

WORK SESSION OF MAY 21, 2013

Mayor Cosgrove called the meeting to order at 7:31 p.m.

PRESENT: Mayor Cosgrove, Deputy Mayor Trawinski (late), Councilmembers Peluso and Swain.

ABSENT: Deputy Mayor Baratta

ALSO PRESENT: Manager Metzler, Assistant Municipal Clerk Bojanowski, Attorney Mondello and Assistant Support Specialist Van Kruiningen.

REVIEW OF TENTATIVE AGENDA:

Councilmember Peluso asked that the minutes of April 16, 2013 be put on Non-Consent since he was not at those meetings. Assistant Municipal Clerk Bojanowski added that Congressman Garrett would be at the meeting to present a flag that was flown over the Capital Building in memory of Mary Ann Collura. Mayor Cosgrove said he had spoken to P.O. Michael O'Brien, the PBA president, who is asking members of the Collura family to attend the meeting. He will let us know if they will be in attendance.

Assistant Municipal Clerk Bojanowski stated she would like to add Approval of Fire Board Actions, Extending the Contract for Cold Water Meters - Rio Supply, participating in the State of New Jersey Cooperative Purchasing Program and also the Bergen County Cooperative Pricing System. The Bergen County resolution will be non-consent: Mayor Cosgrove stated the Fire Board Actions would also have to be on non-consent since he has to abstain from voting on it.

Councilmember Swain added a proclamation for Mental Health Awareness month which she felt would be appropriate.

COUNCIL LIAISON REPORTS:

Councilmember Swain started that she and Mayor Cosgrove had attended the Dispatch Meeting and Assistant Support Specialist Van Kruiningen sent out the notes about the meeting. They would be moving ahead with a committee to explore dispatch services whether they are with the County or another municipality.

As the liaison to the ADA Committee she attended a special meeting of the Village of Ridgewood Council about the ramp at Graydon Pool. Ridgewood is getting grant money from the Federal Government. There were two representatives from the DEP present at the meeting to listen to the resident's

comments. It was a very impassioned group and fortunately most of the people were in favor of the ramp. She invited everyone to come to Fair Lawn and see how nicely the ramp works. The naysayers feel that it would not be aesthetically pleasing and that it would interfere with the historic significance of Graydon Pool.

Mayor Cosgrove said he would like to have the Council take consensus tonight because while at the meeting with Mayor Aronson, he had extended the offer to allow people from Ridgewood who are disabled to use the ramps at Memorial Pool this summer. Mayor Aronson told him even if they got approval now, the earliest they would start working would be September. He would like to send a letter or e-mail to Ridgewood's Mayor to inform him that Fair Lawn would extend the offer to use Memorial Pool.

There was a unanimous consensus to allow Ridgewood's disabled residents and their families the use of Memorial Pool. Councilmember Swain would like the letter to come from both her and Mayor Cosgrove.

Manager Metzler asked if they would be paying pool fees and based on what fees. The Council has entered into other inter local agreements with other towns and have made no provisions for the other towns to have a discount for ADA access. He recommended that they offer it to Ridgewood at the same rate that the other towns were offered. Mayor Cosgrove thought it was fair. Councilmember Swain said when they allowed Paramus to use the pool they were given the nonresident rate.

Councilmember Swain reminded everyone that the Spring Walk was on June 9th. Jack Daniels VW has offered to auction off a hybrid car for the weekend. The car will be on display at the walk. They will be giving away a tire gauge that is sponsored by River Road Improvement Corp.

Councilmember Peluso stated that he had attended the Community Development Block Grant meeting where Fair Lawn was able to receive a grant in the amount of \$104,000 for repaving some roads by Chandler Drive.

This afternoon he met with Engineer Garrison who gave him a tour of the Naugle House. The house and the surrounding area needs a great deal of work. It was great to be able to see what was inside.

Mayor Cosgrove stated he was at the Historic Preservation meeting where H2M made a presentation. They feel it will cost about \$500,000 just to retrofit the Naugle House so that it would be usable.

Mayor Cosgrove thanked the Shade Tree Commission for putting on Flossie Dobrow's tree dedication. Her son and family were present.

The Fire Department's service will be before the parade on Monday. Construction Code Official Bolan attended the Property Maintenance Meeting and spoke about abandoned properties. They want to keep the properties in good shape so that the property values do not drop. Also Senator Gordon is working on a bill to have the banks take back the responsibility sooner before they foreclose if they hold the mortgage.

Mayor Cosgrove said they had all received Dan Furphy's Citizen Leadership Form to replace Tom Carney on the Planning Board as the Mayor's designee.

Mayor Cosgrove felt the first meeting of the Dispatch Committee was a good one. Neil Shore and Lonnie Mergler were appointed Co-chairs.

TABLED ORDINANCES:

No. 2276-2013 - Stipends for Existing Employees - Attorney Mondello stated that he had correspondence from the labor attorney's firm. Labor Attorney Giacobbe asked two questions: is the stipend added to the base salary of the employee and is that funding pensionable. It was his understanding that the answers to those two questions were in the affirmative. Therefore, those particular employees would be eligible for the same raise on the stipend as on the remainder of the salaries. Manager Metzler stated that basically the stipend is added to the base salary and the increases are applied to the base.

Deputy Mayor Trawinski arrived at 7:44 p.m.

Mayor Cosgrove explained what the Labor Attorney had advised Manager Metzler. Going forward he would like to take it out as a stipend and put it in as salary so it does not seem like a bonus.

Manager Metzler said they could not do that because there are people that are working in a Civil Service title that were doing jobs above and beyond that title. If the stipend gets incorporated into the title and if they were to do a desk audit because of that extra work, the change in title could far exceed the amount of the stipend.

Councilmember Swain wondered what happens if those people no longer do that work. Manager Metzler then they would not be eligible for the stipend. Councilmember Swain if the stipend gets folded into the salary how do they distinguish between the salary and the stipend. Manager Metzler stated through the ordinance or resolution that created it. Annually it would be the

Manager's responsibility to make sure things are correct. Within the next few years there will be a person that will be retiring and therefore that position has already been absorbed into another job description.

Councilmember Swain spoke about the Webmaster. Manager Metzler said that was a perfect example, that person is no longer receiving that money. The stipend was eliminated. The base salary is reduced so that the salary increase was based on what the base salary was.

Manager Metzler made it clear that it was not an option, it has to be done. They would be voting on the range that is included in those titles. It is not something they cannot do. Councilmember Swain said that based on the analysis they needed to move forward. Her only question was if the analysis was complete. Attorney Mondello advised that he was very comfortable with Labor Attorney Giacobbe's opinion.

There was a unanimous consensus to move forward as stated.

No. 2271-2013 - Pervious Coverage: Mayor Cosgrove reminded them that they had received a memo from the Planning Board so they tabled the ordinance. The Planning Board has asked that they hold off on this ordinance based on the information that they want to provide.

Planning Board Chairman Brent Pohlman was present. Deputy Mayor Trawinski stated that he would be recusing himself from the discussion and the vote.

Mayor Cosgrove asked Chairman Pohlman to review the Planning Board position.

Chairman Pohlman stated that this should not be seen as a disagreement or an attack by the Planning Board. Many of them are aware this ordinance was because the Zoning Board had put together their end of year summary in which they say these issues have repeatedly come up. It went before the Planning Board who said these two issues should be addressed. The Ordinances were drafted and came back to them for the statutory review. The Planning Board's concerns are with the issues that are important to this town and the Master Plan such as Open Space, Green Space and stream water runoff. They reviewed the ordinances and while they agree that there are certainly items that should be acted on they had some concerns about the way they were currently written.

The pavers are called pervious pavers and there is a whole DEP Storm Water runoff guide section devoted to them. In order for them to be pervious pavers there is certain upkeep that needs to be maintained. Over the time the layers underneath can compress which reduces the imperviousness. Monitoring that

by the Borough would be a very difficult task to see if they residents keep up on their required preventative maintenance.

Chairman Pohlman said the Planning Board felt that almost all of someone's property could be covered in these impervious pavers. From a planning point of view they disagreed. The number they proposed was a 10% increase above the impervious coverage limit although that number is open for discussion. He felt it was based on allowing people to improve their property while maintaining the character of the town so that there are still green space and more open space and understanding that these pavers will not be pervious forever.

Attorney Mondello advised that there are regulations in the code that would prevent someone from doing their entire yard. There are regulations about the size of the driveway. He was not suggesting that what Chairman Pohlman said was inaccurate but there may be a little more to it that they simply cannot go out and cover their entire backyard or front yard with pavers.

Chairman Pohlman stated that the Borough Attorney would know better than he does. While looking at the ordinance they came up with these concerns and that is why they brought it to the Council's attention.

Councilmember Peluso wondered if the Planning Board's concerns were ever brought to the Zoning Board. Chairman Pohlman stated that generally they review the Zoning Boards Annual Report which included six issues that they proposed for changes this year. The Planning Board felt two of the issues should be recommended to the Council for discussion. The ordinance was drafted and came back to them for their review. During the review period the Board's concerns were discussed. He understood the Zoning Board's issue because they receive a number of variance requests and found that they were being granted. They did not want to be in a position where they are constantly granting variances.

Pools - Chairman Pohlman stated they were not saying the Zoning Board was not fulfilling their duties. They made a proposal based on variances that they had been granting. The presumption is that a pool is always pervious but there are many covers that get put on pools that are impervious. Storm water runoff was the issue. The other issue is the size of the pool and the size of the yard. The Board was concerned that there were not enough limitation based on granting a 100% waiver of impervious coverage for pools. The Planning Board thought the 100% waiver for impervious coverage went a bit too far and did not provide enough protections for both maintaining the character of the community and for storm water runoff.

Attorney Mondello added that there are some regulations as to the size of the pool and fencing. Chairman Pohlman stated those were questions the Borough Attorney could advise them on.

Councilmember Swain recommended that they give the Planning Board more time to look at this ordinance and to come up with a percentage they thought would be the right one. These are things that should be included in the Master Plan. This is something they should not agree on overnight.

Councilmember Peluso wondered if there was a way they could have the Planning Board and Zoning Board meet to discuss this issue. Attorney Mondello advised not the entire board. Chairman Pohlman stated that technically the Planning Board could do everything. Mayor Cosgrove thought they should start out with the Chairs and Vice Chairs meeting.

There was a unanimous consensus to let the Zoning Board and Planning Board Chairs and Vice Chairs meet and report to the Council with Deputy Mayor Trawinski recused.

FAIR LAWN ARTS COUNCIL:

Mayor Cosgrove stated the Council did vote to adopt it. The Citizens Leadership Forms were distributed and he had no problem with moving forward with this.

Manager Metzler wondered if it would be inappropriate to ask the people that have inquired about being on this committee if they are regular attendees at the programs at the Community Center. When the Community Center was being built Ms. Schamach became the Cultural Planner. It was the intent of the theater to bring the arts to the community. He wondered how it would work if they are forming a committee to review the arts and they are not actively involved in those programs. He felt that many residents are not aware of the quality of the programming there.

Manager Metzler also wondered what the interaction of the committee with the Cultural Planner. He asked if this committee would be dictating what kind of programs come into the theater. Currently the theater is booked most weekends through next year.

Mayor Cosgrove said he did not see the committee like that but thought it was a more encompassing Arts Council than just the theater. Manager Metzler just wanted to voice his concern that they have really built a very strong foundation on bringing the arts to the public with quality programming. He did not want to see it get lost by a committee that doesn't attend those kinds of things.

Councilmember Swain saw the committee in conjunction with the theater. They want to look at other forms of art to bring to Fair Lawn. She did not see them touching the theater because what they have already is wonderful. Perhaps they may be looking at sculptures, poetry reading and other forms of art. The committee has not been formed and their mission statement has not been drafted. From her conversations with Jane Spindel, they were looking at other ways to bring other forms of art and culture to Fair Lawn.

Councilmember Peluso felt they should let the committee know that they have the Cultural Planner. Mayor Cosgrove said whoever will be the liaison to the committee should express that the Mayor and Council want them to work with the Cultural Planner. Councilmember Swain felt it would be a good idea for the Cultural Planner to meet with the committee.

Manager Metzler stated they have seen committees where the tail starts wagging the dog and he did not want to see that happen. Mayor Cosgrove thought if they work in conjunction with the Cultural Planner and the liaison should bring them together.

There was a unanimous consensus to appoint the people that were interested in the committee and named Councilmember Swain as the liaison.

Councilmember Swain asked about the terms. Attorney Mondello advised there was some discussion as to whether or not the terms should be staggered. It is a policy decision. Deputy Mayor Trawinski suggesting making it an annual appointment and look at it each year. Attorney Mondello advised that he would change the resolution to reflect only one year terms.

CAMPAIGN FINANCE REFORE (RESOLUTION AGAINST CITIZENS UNITED):

Councilmember Swain hoped they all received the revised resolution that Municipal Clerk Kwasniewski sent. She made the changes they discussed. It's basically the same but included corporations, unions and other organizations. The sentence "Whereas money is property not speech" was eliminated. The rest is the same.

Mayor Cosgrove and Deputy Mayor Trawinski were not in favor of adopting the resolution.

Mayor Cosgrove said he had a problem with wheeling and thought it should be addressed. While he realized this was discussed by the Supreme Court and he understood where they were trying to get with this resolution, he thought the biggest campaign finance problem in Fair Lawn is wheeling. He explained the practice of wheeling.

Councilmember Swain said this resolution addresses the Supreme Court decision. Mayor Cosgrove felt if they were talking about campaign finance reform if wheeling could be incorporated in that then he would take a look at it.

Councilmember Peluso thought it was two different matters. Mayor Cosgrove felt this was something the Supreme Court has ruled on. If they are going to talk about campaign finance reform, in his opinion, wheeling is the number one issue in Fair Lawn. Councilmember Swain welcomed him to bring a resolution on wheeling to the table. Right now she was asking for his support on this particular resolution that has to do with the Supreme Court decision.

Mayor Cosgrove said that he would vote no because he wants to bring something about wheeling to the Council.

Deputy Mayor Trawinski said he would vote no because it creates a false impression for the public. A Supreme Court decision is over turned by either one of two processes. The Court itself overrules their own decision which is not likely to happen until there is a change of membership in the Court or by way of a Constitutional amendment. The public get to petition the court with redress of its grievances. He e does not have a problem with the underlying decision. The Supreme Court did not regulate first amendment speech. They said corporations were allowed to spend money on campaigns as are individuals. In the tax code corporation were defined as persons. A myriad of other items defines them as persons. This decision goes to the ability of corporations to spend money on campaigns. The Courts have consistently said that for people who are looking for government contracts, government can say to them that they cannot make contributions. That to him is campaign finance reform.

The bigger picture on campaign finance reform is 527s and PAC's and so far the Congress of the United States have not seen fit to regulate those. Senator Weinberg has proposed a regulation of those for New Jersey campaigns. He thought it would mislead the public that somehow the Supreme Court is subject to the opinion of the public one way or another. The Court is independent of public opinion and that is why justices have lifetime appointments. He will not support this resolution.

Councilmember Swain thought the title of Campaign Finance Reform is misleading and that is why Mayor Cosgrove was thinking of wheeling. This resolution is really about the Citizens' United decision. Although the Supreme Court is independent, she thought if they could make a statement at the local level that it makes a difference. People that have strong feelings about something should speak up and do whatever they can to organize an effort to make changes.

After discussion it appeared that Councilmember Swain and Councilmember Peluso were in favor of the resolution and Mayor Cosgrove and Deputy Mayor Trawinski were not so it was agreed to carry the matter until the next meeting when Deputy Mayor Baratta will be present at that meeting.

ORDINANCE ESTABLISHING FEES FOR POTENTIALLY DANGEROUS DOGS:

Attorney Mondello stated that the ordinance that he drafted is pursuant to N.J.S.A. 4:19-31, which states if there is no ordinance in place and there is a potentially dangerous dog the maximum licensing fee is \$150 and if there is an ordinance in place, the licensing fee increases to \$700.

Deputy Mayor Trawinski said he would support this ordinance but has a problem with the concept. The dogs are either dangerous or not dangerous. He wondered what a potentially dangerous dog is. He viewed the dogs that the Court let go as being dangerous. He thought they should have the toughest penalty they can.

Councilmember Swain questioned the amounts. Attorney Mondello advised if they don't have the ordinance in place the maximum amount \$150. With an ordinance it is \$700. Once either a Superior Court or Municipal Court Judge, deems a dog potentially dangerous than the license fee would be \$700. Councilmember Swain said she was in favor of this.

There was a unanimous consensus to introduce the ordinance that Attorney Mondello prepared.

FAIR LAWN LIONS CAR SHOW:

Mayor Cosgrove explained that this is the same thing as last year. The Lions Club has asked for the use of Memorial Pool. He checked with Superintendent Graff to see if the date was available. Deputy Mayor Trawinski wondered if they get a standard license agreement to the Borough Attorney. Manager Metzler said it comes through the manager's office.

There was a unanimous consensus to allow the Lions Car Show.

EDC STATUS UPDATE:

Mayor Cosgrove stated he had attended a meeting of the reformed EDC with Maggie Peters. The EDC would like to do a study of the Radburn corridor and New Jersey Transit would like to be involved also. Ms. Peters has found some unencumbered funds at the County that they should be able to use. They will come back to the Council with the amount the Borough needs to contribute.

Deputy Mayor Trawinski wondered if the EDC Accountant, Steve Weinstein, was at the meeting and wondered if he was familiar with this. Mayor Cosgrove stated that he was present and was aware of this.

Councilmember Peluso said it was a good meeting. They need a resolution of support. Deputy Mayor Trawinski warned that this grant may require a match from the Borough.

There was a unanimous consensus to move forward with a resolution of support.

POSSIBILITY OF A DOG PARK:

Mayor Cosgrove said that several residents had come to him requesting a possible dog park. He did read the minutes that Councilmember Swain had requested from 2006. It seemed that it just ended. He knows there was conversation with Ridgewood and the County.

Deputy Mayor Trawinski said he was not sure they read the same minutes because the minutes he read ended when Municipal Clerk Kwasniewski was the Acting Manager and thought in fairness to her, they should have her here when they discuss this so she can tell them where it ended and why it ended.

Councilmember Swain recollected that the maintenance cost was the prohibitive factor. They all thought it was a good idea but if they found the right spot and get the right fencing to set it up then there was the maintenance fee every few months. Deputy Mayor Trawinski said they have several in the County and that is what it runs them. They have a huge demand so they just added one in Van Saun Park in River Edge. They would need to have an animal warden that was on top of things because they get constant complaints all the time.

Mayor Cosgrove wondered if the County may be interested in something in the County Park for Fair Lawn. Councilmember Peluso said by the bike path would be nice. Deputy Mayor Trawinski suggested they brooch that topic as a Council with Ron Kistner, Director of the Parks. There are some other improvements they are making such as an area of pavement in three sections of the bike path and one area in Fair Lawn. Mr. Kistner may have money available so he might be able to consider it.

Mayor Cosgrove said that a lot of residents that have come to him saying they would love to have a dog park. Deputy Mayor Trawinski suggested a shared service with Paramus and the County of Bergen.

Councilmember Peluso suggested that the Acting Manager send a letter to Paramus and the County to see if they are interested.

There was a consensus to authorize the Acting Manager to contact Paramus and the County of Bergen to pursue the possibility of a dog park with Deputy Mayor Trawinski recusing himself.

Councilmember Swain thought they should talk to the people that approached Mayor Cosgrove to see if they would go to another town. Mayor Cosgrove said it actually could be in Fair Lawn near the new road that was put in off of Saddle River Road behind Oceanos.

UPDATE ON DUBE PROPERTY:

Mayor Cosgrove said that the Dube's were present. Prior to tonight, he had met with them and reviewed a lot of things. He was going to let Attorney Mondello talk about the soil test they had received. The real problem for the Dube's is that they are in limbo because they have been out of the house since Tropical Storm Irene and now their lease is up in June so they need to get direction from the Council. He knows that this week they received the results of the soil test.

Attorney Mondello said the Environmental Engineer informed him that some of the samples that were taken were substandard or had certain quantities of chemicals that Green Acres would not accept. The Environmental Engineer is suggesting that they take more samples. The proposal that Engineer Garrison received from the Environmental Engineer was between \$2,500 and \$4,000 and perhaps the samples will be further away from the Passaic River. He understood that the samples in the aggregate might bring the contaminants down to a level that would be acceptable by Green Acres, and then they would be able to proceed. The Mayor and Council felt that it has gone on very, very long but unfortunately this is the process.

Councilmember Peluso wondered if at this point the Borough owns the house. Attorney Mondello advised that the Dubes still own it.

Deputy Mayor Trawinski wondered how Green Acres would administer any of the Blue Acres money because there is a proposal in the legislature where \$200,000 million of sales tax would be dedicated for the next 30 years annually and that includes \$40,000 to \$50,000 in Green Acres. Anyone who has property along the Passaic River has everything that was in the river. Just like the people in Moonachie and Little Ferry should not be growing gardens this year or the next couple of years because there are all kinds of metals and hydrocarbons that are in the soil from the flooding. Whatever is in the river upstream has

migrated on to their property. He wondered about the nature of the contaminants and wondered if anyone tried talking to Lisa Stern about this.

Attorney Mondello advised that Michael Hakim has been involved since day one. He asked for a waiver wondering why the Borough had to do a soil test.

Deputy Mayor Trawinski said he will be meeting with the DEP Commissioner, Bob Martin on some other issues. He would like to be able to speak on behalf of the Council and ask him to have his staff take a look at this particular situation and look at it in the context of the Blue Acres proposed funding overall. He was not sure that would go anywhere but they would be starting at the top

There was a unanimous consensus to authorize Deputy Mayor Trawinski to speak to the DEP Commissioner.

Mayor Cosgrove wondered if they bought the house with Open Space funds now, would they be reimbursed by Green Acres. Deputy Mayor Trawinski said they would not be reimbursed if they buy it. Attorney Mondello said he would have to research it further Deputy Mayor Trawinski wondered how much this would cost the Borough to do this on an expatiated basis. The delay is with the labs not with the sampling. Attorney Mondello said the delay has been with the Environmental Engineer.

Barbara Dube stated it was a choice when they came to do the EPA tests a long time ago. At that time they were not going to do the soil samples. Then six months later they decided they needed the soil samples. Two months later they needed more soil samples.

Mayor Cosgrove suggested finding out how much it would cost to expedite through the Borough's Engineer. Deputy Mayor Trawinski felt it was alright to spend money on this regardless because if they get something from the DEP that don't know long it will take. Fifty percent (50%) of the engineering fees are refundable under Green Acres funds.

Councilmember Swain wondered what happens if the soil samples come back with the levels still high. Deputy Mayor Trawinski stated that is why he will talk to the DEP Commissioner.

There was a unanimous consensus to expedite the soil sample testing.

Mrs. Dube asked to have an explanation of what was happening. Attorney Mondello advised her that he would speak to the Engineer to see if they could expedite the soil sampling, then also speak to Commission Stern to see if in fact the town were to use their Open Space dollars and purchase the property and

assuming the soil samples came back within a certain tolerance that was acceptable to Green acres they would reimburse the Borough the fifty percent.

Mayor Cosgrove added that Deputy Mayor Trawinski would be meeting with Bob Martin who is the DEP Commissioner.

Councilmember Swain said that the Dube property is not the only property like this. Deputy Mayor Trawinski stated there were 147 properties in the County that have been identified exactly in the same situation.

Mayor Cosgrove told Mr. and Mrs. Dube that the Council voted tonight to speed the process even if it costs the Borough more money to do that.

PROCEDURE WHEN MANAGER IS OUT OF THE OFFICE:

Councilmember Swain stated that Manager Metzler and Jim Van Kruningen were both out of the office for a few days, but the Council was not notified as to who the Acting Manager was. She asked who will cover for Mr. Van Kruningen once he becomes the Acting Manager and he is not in the office. Manager Metzler stated that there was no clear cut policy. He does not name an Acting Manager if he is in the State and can return to the Borough in case of an emergency. He can always be reached by cell phone.

Councilmember Swain stated that she was not even aware that Manager Metzler was out of the office. Manager Metzler stated that if she had called, his secretary would have advised her that he was out of town. He did not think it was necessary to adopt a new policy as it is rare for both the Manager and Deputy Manager to be out of State at the same time. Councilmember Swain stated that four days was a long time for Manager Metzler to be out of the office without someone else covering. Manager Metzler stated that he left the Borough on Wednesday morning at 10:00 a.m., was back in the Borough on Thursday afternoon by 4:00 p.m. and used a personal day on Friday.

Councilmember Swain felt there needed to be continuity. She reiterated that she was not aware until days later that no one was in. Deputy Mayor Trawinski stated that the Council does not run the Borough. He wondered about the critical component that brought this issue into play. Councilmember Swain stated that she sent emails with an important notice she wanted to post on the website and no one got back to her. She wanted to make sure that a similar situation does not occur in the future as she felt the Council was entitled to know when the Manager was out.

Mayor Cosgrove suggested the new Acting Manager devise a plan for the future. Councilmember Swain would like to know the chain of command.

Deputy Mayor Trawinski stated that even in an emergency the chain of command has nothing to do with the Council and is a misimpression to the public. The Administrative staff runs the government and handles the situations. If he could not get hold of the Borough Manager and needed something to get done, he would call the Manager's secretary and ask how to get a hold of him. Councilmember Swain stated that she did call but reached voice mail. Manager Metzler stated that an email was received at 2:00 p.m. on Wednesday asking to post something on the website and by 10:00 a.m. on Thursday it was posted.

Deputy Mayor Trawinski stated that he had issue with this. Their form of Government states that the Council cannot tell the Manager to post something on the website. It can only be done collectively. The only way they can direct someone on the Administrative staff to do something is acting collectively. They can individually ask the Manager to do something, but it is the Manager's choice whether to do it or not. Manager Metzler stated that they were talking about a 24 hour period. Councilmember Swain apologized. She thought the Manager was out longer.

There was consensus to have Mr. Van Kruijning draft a procedure for when the Manager was out of the office.

TABLE OF ORGANIZATION REVIEW:

Manager Metzler presented an organizational chart that reflected the Borough as it is operating today. All vacancies and their titles have been eliminated as there is no anticipation of filling the positions.

Under Public Works there is a laborer position in the Division of Shade Tree that is currently a seasonal employee, but it will be filled as a fulltime position. The Division of Sewer Laborer One has two positions and one additional person will be hired to replace a seasonal employee. They have placed employees in positions as seasonal. They have received a determination from Civil Service that states at the conclusion of two 90-day periods they can either let the employee go and they can never be rehired in a seasonal capacity or they can hire them as fulltime employees. In Water Division there should be box under Senior Maintenance Repair to indicate that two laborers will be hired to replace two seasonal workers. Deputy Mayor Trawinski asked if all the positions were budgeted for. Manager Metzler confirmed that they were.

They did an analysis of all the vacancies to see if they were operating efficiently. There is going to be a purge of intellectual talent over the next five or six years, and they need to hire new employees to train them. Deputy Mayor Trawinski asked how many positions were eliminated. Manager Metzler stated that there

were 29 positions eliminated. Councilmember Peluso stated that it was closer to 40 positions. Manager Metzler stated that they did an efficiency analysis on having secretarial staff working in multiple departments and it was not good, so they shifted some positions around and eliminated split positions. Experienced employees have been moved to departments that needed help and less experienced employees were moved to positions where they could supplement. The chart is an accurate reflection of what the Borough's work force looks like today.

Councilmember Swain asked how many positions there currently were in the Borough. Deputy Mayor Trawinski stated that counting the Police there were close to 200; non law enforcement personnel was close to 150. There were over 300 employees when he joined the Council in 1996. He asked if the table of organization was reflected in the ordinances. He suggested having the Borough Attorney revise it officially.

Jim Van Kruijning pointed out some changes. Animal Control is now the responsibility of the Police Department instead of the Health Department and the position of Assistant Public Works Superintendent created by the Council is reflected underneath the Public Works Superintendent. The Police Department is the same except they added an Interim Police Chief next to Police Chief. On January 1st the Interim Chief position will be eliminated. The Accreditation Lieutenant will be responsible for the recruits and Dispatchers. Mayor Cosgrove stated that the Accreditation Lieutenant will be Lt. La Rosa because Lt. Paterson is now the Acting Captain. Mr. Van Kruijning stated that the Engineering Department is built in layers so that they could refer back as far as 1998 if needed.

Councilmember Peluso noted that the Animal Control van is parked in the parking lot. Mr. Van Kruijning explained that the Animal Control Officer used to leave the van at the Animal Control facility on Saddle River Road. The Patrol Captain wanted the van parked at Borough Hall so the part time Animal Control Officer can report here, pick up the call from the Police and get the briefing.

Deputy Mayor Trawinski asked Assistant Municipal Clerk Bojanowski to make sure that Municipal Clerk Kwasniewski adds this item to the Reorganization meeting.

LEGISLATIVE ALERT:

A-2756 - Surviving Spouse

A-1196 - Fire Responders Workers Compensation Presumption

Manager Metzler stated that they received a notice from the JIF and the MEL expressing concern that this would have a catastrophic effect on Workers'

Comp costs and the self-insurance fund. He suggested placing this on an upcoming agenda for discussion. Mayor Cosgrove suggested having Mr. Covelli speak about this first since he was coming in next Tuesday. The Council can then review everything first.

ACTUARIAL SERVICES:

Manager Metzler said this was something that was required by law to assess the liability of the Borough's health insurance for retirees because the Borough is not in the State Health Insurance Fund. The recommendation from CFO Palermo is Aquarius Capital. Deputy Mayor Trawinski wondered if besides being the lowest bidder, they are satisfied that they are the most qualified bidder. Manager Metzler explained that CFO Palermo had researched their references such as Hackensack who are satisfied with their work.

There was a unanimous consensus to appoint Aquarius Capital for Actuarial Services.

REQUEST FOR FENCE EASEMENT - 38-06 JASPER ROAD:

Manager Metzler stated that copies were distributed. Engineering has done an inspection of the right of way and has no objections to granting the easement. Deputy Mayor Trawinski questioned whether it was an easement or a license. Manager Metzler corrected himself and said it was a license. He also explained that the Borough could order the removal of the fence if they need access to that area.

Mayor Cosgrove wanted the record to reflect that it was a license that would be granted.

There was a unanimous consensus to authorize the license for the fence agreement.

SALARY ORDINANCE FOR DEPUTY MANAGER:

Manager Metzler felt they could eliminate this topic because he put it on the Agenda in the event that the Council did not vote for the ordinance with all the stipends listed.

SPECIAL MEETING:

Upon motion by Deputy Mayor Trawinski and second by Councilmember Swain, the Work Session was recessed to the Special Meeting at 8:58 p.m.

Mayor Cosgrove reconvened the Work Session at 8:59 p.m.

MISCELLANEOUS COMMENTS:

Jeff Dube, 4-50 2nd Street, thanked them for meeting with him and his wife back in September of 2011. When he retired he received a severance package and vacation pay but in the last twenty months it has cost them \$50,000 between having to pay the mortgage and having to pay rent where they are currently living. Their funds are being depleted. They are begging to get this done because they are running out of money. Whatever they can do would be greatly appreciated.

Pam Coles, 13-34 George Street, questioned the dog ordinance and potentially dangerous dogs. She wondered if this is when an incident occurs. Attorney Mondello explained either a Municipal Court Judge or Superior Court Judge in Bergen County would have to deem that the dog is potentially dangerous. There is a hearing for that. Once that occurs this ordinance now permits the Borough to assess a licensing fee of \$700 a year. Ms. Coles said she has two potentially dangerous dogs living across the street from her. Another dog down the block from her has attacked other dogs in the area. She was not certain if this ordinance was proactive or waiting for an incident to occur. Attorney Mondello stated that either a dog is dangerous or not dangerous. This is reactive not proactive. An incident has to occur and a judge has to make the determination through a hearing and then the Borough would be allowed to assess the \$700 licensing fee.

Ms. Coles stated that the fence at the end of George Street that separates the residents from the business owners has been taken down and never replaced. She explained the exact location. Deputy Mayor Trawinski stated that Attorney Mondello would have to check with the Planning Board secretary to check the site plan approvals for those businesses. He recollected that there was no requirement in those various site plan approvals that there be a fence but a fence was permitted. He felt the site plan approvals had to be reviewed.

Ms. Coles thanked the Borough Attorney for updating on the cell tower. Mayor Cosgrove stated the Attorney has contacted the people who the Borough contracted with trying to determine what is going to happen.

Attorney Mondello said they will appear before the Mayor and Council and explain the delay and if the Mayor and Council have a problem with the explanation, he had no problem with them deciding to re-bid it. Ms. Coles said it has been two years and that money could go to paying for the fireworks or something else.

Ms. Coles wondered if the Open Space funding could purchase this property. Deputy Mayor Trawinski said there was an opinion given to the Borough a couple of years ago by Richard Lustgarten saying they could as long as the intention is to demolish and deed restrict against future development. The County and State Open Space Trust Fund statutes parallel that also.

CLOSED SESSION RESOLUTION:

Upon motion by Deputy Mayor Trawinski and a second by Councilmember Swain, the following closed session resolution was unanimously adopted at 9:06 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 - Acting Borough Manager, Michael Hakim, Personnel - Fair Lawn Arts Council, Deputy Manager Position, Contractual Issue - Unused Vacation Time - Police; 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.

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

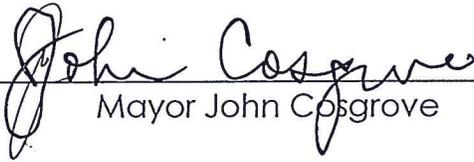
Upon motion by Councilmember Swain and a second by Councilmember Peluso, the Work Session was adjourned at 9:32 p.m.

Respectfully submitted,

Marilyn B. Bojanowski

Marilyn B. Bojanowski, RMC
Assistant Municipal Clerk

The undersigned have read and approve the foregoing minutes.



Mayor John Cosgrove

Absent

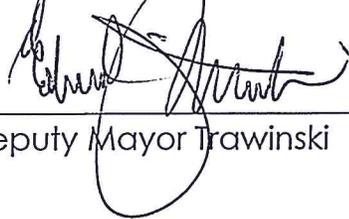
Deputy Mayor Jeanne Baratta



Councilmember Lisa Swain



Councilmember Kurt Peluso



Deputy Mayor Trawinski