

REGULAR MEETING OF AUGUST 21, 2007

Mayor Weinstein called the meeting to order at 7:30 p.m. Municipal Clerk Kwasniewski read the following statement of compliance:

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 15, 2006. 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 Etlar and Tedeschi and Councilmembers Baratta and Trawinski.

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

POLICE SWEARING IN:

Mayor Weinstein advised that because of the schedule at the Police Academy, the swearing in will take place at another time.

MANAGER'S REPORT:

Manager Metzler said there were no changes or additions to the report.

COUNCIL COMMENTS:

Mayor Weinstein stated in their attempt to resolve issues around the Borough and be proactive, tomorrow morning he and Councilmember Trawinski are meeting with the owners of the Clariant property to continue dialogue to improve their area.

On Wednesday morning he will be meeting with the Mayor of Paterson to get an understanding of what is happening with the Home Depot because of concerns with traffic flow, the Fair Lawn Avenue and Maple Avenue bridges.

In regard to the Berkshire and Arcadia flooding problem, a letter was sent to Freeholder Chairman Padilla's office informing him that the Mayor and Council of Fair Lawn along with the Mayors of Saddle Brook, Elmwood Park and residents will be attending their meeting on September 5th to support the Freeholder's movements to resolve the flooding issue.

Councilmember Baratta read a letter that was brought to the Council's attention to Sgt. Bastinck from Captain Joseph Cook. It is a success story recognition award that the Fair Lawn Police Department received for 2006 - 2007 from the Office of Juvenile Justice Delinquency Prevention Underage Drinking Enforcement Training Center for "innovation and perseverance in reducing underage drinking." This award was directly related to the enactment and enforcement of Ordinance 2068-2006. It was noted that since Sgt. Bastinck's early days as the juvenile officer he worked hard with the Fair Lawn Alliance for Drug Abuse Prevention in

getting this ordinance passed. This award is a testament to his dedication in fighting to prevent underage alcohol abuse. The memo went on further to state that because of his efforts, he brought national acclaim to the Fair Lawn Police Department and was appreciated for his hard work in helping keep the youth free from underage drinking. Councilmember Baratta was glad to see that Sgt. Bastinck was recognized for this great achievement.

Deputy Mayor Etler said the Council was notified that the County partnership for community health had a fair. A letter was sent to Health Officer Wagner in regard to their appreciation for a job well done for assisting and developing the 2006 community health improvement plan for Bergen County. The dedication of her time, talent and expertise has been much appreciated. The letter was signed by the Administrator of the Bergen County Health Services. He thought kudos should go to Health Officer Wagner for her participation in this event.

Deputy Mayor Tedeschi stated fourteen years ago the Borough of Fair Lawn made a commitment to get very serious about fire prevention. People like Dick Bente, Leo Cook, Jack Hoitsma and now Fire Marshal Bender have done a wonderful job in reducing fires in Fair Lawn. The Fire Department in 2006 went out on nearly six hundred calls and in all of 2006 there were only two fires of any structural meaning. This year there has only been three fires. The Fire Prevention Bureau and the thousands of inspections that they do make the town safer, give the Fire Department fewer fires to fight, save our residents lives and save millions of dollars. He publicly thanked the Fire Prevention Bureau and specifically Jay Bender.

Councilmember Trawinski stated at the Work Session, the Council authorized a member of the Engineering Department to become a member of the Passaic River Flood Control Commission. He thought it was important for the residents on Jasper Road and 2nd Street that there is a bigger look being taken on the issue of flooding as a result of over development on our river banks. It is going to be a long process and a long time.

The Council supported the Manager's request for the Manager to attend the meeting of the Paramus Planning Board to deal with an issue of development on the Paramus side of the Saddle River which could also impact on our residents. He knows there is a long way to go to address the concerns of the residents who experienced the flooding difficulties, but the process has started.

Councilmember Trawinski stated that another thing the residents don't see much of is shared services and cooperation between the Council and the Board of Education. One idea is a plan that the Manager's office developed along with the Engineering Department to provide additional parking at the Fair Lawn Community Center, one of which involves using a small portion of school property and one that does not involve school property, both of which would generate substantial parking spaces at the Community Center. This is just one of the recent examples of the Council and Board of Education working together to find solutions to problems to benefit all of the residents.

Councilmember Trawinski said they are also working on a joint program to rehabilitate one of the fields at a middle school. It involved cooperation between the school board and between the Borough and the new Recreation Director, Jimmy Graff, who has worked very closely with

Joanne Wilson, Business Administrator of the Board of Education. Mayor Weinstein stated that All Sports will be contributing to repair the field also.

Councilmember Trawinski continued that on September 11, the memorial outside the Municipal Building intending to be a lasting tribute to those residents that have lost their lives to terrorism from Fair Lawn will be dedicated at 7:00 p.m. All residents of Fair Lawn are invited to attend. This is not just for the residents that lost their lives on September 11^h but also goes to probably the earliest victim of terrorism in the United States which was at Fraunces Tavern in New York City who happened to be a Fair Lawn resident.

He advised that the Council's Americans with Disabilities Act Committee invites any disabled individuals who happened to be watching and who have had difficulty in having accessibility to vote in the Borough of Fair Lawn to contact the Chairwoman Diane Albarella and let her know. They are going to take a good hard look at handicap accessibility at voting places and making recommendations to the governing body based on that review.

ORDINANCES: FIRST READING:

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

Ordinance No. 2086-2007

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Etlar, Resolution No. 250-2007 introducing Ordinance No. 2086-2007 was considered.

Attorney Rosenberg explained that this ordinance will be amending Chapter 125 of the Borough Code to regulate by permit the placement of temporary storage units on residential properties. This ordinance will also cover the size of the unit, the number of units permitted, the location of the unit, and the duration of how long it will be permitted to stay on the property.

Mayor Weinstein asked that this Ordinance be circulated to the Planning and Zoning Boards, the Building Department and the League of Women Voters.

There being no further discussion, Resolution No. 250-2007 was unanimously passed.

Ordinance No. 2087-2007

AN ORDINANCE TO AMEND CHAPTER 125 TO REQUIRE MINOR SITE PLAN APPROVAL AND LICENSURE FOR DONATION CLOTHING BINS WITHIN THE BOROUGH

Mayor Weinstein stated there were issues with this ordinance in regard to the Police Department and the bins they have. The funds they collect help DARE and go into Community Policing. He asked that it be pulled for further discussion at the next Work Session.

Deputy Mayor Etlar asked where in the Ordinance was there an objection. Manager Metzler explained that Section 1A, states that the donation clothing bin is owned by a charitable organization registered in the State. The company that collects the contents of the bin gives the Police Department a portion of the funds. The other concern the Police Department had was that the revenue generated was about \$10,000 a year which would go from one department to another if they had to pay for a license.

Upon motion by Councilmember Baratta and a second by Councilmember Trawinski, it was agreed to table Ordinance No. 2087-2007, with Deputy Mayor Etlar dissenting.

ORDINANCES: SECOND READING

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

Ordinance No. 2085-2007

AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FAIR LAWN, 2000, BY AMENDING AND SUPPLEMENTING CHAPTER 232 ENTITLED "VEHICLES AND TRAFFIC", ARTICLE II, "PARKING", SUBSECTION 232-11, PARKING PROHIBITED DURING CERTAIN HOURS ON CERTAIN STREETS

Alex Romeo, 19-14 Jordan Road stated that Jordan Road had become a commuter parking area. This past winter snow plows could not get through. Street sweepers also cannot get through. Some residents hire landscapers and even they cannot park their vehicles to do their work. He also felt it was dangerous when they pull out of their driveway. He asked that the signs be place as soon as possible.

Councilmember Trawinski offered compliments to Mr. Romeo for his and his neighbor's persistence in this issue.

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

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, Resolution No. 252-2007 adopting Ordinance No. 2085-2007 was unanimously passed.

PUBLIC COMMENTS ON CONSENT AGENDA ITEMS ONLY

Upon motion Councilmember Trawinski and a second by Deputy Mayor Tedeschi, the time for public comments on Agenda items only was opened.

Harvey Rubinstein, 28 Rutgers Terrace, questioned Resolution No. 254-2007 in regard to the Open Space Trust Fund which calls for a dollar for dollar match by the Mayor and Council. Mayor Weinstein stated the match will be half of the amount. Manager Metzler stated that the

Council was only approving a resolution that has to go with the application. The Borough has to apply for whatever grants are available. After speaking to the Open Space Professional, Mr. Hakim, he understood that if they get approvals across the board, the Borough would only have to pay 1/4 to 1/3 of the match. He mentioned the conditions of the fields and how often they get used. Mr. Rubinstein asked if the Borough had the matching funds. Mayor Weinstein stated it would have to be bonded. He said they will also look into green acre funds.

Mr. Rubinstein questioned Resolution No. 262-2007 regarding the professional services for pandemic influenza plan. He said he was confused about paying a consultant up to \$2,000 and wondered if a consultant was really needed since the emergency service people should be aware of what was going on. Manager Metzler explained that the Borough had received a grant that was designated for consulting services to the Borough which will be billed upon the completion of the work. It also is in coordination with Bergen County.

Mr. Rubinstein questioned resolutions 258-2007 through 261-2007 wondering if matching funds would be needed on these too. Municipal Clerk Kwasniewski advised him that the CFO put these on to insert the amounts into the budget. These are previous grants that have been applied for and received.

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

RESOLUTIONS BY CONSENT 21-2007

Upon motion by Deputy Mayor Tedeschi and a second by Councilmember Trawinski, Consent Agenda 21-2007 containing the following items was unanimously passed.

- a. Resol. #253-2007 - Approval of Minutes:
 - Work Session 6/19/07
 - Closed Session 6/19/07
 - Special Meeting 6/19/07
 - Closed Session 6/19/07
 - Regular Meeting 6/26/07
 - Work Session 6/26/07
 - Closed Session 6/26/07
 - Work Session 7/10/07
 - Special Meeting 7/10/07
 - Closed Session 7/10/07
- b. Resol. #254-2007 - Open Space Trust Fund Municipal Park Improvement and Land Acquisition Program Application
- c. Resol. #255-2007 - Municipal Representative of Open Space Committee
- d. Resol. #256-2007 - Approval of Raffles & Bingo:
 - Temple Beth Sholom Men's Club - Bingo
 - Fair Lawn Friends of Music Assoc. - Off-prem 50/50
- e. Resol. #257-2007 - Confirmation of Fire Board Actions

- f. Resol. #258-2007 - Special Item of Revenue - Fair Lawn Granular Activated Carbon Demonstration SR 07-007
- g. Resol. #259-2007 - Special Item of Revenue - Municipal Court Alcohol Education
- h. Resol. #260-2007 - Special Item of Revenue - Domestic Violence Training
- i. Resol. #261-2007 - Special Item of Revenue - Cops in Shop
- j. Resol. #262-2007 - Professional Services - Pandemic Influenza Plan
- k. Resol. #263-2007 - Grant Agreement - Barrier Free Improvements
- l. Resol. #264-2007 - Grant Agreement - Senior Center Improvements
- m. Resol. #265-2007 - Refund of Overpayment of Taxes
- n. Resol. #266-2007 - Renewal of Membership in the Bergen County Municipal Joint Insurance Fund
- o. Resol. #267-2007 - Requesting New Jersey Transit to Provide Wheelchair Accessibility at Train Stations
- p. Resol. #268-2007 - Appointment to the Advisory Committee on the Americans with Disabilities Act

RESOLUTION NO. 269-2007 PERSON TO PERSON TRANSFER OF LIQUOR LICENSE: E.J.A.R., Inc. d/b/a DAVIA RESTAURANT TO VILIGRY ENTERPRISES, INC. d/b/a DAVIA RESTAURANT

Upon motion by Councilmember Baratta and a second by Deputy Mayor Tedeschi the time for public comments was opened.

Councilmember Trawinski asked if all of the paperwork was in order in accordance with the Division of Alcoholic Beverage Control. Municipal Clerk Kwasniewski stated it was an actually a housekeeping issue discovered by ABC because Vilgry was purchasing the liquor.

There being no further comments, upon motion by Deputy Mayor Etlar and Councilmember Baratta the time for public comments was closed.

Upon motion by Deputy Mayor Etlar and a second by Councilmember Baratta, Resolution No. 269-2007 was unanimously approved.

MISCELLANEOUS PUBLIC COMMENTS

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

Harvey Rubinstein, 28 Rutgers Terrace, commented about the Zoning Board giving permission to knock down a house on his street which was replaced with a house that is 35 feet high. He felt the Zoning Board's vote was arbitrary and capricious. He felt a mistake was made and the Mayor and Council should appeal their decision before the 45 days expire. Mayor Weinstein asked Attorney Rosenberg to request the minutes from the meeting so that it can be discussed at a Work Session. Councilmember Baratta stated that the Council can pass these ordinances

but the homeowners are entitled to come in for a variance so they can get relief.

Arlene Rubinstein, 28 Rutgers Terrace, stated that the majority of the Zoning Board members do not go to the sites to check it out. She said she did research on State resources. The State has awarded millions of dollars for downtown street scapes. She felt if the average person could find this information the staff should be able to do it too.

Mrs. Rubinstein spoke about a transit village and how Governor Corzine pulled all the funding for the grant. They found these villages don't work. She thanked Councilmember Baratta who was the only one to vote no on the grant application.

Howard Mark, 12-23 Ferry Heights, spoke about the accident he was involved with when a woman hit him while he was on his bicycle. He felt something should be done about the traffic. He wondered about the payments on the Community Center. Manager Metzler explained how the payments would be made. He further explained that in working with the Council, the tax increases should be stable. Manager Metzler said the Borough will continue to make cuts and operate more efficiently. The Borough also did not know the impact of the revaluation. Mr. Mark stated he had done research on tax rates in Bergen County and in other counties in New Jersey. He found that Fair Lawn was in the higher percentile.

Benjamin Rubinstein, 5 Burnham Place, spoke about the parking problems they were having. He felt this needs to get resolved. Every night they get tickets. The homes on his block were built for only one car. Manager Metzler said that he had visited his street and there are valid issues there. The residents are parking on their front lawns. He has discussed this with the Police Department. Unfortunately in Radburn there are concerns because of the narrow streets. There are also concerns for the residents. Chief Rose has a concern about issuing permits. Mayor Weinstein asked that they would address this at the next Work Session. He asked that Chief Rose, Traffic Safety Officer Franco and the residents of Burnham be at the meeting. Mr. Rubinstein stated that he had spoken to the Police Chief who had concerns about emergency vehicles being able to go down the street. He wondered why permits are not given to individuals for at least another car.

Councilmember Trawinski said he wanted to revisit over-night parking. He asked that Attorney Rosenberg look into what Hoboken did when they excluded non-residents for parking. He agreed that this topic should be discussed at a Work Session. He felt they have to strike a balance between the Police Department being able to determine if the vehicle belongs there or not, so if it is not a vehicle that is being used in a crime and striking the balance of having a lot of homes that do not have the adequate parking. Manager Metzler suggested that DPW Superintendent Conte should also be at the meeting. His discussion with the Chief was to relieve some of the pressure during the summer months and certainly the snow removal issues are major issues. Municipal Clerk Kwasniewski suggested they discuss this at the Work Session on September 18.

Deputy Mayor Tedeschi requested the Borough Attorney provide prior to that Work Session the circumstances and conditions that have to exist for permitted parking to occur in specific

areas. He brought it up ten years ago and there are certain emergent conditions dealing with health, welfare and safety that allow a community to permit vehicles.

George Konstantinidis, 4-38 Hartley Place, thanked the Rubinstein's who he learned a lot from by watching the Council meetings on TV. He also thanked Councilmember Baratta for spending some of her personal time with him regarding the following matters. He spoke about the Broadway SID and how there was supposed to be an annual audit. The Mayor and Council should hold a meeting to consider objections to the amounts of special assessments at least 10 days after a notice of hearing is published and mailed to the named owners of all properties to be assessed. He said he never received any such notice for his property located at 39-10 Broadway the property on which Good Times sits. In fact, he never received the original notice of the forming of the Broadway SID.

Mayor Weinstein stated there were people from Good Times who were on the Board of the Broadway Improvement Corporation at the meeting and notices were also posted at Good Times. Also, some of the meetings were hosted at Good Times. Mr. Konstantinidis said there was a member of Good Times there but their interest was not the same as his as one of the owners. He even ended up in Court with them. The law specifically states that the owner should be notified. Mayor Weinstein asked Municipal Clerk Kwasniewski to explain how the notification was done. Municipal Clerk Kwasniewski stated when the Broadway SID was created, every person on the roll did get a notice. Every year the Broadway SID presents it's budget to the Mayor and Council, the budget gets advertised and every year a public hearing is held on the budget and then the budget is adopted. This procedure has been followed since the creation of the Broadway SID. Mr. Konstantinidis stated that ran contrary to the law. The law states that the hearing shall be published. Municipal Clerk Kwasniewski said it was. Mr. Konstantinidis said notices should have been mailed to all owners of property on Broadway. Originally they had filed an objection that Fair Lawn has yet to produce the card that they returned regarding their notice.

Mr. Konstantinidis said this all came about because he inquired about a study that was recently done for the Broadway corridor. He objected to the study because his property was left out of it. He called the company that did the study and was told that they were not budgeted for the gateway section of the Broadway SID. Mayor Weinstein stated that Mr. Konstantinidis called his office on Friday afternoon about 5:00 in the afternoon. They did have a long conversation even though he was with a client he took the time to speak with him. He told him that he would get back to him by Monday or Tuesday of the following week. Monday afternoon Mr. Konstantinidis called his office yelling at the people who work in his office. Mayor Weinstein said he had reached out to Don Smartt's office, Rich Davis, and also a phone call from Charles Tregidgo and everyone he spoke to tried to explain to him that his property was not left out of the study. The company doing the master plan communicated the incorrect information. They are doing the master plan in nodes. He did the research to make sure Mr. Konstantinidis's property was not left out. The Board of Directors that run the Broadway SID have told him that the property is included. Mr. Konstantinidis said there was no part of the study that addressed the gateway. He asked why they were left out of the presentation. Mayor Weinstein said they are doing studies on portions of Broadway.

Mr. Konstantinidis wanted to know where the money was going. He was told by Charles Tregidgo that he did not have a right to know the money went. Mayor Weinstein said he spoke to Mr. Tregidgo who said he never said that.

Mayor Weinstein said the issue is that the Good Times property is not left out of the plan. There is a process that needs to be done first. He said the Municipal Clerk will send him a copy of the budget. Municipal Clerk Kwasniewski said Mr. Konstantinidis has gotten copies of it before. Mr. Konstantinidis said it just shows a flat outlay of \$118,000 and it does not show where the money goes. Mr. Konstantinidis wants specifics. He does not want his tax dollars to end up in some politicians pockets or anything like that. He wants to know where it is spent. Mayor Weinstein said he will get the audit to him and go over it with him in his office. Councilmember Baratta said the Municipal Clerk has the papers he is looking for.

Mr. Konstantinidis stated that during his investigation into this matter, one of Fair Lawn's employees, their family, started instigating violence upon his household. They had cracked windshields, semi-automatic gunfire on the house involving high velocity paint balls that rattled the entire house where it made it feel like Bagdad. He has the Police report which they mischaracterized. He called Manager Metzler for help because it was an emergency situation. He was hung up on, he was accused of yelling. It has been over a week and Manager Metzler has not returned the call yet. He felt they don't have to be besieged just because he is investigating something that is going on with the Broadway SID. Mayor Weinstein told Mr. Konstantinidis that his time was up and that he would be more than happy to discuss these issues. Mr. Konstantinidis said other speakers had more time. This is critical. He has been told by experts that this is deadly fire if it hits a person it could kill them. He knows they don't want to hear this but they will. They will hear extraordinary stories next month and he suggested that all Fair Lawn residents should show up at their Council meetings.

Myra Beck, 5-18 Estler Court, spoke about the Omnipoint application that is before the Zoning Board. This piece of property is in a residential area. She wondered what the future use of the building would be if the VFW goes out of business. Attorney Rosenberg advised that the issue that she has asked is what are the rights of the VFW building to continue in the context of the 25-year lease with Omnipoint. There are two different issues. With respect to what uses could be continued, in the event that the VFW use as a social or meeting hall is discontinued by the VFW, that is grand fathered for that use only. Therefore, if they wish to change the use to a commercial use, that particular applicant or user of the VFW building would have to then go to the Zoning Board. However, if another social type organization wished to use that exact building, the exact parking spaces, they would have the right under the Municipal Land Use Law to continue use of that particular facility within the context of the scope and extent use as of that was the VFW hall. Any other type of commercial use would not be permitted in the zone and that applicant would have to go to the Zoning Board for a use variance and under the land use law would have to get five affirmative votes from the Zoning Board to convert that to any other than what it is grand fathered for.

Ms. Beck asked wondered what would happen to the VFW's tax status if they entered into a lease with Omnipoint. Currently they are leasing out the social hall to the public from which they

make an income. The neighbors don't mind it and they tolerate excess noise and kids outside with bottles of beer, they understand it is a veteran's organization. Mayor Weinstein stated that would be unrelated business taxable income and would be taxable to them. He said it depended on the percentage, and it could jeopardize the tax exempt entity of the organization. Ms. Beck said she understood that the water tank no longer contains water and wanted to know if that was true. Deputy Mayor Etlar said that was not true. Ms. Beck said there is excellent cellphone service through the Lincoln Tunnel. There are no towers in the tunnel. There is other technology that can be used. It is a repeater technology. She felt there was no need to have this tower in a residential area. Omnipoint should consider other technology. Mayor Weinstein stated as residents they will be able to state their case before the Zoning Board. Ms. Beck said there were certain issues that can't be brought before the Zoning Board.

Councilmember Trawinski stated he did not know what kind of advice the Zoning Board attorney was giving. The term of the lease is entirely relevant. It goes to an issue of what happens at the end of the lease and whether or not the Zoning Board is inclined to approve the application, the Zoning Board should make the applicant post a bond to make sure that whatever is put up pursuant to whatever approvals are granted, once that lease terminates, there would be funds available to remove whatever was put there. The only issue by law that the Zoning Board cannot consider is the health effects of radio frequency admissions. Mayor Weinstein asked Attorney Rosenberg to check with the Zoning Board Attorney regarding the 25-year lease. Councilmember Trawinski explained what the bond would cover, for example the amount of the bond, the length of the bond, how the Zoning Board would make sure the bond is in effect for the term of the lease. They can consider the issue of the fall away zone because if what happens if whatever is put up there collapses is their adequate room to deal with that. Ms. Beck said they asked that question at the Zoning Board meeting and was told it was irrelevant. She felt it would cause accidents there too. They asked if the pole would withstand getting hit by a truck or a hurricane or a tornado. Councilmember Trawinski said they could ask for an engineering analysis of the pole. Most of the poles will withstand a category one or two storms. The only issue that they would be precluded from discussing with the Zoning Board is the health effect's issue.

Ms. Beck said at the time of the application they applied to have the equipment cabinets outside. That would increase the pervious coverage even more. The application was revised to put the cabinets on the second floor. She felt that would limit the use of that particular building. Mayor Weinstein asked if this issue was brought up at the Zoning Board. Ms. Beck said no not yet. There was very little time for the public to speak because they had testimony given by Omnipoint. Mayor Weinstein said they will still have the opportunity to discuss this with them. Ms. Beck said she was happy to hear there are other questions that they can raise. Mayor Weinstein said that Attorney Rosenberg will confer with the Zoning Board Attorney.

Ms. Beck said the Board of Education was sent a letter. The expert for Omnipoint agreed that the school would have been an excellent choice. The school board never responded. There is a large section of wood there that would work out well. Councilmember Trawinski stated that when the Council did the original cell ordinance the water tank was in the zone and was later

removed. Mayor Weinstein said that Omnipoint came before the Mayor and Council wanting to place an antenna on the water tower but the Council did not feel that was the place to put it. Councilmember Trawinski said this municipal building was also taken out of the original ordinance. They thought about the schools but that was not well received.

Nina Noy, 5-22 Estler Court, showed photos of what Omnipoint wanted to put on the VFW property. She felt it was unacceptable because it would be in the middle of a residential area plus it is only one half block from a school. She felt that ten years from now the children that sat in the classrooms kids could have brain cancer. There is a cell tower by the Recycling Center, four houses from there a woman died of brain cancer. She said it might not have been from there, but why take the chance. She wants to understand why the town won't help her and her neighbors. They need the Council's support. Mayor Weinstein stated the Council has supported her cause. They did not allow the cell tower to go on the water tower. Ms. Noy said that was perfect but now she needs them to object to the tower at the VFW. Mayor Weinstein said they were before the Zoning Board who is a separate entity. If they give their case to the Zoning Board and they are able to make a good argument they will be able to defeat this application.

Councilmember Trawinski commented that the town in the past has helped people with cell towers. They fought a cell tower over on Banta Place and they lost in the Supreme Court. The Borough has taken strong positions on the locations they can go.

Deputy Mayor Etler stated that Councilmember Trawinski was correct that the Borough has gone twice to Court on the health issue. They had compiled what they thought were good examples and twice they were defeated. They never could prove in Court that the people who supposedly became ill or who could become ill had to do with the cell tower.

Ms. Noy said they will not bring the health issue into the meeting. They are going to bring a professional expert. She said she brought a real estate broker in as an expert who said the value of the homes will decrease around that tower. The Zoning Board chairman did not feel this person was an expert to give testimony in this field.

Councilmember Trawinski stated if someone is licensed by the State of New Jersey as a real estate person, they are qualified to give expert testimony. How much weight they give it is another issue. The fact that someone is licensed is proof enough for them to give expert testimony.

Ms. Noy explained she is a Police Officer. She showed the photo of the cell tower to her Captain and he felt it would cause a lot of accidents with people looking up. Councilmember Baratta told her that she appreciated them coming to the meeting to express their thoughts and concerns. She asked that they put trust in the Zoning Board to make right decision.

Suzanne DiGeronimo, 16 Beekman Place, stated she went to the Borough's website and downloaded the Open Space Plan. She said in the elections of November 2005, the voters of Fair Lawn imposed an Open Space Preservation tax upon themselves, for the purpose of

acquiring some of the remaining undeveloped lands within the Borough. This open space self-tax initiative passed with an affirmative vote of 60%. The Borough began to collect the tax in January 2006. It will be collected at the rate of one half cent per \$100 of assessed value per year, and is a permanent tax without an expiration date. This tax is expected to generate approximately \$114,900 this year for open space acquisition. With the revaluation done, this amount should rise in the next year or two.

Mrs. DiGeronimo continued that in the face of potentially losing an important open space within the historic and world renowned Radburn planned development that is used by the public, an ad-hoc committee was formed to try and protect it. Known locally as the Concerned Citizens for Radburn's Future (CCRF), they are working diligently toward preserving this important open space. In 1975, Radburn was listed on the National Register of Historic Places, and in 2005 Radburn became a National Landmark. The committee has now turned its efforts toward the remainder of the Borough, and CCRF now stands for Concerned Citizens for Reclaiming Fair Lawn. She wanted to point out that Fair Lawn strives to make open space a high priority.

Sheryl Cashin, 1 Glenfair Road, stated she was thrilled that Fair Lawn joined the flood control commission. It is definitely a step in the right direction. As far as Glenfair Road regarding commuters, the signs have been up for a while and now the commuters have moved to Jordan Road.

Ms. Cashin said that she and her husband were extremely disappointed after being encouraged to make an appointment with Mr. Conte along with the Borough Manager concerning the questions they have on the sewer system and the recent back up in their home, they received a phone call from Manager Metzler a few days before the scheduled meeting advising them that due to the tort claim the Borough Attorney advised the Manager and DPW Superintendent not to speak to the Cashins. She could understand this in part but does that mean that someone without a tort claim would be granted a meeting or is it strictly that they are not going to discuss this matter.

Attorney Rosenberg said he advised the Borough Manager that they and five other homeowners have filed tort claims notices against the Borough which is an intent to sue the Borough and therefore he has instructed them not to meet individually with her to discuss anything that is particular to her possible lawsuit against the Borough. She wondered if that meant that her or her neighbors or anyone else could not attend meetings that are held to discuss any analysis or reports that are going to be discussed by the Mayor and Council. Mayor Weinstein stated the critique was completed and they were all given a copy of it yesterday. It will be discussed at the next Work Session. Mrs. Cashin confirmed that she would attend that meeting.

Ms. Cashin wondered if any homeowner with flooding or sewer issues on Arcadia or Berkshire have a tort claim pending. Attorney Rosenberg advised that he did not believe so. Mrs. Cashin thought it was wonderful that their needs have been responded to by the Borough Engineer and she saw Mayor Weinstein's photo in the Community News checking on the problem. She wondered why the Glenfair and Jasper Road people don't get the same entitlement.

Weinstein stated he was at her home in April. Mrs. Cashin corrected him that he was not at her home, but he was on Jasper Road. She felt the residents on Arcadia and Berkshire were having their problems addressed and so should the people on Glenfair and Jasper.

Mrs. Cashin asked what the procedure was with the tort claim and when will the homeowner's be notified what the decision is. They submitted the claim and then the Borough notifies them whether it will be denied. She understood they had ninety days to submit it and that the Borough would determine if it is valid. She was told there would be an investigation. Attorney Rosenberg advised that within the next six months the insurance carrier will acknowledge the claim or not. Mrs. Cashin asked if they needed an attorney. Attorney Rosenberg advised after the insurance carrier has decided to accept it or deny it, then she could decide what to do.

Samuel Roznitsky, 34-14 Linwood Road, wondered what will happen if the Zoning Board denies the cell tower application and Omnipoint takes it to Court. Attorney Rosenberg stated that if the Zoning Board denies the Omnipoint application, then they will adopt a resolution. Omnipoint can file an appeal within forty-five days. Similarly, if Omnipoint is approved by the Zoning Board any interested party can file an appeal within forty-five days from the adoption of the resolution. Mayor Weinstein wondered if the Borough Council could do anything. Attorney Rosenberg advised that under the Borough ordinances, the Borough does not have an ordinance which would allow an appeal by members of the public of an approval by the Zoning Board of a use variance. Therefore, the Mayor and Council would not have an obligation to hear an appeal filed by the residents in the event the Zoning Board approves the application. The Council can appeal the decision of the Zoning Board in Superior Court.

Councilmember Trawinski stated they had no intention of making any decision until the Zoning Board decides the matter, he understands the facts and then he would take a look at and have it placed on a Work Session to be discussed with the rest of the Council. Mayor Weinstein stated they do not have the ability to comment on a case before the Zoning Board. Mr. Roznitsky said they don't have a policy when the application is not approved by the Zoning Board. Mayor Weinstein stated there is a procedure. Councilmember Trawinski stated if the Borough adopted a policy for that kind of oversight for the Zoning Board, a Court would hit every one of them over the head because they cannot interfere with the Zoning Board process. Once they make a decision, they can decide if they want to do something with respect to that decision. Before they decide something, it is totally inappropriate for the Council to do anything.

Attorney Rosenberg advised that this is a separate independent board and therefore it is not appropriate for this Council to try to influence the decision making of that Board.

Mr. Roznitsky wondered if the Zoning Board denies the application would the Borough get involved in this. Councilmember Trawinski said if the Zoning Board denies it and Omnipoint goes to Court, the Zoning Board is involved because the Zoning Board has to defend its position. The Zoning Board attorney would have to defend its position. It would be a complete duplication of effort for the Council to intervene. When the Council can take a look is when the Zoning Board approves the matter, then they can intervene and file a lawsuit. Mayor Weinstein said the Council cannot take a position on this at this time. Councilmember Trawinski said the time frame is 45 days after the Zoning Board publishes its notice of its decision. The Zoning

was during the school year. He asked Manager Metzler to look into this. He asked what the traffic violation would be. Mayor Weinstein said they would put it on a Work Session and ask Traffic Safety Officer Franco and Engineer Garrison to take a look at this. Councilmember Trawinski said that the Council has a joint meeting with the Board of Education who can talk to the parents and to the PTO.

Ms. Freydensen informed the Council that her street has a lot of cracks in it and has never been repaired. She has been in her house for ten years. Mayor Weinstein stated there is a schedule that the Engineering Department follows. He suggested that she call the Manager to find out when it is due to be paved. Deputy Mayor Tedeschi said that Engineering has to decide when it will be done.

Ms. Freydensen asked how she can find out why her taxes increased \$1,500.00. Mayor Weinstein said that was because the reval was done along with the County and Board of Education taxes increasing. He suggested that she talk to the Tax Assessor and he will also meet with her to go over it.

Nina Noy, 5-22 Estler Court, explained that their street is across from TJ Middle School and people go down the street and make a u-turn. She had spoken to Traffic Safety Officer Franco who refused to have a sign put up. Mayor Weinstein suggested that she and her neighbors get together to sign a petition for no parking and give it to the Municipal Clerk for handling, they may be able to get some help. Ms. Noy said there is a large crack on her street and hoped that someone would take a look at it.

Craig Miller, 5 Ramapo Terrace, suggested at the next street fair the Police Department limit the parking on Ramapo Terrace. Councilmember Trawinski said they could look into it but there are times things like that have to be overlooked. They can't solve every problem. This is a once in a year event.

Mr. Miller spoke about the problems at Dunkin Donuts and thought there was a security camera installed. Mayor Weinstein said the property owner is working with the Police Department. Mr. Miller thought that Title 39 would enforce no loitering. He also mentioned that Townley Road needs to be repaired since it is showing concrete.

Bob Gremillot, 1 Bristol Place, said he was listening to the resident speak about the problem with parking in the Radburn area. Last January a 18-month-old baby was lost in a fire at the end of Bristol Place. He asked them to get feedback from the Police Department and Fire Department before they start issuing permits.

Howard Mark, 12-23 Ferry Heights, stated that 30 years ago he graduated high school and at that time there was no place to hang out. Councilmember Baratta stated that she knew that Dunkin Donuts wants to get the kids to stop hanging out there. Manager Metzler said in the basement of the Community Center there is a room designed by high school students. The kids are not using the room.

George Konstantinidis, 4-38 Hartley Place, was outraged that nothing was being done to help

him, no one responds to him. After several minutes Mayor Weinstein indicated that he was out of order but Mr. Konstantinidis refused to take his seat.

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

ADJOURNMENT

Upon motion by Councilmember Baratta and second by Councilmember Trawinski, the meeting was adjourned at 10:05 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

Deputy Mayor Martin Etler

Deputy Mayor Joseph Tedeschi

Councilmember Edward Trawinski