

## **WORK SESSION OF DECEMBER 16, 2008**

Mayor Weinstein called the meeting to order at 7:34 P.M.

**PRESENT:** Mayor Weinstein, Deputy Mayor Swain and Deputy Mayor Tedeschi, Councilmembers Baratta and Trawinski (late)

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

### **Council Liaison Reports**

Deputy Mayor Swain reported that the Planning Board adopted the Housing Element and Fair Share Housing Plan which will be discussed later this evening. On Monday, December 8<sup>th</sup>, the Planning Board approved a dance studio on Fair Lawn Avenue. The studio offers one on one dance lessons for functions such as weddings. She stated that Bris Avaoham came before the Board for minor site plan approval of a day care center in their building, however, this was postponed due to lack of information.

Councilwoman Baratta stated that this Council was very helpful in promoting Grace's Law which is now on the Governor's desk for signature. This law was six years in the making. She stated that she and Deputy Mayor Swain attended the meeting of the First Responders concerning physicals which will be discussed later tonight.

### **Sale of Recyclables**

Acting Manager Kwasniewski said that there has been a serious downturn in the recyclables market. She introduced John Mulligan, of Joseph DaMato Paperstock, who was present to discuss how his company could continue to live up to the contract that had been negotiated with the Borough. Mr. Mulligan who has been in the recycling business since 1990 is representing Joseph DaMato Paperstock Company which was recently acquired by Greenstar. Greenstar takes in municipal tonnage from many municipalities, as well as commercial generators, and processes it for export. Mr. Mulligan stated that the demand and prices paid for recyclables has diminished as the economy has floundered.

Mr. Mulligan indicated that a five year agreement was entered into with Fair Lawn in 2003 based on a list prices published in the "Official Board Markets". This publication lists the price that paper mills are willing to pay for newsprint. Greenstar offered to pay Fair Lawn 62% of the published price for corrugated paper in 2003. He said that the agreed price was \$46 per ton for newspaper and \$45 per ton for corrugated paper during that five year period and during the 60 months of this contract, 24 months went below the floor price. Mr. Mulligan explained that the floor price means that no matter where the market goes the customer will not be paid less than that amount. He distributed a tracking chart for the period between 2003 and 2008 and referred to the

red boxes which represent each month that the price was below the floor price and Greenstar paid the full price as per the contract.

Councilmember Trawinski arrived at 7:38 p.m.

Mr. Mulligan stated that Joseph DaMato Paperstock is a very viable company who has always paid their customers high when the market was high and has always paid the floor price even when the market dropped. Mr. Mulligan noted that his company is not exempt from the global economy downturn. At the moment his company is paying many neighboring municipalities \$5 a ton for their newspapers and in December municipalities were being charged to accept their newspapers. He reiterated that there are paper mills that have closed and there is no longer a viable market for recyclables. He explained that China who had been a huge consumer of recycled products has stopped buying. DaMato Paperstock has never seen the market drop this suddenly.

Mr. Mulligan said that he is here to ask what can be done to work together through these difficult months. He stated that when the market was good Mr. DaMato's company paid the Borough of Fair Lawn above the market price. He stated that the Borough went out to bid for the marketing of the recyclables in September. DeMato's company won the bid at \$105. Now they are losing \$30,000 a month with this contract when carting is added in. He indicated that they were paying high prices to everybody based on the strength of the market, however, now they are only being paid \$30 a ton from the mills.

Mr. Mulligan reiterated that he is here to ask for help and he will be visiting another five municipalities with the same request. He doesn't expect to get an answer tonight and he understands that this is a legitimate contract. He said that Fair Lawn is the municipality with the highest floor price because this is the most recent contract. His goal tonight is for the Mayor and Council to agree to sit down with Ron Lotterman, the Borough Manager and the CFO to try to collectively formulate a plan where a certain amount of the \$105 per ton would be paid and the balance would be attached onto the tailing months of the remaining 4 ½ years of the contract. Another alternative would be to agree to a fixed price or a rewards program where residents would be rewarded based on the amount of recycling that they do. His company would provide a container and would retrofit the packers used by the Borough with semi automatic lifters for curbside pick up. This lifter would weight and scan the contents so that all the participating residents in Fair Lawn could see how much recycling they are doing each month on-line and redeem coupons. In conclusion, Mr. Mulligan stated that even though the situation is dire at the moment, the long term forecast for recovered recyclables is good and they expect the market to turn around.

Mr. Mulligan said that it is impossible for his company to stick to their contract and if the market continues to go down because they will go bankrupt. If this happens and Fair Lawn goes out to bid again they will find that none of the other companies willing to pay

anything for these recyclables. Mr. Mulligan said that DaMato wants the tonnage from Fair Lawn and wants to continue with the contract.

Deputy Mayor Tedeschi asked Mr. Mulligan about his position in the company and he said he is the account manager. Deputy Mayor Tedeschi asked if Greenstar would be willing to produce financial statements and guarantees. Mr. Mulligan said he wasn't sure and Deputy Mayor Tedeschi said that he would like to know more about a company that is asking the Borough to defer payments because should Greenstar go bankrupt the Borough would be an unsecured creditor. Mr. Mulligan said he would try to come back with this information at the meeting with Borough professionals.

Deputy Mayor Tedeschi asked what the position of the Borough would be if the market were to turn around. Mr. Mulligan said these details would be included in any agreement that could be worked out. Deputy Mayor Tedeschi said that DaMato is asking the Borough to assume the risk that the payment will not be received. Mr. Mulligan said that this is true, however, in this climate there is no recourse for any municipality. His company wants to work with the Borough and not walk away from their contract. Mr. Mulligan spoke about the floor prices again said that they took a risk. Deputy Mayor Tedeschi agreed and commented that now DaMato wants the Borough to share the risk.

Councilwoman Baratta questioned the future forecast and asked if Mr. Mulligan was referring to years or months in his earlier statement. Mr. Mulligan has read estimates and stating that things could turn around by the second quarter of 2009. Councilwoman Baratta said that the situation could last the length of the contract. Mr. Mulligan said that they have seen these types of cycles before and they have never lasted for the length of time she is referring to. In 1991, they were paying \$35 a ton to get rid of the recyclables and that lasted about a year.

Mayor Weinstein stated that the Council will discuss this further in Closed Session and the Acting Borough Manager would get back to Mr. Mulligan. Mr. Mulligan thanked the Council for their time and said he would have further information ready on all the proposals when he hears from the Manager.

### **Violation of Pay to Play Ordinance**

Attorney Rosenberg advised that he sent letters to the Auditor and the Prosecutor requesting information on any contributions that have been made. In the case of the Prosecutor, contributions were made directly to the Bergen County Democratic Organization (BCDO). Councilwoman Baratta had information from the ELEC report that the accounting firm had also contributed to the BCDO. A response was received from Steve Wilcox of the accounting firm dated December 10<sup>th</sup>, with a copy of a check made out to Victory 2006 in the amount of \$1,750. Mr. Wilcox said that his firm was in compliance with the Borough ordinance since this check was for a freeholder candidate

and not the BCDO. A letter and a copy of a check was received from the Prosecutor indicating that this check had been written by the Prosecutor's spouse to the BCDO and did not violate the Borough's Pay to Play ordinance.

Attorney Rosenberg provided a memo stating that the Victory 2006 and 2007 Committees are not prohibited entities under the Borough's present ordinance, and therefore contributions that were made do not preclude the continued acting of the auditor or any professionals identified from making contributions. Victory 2006 is a joint committee that was formed by Concetta Wagner and Julie O'Brien who were freeholder candidates. Victory 2007, was also a joint candidate committee which was formed by freeholder candidates Thomas Padilla, James Carroll and Elizabeth Calabrese.

Attorney Rosenberg stated the question is whether, under the terms of the ordinance as currently written or not a professional who makes a contribution to Victory 2006 or 2007 violated the specific language of the ordinance. He said that based upon the D2 filings, which is the basis for his opinion, the contributions that were made to the joint candidate committees were not intended for the principal purpose of promoting Borough candidates in those election years. These contributions do not run afoul nor were they prohibited under the ordinance as currently written.

Councilman Trawinski indicated he rejected Attorney Rosenberg's opinion. It's not what we intended when we drafted and your reading of the ordinance does not make logical sense because it is a Bergen County party committee, albeit a party committee form for purposes of electing certain people as freeholders. Otherwise, if you read it the way you read it Bruce any Bergen County party committee would never have been formed for the purpose of promoting or supporting Borough candidates or Borough office holders. It was our intent to preclude wheeling and it was our intent when we drafted this to preclude that wheeling to a Bergen County Party committee whether it was the BCDO or the Bergen County Republicans or committees that fed those organizations. What you have here is the various Victory accounts being used by Mr. Ferriero and the same treasurer, and the same bank, and the same account being the alter ego of the Bergen County Democratic Organization for the precise purpose of being able and in my opinion to avoid the local Pay to Play laws such as ours which were drafted by common cause and I believe that it is a violation. There would be no Bergen County party committee that Bergen County party would ever form for the purpose of promoting local candidates. It would always be for the purpose of promoting Bergen County candidates. But what happened here was money went from Victory 2000 – all the various Victory accounts to substantial sums to the BCDO sometimes as after thoughts in terms of loans and then that money filtered its way on through onto various towns. The test is not whether the money filters its way to Fair Lawn, the test is whether it ended up with the BCDO which was a party committee. So, it allows them, your interpretation allows them to indirectly violate our law. I'm sorry Bruce, I think it's nothing more than sophistry and I think it's a clear violation. In fact, I think it's so clear a violation that today I turned these records over to the FBI that are investigating the

Ferriero campaign so it comes as no surprise to anyone. These and additional records because I believe that these constitute violations also indirectly by Ferriero to do what he couldn't do directly knowing what State law was on the advice of probably Mr. Uri.

The other problem that I have with this is if it's not a literal violation of our ordinance, it certainly is a violation of the spirit of our ordinance. You look at the cast of characters throughout this county this auditing firm, and somebody's lying to us here, either Victory 2006 is lying to the public on its reporting by reporting a contribution that they should have reported but having BCDO report it because that's where it appears, this particular contribution which by the way - the check was made out according to Ferrieoli to Victory 2006. The reporting of that fund and that contribution was reported by BCDO on its campaign reports. If indeed the check was made out to Victory 2006 then the same treasurer McHale and Ferriero had the obligation to report that on the Victory 2006 account and not on the BCDO account.

But I reject the check that we received too. What do these auditors think - we're fools. Where's the cancelled check, where's the sequence in the check book and where is the bank statement that showed it cleared. Come on. Anybody can write a check and say this is the check that I wrote here it is. Let me see the cancelled check, let me see the back of the endorsement of the back of the check, let me see how it was endorsed and if moreover if Ferrieoli intended that check to go to BCDO he's an auditor, a municipal auditor, he's not the common, ordinary person, why didn't he raise the question and say "Time out - I wrote this check to Victory 2006. How come it ended up in the BCDO account?" You're going to tell me a municipal auditor doesn't review his own bank statements and look at the back of the check and realize it. The same municipal auditor whose part of the cast of County characters who received over \$180,000 in payments since 2008 from the BCIA and \$15,000, I believe, from this Borough in connection with the BCIA financing. The whole thing smells to high heaven.

If our ordinance doesn't capture that in your opinion then I'm sorry Bruce, I don't want you to be our Borough Attorney because I reject it as nothing more than sophistry. It's the same attempt to continue to allow for campaign contributions to improperly influence decisions throughout this County and it has to stop and it has to stop with us. This is wrong.

The other thing, the very thing I want to say is the amount of money that this auditor has contributed by the way if it belongs to BCDO probably puts the auditor in violation of the campaign contributions. If it belongs to BCDO it puts the auditor in violation of the campaign contribution limits because the auditor had already maxed out with BCDO for that year. Why contributed to Victory 2006, why shift it to Victory 2006. The answer to me seems pretty clear in my opinion. Because I couldn't give anymore to BCDO so let me write it to Victory 2006. But somebody's not coming clean here to us and for an auditor we ought to hold him to a higher standard. The same auditor that you guys said was the independent auditor on the Metzler thing is the same guy whose probably got

one of the records for contributions to Victory 2004, 5, 6, 7 and BCDO and in terms of no big contract awards. I seriously question his independence. If he didn't review his statements I seriously question his abilities.

Councilwoman Baratta stated that she thought one of the things Ed said might have been backwards. I think on the check from the auditor I think what happened was that he was over the limit the Victory account.

Councilmember Trawinski corrected himself.

Councilwoman Baratta felt when it was received by BCDO they realized they couldn't apply it to the Victory account because he had already maxed out there. She will provide the back up documentation.

These Victory accounts began in 2004. All the in kind contributions went back and forth. The money had to be re-reported. There were loans sometimes at the end of one year when the campaign was begun again and those accounts were started again but the numbers don't match up. There's money missing. Some of it is in BCO and some of it is in the Victory accounts.

Deputy Mayor Tedeschi stated first of all, what we requested was the front and back of the cancelled check. We didn't request statement or analysis or anything else.

Deputy Mayor Swain indicated that the important thing whether or not money came into Fair Lawn and it seems to me very clear that money did not come into Fair Lawn.

After a lengthy discussion in which Councilmember Trawinski questioned the objectivity of the Auditor and Mayor Weinstein expressed concern that the Court which was well run was now going to be disrupted because they have no choice but to enforce their ordinance, it was agreed that they needed to define their objectives.

### **Emergency Services Personnel Physicals**

Acting Manager Kwasniewski sent a memo regarding the emergency services personnel meeting which was attended by Deputy Mayor Swain and Councilmember Baratta. Three open issues remain including whether or not emergency personnel would be allowed to use their primary care physicians. Acting Manager Kwasniewski said she is not in favor of this because an individual's own doctor may tend not to say anything negative about his or her patient. She has seen many instances where doctors give notes when the person isn't really sick. Acting Manager Kwasniewski said that this would be an administrative nightmare if some people are going to the Borough's doctors and others using their own doctor. Using a personal physicians would first require a Purchase Order (PO) and many doctors will not use POs.

Councilwoman Swain stated people want to use their own doctors because there are a number of females in the Ambulance Corps who are more comfortable seeing their own physician and others simply trust their own doctor. Councilwoman Baratta said that this was very important to the Ambulance Corps. An equally important issue was the form emergency services personnel have to fill out most notably the first several questions which may trigger the need for a physical. Councilmember Baratta stated that the meeting was attending by Carol Wagner, the Fire Department, Ambulance Corps, Rescue and Auxiliary Police as well as Ira Marks.

Regarding the question of the purchase order and physicians who don't want to provide information, Deputy Mayor Tedeschi stated that the onus is on the individual because it is his physician. If his doctor doesn't want to complete the PO, the personnel member will have to make another decision. He commented that it appears that tremendous headway was made in this first meeting.

Acting Manager Kwasniewski stated that Carol Wagner was concerned that some of the primary care doctors may not be able to complete all the tests, however, she disagreed. Councilwoman Baratta said that some people felt that some of these tests were not needed for the Ambulance Corps members, however, they were for the Firefighters.

Councilmember Trawinski agreed that although it creates an additional administrative burden, people should have the choice to use their own physicians. He felt that it should be the individual's responsibility to ensure that their doctors will complete the POs since they are being given this option.

Councilmember Baratta stated that people were disturbed when they see the language "unfit for membership" and each individual group would like to have a definition of what this means. There are older members of the Fire Department who want to continue as members and they are afraid that they will not be able to pass the physical. When they saw this language they thought that they were out, however, she and Deputy Mayor Swain assured them that this was not the case. Acting Manager Kwasniewski suggested eliminating this language and stated that the main concern is whether they are fit or unfit for activities. Councilwoman Baratta said that the Fire Department wanted criteria added stating that if you fail the test there are jobs you still can perform and she added that the Ambulance Corps is already set up this way.

Councilwoman Baratta stated that there was a request to look into the LOSAP ordinance and she asked Attorney Rosenberg to look into how their benefits would be affected if they were hurt while volunteering. The emergency services personnel also wanted drug testing included. They indicated that they do want the "unfit for duty" language to be strong but they want "unfit for membership" clause to be eliminated.

Councilmember Trawinski stated that Attorney Rosenberg should be authorized to re-draft the LOSAP ordinance working along with the Manager. Mayor Weinstein asked

about the possibility of another meeting and Deputy Mayor Swain said they were waiting to come up with a consensus on answers to these questions tonight. Simultaneously, each department is supposed to come up with a list of criteria. The question of what to do when a responder refuses to get a physical was also discussed and it was agreed that that individual would be removed from his or her position if this were the case. If a member fails the physical, that individual would have a different position with limited duties which vary throughout the different organizations. Attorney Rosenberg noted that 45 remains the base line.

#### **B-4 River Road Business District Overlay Zone Ordinance**

Deputy Mayor Tedeschi and Councilman Trawinski stated that they agree with the amendments made by the Planning Board. Councilwoman Baratta said she wasn't going to vote for this because she is very upset with the Council on Affordable Housing (COAH). She wanted it known that the Mayor and Council are not doing this because they want to but because they are being forced to and they have no choice and, therefore, she has chosen to support it. Councilmember Trawinski stated that all the municipalities in the State are going to vote positively on this because none of them have any choice.

#### **Sunrise Rotary 5K Run on 1/1/09**

Councilmembers were in agreement on this event.

#### **Change Order – Project 2152 Senior Center Roof Replacement**

Councilmember Trawinski stated that he was at the Senior Center last night and observed water spots on the ceiling. He asked if this change order is related to the condition of the ceiling. Acting Manager Kwasniewski stated that she thinks it is and this is the first time she has heard about water spots. She said that the plywood sheets along the skylights had to be replaced to properly complete the project. The plywood sheets cost \$320. The cost of the skylights is \$2,400 and the labor cost is \$2,500 for a total of \$4,950 not including the plywood.

Councilmember Trawinski recommended that the interior of the roof be checked because the leakage looked recent. Acting Manager Kwasniewski said that she understood that the roof was being replaced because it was leaking. Councilmember Trawinski recommended replacement of the ceiling tiles. Councilmember Trawinski suggested that they go back to Community Development for a change order and Acting Manager Kwasniewski said she would check into this.

### **Donation Clothing Bins**

Attorney Rosenberg stated that last October the Council voted to limit Donation Clothing Bins and in December the State enacted similar legislation. Since the Fair Lawn ordinance is going to expire at the end of the year Attorney Rosenberg has amended

the local ordinance to conform with the State statute. Some items are stronger than the municipal ordinance such as the \$20,000 penalty for violation. Some are weaker such as the limitation on the number of bins. There is no limitation on the number of bins according to State law. The State fee for a permit is \$25 which is less than what had been imposed by the Borough.

Attorney Rosenberg stated that the ordinance still requires that the applicant to go to the Planning Board for site plan approval and that the Planning Board must specifically note that the location of placement of the bin does not constitute a safety hazard. This is consistent with the Council's direction last October.

Mayor Weinstein asked about the affect on the DARE program. Attorney Rosenberg said that it wouldn't affect the DARE program because the distinction has been noted regarding Borough sponsored clothing bins which will remain where they are now. Attorney Rosenberg confirmed that the requirement for contact information remains in the ordinance. Attorney Rosenberg said that the State statute says that the Zoning Officer shall receive and investigate any complaints from the public within 30 days. This language obligates the Zoning Officer to investigate and take the appropriate steps.

### **Professional Services**

**Health Educator** - Acting Manager Kwasniewski stated that the cost of the HARP program is \$13,565 and \$10,000 of which comes from the Public Health Fund, leaving a balance of \$3,565 to the Borough. This group has been used consistently for the last ten years with good results.

**Connor Strong Companies – Right to Know Loss Control** - The Borough is required to perform Right to Know inventories and loss control. The Connor Strong Company was formerly known as Commerce Risk. They will not be increasing their quarterly loss service or their monthly safety meetings. They have requested a 2.5% increase to cover right to know labeling inventory which will push the price up to \$2,565.

**Edward Sciano – Child Care Physician** - Dr. Edward Sciano is the child care physician at the clinic. He has asked for a slight raise of \$2.50 per hour due to the rising cost of his malpractice insurance. He will now charge \$87.50 per hour for his 24 clinics which are well attended and will probably be increasingly used in view of the economy.

**Valley Hospital Health Services** - Valley Hospital provides the part time nursing service to the Borough. A proposal was submitted for a full-time and a part-time nurse, however, due to budget constraints, Acting Manager Kwasniewski did not recommend a full-time nurse. The charge for a part-time nurse is \$15,287.40.

Acting Manager Kwasniewski stated that the above are all professional services and therefore required to do the Pay to Play disclosure with the exception of the hospital. These appointments will be done at the Reorganization Meeting.

### **Special Improvement Districts Sunshine Notice**

Mayor Weinstein stated that the Council should approach the Boards of the River Road, Broadway, and the Economic Development Corporation (EDC) and ask them to voluntarily post their meeting dates, locations and times. Councilmember Trawinski agreed that they should ask these groups to comply voluntarily and if they won't, the Council will have to see what steps they can take. He said that the law is not quite there on Special Improvement Districts (SIDS) and Business Improvement Districts (BIDS), however, it is there on redevelopment entities set up by municipalities. He said that the day is coming when SIDS and BIDS will be subject to the law but they should move forward and do it voluntarily. The information could be posted on the Borough website, however, the municipality is not obligated to advertise these meetings in the newspaper .

Don Smartt stated that he has spoken to the Broadway Corporation and they are waiting for the outcome of tonight's meeting. He added that he is meeting with the River Road group on Thursday. He said he believes he can work with Acting Manager Kwasniewski to promote the intent of the Open Public Meetings Act.

### **Special Meeting**

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, the Mayor and Council adjourned to Special Meeting at 9:06 P.M.

Upon motion by Councilmember Baratta and a second by Councilmember Trawinski, the Mayor and Council, returned to the Work Session at 9:10.

### **Public Comments**

Harvey Rubinstein, 28 Rutgers Terrace, noted that he read in Cranes Weekly that the market on recyclables has tanked tremendously. The article stated that many companies have completely closed down and he urged the Council to work with Mr. Mulligan and Greenstar towards a mutual agreement. Mayor Weinstein commented that he wants to make sure the Borough has the proper protection.

Mr. Rubenstein referred to the Pay to Play ordinance and said that Councilmember Baratta shouldn't have to apologize for her careful analysis of the situation. Mayor Weinstein stated that no one had asked her to apologize. Mr. Rubenstein said that it takes a lot of time to put something like this together.

Mr. Rubenstein commented that the smell of mildew was quite apparent at the Senior Center yesterday.

Mr. Rubenstein asked Mayor Weinstein for clarification on medical malpractice and Mayor Weinstein said that malpractice insurance, like any other insurance, is a deductible expense. Mr. Rubenstein noted that the reason given for the increase in the professional service fee by the Child Care Physician is the increase in malpractice insurance and he commented that this is fake.

Mr. Rubenstein questioned Resol. #337- 2008 – Authorizing the filing of a Complaint for Declaratory Relief of the Fair Housing Act. Mayor Weinstein explained that this refers to COAH and is what the Planning Board supported last night. The Council is passing the resolution regarding same. Mr. Rubenstein recommended asking for relief from this December 31<sup>st</sup> deadline. He said that the Council should call the governor's office to complain about the high number.

Mayor Weinstein stated that they are working with the Planner, the Borough Attorney and the Special Counsel who have all advised that there is a lot at stake if this is not passed to meet the deadline of December 31<sup>st</sup>. Councilwoman Baratta said that at last night's Planning Board meeting, the Planner mentioned that the Borough is under litigation and cannot refuse to file a plan. As she said earlier, she doesn't agree with this and she stated that she has been working with other Mayors along with Senator Gordon's office asking for relief from these numbers.

Councilmember Trawinski stated that if the Governor and Commissioner Doria didn't get the message at the League of Municipalities Convention when Mayor Cory Booker and the Mayor of Elizabeth, among others, lambasted them over the COAH system they won't get any message from Fair Lawn. He said that this message has not been heard by the governor and as distasteful as this is there is no choice but to comply. He added that all the municipalities in the State are complying even though they may not find themselves in the same position as Fair Lawn.

Craig Miller, 5 Ramapo Terrace, referred to the Senior's Center and said that not only are the ceiling tiles damaged but the trim around the skylights is coming down. This could be where the mildew smell is coming from. He also said that the parking lot lamps at the Senior Center are not staying on very long. Acting Manager Kwasniewski said that it sounded as though Mr. Miller was referring to sensors and she will have this checked.

Mr. Miller referred to the Recycling Center and said it is open on Sundays from 12:00 p.m. to 4 p.m., however, it is really only open until 3:45 P.M. He asked if the hours had changed and if so, this should be corrected on the sign. He asked about the earlier discussion regarding independent recycling trucks coming through the Borough. Councilmember Trawinski said that the discussion was about retrofitting Borough trucks. Mr. Miller questioned the cost involved and Councilmember Baratta said that Greenstar, the Borough's recycler, would cover any costs involved with their proposal.

Jo Marie Sacchinelli, 23-17 Ellington Road, spoke about campaign literature that had been handed out and she asked if Councilmembers were aware that the County had distributed literature containing their names. Mayor Weinstein said that they did not know that this had been done. She asked if this was free advertising and, as such, was this not like accepting money. Mayor Weinstein stated that if a candidate, such as Governor Corzine, wants to go from town to town and show the whole Democratic team then their names will be put on the flyer or brochure.

Mayor Weinstein said that if he wanted to show any senior politicians as part of his team he couldn't do that without their approval but it doesn't work like that if someone in a higher position wants to use his name to demonstrate "a team". Councilmember Trawinski said that it is supposed to work both ways under the ELEC regulations because this is the first indication that they are making an in-kind contribution. Ms. Sacchinelli said that she will pursue this further and said that the Councilmembers should make it clear to these senior politicians that they are not authorizing that their names be used for this free advertising. She noted that this type of advertising would have been quite costly for the candidates running for office in Fair Lawn. She indicated that she didn't recall getting anything like this from the Republicans and she said that this seems to violate the Pay to Play ordinance.

Councilwoman Baratta recalled that during the last campaign a printer donated the lawn signs for the Republicans and they had to include this on an in-kind disclosure or authorization. Councilmember Trawinski stated that when he was involved with Nick Felice's campaign, he would make a determination as to the total cost and then divide the total cost between the number of candidates on a flyer or brochure and give a statement noting the value of the in-kind contribution that had been made along with the authorization for use of their name. Deputy Mayor Tedeschi said that items such as writing press releases or making public statements are also handled as in-kind contributions.

Bernice Katz, 2-22 Saddle River Road, asked for a definition of the difference between the community bulletin board in the Municipal Building and the one in the Library. Attorney Rosenberg said that there should be no difference. Ms. Katz asked why the Library Director has to be consulted before something can be placed on the Library bulletin board. Attorney Rosenberg indicated he would take care of this issue tomorrow. Ms. Katz asked for confirmation that it is not restricted and Attorney Rosenberg said she

was correct and anything posted is not subject to the Library Director's review. The Library Director had been told to amend this policy and he will follow up.

Ms. Katz asked if there had been any further information regarding the Department of Environmental Protection (DEP) and the Bergen County Park entrance. Mayor Weinstein said that there is nothing new since Ms. Katz last brought this up.

Ms. Katz referred to a recent retirement party which was given by the Mayor and Council. She asked if this was being funded by tax payer money. Deputy Mayor Tedeschi stated that it was part of the budget discussions. Ms. Katz referred to Resol #341-2008 – Transfer of Funds which had jumped from \$50,000 yesterday to \$68,000 today. Acting Manager Kwasniewski stated the reason for the increase is because more vouchers had been received by the Borough CFO from various professionals who have been hired by the Mayor and Council. He took these added vouchers and realized he needed another \$18,000 to cover them.

Mayor Weinstein explained that this is a transfer of funds between various accounts. At the end of the year, some accounts are short and others have excess funds. Therefore, in order to balance out the budget at the end of the year, the CFO makes adjustments to the various accounts so that everything is even. Acting Manager Kwasniewski pointed out that the resolution stated that the money is being transferred "from" which means that the Council has \$68,000 left in the line item that the CFO doesn't expect to spend between now and the end of the year. She added that the CFO needs to leave enough money in the line item to cover invoices from professionals that come in during the month of December which is paid out in January.

Deputy Mayor Tedeschi stated that State law says that the Borough is obliged to spend only what is budgeted and the budget is only an estimate. The law also says that after November 1<sup>st</sup> money can be transfer from different accounts. In doing these transfers, the CFO is simply equalizing the accounts under State law.

Ms. Katz referred to the Donation Clothing Bin and asked who could place these bins around the Borough. Attorney Rosenberg said that these bins do not have to be placed by bona fide organizations, however, the State requires reports as to where the clothing goes. The town will also get a copy of this report.

Ms. Katz stated that there was asphalt work done on Dorothy Street in the area of Morlot Avenue. She said that there is a strange lip where the asphalt meets the existing asphalt. The area should be smooth and Acting Manager Kwasniewski will have the Engineering Department look into this.

Ms. Katz said that there was a recent article in the paper stating that Fischer Scientific and Kraft Foods are some of the worst polluters. She asked if they could be fined and Acting Manager Kwasniewski said there are no new complaints from the DEP on either

of these companies. Mayor Weinstein said that he would speak to the Health Department to see if there are any new issues.

Don Smartt reported that the paving program and repairs to River Road have been completed along with repairs to the pavers that had shifted. Both River Road and Broadway are helping the small business owners by advertising their businesses this holiday season and the first quarter of next year. Mr. Smartt was pleased to report that the Broadway Improvement Corporation is ready to deliver the Master Plan to both Fair Lawn and Elmwood Park.

Mr. Smartt said that he has had the pleasure of working closely with most of the Council over the past year. He also thanked the Borough staff for all of their help.

**Closed Session:**

Upon motion by Deputy Mayor Swain and a second by Deputy Mayor Tedeschi, the following closed session resolution was unanimously adopted at 9:40 P.M.

**WHEREAS;** the Open Public Meetings Act of the State of New Jersey permits the public to be excluded from certain matters to be discussed by the Governing Body; and

**WHEREAS;** the Mayor and Council of the Borough of Fair Lawn desire to discuss Personnel – Appointments to Various Boards and Committees for 2009; Contract Negotiation – Sale of Recyclables

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

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

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

**ADJOURNMENT:**

Upon motion by Councilman Trawinski and second by Councilwoman Baratta the meeting was adjourned at 9:45 P.M.

Respectfully submitted,

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Marilyn Bojanowski, RMC  
Assistant Municipal Clerk

The undersigned have read and approved the foregoing minutes.

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Steven Weinstein, Mayor

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Deputy Mayor Tedeschi

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Deputy Mayor Swain

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Councilmember Jeanne Baratta

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Councilmember Edward Trawinski