

## WORK SESSION OF MAY 6, 2008

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

**PRESENT:** Mayor Weinstein, Deputy Mayors Swain and Tedeschi, and Councilmembers Baratta and Trawinski

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

### **Review of Tentative Agenda (5/13/08):**

Municipal Clerk Kwasniewski stated she would like to add a resolution for Refund of Overpayment of Taxes.

### **Council Liaison Reports:**

Deputy Mayor Swain stated that she, Councilmember Baratta, Councilmember Trawinski and Manager Metzler had just returned from welcoming home Specialist Ben Alpart, who served in Iraq. She noted that another soldier had returned home last Friday. It was a heartwarming experience to see soldiers return to their families.

Deputy Mayor Swain stated that the Planning Board discussed a new congregation located across the street from the Fair Lawn Jewish Center. The main issue was parking. Arrangements have been made with the Board of Education to share parking at Fair Lawn High School. No final decisions have been made. She will keep the Council updated.

Councilmember Baratta stated that over 100 trees will be planted on County roads. Ten to 12 residents have refused a tree.

Councilmember Trawinski stated that he, Mayor Weinstein and Councilmember Baratta attended the ground breaking ceremony for the Ambulance Corps. It was an honor and a privilege to speak with Specialist Benjamin Alpart. It is easy to forget how young the soldiers are. He was upset that the newspapers did not feel these events were newsworthy.

Councilmember Trawinski stated the EDC has sent notices announcing their public meeting. Questions would be welcomed. He will attend the meeting as an observer. He intends to visit the smaller businesses on Maple Avenue and Saddle River Road to hear their thoughts.

Deputy Mayor Tedeschi stated that the Environmental Commission was meeting tomorrow.

Mayor Weinstein stated that the Recreational Facilities Committee toured Borough fields on Saturday. He felt a brochure on the parks should be included in the Welcome Packet.

Mayor Weinstein stated that he visited Joseph's Salon on a Saturday morning and suggested Mr. Casa speak with his neighbors. They are still waiting to hear from the BIC regarding cooperative parking. Manager Metzler stated that he met with Mr. & Mrs. Rypkema, who live on Grunauer Place. The majority of residents would be satisfied with allowing parking on one side of the street all day. He spoke with Our Savior Lutheran Church who confirmed that they have been in contact with the BIC. They will contact the Borough after the Church Council meets on May 27<sup>th</sup>. The Church was concerned about customers using their lot when there was a funeral. They already offer free parking for employees of several businesses that reached out to them.

**Presentation by North American Power Partners:**

Deputy Mayor Swain introduced Paul Finbow.

Mr. Finbow presented a revenue stream that many municipalities, colleges and schools have been using. The whole principal comes from the electricity grid. The power companies pay their major customers to turn off power on one or two peak days a year when the grid is in jeopardy. Two years ago the Federal Government regulated the signing up of smaller businesses and companies to participate in demand response. These companies are paid to be on call to turn things off, with the idea that a watt saved is a watt produced. The payments from this program are equal to the cost of electricity.

Mr. Finbow received a report on the generators available in town that could be turned off once or twice a year. They would be paid year round for being registered and being available on short notice. The generators are in different locations and the logistics of tying them in together makes it complicated. The biggest generator is 200 kilowatts. They would need to install a meter costing \$4,500. The Borough would not be charged, but the fee would be recouped from the income generated by this program. He would like to see the Borough participate but noted that their generators were less than the 500 kilowatts required to make the program worthwhile. There are no risks, no investment and no penalties if they cannot comply when there is a call. Normally they would be assessed a penalty, but North American Power Partners has established an escrow fund for two years to absorb that risk. He wanted to do further evaluations on the buildings in Fair Lawn and the loads handled by the generators.

Deputy Mayor Swain asked if it would be possible to join with the Board of Education to increase the minimum wattage. Mr. Finbow stated he is looking at ways to connect assets together so that a meter is not required at each location. Currently he installs a smart meter, which allows them to analyze energy use on a minute interval. This allows them to pay for the 15 minute interval of power reduction. Other programs require a turn off of two to six hours. It was possible that the municipal building's air conditioning could net enough wattage to be shut down for a half hour during the summer.

Mr. Finbow presented a list of participants, including the Atlantic City MUA, Troy Hills School District and Newark Public Schools. Mr. Finbow concluded that he would need to convince North American Power Partners to allow the Borough to participate in the program.

Councilmember Trawinski wanted to be sure that it was not a cost shifting program. Mr. Finbow stated they are merely stabilizing the grid and avoiding blackouts. The League of Municipalities has endorsed their program.

Mayor Weinstein thanked Mr. Finbow for his presentation.

It was the consensus of Council that Mr. Finbow researches the individual generators.

Manager Metzler assumed that these were contracts for the purchase of electricity, which were exempt from public bidding. He asked for permission to investigate this further. Mr. Finbow stated that they generally ask for a five year commitment. It will take a year to start making money. They have started inserting a clause that companies can get out of the contract after two years.

### **Cooperative Parking Plan for River House Condominiums:**

Attorney Rosenberg stated that Jeff Kantowitz, the attorney for an applicant before the Planning Board, was seeking to construct a mixed use project on River Road near Chase Bank. Mr. Kantowitz had asked if the Borough would be willing to enter into a cooperative parking agreement under the cooperative parking ordinance. The ordinance did not require them to give an agreement to any applicant or property owner; it was Council's discretion.

Jeffrey Kantowitz, Esq. presented a conceptual drawing of the proposal. They have two alternatives. They can try to reach an agreement with the neighboring property. The grand scheme envisions using the entire back of the properties from the Belferman Building all the way up to Chase Bank so that a customer can drive in back and park anywhere. He is currently before the Planning Board with a proposal for commercial use on the bottom and residential use on top. They are required under the ordinance to provide 57 parking spaces. They testified before the Planning Board and asked to use RSIF standards, which would only require 43 spaces.

Mr. Kantowitz hoped to enter into an agreement for several of the available spaces in the George Street lot. Although the ordinance calls for 57 spaces the site can function with less. They feel they are entitled to some variance relief. He asked the Borough to be a partner with them by entering into a cooperative parking agreement. They developed a plan for the rear of the building that, if opened up, would allow someone to go from the back of their lot into the Chase Bank lot.

Mr. Kantowitz stated there would be 17 residents. There is a Mount Laurel Housing component that needs to be addressed under the ordinance. They will reserve designated parking spaces for the tenants. They can only provide as many parking spaces in back as can be engineered. If they enter into an agreement for parking at the George Street lot they would pay a fee to the Borough to utilize the spaces. If he leases spaces 62 and 63 and another store leases 21 and 22, he wasn't sure if that lease entitles him to use spaces 21 and 22 and vice versa. Councilmember Baratta would like

to know the answer to that question. Mr. Kantowitz clarified that if the spaces are designated behind the stores they would have to be reciprocal.

Councilmember Trawinski inquired if the COAH obligation was a result of the overlay zone, when the third story was allowed. Mr. Kantowitz stated that COAH has adopted new rules that take effect June 2<sup>nd</sup> and a new amendment to the rules that becomes effective in September. He did not feel it was based on the overlay. Councilmember Trawinski stated that if the Planning Board approved this in a form that resulted in a COAH obligation, it was essential that Attorney Lustgarten and Cheryl Bergailo be informed.

Deputy Mayor Tedeschi inquired if it would be possible to have more than the minimum number of affordable units. Mr. Kantowitz questioned whether the Planning Board could ask for, as a condition of approval, a greater COAH obligation considering the new rules that were just adopted.

Councilmember Baratta inquired if they were requesting 43 parking spaces. Mr. Kantowitz clarified that 57 spaces were required and the 25% reduction would bring the number to 43. They currently have 41 spaces in the rear of the building. There will be reserved spaces for the residents. Councilmember Baratta inquired if the business south of the property was involved in cooperative parking. Mr. Kantowitz was not aware of that. He noted there was an application before the Planning Board for redevelopment of that property. The Borough's ordinance states that he could only enter into a cooperative parking agreement with another business for their extra spaces.

Councilmember Baratta felt it was feasible that someone visiting a business establishment across the street could use his parking spots, as only 34 spaces would be marked for residents. Mr. Kantowitz agreed. Councilmember Baratta thought Chase Bank had a parking agreement with the tenants across the street for overnight parking only. Manager Metzler stated that the residents have permits and must park in a designated area. The Borough has made 25 spaces available as cooperative parking for this specific situation. If Council approves, five or six spaces could be leased. They would pay to use seven of the spaces in the common area between the George Street lot and Chase Lot. They are not reserved spaces.

Attorney Rosenberg stated that the ordinance was clear that the use of cooperative parking spaces owned, operated or maintained by the Borough may be used by an applicant in its calculation for required off street parking. The spaces themselves shall not be guaranteed for that applicant's exclusive use and may be used for general parking as required on a first come, first served basis. The Borough reserves the right to enter into multiple leases for the same cooperative space as the spaces shall be used at different times for different needs by different individuals.

Mr. Kantowitz thanked the Council, Manager Metzler and Attorney Rosenberg.

Deputy Mayor Swain stated that she believed in shared parking. People will frequent businesses if they know they can find parking. Deputy Mayor Tedeschi asked Mr.

Kantowitz if his client would be obligated to reduce building space to create more parking spaces if the Planning Board denied the variance. Mr. Kantowitz stated his client might walk from the job. Deputy Mayor Tedeschi wanted to know the value of these spaces. When the lot was purchased by the Borough it was intended for cooperative parking. He noted that Mr. Kantowitz's client would be the beneficiary of having those spaces in the lot, and the spaces have value. Mr. Kantowitz stated that was part of the standards.

Councilmember Trawinski stated this was what they envisioned when they did the master plan for River Road and adopted the common area parking plan. He would support this. It saves the business districts and makes them vibrant. They worked hard on the master plan and now it was time to implement it. He wondered if they could put some pressure on Mr. Kantowitz and the adjacent property owner to talk to each other to see if they have exhausted all reasonable efforts. They may acquire extra spaces with the elimination of an ingress or egress. He suggested they ask the Planning Board to implement discussion between the two parties. Mr. Kantowitz stated that he has spoken to the other property owner. Their ingress and egress is already shared, but he will have his engineer research this further.

Mayor Weinstein felt if parking can be opened up from one business to the next, it will gradually move down the street. Mr. Kantowitz expected the Planning Board to ask if they would be amenable sometime in the future if there is a basis to offer an easement to more southerly properties, provided issues of insurance and engineering can be worked out.

Mayor Weinstein wanted to know if there were any standards under COAH to obtain a higher obligation. Councilmember Trawinski stated that the State has pre-empted it. The plan that they put into place in round two is generating affordable housing units. Mr. Kantowitz stated that if they show this overlay zone is producing affordable housing, it may elevate the Borough's evidence that things are working.

Councilmember Baratta agreed with the vision of cooperative parking extending all the way up and down River Road, but she was concerned that it was not working in some areas. They had discussed turning the area by the Fire House into a parking lot, but the businesses were not interested in renovating their properties without financial help from the Borough. There have been other problems as well.

Mr. Kantowitz stated they did everything they could in past projects to get businesses to agree to cooperative parking but several owners would not agree. They will not have a permanent fence near Chase Bank's border so that a corridor could be created in the future.

Attorney Rosenberg explained that Mr. Kantowitz was seeking a consensus from Council so that a letter could be issued for the Planning Board application, indicating that Council was interested in entering into a parking agreement. Mr. Kantowitz needs this letter if he wanted to avail himself of the lower parking requirement of the ordinance and will ultimately need a resolution as well. Councilmember Baratta asked that the letter

indicate that Council only discussed parking issues and that the letter should not be interpreted as approval of the project.

It was the consensus of Council to allow the leasing of a maximum of seven parking spaces at the George Street lot.

**Presentation by Historic Preservation Committee on Historic Designation:**

Councilmember Baratta stated there was an ordinance in Paramus which amended their Borough Code and designated certain houses and/or properties as historically preserved. There were no stipulations as to what could or could not be done with the properties.

Felice Koplik, Chairperson of the Historic Preservation Commission explained that local designation was desirable because the legal power to protect historic properties lies with the local government. Councilmember Baratta asked if the owner of a designated house would be allowed to do an addition on their home. Mrs. Koplik stated the owner would need to appear before the Zoning Board and the Historic Commission would give their opinion. Councilmember Baratta wanted to be sure that historical designation did not cause undue burden on the homeowner.

Mayor Weinstein stated that Assemblyman Felice visited the owners of the Vander Beck property to ask them to keep it as open space, but the owners said no. He did not want to place an undue burden on the owners, and was concerned as to who decided if work could be done on a home. Councilmember Trawinski stated they would address that in the ordinance. The proposed draft, which they rejected, named the Commission. He felt their role should be advisory only. Councilmember Baratta confirmed that any requests would need to go before the Zoning or Planning Board.

Deputy Mayor Tedeschi asked how a property received historical designation. Councilmember Trawinski explained that the property should already be reflected in the historic element of the master plan. He believed the Naugle and Vander Beck properties were. Upon recommendation of the Historic Preservation Commission, Council would need to list them in an ordinance that designates them locally. He suggested they notify the property owners first and hear their input. It should be made clear that the Commission was advisory only, but the Planning and/or Zoning Board would seek their input before making the final decision. He felt the Zoning and Planning Board would gain respect for the Commission and defer to their decisions.

Councilmember Baratta asked if this designation impacted on a home's value. Councilmember Trawinski stated that it raised the value in some municipalities. Mayor Weinstein wondered what would happen if the owners of the Vander Plaat property were against this. Councilmember Trawinski stated that Council would need to make a decision as to whether they wanted to proceed. Councilmember Baratta felt it was important to save these remaining houses.

Manager Metzler asked what would happen if the Vander Plaat house had a historical designation, was purchased so that it could be torn down to build a new home and the

owners did not need a variance because of the size of the property. Councilmember Trawinski stated that the historic designation under the ordinance would require the property owners to go to the Planning and Zoning Boards before tearing it down. Mayor Weinstein stated they also needed to respect the rights of the private property owner. Councilmember Trawinski stated they need to create a layer that helps contribute to the preservation. Mayor Weinstein felt the Naugle House was easier because they were at that stage already. The owners of the Vander Plaats property were not ready to sell the property for open space. He wondered if they should force the issue or listen to their arguments.

Deputy Mayor Tedeschi stated that if a historic facility was required to use a historic architect that would incur additional costs. Councilmember Trawinski agreed. Homeowners do this because it contributes to the value of their home. There are people who are attracted to historic properties. Deputy Mayor Tedeschi wondered how they respond to the homeowner who stated that he did not purchase a historic home and it was now being designated as one. Councilmember Trawinski stated they will listen and make a judgment.

Deputy Mayor Swain wondered if the owner of a historic home would have expensive requirements to bring it up to code when the house was sold. Ms. Koplik stated that the State code was less strict in term of historic buildings. The homeowner would not have to meet all the typical requirements of a single family home. Deputy Mayor Swain did not feel it was fair to force extra qualifications on the person who owned the house before it was designated

Jane Diepeveen, historian felt it would be good to have mandatory referrals.

Mayor Weinstein stated that he would like to see a draft of the ordinance with requirements, including the process of asking property owners if they are interested in receiving the local historical designation. He was not willing to force homeowners to accept historical status. Deputy Mayor Tedeschi clarified that each residence considered for this designation must have already appeared on a State of National registry. Ms. Koplik confirmed that.

It was the consensus of Council that Attorney Rosenberg prepares a draft ordinance.

### **Discussion of 24 Hour Businesses:**

Attorney Rosenberg presented a legal analysis on the possibility of extending the 24 hour business limitations. He presented a Borough Zoning map that highlighted the areas that would be affected by an extension of operating hours. Retail establishments are permitted in five different zones: B1, B2, B3, B4 River Road and B5 River Road. They had the ability to enact time and place restrictions on hours of operations within what is called "neighborhood" areas.

Attorney Rosenberg stressed that it was important to discuss where those areas were located, ascertain the impact on immediately adjoining residential uses and show there

wasn't an absolute prohibition throughout the Borough of all retail establishments. The ordinances with prohibition throughout the municipalities, such as the Edison vs. 7-Eleven, were decided by the courts to be overbroad and overreaching and not specifically tailored to enhance the public health, welfare and safety. The State Supreme Court made it clear in the Quick Chek case that when businesses immediately abut neighborhoods a restriction on hours of operation would be constitutionally supportable. Not all retail establishments immediately abut residential uses. Many are bisected by streets and intersections. He suggested they obtain input from the Zoning Officer and the Chamber of Commerce. It is critical that they draw a distinction between retail establishments that don't immediately abut residential neighborhoods and those that do.

Attorney Rosenberg thought that Council was also seeking residential use, not residential zone. That is an important distinction. There may be businesses that abut a residential zone, but they are not a residential use.

Mayor Weinstein suggested they ask the Zoning Officer for his analysis and follow up on their request for input from the business entities. Attorney Rosenberg stated that this amendment would also have to be referred to the Planning Board. The Assistant Zoning Officer had sent a letter to Council encouraging them to act before it became a problem.

It was the consensus of Council that they obtain input from the Zoning Officer, business corporations and Planning Board and that Manager Metzler request the help of the Tax Assessor in defining the lot and block numbers of the areas.

#### **Discussion of Hours at George Frey Center for Arts and Recreation:**

Mayor Weinstein stated the discussion would include items F and H.

Manager Metzler stated that Superintendent Graff indicated it would cost \$7,960.68 to open the center for an additional seven weekends. Marathon and Memorial Day weekend occurs during May and the pools open the last weekend in June. Past history indicated low attendance on those weekends. Attendance has been averaging ten to 14 children on Friday and Saturday, with parents supervising.

Deputy Mayor Swain inquired about having the Center opened weekends in May on a trial basis. Manager Metzler explained that the part time seasonal help would need to be rehired. He did not know if it was feasible to add weekend hours as it was already May 6<sup>th</sup>. Historically the attendance was poor. Many people misinterpreted the letter indicating the season was ending and thought the Center was closing. Councilmember Baratta felt they would not get a true reading of usage by reopening it now.

Manager Metzler suggested extending the Center's programs through June, 2009 and review attendance afterwards. Councilmember Baratta suggested keeping it open through April and May in 2009. Mayor Weinstein wanted to be sure people knew that the Community Center was still open with parental supervision. Deputy Mayor Swain wondered about scheduling a dance to bring the children back to the center. Manager Metzler stated that a resident inquired about holding a concert for UNICEF and asked to

use the auditorium free of charge. The parent wanted to draw in teenagers. Councilmember Baratta stated that she was asking the Alliance for Substance Abuse Prevention to sponsor the concert. The teens would pay five or ten dollars to see the band and the proceeds would go to charity.

Deputy Mayor Tedeschi reminded them that the kids were their customers. They needed to draw kids in by offering programs that they wanted, not what the parents wanted.

### **Community Center – Monthly Report:**

Mayor Weinstein received a letter from the Badminton Club. He asked that Council be given a monthly calendar and a monthly report detailing profits and losses. He wondered if there were areas of free time that might bring in more profitable activities. Deputy Mayor Tedeschi wondered if it was possible to list the cost of the theater and its revenues. Manager Metzler stated that they do not know the cost of just the theater, since utility costs were not broken down. There were no labor costs since those using the facility pay for the sound and light technicians. Deputy Mayor Tedeschi suggested they allocate the expenses on a per foot basis. Deputy Mayor Swain suggested the report list the overall expenses, the operation and then the auditorium. Deputy Mayor Tedeschi stated they were not losing \$90,000 a month; they were spending \$90,000 a month. Mayor Weinstein stated they will review the figures once they have been received from CFO Eccleston. Councilmember Baratta did not feel they would be true figures, as the utility bill for the auditorium would be different from the other rooms, but it would give them an idea.

Councilmember Trawinski stated there was a difference between Mayor Weinstein's request and what Deputy Mayor Tedeschi was looking for. Council made a policy decision that said the Community Center was not to be a profit making venture. Deputy Mayor Tedeschi stated that he asked Municipal Clerk Kwasniewski for the minutes reflecting that discussion and she could not find anything. Mayor Weinstein clarified that he wanted to see what the Community Center was doing and how they were financially. Councilmember Trawinski stated that taking the Center as a whole accomplished that. Isolating the auditorium heads towards the notion of whether or not they make it a profit center, which he is cautious about doing.

Councilmember Trawinski was concerned about Deputy Mayor Tedeschi raising this issue about Community Center costs, as the Community School was a renter. He did not think Deputy Mayor Tedeschi should have that knowledge about their costs. Deputy Mayor Tedeschi stated that the Community School has not been a renter at the Community Center for over 16 months. He felt his request was more accurate. He could not find minutes where the Council made a decision that they wanted to run an arts center even if it didn't make money. Councilmember Trawinski stated that if that was not in the Minutes, then they needed to focus better on the preparation of the minutes. He sat in this room when they as a Council made that decision. Manager Metzler gave them choices, which he will pull from his Community Center file. When they were discussing fees and prices they were told by the Manager that they needed to make a policy call.

The policy call was whether or not this facility was going to be there for residents, and not focus on a profit and loss analysis or were they going to focus on the profit and loss side.

Manager Metzler stated he could provide a cost analysis of revenue from concerts and productions for contracted items versus what was being paid out. Each event contract includes the number of hours charged for the sound and light technician and he can determine the costs of the rentals. He could breakdown the costs of the theater in terms of electricity and other expenses if Council requests it.

Mayor Weinstein felt they only needed to be given an average. Deputy Mayor Swain stated this information would help them move forward. The rates may need to be increased. Councilmember Baratta was concerned. She conveyed to the 501(c)3 that the Council made the decision that the Community Center would be for the community first. They did not want to tell residents they could not use the building because it was being used by Prudential or another company. They had decided that whatever they make will be extra.

Deputy Mayor Swain felt Mayor Weinstein and Deputy Mayor Tedeschi were seeking information and not looking at whether or not this is a profit making venture. Councilmember Baratta clarified that her concern was that Deputy Mayor Tedeschi could not find a record of that discussion in the minutes. Deputy Mayor Tedeschi stated he did not believe they ever made a finite decision. Councilmember Baratta thought they did make a decision. She did not want to give the 501(c)3 the wrong information.

Deputy Mayor Tedeschi stressed that once they knew the costs they could make a definitive decision. He did not feel it was prudent to say they wanted to do this without knowing costs. He noted that the Community School ran 15 programs, which were analyzed monthly. He supported their good intentions but wanted to know what those intentions cost. Councilmember Baratta did not have a problem with that.

Councilmember Trawinski stated that there were people who felt the Community School has trimmed down their programs and become too focused on profit. He did not want that to happen to the Community Center. Mayor Weinstein stated that he agreed but he did not feel that the Community School should have been brought into this.

It was the consensus of Council that Manager Metzler provides a monthly activities calendar, monthly profit and loss report and a report on the average costs of the fixed items to be added to the calculation.

### **Open Space Issues:**

2<sup>nd</sup> Street/FEMA – Mayor Weinstein stated that Manager Metzler reported that their request for FEMA funding was denied. He suggested Council send a letter to Congressman Rothman. Councilmember Trawinski stated there was an article in The Record about other municipalities obtaining help for their river walks and noted that they were unable to get that help and suggested including that in the letter.

It was the consensus of Council that a letter be sent to Congressman Rothman.

Turf Field Update – Manager Metzler stated that all the fields with lead contamination were manufactured by Astro Turf. The nylon in the rubber base contained high levels of lead. Since 2004 Astro Turf and other companies have been using only rubber based products which do not contain lead. All vendors are now requiring an environmental analysis of the soil underneath the field.

He stated that Senator Gordon called to say legislation was coming before his committee and asked him for a synopsis of his research.

It was the consensus of Council that Manager Metzler sends the information to Senator Gordon.

Councilmember Trawinski referenced item 11b, submitted by Zachary Martocci. He suggested looking at the rubber mulch used in playgrounds, as some tire pieces contained the same materials that were in the lead based turf field. He wanted to be sure there were no environmental issues in any Borough playgrounds. Councilmember Baratta stated that she had requested a study the first year she was on the Council. Then Superintendent Frey had stated there was a problem with radial tires that contained steel, which they did not use. She suggested they re-confirm the safety of the rubber mulch.

### **Concerns re Morlot Avenue Bridge Replacement and Opening of Home Depot:**

Mayor Weinstein stated that the Home Depot in Paterson was opening in a few months. He asked if Traffic Safety Officer Franco researched the impact of traffic on Fair Lawn Avenue, especially with the Morlot Avenue Bridge closed. Manager Metzler stated traffic studies were done when Home Depot was before the Paterson Planning Board. They were told there would be little or no impact on Fair Lawn Avenue. There is little they can do besides additional enforcement of the tonnage issue. He noted that trucks from Paterson could not use the Fair Lawn Avenue Bridge.

### **Safety and Environmental Concerns Raised by Lyncrest School Student Council:**

Safety - Deputy Mayor Swain felt traffic issues were still a concern and that more steps should be taken to increase safety for pedestrians crossing the streets. Motorists need to be more aware that they must yield to pedestrians who have the right of way once they enter the crosswalks.

Manager Metzler stated pedestrian traffic safety became a target activity a year ago. Drivers need to be aware that the Borough is strictly enforcing pedestrian safety. New yield signs have been purchased. Monthly statistics from the Traffic Bureau indicate they are enforcing these issues. They have also targeted enforcement at Abbott Road and Fair Lawn Avenue and also on Saddle River Road. One day there was seven vehicles pulled over at once. Councilmember Trawinski noted that the number of Police officers was increased to create a Traffic Safety Bureau.

Deputy Mayor Swain wondered about using the Auxiliary Police. She noted that parents picking up their children at school were the worst offenders. She would like to establish a reputation for strict enforcement of these parking violations. Manager Metzler stated Auxiliary Police were extremely restricted. They cannot issue tickets or make traffic stops unless they see an imminent hazard. When an Auxiliary Officer is out on the street in a non-declared emergency they are out conducting training. They could be used as a deterrent but they are usually only available on weekends and evenings.

Manager Metzler explained that there was a rotation of what the Police Department had to get done in a very defined space of time, including enforcing the parking at the Radburn train station, filling in for crossing guards and enforcement of parking at schools. There will be a proposal coming to Council that will eliminate the parking permits in the Radburn Station and the need to enforce that issue that he felt will be exciting.

Councilmember Trawinski suggested making copies of the League of Municipalities booklet regarding traffic calming in school zones. The League suggests a Citizen Advisory Committee for Public Safety, consisting of a Board of Education representative and citizens who can spread the word to parent organizations. He suggested getting this in place for September. The League booklet also discusses putting mechanisms in place for employees and residents to report unsafe conditions and having procedures to remedy the unsafe conditions around school zones.

Councilmember Trawinski noted that three Lyncrest Student Council members raised the issue of pedestrian safety and school zone safety. They need to stop parents from crossing their children in the middle of the block. Deputy Mayor Swain suggested they tie this into fitness. People park illegally at the corner because they want the closest spot. Manager Metzler stated that Emergency Management does a presentation in each school every September. It would be a good opportunity to present these issues.

Mayor Weinstein asked when they will have the analysis of the orange cones. Manager Metzler will look into this.

Environmental - Deputy Mayor Swain suggested that Borough vehicles, other than Police cars, be turned off rather than sit idling with the engine running for ten minutes. Manager Metzler stated that he would send out a memo to employees. Deputy Mayor Tedeschi asked that he also remind employees to wear seatbelts, as he had noticed several not wearing them.

### **Address Concerns and Issues Raised by Lyncrest School Student Council Members:**

Councilmember Trawinski stated that he and Councilmember Baratta felt it would be productive to discuss the students' concerns.

Skate Parks - Mayor Weinstein stated they had received a letter from several students requesting a skate park. It was discussed by the Recreational Facilities Committee but it was too late for this year's budget. He and Superintendent Graff discussed the possibility

of turning one of the three roller rinks into a skate park, which would make the project less expensive. Councilmember Trawinski stated that Attorney Lustgarten spoke ten years ago about the insurance issue. Manager Metzler stated their Risk Manager indicated they would need an insurance rider for a skate park due to numerous injuries. Mayor Weinstein thought that the roller rink walls would protect the children.

Manager Metzler will discuss this with Superintendent Graff and report back in June.

Fundraisers for Diseases that Affect Children – Councilmember Trawinski did not feel it was their place to tell the charitable organizations what to do. Mayor Weinstein stated that several organizations such as the Knights of Pythias and Chamber of Commerce already hold fundraisers for diseases that affect children. Councilmember Trawinski suggested they give this information to the student, Daria Ortega.

Physical Education and Obesity – Councilmember Trawinski suggested they inform the Board of Education at the next joint meeting that a Lyncrest Student Council member raised this issue.

Program to Raise Environmental Awareness and Establish Green Policies in the Borough

Mayor Weinstein stated that the University of Massachusetts had an Environmental Day. The Environmental Commission was having a table at the Canoe Regatta, which could be the start towards an Environmental Day in Fair Lawn. Councilmember Trawinski suggested they have the Commission reach out to Emily McParland and Ryan Kelleher and any other interested students.

**Ordinance to Prohibit Anything But Grass on Strip Between Curb and Sidewalk:**

Attorney Rosenberg had distributed a proposed ordinance which he thought was consistent with what the Council wants to do. He put this into Chapter 170 which deals with sidewalks and maintenance. It does not belong in Chapter 125. Councilmember Baratta asked if it mentioned residential neighborhoods, as River Road does not have that green strip. Attorney Rosenberg stated it will be where it exists. Councilmember Baratta clarified that going forward, even in a business district. She was not sure that's what they wanted. Mayor Weinstein stated it had to just be residential. Attorney Rosenberg will make the correction.

After a short discussion, it was the consensus of Council that the ordinance only be for residential properties.

**Request for Replacement Fence in the Easement – 2 Burnham Place:**

Manager Metzler stated that the resident's letter was received on April 16, 2008. Engineer Garrison recommended authorization for this project.

Councilmember Trawinski clarified that this would be the standard license agreement with the expression by the Borough Attorney that they still need to seek whatever approvals are necessary under the Radburn Associations rules and restrictions.

It was the consensus of Council to approve this request.

**Use of Memorial Pool by Paramus:**

Manager Metzler stated that sales will be limited to 1,000 Paramus residents, who must provide proof of residency. The fees will be the same as those charged Fair Lawn residents.

The Borough of Paramus will provide fulltime supplemental lifeguards depending on the number of people who register. Paramus will select the four lifeguard candidates from their staff to be interviewed by Superintendent Graff. The lifeguards will be compensated and insured by the Borough of Paramus.

Councilmember Baratta thought the bulk of the Paramus residents would come to Fair Lawn because the rates were the lowest. She wondered if they could accommodate 1,000 residents. Manager Metzler stated the pool staff recommended that number. They are concerned that more Fair Lawn residents will be using the pool this year because of the high cost of gas.

Deputy Mayor wondered if there was liability to the Borough to have Paramus employees working at the pool. Manager Metzler stated that they would insure and indemnify the Borough.

Councilmember Baratta inquired what their usual enrollment was. Manager Metzler stated it was 5,000. Mayor Weinstein noted that one end of the pool remained closed. Councilmember Trawinski wondered how many residents might skip the shore and use their pool instead. Manager Metzler stated that he and Mr. Iacono would know by the close of June 7<sup>th</sup> how many passes will be issued. Fair Lawn will issue the passes and a special pass will be made for Paramus residents.

Harvey Rubenstein, 28 Rutgers Terrace voiced concern about Paramus residents bringing guests on the weekend as parking was a problem. Deputy Mayor Swain understood his concerns, but felt it was a good thing to offer the pool to families that may not have anywhere else to go. She stated that one section of the pool is always closed. She suggested the put a limit on the number of guests.

Manager Metzler stated that these issues have been discussed. He was instructed to offer Paramus residents the same benefits that were offered to our residents. He agreed with Superintendent Graff, who thought that an additional 50 people would be generated as guests. They are not advertising the fact that they can use of Walsh Pool because the pool is very crowded during the day until 3:00 p.m. On weekends it is empty. They felt that the people who like to just sit on the beach would find their own way. He stated that there is a picture with 3,500 people in the pool, but they do not believe they will reach that

point. He recommended that the Council stay silent on the guests. If a Paramus resident showed up with two neighbors as guests it should be allowed.

Manager Metzler reminded them that they initially looked at a much larger number of Paramus residents. Paramus even warned them that they would get the larger share. A number of residents called but were not interested once they learned it was a sand bottomed pool. Woodcliff Lake limited Paramus enrollment to 50 families, which they asked Paramus to recommend. Paramus put up a sign and as of yesterday there were two families on that list.

It was the consensus of Council that the use of Memorial Pool is offered to Paramus residents at the same rate as Fair Lawn residents.

Manager Metzler asked Council's permission to authorize Ron Lottermann to put this information up on the website prior to the resolution.

It was the consensus of Council that Manager Metzler presents this information to the Webmaster for posting on the Borough website.

#### **Meeting Dates:**

Municipal Clerk Kwasniewski stated the primary election was the first Tuesday in June. The work session was scheduled on Wednesday, June 4<sup>th</sup>. She needed to know if there would be a quorum.

After a short discussion it was agreed the work session would be on June 10<sup>th</sup> from 7:00 – 8:00 p.m. followed by a Council Meeting at 8:00 p.m.

#### **Public Comments:**

Harvey Rubenstein, 28 Rutgers Terrace expressed concern about an outside group knowing the location of every town generator. He thought the prohibition of paving the green spaces should be in Chapter 125.

Councilmember Trawinski stated that if it is in Chapter 170 the Zoning Board has no authority to grant variance relief. It is stronger there.

Mr. Rubenstein suggested all the neighbors on George Street attended the Planning Board meeting. He thought the building could be made smaller. He reminded them about the dumpster bordering a residential area and noted that the residential areas have been there forever. He noted that Mr. Kantowitz made numerous references to the Art Center, but there are no residents living behind it. Mr. Kantowitz's plan would affect people that have been living on George Street for many years. They thought they were creating a traffic problem. It is overdevelopment.

Cheryl Cashin, 1 Glenfair Road noted the idea of a skate park and stated that the roller rinks were in bad shape. Mayor Weinstein stated that one was being improved this year.

Ms. Cashin felt all the rinks needed repair. Her son plays street hockey and the lights don't work for evening practices. She stated that children from another town are using the courts improperly. She felt there would be problems if they put in a skate park. She did not feel one usable court for street hockey was enough.

Ms. Cashin reminded them the theater at the Community Center only had 170 seats. She felt they would need double that amount of seats to make a profit or have to charge a higher ticket price. She thought the Community Center was for the residents and profit was secondary.

Craig Miller, 5 Ramapo Terrace wondered if the 501(c)3 would be affected if they made a profit at the Community Center. Councilmember Baratta stated it would not. Deputy Mayor Tedeschi stated that he wasn't talking about making a profit, he was referring to how much it cost. He clarified that the discussion was based on what it cost to operate.

Mr. Miller wondered if they could obtain electronic signs that say "yield to pedestrians" since it was a State law. Perhaps Senator Gordon could put through a request to the D.O.T. On Route 4 there is one right by Jack Daniels. They remind people to buckle up for safety. He has been in the middle of the intersection and people have kept going.

Mr. Miller understood that Mr. Kantowitz stated there would parking for the residents of the River House Condominiums, but he did not say that they would have single lane parking only on the side of the building. Mayor Weinstein thought they said that they weren't going to have parking on the side. Manager Metzler heard there would be no parking. Mr. Miller thought that the back of the building there would be a garage and parking for two cars. Mayor Weinstein stated that at first Mr. Kantowitz said he wasn't sure and then he said all the residents' parking would be in the back. Mr. Rubenstein thought that should be questioned at some point. Mayor Weinstein stated that Mr. Kantowitz did not state that tonight. Deputy Mayor Swain thought all the parking for the residents was in the back. Mr. Rubenstein said there was discussion about two parking spaces on the side.

Felice Koplik, 6 Reading Terrace did not understand why the Planning Board and Council could not tell the River House developers that the building had to be smaller and that parking requirements must be met.

Councilmember Trawinski stated the River House Condominiums is a variance application. Council has already spoken through their ordinance as to what is permitted. The Planning Board makes this decision and it would be unlawful for Council to interfere. It is not Council's place to tell them unless they change the zoning. He does not want to revisit the B4 or B5 Zoning since it was one of the most extensive zoning changes done in the Borough in 25 years. Mayor Weinstein added that the second issue was the encouragement of cooperative parking. Councilmember Trawinski stated that they were going to get tagged sooner or later if they take a no COAH position in this municipality. If they don't grant appropriate relief, the courts will order actions that will make them lose control of their zoning. He did not want Landmark's attorneys to say that Council thwarted the potential for that realistic development by saying "no" to cooperative parking,

which is something they have said they wanted as a policy. It doesn't go to the economic argument for the developer.

Deputy Mayor Swain felt the issue tonight was really just about the parking. Attorney Rosenberg stated that was all it could be. Deputy Mayor Swain wanted the public to know that parking was the only issue. If they don't encourage shared parking they will need more parking lots. She would prefer to see more open space. Councilmember Baratta stressed that they are only agreeing to the parking agreement, not the development.

Ray Richter, 19-15 Jordan Road stated that the orange cones on Fair Lawn Avenue create more problems than they solve. He suggested they add more traffic lights to slow traffic down. He inquired as to who programs the traffic light at Plaza Road and Fair Lawn Avenue, which he did not think was working properly. Mayor Weinstein instructed Manager Metzler to look into this matter.

Mr. Richter concluded by urging the Council to pass the Historic Designation Ordinance.

Craig Miller, 5 Ramapo Terrace stated that when a pedestrian crosses Fair Lawn Avenue from the jewelers to the gas station, the right walking light does not turn on until both Plaza Road lights are green.

**Closed Session:**

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta the following closed session resolution was unanimously adopted at 11:10 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 – Manager's Evaluation; and Contract Negotiations – George Street, Board of Education Lease for Auto Lab.

**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 11:25 p.m.

Borough Attorney Rosenberg reported that Mike Lackland had offered through the RRIC to donate the property along the Passaic River to the Borough. He has been working with Mr. Lackland on this matter. He had a survey done. An environmental analysis has to be done. He received an email from Mr. Lackland advising that he had received his special assessment from RRIC and wondered if he could relief since he will be donating land from the Borough. Borough Attorney Rosenberg will advise him that his assessment will be reduced by the value of the property donated which in essence will lower his taxes and his assessment.

**ADJOURNMENT:**

Upon motion by Councilmember Baratta and second by Councilmember Trawinski the meeting was adjourned at 11:30 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