

WORK SESSION OF OCTOBER 21, 2008

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

PRESENT: Deputy Mayor Swain, Deputy Mayor Tedeschi, Councilmember Baratta and Councilmember Trawinski

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

Closed Session:

Upon motion by Councilmember Baratta and a second by Councilmember Trawinski the following closed session resolution was unanimously adopted at 7:30 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 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.

Turf Field w/ Engineer Ken Garrison:

Engineer Garrison stated that they were doing a phase one environmental study to obtain a baseline. He has contracted to do the borings in November after football season. The results should be received in December.

Environmental studies usually find something in the soil. He did not feel there would be a problem structurally, as they went down twelve to fourteen feet when they installed the lights on the field. The specs are completed and have been reviewed by Attorney Rosenberg. He will advertise the bid in January, receive them in February, award the contract in March and begin construction in April. This will impact the baseball field but Superintendent Graff feels there will be sufficient fields to cover the schedule.

Attorney Rosenberg stated he was concerned with yearly post installation testing. The specs call for an eight year warranty for material and workmanship. He did not have the expertise to know the environmental performance spec to include in the bid specifications, especially if there is a problem due to degradation of material. The framework from a remedy standpoint was the same as a warranty failure. They need

guidance from an environmental firm or consultant. He is trying to envision what would happen five years from now if an environmental issue arises.

Councilmember Trawinski stated they could obtain environmental insurance for known conditions, but there are no known conditions and they will have the baseline from the preliminary assessment coupled with the soil borings. Engineer Garrison stated they needed the baseline as lead was the main concern. Councilmember Trawinski wondered if they could obtain a performance guarantee or site restoration bond in the event they obtained a high lead reading in the future. The field could then be restored to a non-turf field. Mayor Weinstein suggested checking with other towns that have recently installed turf fields. Councilmember Trawinski suggested that Manager Metzler check with the DE P.

Attorney Rosenberg stated the big issue was if the turf eroded and caused a release of contaminants. He wanted to protect the Borough if testing in five or six years finds contaminants. The contractor or manufacturer should incur those costs not the Borough. The Council may need to hire a consultant to help draft a spec in the bid documents.

Engineer Garrison stated he needed a minimum of two weeks to explore this. He will have to find towns putting in new turf who have addressed this issue. He is struggling with the language of the spec. Councilmember Trawinski suggested they check the childcare facility and nursery school standards set by the DEP and ask the consultant how they could be tailored to meet their needs.

Mayor Weinstein wondered if the turf has a life expectancy of ten years, what happens after the eight year warranty expires? Councilmember Trawinski suggested an ongoing performance guarantee that the turf field won't cause an environmental situation. Attorney Rosenberg stated he could write that in a simple sentence but the surety company would want to know what they meant.

Councilmember Baratta stated that a contractor could install the field and have it fail for environmental reasons. The manufacturer would say it was the contractor's fault. They would need to be careful. Attorney Rosenberg stated that he and Engineer Garrison would research this further and report back in November.

It was the consensus of Council that Attorney Rosenberg and Engineer Garrison contact other towns with turf fields, check DEP standards and report back in two weeks.

Municipal Clerk Kwasniewski stated that their next work session would not be until November 12th.

Parking Changes for Streets by the High School:

Traffic Safety Officer Franco suggested they alternate side of the street parking, which would create all day parking on one side of the street and timed parking on the other

side. This would open up the street for leaf pickup and street sweeping. He recommended restrictions on the days when school was in session so that residents could park in front of their homes on weekends and during the months of July and August. This will also provide additional parking spaces on Orchard Street. The restriction on Orchard will not extend past Rose Place since no one parks there. The same is true of Western Drive.

Mayor Weinstein asked for clarification of the current parking restrictions on Orchard Street. Traffic Safety Officer Franco stated that parking was not allowed on either side of the street from 8:00 a.m. to 2:00 p.m., with alternate side of the street parking from 2:00 p.m. to 10:00 p.m. Multiple signs were needed. He did not see the need for those restrictions. A stop sign was installed at Hopper Avenue and Orchard Street to slow down the traffic but then they removed parking from Orchard Street, which tends to increase the speed of traffic.

Councilmember Trawinski stated he was concerned about reinstating parking because the minutes on this issue, especially the meeting of April 17, 2000 indicated the Orchard Street residents, as well as some residents on Fairclough, Burbank and Berdan presented a twenty page petition asking for the current parking restriction. He suggested they advise those residents of the proposed change so they could attend the meeting and voice their concerns. He also noted that many PTA members came out on behalf of the high school asking that the restrictions not be placed. He felt Traffic Safety Officer Franco had a good recommendation but he was concerned this would create controversy and upset the public.

Traffic Safety Officer Franco stated he did not recall seeing the minutes from April 17, 2002. He inquired if the Orchard Street residents asked for the restrictions. Councilmember Trawinski confirmed that most of the neighbors requested the parking restrictions because they saw it as a way to limit the littering. Municipal Clerk Kwasniewski provided a list of minutes regarding this issue that he read online, but felt the April 17, 2000 minutes was a good representative sampling.

Traffic Safety Officer Franco wondered why the restrictions were not requested for Fairclough Place, Lexington and Burbank, which would have eliminated student parking entirely. Mayor Weinstein stated that residents from other streets made requests but Orchard Street residents had a larger turnout. Deputy Mayor Tedeschi stated the issues on Orchard Street also included littering, loitering and smoking. Traffic Safety Officer Franco stated the restrictions transferred the problems to Lexington Street. It did not make sense that residents on other streets would sign the Orchard Street petition, moving the problems to their block.

Deputy Mayor Tedeschi asked what would be achieved through the parking changes. Traffic Safety Officer Franco stated that parking will shift from one side to another, opening up that side for street cleaning. Students will only be allowed to park on one side of the street during the allowed hours instead of on both sides. Parking was

changed on Norma Avenue and there have been no complaints. Deputy Mayor Tedeschi agreed that the residents should be involved in this process.

Mayor Weinstein stated that they have not heard of any problems in that area since smoking was eliminated on school property. When they discussed putting parking on Berdan Avenue, many residents stated they did not want any more parking lots; they would deal with what they had. He felt they should make the changes on the other streets and leave Orchard Street as is.

Councilmember Baratta stated that the parking restrictions on Orchard were too confusing. She wondered about the cost of the signage if they make all these changes. Traffic Safety Officer Franco stated that only the sign faces would change. Councilmember Baratta felt this would make it the same for all the blocks in that neighborhood.

Deputy Mayor Swain felt the plan would make it easier to understand when parking was allowed. She felt they should change the parking restrictions on the all the streets in question with the exception of Orchard. Traffic Safety Officer Franco stated the plan will only add increased parking if they include Orchard Street. When the ordinance first went into effect neighbors told him that it was a neighbor down the block who wanted these changes and not them.

Deputy Mayor Swain agreed that the residents should be notified. Councilmember Trawinski stated that in the April, 2002 minutes Mayor Ganz stated there were 39 spots on Orchard Street and that Council was replacing them with more than 135 spaces at Sasso Field. Another 40 – 60 spaces would be placed by the corral. Mayor Weinstein stated there was a section near Sasso Field where the “no parking” restriction was lifted. Traffic Safety Officer Franco stated they allow parking near Sasso Field on Kipp Street, but parking was removed on the other side of the streets as per the residents’ request. Councilmember Trawinski inquired if 135 spaces were actually created.

Municipal Clerk Kwasniewski stated that spaces were created at the time but some spots were lost when parking was removed from one side of Kipp Street. Traffic Safety Officer Franco stated that timed parking was removed from Cadmus Place because it had no residential impact and some parking was gained, although not 100 spaces. Timed parking was removed from Bellaire Avenue between Cadmus and 17th, because there was no impact on the residents. None of the students walk that far.

Mayor Weinstein agreed the residents should be notified of this proposed change. Councilmember Trawinski suggested mailing a letter to the residents on the streets with the proposed changes. Municipal Clerk Kwasniewski suggested sending the notices in December for the first regular meeting in January.

It was the consensus of Council that Municipal Clerk Kwasniewski send a letter to the residents on the affected blocks, notifying them that the proposed parking changes would be discussed at the first Council Meeting in January.

Councilmember Trawinski suggested they also notify the Board of Education, the high school principal and the PTA about the meeting. He also felt they should notify the resident who sent an email to Chief Rose.

Review of Tentative Agenda (10/28/08):

Municipal Clerk Kwasniewski stated she received the Pay-to-Play information for Carl Mecky. She asked to add a resolution for professional services for the study he is doing.

Councilmember Trawinski asked if they will see a resolution from CFO Eccleston for the audit report that indicates what the changes will be. Municipal Clerk Kwasniewski clarified that was the action report, which they will see in November. CFO Eccleston has asked for comments from the Department Heads by October 30th. Manager Metzler stated that one of the items was a policy on vehicle acquisition. He will distribute a sample policy as this needs to be part of the action plan.

Council Liaison Reports:

Mayor Weinstein expressed condolences and prayers on behalf of the Council to the family that lost their ten year old child in a car accident, and also to the child that is recovering.

Deputy Mayor Swain stated that the Planning Board approved the Bank of America move from Berdan Avenue to the Fair Lawn Jewelers building. They will make some minor renovations and add a drive-through. The old location was leased and they do not know what will happen there.

Councilmember Baratta stated that the Alliance for Substance Abuse Prevention donated \$425 to UNICEF from the proceeds of the teen concert.

The Garden Committee would like to hold a Farmers' Market May through October, 2009. They have spoken to vendors and Wednesday seems to be the best day for them as other days are taken. The Library is installing their soaker hose, which will help with the plantings.

The Property Maintenance Committee gave her pictures taken behind the Jersey Farmers Market on Broadway. There is a fenced in area that was not locked and the storm drain was blocked. The area was to be locked at all times. Neighbors are finding an increase of rodent activity. There is a new box truck parked there that is not part of their site plan and they have installed a compactor. Deputy Mayor Tedeschi stated the compactor has been there for years. There is a dog on the premises, which is not allowed in a food business. Councilmember Trawinski suggested that Manager Metzler have the Property Maintenance official and the Health Department look into this. Deputy Mayor Tedeschi asked if there have been any complaints. Manager Metzler stated there were complaints in 2006 about the fish.

Councilmember Baratta stated that she received a call from Mike Martin, who rescued a dog from Paterson that was burned with hot oil. He brings the dog to hospitals and burn victims, and would like to come to the Senior Center and visit our schools. She wanted the Council to recognize Mr. Martin and his wife. She will give the information to Municipal Clerk Kwasniewski.

Councilmember Trawinski stated that he attended the Street Fair and commended the organizers on a phenomenal job. He enjoyed the car show.

He was stunned to read about the death of the ten year old girl. He wondered if it was appropriate for them to ask the Police Department what their policies were with respect to high speed chases. Manager Metzler thought they were regulated by the Bergen County Prosecutor's Office.

Dog Park:

Manager Metzler stated that the dog park in Ridgewood was owned by the County. Attorney Rosenberg's figure of \$20,000 was only for maintenance. The County is discussing requests to separate the dog parks by male and female. He has sent numerous letters to the County Parks Department inquiring about a dog park off William Street.

Councilmember Trawinski asked Attorney Rosenberg if the \$20,000 maintenance fee was annual. Attorney Rosenberg stated that it was every couple of months, as they needed to change the mulch. Manager Metzler stated that the County indicated that was done on an "as needed" basis. Attorney Rosenberg stated that he received the information from Scott Koenig. Manager Metzler stated that the County told him that their feedback was positive. Attorney Rosenberg stated that residents near the park in Ridgewood had complaints. Deputy Mayor Swain thought it was isolated near the duck pond. Attorney Rosenberg stated there were residents living behind the park who complained about dogs getting loose.

Manager Metzler wondered if the Council was interested in using a Borough park. They have a community development grant for fencing that was applicable to Memorial Park or Dobrow Complex. Engineering can see if there is an area that would be suitable.

Deputy Mayor Tedeschi did not understand the costs. He could not see any municipality paying \$20,000 for maintenance costs every two months. Attorney Rosenberg stated the County was looking at the issue also. Councilmember Trawinski agreed there needed to be a better understanding of the costs.

Manager Metzler stated they needed to select a location so that Engineering could determine where the water line was. He asked the Council if Engineering should research an area at Memorial Park or Dobrow Field to obtain a cost analysis. Councilmember Trawinski stressed that he was concerned about maintenance costs. Councilmember Baratta noted that bags and special receptacles were required.

It was the consensus of Council that Manager Metzler reaches out to the Engineering Department to obtain a cost analysis and reports back at a December work session.

Review of 24 Hour Businesses Ordinance:

Attorney Rosenberg stated that the ordinance was tabled before the second reading due to concerns raised by Mr. Segretto who suggested some revisions in the language. The Council needed to decide if they should proceed with the ordinance as it was introduced at first reading, with some minor changes. Councilmember Trawinski had proposed language which would make it clear which businesses would be grandfathered and what the trigger was for having a grandfathered operation 24 hour retail establishment.

The draft they introduced was consistent with the Municipal Land Use Law, which stated that current 24 hour operations had the right to continue that operation after the adoption of the ordinance. Mr. Segretto has a client who may have operated 24 hours at one point. If the ordinance is passed, Mr. Segretto will have to advise his client to begin operating 24 hours immediately so they do not lose their vested rights. There were additional requests for changes so that an existing establishment, whether it had approval to operate 24 hours or not, could operate 24 hours after the ordinance was adopted. He thought that was contrary to the Council's intent.

He reviewed the ordinance with Ann Peck, who recommended that the standards with regards to illumination of signage should cross reference the existing performance standards and the code. He agreed. Municipal Clerk Kwasniewski had sent a memo outlining the comments from the Planning Board, which voted five to three against the ordinance. That is not their role; the Board is supposed to opine as to whether or not it is consistent with the Master Plan. They do not want 24 hour businesses to be a conditional use. Council has said it could be a conditional use if the conditions were met.

Deputy Mayor Swain stated that the Board was concerned that a business would have to go to the Zoning Board if it didn't meet a condition. They would prefer the business go to the Planning Board. Attorney Rosenberg stated the Council felt if a business did not meet a condition, they should have to meet a higher burden to operate a 24 hour business, go before the Zoning Board and meet the criteria set forth for a D use variance. He felt they should proceed in that vein.

Councilmember Trawinski agreed. They are trying to regulate something that is very difficult to regulate. They have looked at the zones where the ordinance should apply; they are not acting in an arbitrary manner. A business owner seeking relief from the standards should require a fifth affirmative vote, which takes it to the Zoning Board. He did not understand the Planning Board asking for site plan review required with buffering conditions. If they meet the standards, the site plan trigger ordinance would still apply and would still be before the Planning Board. If they deviate from the Page

standards, there is a referral process under the Municipal Land Use Law and under their ordinance where the Zoning Board can send the site plan to the Planning Board. He didn't think they should take away the higher vote standards when allowing a 24 hour retail establishment that deviates from the standards. He was not prepared to say that any current business can be grandfathered when they don't have an approval. If a business with prior approval wants to race and beat the ordinance, they have the legal right to do so.

John Segretto, Esq., 329 Belmont Avenue, Haledon stated that he represents the owners of the Broadway Convenience Store at 31-28 Broadway. He felt the purpose of the ordinance was to increase the burden for someone wanting to open a 24 hour establishment. There are present uses in the town without restrictions. He felt many business owners will be forced to become 24 hour establishments to beat the clock, increasing the number of 24 hour uses in town. He advises clients to become 24 hour to protect themselves in the event the ordinance is passed. He inquired as to when the Planning Board looked into this issue as he had checked the agenda and did not see this mentioned. Deputy Mayor Swain stated it was on the agenda. Mr. Segretto reiterated that the ordinance would cause more 24 hour businesses in town instead of restricting them. He felt the ordinance would cause many problems.

Councilmember Trawinski stated the ordinance would reasonably regulate and extend what they did on River Road so that other business districts were treated fairly. They have worked on this for a substantial amount of time, reviewing the case law, Attorney Rosenberg's memo and the zoning maps in detail. He felt the ordinance met the constitutional muster needed to pass. Mayor Weinstein felt the risks that Mr. Segretto mentioned did not outweigh the risks to the neighbors in the area. He wanted to protect the residents in mixed use areas.

Councilmember Trawinski stated he wanted to move the ordinance to second reading and suggested they notify Mr. Segretto as to the date. Municipal Clerk Kwasniewski stated this was scheduled for next Tuesday.

Selection Process for the Fair Lawn Competivazation Committee:

Mayor Weinstein stated that the selection process will take place in closed session.

Mini Bus Ridership:

Manager Metzler stated that vehicle maintenance costs of \$35,000 previously reported was the total for three buses, not one bus. He split the cost in half, not thirds, as one bus sits as a spare.

The first day the second bus went back on the road they put a non-driver on the bus, who noted 14 riders. The bus was empty for three hours and 36 minutes. He felt the seniors were not advised that both buses were running, which may account for the low ridership. On the early route there were 37 riders and 75 riders on the late bus during

the course of the day. The Council had requested a breakdown of riders during various times, but people were on the bus the entire time. The seniors are using the bus to go to Shop Rite, Pathmark and Radburn.

As a result of overtime reduction they are only running one minibus when a driver was out. That has been successful, but now there is a senior who uses a motorized scooter that requires the use of the handicap lift. This process takes longer and the bus falls behind schedule. This is not an issue when both buses are running, but one driver is going to be on vacation for a month. Health Officer Wagner is concerned that this will cause chaos with the scheduling and has asked permission to use a part time driver for that period. Mayor Weinstein felt that 75 riders made that a necessity.

Councilmember Baratta wondered if seniors had to wait a long time for a bus. Manager Metzler stated that was not a problem when both buses were running. The entire loop takes almost an hour. Some handicap individuals are picked up at their home because they cannot walk to the bus route, making it necessary for the bus to deviate from the route.

Councilmember Baratta credited the drivers for going out of their way for residents and helping them with their grocery bags. She wondered if the service was advertised enough. Manager Metzler stated the schedule was on the website and on the back page of the Borough calendar, which was sent to every resident. Schedules are also available at the Senior Center and on the buses. Deputy Mayor Tedeschi wondered how a rider knew that there was only one bus. Manager Metzler stated there was a phone number that they could call. They received so many phone calls that they now use a recording. He acknowledged a complaint from a resident who had to go to a doctor's appointment one and a half hours early because there was only one bus running.

Councilmember Trawinski inquired if there was signage for the bus stops. Manager Metzler stated there weren't any signs because a resident could flag the bus down anywhere along the route. Councilmember Trawinski asked if all the mini buses were ADA accessible. Manager Metzler stated that two of them were. One bus had a problem as the last step jerked when it was raised. The Borough's mechanic could not duplicate the malfunction and the bus company said it was fine. He has requested a certification letter from the bus company stating the step was working properly because it happened again when they loaded a passenger.

Deputy Mayor Swain felt it was a good service that residents relied on. Councilmember Trawinski agreed. He supported using a part time driver to keep both buses running. Deputy Mayor Tedeschi stated that school students use the bus and felt the service should be advertised in the schools. Manager Metzler stated the first bus starts at 8:30 a.m. Deputy Mayor Tedeschi stated he didn't mind cutting costs but he did mind cutting services as that was a policy decision. Mayor Weinstein inquired if seniors used the bus to go to the Community Center. Manager Metzler stated that it is used when they

have afternoon shows or movies. They tried doing runs to the Garden State Plaza but it did not work out.

Deputy Mayor Tedeschi stated that the policy of the Council was to operate two mini buses on a daily basis.

It was the consensus of Council that a part time driver be utilized when a driver was out to keep both buses running.

Council Approval to Proceed with Rotary Clock:

Manager Metzler acknowledged Municipal Clerk Kwasniewski's efforts in obtaining the requested information. The warranty is three years and Rotary is offering all parts, paint, faces and structures. Simple repairs would be handled by the Borough maintenance person. High tech repairs would be handled by the company. The clock uses 369 kilowatt hours annually, at a yearly cost of \$47.97 based on current rates. Extended warranties were available. The Borough would provide the concrete for installation and electrical. Engineering estimated it would cost \$5,000 for the footings and electric wiring.

Mayor Weinstein noted that adding five additional years of warranty would cost \$69.95. Councilmember Baratta inquired as to the cost of the clock. Municipal Clerk Kwasniewski stated the cost was \$15,000 for a two-faced clock and \$20,000 for a four-faced clock. Deputy Mayor Swain wondered if they could use any grant funds to defer installation costs.

Councilmember Trawinski felt \$5,000 for concrete and wiring was high. Municipal Clerk Kwasniewski did not understand those costs as the clock did not need a base; it sat on concrete. Manager Metzler stated the concrete was a footing. He explained that the work would be done in house. The labor portion was estimated to be three employees for two days. The labor portion was a fixed fee and was included in the \$5,000. There is the cost for the electrical work, concrete and the rods that get bolted to the clock. Councilmember Trawinski inquired if the costs would be in the area of \$1,200 - \$1,500. Manager Metzler stated they would not be taking \$5,000 out of the budget to pay for this. The largest portion is the labor costs, which are paid regardless of where they are working. Mayor Weinstein inquired if the company recommended purchasing the extended warranty. Manager Metzler stated that Ridgewood could not find any records of maintenance on their clock, which was installed over 15 years ago.

Councilmember Trawinski felt they will hear from residents who think tax dollars were used to pay for the clock. Municipal Clerk Kwasniewski stated Rotary will put something up indicating they donated the clock.

Deputy Mayor Tedeschi asked if they could obtain a price estimate on the materials required for this job. Manager Metzler reiterated that the largest portion of the \$5,000

was for labor. Deputy Mayor Tedeschi stated that he wanted this item restated with the expenses. Mayor Weinstein asked Manager Metzler to obtain those figures.

Reverse 9-1-1:

Manager Metzler recommended that a purchase order be put in place with C3 so that they could be accessed for emergency notification within the Borough. The company that provides their supplemental service is not able to access the 9-1-1 data base. Only residents with a listed phone number and residents who have provided their unlisted phone number will be notified in the event of an emergency. C3 is contracted through the County and is able to access the 9-1-1 database, ensuring that all residents are contacted in the event of an emergency. All phone lines are called, even fax lines. They need to continue using them if they want that level of protection for the residents.

Mayor Weinstein inquired if they would still need the County if they had the 9-1-1 data base. Manager Metzler stated they would not, but New Jersey will not release it. Mayor Weinstein inquired if they could get that information through C3. Manager Metzler stated they could because of the County wide system. They will not give this to individual municipalities. There are costs involved. He thought the 9-1-1 data base was updated every six months. Emergency Officer Marks had put through a purchase order for \$300 to C3. If they do not use the service the money is encumbered but not spent. A 30 second message costs .03 cents per call.

Mayor Weinstein spoke with Chairman Padilla at the County who was upset about what he read. Based on what happened he will probably look into another contract when the contract is up. They followed the proper bidding process and awarded the contract to the lowest bidder. There have been two instances where they used the company with better results than the prior company.

Manager Metzler explained how the problem occurred. The County originally entered into a contract with Swiftreach, which had a limited number of phone lines (fifty) to call 850,000 residents. Current technology provides access to between 500 and 1,000 phone lines. The prior vendor was a Bergen County based company. When outgoing calls go through the same switch through which you are receiving, the switches become overwhelmed. This company offers a very large number of phone lines in various locations, which will ensure calls go through. He felt confident the message would get out even if another town was making a notification at the same time.

Deputy Mayor Tedeschi wondered if they needed their system if they were going to use the County's system. Manager Metzler stated that for a fee their current system will make notifications of up to 100 people without charge. If they closed the Municipal Building due to inclement weather, he could make one call and every employee would be notified. Deputy Mayor Tedeschi noted there is an emergency notification speaker system in town. They could use speakers on Police cars and fire trucks. Manager Metzler stated that was not effective. They did a drill in Company #3's district many years ago when Mary Burdick was Mayor. The residents were notified in advance. Fire

trucks went up and down the street telling residents to turn on their front light if they understood the message. It did not work.

Manager Metzler explained that the County approached this as a shared service. They offered several plans, including telephone alerting only for .03 cents a phone call. Another service would send notification calls when a meeting was scheduled. He priced the Webmaster's salary and the cost of the Borough calendar, but since there is still a generation of seniors that is not computer savvy they would have to duplicate that service, eliminating any savings.

Councilmember Baratta felt they were forced to use the company chosen by the County. She wondered if the County had the legal right to issue the information to just one company. Manager Metzler stated that Verizon agreed to release its 911 data base to Bergen County, which is downloaded to the contracted vendor. They are not allowed to share the information because of the agreement with Verizon. Mayor Weinstein was unhappy with the situation, but felt they would have to work with the County in order to protect the residents. Councilmember Trawinski agreed. Deputy Mayor Tedeschi suggested sending a resolution to the Board of Freeholders calling on them to divest themselves from this vendor as soon as possible.

It was the consensus of Council that a resolution is sent to the County strongly urging them to divest from the current vendor as soon as possible.

Review of Two State Court Cases Relating to Land Use Law:

Deferred by Councilmember Trawinski

Chase Bank Cooperative Parking Lot:

Attorney Rosenberg stated that he and the attorney for J.P. Morgan negotiated the terms of the agreement. He asked for Council's approval so that he could proceed.

Deputy Mayor Tedeschi inquired if they assumed full responsibility for the maintenance of the parking lot, including paving, repairing and plowing. Attorney Rosenberg confirmed that and noted that this was not a new arrangement. There will be 82 parking spaces. Manager Metzler stated that the lot was restriped four or five months ago and they removed pieces of pipe from the ground. Councilmember Trawinski asked if they could make the agreement run with the land so they did not have to go through this again. Attorney Rosenberg stated that he tried but J.P. Morgan would not agree to that.

It was the consensus of Council to execute the cooperative parking agreement.

Central Bergen Bio-Diesel Project:

Manager Metzler stated there will be a site at Stephan Chemicals in Maywood at no cost to the communities. The towns must adopt a resolution stating they agree to

consider participating with a designated Central Bergen cooperative processor. They would also need to pass an ordinance directing the waste flow of food service, waste oil and grease trap grease to this vendor. They estimate the savings on bio-diesel to be 15 – 20% more, especially if a town's waste oils went to this vendor. It has not been decided whether their trucks would go to Maywood or the bio-diesel would be delivered. The bio-diesel would have the appropriate additives and would not void any of the manufacturer's warranty regarding bio-diesel.

Manager Metzler stated they could pass an ordinance stating waste oils would be purchased only through this vendor, or they could pass an ordinance ensuring that the waste oil would go to this facility, which would enable them to receive a greater savings. Deputy Mayor Tedeschi wondered if a restaurant owner would be obligated to do business with this one company. Manager Metzler stated at this point they were only indicating an interest in participating. Attorney Rosenberg stated that many restaurants sell their grease on the open market. They would be obliged to use this vendor at a pre-determined price. Deputy Mayor Tedeschi wondered about the individual rights of the restaurant owner.

Manager Metzler explained they would collect the waste oils and bring them to the processing facility in Maywood. He thought they could have the bio-diesel delivered. Deputy Mayor Swain wanted an opportunity to review this further. Mayor Weinstein inquired if the technical representative and sales representative who spoke at the Central Bergen meeting could attend a work session. Manager Metzler thought that would be possible. Deputy Mayor Tedeschi inquired if they would be functioning as a transfer station with solid waste. Manager Metzler stated they would not.

Councilmember Trawinski stated the economics did not make sense if they did not get enough waste products to one vendor. Manager Metzler felt the vendors would go to this site because of the convenient location. The ordinance will ensure a lower cost for bio-diesel, which will save the taxpayers money.

Manager Metzler will set up an appointment with the representatives.

Update Bergen County Mitigation Plan:

Manager Metzler stated that when they were considering the buyout of the Second Street property he discussed the mitigation plan. The County-wide mitigation plan is now done. They need to do a resolution stating that Fair Lawn will participate in the plan.

Councilmember Trawinski asked if this changed their mitigation plan. Manager Metzler stated that their data would be incorporated into the County's plan.

It was the consensus of Council that they adopt a resolution stating that Fair Lawn will participate in the Bergen County Mitigation Plan.

Bus Shelter at 19-20 Saddle River Road:

Manager Metzler stated the shelter belongs to NJ Transit. They will not replace it because the agreement with Fair Lawn dates back to the 1960's and is no longer valid. They will install a new shelter once the Council approves a new agreement. Attorney Lustgarten had recommended putting up a sign stating the bus shelter was the property of NJ Transit.

Deputy Mayor Tedeschi inquired if NJ Transit will maintain the shelter and do snow removal. Manager Metzler stated the agreement was similar to the Amherst agreement; the Borough was responsible for shoveling snow. Deputy Mayor Tedeschi stated that was Amherst responsibility. Manager Metzler stated that NJ Transit has never shoveled. Councilmember Trawinski agreed that the Borough was not required to do any maintenance or shoveling. Manager Metzler stated their agreement expired this year.

Councilmember Trawinski suggested a follow up review in January or February. Manager Metzler stated that an electronic agreement from NJ Transit was expected today. Deputy Mayor Tedeschi asked Municipal Clerk Kwasniewski for a copy of the Amherst contract.

Retirees Luncheon (12/19/08):

Manager Metzler asked for approval of the retirees' luncheon on December 19, 2008. The Council concurred.

Public Comments:

Craig Miller, 5 Ramapo Terrace thought the Fair Lawn Competivization Committee would take away thought processing from the Department Heads and give it to the Committee. He felt it would reduce morale.

He wondered if the Rotary Clock could be solar powered. He suggested contacting the concrete company in Fair Lawn to see if they would donate supplies for the clock's foundation.

He thought the bio-diesel project would offer incentives to the business owners and reduce taxes. Participating businesses could be listed on Channel 77.

He stated that the Plaza Road bus shelter is an eyesore. Manager Metzler stated they have promised repairs but are using the excuse that the contract has expired.

He suggested they post the mini bus routes on Channel 77.

He thought the Borough should hold a "movies in the park" program at Memorial Park. There is a large turnout when they do this in Radburn. Councilmember Trawinski suggested they contact Morristown, who runs a similar event that is very successful.

Howard Mark, 12-23 Ferry Heights suggested they post a sign on the bus indicating if there were one or two buses. He thought having movie nights would give a better sense of community.

Anna Dinardo, 13-06 Second Street stated there has been a problem with parking at the High School since the 1950's. All the students have a car now and that number will increase. There needs to be a parking lot. Councilmember Baratta felt the Board of Education should have addressed this issue when they did the school renovation. She did not want to subject the residents to a parking lot. Councilmember Trawinski agreed. This is a Board of Education issue that affects municipal streets, but it was not fair to push this off on the residents. He did not want to lose open space for a parking lot.

Deputy Mayor Swain felt parents should encourage their kids to walk more. She did not feel they should put in a parking lot so that children did not have to walk a couple of blocks. Ms. Dinardo did not think parents would tell their children to walk. Deputy Mayor Tedeschi agreed the problem was not going to go away. Although he respected Traffic Safety Officer Franco's efforts, the bottom line was that there were more cars than parking spaces. The residents want the peace of being able to go up and down the street. Ms. Dinardo reiterated that this needs to be resolved.

Bernice Katz, 2-22 Saddle River Road inquired as to what research has been done regarding her civil rights and the Library, who wants to draw up a resolution prohibiting the distribution of leaflets on the handicap ramp. Attorney Rosenberg explained that the By-laws in place since 1998 were being amended to add the issue of leafleting. He will issue his legal opinion to the Council this week.

Ms. Katz inquired if the Library Board could delay the by-law amendment. Attorney Rosenberg stated the amendment was done last month. Mayor Weinstein stated it will come to the Council for discussion. Ms. Katz felt the handicap ramp was a sidewalk for anyone who couldn't walk up the steps. She wanted Attorney Rosenberg to research this.

Ms. Katz inquired about the construction of the driveway on Saddle River Road and the purchase of the house and the DEP application that the County Engineer sent for approval. She questioned the County's secret meetings. Mayor Weinstein explained that under the Open Public Meetings Act, certain discussions must take place in closed session. Ms. Katz asked when that information concerning the purchase of the house will be available.

Councilmember Trawinski stated it was not unusual for people to enter into a contract with a number of contingencies. She should not assume that the County has bought or not bought the house. The contract may be contingent on the DEP approvals. The

County would not be doing this if they didn't feel they had a realistic opportunity of acquiring the property. It would be extremely unusual to acquire a property before the approvals.

Ms. Katz suggested the Council ask the Freeholders to investigate the erroneous permission from the Parks Department for the permit and overlooking the prescriptive easement. She doesn't understand why Attorney Rosenberg isn't being told to put the easement back in place, forcing Oceanos to open the gate. She felt they should try to obtain an injunction calling for a cease and desist until they can look into the prescriptive easement. She didn't understand why the Council was allowing this to occur.

Mayor Weinstein stated that he believed that the Council was taking the appropriate action. He did not want to bring in any other issues at this time as this was a sensitive situation. He noted that there are other neighbors besides the William Street residents that are supporting this.

Ms. Katz stated the park was in a flood zone. Residents got rain in their basements during heavy rain. The asphalt will make the problem worse. Trees will have to be destroyed, eliminating the buffer zone. Councilmember Baratta advised Ms. Katz that the Council discussed these issues in closed session before she arrived, but they cannot go into details.

Mrs. Katz did not think the dog park was a good idea because of the potential for lawsuits.

Mark Kaspi, 15-50 Plaza Road stated that on October 7th I addressed Council with a serious issue regarding the Police Department. I would like to highlight two issues here. When I went to see Mr. Metzler and he afforded me the time...first of all, I want to thank you all for affording me the time and before I forget, I want to thank you for looking after our town. Mr. Metzler afforded me about 40 minutes where I explained to him my concerns with regards to the Police Department.

I am sorry if I see it differently but, by giving me a telephone number and sending me elsewhere, I consider it giving someone the run around instead of addressing the issue. Councilmember Trawinski chose to defend Mr. Metzler's son when I never said anything about him.

Mayor Weinstein – Mr. Kaspi, let me say something. And you will get your full five minutes that you are entitled to. Let me say something because you met me before the televised meeting that night. You brought issues to my attention as you did the Manager. I was going to then speak with the Manager and speak with the Chief, but you came to the televised meeting and now the whole Council is involved.

The fact is, I don't know if all of us did but I know that I saw the video.

Councilmember Baratta – I did, too.

Mayor Weinstein - I saw it two or three times.

Councilmember Trawinski – I did, twice.

Mayor Weinstein – The video of the school situation where you were parked not over but right up to the crosswalk, and we listened to and we heard and we saw because the Police cars have video cameras in their car, and audio, and we actually saw and heard that happen, except it was all the way to the right, and heard the Police Officer speak. It truly contradicted everything that you brought up to me privately, and at the Council Meeting. I will say that on that tape wasn't the issue that you had that you came one day and saw someone else parking in that area. That doesn't make that right, but it doesn't help your situation because someone else did something wrong that you are allowed to do something wrong. That's another issue. But the fact is, in my opinion, from what I saw on tape and it's not edited, that everything that Police Officer did was done appropriately, with respect. He listened to you and I'm not a judge but I saw everything done appropriately and correctly. I don't know what the other Councilmembers have to say about it but...

Councilmember Trawinski - I'll add to it. I very respectfully disagree with you – the video tape doesn't lie. And the video tape was crystal clear to me that what you said to the Council was not what took place what you said at that public meeting. And I'll repeat what I said to you at that public meeting. It may be that you are lucky that our Chief is not suing you for defamation but unless you had evidence to show that the Police Chief committed perjury, to accuse a Police Chief in this State in a public forum of perjury without that proof is absolutely a defamatory statement for which he could sue you and sue you for substantial damages, coupled with that video tape.

You violated the law in a School Zone by discharging your own daughter. You couldn't find your license and registration. The Police Office helped you to find them. You produced an insurance card that was invalid. The Police Officer helped you to find the proper insurance card. He could have sited you for another six or seven offenses. And all he did was suggest to you that you shouldn't park here. You said "would I threaten the safety of my own daughter" and he indicated to you, in a very polite manner, you did by parking there. And the video tape is crystal clear that other people who were coming out of – I forget the name of the street – coming out of Bachus Street, because of where you were parked too close to the cross walk, were forced to swing out into oncoming traffic to make the clearance, jeopardizing other peoples' children too. You were just dead wrong and I told you that you might not like what I saw on that video tape.

And as far as defending the Manager's son, I didn't do that. Councilmember Tedeschi defended the Manager, but had he not, I would have because I think that Councilmember Tedeschi was entirely right and you were out of line. This Manager has received and shown no favoritism whatsoever because his son is a Police Officer. And, as one of the Councilmembers who supported the appointment of his son 15 years ago,

his son is an exemplary Police Officer. And Councilmember Tedeschi and I were both there.

It is not fair to stand up in a public forum and accuse the Fair Lawn Police Department of conduct that...that video tape shows is crystal clear. I also understand there were a number of other summonses and the Police are looking for those other video tapes also to see if those tapes are there.

You are headed down a path that could cost you a lot. You may want to alert your Homeowners carrier, but that's your business.

Mayor Weinstein – One more thing. You do see that every single thing you said to me privately and then at the meeting, we all took to heart.

Councilmember Trawinski – We listened.

Mayor Weinstein – We all went and looked at the whole video...

Mr. Kaspi – I was just wondering when I could continue? Now, I don't know which video you were watching to begin with. And I'm not privileged to see that video and compare it. Because none of what you said, Mr. Trawinski, has happened. None. I dropped off two boys, not a girl.

Councilmember Trawinski – I don't remember if it was a boy or a girl. If I was wrong about a boy or a girl, I apologize.

Mr. Kaspi – I doubt you and I are talking about the same video. So, you attack me.

Councilmember Trawinski – I'm not attacking you. I'm telling you what I saw and I didn't...

Mayor Weinstein – Don't split hairs over whether it's a boy or a girl.

Mr. Kaspi – I would like to see a copy of that video.

Municipal Clerk Kwasniewski – He already has it. You came in, made an OPRA request, we gave you that video.

Mr. Kaspi – That video? The one they are talking about?

Municipal Clerk Kwasniewski – Absolutely, it's the same video.

Mr. Kaspi – We are going around in circles and none of us knows what we are talking about.

Mayor Weinstein – I would be more than happy, if it is appropriate, to sit down and watch the video with you to make sure it is the right video.

Mr. Kaspi – I would like that very much.

Councilmember Trawinski – I'd be even happier, if it's appropriate, to play it at our next public meeting so that the public can see it and make up its own mind and compare it to the statements that you make.

Mr. Kaspi – I'd like that very much.

Councilmember Trawinski – I don't think you are going to like it very much.

Mr. Kaspi – I don't know what you are talking about.

Deputy Mayor Swain – I will say that Ed and I don't always agree on things, but I sat next to him and watched the same video and I agree 100% with his interpretation.

Councilmember Baratta – As did I.

Mr. Kaspi – I'll repeat what I'm saying. I have no idea what you watched. So you can talk about it, agree or disagree, since I have no idea what you watched. I want to thank you, Mr. Mayor, for allowing me to see that video to begin with. Then, I may have something to say.

The video that I got recently is on a different issue. Not what you...this is the first time I learned that you saw the video with the incident at school. Now, we have to be on the same page. I'm not here to attack anyone. I'm usually a fun loving person. I smile and I joke a lot. But when it comes to one issue, maybe two, safety and security, I don't laugh. And nothing here is a joke for me. I take those things very seriously. My family, my children are the issue. And this will not happen. I challenge you, Mr. Trawinski, on record to have the Chief file a suit against me.

Councilmember Trawinski – That's the Chief's decision.

Mr. Kaspi – I understand. But you brought it up.

Councilmember Trawinski – No, I brought it up to try to protect you from your own statements that were, in my view, were questionable.

Mr. Kaspi – I didn't come here to be confrontational.

Mayor Weinstein – But you are.

Mr. Kaspi – Of course. The safety of my family is at stake. And, on that issue, I don't compromise. No matter who that is. It could be a judge, the prosecutor. In my view, on record, they're a bunch of clowns.

Mayor Weinstein – I don't appreciate it. You did it a lot in that room. I'm happy that you Councilmembers spoke up but you know what? You can't go any further with those kind of comments. If you want to make a statement, you want to press charges, you want to do whatever... you have a right to do all of that. We saw the video and it differs from what you said. But I'm not going to sit here and let you continue with those kind of remarks.

Mr. Kaspi – Mr. Mayor, after I see the video...

Mayor Weinstein – But no more of those remarks, please.

Mr. Kaspi – Okay, I'll go along with that. Nonetheless I am going to the issue of safety and security where, under the color of law, those individuals committed a crime. And this is that officer...

Mayor Weinstein – You know what? No, no, no. I'm not going to allow you to continue. You keep saying these things.

Mr. Kaspi – You are talking about a different issue.

Mayor Weinstein – No I'm not. Borough Attorney?

Attorney Rosenberg – He's out of order. You have the right to censure him.

Mayor Weinstein – I'm sorry. I'm going to go to the next speaker.

Councilmember Trawinski - You actually need, if you're going to do that, to rule him out of order and the Council needs to second it.

Deputy Mayor Tedeschi – No, we don't have to second it.

Councilmember Trawinski – No, we don't have to sustain it. He is the presiding officer.

Mayor Weinstein – Next speaker.

Mr. Kaspi – When can I see the video with you?

Mayor Weinstein – We'll arrange that.

Mr. Kaspi – Thank you.

Deputy Mayor Tedeschi – May I request that a copy of this be sent to the Chief of Police, Bruce?

Attorney Rosenberg – Yes, sure.

Manager Metzler – Mayor, can I add one comment. Related, but not related. Because I want Mr. Kaspi to be clear. What his opinion is about the prosecutor, that's his opinion. But I want you to be clear that when a resident comes in to my office and makes an allegation of impropriety against a Police officer, a group of Police officers, a Chief of Police, I have a responsibility, on advice of Counsel, that that's to be immediately turned over to the prosecutor's office, which I did. I gave him the prosecutor's number. Prior to giving him the number, we contacted the prosecutor's office to advise them that we were giving the number and that we would appreciate very much if they would sit down to hear what the entire story was. I want you to be clear, in the chain of command in Law Enforcement, when there is an allegation made against an officer and you are not satisfied with the response that you are getting from the Police Administration, it is our responsibility to turn it over to the prosecutor's office, which was done.

Mr. Kaspi – Thank you very much for explaining. I will be in touch as to the video.

Councilmember Baratta – Is there a way the Clerk can let us know if the tape that Mr. Kaspi saw is indeed the same tape that the Councilmembers viewed?

Municipal Clerk Kwasniewski – All I can do is tell you the date of the clip, because I don't have a copy. I didn't reproduce a copy. I can tell you the date of the video tape that he asked for and we can compare it to the date that they watched.

Councilmember Baratta – I would like to do that. I can't understand how our opinions could be completely different. We're talking about the safety of children and I watched that video tape what happened in a school zone.

Mayor Weinstein – I would like to reach out to the Chief to have the video tape available and I will sit down and watch it.

Mr. Kaspi – I want to thank you for that. Good night.

Jane Diepeveen, 14 Ryder Road inquired about the size of the dog park. Manager Metzler stated that the recommended size was one acre or more surrounded by a 4 – 6 ft. fence. Ms. Diepeveen wondered if they could afford to lose an acre out of Memorial Park or Dobrow Complex. Manager Metzler stated Engineering would look at the site plan. Ms. Diepeveen did not see the need for mulch.

Ms. Diepeveen inquired about the mitigation plan. Manager Metzler stated the Federal Government requires that all Emergency Management Coordinators look at potential areas of risk to the community, including natural disasters, railroads, chemical facilities,

etc. Communities who do not have an approved plan in place waive their rights to FEMA Mitigation funds. Their plan was ready several years ago. They are putting their plan back with the County who will maintain the paperwork.

Closed Session:

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, the following closed session resolution was unanimously adopted at 11:00 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 Attorney/Client Privilege – COAH Litigation; Personnel – Manager’s Report; Contract Negotiations – George Street; Pending Litigation – Lentini; and Personnel – Competivization Committee Appointments.

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.

ADJOURNMENT:

Upon motion by Deputy Mayor Swain and second by Councilmember Baratta the meeting was adjourned at 11:55 p.m.

Respectfully submitted,

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

