

REGULAR MEETING OF SEPTEMBER 23, 2008

Mayor Weinstein called the meeting to order at 7:31 p.m.

In accordance with the Open Public Meetings Act, annual notice of all meetings of the Borough of Fair Lawn was published in the Record issues of December 14, 2007. Notices were also posted on the bulletin board located on the first floor of the Municipal Building and the Maurice Pine Free Public Library. Copies were mailed to The Community News and posted on the Borough of Fair Lawn Website. The annual notice identified the times and locations of the Council meetings and work sessions.

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

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

PROCLAMATIONS: Edward Reep

Mayor Weinstein explained that Edward Reep was selected Governor at the American Legion's Jersey Boys State Program held at Ryder College this past June. Since its inception in 1946 over 30,000 of New Jersey's finest high school students participated.

Albee Palmeri, Commander of Post 271 congratulated Edward and his family. He is a fine young man. Edward was voted the best of the best by his peers. He wished him luck in the future.

Timothy Goerg

Mayor Weinstein stated that Timothy has quite a story. The article in The Record said his parents were told he couldn't do much but then he was on One Life to Live, Brooklyn Bound, an off-Broadway musical, The People Garden and numerous television commercials. He has done voiceovers for the television series Blue's Clues.

Mayor Weinstein said as he stated in his letter to Timothy, as Booker T. Washington said, success is not to be measured by ones position in life but the obstacles he has overcome.

Timothy Goerge sang a song, Where is Love.

Put The Brakes on Fatalities Day

Municipal Clerk Kwasniewski read the proclamation.

MANAGER'S REPORT:

Manager Metzler said there were no changes or additions.

COUNCIL COMMENTS:

Mayor Weinstein stated there is a lot of young talent in Fair Lawn and the future looks pretty good for them. He congratulated the Library on their 75th Anniversary. Fair Lawn is a premier library not only in Bergen County but in the State. It would not be without the efforts of Timothy Murphy and his staff, Friends of Fair Lawn Library and the volunteers.

Councilmember Baratta congratulated Edward for being a role model for all of them. She thanked Timothy for serenading them. She also congratulated the Library on their years of service to the Borough. Growing up in Fair Lawn she spent her summers in the Library reading as many books as she could.

She congratulated the Fair Lawn Cutter's football team for their win against Mahwah.

Deputy Mayor Swain congratulated the Reep and Goerge families and hoped they would continue to produce outstanding achievements.

She congratulated everyone who contributed to putting the Library's event together. She reminded everyone that it is one of the best libraries in the State.

Since safety was discussed in the proclamation, she wanted to remind parents to talk to their children about crossing the street now that school is in full swing. They have to make sure that kids are not on their cell phones as they cross the street and as motorists they have to be careful when people are crossing the streets.

Councilmember Trawinski waived his comments in view of the standing room only crowd.

Deputy Mayor Tedeschi stated he had no comments at this time.

ORDINANCES ON FIRST READING:

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

ORDINANCE NO. 2126-2008**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 125-45, ENTITLED "TREES".**

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Swain, Resolution No. 260-2008 introducing Ordinance No. 2126-2008 was discussed.

Councilmember Baratta stated this is an amendment to the tree ordinance to change the diameter of four inches to six inches. They want to save the trees but not be too restrictive on the residents.

There being no further discussion, Resolution No. 260-2008 introducing Ordinance No. 2126-2008 was unanimously adopted.

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

ORDINANCE NO. 2127-2008

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

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Tedeschi, Resolution No. 251-2008 introducing Ordinance No. 2124-2008 was discussed.

Mayor Weinstein explained this ordinance is regarding the \$300,000 the Borough is receiving from the Bergen County Open Space Preservation Trust Fund for Dobrow Field renovations. Right now they are going through the environmental testing and hopefully after they receive the bids in November and they find it is environmentally safe, they will be using it in the spring.

There being no further discussion, Resolution No. 261-2008 introducing Ordinance No. 2127-2008 was unanimously adopted.

Mayor Weinstein added that the field will be tested every year to make sure there are no lead particles which has been the issue lately.

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

ORDINANCE NO. 2128-2008

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN, 2000, SPECIFICALLY CHAPTER 125, ENTITLED “LAND DEVELOPMENT” TO REGULATE 24-HOUR RETAIL ESTABLISHMENTS LOCATED WITHIN BUSINESS ZONES OF THE BOROUGH

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, Resolution No. 262-2008 introducing Ordinance No. 2128-2008 was discussed.

Attorney Rosenberg explained that this proposed ordinance will amend Chapter 125 of the Land Use Code to establish 24 hour retail businesses in the B zone of the Borough as permitted conditional uses. It establishes certain conditions under which it can be approved. Any business owner seeking to have 24 hour businesses in the B zone who does not meet these conditions would have to seek a variance from the Zoning Board of Adjustment.

Mayor Weinstein stated the goal was to prevent 24 hours businesses which abut residential neighborhoods. This would protect the residential areas from late nights and that type of things.

Councilmember Trawinski thought they had intended to make it clear that this Ordinance does not modify, abrogate, alter or change any prior approvals that any business had approved by the Planning Board or Zoning Board which otherwise dealt with the hours of limitation. He asked Attorney Rosenberg if he was satisfied with the language in Section 2. Attorney Rosenberg stated the language does incorporate those businesses.

Councilmember Trawinski stated this not only deals with residential neighborhoods but more broadly any residential use. For Land Use purposes that is a distinction with a difference.

There being no further discussion, Resolution No. 262-2008 introducing Ordinance No. 2128-2008 was unanimously adopted.

ORDINANCES ON SECOND READING:

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

ORDINANCE NO. 2124-2008

AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FAIR LAWN, 2000, BY AMENDING AND SUPPLEMENTING CHAPTER 232 ENTITLED AVEHICLES AND TRAFFIC@, ARTICLE II, APARKING@, SUBSECTION 232-11, PARKING PROHIBITED DURING CERTAIN HOURS ON CERTAIN STREETS, SUBSECTION 232-13 PARKING TIME LIMITED ON CERTAIN STREETS SUBSECTION 232-14 AND ALTERNATE SIDE PARKING TIME LIMITED ON CERTAIN STREETS

There being no comments by the public, upon motion by Deputy Mayor Swain and a second by Councilmember Baratta, it was unanimously agreed to close the time for public hearing.

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, Resolution No. 263-2008 adopting Ordinance No. 2124-2008 was discussed.

Mayor Weinstein explained that this ordinance will open up parking on Grunauer Place and Cyril Avenue by the businesses on Broadway.

There being no further discussion, Resolution No. 263-2008 adopting Ordinance No. 2124-2008 was unanimously passed.

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

ORDINANCE NO. 2125-2008

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 125, ENTITLED "LAND DEVELOPMENT" TO PERMIT TEMPORARY REAL ESTATE DIRECTIONAL SIGNS ON BOROUGH RIGHTS-OF-WAY.

Claude Beinstock, 39-11B Broadway felt it was helpful to have signs up to market property.

There being no further comments by the public, upon motion by Councilmember Baratta and a second by Councilmember Trawinski, it was unanimously agreed to close the time for public hearing.

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, Resolution No. 264-2008 adopting Ordinance No. 2125-2008 was unanimously passed.

PUBLIC COMMENTS ON CONSENT AGENDA ITEMS ONLY

Upon motion Councilmember Baratta and a second by Councilmember Trawinski, the time for public comments on Agenda items only was opened. Mayor Weinstein announced that Resolution No. 273-2008 would be removed. Municipal Clerk Kwasniewski stated it would be based on the advice of Attorney Rosenberg.

Bernice Katz, 2-22 Saddle River Road, felt the requirements were too restrictive for the Competivization Committee. There are many talented and knowledgeable people who do not have titles but have that experience. She thought all of the titles that were in the

Resolution were with paid salaries. Mayor Weinstein stated they can send a resume in. They may even belong to a club or whatever as long as they are qualified.

Councilmember Baratta stated the language says including but not limited to. They are not restricting anyone. They will welcome anyone that sends their resume in. Mrs. Katz asked why they had to list that. Mayor Weinstein stated they wanted to give people an idea of the kind of skills the Council was looking for and what they would be doing on this committee. As Councilmember Baratta said, it is not limited to. Deputy Mayor Tedeschi stated these are simply good examples of people that they are looking for but are not limiting it to those skills.

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

RESOLUTIONS BY CONSENT #24-2008

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, Consent Agenda 24-2008 containing the following items was unanimously passed with the exclusion of Item I.

- a. Resol. #265-2008 - Approval of Minutes:
Special Meeting 6/24/08
Special Meeting 7/30/08
- b. Resol. #266-2008 - Refund of Overpayment of Taxes
- c. Resol. #267-2008 - Authorizing Application for Municipal Alliance Grant
- d. Resol. #268-2008 - Award of Bid: Project #152 Senior Center Roof Replacement
- e. Resol. #269-2008 - Award of Bid: Hydrants and Hydrant Parts
- f. Resol. #270-2008 - Confirming Endorsement of CDBG Application - Care Plus of NJ Inc.
- g. Resol. #271-2008 - Requesting Approval of Special Item of Revenue – Recycling Tonnage Grant
- h. Resol. #272-2008 - Creation of the Competivization Committee
- i. Resol. #273-2008 - Award of Bid: Solid Waste Collection - **Removed**

PUBLIC COMMENTS

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

Walter Weglein, 18 Ramsey Terrace, stated he was concerned about the Closed Session regarding the Borough Manager. At the Work Session last week, he heard the Mayor say philosophical differences made it necessary to dismiss the Borough

Manager. He thought there was a lot of people there tonight who would like a clearer explanation before they discuss his employment.

Attorney Rosenberg advised that under the Open Public Meeting Act matters involving personnel are in Closed Session unless the personnel involved specifically asks that it be in open session.

Mr. Weglein asked Mr. Metzler if that was what he would like. Manager Metzler stated at this point after speaking to his Counsel should the Mayor and Council vote to terminate his employment that there would be a preliminary resolution. Once that resolution has been approved by the Council he is entitled to either answer the charges that they have in writing or to request a public hearing. He can assure them he would be requesting a public hearing at the appropriate time. Mr. Weglein wondered if it would happen tonight after the Closed Session. Manager Metzler stated it would premature for him to tell him that because he did not know the outcome of the Closed Session.

Councilmember Trawinski stated he would be voting no to go into Closed Session. He believed that last week when they went into Closed Session they violated the case law in failing to give adequate Rice notice to the Borough Manager. He also believed the last meeting of the Council going into Closed Session was done in a manner that violated the Faulkner Act that required the Council to act as a collective body. There was no prior discussion by the Council in Closed Session to indicate they should give the Manager a Rice notice. The Borough Clerk acknowledged that she gave the notice once the matter was placed on the Agenda. He believed that as a matter of law, this Council would have to decide whether or not to give a Rice notice before they proceed with the matter. He also believed that tonight's meeting was a continuing violation of the Faulkner Act and a failure to adequately give the Manager a Rice notice. It was a further violation because at no time did this Council discuss any resolution to be put on a Closed Session Agenda. So someone had to direct the preparation of the resolution that the Municipal Clerk will read according to the Agenda. The only way they as a Council can act is a collective body. They would have had to do that first and authorize the preparation of the resolution. They did not do that. He felt this meant they were going into Closed Session for a reading of a resolution not the preparation of a resolution. Therefore that was a continuing violation of the Faulkner Act. He would vote no.

Attorney Rosenberg advised that under the Faulkner Act, anyone who is discussing the issue of personnel matters has a right to go into Closed Session. The personnel involved is entitled to a Rice notice which had to be given in an adequate manner. The Rice notice was given to the Manager for last week's Work Session once the Borough Clerk realized that a personnel item was put on the agenda. He respectfully disagrees with Councilmember Trawinski's statements. No resolution has been asked to be prepared. He believed that the purpose of the Closed Session item, as indicated on the Agenda is to discuss for the first time the issue of what action, if any, the Council is

going to proceed with regarding the employment of the Manager. A majority of the Council would then have to decide as to whether or not to prepare a preliminary resolution. He did not believe that anything has been discussed formally as to whether or not further action should be taken in regard to the Manger's employment.

Mr. Weglein stated in the newspaper and Fair Lawn Speaks said that neither Councilmember Baratta nor Councilmember Trawinski were notified of this so how could they go into Closed Session without first notifying them.

Mayor Weinstein stated that after public comments he has a prepared statement that he would like to read.

Councilmember Trawinski wondered if he had an Agenda that was different than from what the other Councilmembers have. Mayor Weinstein said he did not. Councilmember Trawinski stated his Agenda under item 13 says Municipal Clerk reads resolution, it does not say they are going into Closed Session to consider or authorize a preparation of a resolution. Municipal Clerk Kwasniewski said it is the same resolution they do every time they go into Closed Session in accordance with the Statute. Councilmember Trawinski said their notice is inadequate under the case law because it does not disclose to the public why they are going into Closed Session. Mayor Weinstein stated the Municipal Clerk responded to that question.

Arlene Rubinstein, 28 Rutgers Terrace, stated what they are considering doing is the worst case scenario occurring in corrupt Bergen County. The retention of Tom Metzler should not even be a discussion. They are contemplating removing the best Borough Manager they ever had because they do not agree with his style, but that is no reason to get rid of him. She felt the Council did not like a strong Manager. She asked Deputy Mayor Swain to keep an open mind and vote against firing Manager Metzler. She expressed that Manager Metzler has given so much to this town and found it to be very disgraceful.

Howard Mark, 12-23 Ferry Heights, stated if they get rid of Manager Metzler it would not be in the best interest of the town. He has called the Board of Election to get information for a recall petition.

Marv Levitt, 35-15 High Street, stated he wanted to approach this in a non-partisan way. The people of Fair Lawn elect Council people to do a job and last year they elected a Council majority. Part of their job is to hire and fire a Borough Manager. A Borough Manager does what they tell him to do. If they don't feel for any reason that they were not in sync with him, they would be derelict if they did not get someone that they were in sync with. He did not really care what the Manager's qualifications are or whether they were a man or woman, he just cares that they get along with the Council that is elected in this town to do the job that the town wants.

Mr. Levitt stated in 2005 Jeanne Baratta and Ed Trawinski were elected. One month later in December of 2005, they said to the then Borough Manager, Joanne Kwasniewski that she was terminated. She is also a nice person. Councilmember Baratta never worked with Joanne and Councilmember Trawinski worked with her before and he could have said he worked well with her. Councilmember Baratta never worked with her and never had any personal knowledge of her and her work habits, but she said she was going to terminate her and that was perfectly acceptable. There is nothing wrong with any Council person deciding that the Borough Manager was not in sync with them. Joanne did not have a circus like they have today. To her credit, she decided to resign rather than have her supporters come and say she should stay. This is not the way the political system works. The Borough Manager is not elected by the people in Fair Lawn, the Councilmembers are and they have a responsibility to find the best Borough Manager they can work with. This has nothing to do with partisanship.

Councilmember Baratta stated that when she ran for Council in 2005, she had been coming to the meetings for well over six years. She did not like 19% tax increases so they did opt for a change and she stands by that change.

Mr. Levitt responded that all he said was she did not work with Joanne to find out what her work habits were before she decided to terminate her. This is something, as a Councilmember, is correct in doing.

Councilmember Trawinski stated he did work with Joanne and did not intend to besmirch her reputation other than to say, that in 1998 when Deputy Mayor Tedeschi and he had an opportunity to appoint an Acting Manager, they made a conscious decision not to appoint Joanne. In 2005 Mr. Levitt supported him and Councilmember Baratta and in the last election he supported Mayor Weinstein, Deputy Mayor Tedeschi and Deputy Mayor Swain. What he neglected to say was when he supported him and Councilmember Baratta Mr. Levitt had made it crystal clear that he wanted them to make two commitments which were that Mr. Lustgarten would not be the Borough Attorney and that Ms. Kwasniewski would be terminated as the Borough Manager. Mr. Levitt said that was not true.

Timothy Goerg, stated he wanted to thank everyone for acknowledging him and asked that his family be excused because they did not want to hear some of this stuff.

Rita Golden, 14 Rutgers Terrace, stated Manager Metzler was doing a great job and the taxpayers deserved more.

Anna Bures, 2-27 Lyncrest Avenue, stated she was shocked to hear of Manager Metzler's possible dismissal. He is the best and most effective OEM Manager. She has been a CERT member and has found him very helpful. Fair Lawn needs Manager Metzler.

Craig Miller, 5 Ramapo Terrace, finds it appalling to do this to Manager Metzler. Manager Metzler believes in customer service.

Steve Kobrin, 42 Koenig Court, stated he knew Manager Metzler for three decades. He is a super executive to this town. If the Mayor and Council had a problem with him, it is their problem. He would find it totally unacceptable if they dismissed him.

John J. Segretto, from the law firm of Segretto, Segretto and Segretto, stated he was there to discuss the 24 hour retail store hours. He had submitted correspondence to the Mayor and Council and the Borough Attorney. He represented Rainmaker Capital and Broadway at 34th Street, who own Broadway Boys and Washington Mutual Bank. They have concerns even with the new language. Section 2 indicates this ordinance will not apply to any 24 hour establishment or existing establishment that is now operating at 24 hours. He believed that they will have to open 24 hours before the Mayor and Council adopt this ordinance, to protect their rights. He did not think it was right that it applied to businesses that have the advantage of having site plan approval that does not limit their hours of operation. They would have to go to the Zoning Board requesting a use variance and request site plan approval and then they would have to reconfigure their parking, change their signage. They asked the Borough to put the language in that he proffered which is "regardless of hours presently, if you have the benefit of an approval whether it is from the Zoning or Planning Board, that does not restrict them in terms of hours, that this new ordinance cannot apply because those approvals predate the changing of the ordinance".

Councilmember Trawinski asked the Borough Attorney whether the ordinance as he modified it protected businesses with existing approvals with hours of operation defined therein. He believed the ordinance they are adopting does do exactly what he asked and what he thinks should be done. His problem with Mr. Segretto's language was that it would purport to allow an existing 24 hour operation to continue into perpetuity as opposed to existing site plan approval and is living up to that site plan. It may also very well be that his client has abandoned that clause but thinks this ordinance would still protect his client with the way it is written.

Councilmember Trawinski proposed that they ask the Planning Board to specifically look at the question since they will be looking at it for inconsistencies with the Master Plan. They could ask the Planning Board to report back to the Council and also ask Mr. Segretto to ask the questions of the Planning Board to see whether it has further guidance it would like to give the Council.

Councilmember Trawinski believed that any business that has an existing approval that allows 24 hour operation pursuant to site plan can continue.

Mr. Segretto stated he planned to go to the Planning Board meeting. What he was talking about was an approval that granted a retail establishment use but says nothing

about hours. That is the gray area. There may be approvals that specifically say they can go 24 hours. There are probably approvals out there that restrict the hours in the late evening. The gray area may be the approvals that were given in the 1970's and 1980's that may not have addressed this issue and left it open. As the ordinance stands, if the approval does not restrict the hours, they would have the right to go to 24 hours. Right now Broadway Boys is a not a non conforming use. It is a conforming use that does not have any restrictions on the hours of use. He advised his client with the language in the ordinance, they should go to 24 hours so there is no gray area and they would preserve their right.

Councilmember Trawinski understood what he was saying and suggested they table this ordinance and revisit it at the Work Session after it goes to the Planning Board. It certainly was not their intention to force any business owner that is operating under an approval with unrestricted hours to go to 24 hours.

Councilmember Trawinski stated he would propose a tabling resolution to the Council on October 14, 2008.

Mayor Weinstein stated the next Planning Board meeting is October 20, 2008 so they will table this.

Lisa Yourman, 66 Knottingham Road, read a prepared statement indicating that Manager Metzler is well respected.

Barbara Gremillot, 1 Bristol Place, stated they held the view that the people come first not the government. They have lost confidence in the members of the Council primarily Mayor Weinstein and Deputy Mayor Tedeschi. The people of Fair Lawn have the right to the truth. She wanted to know what the true meaning of Tom Metzler's dismissal. They have lost Attorney Michael Kates who was honest and truthful, Richard Lustgarten was not appointed as Borough Attorney but has been hired for the Landmark Litigation and his fees are staggering as well as increasing his pension fund. Mayor Weinstein stated that was not a true statement. He is an independent Counsel. His fees are not staggering. Ms. Gremillot continued they want honest and open government. She appealed to Deputy Mayor Swain to restore their hope and honesty in Fair Lawn. They want to make sure that Tom Metzler, the best Manager, does not get fired.

Larry Greenberg, 15-21 Raymond Street, expressed his sentiment that Manager Metzler was too valuable to get rid of. He spoke of the many qualities he possessed for a good Manager, which he is.

Senator Robert Gordon, 14-25 Plaza Road, stated he normally did not get involved with these types of matters but he felt compelled to do so because of his great admiration for Manager Metzler. He has known him for 25 years. In 1999 they formed a business together. He has impeccable leadership skills. He felt that Manager Metzler was one of

the best Managers he has worked with in the last 10 years. He is just a tremendous leader.

Bob Gremillot, 1 Bristol Place, felt that Manager Metzler has been an asset to Fair Lawn. Not only did he do the things he was supposed to do, he took the time to look into problems that residents had. He thought it would be a devastating blow to the town if he was fired.

Kirk Shaw, 18-11 Landzettel Way, stated he was not there to bash the Mayor and Council because he thought they were doing a great job as well as the Borough Manager. Fair Lawn is a better place to live in because of Manager Metzler. He strongly urged them not to dismiss Tom Metzler as the Borough Manager. He stated that Manager Metzler has given his whole life to the Fire Department.

Pam Coles, 13-34 George Street, stated the Council has an obligation to come together under the Faulkner Act to discuss any personnel issues therefore the integrity of the Faulkner Act has been violated. His job is based on performance not on philosophical differences. Manager Metzler has worked tirelessly for the volunteers and residents of this town. They should have a strong Borough Manager and a weak Borough Council and they have that in Manager Metzler. She asked that Manager Metzler stay in his position.

Anna DiNardo, 13-06 2nd Street, felt this was a very sad moment because they were all there speaking out in favor of something that should not be happening. It was sadder that they had to read it in the newspaper. Manager Metzler is accessible to the average person. He is willing to listen and tries to solve the problem. She thought the Mayor, Council and Manager Metzler all have the best interest of Fair Lawn at heart along with everyone in the Municipal Building. They need to keep Manager Metzler.

Harry Posner, 13-10 2nd Street, thanked Manager Metzler for helping him out several times. Unlike some people here, he appreciated the Mayor and Council for all they have done. Hopefully they will keep Manager Metzler.

Charles Mander, 24 Wilcox Place, said this small town has a Borough Manager with qualifications and experience that even the City of New York would want. He has given his life to this town as Fire Chief, a Trustee at the Library, Director of OEM and now as Borough Manager. As head of OEM he put it on a five year capital program. He has kept taxes down as Manager. The people here love him. The one thing he is not is not a puppet or a yes man. This Council does have a right to act foolishly and to vote him out. By the same token the people here have a right at the ballot box to vote the Council out.

Tom Tyls, 5-27 4th Street, stated Manager Metzler is a person who identifies the real life needs. He has come up through the Emergency Management system. His leadership

has shown in the continuity of the system. There is an excellent Fire Department because it has excellent leadership. When they talk about putting in townhouses and increase taxes, Manager Metzler is thinking in terms of what the emergency service needs, roads, water, sewer and more practical things. Manager Metzler is an excellent man.

Joseph Lamonico, 40-10 Morlot Avenue, thought it was the Council's duty to prove that this is a functioning democracy and that they represent the people other than themselves. The people have spoken. They have heard them and the Council should respond to them.

Felice Koplik, 6 Reading Terrace, stated no matter what her question or need was, Manager Metzler who has always been there to help. She felt it would be a very poor decision to fire such a responsible, hardworking, accessible and ethical person. She asked that everyone on this Council think very hard about their vote tonight. Losing Manager Metzler as Borough Manager would be a terrible loss to every Fair Lawn resident.

June Myerson, 15 Ballard Place, believed that Manager Metzler's position should be a bi-partisan issue. She supported him as Borough Manager. She has had no direct dealings with him but according to other's experiences with him, it is obvious that he performs his duties at the highest standards. In addition, he projects his willingness to meet the Fair Lawn's community's needs in a reassuring open and honest fashion.

Claude Beinstock, 39-11B Broadway, stated he was impressed with Manager Metzler's dedication and knowledge. He has been hard working on many issues. He felt if Manager Metzler was dismissed it would be without just cause.

Ed Feldman, 7-09 Park Avenue, stated he has seen eight managers come and go. He has served with Tom for many years in the Fire Department. He has been an excellent volunteer who has given more time than many of them. During his tenure as Manager he has been able to keep taxes down

Bob Wallace, 11-06 Alexander Avenue, stated he was surprised that the Mayor and Council have even contemplated dismissing Manager Metzler. In the dealings he has had with him he noticed that Manager Metzler stands up and tells what he feels. He asked Deputy Mayor Swain to be open minded in this matter.

Harvey Rubinstein, 28 Rutgers Terrace, stated this was an outpouring for a man who is honest and professional. He felt that Deputy Mayor Swain was the key and will determine the outcome.

Ron Coll, 10 Ramapo Terrace, stated he wanted to act as Manager Metzler's press secretary. He felt he was standing in front of a lot of people who care for this town.

Sol Robbins, 12 Randolph Terrace, wondered what would make the Mayor and Council want to fire Manager Metzler since they have heard how everyone feels.

Jeanne Dulkis, Hawthorne, stated she is an employee of the Police Department. She felt that Manager Metzler has been one of the best. She believed in Manager Metzler in the caring that he has for Borough employees both white or blue collar workers, he was always there for them. She asked that they consider keeping him as Borough Manager.

Eleanor Froelich, 3-32 Grunauer Place, read a petition which objected to the proposed action of removing Manager Metzler. There were 50 signatures on it.

Wendy Dabney, 13-05 Ivy Lane, thought that Manager Metzler has changed that and thought that Manager Metzler has become the face of municipal government. This present administration with Manager Metzler at the helm is working the way it is supposed to function. She urged them not to fire him.

Arturo Montepara, 9-09 Canger Place, felt that Manager Metzler was an asset to the town. This is a person with a career which should not be decided by the Mayor and Council but by the residents. They have heard the comments that have been made. It is the voice of the town. He encouraged them to let Manager Metzler stay as the Borough Manager.

John Cosgrove, 6 Langan Court, he has worked with everyone here and considers all of them to be his friend. He knows Manager Metzler for over 30 years. They were both in the Fire Department together. Tom has continued to show his integrity through the years and tonight he still stands with him because he is a man of high integrity. He has done a lot for this town. He hoped they would make the right decision and keep Tom Metzler as Borough Manager.

Joy Peluzzo, 25-40 Romaine Street, stated Tom is a wonderful person. She was in his first CERT course which has helped her tremendously. In this day and age with all of the tragedies she could not think of anyone else heading an emergency. It would be a great loss to this town.

John Mamo, 7-29 Fern Street, stated he knows Tom for 35 years. When he heard about this he was surprised. He felt sorry for Deputy Mayor Swain because she has the brunt of it. He felt this tells Manager Metzler that the town is behind him and this is only the fraction of the people. He hoped the Mayor and Council will be able to handle the backlash from the rest of the taxpayers if they go ahead with their decision.

Sergey Shevchuk, 15 Gurney Terrace, challenged the entire Council to recess for the Closed Session and come up with a unanimous decision to keep Tom Metzler as the Borough Manager.

Eleanor Froelick, 3-32 Grunauer Place, submitted a petition to the Municipal Clerk.

Anna DiNardo, 13-06 2nd Street, stated this is the part of the meeting where the Manager is directed to take care of it and he runs off to take care of it. She felt they should keep Manager Metzler to take care of things.

Bernice Katz, 2-22 Saddle River Road, echoed all of the sentiments here as well. She had another issue that she wanted to address. She presented a petition with 300 signatures regarding Oceanos blocking the access to the Bergen County Park behind his restaurant. She also had a letter for each Councilmember. The original letter gave Oceanos permission to build a fence. The fence was built but was only locked after he purchased the last block of houses so he could go ahead with his plan to construct a catering hall. It was erroneous permission' Fair Lawn compounded the error by not questioning this letter when they received it and giving the permit to the restaurant. She hoped they would reconsider taking action. When the Beaver Dam Task Force and other residents asked for their help in getting an injunction against the restaurant or the County no one did anything. When they read this letter and see the petition, they may change their mind on the issue and come out and help them.

Deputy Mayor Swain stated that when she came to the Council when the Beaver Dam issue arose they were already in the midst of negotiating with the County for a resolution to the problem. As they know when they are involved in any type of negotiation they just want to let it go ahead.

Ms. Katz stated they don't want taxpayers money spent on finding another route. They want the help of the Council to make it clear that they don't want the County or the restaurant to decide a solution. They want a cost free solution to open the gate. It was a descriptive easement which has been in existence for fifty years. It seems no one wants to help them.

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

Mayor Weinstein read the following statement thanking everyone for coming to tonight's meeting. The comments that have been made will certainly be considered by the Mayor and Council.

In a few minutes the Council will go into Closed Session to discuss this personnel matter. At that time it will be determined whether it is the consensus of a majority of the Council to adopt a preliminary resolution required by statute to commence termination proceedings. The Manager is entitled to present his views to the Mayor and Council not less than 20, nor more than 30 days after a preliminary resolution is adopted if one is adopted. The statute permits the termination of the Manager after 30 days of the date of

the preliminary resolution, if there is a consensus of a majority of the Council after considering all of the circumstances.

That is the legal process, but I believe that it is important to understand the relationship between a Manager, any Manager, and a Mayor and Council. By law and practice a Mayor and Council established policy as to how it requires the Borough to operate. The Manager then implements the policy subject to certain functions and duties which are solely in the Manager's domain.

Obviously, when a Mayor and Council and a Manager feel they are not on the same page, or they have philosophical differences or they feel that the direction of the Borough is not in accordance with where they wish it to go, the working relationship between the parties no longer exists. This is neither an attack on the character of a Mayor and Council nor an attack on the character of a Manager.

He was quite disappointed with what has happened in this process. There have been leaks to the newspapers, mis-information on what is called the "chat-room" and this false information has spurred in part confusion and misunderstanding on the part of the public and also the employees in Borough Hall. The Manager has not been fired as was reported in a headline in the newspaper. This is to be determined after a discussion among the Councilmembers.

Additionally, it must be remembered, and this is the most important point, that a Manager serves at the will of the Mayor and Council. It is not a tenured position nor one protected by Civil Service. As the Mayor and Council must answer to the residents of the Borough, the Manager must answer to the Mayor and Council. These relationships are the essence of "checks and balances" in this form of government.

As in most relationships in life, nothing is either black or white, but rather gray. There are pluses and minuses, things that are good and things that are not so good, but it is the totality of the circumstances that must dictate what course of action the governing body should take.

Because this is a personnel matter relating to the Manager, he could only state that the area of differences between the Manager and himself have led him to the conclusion that they no longer have the appropriate working relationship for the betterment of the Borough and all of Fair Lawn's residents.

He wanted to reiterate that he was only one vote, and it is up to the entire Council to make a final decision.

Despite the high emotion in the Council Chambers tonight, he wanted to publicly state that he likes Tom personally, but his responsibility is to all of the people in Fair Lawn, and he must put aside the positive personal feelings that he has about him. He thought

that by seeing him privately and advising him of his concerns, the matter was handled in a professional manner. The responsibility for why and how that information was leaked rests on the shoulders of those who did the leaking. He assured all of the residents of Fair Lawn, as well as those who appeared here tonight, that he did not consider this an easy decision, and it is one that he has thought long and hard about.

The Council will make its decision, and ultimately that decision will be announced to the public. Once again, thank you for coming tonight and they will now adjourn to Closed Session.

CLOSED SESSION RESOLUTION – Personnel Borough Manager

Upon motion by Deputy Mayor Swain and seconded by Deputy Mayor Tedeschi, the Closed Session resolution was passed with Councilmember Baratta and Councilmember Trawinski dissenting.

WHEREAS, the Open Public Meetings 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 – Borough Manager and Attorney Client Privilege – Solid Waste Collection; and

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

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

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

Mayor Weinstein reconvened the meeting at 11:10 p.m.

Mayor Weinstein stated they were going to do a preliminary resolution on the termination of the Manager and the vote went 3-2.

ADJOURNMENT TO CLOSED SESSION

Upon motion by Councilmember Trawinski and seconded by Deputy Mayor Tedeschi, the meeting was adjourned at 11:20 p.m.

Respectfully submitted,

Marilyn B. Bojanowski, RMC
Assistant Municipal Clerk

The undersigned have read and approved the foregoing minutes.

Mayor Steven Weinstein

Councilmember Jeanne Baratta

Deputy Mayor Lisa Swain

Deputy Mayor Joseph Tedeschi

Councilmember Ed Trawinski