

REGULAR MEETING OF AUGUST 18, 2009

Mayor Weinstein called the meeting to order at 7:31 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 issue of December 2, 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 Mayors Swain and Tedeschi and Councilmembers Baratta and Trawinski.

ALSO PRESENT: Assistant Municipal Clerk Bojanowski and Attorney Rosenberg.

SWEARING IN OF POLICE OFFICER

Mayor Weinstein introduced Captain Serrao, of the Police Department. Capt. Serrao announced the swearing in of Robert Mater and thanked his family and Police Officers for attending tonight. Mayor Weinstein swore in Robert Mater and welcomed him to the Police Department. Captain Serrao stated that Robert Mater is a veteran of the Iraq War where he served in the Air Force and Fair Lawn is proud to have him as a member of the Police Department.

PRESENTATION BY FAIR LAWN RADIO EMERGENCY SERVICES

Sid Rosenfield stated that he learned from Ira Marks, of the Office of Emergency Management (OEM) in Fair Lawn, that the Recreation Department was in need of communication devices. There had been a recent donation of some radios and Mr. Rosenfield decided to donate nine radios and a multi charger to the Recreation Department. The cost of the equipment is approximately \$4,000. Jim Graff thanked Mr. Rosenfield and the Radio Club on behalf of the Recreation Department.

MANAGER'S REPORT

Mayor Weinstein stated that the Acting Manager was not attending this evening's meeting and asked if there were changes to the report. Tax Assessor Henderson reported that he

was notified by the DOT of repairs to 17th Street and Passaic Place to Route 4 on Wednesday and Thursday.

COUNCIL COMMENTS

Mayor Weinstein wished the best of luck to students graduating from Fair Lawn High School this year. He reported that there was a celebration commemorating the opening of the first turf field several weeks ago. He recognized the team effort put forth by the Borough, the

Council, the County, Fair Lawn All Sports and the Football Association that made this possible.

Mayor Weinstein stated that one of the most important responsibilities of elected officials is to ensure that the Borough's fiscal house is in order. The triple A rating that Moody's Financial Evaluation Services has given to the Borough demonstrates that it continues to do everything correctly. The multi year plan of fiscal responsibility has paid dividends to everyone working and living in Fair Lawn. While the State of New Jersey and other municipalities struggle with their budgets, the Borough has built up a sizable nest egg of close to \$9 million. This means that tax stability will be the norm and not the exception.

Mayor Weinstein stated that the Moody's evaluation is not a coincidence but due to the hard work by employees and the many volunteers who contribute without pay to provide services to the residents. The hard work and foresight of the Mayor and Council must also be complimented. Mayor Weinstein stated that he and the Council will continue to use due diligence in all financial matters relating to the Borough.

Councilmember Baratta thanked the Radio Club for their generous donation to the Recreation Department which is much appreciated. She welcomed Police Officer Robert Mater and wished him the best in his career in Fair Lawn.

Councilmember Baratta stated that this weekend's concert featuring the Diamond Jubilee Band is the last in the series at Memorial Pool on Sunday night. She announced that this week's Farmers Market will be at the Radburn Grange building on Fair Lawn Avenue, however, it will return to New Song Church on Radburn Avenue next week.

Deputy Mayor Tedeschi stated that this is the 10th anniversary of the Diamond Jubilee Band and added that they are appearing at no cost to the Borough.

Deputy Mayor Tedeschi said that he and Councilmember Trawinski have been working on the grant program for the past three to four months. A matrix with details of every grant in the Borough so that they can see who is responsible for the grant, the amount of the grant, the status, matching funds and what the grant is for has been created. Deputy Mayor Tedeschi stated that they have received \$680,000 worth of grants which have cost the Borough 51 cents on the dollar by way of matching grants. There are now \$2.75 million in grants pending. If the Borough were successful in obtaining all of these grants the Borough cost would be 39 cents on the dollar. The Borough is trying to tap into another source of

revenue by means of these grants. Deputy Mayor Tedeschi commended Jim Vankruiningen and Wendy Demeraski for their hard work.

Councilmember Trawinski said that Mayor Weinstein forgot to mention that the bond rating for the Borough is better than it is for the State. Councilmember Trawinski thanked Robert Mater for his service to the country.

Councilmember Trawinski announced that Senator Gordon has introduced a bill that would give Fair Lawn the ability to purchase energy efficient vehicles. The Borough has had a

difficult time being able to acquire energy efficient vehicles within the budget cap. There needs to be a special carve out in the State budget, to allow fiscally responsible municipalities to make purchases of this type. He encouraged everyone to write to Senator

Gordon and ask him to get the committee to move this bill so that it can become law in time for the preparation of next year's budget. Energy efficient vehicles will save in terms of cost while helping to preserve the environment.

Councilmember Trawinski stated that 2 ½ years ago the size of the Ambulance Corp was deteriorating which lead to the use of a back up ambulance service. The Ambulance Corp was willing to work with the outside service, however, they wanted to boost membership. He spoke with the President and Vice President of the Ambulance Corp who reported that the ranks of the Fair Lawn Ambulance Corp continue to grow and this is a credit to the volunteers and the residents to meet and exceed the commitment they made to the residents. He thanked the volunteers for their efforts.

Deputy Mayor Swain referred to the County Newsletter listing many environmental awareness grants given to schools throughout the County. Memorial Middle School and Warren Point School were two of the Fair Lawn Schools that were grant recipients.

Deputy Mayor Swain noted the new applications for voting concerning absentee ballots. She asked people to consider organ donation because there is always a need. Deputy Mayor Swain congratulated the Radburn Swim Team for winning the league championship and the Fair Lawn Swim Team for their participation in a very competitive league.

Deputy Mayor Swain stated that National Night Out was very successful this year. She noted that Memorial Pool has been wonderful this summer and she encouraged everyone to get out and enjoy the clean water.

ORDINANCES ON FIRST READING:

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

ORDINANCE NO. 2162-2009

AN ORDINANCE TO PROVIDE FOR A CERTAIN CAPITAL IMPROVEMENT IN THE BOROUGH OF FAIR LAWN AND TO PROVIDE FOR THE RECEIPT, ACCEPTANCE AND DEPOSIT OF FUNDS THEREFORE

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta Resolution 276-2009 introducing Ordinance 2162-2009 was discussed.

Mayor Weinstein explained that this ordinance is for the receipt of \$100,000 from the New Jersey Department of Transportation to be used for improvements to Pellack Drive.

Councilmember Trawinski added that this is a portion of the grant money that Deputy Mayor Tedeschi referred to earlier.

There being no further discussion, Resolution 276-2009 introducing Ordinance No. 2162-2009 was unanimously adopted.

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

ORDINANCE NO. 2163-2009

AN ORDINANCE TO PROVIDE FOR A CERTAIN CAPITAL IMPROVEMENT IN THE BOROUGH OF FAIR LAWN AND TO PROVIDE FOR THE RECEIPT, ACCEPTANCE AND DEPOSIT OF FUNDS FROM THE STATE OF NEW JERSEY, DEPARTMENT OF TRANSPORTATION THEREFORE

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, Resolution 277-2009 introducing Ordinance 2163-2009 was discussed.

Mayor Weinstein explained that this ordinance is for the receipt of funds from Community Development for barrier free improvements throughout the Borough. These funds are distributed through the County from the Federal government.

There being no further discussion, Resolution 277-2009 introducing Ordinance No. 2163-2009 was unanimously adopted.

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

ORDINANCE NO. 2164-2009

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SO AS TO INCLUDE A NEW CHAPTER 129, ENTITLED "LAWN FERTILIZING"

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Swain Resolution 278-2009 introducing Ordinance 2164-2009 was discussed.

Borough Attorney Rosenberg explained that this ordinance will implement a DEP mandate that any municipality located within the Passaic River water shed restrict the application and use of fertilizers which the DEP has determined may have a detrimental impact to the Passaic River. This ordinance will prohibit anyone from applying fertilizers within 25 ft. of any water body as determined by the DEP and will limit the application of fertilizers fifteen days before March 1st and fifteen days after November 15th.

There being no further discussion, Resolution 278-2009 introducing Ordinance No. 2164-2009 was unanimously adopted.

PUBLIC COMMENTS ON CONSENT AGENDA ITEMS ONLY

Upon motion Councilmember Trawinski and a second by Councilmember Baratta, the time for public comments on Agenda items only was opened.

Harvey Rubenstein, 17-38 Chandler Drive asked for an explanation on Resolution No. 290-2009: - Requesting Approval to change Title or Text of Appropriation. Borough Attorney Rosenberg said that this authorization will comply with the future federal grant cap requirements. This is a housekeeping matter regarding the local government services act.

There being no further comments by the public, upon motion by Councilmember Trawinski and a second by Councilmember Baratta, the time for public comment was unanimously closed.

RESOLUTIONS BY CONSENT #23-2009

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, Consent Agenda #229-2009 containing the following items was unanimously passed.

- a. Resol. #279-2009 - Approval of Minutes
 - Budget Meeting – 4/14/09
 - Regular Meeting– 4/14/09
 - Work Session – 4/14/09
 - Closed Session – 4/14/09
 - Work Session - 4/22/09
 - Closed Session - 4/22/09
- b. Resol. #280-2009 - Requesting Approval of a Special Item of Revenue – Underage Drinking
- c. Resol. #281-2009 - Requesting Approval of a Special Item of Revenue – Drunk Driving Grant
- d. Resol. #282-2009 - Requesting Approval of a Special Item of Revenue – Clean Communities

- e. Resol. #283-2009 - Authorizing Rescinding Resolution No. 192-2009
Professional Services for Appraisal Services
- f. Resol. #284-2009 - Tax Exempt status: Congregation Darchei
Noamo, Inc.
- g. Resol. #285-2009 - Authorizing Rejection of Bid: Project 2144
Cadmus GAC Demonstration Project
- h. Resol. #286-2009 - Refund of Overpayment of Taxes and
Water Charges
- i. Resol. #287-2009 - Requesting Approval of a Special Item of
Revenue – Equipment Grant

- j. Resol. #288–2009 - Professional Services: Consultant for Natural
Resources Inventory
- k. Resol. #289-2009 - Requesting Approval of a special Item of
Revenue – Smart Growth Planning Grant
- l. Resol. #290-2009 - Requesting Approval to change Title or Text
of Appropriation
- m. Resol. #291-2009 - Deny Parole for Christopher Righetti
- n. Resol. #292-2009 - Appointment to the Fair Lawn Borough
Gardens Committee

- o. Resol. #293-2009 - Appointment to the Green Team Advisory
Committee

RESOLUTION #294-2009 – APPROVAL OF MINUTES – REGULAR MEETING OF 4/28/09

The Municipal Clerk read the resolution.

Upon motion by Councilmember Baratta and a second by Deputy Mayor Tedeschi, Resolution #294-2009 was passed with an abstention by Councilmember Trawinski.

PUBLIC COMMENTS

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

Louis Fioccola, 44 Garwood Road, referred to zoning regulation 125-40 outdoor storage, temporary storage units. He said that he is having renovation work done at his home and needed to remove furniture. In order to do this they brought in a POD. Two weeks into the project they received a letter from the town stating that they were in violation of the code. Mr. Fioccola stated that when his next door neighbor was moving he had a POD at his property for six months without issue. Friends on an adjacent street also had a POD on their property during work at their home. Mr. Fioccola stated that they questioned the zoning office about this and added that they had had electrical and building inspections at the home and no one mentioned the POD.

Mr. Fioccola said that he find it disturbing that the law is not publicized and it seems to be inconsistently enforced. When he questioned the Zoning Office about these inconsistencies, he was told that, in one instance, the people didn't get caught; and, in the other instance the zoning officer offered to send the neighbor a citation.

Mr. Fioccola stated that this law is unjust and punitive to taxpayers. They are trying to improve the home and do not like looking at the POD anymore than anyone else does. He wondered who this law protects or benefits and he asked the Council to take another look at this law.

Mayor Weinstein said that a prior Councilmember initiated this law and he added that the Council had discussed it for several months at that time. The problem is that the PODs are an eyesore and people were keeping them on their properties for a year at a time. He suggested placing this on a work session agenda in September to discuss ongoing construction at a property and a time limitation.

Mayor Weinstein asked the Construction Official explain the process and what has transpired since this ordinance went into effect in September 2007. The ordinance was amended in October 2007 to change the number of days in which the Construction Official would allow for the building to be removed if there was a hardship.

Dennis Kolano, Zoning Officer in Fair Lawn, explained there have been recent complaints about the ordinance. He said that there is information on the website and in the newsletter about PODs. Most of the people that come to the Building Department are contractors and would not pick up that type of information. Councilmember Trawinski suggested that the information on the PODs be routinely given out with the building permits. Mr. Kolano pointed out that the most common types of renovations are for kitchen and bathrooms which do not require a POD.

Councilmember Baratta agreed that information should be distributed to contractors to give to homeowners so they are not taken by surprise. Councilmember Trawinski said that the Council should re-visit this issue to strike the balance between legitimate concerns such as aesthetics and timing and not to make the situation difficult for someone who is trying to beautify their home.

Mr. Kolano said that there is a trailer on Mr. Fioccola's property. Mr. Fioccola responded that the trailer was less expensive than the POD and serves the same purpose.

Melissa Fioccola, 44 Garwood Road said that they have a more heavy duty type of POD or tractor trailer type of unit which cost \$276 for delivery and \$75 per month for rent. The more common type of POD costs over \$200 per month to rent. Mr. Fioccola added that the 18 foot POD isn't practical because they had to empty the entire first floor of their home into the storage unit.

Councilmember Baratta asked if the trailer with their belongings could be removed and stored temporarily. Ms. Fioccola said that this would increase the cost by another \$600 or \$700 per day. Mr. Fioccola said that if this ordinance were something that the homeowner was aware of from the beginning it could be factored into the plan and the financing. It is a hardship because some people who are four or five months into their projects are only finding out about this now. Ms. Fioccola said that the 14 day grace period following the initial notification of the violation has expired for them and they need to let the Building Department know what they are going to do.

Borough Attorney Rosenberg stated that the Building Department has the discretionary authority to suspend enforcement in light of the fact that the Council was going to discuss the issue again. Since the Council has indicated that this item will be placed on the agenda of September 2nd, the Manager can advise the Building Department that this is going to occur and, in light of that fact, the enforcement action should be suspended until that time.

Mr. Kolano pointed out that the trailer is on the Fioccola's front lawn and he suggested that it be moved to the rear yard. There is also a dumpster in the driveway which could be put on the street with a permit from the DPW. Mayor Weinstein recommended leaving the trailer on the lawn until there is a resolution at the work session. Councilmember Trawinski said that although he understands Mr. Kolano's diligence, he felt that in fairness to the homeowner they should hold the status quo.

Upon a motion by Councilmember Trawinski and a second by Councilmember Baratta, the Council unanimously requested the Acting Manager to direct the Construction Official to withhold enforcement of this ordinance for everyone until September 2nd.

Jetti Rachlin, 0-85 Morlot Avenue, said that she had previously complained about standing water in front of her driveway caused by rain. There are no drains and the water sits there for days and when the winter comes there is ice. Mayor Weinstein stated that Acting Manager Kwasniewski will follow up on this matter.

Leonid Krumer, 17-27 Everline Drive, said that his residence is undergoing a major renovation project and he has a container in his driveway. The work at his house will last from three to six months. He stated that moving the container and storing it would be three times as much per month as he is paying now. This is a big price difference that he would like the Council to consider. Mr. Krumer had prepared some information which he left with the Borough Clerk.

Robert Gulack, 4 Bancroft Place, stated that the Council is facing a choice between the Heyward option which means exercising eminent domain against Heyward and building 40 COAH units. Once the COAH prices were settled the Borough could apply for public grants to acquire and preserve Daly Field as a park. The other option is the Daly Field option which would exercise eminent domain against Daly Field and Landmark would be free to build up to 92 units on Heyward and construct 40 to 70 units including affordable housing on Daly Field.

Mr. Gulack said that the first option would be preferable because the number of new housing units added to the town center with the Heyward option would be between 40 and 60. The total number of units in the second option ranged up to 162. By choosing the Daly Field option, Fair Lawn conceded the only legal issue remaining in the litigation and forced Judge Harris to rule against Fair Lawn. The Borough Council made the wrong choice by spending money unnecessarily. The Council conceded the litigation before trial could begin and created a situation where approximately 100 housing units will be added to the congestion in the center of Fair Lawn. This was poor decision making.

Mr. Gulack stated that the residents of Fair Lawn voluntarily assumed an additional tax burden of millions of dollars of the Open Space Fund. They only asked that the money be

spent to prevent the overdevelopment of the center of town, however, the money is now being spent to arrange the overdevelopment of the town center. Their money is being spent to purchase the catastrophe the voters were trying to avoid.

Mr. Gulack wondered what legal advice the Council was given before making this decision. He asked the Special Counsel, Richard Lustgarten, on four different occasions about the possibility of a non-commercial developer building COAH on Heyward. Mr. Lustgarten responded as if he was talking about commercial developers and that that what was being suggested was impractical. On July 21st when asked the same question again Mr. Lustgarten answered stating "I don't know how COAH would view your hypothetical". After

the Daly Field option was announced and the trial was lost Fair Lawn's trial counsel said that he didn't know what the legal status of the Heyward option would be. In order for the Council to choose the Daly Field option, Mr. Lustgarten must have thoroughly researched the Heyward option. Mr. Lustgarten should be asked to come before a meeting of the Borough Council and give an answer as to whether or not there would be any legal problems with the Heyward option.

Mr. Gulack said that it is also difficult to understand some of the other comments made by Mr. Lustgarten on July 21st. Mr. Lustgarten advised that he couldn't give an opinion on some of the traffic issues because it could compromise Fair Lawn's legal strategy. Councilmember Trawinski said that the Council had been briefed on litigation issues. Mr. Gulack's time expired and he indicated his intention to continue later.

Harry Posten, 13-10 2nd Street, said that he had previously asked a question about electronics recycling. He went to the recycling center to drop off electronic equipment and saw a car loading a computer and other items. When he questioned the person working, he was told that if you work at the Recycling Center you can take whatever you like. Mr. Posten asked if there is the policy and, if so, who can take what.

Councilmember Trawinski said that he has been on the Council a long time and this is the first he has heard about this policy. He didn't think there was a policy and Mayor Weinstein asked Mr. Henderson to follow up with the Acting Manager. Councilmember Trawinski asked that the Acting Manager get a response to Mr. Posten's original question concerning electronics recycling.

Harvey Rubinstein, 17-38 Chandler Drive, thanked Councilmember Trawinski for exhibiting common sense concerning the PODs, however, he recalled that there was supposed to be some notice through the Construction Office to people doing home renovations.

Mr. Rubenstein said that there is grass growing through the asphalt in the parking lot from the Radburn Railroad Station which could easily be taken care of with Round Up instead of an asphalt repaving job. The steel grates around the trees and the raised sidewalk slabs should be reset for safety reasons and to prevent lawsuits.

Mr. Rubenstein referred to the favorable rating regarding tax debt and said that this is because the taxes are constantly being raised. Mayor Weinstein explained that because of the triple A rating, the risk of investing in Fair Lawn is quite low and that combined with the low interest rate means that money can be borrowed and paid off quickly in order to keep the Borough well improved.

Deputy Mayor Tedeschi pointed out that the Moody report states that one of the reasons for the high rating is the fact that taxes have not increased along with the relatively low debt and the surplus. Mr. Rubenstein disagreed and Deputy Mayor Tedeschi pointed out that they are referring to municipal taxes.

Mr. Rubenstein noted that there are five dead trees in front of the Recreation Building and they should have been replaced during the first year when they were guaranteed. Money will have to be borrowed to pay for the replacements.

Regarding the comment made by Landmark's attorney that Fair Lawn has been working on a new plan for years, Mr. Rubenstein stated that he has the perfect strategy. He said that whenever there is over development that is going to take place every town in the County complains about traffic and congestion. Fair Lawn has no plan in place which would demonstrate to the judge that the town isn't ready to do anything and the Judge should grant the necessary extension.

Mr. Rubenstein questioned the status of the H1N1 and what is being done. Mayor Weinstein said that he would follow up with Ms. Wagner, the Health Officer.

Anna DiNardo, 13-06 2nd Street, thanked the Good Neighbor Policy for removing the weeds and cleaning up the area at the turn around at Fair Lawn Avenue and Route 208. Councilmember Baratta clarified stating that the Garden Committee put a call out for volunteers. They also contacted the State who did some mowing.

Ms. DiNardo said that on Route 4 by Route 208 there are several paths that come underneath by Saddle River Road. She asked who does the maintenance on these paths because at the moment they are overgrown. The likely answer is the State, however, Ms. DiNardo stated that this is our town and someone from the town needs to take care of the problem with a weed wacker. Councilmember Trawinski said that the Council needs

someone like Ms. DiNardo to make them aware of these problem areas and this will be brought to the attention of the Manager. Mayor Weinstein assured Ms. DiNardo that this will be taken care of.

Councilmember Trawinski stated that he brought several areas to the Manager's attention several weeks ago. He added that Ms. DiNardo or anyone else can call the Manager to report sites that need attention. He indicated that he would bring Ms. DiNardo's concerns to the Broadway Improvement Corporation because they are sensitive about maintenance issues.

Ruth Gormanns, 39-37 Sycamore Drive, referred to Deputy Mayor Tedeschi's comments on her brother. She said that her brother has a good character, however, he pointed out that there were 55 complaints from the PBA and that there were over 100 recommendations in a study that was made. She said it is important for everyone to know that it is not a punitive action when a study group is involved. There were citations in the report that the carpet in the file room was repaired in an unsafe manner and that the facility didn't have enough room. Many of the complaints were overturned because they were silly. Many of the PBA complaints were foolish and look bad for the community.

Ms. Gormanns said that the previous PBA president constantly attacked her brother. This person has a problem with authority and the use of good judgment. Her brother was doing his job and he treated people fairly. He did a lot for some of the patrolmen in the Department to make their careers different by giving them second chances when others wouldn't.

Deputy Mayor Tedeschi said that he understands that Ms. Gormanns loves her brother but they have different opinions. This situation has gone on for fifteen years and Deputy Mayor Tedeschi stated that he hasn't said anything about it for the last ten years. He is surprised that the Recall Committee thinks this should be brought up again and he is not going to debate the details because it serves no purpose.

Ms. Gormanns stated that the study describes Fair Lawn as one of twenty urban suburban communities and it has the lowest crime rate in all of these types of communities. She added that her brother received over 100 commendations. Deputy Mayor Tedeschi said that in 1994 the Council had a goal setting meeting and number one on the list was the problems in the Police Department.

Arlene Rubenstein, 17-38 Chandler Drive, referred to a letter in the Bergen Record that was written by Deputy Mayor Tedeschi although she doubts this. She said she is a County Committee woman and was called an Advisor to the Recall Committee in the letter. The letter referred to Deputy Mayor Tedeschi as a Republican councilmember and Ms. Rubenstein said she wasn't aware that he had changed parties. Ms. Rubenstein said that her name was used erroneously in the letter and she asked for an apology if Deputy Mayor Tedeschi actually wrote the letter.

Deputy Mayor Tedeschi wished Mrs. Rubenstein and her husband the best of luck in their upcoming move and said it would be noted that the year the Rubensteins moved out of town the municipal taxes went down.

Robert Gulack, 4 Bancroft Place, came forward again to speak about Landmark and stated that Councilmember Trawinski commented that the traffic situation proposed by Landmark Development would be terrible. Mr. Lustgarten had indicated that it would be terrible to offer an expert witness on traffic. In conclusion, Mr. Gulack said that it is no excuse to say that Judge Harris is a bad judge or that the Special Master is a bad Master. The power rested with Judge Harris and Fair Lawn should have done everything they could to persuade the Judge. They should not have conceded the only remaining legal issue in the litigation. Fair Lawn should have presented strong expert testimony on traffic congestion issues and the

impact of Radburn's design. It is not too late to save the center of Fair Lawn by exercising eminent domain against the Heyward property. He told the Council that their previous decisions have lead to nothing but numerous legal defeats and impending municipal disaster. He urged them to change course before Fair Lawn is destroyed forever and they are on the edge of doing this.

Harvey Rubenstein, 17-38 Chandler Drive, said that a year ago he brought to the attention of the Council the sidewalk under the Route 208 bridge by 20th Street that is on a 45 degree angle and broken. He said that the Council seems concerned about these maintenance problems and this needs to be added to the list. Mr. Rubenstein referred to a report which stated that Judge Harris is working for banks and utilities and he hopes the new judge will have consideration for people who live in the town.

Councilmember Trawinski thought that funds had been appropriated to fix the sidewalks that Mr. Rubenstein referred to. Mayor Weinstein said that they will check to see if it is a part of this round of repairs that is due to be bid in the fall.

There being no additional comments from the public, upon a motion by Councilmember Trawinski and a second by Councilmember Baratta the time for public comments was unanimously closed.

Councilmember Trawinski referred to Robert Gulack's comments stating that the people of Fair Lawn had a choice and the catastrophe they didn't want happened. He said that the people did have a choice two years ago and the central issue in the campaign was the creation of a central park in Fair Lawn. The people resoundingly rejected the idea and while this doesn't change his position on preservation, it isn't fair to say that the people didn't have a choice because they participated in an open and fair election. He added that it is not fair to comment on the litigation and strategy when Councilmembers are not able to comment on those items. He supports Mr. Lustgarten's decision making not to present expert testimony on traffic because it is not the issue in a builder's remedy action. The issue is whether or not the municipality is in violation of COAH and whether or not the density is appropriate to be able to provide affordable housing. Councilmember Trawinski pointed out that the people in Carlstadt, Dumont, New Milford and others municipalities who have lost their zoning and the problem is that this is an example of social engineering that has gone array. The State of

New Jersey needs to recognize that this needs to be fixed without political affiliation. The problem lies with the legislature and the governor not with the Council.

Councilmember Trawinski stated that the Council has not given up the fight and has authorized the Borough Attorney to fight this consistently but it needs to be fought in the New Jersey legislature and at the State House in Trenton.

Deputy Mayor Tedeschi said that the Council did not ignore other opinions. They continue to ask each other what they think and it works.

ADJOURNMENT

Upon motion by Councilmember Baratta and second by Councilmember Trawinski, the meeting was adjourned at 9:01 p.m.

Respectfully submitted,

Marilyn B. Bojanowski, RMC
Assistant Municipal Clerk

The undersigned have read and approved the foregoing minutes.

Mayor Steven Weinstein

Councilmember Jeanne Baratta

Deputy Mayor Lisa Swain

Deputy Mayor Joseph Tedeschi

Councilmember Ed Trawinski

