

REGULAR MEETING OF NOVEMBER 25, 2008

Mayor Weinstein called the meeting to order at 7:30 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, Deputy Mayors Swain and Tedeschi and Councilmembers Baratta and Trawinski.

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

MANAGER'S REPORT AND STATEMENT

Manager Metzler reported that on Friday November 28th between 7:00 a.m. and 7:00 p.m. the Transcontinental Gas Pipeline Corporation (TRANSCO) will be conducting routine maintenance to its natural gas transmission line located on property next to 38 Knottingham Road. During that time residents in the area may detect a natural gas odor, however, there is no danger or risk associated with this activity. The Office of Emergency Management will be notifying residents in the area using the Borough's emergency telephone notification system and messages have been placed on the Borough website and television station.

Manager Metzler announced that he will be resigning effective December 2, 2008. He felt that the employees of the Borough of Fair Lawn were the most dedicated employees that one could hope for. He added that many of the services that were implemented were a result of employee initiative. He also acknowledged the volunteer organizations such as the Boy Scouts, Volunteer Fire Department, members of the CERT Team, the Open Space and Historic Commission and stated that it is the impact of these organizations that makes the community thrive and survive. Manager Metzler thanked the residents for their support and he thanked everyone for the opportunity to serve the town. He noted that former Manager Kendall allowed him to attend conferences on emergency management when he was a volunteer and encouraged him to get the training needed to be federally certified. Manager Kendall also encouraged him and 28 other members of the community to help out in Missouri during flooding in the late 1990s and he indicated that it was the generous donations of the residents that made this happen. This experience greatly helped the town successfully deal with Hurricane Floyd several years later.

Manager Metzler stated that the worst times of his tenure was the murder of Officer Collura and September 11th. In the three days following her murder, the Borough gave her the honor and respect that was due and the town shined. He then recalled the \$10,000 that was collected in only one day to help the victims of 9/11. He added that many material donations were also collected from the community to take to those working at the World Trade Center.

Manager Metzler stated that when he became the Borough Manager he knew nothing about preparing a Borough budget. He was confident that if the CFO gave him benchmarks he could do it. He learned, along with the residents, what these benchmarks were and he asked the residents to continue to participate in the process.

Manager Metzler said that he has loved being the Borough Manager and he pointed out that only in America could you start as a volunteer firefighter and end your career as the Borough Manager. Manager Metzler thanked all five Councilmembers and said that there have been trying times as well as good times and he realizes that everyone has the best interests of the town at heart. He thanked everyone for the opportunities he has been given and he added that it is time to take the town in a different direction. On behalf of his family, Manager Metzler thanked everyone again for their support and for the wonderful opportunity he has been given.

COUNCIL COMMENTS

Mayor Weinstein wished Manager Metzler well in future endeavors. He said that he had been given a flyer by Health Officer Carol Wagner, regarding children in need of health insurance. On Saturday December 6th, 2008, the New Jersey Family Care Enrollment Renewal Event will take place at the Kraft Center of Valley Hospital in Paramus, N.J. between 10:00 a.m. and 1:00 p.m. Anyone interested can call the Municipal Clerk's Office for more information.

Mayor Weinstein reported that at the League of Municipalities, he along with Councilmembers Baratta, Trawinski, and Swain attended an award luncheon for Department of Public Works Superintendent, Ron Conte, who received the Superintendent Excellence Award from the Public Works Association of New Jersey. Mayor Weinstein congratulated Mr. Conte on the award.

Mayor Weinstein congratulated Steve Wendowski, one of the Borough's engineers, who helped a resident resolve a problem that had been ongoing for over a year with FEMA.

Mayor Weinstein expressed his condolences to the family of the young person struck by the train.

Councilmember Baratta expressed her condolences and stated that the Alliance for Substance Abuse Prevention is holding a basketball game at the Community Center tonight. There will be many volunteers available there tonight for those who want someone to talk to this evening.

Councilmember Baratta stated that Westmoreland, Lyncrest and St. Anne's schools collected boxes of hot and cold cereal for the food pantry. Lyncrest School collected 218 boxes of cereal and Westmoreland collected 253. Councilmember Baratta congratulated Westmoreland who is the winner of the Silver Slugger Award this year. Councilmember Baratta thanked the school children as well as the rest of the community who responded and helped stock the food pantry. She added that St. Anne's collected over 160 boxes of cereal which went to their Food Pantry.

Councilmember Baratta stated that in 2007 the Fair Lawn Rescue Squad collected over 2,000 toys for Toys for Tots and they hope to beat that number this year. New and unwrapped toys

Page Three

Regular Meeting

November 25, 2008

can be dropped off at various locations including the Municipal Building, the Library and the Community Center. Councilmember Baratta wished everyone a Happy Thanksgiving. Deputy Mayor Swain extended her condolences to the family of the victim who had been struck by a train. She stated that she had recently had the pleasure of attending another Eagle Scout ceremony for Ryan Fullerman along with Congressman Steve Rothman and Freeholder David Ganz. She applauded all of the work that the Eagle Scouts do for the Borough.

Councilmember Trawinski also conveyed his condolences to the family of the person killed on the train tracks. He echoed the Mayor's comments on Ron Conte. As head of the Department of Public Works he keeps the municipal functions running and is a credit to Fair Lawn.

Councilmember Trawinski stated that the 6th and 7th graders of Westbrook Middle School in Paramus shipped their 100,000th goodie bag for delivery this Thanksgiving to the sailors, soldiers and troops in the Persian Gulf. He thanked Fair Lawn businessman Larry Inserra of Shoprite Supermarkets for his never ending support of this program.

Councilmember Trawinski wished a Happy Thanksgiving on behalf of his family to Tom Metzler and his family. He also thanked Mr. Metzler for everything he has done for the Borough over the years and stated he would always be welcomed as a volunteer.

Deputy Mayor Tedeschi expressed his condolences to the family on their recent loss. He also wished Tom Metzler good luck in the future. Deputy Mayor Tedeschi stated that donations of canned goods and frozen turkeys would be collected this weekend at the 8th annual Concert of Thanksgiving. The food will be donated to the Borough's Food Pantry and to St. Anne's Food Pantry. Deputy Mayor Tedeschi reported that the Ethics Board found no issues or conflicts and is taking no action against Planning Board Chairman Peter Kortright.

Councilwoman Baratta announced that Fair Lawn Community Center would be hosting a Night of Comedy the Friday after Thanksgiving. The show will begin at 8:00 p.m. with four comedians performing. The cost is \$20 per ticket. She also noted that on Sunday November 16th, St. Anne's Church celebrated their 50th anniversary. She and Councilmember Trawinski were there to present a proclamation on behalf of the Mayor.

ORDINANCES ON SECOND READING:

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

ORDINANCE NO. 2131-2008

AN ORDINANCE TO ESTABLISH A NEW CHAPTER 93 OF THE CODE OF THE BOROUGH OF FAIR LAWN 2000, TO BE ENTITLED "FAIR LAWN SPECIAL IMPROVEMENT DISTRICT"

Bob Lanzettel, 65 Cummings Court, Mahwah, president of the River Road Improvement District and the Economic Development Corporation (EDC), thanked Manager Metzler for his efforts regarding River Road, Broadway and the EDC. He also thanked the Mayor and

Page Four

Regular Meeting

November 25, 2008

Council for introducing this ordinance and for the opportunity to discuss it. He said that about 15 years ago the River Road Special Improvement District was organized to foster economic development, encourage revitalization and strengthen the economic and commercial contributions to residents and property owners in Fair Lawn. There have been numerous streetscape improvements in the area of Berdan Avenue and River Road and Fair Lawn Avenue and River Road. A Master Plan was developed for the River Road district which was adopted by the Borough of Fair Lawn. The mixed use concept to foster economic development, favored by many Planners, is in use in this area. This concept has a business use on the ground floor and residences on the first and second floors. Subsequently, the Broadway Special Improvement District was developed and they are in the process of adopting a Master Plan and working on the streetscape.

Mr. Lanzettel stated that the proposed ordinance would create an additional Special Improvement District (SID) which would incorporate the remaining businesses in Fair Lawn and would include the Radburn district, Saddle River Road, Lincoln Avenue, Fair Lawn Industrial Park and Morlot Avenue. Development would be fostered in these areas with the goal of smoothing the process for new businesses.

Mr. Lanzettel stated that the Economic Development Commission (EDC) would manage the new Special Improvement District (SID) and would develop a new larger board. The next step would be to recruit businesses and gain the input of property owners presently in the district to strengthen the Board. The EDC has worked on a study of Route 208 through a State grant to examine the future of the Fair Lawn Industrial Park. This was done in conjunction with Glen Rock. This plan contains proposals which are being reviewed by the Planning Board and the Mayor and Council.

If this ordinance is passed, Mr. Lanzettel said that there would be three SIDs in the Borough. The SIDS would work together under the auspices of the EDC to help in the areas of business retention, reduction of vacancies and new business recruitment. The new SID would be financed through an assessment on existing business properties in the area. It costs about 4% to 5% of the property owner's current taxes to run the SIDs on River Road and Broadway. In this third SID, the cost to business would be approximately 1%. This budget would be set by the Board that would be assembled and subject to the approval of the Mayor and Council. Residential owners are not subject to this assessment and the River Road and Broadway SIDs would not experience any additional levies.

Gordon Gemma, attorney representing Kushner Companies identified several properties his client owns in the proposed SID area. He stated that Kushner Companies has several concerns with the proposed ordinance and he asked that professional planner Kristine Kafone be given the opportunity to address the goals and objectives of this SID.

Kristine A. Kafone, of Phillips, Price, Shapiro and Associates and licensed professional planner in New Jersey stated that she has reviewed the proposed ordinance and has several concerns with the process. She described the process as atypical since a Borough-wide SID is being

designated. A SID is usually referred to as a public/private partnership for businesses in a defined area. Fair Lawn is familiar with this concept and she referred to the study done for the Broadway area which defines an area of approximately two miles where five very specific

Page Five

Regular Meeting

November 25, 2008

objectives are identified. The proposed SID does not have clearly defined objectives nor are there any specific studies which would appropriately deem all of these properties for inclusion in the proposed SID. Ms. Kafone stated that the proposed ordinance is inconsistent with the spirit and intent of the enabling legislation and does not identify any specific projects.

Ms. Kafone stated that through an OPRA request she was able to review two documents that support the concerns of the Kushner Corporation. The 2008 Re-Examination Report identified one goal which is the promotion and establishment of Special Improvement Districts and an Economic Development Corporation in the Borough's major commercial areas and industrial areas. Ms. Kafone stated that this cannot be applied to every commercial and industrially zoned property in the Borough without the benefit of a proper study to identify specific problems. She noted page five of a report to the Mayor and Council dated July 10, 2007 from the Broadway and River Road Development Corporation and the EDC refers to the benefits of a Borough-wide assessment to the business property owners not currently assessed. Ms. Kafone stated that a more in depth analysis should be done and she did not think that such a broad brush approach should be applied to the entire industrial area.

Mr. Gemma referred to the New Jersey Constitution Uniformity Clause which states that property shall be set forth for taxation under general laws and uniform rules, and all property assessed and taxed locally shall be assessed according to the same standard of value which means that different classes of property cannot be treated differently. It is based upon value and this would violate the New Jersey Constitution as well as the U.S. Constitution Equal Protection Law. Mr. Gemma stated that at this time the ordinance is not well advised and he did not think it would benefit the Borough and may ultimately have an adverse impact.

Councilmember Trawinski stated that Mr. Gemma may be misleading the Council on the constitutional arguments. He said that the Council is aware that the Supreme Court of New Jersey dealt with this issue and rejected it stating that assessments are not unconstitutional under the SID statutes. Councilmember Trawinski said that another portion of the July 10th, 2007 report delivered to the Council referred to by the Planner, specifically states on page 5, Subparagraph g, that the only consistent roles for the EDC and SID in each of the three districts is planning and studies. He agreed that it is a challenge for the EDC to show a direct benefit in proportion to the assessment levied by the SID. He could find nothing in the Statute that says "an area of the municipality designated by municipal ordinance as an area in which a special assessment on property within the district for the purpose of promoting the economic and general welfare of the district of the municipality" is inconsistent with anything in the statutes. He said that the Council considered all of the issues and evaluated them on the advice of the Borough Attorney. Mr. Gemma stated that he disagreed with Councilmember Trawinski.

Marty Etler, 15-12 Elmary Place, opposed the EDC which he considered a big waste of taxpayer money and he cannot point to one positive thing that the EDC has done for the business community. Mr. Etler asked why public funding should go towards the formation of the EDC.

Mayor Weinstein reiterated that the residents of Fair Lawn are not paying into this fund. The EDC would be funded by the business property owners within the district and they have formulated a sustainable plan. Mr. Etler said that in his opinion this is illegal.

Dave Drahouzal, 24-07 Fair Lawn Avenue, stated that he is both a commercial property owner and resident in Fair Lawn. Although he respects the people who have put the third SID together and admires the plans for the future, he doesn't see how it will benefit his business. He finds it distressing that 50% of the funds would be used for salaries. He felt that all of the money should be directed to helping businesses. Mr. Drahouzal pointed out that this is a never ending tax and the money could be used in a more positive way. River Road has been paying into this system for 15 years and although the area seems somewhat improved, a great deal of money has been spent over the years for little tangible improvement. While it is nice to help each other out to make Fair Lawn a better place, he stated that his family has run a business for 50 years without any help. Mr. Drahouzal commented that there should be pride of ownership without a mandatory tax.

Mr. Drahouzal stated that he believed the other SIDS were formed because the businesses wanted them and it must be remembered that this is not a district. It is town wide. Landlords will most likely pass this fee onto their tenants most of whom don't realize this is going on. Forcing businesses to pay this tax will mean that they will have to cut other expenses such as dues to the Chamber of Commerce and donations to local charities. He stated that he respects the Fair Lawn Economic Development Committee for their dedication to the future of Fair Lawn but the tax is a bad idea in this economic environment and will be an added burden to businesses in the town.

Dr. Jeff Wallach, 24-25 Maple Avenue expressed concern about the economy and the fact that businesses are struggling to support themselves as small businesses. By the time he is finished with taxes, salaries, utilities, etc. he hopes to have some extra money left over. He has done various improvements to his property with his money since 1979. He feels that this is a monster with no end. All of these extra charges will not make this an attractive environment and he will have difficulty selling his practice.

Allen Gesthalter, 5-05 Saddle River Road, said that he owned five properties in the town at one time and paid almost \$50,000 in taxes. He acknowledged the improvements on River Road but stated that he fails to see how these improvements could help Saddle River Road which is not a district that has stores. It does not seem right to raise taxes in this economy.

Mrs. Gesthalter, 5-05 Saddle River Road, said that she didn't think it was a good time to get further into debt. This is an additional tax imposed on business owners which she said is unacceptable at this time.

Carol Wallach, 24-25 Maple Avenue, disapproves of this ordinance indicating that any additional burden for a business is uncalled for in her opinion. She objected to giving any unspecified taxes to be used for whatever the EDC may see fit and she is dismayed at the short period of notification regarding this ordinance. She added that there are a lot of people away during the holiday season who may have wanted to be at this meeting to express their opinions. Ms. Wallach sent letters out to everyone on this list as well as initiating a petition on line with 39 signatures. She stated that public funds are easy to give away and she reiterated her opposition to this ordinance.

Craig Miller, 5 Ramapo Terrace, asked if Borough money would be given to the SID. Mayor Weinstein stated that Borough money wouldn't be given and it involves only the business districts themselves.

Vincent Spina, Oster Properties, owners of 20-01 and 22-01 Maple Avenue, supports the concept and intent of the creation of the SID. Mr. Spina said that over the long run he feels it would be beneficial; however, the cost factor needs to be addressed. Mayor Weinstein stated that the vote tonight involves only the ordinance and the budget would be a separate issue if the ordinance passes.

Mark McCracken, 3-00 Banta Place, stated that he sits on the Board of Directors of the Green Building Council which created the LED rating system that rates how green buildings are. This standard brings the Green Movement to Main Street and he is trying to bring green collar jobs to Fair Lawn. The business recently relocated to Fair Lawn after being in Englewood due to the recently created Redevelopment District and a dispute regarding eminent domain in Englewood. Mr. McCracken stated that what was interesting was that the Town Council in Englewood completely underestimated the town's reaction to right and wrong and this is what condemned Englewood's attempts at this type of plan. The use of eminent domain against business owners to help another private company is wrong and singling out businesses to make up for the shortfall of a town's budget is unfair and becomes taxation without representation. Mr. McCracken stated that the Borough would be selectively taxing unrepresented groups and it is the wrong way to go.

Arlene Rubenstein, 28 Rutgers Terrace, said that she attended a meeting this summer at the American Legion which was sparsely attended, however, the majority of the people in attendance were members of the River Road Improvement District and the EDC. The few business owners that were there were vehemently opposed to the proposal. They cited that the difference between this proposal and the River Road Improvement District and the Broadway Improvement Districts is that the majority of the business owners don't want it. They feel this is taxation without representation and it is wrong to inflict another tax on business people in Fair Lawn who can barely afford the taxes they are paying at the moment. These property owners are going to pass this tax along to their tenants who will pass the cost along to the consumers and everyone is going to lose. Ms. Rubenstein noted that neither Ridgewood nor Glen Rock has this type of tax and Glen Rock is opposed to what Fair Lawn is considering on Route 208. Ms. Rubenstein stated that this ordinance will be the undoing of Fair Lawn.

Stan Romanick, 95 Forest Drive, North Haledon, said he has been a business owner on Banta Place since 1998. He stated that a SID is not needed on Banta Place. The building that houses Parisi's Sports Club used to be unsightly, however, it has now been revamped and just up the block there had been another empty building which has also been attractively redone. A SID is not needed for property owners to keep their buildings neat. Mr. Romanick stated that pavers and attractive street lighting would be wasted on an industrial area such as Banta Place.

Nerle Lagman, 22-09 Rosalie Street, principal of Glen Rock Lumber one of the oldest in Fair Lawn, and a resident of Fair Lawn opposes this plan, the timing is not right and he asked the Council to consider the employees involved who work in Fair Lawn.

Seymour Karas, 11 Lamring Drive, said that he is a partner in a building on the west side of Saddle River Road, which consists of two office buildings in a B-1 zone. River Road is a defined area and district and all the business property owners had a common interest in the economic redevelopment of the area which made sense. Broadway is also a defined district or

area within the municipality where all the property owners and business have a common interest in the viability of the area.

Mr. Karas described Saddle River Road as a well maintained area that is basically fully rented and has no need for any economic rehabilitation. He asked what Saddle River Road had in common with Maple Avenue or Banta Place or Morlot Avenue. He added that a design standard can be totally different in different areas.

Mr. Karas said that the zoning map designates 13 different zoning districts in various areas of Fair Lawn. He noted that the Broadway Development District was formed as a result of the EDC and the representatives of Broadway opted to create a SID. The representatives of Radburn decided not to create a special improvement district. Mayor Weinstein stated that Mr. Krauss' information was incorrect; however, Mr. Karas continued stating that the statute refers to a designated area and is not intended to make the entire municipality an economic development center. He has visited many towns and spoken to various officials in Englewood, Morristown, Randolph, etc. and not one has a SID that covers the entire town. This proposal is specifically for revenue producing purposes. He supported the goals of the EDC when it was first formed but this is not the way to create revenues.

Mr. Karas stated that it was indicated earlier that the Management Company would be open. When he tried to become a member of the Management Company he was told he could not participate because he was a resident. He could become a member as a commercial owner at an annual cost of \$500 and he said he didn't want to pay in order to give his time and effort to this corporation and he, therefore, concluded that membership is not open to the public. He said that there are plenty of small business owners who have something to offer but cannot afford \$500 annually to sit on the Board.

Mr. Krauss stated that River Road Board has basically done a good job; however, the Board does not welcome any dissenting voices. A SID is a quasi public company, open to the public; however, River Road is currently not open to the public. He concluded stating that the business owners would not be well represented through the passing of this ordinance.

Roman Markovick, stated that he is representing his parents John and Colette Markovick who are the owners of two buildings at 5-10 and 5-16 Banta Place. He asked how the EDC would fairly and equitably deal with all of the types of properties that comprise this district wide EDC. Mr. Markovick said that there are so many different variables in place here that he didn't think this could be done legally without being unfair to one group or another. The Council should not pass the ordinance until it can show how all the different areas can be dealt with equally, fairly and justly.

Pete Shofeld, a property owner at 2100 Route 208, said he is not totally against the development of a SID but he questions what benefit this would be to property owners on Route 208. He stated that these property owners would be at a competitive disadvantage over neighboring towns that are not paying an extra cost without a significant benefit. He suggested removing the Route 208 district from a town wide SID and developing a separate zone that deals only with office and industrial properties.

Peter Rosa, a resident of Ramsey and owner of a building on Banta Place, wondered how this SID would be beneficial to Banta Place. Mr. Rosa said that he is one of the many business

owners in Fair Lawn who pays taxes which he sees as an investment in the community to make the community better and to protect everyone's assets. He doesn't see the benefit of this additional tax to himself as a business owner. Increasing taxes at this time is the wrong thing to do and perhaps it could be revisited more clearly at a later date after the economy bounces back.

Michael Krebbs, property owner on Saddle River Road objects to 50% of this assessment being used to fund a bureaucracy. This community is a driving community and Saddle River Road will never be a walking community. Improved streets and sidewalks will not help any business on Saddle River Road. Mr. Krebbs stated that he has a new building south of Morlot Avenue and the taxes represent close to 25% of his income. In order to lease space he may have to reduce the rental fees due to the economy which will put him in a more difficult position. Mr. Krebbs said that any assessment should be community wide in the form of taxation and not to individual businesses.

Peter Ferraro, 3-35 Banta Place, said that he runs a family owned moving company and his economic turn down began in 2007. His salary has dropped 50% and he occasionally uses 6 to 10 of the 15 people he employs. This is the wrong time to do this and if a SID is ever put into place it needs to be done with full involvement of all businesses in the community. He stated that the EDC should be a volunteer group made up of the people that are being taxed and he is troubled to learn that the people involved are being paid. He hopes that the Council will reconsider passage of this ordinance and perhaps revisit it in the future.

Gerald Platt, real estate broker in Fair Lawn, who owns several strip centers on Morlot Avenue and Saddle River Road, stated that he is totally against this ordinance. Fair Lawn is becoming tenant unfriendly. People who want to move into vacant spaces have to go in front of one of the Board and wait three months to move in. This ordinance will do nothing positive to bring in tenants. Mr. Platt stated that this added assessment will chase people away to other areas such as Rockland County. This ordinance is wrong and should be put aside.

Stuart Herrmann, 11 Brearly Court, past president of the Chamber of Commerce and the Rotary and currently president of the Fair Lawn Economic Development Corporation with a financial planning office on Broadway in Fair Lawn which is in the Broadway SID and resident of Fair Lawn for 41 years thanked Manager Metzler and wished him well in the future.

Mr. Herrmann stated the EDC administers sign and awning grants for the town. Radburn is an example of the sign grants that are being used. The EDC administers low or no interest loans available to all businesses in town. They are currently assisting a property owner and tenant to resolve some issues in order to save legal fees for both parties. They have applied for two grants for the study of the Radburn area, which they did not receive, however, they continue to apply for grants to benefit Fair Lawn. The EDC is part of the ad hoc Committee to take the Route 208 study and mold it into a Master Plan for Route 208.

Mr. Herrmann stated that businesses in Fair Lawn need to flourish and this doesn't happen by itself. Homeowners need Fair Lawn to grow so that schools get better and homes appreciate in value. The EDC is a volunteer group of over 20 individuals and businesses in town including local banks, real estate professionals, the Radburn Association representative, Chamber of Commerce representative and residents. They have plans to create a marketing

plan similar to the new one created by the River Road Improvement Corporation incorporating it for use by the entire town. The EDC had been in place for almost three years and was funded by volunteer money as well as town funds. The EDC is planning a business recruitment program to fill some of the office and commercial vacancies in town and they hope to create a data base of vacancies and possible companies to fill these vacancies while at the same time working with property and business owners on a volunteer basis.

Mr. Herrmann stated that the EDC needs to let the business world know that Fair Lawn is open, friendly and willing to do business. They would like to streamline the business of opening and maintaining a business in Fair Lawn. They want businesses to be able to have a say and to look out for all businesses in town so the small Mom and Pop businesses don't get overlooked. This takes time and money and the volunteer base can only do so much then they need the expertise of professionals. Mr. Herrmann said that someone needs to advocate and respond for the areas like Banta Place, Saddle River Road, and the Lincoln Avenue area because they are too small to do it on their own. He agreed that these are hard times but they need to act now and be ready for the future and they would be wrong to wait to create the third SID.

Harvey Rubenstein, 28 Rutgers Terrace, stated he has argued many times against the EDC. This ordinance will increase costs to the business owners who will eventually pass this increase onto the public. Mr. Rubenstein recalled that he asked the Borough months ago to add to the website the fact that not only is Fair Lawn a good place to live but it is also a good place to do business. So far, this hasn't been done. Not one of the Councilmembers that has the courage to oppose this ordinance.

Jeff Wallach, Fair Lawn Animal Hospital, asked how the salaries are paid to the EDC. Councilmember Trawinski stated that the only paid employee is to the administrator. Mr. Wallach stated that the EDC mentions that they will cover the cost of garbage pickup and security. He has been paying for these services and owners should continue to pay for them themselves. Councilmember Trawinski explained that the ordinance says the EDC has the power to do these things, however, they may not necessarily provide these services. He added that all of this is subject to the oversight of Council who reviews their budget every year. This budget is subject to a public hearing and can be rejected by the Council. The average budget for a SID in the State of New Jersey is less than \$200,000, and none in Fair Lawn come close to that.

Gerald Platt, 21-00 Morlot Avenue, said that he was turned down by the Sign Committee when he applied for a variance for a sign on Saddle River Road that contained five individual names. He said that a sign can only be approved for one single name.

Seymour Karas, 11 Lamring Drive, stated that a study as to what improvements were needed had been made before River Road became a SID. He asked if any study was made for Saddle River Road regarding redevelopment and rehabilitation. Mayor Weinstein deferred to the members of the EDC who were present. He noted that there are members of the business community in these areas who have reached out to the EDC for sign and façade dollars to improve their store fronts. He stated there is presently an application in front of the Planning Board for the expansion of a restaurant which is an example of how the EDC gets involved to evaluate whether or not this expansion is appropriate for this area.

Mr. Karas said that the Mayor had referred to the sign and façade program and asked if it was funded by the County. Mayor Weinstein explained that a SID or economic development program works to bring grants into the community. He stated that he and Marty Etlar were able to get \$85,000 for signs and facades and a grant for interest free loans for businesses in need of start-up capital. Two businesses had their grand openings several weeks ago on Broadway. These business received \$1,000 through the Broadway Improvement Corporation towards their sign as well as \$35,000 interest free loan. Of that amount they were not required to pay back \$5,200 worth of interest.

Mayor Weinstein stated that a Council cannot formulate and run an EDC on its own. They need help from the private sector. Mr. Karas stated he wanted it to be clear that the money for the signs and facades was not coming from the EDC. Mr. Karas asked if a study has been done which found that they need an economic rehabilitation.

Mayor Weinstein stated that he met with about 30 to 40 people to determine whether an Economic Development Corporation was feasible in the Radburn area. They realized that it didn't make sense because Radburn was too small an area and at this time it is not economically feasible to do a study in the Saddle River Road area with the resources of the EDC. He indicated that all of the signs in the Radburn area were also funded by sign and façade program.

Michael Krebbs, 7-11 Saddle River Road, asked for a consensus that the people who receive the benefits of these improvements would share equally in the burden of providing the improvements. Those who share in the benefit of the improvements should share the burden of paying for them. He recommended that the Council reconsider asking the few to support the many.

Steve Kiel, 2 Bedford Place, the Treasurer of the EDC and involved in the real estate business in New York City pointed out that a business owner paying \$24,000 in real estate taxes would incur an estimated additional assessment of \$190 per year. This is not a huge amount. He understands the opposition but the EDC will be trying to make the business environment better in Fair Lawn.

There being no further comments from the public, upon motion by Councilmember Trawinski 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 Mayor Weinstein, Resolution No. 160-2008 adopting Ordinance No. 2114-2008 was discussed.

Councilmember Trawinski said that he has heard a theme during this public comment which is that there is no end to what several speakers had referred to as "this tax". He proposed that this ordinance should contain a sunset provision whereby the ordinance terminates at some point, such as three years. A future Council could decide if it had achieved what it was supposed to do and if the results were positive it could be continued.

A motion by Councilmember Trawinski and a second by Mayor Weinstein to add a three year sunset provision to the ordinance was defeated with Deputy Mayor Swain, Councilmember Trawinski and Councilmember Baratta voting against the resolution.

Councilmember Trawinski stated he has heard the arguments state wide in the past that now is the worst time to promote something that will help the business community. Experience shows that this is the best time because in New Jersey the full impact of the 1988-1992 recession was not felt due to the fact that there was an Economic Development Corporation in the state during that time. It was only when the EDC was diminished in 1990 that New Jersey felt the full brunt of the recession. Given the relatively modest impact of this assessment now is the time to have an advocate for the business community in the town. People appear to be misinformed regarding the use of pavers and street lamps. The Council understands the economic realities of the times. Councilman Trawinski stated that unless a business is prepared to move to an Urban Enterprise Zone there are no incentive programs offered in New Jersey. He pointed out that the businesses in Morristown, where he is located, are thriving due to the advocacy role that the Morristown SID has assumed. He reminded everyone that the Council reviews the budget proposed by the EDC and he would not support a budget calling for pavers and street lights in area where it doesn't make sense. Councilmember Trawinski said that it is not true that tax money collected is to fill a budget gap and those that pay the tax will share in the benefits.

Councilmember Trawinski disagreed with those who say that there has been little improvement to the River Road area. He is not sure whether Banta Place and some of the other industrial areas belong in the SID and these areas might have to be fine tuned in the future once the EDC begins to take form. He stated that he would support the ordinance in its present form and would hope that it could have passed with the sunset provision.

Deputy Mayor Swain thanked everyone for their comments which she has taken into consideration. She stated that she is inspired by the business owners and she hopes they will return to help the Council when this comes up again. She hoped that these business people would also be on hand to offer creative ways to stimulate the economy in Fair Lawn if needed.

Deputy Mayor Tedeschi stated that Fair Lawn is in great financial shape because businesses pay their taxes. He stated that a thriving business community is needed. In 1993 when the River Road Improvement District began he was one of the first contributors because he thought it was a great idea to encourage businesses to thrive on River Road. The owners on River Road and on Broadway were willing to make these areas better and agreed to an assessment. The problem with the proposed SID is that it is not contiguous, the problems are not common and the needs are different. Deputy Mayor Tedeschi stated that this is unacceptable. He agreed with Mr. Karas that this appears to be a revenue generator.

Deputy Mayor Tedeschi quoted an article from 2000 with the headline "ratables surge along River Road" and he commented that the reason Shoprite was going to be built on River Road was need. The article referred to new intersections and he explained that these were County improvements. He said that tonight the question was asked about how the Borough could get involved to cut costs and what services would be provided by the Borough to help. Also discussed were getting Requests for Proposals (RFP) from people who would handle the administration. He was concerned when no answers were ever received. He recalled that Councilmember Trawinski stated that the average cost for a SID in New Jersey is \$200,000, however, the cost of the SIDs in Fair Lawn is approaching \$300,000 and there must be a clear explanation of how this will be beneficial to the business community. He does not question the intent of the members of the EDC. They are sincere people who want to do the best they

can. People need to run their businesses and they don't need impediments such as new taxes. He concluded stating that the Council has an obligation to support businesses, to ensure that they pay their fair share of taxes, and if \$100,000 is taken from them the Borough must demonstrate that they know what they're doing and therefore he would not support this ordinance.

Councilmember Baratta agreed with Deputy Mayor Tedeschi and the attorney for Kushner Company. She thanked the members of the EDC for all their hard work and she had promised them she would keep an open mind on this and if the business people supported the ordinance, she would support it. However, she didn't hear this sentiment tonight or when they were at the American Legion Hall. The goals of the SID seem abstract. She wanted to hear more specific details of their plans for Saddle River Road and Banta Place. She said she failed to hear anything about business recruitment. Many of the changes probably would have taken place with or without the SID on River Road and Broadway.

Councilmember Baratta stated that she is an advocate for business and wanted to support this ordinance, however, she cannot due to these poor economic times. She stated that she doesn't see how this small amount of money that would be assessed can take care of all the different areas. She reiterated that she cannot support this ordinance.

Mayor Weinstein stated that he sits on the Small Business Development Center at Bergen Community College and many small businesses come in to seek advice. A business came in a year ago looking for working capital to finance their business. They searched with many banks and were able to find a credit union who would lend them the money and the business is now located on Broadway. He is very impressed with the wonderful job all the businesses are doing to maintain their properties on Banta Pace. He said it is a tight community which is one of the goals of an improvement district. However, he still sees that there would be advantages to businesses there such as interest free loans. When the economic climate the business district can use more help than ever and this is why he supports the ordinance. Mayor Weinstein encouraged the EDC to reach out to the business owners here tonight to bring them in to sit on the Boards so that they can see the advantages of the SID and the EDC.

There being no further discussion, Resolution No. 316-2008 adopting Ordinance No. 2131-2008 failed to pass with Deputy Mayor Swain, Deputy Mayor Tedeschi and Councilmember Baratta voting against the ordinance.

Upon motion by Councilmember Baratta 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. 2134-2008

AN ORDINANCE FIXING THE SALARIES OF CERTAIN EMPLOYEES OF THE BOROUGH OF FAIR LAWN, BERGEN COUNTY, AND NEW JERSEY AS AMENDED.

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

Upon motion by Deputy Mayor Swain and a second by Councilmember Trawinski, Resolution No. 1317-2008 adopting Ordinance No. 2134-2008 was discussed.

Manager Metzler stated that this ordinance will give the Borough Department Heads a 2.9% increase for 2009, a 3% increase for 2010, 3.25% increase for 2011 and 3.35% increase for 2012.

There being no further discussion, Resolution No. 1317-2008 adopting Ordinance No. 2134-2008 was unanimously passed.

PUBLIC COMMENTS ON CONSENT AGENDA ITEMS ONLY

Upon motion by Councilmember Baratta and a second by Councilmember Trawinski, the time for public comments on agenda items only was opened.

Harvey Rubenstein, 28 Rutgers Terrace, asked what was included in Resolution #320-2008 – Change Order: Project #2017 Phase II Municipal Building Renovations. Councilmember Trawinski stated that this resolution includes additional security measures required by the Court and additional electrical work as well as an additional wall that had to be moved for an additional cost of \$13,508. Manager Metzler stated that there were additional costs due to state mandates for the Court which were unknown when the project began. This is part of State security mandates that have to be absorbed by the residents.

Mr. Rubenstein asked how the money in Resolution #319-2008 – Authorizing the Issuance of Bond Anticipation Notes is being allocated. Manager Metzler stated that these are all capital improvement bonds covering various years. Manager Metzler stated that the total at this time is \$14,033,000.

Councilmember Trawinski stated that when a capital expenditure is authorized by the Council, the CFO issues bond anticipation notes or works with cash. The time comes when these all rolled together due to interest rates and because of the cost of bonding into one issue when the economics makes sense. This is a precursor to the implementation of the bonds.

Mr. Rubenstein referred to Resolution #322-2008 which was removed and Mayor Weinstein explained that this is a separate item that they will get to later in the meeting.

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

RESOLUTIONS BY CONSENT #29-2008

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, Consent Agenda 29-2008 containing the following items was unanimously passed.

- a. Resol. #318-2008 – Transfer of Funds
- b. Resol. #319-2008 – Authorizing the Issuance of Bond Anticipation Notes
- c. Resol. #320-2008 – Change Order: Project #2107 Phase II Municipal
- d. Resol. #321-2008 - Confirmation of Fire Board Actions

- e. Resol. #322-2008 – Removed
- f. Resol. #323-2008 - Special Item of Revenue: Body Armor Grant
- g. Resol. #324-2008 - Special Item of Revenue: Clean Communities
- h. Resol. #325-2008 - Special Item of Revenue: Bergen County Drunk Driving Enforcement Grant

RESOLUTION NO. 322-2008 RESCISSION OF RESOLUTION NO. 278-2008

Upon motion by Deputy Mayor Tedeschi and a second by Councilmember Trawinski, Resolution No. 322-2008 Rescission of Resolution No. 278-2008 was unanimously adopted.

RESOLUTION NO. 326-2008 - BOROUGH MANAGER'S RESIGNATION

Upon motion by Deputy Mayor Swain and a second by Deputy Mayor Tedeschi Resolution 326-2008 was discussed.

Mayor Weinstein confirmed earlier comments that a mutual agreement had been reached by all parties on this process. Ms. Kwasniewski will become the Acting Manager on a 3-2 vote. The process of looking for a new manager will begin immediately.

Councilmember Baratta wished Mr. Metzler and his family well and thanked him for his time with the Borough. She also thanked the residents for their support of Mr. Metzler over the past several months.

Councilmember Baratta stated that she wanted to clarify some issues from the last meeting. She said that the Borough Manager had referred to some things that were not made part of the car report. The Borough Attorney showed her that these items had been put in the report. She asked if this amended report was sent to the Auditor and the DCA. Attorney Rosenberg said that it had and the Auditor had not changed his report based on this fact. Councilmember Baratta said there had been some criticism of that report and the fact that she and Councilmember Trawinski did not support the formation of this report. They did not support the report because they felt the auditor was biased.

Councilmember Baratta said that the Auditor is in violation of the Pay to play ordinance and has been since the ordinance was enacted. He has given in excess of \$1,800 to the Bergen County Democratic Organization (BCDO). She asked the Municipal Clerk to place this item on a future agenda. She said she found a number of violations of this ordinance. Mayor Weinstein stated that it is not responsible to say that someone is biased when they could lose their license as a result of that comment. Councilmember Baratta said that if he is giving money to the BCDO it would appear that he is biased.

Deputy Mayor Tedeschi stated that the Borough's Pay to Play ordinance clearly outlines the ramifications involved should there be violations. Attorney Rosenberg agreed stating that the ordinance clearly states prohibitions and contributions.

There being no further discussion Resolution 326-2008 was unanimously adopted.

PUBLIC COMMENTS

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

Arlene Rubenstein, 28 Rutgers Terrace, referred to the "Clean Hands" doctrine stating that two of the three Councilmembers and one former Councilmember do not have clean hands. Mayor Weinstein and former Mayor David Ganz voted to hire the indicted Joe Ferriero's grant consulting firm for Fair Lawn. This firm is currently under investigation by a federal prosecutor. This consulting firm is not registered with the state of New Jersey which is required by law and this raises serious questions about Mayor Weinstein's judgment. Councilman Tedeschi was investigated by a former Bergen County Assignment Judge for the questionable purchase of a computer. Deputy Mayor Tedeschi received the BCUA discount and personally used the computer. These are the same people who initiated cargate. She wondered how they could be trusted to serve and govern Fair Lawn and determine the fate of Manager Metzler. Ms. Rubenstein wished Manager Metzler all the best.

Mayor Weinstein said that the Borough had been looking at a company who came to the Borough and within a week the Council unanimously voted not to do business with that company. A letter was also sent to the County regarding the situation. He added that they have disclosure statements in order to learn who is involved with these companies and the situation has been corrected.

Ms. Rubenstein stated that Mayor Weinstein and Mayor Ganz had voted to hire Joe Ferriero's company and she said she is happy to hear it will not happen again. Deputy Mayor Tedeschi stated that the Fair Lawn Democratic Organization have voted to ask Mr. Ferriero to submit his resignation. Referring to the personal reference made about him by Ms. Rubenstein, Deputy Mayor Tedeschi said that the report of Judge Cholino to the Commission states that there was no intent to violate any law, regulation or policy concerning the acquisition of the computer. Commissioner Tedeschi proceeded with the purchase of the computer through appropriate channels advising that he would pay with personal funds. He pointed out that the two Commissioners who started the witch hunt resigned for personal reasons 60 days later.

Claude Bienstock, 39-11 Broadway, wished Manager Metzler success in future endeavors and thanked him for his service to the town. He said that Mr. Metzler should be very proud of all he has accomplished.

Seymour Karas, 11 Lamring Drive, referred to the River Road Improvement Corporation and their failure to have the date and locations of their meetings publicized. He asked the Council to check to see if this is a requirement as he would like to examine their budget. Mayor Weinstein said he would have Attorney Rosenberg check on this.

Harvey Rubenstein, 28 Rutgers Terrace, wished Mr. Metzler all the best for the future. He agreed that some things were left unsaid at the last meeting. At the budget meeting of February 26th Deputy Mayor Tedeschi stated that "they should all agree that this is the Council's budget and they have to live with the outcome and detriments and all the things that go along with it." Budget meetings followed on March 1st, March 4th, March 11th and March 25th. Mayor Weinstein said he would like to start discussing the next year's budget in May and

nothing has been said yet about next year's budget. Mr. Rubenstein stated that the budget was passed on May 13th with no derogatory words or discussion of the budget. He added that there were false charges and partisan lies surrounding the firing of Tom Metzler.

Mr. Rubenstein stated that during the adoption of a resolution at the last Zoning Board meeting it appeared as though the Board had no idea that the Council in October 2007 had passed an ordinance pertain to Certificate of Occupancy requirements which must be fulfilled. He asked if the ordinance had been published in the paper and asked how the Borough would enforce this ordinance. At a prior Zoning Board meeting Mr. Rubenstein stated that Mr. Landzettel had promised trees, however, trees were not shown on the site plan and were not specified in the resolution. He asked if the Zoning Board could go back into the minutes of the meeting and enforce it. Attorney Rosenberg stated that court cases would seem to indicate that this would be enforceable.

Mr. Rubenstein recalled that residents spoke about a Section 8 house during discussion on the overlay district at a recent meeting. There were problems at the house and he asked if anyone from the Borough had checked to see if there was more than one family living in this house. Manager Metzler reported that a follow up had been sent to the Zoning, Property Maintenance and Police, however, he has not received a report and he will look into it. Mr. Rubenstein observed that the Manager knows everything about the budget and bonds and always has the answers and he cannot believe he is not good enough for this job.

Howard Mark, 12-23 Ferry Heights, read a quote in honor of Tom Metzler.

Robert Wallace, 11-06 Alexander Avenue, stated that he watched government at work with the defeat of Ordinance No. 2131-2008 due to business people voicing their opinions. A few weeks ago many people were at a meeting in support of Tom Metzler and they were ignored. He stated that this is not acceptable and the Council hasn't heard the last of this from the residents and other supporters.

Bob Gremillot, 1 Bristol Place, stated that he attended the hearing where Tom Metzler defended himself. The main point of his defense was that he wanted to preserve his reputation. This is difficult because it came to light that Mr. Metzler purchased a car. When people learned of this they perceived that Mr. Metzler would be driving around in a fancy car. Mr. Gremillot stated that he attended a work session where this purchase was approved and the Council should work on a procedure concerning the handling of these types of purchases in the future. In the latest edition of the Community News, it was reported that last night's meeting was cancelled and another article reported six charges were filed against Mr. Metzler. Mr. Metzler's reputation is at stake. Mayor Weinstein said his original intention was to have a mutual separation or resignation to avoid having these things come out in the paper. The media was present tonight and heard everything including details of the mutual agreement as well as statements from residents and the Councilmembers.

Harvey Rubenstein, 28 Rutgers Terrace, said that the minutes posted on the website are not current. This would mean that someone had to have contacted the paper regarding the issue of Mr. Metzler and the car. Returning to the subject of the Zoning Board, Mr. Rubenstein asked if the people who have received CO's since last October could be made to file with the County; and can COs be incorporated into the resolutions for those cases that have been heard but not yet issued a CO. If there is a checklist when the COs come up for issuance,

would applicants be told they have to file with the County. Mr. Rubenstein stated that when this ordinance was passed nothing was mentioned about costs to the applicants.

Mr. Rubenstein referred to Mr. Metzler and stated that the Council should be embarrassed because of the numbers of the people who filled the room who implored the Council not to do a disservice to Fair Lawn.

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

ADJOURNMENT

Upon motion by Councilmember Baratta and second by Councilmember Trawinski, the meeting was adjourned at 11:05 p.m.

Respectfully submitted,

Marilyn B. Bojanowski, RMC
Assistant Municipal Clerk

The undersigned have read and approve the foregoing minutes.

Mayor Steven Weinstein

Councilmember Jeanne Baratta

Lisa Swain, Deputy Mayor

Deputy Mayor Joseph Tedeschi

Councilmember Ed Trawinski