

WORK SESSION OF JULY 15, 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 (7/22/08):

Municipal Clerk Kwasniewski stated the minutes from October, 2007 were never approved as they had been sent out for a transcript, which was not received until January, 2008. She asked that they be added to next week's agenda for approval.

The Borough will be sending out estimated tax bills, which will require a resolution from Council. She would like to add a grant agreement from the CBDG for the Dobrow Field Renovations. They have 30 days from time of receipt, which was yesterday.

Councilmember Trawinski suggested the Tax Assessor include a notice explaining that if they did not have to fund over \$400,000 of State mandated items, the municipal tax increase would have been zero dollars. Mayor Weinstein stated the tax bill would have been less, but he was not sure of the exact amount. Councilmember Trawinski felt the residents should know that they wrestle with the State telling them what they have to do without providing the funding to do so. Manager Metzler stated that the estimated tax bills cost the Borough of \$4,000, which was the result of the State not approving their budget.

Deputy Mayor Tedeschi thought the letter was a good idea, but he wondered who would send it. Mayor Weinstein clarified that it would come from the Council.

It was the consensus of Council that a letter from the Council noting the reason for the municipal tax increase be included with the estimated tax bills.

Deputy Mayor Swain asked if their statement would be included as a message on the bill. Mayor Weinstein stated it would be a separate letter from the Council. Deputy Mayor Tedeschi inquired if it would delay the mailing of the tax bills. Manager Metzler will research printing options.

Council Liaison Reports:

Councilmember Baratta stated that the Friends of the Community Center gave a presentation at the 501(c)3 meeting. She distributed copies of the report to the Council. She thought the two groups will work well together. She will give the 2006 audit to Municipal Clerk Kwasniewski. A fundraiser will be planned.

Deputy Mayor Swain stated that the Planning Board Meeting was not pleased with the ordinance which amended section 125.32c by reinserting the section regarding non-conforming residential buildings or structures. The members felt there were not enough details in the ordinance. Ms. Bergailo will review the ordinance and report back at the next work session.

There was a new application from River House Condominiums. The Board will review the conceptual plan. Most of the meeting was devoted to the Naugle property. They only heard from the professional engineer. This will be continued in August.

Councilmember Baratta asked if the Planning Board was aware that the language in the ordinance was already there, and was pulled out because of the FAR and height restrictions. Deputy Mayor Swain stated they were. Mr. Rubenstein was present and reiterated that fact. They still wanted Ms. Bergailo to review it. Councilmember Trawinski would not support funding a review on something they removed from the ordinance and now recognized needed to be put back in. The Planning Board is supposed to tell them whether or not they are consistent or inconsistent with the master plan. They are not supposed to write the ordinance unless asked by Council. He did not think it was right to use taxpayer dollars to fund this review. They need to grandfather pre-existing non-conforming lots. He reiterated his feeling that the Planning Board totally misperceived its job under the Municipal Land Use Law. They can add items or ask to review the draft ordinance, but their only statutory role is to determine whether or not it is consistent with the master plan. If they fail to act within 35 days, the Council has the right to adopt it without their opinion.

Mayor Weinstein stated that Ms. Bergailo was also the planner for the Planning Board. If the Board wanted to be clear on this issue, he respected the fact that they wanted to take the extra time. He did not feel it was a waste of taxpayers' dollars. Mayor Weinstein stated he would like to hear what the Board and Ms. Bergailo have to say.

Deputy Mayor Tedeschi asked Municipal Clerk Kwasniewski if the ordinance was introduced. She stated that Council introduced the ordinance and it has been published. It is scheduled for adoption. They would have to hold a public hearing. It would be the Council's decision on how to proceed.

Mayor Weinstein wanted to hear what the Planning Board has to say before they vote. Deputy Mayor Tedeschi suggested inviting the Board to a meeting to discuss any recommended changes. Councilmember Trawinski noted that the tow historian, Jane Diepeveen felt this made sense based on her experience as a member of the Planning Board.

Mayor Weinstein stated that they could come and make comments. Councilmember Trawinski welcomed the idea of inviting them.

Deputy Mayor Swain stated that it was mentioned at the Planning Board meeting that several trees were taken down from the Naugle House property up to Garwood Road. Manager Metzler will look into this.

Attorney Rosenberg stated that he asked the Planning Board secretary specifically to make sure that the pronouncements were made by the Board Attorney that the discussion was in the context of a Whispering Woods hearing. He was assured by Ms. Hochkeppel that those statements had been made by Attorney Berne.

Fair Lawn Economic Development Corporation Sustainable Funding:

Stu Herrmann, President of the Fair Lawn Economic Development Corporation introduced Bob Landzettel, president of the RRIC, Bob Beshlian, president of the BIC and Charles Tredigo, treasurer of the BIC.

The EDC held a public meeting on May 29th to discuss the idea of a town-wide SID, assessing all property owners in the business and commercial areas in Fair Lawn, with the exception of those properties already in the BIC and RRIC. He thanked the Manager and his staff for their assistance in sending out 1500 invitations to businesses and property owners. They discussed the operations and budget of the third SID at the meeting.

The EDC is in its fourth year of operation. They applied for a grant to do a study of the business corridor on Fair Lawn Avenue from Rout 208 to Abbott Road. This study will review traffic, pedestrian safety, landscaping, signage and environmental ramification. There are three grants available to businesses in commercial districts, two low or no-interest loans and a sign and awning grant program. The joint design and review committee continues to help businesses wade through the planning and zoning process, as well as call upon the committees' collective expertise.

Their Route 208 report is being used as a guide to help the Council and Planning Board in their master plan discussions. The proposal for the old Kodak site is being compared to the Route 208 study assisting the Planning Board and Council in their work. They anticipate the study to be used for most future development in the Route 208 corridor, with input from the EDC. They will continue to monitor future development. They will speak to organizations that can help them achieve these goals as well as recruit different businesses to Fair Lawn to complement what is already here.

They discussed with the Manager the possibility of Fair Lawn offering administrative support to the EDC. Based on that assumption, they have recalculated their proposed budget from one requiring a SID assessment of approximately \$80,000 to one requiring \$68,000 for a savings of almost \$13,000.

They will continue to strengthen their Board by speaking with business people who are willing to contribute their time, expertise and make a monetary commitment. They understood the process of establishing a third SID takes time. They looked forward to the public forum on the ordinance, so that the residents and businesses in Fair Lawn can see what the EDC Board has done and will continue to do for the business areas in Fair Lawn, along with their fellow volunteers from the RRIC, BIC and Chamber of Commerce.

Mr. Herrmann concluded by asking the Council to introduce an ordinance creating the third SID that will work with the BIC and RRIC to fund and manage a borough-wide EDC.

Mayor Weinstein commended the volunteer members of the EDC for their efforts over the past year regarding sustainable funding. He believed it was important in these economic times to continue with the EDC to help the smaller businesses in town. Several years ago he went to Community Development for funding of the signs and facades and was advised that Fair Lawn had received money once before and never used it. He told Community Development that Fair Lawn now had three strong bodies of people who were working effectively in economic development. They received \$85,000 in funds which were used. He went back again and received \$50,000 last year. They also received funding for interest free loans.

He felt the EDC was effective in many ways and noted that other parts of town were coming on board. He initially thought about a SID for Route 208 into Radburn. Since the benefits of the EDC were being realized in other parts of town, he felt they should also share in the costs.

The meeting that the EDC held in May was not well attended. He spoke with several of the small business owners in town and they were concerned about administration. Through the efforts of the Borough and using in-house resources, there will not be additional costs to the taxpayers. He felt they should proceed with the town-wide EDC. He appreciated that the amount was reduced from 1% of the current taxes to .7%.

Councilmember Baratta was also concerned about administration. She noted that they were not being asked to make a decision on that. The Board of Directors would be responsible for choosing the administration. Mayor Weinstein stated that the EDC would need good strong administration as public funds were being used. It is important that the EDC meets its mission in helping businesses, whether it is in obtaining interest free loans or sign and façade improvements. The concern of smaller businesses was whether the funds would be eaten up by administration without leaving anything for improvements.

Councilmember Baratta inquired if the EDC would choose the facilitator. Mayor Weinstein confirmed that they would choose the facilitator, administrator, etc. It is a

public-private partnership. Deputy Mayor Tedeschi stated that he asked the Borough Attorney at the adoption of the budgets for the RRIC and BIC if they would have any further action or control of that budget once it was approved and Attorney Rosenberg advised him that they would not. Mayor Weinstein pointed out that their budget had not been approved yet. He agreed that it was up to the leaders of the organization to select the direction they want to go, but he understood the concerns of the businesses. Councilmember Trawinski stated that they could address those concerns by making someone available to help with the administration.

Councilmember Baratta asked if \$13,000 was an estimated figure. Mr. Herrmann stated that based on the budget presented in April and their current budget they have reworked some of the numbers. The amount is approximately \$13,000. Councilmember Baratta inquired if this was something the Borough was ready to proceed with or did Council need to discuss this. Mayor Weinstein stated they have already discussed this matter, but if Council was not ready to make a decision they could wait. Councilmember Trawinski clarified that if they agreed to introduce an ordinance creating a third SID, it did not necessarily mean they were approving this specific budget. They would need a formal submission to approve the budget and declare the assessment. Mr. Herrmann verified that was the process used for the BIC and RRIC.

Deputy Mayor Tedeschi stated that the RRIC and BIC had a set administrative fee in their budget. He inquired if they have been told that it may be changed. Mr. Tredigo stated the budget provides for all administrative costs. There are additional funds beyond that. Deputy Mayor Tedeschi stated he had been informed by various members of both organizations that in light of the reduction in the administration fee in the EDC, it was possible that BIC and RRIC would be asked to pay additional administrative fees to the administrator.

Mr. Landzettel, president of the RRIC stated that the budget for 2008 has been set, but the budget for 2009 was subject to review. Deputy Mayor Tedeschi asked what the RRIC's position was. Mr. Landzettel stated that this issue has not been fully discussed. Deputy Mayor Tedeschi stated that this matter concerns him. In 2007 the administrator was paid \$200,000. This year he will be paid \$135,000 unless their fees get raised. It appears to be a disproportionate amount for administrative costs. Times are tough and he has a problem with the cost of these SIDs being passed down from landlord to tenant to consumer.

Mr. Landzettel acknowledged his concern but noted that the RRIC budget was adopted as presented. The fees for 2008 are set. The 2009 budget is up for negotiation.

Councilmember Trawinski was also concerned. He favors adopting this ordinance, but when it comes to the 2009 assessments he is not prepared to support an incremental increase for the administrator that is taken from one organization and passed to

another. The Borough's assistance provides an opportunity to combine administrative expenditures of all three SIDs to achieve savings. They had a measure of control in approving or not approving the budget. He is prepared to support the introduction of the ordinance. He echoed Mayor Weinstein's and Deputy Mayor Tedeschi's comments. He felt they have made a reasonable effort to address those concerns.

Councilmember Trawinski continued that in 1990 Bergen and Morris County did not have their own Economic Development and were lagging behind in preserving their businesses and industrial ratable bases. Both counties now have implemented EDCs and he has seen a difference in maintaining their ratable base. They have the same history with River Road, which was in a state of decline. It has helped stabilize the ratable base in the business community, which helps the taxpayers. He will support the introduction of this ordinance but would still like to hear what the public thinks. Mayor Weinstein believed that using in-house administration could be a model for the future for possibly the RRIC and BIC. He thought it would work well.

Deputy Mayor Swain stated she spoke to many business owners and residents. The EDC was a wonderful organization and complimented them on a job well done. The improvement of River Road and Broadway are models for the future, but she felt that there needed to be changes. She would like to see more of a grass roots effort involving the other businesses outside of Broadway and River Road. There is a golden opportunity for the EDC to receive help from the Manager's office and get the other parts of town off the ground. She would like to see what could take place along those lines before they ask the other business owners for money.

Bob Beshlian, president of the BIC stated that it was his experience that the only way you get a grassroots effort is on the negative. The RRIC and BIC offer the sign grants, awning grants and low-interest loans. They are going to go into stagnant mode and all the other commercial districts will be denied all these benefits. At that point they will begin calling the Council to ask why these things are available on River Road and Broadway but not on Saddle River Road. That is the grassroots effort. They would prefer to continue to offer these benefits to the entire business community.

Deputy Mayor Tedeschi read a portion of a memo dated March 11, 2008 from the EDC or the administrator that stated that "the leadership group, as well as the Fair Lawn Economic Development Corporation believe that the interest of the Borough and business community are best served if the EDC continues its independent engagement of staffing, a configuration that meets its needs best. However, we would welcome assistance from discussions with the Borough". He wondered if what they heard tonight reflected a change in thought. Mr. Herrmann stated that it did. In March and April their leadership, which is comprised of the executive boards of the EDC, BIC and RRIC believed that the town should fund the EDC, and that the independence should remain between the town and the EDC.

Deputy Mayor Tedeschi stated that he they were not equal partners. Broadway is in its genesis and is also paying a \$50,000 fee. If RRIC is charging \$50,000 Broadway should be worth double that because that is where the real work remains. He did not understand why it was \$50,000, \$50,000 and \$50,000. That tells him someone has the figure of \$150,000 in their head. This concerns him greatly. It also concerns him greatly that there is a past history of the administrator involving himself in pay-to-play in Fair Lawn. He has donated thousands of dollars to people who are no longer on this Council. When the concept of River Road was formed in 1992, it was agreed that it would never be a political issue. Somebody has forgotten that. He wondered what Mr. Smartt expected to get for the \$2,500 he donated.

Mr. Landzettel agreed there should be no pay-to-play. It could be construed that he was accepting money to do what he does for River Road. He was very much against anyone having that opinion and has been against that from day one. He believed there was an agreement signed that there would be no pay-to-play. He once told a developer to proceed with his application since he liked what he saw. The developer asked him how much it would cost him. He stated that it would not cost anything since he was doing work for the Borough. He told the developer to notify him if anyone asked for money.

Deputy Mayor Tedeschi stated Mr. Smartt donated \$500 in 2004 and \$2,000 in 2005 for a specific candidate on Council that is no longer the Mayor. He finds this abhorrent and distressful. Mayor Weinstein asked if there was anyone else. Deputy Mayor Tedeschi noted that there were minor contributions that were made public. Councilmember Baratta stated that is what she was trying to get out when she said that they do not control the administrator. If the BIC, RRIC or EDC decided they wanted to go another route in administration, they could do so without their input. Mayor Weinstein confirmed that was correct. Councilmember Baratta stated they would not be voting on a person, they were voting on a concept. Deputy Mayor Tedeschi stated that unfortunately that person was in place.

Councilmember Trawinski stated that he wanted to correct the record about the agreement that Mr. Landzettel thought was signed. He thought that Council adopted the Pay-to-Play ordinance and the Borough Attorney, appropriately so, found that the pay-to-play ordinance applied to no-bid contracts issued by the SID. Attorney Rosenberg stated that it was his opinion. Deputy Mayor Tedeschi noted that the opinion was given at his request.

Councilmember Trawinski stated he received a \$200 or \$300 contribution from Don Smartt when he ran for office in 2005. He also received contributions, as did Deputy Mayor Tedeschi, Councilmember Bonnie Taplits and former Mayor David Ganz, from trustees on the RRIC when he ran for office in 1996. At that time, there was no ban on

those contributions. Since the Pay-to-Play ordinance was adopted, they have not solicited nor will they accept any contributions from anyone. Mayor Weinstein noted that when the EDC hires whoever, even the administrator, full disclosure should be made. Councilmember Trawinski stated that there should be full compliance with the Borough Attorney's opinion.

Deputy Mayor Swain stressed the importance of moving ahead, but she was looking for a time period to reassess. If the EDC could come up with some changes, and they can see through the Manager's office how things go, then maybe the businesses assessment could be less.

Mayor Weinstein stated they needed to direct them to either move forward with just volunteers and no contributions or put into effect the same formula as the RRIC and BIC and allow them funding to move ahead with staff. He felt that the process has stalled. The funding is complete. Even if they approve of the SID and afterwards approve a budget, this process will still take time. They need to make a decision tonight otherwise it could be pushed off another year.

Mr. Herrmann stated that even if Council approved this, they would be operating very narrowly. They will be attending the Route 208 Committee meetings and will be doing some financial reports. The administration of the grants is in question. They have to pay insurance bonds for those grants, even though they may not be administering them. There are some things that have to happen. Their monthly meetings will be stop. There will be a lot less without administrative help.

Mr. Landzettel thanked the Council for the time and effort. By introducing the ordinance and making the parameters well known to the business community, there will be an opportunity for the business owners to be heard at the public hearing for that ordinance. They will find out where it stands. They would welcome more participants on the EDC. They need volunteers. He felt they would be a much better organization once it was fully organized and funded. The issues of an administrator, the funding and the budgeting will still come back to Council when the budget is being adopted. Speaking for the RRIC, he did not consider anything to be a lifetime contract. There is a review each year. He felt they needed to do what was best for the organization and the Borough. He requested that they introduce the ordinance, have the hearings and make a judgment based on those results.

Mayor Weinstein asked for a motion to proceed with the creation of the ordinance for all the business districts other than River Road and Broadway. It would apply only to commercial entities. Deputy Mayor Tedeschi asked for clarification that they were voting for the creation of a SID ordinance and that no budget was attached. Mayor Weinstein confirmed that.

Upon a motion by Councilmember Trawinski and seconded by Deputy Mayor Swain the introduction of an ordinance to create a third SID was discussed.

Deputy Mayor Tedeschi stated that he would support the creation of the SID, but he would not support any budget that has Mr. Smartt as Administrator.

Councilmember Baratta stated that she was not convinced that the business community wants it. There were 1500 invitations sent out about the meeting and yet it was poorly attended. She would like to see what happens at the public hearing. She would like to support the business community, but it was difficult for her to say that she wanted to put a tax on the business. She wants to hear from the people. Perhaps this time they will get a better reception and a cross section of people from the community.

Councilmember Trawinski stated that fundamentally he supports the concept and likes the philosophical change from 100% funding to working with them to reduce administrative costs. They needed to be very focused, with a concern for cost effectiveness on the administrative costs and fees. He reiterated his support of the concept and noted the concerns of his fellow council members. He would like to see greater evidence of support from the business community.

There being no further discussion, it was the unanimous decision of Council that they proceed with the ordinance to create the third SID.

The ordinance will be prepared for the August 12th work session.

Mr. Herrmann thanked the Council for their time and cooperation.

REQUEST FOR REZONING OF OCEANOS PROPERTY BY IRA LEVINE, ESQ.

Ira Levine appeared on behalf of Oceanos to request the this Council consider referring to the Planning Board a study for the rezoning of property known as 2-27 through 2-49 Saddle River Road, Block 1301, Lots 11 through 15.

Mr. Levine stated that within the last two years Oceanos, which was formerly Peter's Whale made considerable improvements to their property. It is a beautiful location and has added a bit to the community. There was access to the County Park behind them but unfortunately traffic would go through at high rates of speed, people were disrobing and changing in the parking lot and there were several motor vehicle accidents in the parking lot. With the knowledge of the County and with no objection from them, they installed a fence. The gate was locked with the Fair Lawn Police Department having a key so they would have access to the park in an emergency. The owner has the right to have a safe premise and ensure the safety of their customers.

They would like to increase the size of their business and began planning an addition to the property. A suggestion was made for a land swap with the County. He was disturbed by the suggestion by the reporter that Oceanos insisted that the County guarantee approval by the Borough of Fair Lawn of their plans. They all know that is impossible. The County cannot guarantee any such thing. Fair Lawn is an independent political body which has its own safeguards with the Planning Board. He took exception to the quotes in the newspaper because it sends a message to the public that is not accurate that they ran to the County asking for a guarantee. As it turns out as a result of the actions of the County with what is going on with Williams Street, it has been brought to their attention that any land swap would not be able to convey any usable property because of green acres.

They are engaged in conversations with the County about providing an accommodation with one of these properties by virtue of a deed conveyance or an easement over property owned by Oceanos to the County no strings attached except they would like access to the roadway they put in.

Councilmember Trawinski disclosed that three and a half years ago with a client of his in another municipality used Mr. Kauker as the planner but he has had no relationship with him since that matter. Mr. Kauker has appeared before boards that he represents and has appeared in opposition to applications that he has had. He does not believe that any conflict exists.

Michael Kauker, of Kauker & Kauker, 356 Franklin Avenue, Wyckoff, New Jersey, a professional planner licensed in the State of New Jersey presented an overview of the their request. He stated that the request involved six properties, three of which are already being used by the restaurant, parking and adjacent office structure. The total area to be rezoned is 1.81 acres. The property is located on Saddle River Road at the intersection of Brookside Avenue. He observed that the land was low but could be developed. Commercial use is more appropriate than residential. The land area is well suited for commercial use because it is bordered on the north by a brook, on the east by the County Park area and on the south by single family homes.

Mr. Kauker presented three alternatives: establish a Special Restaurant District, establish an overlay Restaurant Zone for the subject properties or designate the properties a B-1 Restricted Business Zone.

Councilmember Baratta thought they proposal was spot zoning. Mr. Kauker indicated that the concern about spot zoning could be addressed as part of the review to make the amendment part of the master plan. Attorney Rosenberg advised that 1.81 acres is a small space so concern about spot zoning is a valid one. Councilmember Trawinski felt it would definitely be spot zoning.

If they are inclined to look at the request, they should not do this as an isolated site. They should start at a point at the ramps entering and exiting Route 4 and 208 and then somewhere to a point down to Williams Street, depending on what the existing non residential uses are and look at the whole corridor. He was not prepared to support his own suggestion but if they do it, it should be part of a comprehensive planning theme. His other thought was to require them to make a D variance application.

Councilmember Trawinski thought the addition of the fence required approval by the Borough of Fair Lawn. He did not hear Mr. Levine say that the Borough gave approval for that fence. He wondered if that was the case.

Mr. Levine stated they had applied for a permit and were given one. He did not see why site plan approval was needed. Councilmember Trawinski thought fences in commercial or industrial areas required a site plan review. He was glad that the comments in the newspaper were clarified. He was also glad that his client was willing to negotiate with the County for the access to the park without tying it to this. Councilmember Trawinski referred to Mr. Kauker's report on page 8 where he said that "the proposed easement and onsite parking to Saddle River County Park will be an improvement as it will enable more individuals to gain access to the park". He wondered if that comment was out of sync with his client's recent position. Mr. Levine stated it probably is because this report was dated June 3, 2008. Councilmember Trawinski stated he applauded his client's change. Mr. Levine stated a site plan was produced and a permit was issued by the Building Department for the fence.

Councilmember Trawinski felt the enlargement of the facility requires more thoughtful examination by the Planning Board. He believed this would be an intensification of that use. He wondered what kind of improvements would be needed to slow down the traffic from that ramp. He was concerned about the impact on the residential streets and any further development in the flood plain. He concluded that he does not favor revising the master plan to accommodate these specific individual requests. They have talked about reviewing the master plan. He would like to talk about the impact of the development along Saddle River Road and the impact of the residents there along with the Kodak development.

Deputy Mayor Swain wondered what would happen if they rezoned this property and then it becomes vacant. She was also concerned about the flooding issues. This seems like something the Planner should look at.

Mayor Weinstein stated the issue is cars coming off of Route 4 into a residential area. The Planner and the Planning Board should look at the request.

Councilmember Baratta suggested sending this to the Environmental Commission to review.

Mr. Levine stated this matter would have to go before the Planning Board and they would have to present traffic studies, comply with DEP issues, storm water management and the drainage. They would have to still satisfy all of those issues.

Mayor Weinstein felt it should also be sent to the Economic Development Corp for their input.

There was a unanimous consensus to send this to the Planning Board, Environmental Commission and EDC to review the corridor from the exit ramp of Route 208 to Williams Street. If the Planning Board feels this review should be extended, they should tell the Council.

EASEMENT (PRESCRIPTIVE OF NECESSITY OR OTHERWISE) RE OCEANOS' PROPERTY AND REQUEST TO OBTAIN A COPY OF PUBLIC COMMENT PORTION OF 7/9/08:

Councilmember Trawinski believes there was some sort of prescriptive easement there because there has been access to that area all these years. He suggested when they get the transcript of the County's meeting on July 9 that Attorney Rosenberg listen to it. Mr. Siegel has compelling evidence that there was a prescriptive easement from historical information. He would like Attorney Rosenberg to look at it and reply back to them. The issue may be moot if the owners of Oceanos work something out with the County.

There was a unanimous consensus to have Attorney Rosenberg report back to the Counsel.

Fred Siegel, 730 Columbus Avenue, Manhattan, NY stated he grew up at 2-09 Saddle River Road and there has always been unfettered access to the County Park. They should look at the neighborhood, which is a residential neighborhood. He mentioned three alternatives for access to the park: move the goal posts to the adjacent parcel and use Williams Street as the access point, which should not cost too much money; look at the issue of prescriptive easement since people have always been able to access that field without any problem; or the owners of the restaurant should sell a portion of the parking lot and let the County buy additional space.

William Ruggles, 2-10 Saddle River Road believes it is a prescriptive easement. There are five criteria that have to be met, exclusive, continuous, uninterrupted, visible and notorious usage. Those are difficult criteria to meet. He wants to know which criteria it does meet. Attorney Rosenberg stated he did not know what he was talking about. Mr. Ruggles said he sent an email to the Council asking them to give it to the Borough Attorney.

Bernice Katz, 2-22 Saddle River Road, commended Mr. Segal on his creative solutions. Two gates were put up on the fence; one behind the barn and one in the middle of the parking lot. The flooding is very bad. Brookside Avenue is a site of many accidents.

Ms. Katz wanted to know where the wetlands begin and end. Councilmember Trawinski stated Mr. Levine probably has wetland delineation from the DEP. He suggested she contact the DEP for the Freshwater Wetlands for Bergen County and they will tell her the status. He suggested checking with the Manager because once the delineation is made the municipality would be notified.

Rick Ruggles, 2-10 Saddle River Road, stated he has lived there all his life and it has always been a right of way. Recently he was going to the park and had a confrontation with the owner of Oceanos who told him where to enter into the park. He has had a number of conversations with his workers. Mayor Weinstein stated they had a valid reason to put up the fence, one of which was to protect the patrons. They will be looking into the easement. Mr. Ruggles said his only argument is that he lives right across the street; he asked the owner for a key but was not given one.

Joan Bell, 2-06 Saddle River Road, stated she has had access to the park where she had found it to be very tranquil and serene and now it has been taken away from her. She is very hurt by the situation. They were never notified about the fence. Twice her house was almost hit by a car.

Carl Shoemaker, 2-83 Saddle River Road thanked the members of the Council that attended the Freeholder meeting because it was important to the residents to have bipartisan support. He did not have any comment about the Oceanos request for a zone change. He had concerns about development along the park because it exasperates the flooding in the park and problems with the traffic.

BOROUGH COUNCIL ECONOMIC RESPONSIBILITY:

Deputy Mayor Tedeschi referred to a newspaper articles about difficult economic times. The Council has to control Borough costs. For the last several years they have benefitted from some good planning and some hard work to keep the budget increase around 3%, which is was not good enough. He is very concerned about heating oil prices this winter. The Borough Manager and his administration are looking for ways to improve efficiency. He suggested they create a Citizens Competivization Committee made up of people whose job would be to look into various things that the Council is not looking into to and make suggestions to the Council. When he was Chairman of the Competivization Committee at the BCUA, they had professional help and cut costs over 40% over four years. The Council has an obligation that the next budget increase is 2% or less. He proposed they discuss how it would be formatted using people that have skills that can help the Borough.

Councilmember Trawinski stated when he proposed that two years ago it was rejected by the majority of the Council at that time saying that was their responsibility and they should do it. He is glad that Deputy Mayor Tedeschi was suggesting it.

Deputy Mayor Tedeschi stated they do not need another layer of people telling them how to spend or not spend money. They need a layer of people who can talk about outsourcing or implementation of technology. It may come with cost. The Borough Manager has had suggestions put aside because of costs. It may be cheaper to pay now than later. He is very concerned about this winter with the cost of heating fuel. He thought as a community they should do everything they could to help the residents.

Councilmember Trawinski believed they have been doing this in terms of the budget process but they need to go that next step. The problem is there are decisions that are made outside the box but they have political consequences and they need someone else to say as a matter of policy whether they are good or not. Deputy Mayor Tedeschi said it was not his intent that this committee runs the Borough. The Council still has responsibility over the budget, the Manager will still have the responsibility to run this place on a day to day basis and plan for the future. He was looking for a resource base that can really flow into the savings.

Councilmember Trawinski stated they should ask the School Board to do exactly the same thing. They can hold the line on the taxes but 65% of the budget comes from the school taxes. They should invite the school board to join them in this effort.

Councilmember Trawinski suggested they reconsider establishing a four day work week. Deputy Mayor Tedeschi indicated that nine and ten hour work days are historically non-productive.

Deputy Mayor Tedeschi suggested that they come to the next Work Session with a vision for the committee and then they could work on objectives.

INVESTIGATE GOVERNMENTAL GRANTS CONSULTING INC.

Councilmember Trawinski stated that they received some bad press on a contract with this grants firm that they as a Borough had transactions with this firm. He thought the Manager and Municipal Clerk should take a look at it. The Borough never had any work done by this grants firm even though they may have entered into a contract; therefore, this inference that somehow the Borough did something with the former Mayor can be dispelled. They can go to the newspaper and ask them to clarify it. Municipal Clerk Kwasniewski stated she had already done this research for The Record. She stated the Borough entered into a contract with the grants firm, they never did any work for the Borough, never got the Borough a grant and the Borough never paid them any money.

Mayor Weinstein stated he would like a consensus to send this to Stephanie Akin at The Record. Municipal Clerk stated she had received everything through an OPRA request. Councilmember Trawinski stated Ms. Akin should be asked to have either her or her editor do a correction to that story. Councilmember Baratta stated she would like to see any documents that Municipal Clerk Kwasniewski has on this matter. She asked Municipal Clerk Kwasniewski if she was subpoenaed. Municipal Clerk Kwasniewski said she had not been because they had gotten everything the Borough had. She would be happy to make copies for them.

Councilmember Trawinski stated they would be wasting time and energy sending letters but at least the people who were here heard it. Deputy Mayor Tedeschi felt they should still send a letter.

There was a consensus to have the Municipal Clerk make copies of the documents and to send a letter to the newspapers.

TRANSPARENCY IN GOVERNMENT ACT:

Councilmember Trawinski stated they had received a letter from State Senator Joe Pennacchio requesting the Council to adopt a resolution supporting this bill. He would like to go a step further by asking Senator Gordon to support this legislation. He explained that this act would create a website site which would be in a user friendly format and provide more information.

There was a unanimous consensus to adopt a resolution in support of this act.

AMENDING HISTORIC PRESERVATION ORDINANCE:

Attorney Rosenberg stated he had drafted an amendment to Chapter 120 regarding Historic Properties. The draft ordinance was reviewed by representatives of the Historic Preservation Commission on July 10. They had proposed a different type of amendment, one which closely follows the statutory provisions established within regulatory guidelines. This draft ordinance created a mechanism whereby individual sites would be designated by an application process that would have to be acted on by the Council. If a property owner objects to such designation, the designation would not occur. The draft ordinance also established criteria for creation of historic designations by which an individual historic site would be so designated by the Council. Councilmember Trawinski stated they should also acknowledge that they had received a letter from Jane Diepeveen. Mayor Weinstein stated he would like a few members to speak about this before he takes a consensus.

Maureen Moriarty, 14 Burnham Place, said at the last Work Session they noted that some Councilmember's had concerns about private property owners. Their commission decided all they would address at this time would be the Naugle House.

Erik Bal, 1433 46th Street, North Bergen, New Jersey, stated he was there because he had been helping the Historic Preservation Commission in their effort to preserve the Naugle House. The ordinance that was provided at the previous work session is beyond the authority of the Council to adopt. It is outside the scope of the Municipal Land Use law. It is not valid.

The two ordinances that the Historic Preservation Commission provided addresses what is needed now for the Naugle House. The Borough would have to have an ordinance installing the mandatory MLUL referral procedures to have the oversight on any design guidelines. This Council cannot impose guidelines for the Naugle House, specifically to that house because it is identified in the Historic Preservation Plan of the Master Plan. If they do that, then it would not have any meaning unless they had the other historic properties ordinance in place to lay out the referral mechanism for applications for permits that are not approved by either the Planning or Zoning Boards. He believes the draft ordinance is counter-productive. It will eliminate the status of all the sites that are already indentified. It is very inconsistent with the statutory guidelines.

Mayor Weinstein stated he appreciated the time and effort that Mr. Bal and the Historic Preservation Commission have devoted to this issue. He wondered if these two ordinances would affect the arrangement they have with the developer in bringing the Naugle House up to code and for safety reasons. Attorney Rosenberg stated it would make it impossible to carry out that settlement agreement.

Mr. Bal stated there was no need for them to do anything on the site. He was sure the developer would be happy not to bring it up to code. Mayor Weinstein stated they have an agreement that they would. Mr. Bal stated if they were going to spend money on it that money could be redirected to other useful purposes. It would be useless for them to complain. It would not matter to them. He understood that there is an application for grant for a comprehensive and meticulous architectural study to determine how this very old structure should be restored. The developer should not be involved in restoring this building.

Councilmember Trawinski suggested they discuss this in Closed Session because it involves strategy to litigation. He told Mr. Bal that his concerns have been heard.

Mr. Bal urged them to do this sooner than later because time is of the essence because if changes are made it would be impossible to change them.

Councilmember Baratta appreciated all the time and work that went in to this and with the work he did with the commission. She would like to see them adopt something like this ordinance.

Jane Diepeveen, 14 Ryder Road expressed concern that the agreement would allow them to replace the floors. She had addressed her letter to the proposed ordinance not

to a substitute ordinance. Allowing owners to opt out of it makes this ordinance useless so there would be no point in having it. It does not prohibit owners from making exterior changes or additions. It only ensures that the changes would be in keeping with historical characteristics of the building. The powers of the Historical Preservation Commission are advisory only. She recommended an appeals process instead of an opt out provision.

Ms. Diepeveen corrected the term of Mayor and Council. It is just the Borough Council form of government. In the ordinance it is listed as both so that should be corrected. She stated they should use one term and not two. She asked that they adopt something. Councilmember Trawinski asked if she had reviewed the two drafts of this ordinance.

Lawrence Koplik, 6 Reading Terrace, stated he does a lot of work with historical buildings and structures and is familiar with how these things work. The Secretary of the Interior Standards and Treatment of Historical Properties were thoughtfully and meticulously prepared by the Parks Department of the U.S. Department of the Interior and should be used. In New Jersey there is a subset of the State Building Code called Rehabilitation Sub code, which should be incorporated into the ordinance.

Maureen Moriarty, 14 Burnham Place, stated how fortunate they are to have three architects on the Historic Preservation Commission. In 1825 Lafayette came back to visit America and he stopped to visit his friend in the Naugle House. She thought it was very exciting that Lafayette had been in Fair Lawn.

Ray Richter, 19-15 Jordon Road encouraged the Council to act on this ordinance because it will not only save the Naugle House it will set the stage for what is coming next.

Special Meeting:

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Tedeschi, the Work Session was recessed to the Special Meeting.

Mayor Weinstein reconvened the Work Session at 10:35 p.m.

Public Comments:

Larry Koplik, 6 Reading Terrace, stated one of the reasons they put a plaque up in front of the Naugle House is that Lafayette at the time was the last person alive during the Revolutionary War. He was a celebrity and made his way through Fair Lawn in the course of his travels. The Borough's history of this area comes out of that site.

Jane Diepeveen, 14 Ryder Road, commented that she did not read every word of The Record but she did read that the consulting firm did not do work for Fair Lawn. The Record reported it twice. Councilmember Trawinski stated he did not read The Record unless someone calls his attention to it but he did receive many phone calls about the firm doing work for the Borough.

Bernice Katz, 2-22 Saddle River Road, stated that Oceanos commented that the main gate was open from 6:00 a.m. to 2:00 p.m. but that was not true. She was surprised to hear the information about the EDC and how it took 16 years to fix up River Road and all the wasted money. She does not think that Broadway looks so hot. She thought a way to save money would be to take the money that goes to the EDC, get rid of them and just follow the configuration on Radburn Road and make it uniform in all of the shopping areas within Fair Lawn with cobblestones and trees. Deputy Mayor Tedeschi stated the River Road have added around 36 to 40 million in ratables. He wondered where the money would come from to the work she suggested. Ms. Katz stated they should use the money they are paying the EDC and money received from grants. The Borough's town workers can use part of their day to help defray the costs. Mayor Weinstein stated he would sit down and explain the EDC and the SID to her. He suggested they set up an appointment to go over it.

Craig Miller, 5 Ramapo Terrace, stated that he attended the fireworks last week and thought the one thing they should consider for next year is the area between the pool and where residents sit. Recreation was telling the people not to be in that area but the staff was not enforcing it. He congratulated them for forming a committee to look into cutting costs. He knows that heating costs have risen dramatically this year.

Municipal Clerk Kwasniewski stated that Councilmember Trawinski asked her about the August meeting dates to make sure they would have a quorum. Mayor Weinstein stated he would not be able to make the meeting on August 19, but the rest of Council would be present.

Closed Session:

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, the following closed session resolution was unanimously adopted at 10:45 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 – Grievance No. 2008-02, Zoning Board, Environmental Commission, Personnel update by Borough Manager; Pending Litigation – Naugle House, and Attorney/Client Privilege – William Street.

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 Trawinski and second by Deputy Mayor Tedeschi 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