Radburn received the by-laws and no home purchaser has received them for the last 50 years.

Mr. Coles collected signatures on the petition and he stated that they did not go to the homes of people who were adamantly opposed to democracy. He indicated that since Daly Field there has been a complete turn over of all the trustees but there has been no change in attitude.

Don Morris, 1 Addison Place, stated that renters in the community currently vote. He said that the Radburn Board of Trustees has initiated an ADR policy, an open voting meetings policy, and a financial disclosure policy. These policies are all part of the by-laws. Since January of this year, there have only been binding votes on the by-law changes. Further binding votes will take place in public which was a requirement of the DCA. Mr. Morris noted that former Trustees who move out of the area have no voting rights at all.

Maureen Moriarty, 14 Burnham Place, stated that Radburn is not in compliance with Judge Contillo's ruling on financial disclosures. In community associations homeowners are allowed to inspect all bills including legal bills and the Radburn Board of Trustees appealed State law and financial disclosure. Ms. Moriarty said that the residents need to know how their money is being spent and what it is being spent on. The only recourse is to go back to Court and force them to comply with Judge Contillo's ruling on disclosure.

Mayor Weinstein said that he understood that there is a requirement for an audit every two years which is financial disclosure. Ms. Moriarty said that the DCA regulations allow homeowners to inspect the bills. She learned from their 2008 tax returns that \$6,047.00 was spent on legal bills but she wants a break down of what that was for. She said that there was an audit in 2007 but it was very arbitrary.

June Myerson, 15 Ballard Place, questioned compliance with DCA regulations. She said that the ADR is a sham and the open meetings are a farce since the only vote taken is on the minutes of the previous meeting. All decisions are made at work sessions and everything is done by consensus. The spirit of PREDFDA and the ruling by Judge Contillo has been abused.

Ms. Myerson said that as a Trustee she was not allowed to read contracts, take notes or see legal invoices. If you aren't with the Trustees you are alienated making it impossible to do your job. The system has to change because there is no way anyone from the community has input and this pervasive attitude, that has existed for a long time, is the problem because the residents are not being served by their representatives.

Joan Goldstein, 12 Bedford Place, observed that it looks like the majority of people are on the side of the petitioners because those were the only people invited to attend the meeting. She recalled that when they were discussing ways to change the nominating process, she suggested a write-in vote which was meant to show that there could be another useful way to show the Trustees what could be done. It was not meant to seat anyone.

Art Spinelli, 8 Bedford Place, commented on and corrected some of the earlier remarks.

There being no further comments from the public, upon a motion by Deputy Mayor Tedeschi and second by Councilmember Baratta, the time for public hearing was unanimously closed.

RESOLUTION NO. 373-2009 – AUTHORIZING CAPITAL ALTERNATIVES TO FILE GRANT APPLICATION FOR BERDAN AVENUE IMPROVEMENTS

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Tedeschi, Resolution No. 373-2009 was unanimously passed.

Councilmember Trawinski thanked the Borough's grants firm and the Acting Manager for bringing this to the attention of the Council and getting it on the agenda in such a timely fashion so as not to miss this opportunity.

Public Comments

Upon a motion by Councilmember Trawinski and a second by Councilmember Baratta, it was unanimously agreed to open the time for public Comments.

Councilmember Baratta commented that these two opposing groups don't ever get to talk to each other but tonight they did, however, there is a lot of conflicting information. The Mayor and Council have also received many e-mails which have brought up many questions that she would like to have answered.

Mayor Weinstein said that people may not have answers to these questions and he encouraged the exchange of e-mails and stated that there will be another meeting to respond to these requests.

Councilmember Baratta said that she has questions for both sides. She addressed Mr. Plotch and asked him if he was involved in any of the lawsuits against the Radburn Corporation. Mr. Plotch said that he is not a part of either of the two lawsuits. He added that if this resolution is passed by the Council and if the Legislature amends PREDFDA there will be no reason for any lawsuits.

Councilmember Baratta stated that some of those speaking against the petition said that the other side turned down an opportunity via a survey to make changes to the by-laws for the voting. She asked what happened to the survey and why it didn't go forward. Mr. Roney said that a bi-partisan Citizens Association Committee was formed in 2006 and four plans for reform in Radburn were formulated. They ranged from very modest to more substantial reforms and they were submitted to the Board of Trustees in August 2006. The Board of Trustees did not act upon the plans. The Citizens Association Committee filed suit in November 2006 and the Trustees have refused to discuss the proposals presented.

Mr. Morris said that the four proposals were delivered to him in late August, however, the next Board meeting in September was dedicated to the summer program and the election for Trustees came up in November. A letter was written on November 8th informing the residents of exactly what was going on and a few days after that the lawsuit was filed. On the advice of Counsel, the Board did not sit and discuss the matter which was the basis of appeal.

Councilmember Baratta asked whether the law suit would disappear if discussions went forward. Mr. Morris said that this could have been stopped after Judge Contillo's ruling. Judge Contillo also said that homeowners should be getting a copy of the by-laws. Regarding financial disclosure, Judge Contillo has ruled that the Trustees will have to develop a policy which they have done. Mr. Morris said that they didn't want to appeal this decision but their lawyer advised that since the other side was appealing they should appeal as well. The only thing the Radburn Association is appealing concerns financial disclosure and the by-laws have never been withheld from anyone. Mr. Morris said that Mr. Murray has had access to all the legal bills since he came on the Board and Ms. Myerson did not at the time she became a litigant.

Ms. Myerson said that when she became President of the Citizens Association, she tried to convince the trustees to initiate a committee of residents to democratize the nomination process which was rejected. A bi-partisan committee was formed to present various ideas regarding a change of the by-laws but it was ignored. Ms. Myerson pointed out that the people who are put up as candidates for Trustees are of like mind with the status quo that has prevailed for the last 80 years. The only way to force change is to nominate and elect representatives with diverse opinions.

Councilmember Baratta referred to the petition which is titled "Democracy Petition". She asked Mr. Plotch about the number of residents signing the petition. Mr. Plotch stated that 439 Radburn residents over the age of 18 signed the petition. Councilmember Baratta asked why renters weren't included and Mr. Plotch said that if renters were included the PREDFDA conditions might have to be changed Statewide. Deputy Mayor Tedeschi asked Mr. Plotch if he wanted to include renters. Mr. Plotch said that this would be a community decision. Deputy Mayor Tedeschi asked if they would be creating two classes in the community, one that can vote and the other that can't vote. Mr. Plotch said that there are various ways to handle this in a homeowners association such as giving each unit a vote. Mr. Plotch read from PREDFDA which indicates that the State has a huge role in how homeowners associations are run. If they are taxing people and making rules the State has a role just as it does in a town.

Mr. Plotch stated that people in a homeowners association should have the fundamental right to elect who will represent them. If it is important, renters should be included. He reminded everyone that this is a resolution or a recommendation to the Legislature to clarify something that is unclear. Mr. Plotch said that in the Radburn community you are either for change or for the status quo.

Ron Coles, 10 Ramapo Terrace, said that renters vote in the Radburn elections and there is no intent to change this. The reason that it has to be specified as homeowners is because in the PREDFDA statutes the word that is used is "unit owners" in every section except the one that deals with elections. The statute has to be modified to read "all unit owners" have the right to be members and to be candidates for Trustee. This is what they are trying to change.

Councilmember Trawinski again questioned Mr. Plotch on the number of signatures on the petition. Mr. Plotch stated that there are 557 one family, two family, condominiums and town homes in Radburn. The petition reflects 289 signatures from homeowners in Radburn.

Councilmember Trawinski said that he is an attorney and cannot accept the statement that parties have to stop talking when a lawsuit is filed. Court rules provide that actions taken to respond to a situation raised in a lawsuit are not evidential or admissible in any legal proceedings. It is a well accepted practice that anything said in the course of settlement negotiations is not admissible in a Court proceeding. Several speakers did express a willingness to talk and, discounting the history given by some of the speakers, Councilmember Trawinski asked why people from both sides couldn't sit down and talk. If an agreement is reached, the lawsuit would disappear and a stipulation of settlement would be entered. Mr. Morris said that their attorneys had advised that during the process of litigation, once the lawsuits and appeals were filed, they could not be involved in discussing these proposals while litigation was still active.

Councilmember Trawinski stated that if the advice that the Radburn Trustees is correct how could the Council possibly have discussions with Landmark Association or any litigants who file personal injury suits against the Borough. Attorney Rosenberg

explained that it is well established that parties involved in litigation have the right to engage in settlement discussions without prejudice to their case. They also have the ability to stay an action in terms of concerns having to do with time running. Attorney Rosenberg said he understands what Mr. Morris is saying and neither he nor the Council can put themselves in the strategic shoes of the attorney for the Association. However, there is nothing to prevent the parties from entering into meaningful discussion without prejudicing their rights going forward.

Deputy Mayor Tedeschi said that from his experience as long as you keep talking something is going to happen. The Board of Trustees should be asking the residents of Radburn to tell them why; and the Board should be telling the residents why; and somehow the two should meet in the middle. The lawyers are the winners in this dispute and the Courts are keeping very busy.

Ms. Myerson said that they have always been open to sitting down and talking to the Board but they have refused. The Court ordered mediation but nothing came from that either. She agreed that the Council shouldn't be a part of this but they have no other recourse. Deputy Mayor Tedeschi encouraged Ms. Myerson not to give up because someone else is going to decide this and it won't be the people of Radburn.

Mayor Weinstein said he suggested this meeting because he wanted to hear the points of view and see where the Council belonged in the discussion. He noted that a few years ago this same bill passed in the Assembly but failed in the Senate because other homeowners associations were being included who didn't agree with this particular bill. The Council is now being asked to pass a resolution recommending that Senator Gordon return with a bill. This bill will not be successful this time either and the Council is now being asked to word the bill. Mayor Weinstein stated that the residents of Radburn internally agree on what is best for Radburn because it is their situation. The petition only represents about 25% of the population in Radburn and he reiterated that this is Radburn's issue. The Council had this meeting in order to start the democratic process and the Citizens Association should take this back to Radburn, drop the lawsuit and both sides should talk.

Ms. Myerson said she would like to hear Mr. Morris say that he wants to have a conversation. Mayor Weinstein said that the avenue that supporters of the petition want to take is the same one they took in 2006 which didn't work. He asked for the definition of the democratic process that they are putting forward to the Council. Ms. Myerson said they are asking to have the same rights as any other homeowners association in the State of New Jersey.

Deputy Mayor Tedeschi pointed out that Judge Contillo said that this is not a good process but it is not illegal. Ms. Myerson stated that Judge Contillo recommended going back to the Legislature to have them fix this and she said that they are asking the Council to make this suggestion to the Legislature. Councilmember Baratta added that Judge Contillo said that the word "member" is not clarified in PREDFDA. The people need to respect the decision of the Judge and they are doing what the Judge told them

to do which is to go to their Legislature and make a change. She stated that the Council has done this before for other groups and they should do it again.

Councilmember Trawinski quoted Judge Contillo saying that “there is no doubt that the current nominating procedure offends pure democratic sensibilities”. Later the Judge stated that “if the unit owners want reform they must petition their elected representatives”. Councilmember Trawinski said that the problem is that Ms. Myerson and Mr. Morris have to stop rehashing history. They must work together to fix the problem and a time out must be called. He added that Mr. Morris or Ms. Myerson could ask the Appellate Court to stay all proceedings to give the two sides three or six months to work it out. Councilmember Trawinski said that he would be prepared to say, after that stay, that Radburn residents really don't have a choice if they can't work it out with their Trustees and proceed by asking for the Legislative change. He said that everyone here is intelligent and something can be worked out if the will is there to do it but he is hearing bad will on both sides.

Mayor Weinstein agreed that the stay is an excellent idea and he recommended that the supporters of the petition form a committee and work out a process for an election. These details and the definition of the democratic process is what the Council could then consider for support.

Art Spinelli, 8 Bedford Place, said he is saddened that the Council is considering Radburn to be a foreign country. Councilmember Trawinski disagreed and said that the Citizen Association has done what the Judge told them to do and the Council is suggesting that the solution lies between one extreme and another. Deputy Mayor Tedeschi said that the Council cannot solve Radburn's problems and he warned Mr. Spinelli to beware of the unexpected consequences.

Craig Miller, 5 Ramapo Terrace, said that that the Radburn Association Members will never sit down at a table with a committee of the residents of Radburn.

Han Broekman, 4 Alan Place, said that there had been a discussion regarding the formation of a more democratic form of government in Radburn when the Daly Field sale occurred. Mr. Broekman didn't understand why this never came to pass and he agreed with Councilmember Trawinski that this is the time for both sides to try to resolve their differences.

Maureen Moriarty, 14 Burnham Place, explained that the lawsuit was filed because the Radburn Trustees said that they were not a common interest association and that State law did not apply to Radburn. Radburn would not comply with the DCA guidelines for homeowner's associations.

Joan Goldstein, 12 Bedford Place said that the Radburn Citizens Association passed a resolution asking the litigants to drop the lawsuit and asking the Trustees to come to the table. She added that there are some people who want to see this happen and she applauded the Council for this directive.

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

Adjournment

Upon motion by Councilmember Trawinski, seconded by Councilmember Baratta, the meeting was adjourned at 11:10 P.M.

Respectfully submitted,

Joanne M. Kwasniewski, RMC/CMC/MMC
Municipal Clerk

The undersigned have read and approve the foregoing minutes.

Mayor Weinstein

Councilmember Jeanne Baratta

Absent
Deputy Mayor Lisa Swain

Deputy Mayor Joseph Tedeschi

Councilmember Ed Trawinski
