

WORK SESSION OF DECEMBER 4, 2012

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

PRESENT: Mayor Baratta, Deputy Mayors Cosgrove and Trawinski, Councilmembers Peluso and Swain.

ALSO PRESENT: Manager Metzler, Municipal Clerk Kwasniewski and Attorney Mondello.

ANNUAL REPORT ON INSURANCE BY RISK MANAGER:

Frank Covelli distributed the Annual Insurance Report. The report is broken down as it normally is with fund developments in the Joint Insurance Fund, statistics and synopsis of the coverage, loss of time, accident frequency and some financial information.

In regard to the loss control program, the Borough has completed all of the requirements for 2012, which means there will be a lower deductible and co-insurance as opposed to not meeting the requirements.

Effective January 1, 2013, the Borough will be receiving cyber liability coverage which will protect the municipality if someone hacks into the Borough's system.

The E-JIF is giving a grant up to \$400 to test underground pipes. Over the years the tanks have been placed above ground but the piping is still underground which could be a problem because the pipes do not get tested. They end up leaking small amounts so no one notices it and the leak goes on for a longer amount of time. He will meet with the Manager and DPW Superintendent to determine whether the Borough has this exposure.

With respect to safety, Risk Manager Covelli reviewed each of the Borough's coverage.

He recommended raising the liability limit from \$10,000 to \$20,000. The cost would be \$9,800 to double the limit.

He also recommended increasing the public officials and employee liability from \$2 million to \$8 million. The cost would be \$7,800.

Manager Metzler noted that Fair Law is concerned about the settlement on Hurricane Irene. It would be a tremendous benefit to the Borough of Fair Lawn to receive the settlement before the end of the year. Mr. Covelli said he had already sent an e-mail. The reinsurer uses a firm that all they have to do is send a two sentence e-mail to Scibal with the amount and the check would be issued. They are very close to having this resolved.

Mr. Covelli suggested coming in to do the Elected Officials training in January or February which would give the Borough \$1,500. He could do the training in 45 minutes. Mayor Baratta thought February would be good. Municipal Clerk Kwasniewski suggested doing in before the first Work Session in February.

REVIEW OF TENTATIVE AGENDA:

Municipal Clerk Kwasniewski said she had several items to add to the agenda including Refund of Overpayment of Taxes, Minutes and Authorization of Sale of Emergency Appropriation Notes. She had also asked to remove the Transfer of Funds until the following meeting.

COUNCIL LIAISON REPORTS:

Councilmember Swain said she attended the craft fair at the Library which was mostly all handmade items that will make great gifts. She thanked the Veteran's Council for sponsoring the ADA Dance last Friday night which was very well attended.

The Green Team is just about done with a brochure for the One Pound at a Time program. She was happy to report that the Borough Manager has agreed to join the program by setting a goal. Manager Metzler said he was taking sponsors for each pound he loses and will begin January 1st.

The sub-committee of the Green Team is looking at safer ways to bike and walk around Fair Lawn. Also, they are looking at an event that would be a walk around Fair Lawn.

Councilmember Peluso thanked the Recreation Department for putting on a nice event tonight. The Alliance for Substance Abuse Prevention put the Good Samaritan bill on their next agenda.

Deputy Mayor Cosgrove said the Shade Tree Commission met last week with Superintendent Conte. Over the past five years, 980 permits had been issued for trees to be cut down. Walter Neill reported that 1674 Borough trees were inspected and 1600 were removed. They feel that about 200 Borough trees came down in Superstorm Sandy. Superintendent Conte would like to present his plan about landscaping and leaves. Deputy Mayor Cosgrove asked to put that on a future agenda.

The Fire Department has recommended the award of the bid for the two fire engines. On Wednesday December 12, the Council is invited to the last Fire Board meeting.

The EDC has been meeting and has been putting together a plan for the Council to review.

Deputy Mayor Trawinski stated the Planning Board met last night. They recommended the sign ordinance changes to the Council which is consistent with the Master Plan. Since the Landmark resolution was not ready the meeting was adjourned. The next meeting will be January 13 when it reorganizes and the resolution would be memorialized.

Mayor Baratta stated that she went to the Lyncrest School to swear in their new Mayor, Rio Matsumoto. She invited her to the next Council Meeting.

REVIEW OF PROPOSED INCREASES IN FEES:

Manager Metzler said he asked the Department Heads to check with neighboring towns to make sure the fees are similar. Councilmember Swain had questioned the fee for tree removal. He explained that they are proposing a fee of \$100 for two to four trees. Currently there is no fee for the first three trees removed.

The other matter that requires their attention is Animal Control. They did not have fees within the Animal Control schedule for non-residents but since he was actively negotiating with other towns they may need them.

For the most part, he felt the increases were modest. This is the first adjustment since 2008-2009.

There was a unanimous consensus to increase the Health Department fees.

There was a unanimous consensus to increase fees relating to Animal Control.

Public Works – Roads – Mayor Baratta asked about the road opening permit application fee. Manager Metzler said it is paid by the contractor opening the road. The fees are being built into the cost of the job.

Deputy Mayor Trawinski questioned the dumpster fees and thought it was a hefty increase. Mayor Baratta would be more comfortable with \$50, \$50, \$50. Deputy Mayor Trawinski thought it should be more modest, suggesting \$30, \$40 and \$50. Manager Metzler said this increase would not balance the budget. Deputy Mayor Cosgrove said it was a large percentage but it works. Manager Metzler suggested \$50, \$50 and \$50.

There was a unanimous consensus to change the dumpster permit fees to \$50, \$50 and \$50.

Councilmember Swain questioned the fees going from zero to \$1,000. Manager Metzler explained that in the past when the Borough allowed them to open the roads; they would put their patch on and leave. Six weeks later the hole sunk in and the Borough had to do the repair. Basically this was putting the responsibility back on the contractor where it belongs.

There was a unanimous consensus to the one change in the Sewer Department fees.

There was a unanimous consensus to the changes in the Shade Tree Department.

Water Department – Deputy Mayor Trawinski asked why a meter has to be shut off as opposed to turning off the main. Manager Metzler said there could be a number of reasons. The water is shut down at the curb. When an employee gets called out, it is two hours of time. Manager Metzler said if the plumber was working in the house and goes to shut the water off and the valve isn't holding at the meter, they have shut it off at the curb. In most cases the plumber will have to change the valve. Then the Borough employee has to go back out and turn it back on.

There was a unanimous consensus to the proposed change in the Water Department.

Recycling – Mayor Baratta wondered if the proposed fee would deter landscapers from applying for a landscaper's registration. Deputy Mayor Trawinski felt that the regulations concerning blowing leaves in the street should be part of the package so they are aware of it.

Councilmember Swain and Mayor Baratta thought the increase for construction debris was too much going from \$25 to \$75. Manager Metzler said it reflects the actual cost to the Borough to dump the material. The reality was that dumping of construction debris is a loser for the Borough because it is just something that had to be done and would only be left at the curb. These are not fees to make money. They are just covering the cost to provide the service. Councilmember Swain felt the homeowner would save money instead of getting a dumpster. Mayor Baratta felt that \$75 was too high and would prefer a fee of \$50. Councilmember Swain suggested the fee should go from \$25 to \$50 and then \$75. Deputy Mayor Cosgrove said he was comfortable with that. Mayor Baratta suggested \$50 all across the time period.

There was a unanimous consensus to raise the fee to dispose of construction debris to \$50 for the time period as stated.

Councilmember Peluso questioned if a landscaper could drop off material without a registration fee. Manager Metzler said they would not be allowed to dump without a registration.

There was a unanimous consensus to make the proposed changes to the fees with the Mayor and Council's noted changes.

Community Center – Manager Metzler said the piano rental fee should read \$80. They call it a rental fee but it is not. They tune the piano every time it is used and that is what it costs to the Borough to have it tuned. It is a break even fee. He suggested raising the fee to \$100 for the last two years.

There was a unanimous consensus to raise the rate to \$80 on the piano rental.

The Mayor and Council were in agreement with the rest of the Community Center's proposed fees and changes.

Construction – Mayor Baratta said the changes in the fees were minimal which means the Borough was on target with the fees.

The fee for elevators and inspections was discussed. The routine inspections for R3 and R4 will be eliminated. The ordinance will say "routine six month inspection".

There was a unanimous consensus to raise the proposed construction fees.

There was a unanimous consensus to raise the fees for demolition.

There was a unanimous consensus to raise the fees for the elevator sub code.

There was a unanimous consensus to raise the fees for the plumbing sub code.

There was a unanimous consensus to raise the fees for the electrical sub code.

There was a unanimous consensus to raise the fees for fire sub code.

Municipal Clerk Kwasniewski said she would prepare the ordinance for the first January meeting.

REVIEW OF RFQ'S RECEIVED:

Municipal Clerk Kwasniewski distributed a spreadsheet containing information from the various RFQ's, copies of which were sent home to the Council. It was her hope that they would make some decisions tonight. She looked through the RFQ's to make sure they had the pay to play information and their prices.

Auditor - Municipal Clerk Kwasniewski stated they had received an RFQ from the current auditor, Garbarini and three others. All three submitted their pay to play information. Deputy Mayor Cosgrove said that since this is the first year they are using Garbarini he would like to hold off and extend them until they do the audit for 2012 that way they would see their work and if they are comfortable with them.

Mayor Baratta thought the input from CFO Palermo would be good because she works with them.

Deputy Mayor Cosgrove said he had spoken to Municipal Clerk Kwasniewski who told him that the Auditor taxed her office more than the previous auditor. Municipal Clerk Kwasniewski explained that the former auditor used to do the work themselves

when they came in, this firm has her office doing it for them and sending it to them. They also bill aggressively. They haven't really done anything but the Borough has been paying them.

Deputy Mayor Cosgrove wanted a consensus to let them finish the audit and then take a look.

There was a unanimous consensus to proceed as Deputy Mayor Cosgrove recommended.

Borough Planner - Municipal Clerk Kwasniewski stated Taylor Design has worked for the Borough for the last nine years and has been intimately involved in all of the projects and has quite a bit of history with the Borough. She pointed out that Michael Hakim also responded.

There was a unanimous consensus to reappoint Taylor Design as the Borough Planner.

Claims Manager - Municipal Clerk Kwasniewski said that no RFQ's were received so they would be staying with the Bergen Risk who worked out well.

Alternate Prosecutor - The current Alternate Prosecutor, Daniel Brown, did not submit an RFQ. Municipal Clerk Kwasniewski stated that Dimitry Kogan, Esq. was the only one who submitted. Deputy Mayor Trawinski asked if Attorney Mondello could check with the Municipal Court for their input into the Alternate Prosecutor. Attorney Mondello knew that Mr. Kogan spoke fluent Russian. Deputy Mayor Trawinski felt that would be helpful.

There was unanimous consensus to appoint Dimitry Kogan as the Alternate Prosecutor.

Municipal Clerk Kwasniewski said she would send a letter to Daniel Brown from the Mayor and Council thanking him for his service.

Appraiser - McNerney & Associates and Value Research were both appointed in the past in case there was a conflict. Assessor Henderson has said he was satisfied with both appraisers.

There was a unanimous consensus to reappoint both appraisers.

Environmental Consultant - currently the Borough uses Malcolm Pirnie. Deputy Mayor Trawinski felt they should continue with Malcolm Pirnie, they are more expensive but do a phenomenal job for the Borough.

There was a unanimous consensus to reappoint Malcolm Pirnie as the Environmental Consultant.

Risk Manager – Broker of Record – PIA and Brown and Brown have submitted responses. Brown and Brown have no knowledge of Fair Lawn but has 140 municipalities. The fee is set by the JIF.

Deputy Mayor Cosgrove thought that PIA has done an excellent job for the Borough. Deputy Mayor Trawinski also felt that PIA has done a superb job for Fair Lawn.

There was a unanimous consensus to re-appoint PIA as the Risk Manager and Broker of Record.

Health Care Provider – Occupational Medical did not submit an RFQ but may have submitted a proposal. Deputy Mayor Trawinski asked Manager Metzler for his recommendation. Manager Metzler recommended reappointing him because he is right down the road and he immediately evaluates a person and gives him a phone call by the next day. Municipal Clerk Kwasniewski will get the Pay to Play information from him.

There was a unanimous consensus to reappoint Occupational Medical as the Health Care Provider.

Health Educator – the only one to submit an RFQ was Valley Hospital, the current provider. Manager Metzler said the hourly rate they are paying the Borough Nurse is less than the rate proposal by Valley Hospital. He would like to consider making the Borough Nurse a full time position. An analysis was done that showed she could provide all the services that are being provided through Valley Hospital providing they did not have a pandemic event.

Mayor Baratta thought they should look at the document. Deputy Mayor Trawinski wondered if they included all the benefits. Manager Metzler said he would distribute it. Councilmember Swain wondered how many people come from Valley Hospital. Manager Metzler stated that the afterhours work would be done on a flexible program and would not generate over time. He suggested they discuss this at the next Work Session.

Green Acres Planner – RFQ's were received from Michael Hakim Associates, Brigitte Bogart and Burgis Associates. Hakim is very familiar with Fair Lawn. Deputy Mayor Trawinski said Hakim gives the Borough great attention and is very responsive and has had great results with Green Acres.

There was a unanimous consensus to reappoint Michael Hakim Associates as the Green Acres Planner.

Conflict Counsel – Attorney Mondello thought it would make more sense if and when a conflict arises that he analyze the situation and recommend a law firm that specializes in that particular conflict.

There was a unanimous consensus to accept as Attorney Mondello recommendation.

Tax Appeals Counsel – although they received several RFQ's they did not receive one from the current Tax Appeal Attorney. Deputy Mayor Cosgrove thought he was changing firms and did not get it. Attorney Mondello said he had spoken to Mr. O'Hara who indicated he was interested in the position and that his rate would be considerably less than the current firm. Deputy Mayor Cosgrove said he had spoken to Tax Assessor Henderson who was very comfortable with Mr. O'Hara. The Borough saved a lot of money by him not coming to meetings. Attorney Mondello said that he also saved the Borough money by not going to Court because he works with the Tax Assessor.

Deputy Mayor Trawinski thought they should reopen the RFQ process and have Mr. O'Hara submit an RFQ because he was not comfortable that he did not submit one. He suggested telling the other ones that submitted an RFQ that they will not need to resubmit their RFQ's. Municipal Clerk Kwasniewski said she will advertise it and have them award it in January.

Bond Counsel –Municipal Clerk Kwasniewski said that Hawkins, Delafield & Wood has been the Borough's Bond Counsel and she loves working with them. Deputy Mayor Trawinski said they had worked for the Borough for many years and he couldn't be happier with them.

There was a unanimous consensus to reappoint Hawkins, Delafield & Wood as Bond Counsel.

Surveyor –Rigg Associates has been doing a good job for the Borough. Deputy Mayor Cosgrove noted that Harbor Consultants does not have any knowledge of Fair Lawn. Deputy Mayor Trawinski wondered if they could all agree in view of Birdsall's recent guilty plea to the Attorney General that they would not award it to them.

There was a unanimous consensus to reappoint Rigg Associates, P.A. as the Surveyor.

Grant Writer –Mayor Baratta stated the prices are always right with Capital Alternatives. Councilmember Swain thought that not much happened this year. Deputy Mayor Trawinski said there was not a lot of money available. They don't get paid unless they produce a grant.

There was a unanimous consensus to reappoint Capital Alternatives as the Grant Writer.

PERMISSION TO SERVE ALCOHOL AT THE COMMUNITY CENTER – ADOPT-A-SOLDIER DINNER:

Deputy Mayor Cosgrove stated that there is going to be a dinner dance to benefit the Adopt-a-Soldier Platoon, and they needed Council's permission to serve beer and wine. A Special Permit for Social Affairs will be filed with the State.

There was unanimous consensus to allow beer and wine to be served at the Adopt-a-Soldier Platoon Dinner at the Community Center.

ADA ACCESS:

Councilmember Swain stated that the office building at Berdan Avenue and Saddle River Road contains medical offices but is not accessible for wheelchairs. The building was built before ADA requirements came into effect. She wanted Attorney Mondello to see if there is anything they could do to require that buildings renting to medical facilities be accessible for patients who use wheelchairs, walkers or cannot climb steps. Deputy Mayor Trawinski clarified this was a pre-existing structure. Attorney Mondello could review this but Federal law pre-empts the ADA Act. Deputy Mayor Cosgrove suggested having the ADA Committee make an appeal to the tenant. Deputy Mayor Trawinski stated that if they were to renovate more than 50% of the value they were required to bring the building into compliance.

SMOKE-FREE PARKS AND PLAYGROUND:

Attorney Mondello stated that he reviewed the ordinance adopted by the City of Passaic. He spoke with the members from GASP, who indicated that they would like to speak at the public portion of the meeting. He felt the ordinance adopted by Passaic was unconstitutional. State statute says that people are not supposed to be smoking in public and if they do, there are specific charges and penalties. Passaic set their own penalties but they cannot dictate and override State statutes. There can be a Borough ordinance which designates certain areas as "smoke free" and point to the Statute for fines and penalties. He suggested drafting an ordinance with the legislative intent to discourage smoking, making sure that the parks are smoke free and suggesting that the Police initially give out warnings.

Mayor Baratta expressed concern that violations remain on someone's record for five years, causing a negative impact when they apply for a job requiring a background check. Councilmember Peluso asked if there was reason that the State set such strict penalties. Attorney Mondello stated that it began over concerns about people smoking at bus stops and malls. Violators were charged with a disorderly person's offense.

Mayor Baratta supported having smoke free parks and putting up signs designating "smoke free" areas. She wondered if that could be done without having people fined or arrested. Attorney Mondello stated that once the area is designated a non-

smoking public area the statute comes into play, although the Police might not be inclined to write violations. Councilmember Swain asked if having people being issued fines and violations made a difference as far as repeat offenders. Attorney Mondello stated that he has been practicing Municipal Court law for 20 years and this is the first year that he is seeing this Statute being enforced and taken to trial.

Deputy Mayor Cosgrove felt the penalty was too severe, although he respected the health and rights of others. Councilmember Swain asked if the sign advising that the park was a smoke free area would list the penalty for violators, as she felt offenders should be aware of the consequences. Attorney Mondello stated that the public would be expected to know. There are dozens of people coming into Paramus Court who do not realize the consequences of their actions.

Mayor Baratta did not think people would take this seriously as the sign did not look like a typical municipal sign. Attorney Mondello stated that they could add language warning offenders that they would be subject to State statute 2C33-13.

There was consensus to make Borough Parks smokefree, with Mayor Baratta and Deputy Mayor Trawinski dissenting.

Deputy Mayor Cosgrove stated that his consensus was based on adding the warning wording on the sign. Councilmember Swain agreed. She felt the public should be educated and know what the consequences are. Mayor Baratta confirmed that the signs would be installed at Memorial Pool and all Borough parks. Attorney Mondello confirmed that although they could choose to designate only certain parks smoke free. Manager Metzler recalled that there were limited number of signs and wondered if they could receive 25 signs. Councilmember Swain felt they should have a simultaneous year-long program to educate the public that this change had occurred. Attorney Mondello stated that they could state that the initial intent was to issue warnings, although the Police did not have to follow that.

Deputy Mayor Trawinski stated that the Police force has been cut to the bone because of the 2% cap. They get the most complaints about speeding. It did not seem right to add this task as well. The ordinance will intrude on their freedom and add costs. Mayor Baratta supports smoke free parks but she did not support regulations that prevent someone from getting a job because an offense shows up in their background check.

Deputy Mayor Cosgrove wondered if they could make a recommendation instead of drafting an ordinance and place signs that say "Please Don't Smoke". This way an offender would not be fined and have a record for five years. Manager Metzler stated that the reality was that there would not be an anti-smoking division of the Police Department. Enforcement becomes an issue when a resident tells another resident to stop smoking in the park, words are exchanged and the Police are called. This is the only time there will be enforcement. There will also be residents who call

and complain that they saw residents smoking in the park but the Police never showed up.

Councilmember Peluso suggested requesting that the Statue be amended to lessen the strict penalty. He will send an email to Senator Gordon.

INTERLOCAL AGREEMENTS: RIDGEWOOD AND HO-HO-KUS

Manager Metzler stated that Health Officer Wagner recommended increasing the cost for inter-local Health Services provided to Ridgewood by \$500 to \$8,400, a 6.3% increase. This would be sufficient to cover the costs of the services provided to Ridgewood. The fee was increased \$200 in 2011 for the current year.

Deputy Mayor Trawinski stated that Ridgewood faces the same 2% spending cap that Fair Lawn faces. He wondered how they can increase the fees charged to Ridgewood by more than 2%. Manager Metzler explained that the Health Department had an audit, which required a considerable amount of Health Officer Wagner's time. Shared services are for the benefit of Fair Lawn. They must remain competitive, but should not charge ridiculous prices. Deputy Mayor Trawinski disagreed. It has to be beneficial to both municipalities. Manager Metzler stated that Ridgewood could hire a health officer or go elsewhere. They are charging Ho-Ho-Kus \$6,250 and Health Officer Wagner has not made a recommendation to increase their fees because this adequately covers the time she spends there.

There was unanimous consensus to approve a \$500 increase in fees for Health Services provided to Ridgewood and to renew the agreement with Ho-Ho-Kus at the same rate as 2012.

VETERAN/VOLUNTEER PROGRAM:

Manager Metzler stated that the Borough's Veteran/Volunteer Program expires this year. Jim Van Kruiningen reached out to the County to see if they would accept Fair Lawn's identification cards, but there was no response. He also reached out to Freeholder Ganz and asked if he would intercede on their behalf. The matter was being brought before the Freeholder Board but they have not heard back since Freeholder Ganz was away. He wanted them to be aware that they were in a holding pattern. He will follow up with Freeholder Ganz again.

WATER BILL – 24-10 DORCHESTER ROAD:

Manager Metzler explained that the resident received a water bill for \$422 for a time period when he was away. The meter was tested and found to be 3% incorrect, so the resident was given a \$12 reduction based on that percentage. The resident now wants the outstanding balance waived since his average bill has been in the \$20 to \$50 range. Manager Metzler felt someone flushed the toilet and it did not seal, causing it to run constantly until the resident returned from vacation and noticed it.

The resident had his plumber check his plumbing and no leaks were found. He stressed that this was a frequent complaint and in most cases a toilet is left running while the resident is away.

Deputy Mayor Trawinski asked the Manager for his recommendation. Manager Metzler reiterated his belief that a toilet was left running in the house. The meter was fine, there were no leaks. Councilmember Swain asked if they could allow the resident to make payments.

There was consensus to allow the resident to make payments towards the outstanding balance on his water bill.

UPDATE ON ROUTE 208 BUS STOP:

Manager Metzler reported that NJ Transit Bus Division is continuing bus service on Route 208 but will only stop at the legal stop on Morlot Avenue. This will create problems for residents in the area due to the lack of parking. Traffic Safety Officer Franco had suggested asking the State's permission for cars to park on the Morlot Avenue Bridge. It may also be possible to use the church parking lot for a fee. Mayor Baratta noted that it was a small number of residents who used that bus. Manager Metzler felt that some commuters currently parking on Fair Lawn Avenue may switch to this route because it is a direct run.

Councilmember Peluso thought they should speak to the church about using their parking lot, as it might be beneficial for them to receive a small fee. Councilmember Swain wondered how many cars they could park on the bridge. Manager Metzler stated that only a small number of passengers are picked up in Fair Lawn. He would ask NJ Transit to expedite this.

There was unanimous consensus for Manager Metzler to research commuter parking on the Morlot Avenue Bridge or in the church parking lot.

SPECIAL MEETING:

Upon motion by Deputy Mayor Trawinski and a second by Councilmember Peluso, the Work Session was adjourned to Special Meeting at 9:30 p.m.

Mayor Baratta reconvened the meeting at 9:35 p.m.

MISCELLANEOUS PUBLIC COMMENTS:

Rich Siebel, 33-07 Halsey Road expressed concern about the intersection at Abbot Road and Fair Lawn Avenue. The car in front of him stopped for a pedestrian pushing a baby carriage but the driver behind him passed on the left, almost hitting the pedestrian. It is an accident waiting to happen. Manager Metzler stated this was

one of the areas where a permanent bump out was being placed as a result of the grant money they received. He will obtain an update on the status of this project.

Mr. Siebel discussed an article on Assemblywoman Amy Handlin from Monmouth County, who was pressuring FEMA to fund solar powered traffic signals, which would have prevented some of the problems they had during Hurricane Sandy. He thought it was a great idea. Perhaps Landmark could install a solar traffic light.

Allan Krantz, a representative from GASP was happy to see that the Borough agreed to adopt an ordinance making Borough parks smoke free. He confirmed there was room at the bottom of the sign for a sticker, although most municipalities have chosen just to list the ordinance number. He will find out what their options are for adding additional wording. The stickers are covered under the same grant.

Mayor Baratta asked about "tobacco free" parks. Mr. Krantz explained that "tobacco free" included chewing tobacco and novelty tobacco products. Mayor Baratta stated that "smoke free" included cigars, pipes and cigarettes. Mr. Krantz confirmed that it did. Manager Metzler wondered how chewing tobacco affected the health of others. Mr. Krantz stated that chewing tobacco at parks sends the wrong message to children, who should view parks as a place to have healthy recreation. Studies show that smoke free areas such as at a workplace or smoke free park helps people quit.

Attorney Mondello stated they may be able to circumvent the State statute since they have not pre-empted tobacco free public places. He will research this further. Deputy Mayor Trawinski reiterated his belief that it doesn't make sense to ban smoking in parks if parents can still smoke in their home or car while their children are present. Those children will still be exposed to smoke.

Attorney Mondello asked if the ordinance should be tobacco free or smoke free. Councilmember Peluso stated that he would support going "tobacco free" if it would allow them to circumvent the State statute; otherwise, he was not in agreement. Manager Metzler asked Mr. Krantz if "tobacco free" signs were available. Mr. Krantz stated that the signs say "100% Smoke Free". Deputy Mayor Trawinski wondered if the sticker could say "tobacco free".

There was consensus to have Attorney Mondello research whether they could circumvent State statute penalties by making the parks "tobacco free" instead of "smoke free".

Cindy Nico, a representative from Tobacco Free for a Healthy New Jersey, Office of Tobacco Control stated that she had 200 signs that she could set aside for the Borough. She was happy that they were proceeding with the ordinance. She and Health Officer Wagner have discussed ways they could educate the public on smoking policies.

Cathy Aliotta, 23-05 High Street stated that she inquired about being on the Pedestrian Safety Committee at the August 21st Council Meeting, but has not heard back. She expressed concern about the safety issue at Abbott Road and Fair Lawn Avenue, and was appalled to see motorists punching the safety cones on Plaza Road at High Street. She would be interested in speaking on public safety to make more residents aware. Mayor Baratta advised Ms. Aliotta that the Pedestrian Safety Committee was still being considered.

Health Officer Wagner thanked the Council for agreeing to draft an ordinance to make the parks smoke free. She acknowledged Health Board members Roger Levitt, Dr. Wisch and Dale Bellisfeld who were present as well as the other Board members who want to protect children and non-smokers in park areas. It is not their intent to put a bad mark on a smoker who violates the ordinance. Police Chief Rose was willing to see how they could work together so that there was enforcement without a negative impact on smokers.

Mayor Baratta thanked the Health Advisory Board for attending.

Ruth Gormans, 39-37 Sycamore Drive stated that the safest railroad crossing was the cut through off Plaza Road heading towards the Community Center, which had a smooth sidewalk. Deputy Mayor Cosgrove explained that the crossing remained smooth because there was no vehicular traffic to wear it down. Ms. Gormans felt there should be more benches along Fair Lawn Avenue and Broadway so walkers have a place to rest.

Aaron Linick, 312 Howard Avenue asked if the smoke free ordinance would pertain to Radburn parks. Mayor Baratta stated it would not because it was private property. Mr. Linick asked if a resident would be fined for smoking an electronic cigarette. Mayor Baratta felt an electronic cigarette would be exempt because it used water vapor and did not contain tobacco. Mr. Linick stated that Ridgewood is very strict about crosswalks. Mayor Baratta stated that Ridgewood uses enforcement. Deputy Mayor Cosgrove stated that the Police issued 140 summonses during a summer campaign to enforce safety at crosswalks. Manager Metzler stated that Ridgewood only has one business district to which they assign an officer, whereas Fair Lawn has several districts. Ridgewood also generates revenue from the parking meters.

CLOSED SESSION RESOLUTION:

Upon motion by Councilmember Swain and a second by Deputy Mayor Trawinski, the following closed session resolution was unanimously adopted at 9:55 p.m.

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

WHEREAS; the Mayor and Council of the Borough of Fair Lawn desire to discuss Personnel – First Responder Awards Dinner, Appointments: Various Boards and Commissions, Pending Litigation – Bolkin vs. Borough of Fair Lawn, Contract Negotiations for Blue Hill and Labor Negotiations Update; 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 Deputy Mayor Trawinski, the Work Session was adjourned at 10:50 p.m.

Respectfully submitted,

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

The undersigned have read and approve the foregoing minutes.

Mayor Jeanne Baratta

Deputy Mayor John Cosgrove

Councilman Kurt Peluso

Councilwoman Lisa Swain

Deputy Mayor Ed Trawinski