

WORK SESSION OF JANUARY 22, 2008

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

PRESENT: Deputy Mayors Tedeschi and Swain, and Councilmembers Baratta and Trawinski

ALSO PRESENT: Manager Metzler, Municipal Clerk Kwasniewski and Attorney Rosenberg:

Review of Tentative Agenda (1/29/08):

Municipal Clerk Kwasniewski stated that the Fair Lawn High School Band would be doing a two minute presentation at the Council Meeting.

Council Liaison Reports:

Councilmember Baratta reported that the Alliance for Substance Abuse Prevention has begun their Tuesday night basketball league at the Community Center. They have hired referees. The program is open to high school aged children and there is no cost to participate.

Councilmember Baratta stated that the Property Maintenance Committee sent a letter requesting changes to the ordinance to require garbage receptacles to be placed in the back of the house. They would also like the ordinance on house numbers to be enforced. The Committee also inquired about a petty cash account to purchase certificates of appreciation for businesses. Municipal Clerk Kwasniewski stated that she printed the certificates the last time.

Councilmember Baratta stated the Committee inquired if the clothing bin ordinance addressed unsightly bins that were rusty or had chipped paint. She thought that the ordinance addressed this but wondered if the word "unsightly" should be added. Attorney Rosenberg stated that he will review the ordinance.

Councilmember Baratta stated that the Committee voiced concerns about sidewalk safety and had asked that this issue be discussed. The Committee wondered if there was grant money available for this project. They presented a program several years ago where a company would come and fix the sidewalks and the homeowner paid a reduced rate, but the Council was not interested. She asked if they would like to place this on the agenda so that it could be discussed again. Councilmember Trawinski suggested they discuss this under lawyer/client advice and that Attorney Rosenberg obtain prior history and Council Minutes from Municipal Clerk Kwasniewski as well as the opinion of Richard Lustgarten and Michael Kates.

Councilmember Baratta stated that the Committee wanted the Property Maintenance Committee to be added to the Borough website. Mayor Weinstein thought it was already on the website as the Committee had spoken with the webmaster, Ron Lottermann. Manager Metzler will look into this. Councilmember Trawinski stated that the ADA Committee would be meeting in March. He thanked Assistant Support Specialist Van

Kruiningen for coordinating the schedule of meetings and Fran Mulder of Fair Lawn TV. The Committee will meet the fourth Thursday of every other month. Several Committee members have asked about the status of the Snow Buster program. Attorney Rosenberg stated that he was working on it. The Committee and Assistant Support Specialist Van Kruiningen felt it would be a big asset for the senior citizens. Attorney Rosenberg will have the draft ready for the next meeting.

Deputy Mayor Tedeschi stated that the BIC met on January 10th. H2M made a presentation which showed streetscapes along Broadway as they were and changes that could be made. NJDOT has contracted a firm to do a pedestrian safety survey on Broadway. The Council should contact the Elmwood Park Council to seek a greater level of involvement and some financial support. Councilmember Trawinski indicated he would be willing to contact Elmwood Park with Deputy Mayor Tedeschi as the BIC liaison. Don Smartt asked to speak since he thought that Deputy Mayor Tedeschi's report was inaccurate. Mayor Weinstein asked him to wait.

Deputy Mayor Tedeschi introduced Wendy Dabney, Environmental Commission Chairperson, who presented her report. Their role is strictly advisory but there are many responsibilities that come under the domain of the Commission. The Commission has divided up into subcommittees who liaison with the different groups in town. There are environmental issues involved in many of the Borough Committees, but there has been very little communication upward. She proposed initiating a means of communicating between committees that wouldn't involve attending another meeting. She suggested reports be circulated from Committees to Commissions and Boards.

Ms. Dabney distributed copies of the Commission's Vision Statement that appears on the website. She concluded that in order to function as a Commission they need to have a Borough employee take minutes at the meeting.

Mayor Weinstein stated that he attended his first meeting as liaison to the Fire Board. He reported that that Fire House #1 invited the Council to come see the new aerial fire truck on January 29th.

Mayor Weinstein allowed Don Smartt to speak about the BIC issues.

Don Smartt, Broadway Improvement Corporation stated the discussion focused on the necessity of reporting back to Council and Elmwood Park Council about the progress made to date on the Master Plan. Some Board members expressed concern about the level of Elmwood Park's financial participation and were reminded that Elmwood Park's Council has not even been asked yet so that this issue was not on the table for their discussion. They need to coordinate a presentation with both Councils. It is the BIC's responsibility to report to the Council. They would like to come back to both Councils in a timely manner. The organization that is operating in concert with both municipalities and running the Master Plan itself needs to be working with both municipalities and its other partners, such as NJ Transit. He stated that the BIC will report back on their progress to both Councils.

Deputy Mayor Tedeschi stated that he recalled the discussion about reaching out to Elmwood Park and noted that Mr. Smartt volunteered to set up a meeting. He explained to Mr. Smart that it was a Council to Council issue and advised him that he would bring this matter to the Mayor's attention, which he did the next day. Mr. Smartt confirmed Deputy Mayor Tedeschi's position on this issue. Mr. Smartt stated the Master Plan is a product of the BIC. When they are ready for a presentation, they will appear before the Council.

Councilmember Trawinski did not feel there was anything preventing them from going as a Council to Elmwood Park and asking them to contribute some funding toward the project. Mr. Smartt clarified that the BIC has not asked Council to do that. They have not asked either town to contribute financially.

It was the consensus of Council that Councilmember Trawinski and Deputy Mayor Tedeschi reach out to the Borough Council of Elmwood Park to discuss the Master Plan and request funding.

Mr. Smartt felt that would be inappropriate. He questioned why they would ask Elmwood Park to fund this project when the BIC has not asked them to fund it. Mayor Weinstein did not want to interfere with BIC but stressed that Council had rights. He suggested that BIC representatives come to the February 6th work session to discuss the issue. Deputy Mayor Tedeschi stated that the business taxpayers of Fair Lawn are funding the entire Broadway corridor, its development and it's Master Plan. There is no funding coming from Elmwood Park. He did not feel they should be paying for Elmwood Park's development.

Smart Growth Grant for Business Districts Abbott Road through Chandler Drive:

Stu Herrmann, Chairman of the Economic Development Corp. explained that in 2006 the Council applied from a grant to look at the railroad stations at Broadway and Radburn and the corridor in between in a study that was going to be contributed to by Port Authority, NJ Transit, the Economic Development Corp. and Bergen County. They did not get that grant. They would like the Borough to apply for a grant for a study that includes Fair Lawn Avenue from Route 208 East to Abbott Road.

Don Smart stated that they submitted two applications. The application for the Route 208 study was funded. A new round of funding is out. He suggested that they amend their original scope to eliminate Broadway and focus on the commercial areas in and around the Radburn train station to implement ideas that are aimed at increasing pedestrian safety, increasing commuter parking around the station and in outlying commuter areas, increasing the attractiveness of the streetscape and focusing on zoning and other strategies that would improve the physical appearance in the district. The deadline for submission is February 29. The maximum amount of the grant is \$50,000.

Route 208 Corridor Study:

Stu Herrmann, Bob Landzettel and Don Smartt were present. Mr. Smartt stated they were present to take the study toward its next logical step particularly in view of the February 6 presentation by Garden Homes concerning the Kodak site. Mayor Weinstein indicated that a tremendous work effort went into the study. It is a good plan although he has questions. He thought it would become model hub.

Deputy Mayor Swain thought it was an incredible plan. She wondered about the range of units. Mr. Landzettel replied that the Planning Board will have to make recommendations. He has heard 15 units per acres. There will be set asides for COAH, moderate income and age restricted to help meet the Borough's COAH requirements. Mr. Smartt added that the plan does not relate to the size of the units or the number of bedrooms. They have tried to maintain the integrity of the commercial element of the plan. There are only two areas of residential and they have tried to reduce the ratios to take into account COAH but it is up to the Planning Board who will calculate the density.

Mr. Landzettel stated that the overall plan gives the suggested uses. They are no departures from the existing zoning. Mr. Smartt stated this plan places more emphasis on public space with a commitment to be more aware of the aesthetics of the public rights of way.

Deputy Mayor Swain wondered where the retail areas would be located. Mr. Landzettel advised it would be a mixed use in the Kodak space which would be a combination use of residential, retail and business uses. It provides places for those who work in the industrial park so they do not have to leave the park. It would provide service type of establishments. Mr. Smartt added that big box stores will be prohibited. Mr. Herrmann added it is not meant to be a destination for retail. They did not want to create a larger impact on Route 208 and Fair Lawn Avenue.

Councilmember Baratta wondered if the businesses owners had received the study. Mr. Smartt stated that the property owners who attended the meeting received it, but not the tenants. It is accessible on line.

Councilmember Baratta questioned the reference to the Nabisco site. Mr. Landzettel replied that Nabisco is the largest industrial tract. One of the purposes of the study is to provide a vision for the future. The planner thought a residential component would provide housing for those who work there. If it is adopted as part of the master plan, it tells the developers not come in with high density. Mr. Herrmann added there were some conversations with Nabisco since the report. Nabisco is not going away. They have made a commitment to stay.

Councilmember Baratta questioned widening Harristown Road. Mr. Landzettel stated the original plans showed an exit on Harristown Road. The final plan eliminated that because Glen Rock would not accept it. It was changed to present the traffic flow without exiting onto Harristown Road. Mr. Herrmann added that they met with the County but did

not get too much information. Mr. Smartt added that this area needs County and State improvements. Everyone is looking at this area. They need to continue the dialog.

Councilmember Baratta referred to page 29 which talks about traffic flow. She wondered if all of the fixes in the report are not a prerequisite before accepting the report. Mr. Herrmann stated that any development that takes place in that area will have to address those issues and provide solutions. Councilmember Baratta stated if traffic problems are not fixed the congestion will be made worse. Mr. Smartt thought each application offers an opportunity to address the problems. The problems are not going to be solved within the next five to 10 years. The zoning elements reflect the needs that the applicant must treat including traffic and safety.

Mr. Landzettel pointed out that it is a State highway and Harristown Road is a County road. They know it is a problem. The overall plan called for some changes in the intersection. They cannot hold up the planning process waiting for the State and the County to fix the problem. NJ Transit's presence at the meeting indicates a willingness to discuss options to get employees into and out of the site.

Mayor Weinstein felt they have to decide what the plan is and then put the pressure on the Department of Transportation, the County and the State to help implement the plan.

Mr. Herrmann indicated that they have not changed the zoning, rather they have added another element to make it more desirable.

Councilmember Baratta stated the report shows different levels of contamination. She wanted to know how they will know if that contamination has spread. Mr. Landzettel indicated that they are monitoring it. It is an ongoing matter. Councilmember Baratta concluded that she liked the plan and the report although she has some concerns.

Councilmember Trawinski thought this plan could be a blue print for other areas of the Borough. He thought it should go to the Planning Board for review and their comments. He felt public hearings should be held and they should include the tenants. They should do that before they get into the redevelopment statute which requires hearings. He thought the Council should also reach out to Nabisco about this report. He would not want to target this area as either a redevelopment or rehabilitation zone without understanding the traffic or environmental issues on the residential area. The overall zoning, plans and concepts were not troubling but he was concerned about the lack of public parks and recreational facilities. It was in the draft plan of January 14, 2007. He wanted to see if it could be woven in.

Councilmember Trawinski stated that although he has recused himself on the Kodak site, he believes this is larger picture issue. If and when it gets down to the specifics of the Kodak site, he will continue to recuse himself.

Deputy Mayor Tedeschi felt it was a fine report, but he expressed concern that the office space market is not a strong one. He did not want to create a plan for which there is no market. Mr. Landzettel stated that it is the market forces that will decide. Rents for

office space are high in New York City so there is a flow of businesses looking to locate elsewhere. Mr. Smartt stated that despite what is happening in the State and the region, the property owners say if they have good space, they are able to attract market rates. Mayor Weinstein wanted to know what percent the residential component would be of this plan. Mr. Smartt stated no more than 30 percent.

Mayor Weinstein wanted to send it to the Planning Board for a public hearing. Councilmember Trawinski suggested a joint session for the public hearing.

Marty Etler, 15-12 Elmary Place expressed concern that there would be no way for the southbound traffic to enter the property other than by coming up onto Fair Lawn Avenue.

Peter Kortirght, 16-24 Ellis Avenue indicated that he would schedule the meeting as soon as possible.

Councilmember Trawinski felt strongly that the EDC needs to talk to the tenants.

Attorney Rosenberg stressed that the process being discussed is a very preliminary hearing and would have nothing to do with the statutory requirements

Environmental Commission:

Deputy Mayor Tedeschi stated that the importance of the Commission has risen so it must become a true resource for the community. The Commission needs secretarial help with the preparation of minutes and they need to have a budget. He felt they need an environmental expert to be available for developers at their cost and to be available to the Commission to answer questions.

Mayor Weinstein felt they should set up procedures as discussed earlier to link the various committees such as Property Maintenance and Open Space. They could be present as an advisory board at the Planning or Zoning Board meetings. He suggested that the minutes of the various committees be submitted to the Municipal Clerk and distributed to the Environmental Commission. Councilmember Trawinski suggested that the individual chairpersons post their minutes on the Borough website so both the Commission and the public have access to them. He suggested that Manager Metzler set up a procedure with the webmaster.

Councilmember Trawinski suggested they choose an environmental expert to work with the Planning and Zoning Board in the same way that planners and engineers are available to applicants for a fee, with the developer paying the fee and not the taxpayers. He had concerns about an open-ended budget for the Commission but would support it if a rationale was established. Ms. Dabney stated that the budget items included things like operating expenses for courses, conferences, professional dues, office supplies, printing and postage. NJEC provides educational road shows that can be presented to the public with the costs shared with other communities. There are membership dues associated with this organization but their mailings can be sent to other boards and the Council. The Commission is responsible for maintaining an environmental resource

inventory but theirs is out of date. Professional help would be required. They are empowered to accept funding and donations and there are grant opportunities to defray expenses. In the past the Commission went to Council with each individual need and they have not spent more than \$500 a year. They should be able to have access to the funds when it is necessary for specialized instances such as the Environmental Resource Inventory.

Councilmember Trawinski did not recall denying any requests from the Environmental Commission. Municipal Clerk Kwasniewski concurred. Councilmember Trawinski wasn't sure what having a budget could achieve that the current process could not. Ms. Dabney recently learned that \$1,000 was set aside for the Commission. She was told that she had to come in for each request. Mayor Weinstein suggested that Ms. Dabney put together a budget and present it to Council.

Manager Metzler stated that the Historic Preservation Commission has made a similar request. They would like to attend conferences but currently there is no provision for funding. He felt they needed to address this issue. Secretarial staff is being used to record the minutes for the Open Space Committee. The Borough's current part time personnel is at the maximum amount of allowable hours, so employees are being paid overtime or comp time to cover the meetings. He suggested hiring a part time person to work the evening hours and reduce overtime. Mayor Weinstein stated the public wanted to know what was going on and wanted to read the minutes on the website. He suggested discussing the idea at the budget presentations. Deputy Mayor Tedeschi suggested the Historical Preservation Commission bring their budget proposal to a future work session. Councilmember Trawinski thought that they should obtain RFQs and RFPs.

It was the consensus of Council that a RFQ be prepared for an environmental expert.

One Side of the Street Parking on Kipp Street:

Mayor Weinstein thought it was time to give the residents some relief. Manager Metzler stated that TSO Franco sent a memo which discussed the pros and cons on each side of the street. If the residents choose to park in front of their homes it would allow high school students and people attending events at the Community Center to park there also. Chief Rose recommended parking on the north side. High school students are currently parking on both sides of the street now.

Mayor Weinstein felt they should restrict parking on one side of the street and he suggested contacting the residents for their opinion.

It was the consensus of Council that parking be restricted on one side of Kipp Street.

Employee Wellness Program:

Manager Metzler stated that the real value of the program was the health care savings to the Borough. He cited a few statistics and added the Borough's insurance consultant

stated that they have sponsored luncheons for employees to encourage them to participate in such a program.

Manager Metzler stated that they handed out the trial offer from Parisi to the employees with Attorney Rosenberg's permission and stated that 26 employees participated in the first weigh in. He noted Attorney Rosenberg's concern that it might appear they were endorsing Parisi's gym and that gyms outside the Borough could claim favoritism. He pointed out that when they awarded the water project to Malcolm Pirnie it was not because they gave the lowest price, it was awarded because they were a Fair Lawn firm. There were questions about merchants participating in the program giving rise to claims of favoritism. He reminded the Council that the Borough actively solicits donations for funding of the annual fireworks, summer concerts in the park and their Veterans and Volunteers Program. Some of the major contributors who support those programs are also supporting the wellness program.

Manager Metzler noted that there was a concern that the trading of the comp time might establish a past practice. He reminded the Council that the Borough Manager comes before the Council annually for the half day for Christmas Eve and New Year's, and is understood by the employees that it is a one time privilege renewed by the Council annually. He suggested that the Council and Attorney Rosenberg make the transfer of comp time a one time opportunity.

Manager Metzler explained how the transfer of comp time would work, stressing that there is no cost to the Borough. He also explained how the program would be monitored. He asked the Council to review the data he presented, with the understanding that this was not a new concept. Employers are doing similar programs throughout the country with good results.

Attorney Rosenberg stated the concerns outlined in his memo regarding potential liabilities to the Borough, arising from the Borough sponsorship of the program, still remain. He suggested that Council weigh the balance between the benefits and the costs arising from potential employee injury. It is up to the Council to weigh the cost versus the benefits. Councilmember Trawinski stated that although he appreciates Attorney Rosenberg's concerns they take risks on a variety of things. The potential risk is well worth the benefits. Mayor Weinstein liked the idea and felt they should try it.

Deputy Mayor Tedeschi wondered how other companies did a wellness program. Attorney Rosenberg stated that other municipalities have weighed the benefits versus the risks.

The consensus was to try to the program.

Dog Park:

Deputy Mayor Tedeschi suggested they provide an outdoor space in a park for people to bring dogs. Manager Metzler stated that resident had come in and inquired about a dog park, he was instructed to reach out to the County and two letters were sent. He

wondered if the County would put a dog park on Saddle River Road. Deputy Mayor Tedeschi stated that he wanted a place in Fair Lawn where residents could bring their dogs to run.

It was the consensus of Council that Manager Metzler research this further.

Request to Forward Information on Acquisition of Borough Manager's Vehicle to the Auditor and the Attorney for Fact Finding:

Deputy Mayor Tedeschi thought the information should be sent to the Borough Attorney and Borough Auditor to get statements of fact.

Councilmember Trawinski thought that they already authorized Attorney Rosenberg to conduct an investigation. Deputy Mayor Tedeschi stated that the request that he put through on December 14th asked that Attorney Rosenberg be the recipient of this information, but did not specify that he take further action. Councilmember Baratta stated that she remembered it differently and thought that the Borough Attorney was to gather information. Deputy Mayor Tedeschi clarified that Manager Metzler was to send the information to Attorney Rosenberg but instead sent it to Council and copied Attorney Rosenberg. Councilmember Trawinski thought they authorized the Borough Attorney to acquire the documents for the Council's consideration. He asked Attorney Rosenberg if the documents provided satisfied the responsibility that he was charged with by Council.

Attorney Rosenberg stated that there was another supplemental request for additional documentation made by Deputy Mayor Tedeschi with respect to the auditor, which was now being considered by the Council. He has received all the documents and noted that Council was copied. Manager Metzler showed the picture of his car that appeared in the Community News. He asked if Council now believed that this was the car that was purchased based on the documents they received. Council agreed. Attorney Rosenberg stated that the Council needed to understand that these agenda items relate to process and not people. He reminded them not to discuss individual people.

Councilmember Trawinski did not understand the point of Attorney Rosenberg's comments as they were talking about the Borough Manager. Attorney Rosenberg stated there had not been adequate Rice notice. He felt that Manager Metzler and anyone discussed needed to receive a Rice notice. There was no Rice notice on the issue having to do with people or issues at all. That was not the agenda item as he understood it. Manager Metzler stated he would not mention names.

Manager Metzler stated that he has refrained from talking to any reporters, clearly indicating that he would exercise his duties as Manager to answer questions from the Council at a work session. He read a portion of the December 14th memo from Deputy Mayor Tedeschi to Attorney Rosenberg that stated "it is my understanding that this vehicle may have been financed through the BCIA. If that is so I suggest that the following documentation be obtained from the Borough, the BCIA or any other source". He asked Attorney Rosenberg if he could now state whether this vehicle was funded through the BCIA. Mayor Weinstein did not feel they were there yet. He suggested they

take a consensus to move forward and send all documentation to the Borough Auditor, as an independent auditor for their opinion and fact finding.

Manager Metzler stated that the guidelines he followed for reviewing disciplinary type of incidents with Borough employees was clearly defined. He takes those guidelines very seriously as he is dealing with an employee's personal and professional reputation. In this case they have allowed for the gathering of documents, but there has been no discussion on what those documents mean and Deputy Mayor Tedeschi has asked for additional information. He thought that administration and staff would be given the opportunity to respond to these questions. He felt that no one looked at the documents that were gathered because if they had looked at them, it would be clear that the purchase order charged to the BCIA was for a black and white Crown Victoria. The simple answer to the question of whether or not his car was funded through the BCIA was no, and felt it was not necessary to go to fact finding to answer that question. He felt the answer was owed to the public attending the work session. He noted that a reporter was also present and felt they should answer some of the questions now.

Mayor Weinstein stated that he was not ready to discuss this issue or ask questions tonight. He stated that the agenda item was to determine if the information should be sent to the Borough Auditor for their opinion.

Councilmember Baratta asked for clarification as to the purpose of the fact finding and inquired if it was to review the Borough's policy with regards to purchasing vehicles or to consider whether a letter of reprimand should be placed in the Manager's file. She has reviewed the documents and does not feel it is an issue as to where the money came from. She noted that Borough Managers in the past have had cars and asked if they no longer wanted Managers to have cars. She felt this was a blemish on the town and did not like the fact that a reporter was there to only report on the car and not on any of the positive issues that had been discussed that night.

Mayor Weinstein stated that he wanted the facts reviewed by a neutral auditor. He felt it was important for the public that the explanation come from an outside, independent source who could also advise if policies were broken. Councilmember Baratta pointed out that the request was for a report from the Borough Attorney and the Borough Auditor. She asked if they were changing the scope of this request. Mayor Weinstein stressed that he did not want a councilmember deciding the conclusion. Deputy Mayor Tedeschi informed Councilwoman Baratta that they were looking for answers to all of the points that she outlined.

Councilmember Baratta was confused as to why they were not discussing it as a Council as they had answers from the Police Chief, the CFO and the Manager. She felt that Manager Metzler should be given an opportunity to discuss these issues with them. Mayor Weinstein stated that he wanted an objective interpretation. Councilmember Trawinski questioned the objectivity of the Borough Attorney and Auditor as they were political appointees. He suggested they use an outside independent person instead of the Borough Auditor.

Mayor Weinstein suggested they submit the documents to the Auditor for review. Councilmember Trawinski inquired if there were any costs involved with this process. Mayor Weinstein confirmed that there was. Councilmember Trawinski wondered how he knew there was a cost involved as they had never discussed this as a Council. Mayor Weinstein stated that the cost would be between \$800 and \$900. Attorney Rosenberg stated that a review would be within his retainer.

It was the consensus of Council that the documents regarding the purchase of the Manager's car be given to Attorney Rosenberg and the Borough Auditor for review, with Councilmembers Baratta and Trawinski dissenting.

Manager Metzler stated that based on the DMT statement he thought any follow up questions into this investigation would have come from the Mayor and Council. On January 10, 2008 the Deputy Mayor submitted follow up questions in writing through the Municipal Clerk to me, the CFO and one additional employee. He wanted to know when the Council met to prepare the questions, who attended the meeting and was it sunshined.

Mayor Weinstein recommended that the information is sent immediately to the Borough Auditor. The Borough Attorney should immediately review it in its entirety and come back as soon as possible, possibly even after the meeting next week. Then the administrative staff will have the opportunity to discuss it.

Deputy Mayor Tedeschi indicated the Council did not approve the car in the budget. Councilmember Trawinski concluded that he believed that they should resolve this issue as a Council.

Food Handler/Minor Site Plan Applications:

Deputy Mayor Swain stated that the Planning Board has recommended that when new business owners purchase an existing business with only a name change they not be required to go through the entire application process.

Peter Kortright, Planning Board Chairman, 16-24 Ellis Avenue stated that the Board found that 70% of the applicants were only requesting a name change, but were required to pay escrow and application fees and attend a hearing. The Board made three conditions which would require the complete process which included either a change in cooking method, additional seating or physical changes to the interior.

Councilmember Trawinski stated the change reverts back to the ordinance prior to the situation several years ago with the Kenny Rodgers restaurant. He was glad to see the change. He questioned if they could have a site plan trigger if there is a change in cooking method or new food use. He did not think they could take away the discretion they were about to give as a zoning issue for those two reasons. He felt that they could do it for reasons two and three. He would like to see them be able to do it for one and four but he did not think it was within the scope of the zoning power. Attorney Rosenberg agreed.

Councilmember Trawinski suggested that in the future they review the ordinances that trigger a site plan application.

It was the consensus of Council that Attorney Rosenberg draft the ordinance change to include a \$25 fee for determining whether or not a site plan application is needed.

Defining Local Flood Areas:

Councilmember Trawinski thought the Engineering Department should look at several potential flood areas within close proximity to streams and other water sources. Although it is within the jurisdiction of the DEP to regulate some of the encroachment, he knows of municipalities such as Elmwood Park that have defined local flood areas and imposed local Zoning regulation on those areas. He suggested they do a review in consultation with the Environmental Commission and the Open Space Committee.

Mayor Weinstein expressed concern about the value of homes if an area is declared to be a local flood area. Councilmember Trawinski stated that was a concern of his as well and he suggested that Attorney Rosenberg inquire if that was an issue in Elmwood Park. He did not think it was.

It was the consensus of Council that Attorney Rosenberg be authorized to look at this issue and report back to the Council in two months.

Fair Lawn Requesting to be Included as a Test Site for Traffic Cameras:

Councilmember Trawinski stated that Governor Corzine signed a bill for a five year pilot program permitting municipalities to install cameras at traffic intersections that would automatically identify and ticket owners of vehicles that run a red light. The vehicle owner is issued a ticket which shows a digital image of their car in violation. Points are not assessed because it cannot be determined if the owner was driving the car.

Councilmember Trawinski stated he was concerned about privacy issues, but noted that Fair Lawn Avenue and Plaza Road was already on camera in real time online at Channel 12. Mayor Weinstein stated that Chief Rose had expressed concerns about this before the bill was approved. He suggested that Manager Metzler meet with Chief Rose and Traffic Safety Officer Franco for their opinion. He wondered if the cameras were issued free of charge as part of the program.

Deputy Mayor Tedeschi inquired if the Borough was responsible for maintaining the cameras. Councilmember Trawinski did not know but agreed it was a good question as it would not make sense if the burden outweighed the benefit. Albuquerque collected \$4.2 million dollars in four years. Manager Metzler noted that a car running a yellow through a yellow light as it turns red would be caught. It is very effective.

The consensus was for Manager Metzler to explore this idea.

Policy Decision – Borough Manager to Notify Mayor and Council as Potential Problems/Issues Arise:

Councilmember Trawinski stated that at the last Council Meeting Manager Metzler had agreed to that policy. He felt there should be a written policy. Mayor Weinstein agreed. He noted that they are notified about events through phone calls and e-mails. Manager Metzler stated that he always reaches out to the Mayor if he receives notification about something minor to ask if Council should be notified. Last Tuesday he was briefed about a confidential issue that he discussed with the Mayor. It was agreed that that it would not be shared because it was vital that it remain confidential.

Councilmember Trawinski did not have a problem with whoever was Mayor deciding if it should go to the Council. Manager Metzler stated that he has the same policy in place with the Department Heads, who relay information to him when a situation occurs. The instruction to the Department Heads is that he would like to be informed when there is something out of the ordinary.

The consensus was to reduce the current practice to writing.

February Meeting Dates:

Councilmember Trawinski stated that he cannot attend the two Wednesday meetings in February due to prior commitments, although he understood why the date was changed. Councilmember Baratta had a conflict with the February 13th meeting and noted there were many committee meetings that evening. Mayor Weinstein had a conflict with Thursday evenings. Municipal Clerk Kwasniewski suggested they cancel the February 13th meeting and have a work session, followed by a regular meeting on February 19th. She also suggested switching the February 6th work session to Monday, February 4th.

The Council concurred.

Rotary Clock:

Manager Metzler stated that the Fair Lawn Rotary Club approached the Council in 2005 about installing a four sided clock in front of the Municipal Building. The minutes from July 12, 2005 indicate there was a consensus, but Rotary withdrew the offer due to Hurricane Katrina. Rotary has expressed an interest in purchasing the clock again. He noted that the 2005 discussion took place before Officer Collura's memorial was installed. Council had expressed concern about a clock being placed on the front lawn and there was a suggestion to place it at the Library. He stated that Deputy Mayor Swain recalled concerns about the placement of the clock when she was on the Library Board. He read through the Library Board's minutes and detected concern that the cost of the electrical work and the pouring of the footing would be done at the Borough's expense. The Board also expressed concern as to who would be responsible for the operating and maintenance costs. He noted that the clock would have a five year warranty. If there was still interest in proceeding with the clock, he will ask Rotary make a presentation to the Library Board to see if there is a consensus on their part.

Deputy Mayor Swain stated that the Library Board had concerns that a large clock would block their sign. The Board was also concerned that there wasn't enough room as they had landscaping and a walkway. Deputy Mayor Tedeschi stated that the height of the clock to the center of the clock is 12 ½ feet. Municipal Clerk Kwasniewski did not think the Rotary would be adverse to listening to suggestions for other locations. They might try to do it as joint project with the Sunshine Rotary as the cost would be \$25,000. Deputy Mayor Swain stated it looked like an attractive clock and would be a good landmark when giving directions. She suggested they place the clock in an open space in a park and place benches around it so that it could be a meeting place. The clock is a substantial piece and should have land around it. Deputy Mayor Tedeschi thought the clock would look nice in front of a building also.

It was the consensus of Council that Municipal Clerk Kwasniewski discusses this issue at the next Rotary meeting and report back to Council.

Funding Assistant Prosecutor:

Manager Metzler stated that Council appointed a new assistant prosecutor without establishing the fee. The going rate is \$200 per session. Based on past history he feels an assistant will be needed for roughly six sessions. He suggested they fund an amount not to exceed \$1,400. Deputy Mayor Tedeschi inquired if the regular prosecutor was paid when he was absent. Manager Metzler explained that the Borough Prosecutor was paid a flat fee of \$7,500. The prosecutor's brother used to be the assistant and they would cover for each other.

The consensus to include \$1,400 in the budget failed with Councilmember Baratta, Councilmember Trawinski and Deputy Mayor Tedeschi dissenting.

Manager Metzler noted that at last year's budget presentation it was stated that even though the number of summonses issued by the Police Department would decrease, there would be a substantial increase in revenues. He felt that revenue would sustain the payment of \$1,400 a year for an Assistant Prosecutor. Councilmember Trawinski suggested dividing the fee of \$7,500 by the number of court sessions and pay per session regardless of which prosecutor was present. Manager Metzler stated they would have to change the salary ordinance. The Borough Prosecutor would have to agree to the change as he has already agreed to the terms.

It was the consensus of Council that \$1,400 be budgeted for the Assistant Prosecutor for one year with the understanding that this issue be addressed next year.

Public Comments:

Harvey Rubenstein, 28 Rutgers Terrace inquired if the minutes from September were corrected. Municipal Clerk Kwasniewski stated that the minutes were corrected weeks ago and sent to the Webmaster. He noted that Mr. Smartt spoke about creating a master plan and asked Attorney Rosenberg to address that issue as it was his understanding the Council and Planning Board create the master plan. Attorney Rosenberg stated that he

did not think Mr. Smartt's reference was to the Municipal Master Plan under the Land Use Law.

Mr. Rubenstein inquired if the Manager added a car to the vehicles and did they replace a car so that it was a wash. Mayor Weinstein reminded him that was not the issue. Manager Metzler stated that his 2001 Impala went to Emergency Management. Emergency Management retired a 1993 Chevy Suburban which is going to auction. Mr. Rubenstein inquired if the car could be referred to as junked because it had outlived its usefulness to the Borough. Manager Metzler agreed that was correct.

Ann Dinardo, 13-06 Second Street expressed concern about the traffic issues on Route 208. She also thought the wellness program should include nutritional counseling.

Ms. Dinardo thought they should settle the issue about the Manager's car and move on. She wondered why the Manager chose a car with a hemi engine that would consume a lot of gas when people were supposed to be going green. Manager Metzler stated that all cars, with the exception of Police cars fall inside the CAP. There was money budgeted last year which was cut in order to come in under the CAP. This year there was \$63,000 in the budget that had to be cut.

Ms. Dinardo stated they were now considering installing a clock and she was not sure they needed to be burning more electricity.

Bob Wallace, 11-06 Alexander Avenue felt that they needed to establish a southbound traffic solution for the Route 208 plan. There will be increased traffic, accidents, injuries and possible fatalities. He noted that it was a 55 mph road.

Mr. Wallace thought that the Council should have come together regarding the Manager's car, done an investigation and reached a conclusion without embarrassing the town in newspaper articles. He felt Manager Metzler was one of the best Managers and did not like that his name was sullied. He did not like newspaper reporters hearing them argue and felt this situation was an embarrassment to the town.

Cheryl Cashin, 1 Deerfield Place agreed with Mr. Wallace's comments about Manager Metzler. She wondered where the children would go to school if new apartments were built in the Route 208 corridor, as Westmoreland was a small school. She felt these issues should be considered before housing was built. Mayor Weinstein stated there could be age restricted housing and noted that they had not gotten that far yet.

Ms. Cashin stated she gave Deputy Mayor Tedeschi information on dog parks as there are three in Hoboken. She wondered if they had considered a digital marquee for the Municipal Building. Manager Metzler explained that there is \$45,000 for that type of sign in the Capital Budget but it still has to be reviewed by the Council.

Harry Poster, 13-10 Second Street expressed concern that money was being wasted on overheating the Municipal Building. Manager Metzler explained the problem and the steps he is taking to resolve them.

Felice Koplick, 6 Reading Terrace thanked Manager Metzler for mentioning the requests made by the Historic Preservation Commission. She thanked the Council and Deputy Mayor Tedeschi for agreeing to have the Commission present a budget, and asked if they could be scheduled for February 19th. Mayor Weinstein suggested she submit the budget to Manager Metzler and he will include it in the budget line. The Commission can come when it is reviewed by the Council.

Sergey Shevchuk, 15 Gurney Terrace stated that he was present with several members of the Badminton Club. He read a letter that was sent to the Mayor and Council explaining the history of the Club and outlining his concerns about the management of court time and the Club's need for additional time. He stated that he felt retribution from the Recreation Department in the form of not being allowed any additional time to play after 11:30 a.m., even though the court is empty for an additional 30 minutes.

Manager Metzler stated that he followed up with Superintendent Graff, who indicated that there will be a two hour slot available Monday mornings beginning in April. He stated that he asked Superintendent Graff to hold open time slots as he wanted to schedule times for Borough employees also. Manager Metzler stated that they did a test with tape to mark the court, but the tape pulled the finish off the floor. He noted that Superintendent Graff was receptive to the request and had indicated that he would reach out to Mr. Shevchuk in a few weeks.

Deputy Mayor Tedeschi inquired as to how many members were in the club and if the paid dues or paid for court time. Mr. Shevchuk explained that there were 30 people who showed up to play. He noted that according to the Community Center rules, Fair Lawn residents could play for free. When the club was established it was discussed that non-residents would be allowed to play for a fee of \$150. He felt that people would still come if a court fee was charged in addition to the non-resident fee. He extended an invitation to play badminton with the Club.

Vitaly Shevchuk, 13-34 B Sperber Road stated that badminton was a healthy game. He stated that the first badminton club was established in New York City in 1879. The club needs a black or dark green back screen so that the members can see the shuttle cock. He informed Superintendent Graff that two screens could be obtained for \$490. He also asked that the windows be closed in the morning.

Lisa Yourman, 66 Nottingham Road agreed with previous comments about Manager Metzler, and felt he maintained an open door policy throughout his many positions in the Borough. She noted that people make mistakes in life. She felt it wasn't right to spend so much time on the issue of the car and cause embarrassment to the town. She felt they should move on to more important things and inquired when the Engineering evaluation for Glenfair and Jasper Roads would be done.

Ms. Yourman inquired if they had received any feedback about the Fair Lawn Avenue Bridge which was discussed back in November, 2007. She noted that the ADA Committee did not feel there were enough handicap parking spaces at Warren Point School for the upcoming February 5th primary. Four handicap spaces are required.

Manager Metzler stated that they did not receive a response from the Passaic County Freeholders with regards to the Fair Lawn Avenue Bridge. He did not feel that this was reason for concern and was certain they would be notified when a decision has been reached. The condition of the bridge is to their advantage.

Ms. Yourman inquired about the Engineering study. Manager Metzler stated that the funding, as estimated by the Engineer has been included in the 2008 budget, although it is up to the Council whether or not the funds would be cut.

Mikhail Makarovsky, 15-18 11th Street stated that he uses the parking lot next to Route 208 everyday and there is not enough parking for residents. He noted there is a dedicated area for non-residents. He suggested they line the parking spaces to allow for more parking. Councilmember Trawinski stated that they looked into this fourteen years ago. If they pave and stripe the lot and put the appropriate aisle spaces they would actually lose spaces. The lot is leased from NJ Transit for \$1 a year and they have the right to take it back at anytime. They could spend money improving the lot only to lose it.

Closed Session:

Upon motion by Deputy Mayor Swain and a second by Councilmember Baratta, the following closed session resolution was unanimously adopted at 11:15 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 Pending Litigation – Yirce; Personnel – Gwen Wolfish Indemnity, ADA Committee, Borough Gardens Committee, Youth Advisory Committee; Labor Negotiations – Department Heads, Supervisors; Contract Negotiations – George Street Lot.

WHEREAS; these matters are ones which permit the exclusion of the public from such discussions; and

WHEREAS; minutes will be taken during this closed session and once the need the confidentiality no longer exists the minutes will be available to the public.

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

Mayor Weinstein reconvened the meeting at 11:40 p.m.

ADJOURNMENT:

Upon motion by Councilmember Baratta and second by Councilmember Trawinski the meeting was adjourned at 11:40 p.m.

Respectfully submitted,

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

The undersigned have read and approve the foregoing minutes.

Mayor Steven Weinstein

Councilmember Jeanne Baratta

Deputy Mayor Lisa Swain

Deputy Mayor Joseph Tedeschi

Councilmember Ed Trawinski