

WORK SESSION OF OCTOBER 2, 2007

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

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

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

Councilmember Trawinski questioned the Municipal Court automatic stay item in the Closed Session Minutes. He thought a consensus was taken to authorize the Borough Attorney to write the letter to the assignment judge. Municipal Clerk Kwasniewski stated she would have included a statement in the minutes if a consensus had been taken. She will check her notes to see if they voted on that. Attorney Rosenberg stated that he understood their intent. The letter has not been written.

It was the consensus of Council to authorize Attorney Rosenberg to write a letter to the assignment judge.

Review of Tentative Agenda (10/9/07):

Municipal Clerk Kwasniewski stated she would like to add a Resolution authorizing a Special Item of Revenue on Recycling Tonnage Grant. She reported that Traffic Safety Officer Franco surveyed each resident on the block and they agreed to the prohibition of 7:00 a.m. to 9:00 a.m. instead of 8:00 a.m. to 10:00 a.m. It was her understanding that if all residents agreed Council would introduce the ordinance on Lucena Drive. The ordinance will be introduced on Tuesday.

Mayor Weinstein announced that he will be leaving early to attend a Back to School Night program.

Endorsement of CDBG Applications:

SEED Corp. and Advance Housing, Inc. - 23-11 Morlot Avenue - Michael Kates, Esq., introduced Donna Del Valle, Executive Director of SEED who made a presentation to Council. Ms. Del Valle explained that SEED Corp. is an offspring of Advance Housing. They will be expanding their housing development activities and Advanced Housing will be the owner and manager of the property. SEED Corp. will be fully operational in January. The same staff from Advance Housing is working in SEED Corp. Their mission is to expand housing opportunities for persons with disabilities. They want to acquire a two-family house in a location conducive to public transportation and employment opportunities, and tie it into the community. Their slogan is that they give people the seeds to develop roots in a community. They provide permanent supportive housing, not group homes that require 24 hour staff.

Ms. Del Valle explained that the property was managed by a Property Management Division. A face to face interview is conducted as well as a criminal background check, tenant history and credit check. They do not provide housing to Megan's Law individuals or those with a felony history. The property management staff is available 24/7 in the event there is a maintenance issue. They provide the residents with their phone numbers and are very responsive in terms of service.

and property management. Fair Lawn would receive four COAH credits. All funding sources require a 30 year restriction. She completes the COAH paperwork and gives them a copy of the deed restriction so they can maintain it for COAH credits.

Mr. Kates noted that the Morlot Avenue property was under consideration because of its close proximity to public transportation. He noted that their commitment to consent did not infringe upon their Community Development entitlement through the County. Mr. Kates stated payments are made in lieu of taxes. Mr. Kates stated their program was not new or untested. Ms. Del Valle explained that at this time the home would be for disabled individuals. She anticipated four individuals with their own bedroom and bathroom and then shared living space. They have 176 individuals on their waiting list.

Councilmember Baratta wondered if renovations would be made to make the home more accommodating for the residents. Ms. Del Valle stated that Home requires at least one unit be made accessible. The elevation on the Morlot Avenue home will enable them to make it accessible without too much disruption.

Councilmember Baratta inquired if this was a step program with all possible tenants being evaluated first. Ms. Del Valle explained that when they are deemed eligible they have an evaluation by a licensed clinical social worker who determines if the person is able to live independently in the community.

Deputy Mayor Tedeschi inquired as to the amount of funding they have requested from the County. Ms. Del Valle explained they had filed a Home application which went directly to the Community Development staff for review. This request for was the endorsement of their application. They were applying to another funding source for leveraging dollars for the property rehabilitation. Deputy Mayor Tedeschi asked what would happen if funding was denied. Ms. Del Valle stated they had access to other capital sources that would be used. Mr. Kates reiterated there would be no Megan's Law applicants, individuals on parole or convicted felons.

Ms. Del Valle explained that tenants pay rent using a portion of their Disability or Social Security checks. Employment services are a significant part of wellness and recovery. Housing is permanent as long as residents qualify. The individuals are given tools to maintain the outside of their property.

Mayor Weinstein thanked Mr. Kates and Ms. Del Valle for their presentation.

Councilmember Trawinski disclosed that he represents Homeless Solutions in Morris and Somerset Counties.

It was the consensus of Council to approve the endorsement request from SEED Corp.

Councilmember Trawinski asked Ms. Del Valle if they were under a time constraint to submit the application and have the resolution approved. Ms. Del Valle notified the County that the formal resolution would be forwarded next week.

Bris Avrohom E.S.L. Inc. - E.S.L. and Cultural Events Program and Bris Avrohom E.S.L., Inc. - Youth Program - Municipal Clerk Kwasniewski stated Bris Avrohom requested \$33,000 for their Youth Program and \$12,960 for their ESL and Cultural Events program. The funds will not impact on the Borough's Community Development funds.

It was the consensus of Council to approve both requests.

George Street/River Road Parking Lot :

Mayor Weinstein stated RRIC understands that they are selling the southern piece of property near the Fire House and are looking into Open Space funding for the acquisition.

Reviewing House of Worship and Day Care Center/Nursery Schools Ordinance:

Councilmember Trawinski explained that two uses are permitted under the ordinance's conditional uses. As a result of the Fair Lawn Jewish Center issue and another application from St. Anne's, he reread two ordinances from 1986. He felt they should ask the Planning Board to review these ordinances with assistance from Cheryl Bergailo to see if they should be revised. Houses of Worship are allowed on a 100 x 100 lot as a conditional use. They may want to consider requiring a larger lot size although conditional uses are grandfathered. He felt they should review the accessory uses that are permitted for Houses of Worship and Nursery Schools. Laws have changed. They now have the Religious Land Use and Institutionalized Persons Act and there have been a number of cases decided under that. He did not think the Planning Board focused on accessory uses in 1988. Some uses provided by institutions can be problematical for the neighborhood. He suggested the Planning Board and Cheryl Bergailo review the ordinances and review the minutes from this portion of the meeting. He also felt a copy should be sent to the League of Women Voters, the Houses of Worship and Nursery Schools.

It was the consensus of Council to ask the Planning Board to review the ordinances.

Council Liaison Reports:

All Sports/Lightning Soccer - Mayor Weinstein reported that he, Councilmember Baratta and Manager Metzler met with Lightning Soccer and Fair Lawn All Sports. Lightning Soccer has four teams with 60 players. Seventy five percent of the players are Fair Lawn residents. He felt All Sports and Lightning Soccer now have a better understanding of each other. They will reinstate the program which removes a field each year for renovation. Lightning Soccer will be included in the discussions and they will make a financial contribution.

Deputy Mayor Tedeschi thought that All Sports was a non-profit organization and Lightning Soccer was a for-profit league. Mayor Weinstein explained that the Lightning teams were not-for-profit. Manager Metzler stated there was an academy which hired trainers for the teams. All Sports also uses a service for training and once reached out to Lightning to submit a bid through their for-profit training function. He felt the issues raised at the last work session were addressed at the meeting. He felt everyone at the meeting was satisfied that Lightning teams were not-for-profit. All Sports representatives did not have a problem with the Lightning Soccer teams.

Deputy Mayor Tedeschi wondered why the Lightning Academy was using Fair Lawn facilities if it was a for-profit organization. Councilmember Baratta stated the Lightning Soccer Club was not-for-profit and the Lightning Clinic was for profit. Both groups are run by the same person. It is a more competitive league with better players. Manager Metzler added there is a \$125 fee for younger children and \$250 for players 10 - 18 years of age. Each team pays \$400 for a trainer. There are 60 players on four teams. All Sports soccer teams do not play in the spring. They charge \$65 for players k - second grade and \$75 for third through eighth grade. They have 27 recreation teams competing amongst themselves and ten select teams of the same caliber as Lightning's teams. All Sports offers trainers to the select teams. There are 1,000 players in All Sports. Fees include referees but trainers are contracted out.

Mayor Weinstein noted that Lightning Soccer has agreed to contribute towards the maintenance of the fields. All Sports recently paid \$1400 for topsoil at Memorial's field. He felt that an agreement was in place. Deputy Mayor Tedeschi felt it was reasonable for the Borough to expect compensation as the organization was operating for profit. Mayor Weinstein stated that Lightning Soccer had agreed to pay for the use and maintenance of the fields which could be considered rent. He suggested they formalize the agreement in writing.

Deputy Mayor Etlar did not think they were two separate entities. He did not feel Lightning Soccer should use Borough fields for free. Councilmember Baratta explained that the not-for-profit teams were using the fields. The for-profit portion was the training aspect. She clarified that Lightning would be charged a fee to conduct training sessions on Borough fields. Mayor Weinstein stated the key issue was to have Lightning contribute towards field maintenance. Councilmember Baratta felt the meeting was productive. She would like to see Lightning's roster to verify that 75% are Fair Lawn residents. Mayor Weinstein stated the rosters were verified by the Parks and Recreation Department. Councilmember Baratta learned that it may not have been Lightning teams using all the fields. They must determine who is actually using the fields.

Manager Metzler recommended that they allow All Sports and Lightning Soccer some time to work together. They could charge Lightning for using the Center Rec field but the bulk of the use occurs on Board of Education fields.

Manager Metzler discussed a previous statement from a resident concerning the New Jersey Stallions, an out of town team that played on Fair Lawn's fields. He learned there are limited slots in leagues. In order for Fair Lawn children to play in more advanced leagues a slot will open, but the player will have to participate under that team's colors. All Sports approached Lightning in hopes that their players could get a slot in the league that Lightning is competing with. Lightning agreed but the player would have to play under Lightning's colors. In the case of the New Jersey Stallions, Lightning was giving their better players an opportunity to play in a better league. Lightning's players were playing on that field under the uniform of the New Jersey Stallions, which was acceptable. Several issues were due to a lack of communication. All Sports and Lightning will meet from time to time to talk and resolve issues. Councilmember Trawinski felt this was no longer an issue for them and no action from Council was necessary. Mayor Weinstein felt All Sports and Lightning wanted to work together and thought they should be given a chance to do so.

Deputy Mayor Etlar noted there was still the problem with out of town teams using Borough fields. Councilmember Baratta stated the Police were enforcing this on the weekends. Residents have called to say they have noticed a difference.

Mayor Weinstein left the meeting at 8:10 p.m.

It was the consensus of Council that All Sports and Lightning Soccer be given an opportunity to resolve their issues.

Tree Ordinance Committee - Councilmember Baratta reported that she and Attorney Rosenberg attended the Tree Ordinance meeting. Attorney Rosenberg stated the draft ordinance will be presented at the October 16th work session.

ADA Committee - Councilmember Trawinski praised Jim Van Kruiningen's involvement with the Committee. He thanked Manager Metzler and Municipal Clerk Kwasniewski for providing the information he had requested.

Deputy Mayor Etlar felt the ceremony renaming the Center after George Frey went well. He reported that a section of Memorial Park was dedicated as Rotary Grove. He urged residents to go and enjoy the new benches.

Garage Sales:

Attorney Rosenberg presented the draft ordinance regulating garage sales. The ordinance specifies that garage sales cannot include or involve transporting goods onto premise from outside sources. A permit and fee will be required and forms will be available in the Municipal Clerk's office. There is a limit of two permits per premise, per calendar year. Permits will be limited to two days. He included an hours of operation limitation and extension of permit in the event of rain. Violation enforcement will be handled by the Zoning Official and the Police Department. Municipal Clerk Kwasniewski will give the Police Department a list of permits issued on Fridays by 4:30 p.m.

Attorney Rosenberg asked for guidance on signs. Deputy Mayor Etlar noted that signs are not allowed in the right of way. Councilmember Trawinski did not feel they could regulate sign placement, and felt it was unfair to penalize a resident for a weekend sign. Municipal Clerk Kwasniewski noted that some towns put time restrictions in the ordinance as to how long the signs can be up. Manager Metzler stated several towns provide signs for a fee. If the sign was not removed the resident lost their deposit. Deputy Mayor Tedeschi inquired about the difference in location between where a garage sale sign is placed and any other sign. Municipal Clerk Kwasniewski stated residents inquire about placing signs on their neighbor's corner lawn. They are told they can do so with the neighbor's permission as long as they are not placed in the right of way. Signs are prohibited under the general sign ordinance. Councilmember Trawinski favored a reasonable time period. He asked if Borough employees remove signs that are left up. Manager Metzler stated that Recycling Coordinator Lottermann removed the signs.

Deputy Mayor Tedeschi questioned the permit extension. Municipal Clerk Kwasniewski explained an extension would give residents another chance if the weekend was rained out. Extensions would be issued at the Municipal Clerk's discretion. She felt the fee should be increased \$5.00 per

day. Attorney Rosenberg will amend the fee to \$10.00. Deputy Mayor Tedeschi wondered what the penalty was for residents who did not apply for a permit. Attorney Rosenberg stated the penalties were from the standard code and would be established in the ordinance. Deputy Mayor Etlar felt a \$10.00 fee was too high. Deputy Mayor Tedeschi pointed out there were administrative costs involved with issuing permits. Municipal Clerk Kwasniewski will design an application and permit. The permit will be displayed on the premises. A list of applicants will have to be compiled each week.

Attorney Rosenberg inquired as to the maximum sign size that would be allowed. Councilmember Trawinski suggested that signs not exceed the standard political sign size of 14 x 26. Attorney Rosenberg will prepare a draft for Council's review. Municipal Clerk Kwasniewski stated everything will be ready by the spring garage sale season. Manager Metzler will put a notice in the spring newsletter and post on Channel 77.

Zoning Decisions Regarding F.A.R. - Recommendations by Attorney Rosenberg to Assist Board in Moving Applications Faster:

Attorney Rosenberg reported that the Zoning Board processed 106 applications in 2006. There were 88 residential applications of which 23 were characterized by the Zoning Board secretary as applications affected by the ordinance change. The applications were before the Zoning Board as a result of the repealed Land Use ordinance, which allowed the Building Department to issue permits for non-conforming structures where the non-conformity was not being expanded. After the F.A.R. ordinance was adopted the Zoning Officer asked if Council was going to reintroduce that section of the Land Use code to allow building permits to be issued. Council decided to keep that provision in place as they wanted the Zoning Board to hear those cases in addition to the F.A.R. Ordinance. They now have multiple types of applications heard by the Zoning Board that will increase the number of applications to the Zoning Board. There will be applications that require a D variance if they exceed the F.A.R. Ordinance. Applications that could have been approved administratively by the Building Department will also be going to the Zoning Board.

Attorney Rosenberg strongly recommended two changes. He felt it was important that the Zoning staff identify the types of variances that the application required. It is important that the Zoning Board members have a frame of reference to determine the nature of the relief. The Zoning Department staff had the knowledge and expertise to review an application and identify the relief that was needed. Once the Zoning Department staff did that, he recommended that they group applications based upon the Zoning relief that was required. Applications affected by the ordinance change could be placed first on the Zoning Board's agenda. Next would be the types of residential applications that require a C Variance only. The first group of applications handled by the Zoning Board would be those requiring an administrative review. The second group would be applications that require a C1 or C2 Variance. The third type of application would be the D Variances, which is the higher standard of review and relief and include use variances, F.A.R. variances and height variances. The recommendations provide the Zoning Board with a list of issues to focus on and batch applications that can be dispensed with quickly. The public would retain the right to comment on any application. He could not reduce the volume of applications as there will also be F.A.R. variances.

Deputy Mayor Tedeschi did not think those recommendations would make the process move faster. Councilmember Trawinski noted that some towns instruct the Board Attorney to respond for residents who come without representation as this expedites the process. He suggested they do the same. Residents should be told what they need to cover at the time of application. Some Boards have the applicant testify under oath that the contents of the entire application are true. Unless the resident has something to add, a motion is made to approve the application after public comments. This shortens the process. Councilmember Baratta thought it made sense to process the easy applications first.

Deputy Mayor Tedeschi suggested giving a primer to the applicant indicating the important items that need to be proven. Attorney Rosenberg will discuss their recommendations with the Zoning Board attorney.

Proportionality Ordinance:

Manager Metzler reported that Cheryl Bergailo has advised him that it will cost \$600. for her to provide the formula for the ordinance.

The consensus was to have Ms. Bergailo proceed.

Fair Lawn Cultural Diversity Day:

Councilmember Baratta reported that she and Deputy Mayor Tedeschi met to discuss ideas for the event. She read a draft of the resolution creating the Committee. Deputy Mayor Tedeschi suggested reports be issued quarterly at a minimum as they may need Council's help on various issues. Councilmember Baratta stated it will be a yearly event beginning in 2008. They will seek out representatives from the Board of Education, Fair Lawn schools and the Recreation Department.

Manager Metzler asked how the event will be funded. Councilmember Baratta stated that seed money from the Borough would be needed but there are other sources. They will have several activities going on during the day. They will devise a passport that can be stamped at the various booths. Deputy Mayor Tedeschi felt the success of the program would be the building of a true community consensus. They will offer the various ethnic groups an opportunity to come together. Manager Metzler asked them to let him know about budgetary items. He offered her the Fair Lawn Day binder with budgets and contact information.

It was the consensus of Council to adopt a resolution to create the Committee.

Proposed Change to Borough Code §2-89 Division of Electrical Services:

Manager Metzler read the last section of the ordinance that indicated the Department of Public Works will maintain traffic lights and controls and will be responsible for the design and maintenance of any new electrical installations. He stated DPW Superintendent Conte recommended they remove the word "design" as he did not feel design responsibility should be left to a Division Supervisor.

It was the consensus of Council to support this recommendation.

Special Meeting:

Upon motion by Councilmember Trawinski and second by Deputy Mayor Tedeschi the Work Session was recessed to the Special Meeting at 9:10 p.m.

Deputy Mayor Etler reconvened the Work Session at 9:15 p.m.

Public Comments:

Sheryl Cashin, 1 Glenfair Road wondered what happened if residents objected to the SEED Program house. Councilmember Trawinski explained there would not be input from the neighbors as it was a single family residential dwelling and subject to the same standards of anyone else buying a home. A Supreme Court ruling states zoning cannot be determined by unrelated individuals who live in a household.

Harvey Rubenstein, 28 Rutgers Terrace wondered if there had been any discussion on the large dwelling at 28-15 Rutgers Terrace and its impact on the public. Attorney Rosenberg stated this issue was scheduled for discussed in Closed Session.

Mr. Rubenstein inquired if Council had recently passed a bond ordinance for \$500,000 for turf for several fields. Manager Metzler explained that they applied for a \$533,000 grant from the Bergen County Open Space Fund. They also applied to the State of New Jersey Land Acquisition through Green Acres for matching funds. As part of the grant application Council had to commit to matching funds which will be included in the 2008 Capital Budget. If both grants are approved the Borough's share will be \$250,000.

Mr. Rubenstein noted that the homeowners would be paying the matching funds through their tax dollars. He felt any for-profit organization wishing to use their fields should pay a considerable fee and should be clarified in a written agreement. Manager Metzler stated All Sports had indicated the field would be used by Fair Lawn teams. They are looking to expand usage of the field since it will be a synthetic surface. He has not heard any discussion about renting the field out to for-profit organizations. He was confident Lightning Soccer was a not-for-profit organization.

Robert Wallace, 11-06 Alexander Avenue was aware that a cease and desist order was issued to the Fair Lawn Jewish Center, but learned that a stay was granted by the Zoning Officer. He wondered how a decision was reached since the neighbors were not contacted for their input. Deputy Mayor Etler explained that Zoning Officer Kolano determined the situation was not detrimental to the health, safety and welfare of the community. Attorney Rosenberg stated the Jewish Center sent written notice that they would appeal the decision of the Zoning Officer and asked when their appeal would be heard by the Zoning Board. Mr. Wallace wondered how a decision was reached without an investigation.

Manager Metzler explained that the Zoning Officer requested a copy of all the Police reports regarding the Jewish Center. Based upon those reports Zoning Officer Kolano and his assistants decided to grant a stay. Mr. Wallace reiterated that no one investigated this issue with the people that are affected. There are 213 basketball games scheduled this fall that will impact on the health, safety and welfare of the neighborhood. Manager Metzler explained that the conclusion was reached after a review of the Police complaints. The off duty officer called for backup one night as

he felt he needed extra support but the players exited the building and left the premises without incident. A neighbor stated he heard someone threaten people to leave or he would shoot them but no firearms were discovered or witnessed. The complaints received are similar to complaints received after high school games. There were several Police reports where neighbors complained of noise but the Police did not find the noise to be excessive. The standard applied to the Jewish Center was consistent with the standard applied to similar cases.

Mr. Wallace felt Zoning Officer Kolano had limited information. He was concerned about the 213 games scheduled through December. Deputy Mayor Etler asked Attorney Rosenberg if there was a way to overcome this. Attorney Rosenberg explained that the Zoning Officer and Zoning Department are independent of Council. Council cannot influence the decisions made by the Zoning Officer. The Zoning Officer has reviewed the records and has concluded that the action of the league does not cause imminent peril to life or property. He does not see how Council could affect the decision.

Councilmember Trawinski agreed they could not go to the Zoning Officer but felt they could have Manager Metzler direct Zoning Officer Kolano to talk to the neighbors for their perspective. He is frustrated by the position of the Municipal Judge who does not allow them to enforce violations. It is wrong for them to be left powerless because of an interpretation of their ordinances. He felt they could attack this from a different perspective as it was a public nuisance. Attorney Rosenberg will research that further. Manager Metzler has made it clear to the residents that there is nothing in the Borough Code that prevents residents from calling the Police Department every single day if they believe the actions constitute a public nuisance. Councilmember Trawinski questioned the judgement of Zoning Officer Kolano and wondered if he was protecting and enforcing the Zoning Laws the way they should be enforced. He agreed Zoning Officer Kolano had the right to make decisions, but he will think long and hard when he receives a request from the Zoning Department in the future. Last year he supported the Zoning Department's request for increased staffing as they were promised better enforcement. He does not see it happening.

Deputy Mayor Tedeschi noted that the Municipal Judge's interpretation was not unique. Councilmember Trawinski agreed and apologized for singling him out. He conceded that Oakland's interpretation was somewhat unique. Most Municipal Judges take the position that there is an automatic stay but he did not feel it made sense when someone is violating their Zoning Ordinance. Manager Metzler noted that just because Councilmember Trawinski disagreed with the ruling does not mean the Zoning Department is not doing their job. Councilmember Trawinski clarified that he felt they were not enforcing the ordinance. Deputy Mayor Etler felt it was wrong that the Zoning Officer did not feel it was detrimental to the health, safety and welfare of the neighbors. Manager Metzler explained it did not meet the standard. The Zoning Officer and Assistant Zoning Officer were asked to review the Police reports and make a determination. Councilmember Trawinski did not understand how a decision was made without talking to the neighbors.

Mr. Wallace felt it was the Zoning Officer's job to investigate the complaints and not act on the basis of reports only. Councilmember Baratta felt the whole situation was unfortunate because initially there was dialogue between the neighbors and the Jewish Center. The Mayor and Manager attended many meetings to try and work things out. Promises were made but not kept. She felt it was unfortunate that things had reached this level. Deputy Mayor Etler felt they should put a priority on the Jewish Center appeal. Manager Metzler stated they were trying for October 15th hearing with the Zoning Board. Councilmember Trawinski was concerned that the Jewish Center would request an adjournment.

Councilmember Baratta wondered if the tax status of the Jewish Center had changed since they were running a for-profit business. Attorney Rosenberg thought they were 501(c)3. Councilmember Trawinski felt they paid property taxes on a portion of their facilities. The Tax Assessor made that decision. Mr. Wallace wondered if they would be charged back taxes if the Tax Assessor determined the Jewish Center must be taxed for running a for profit business. Councilmember Trawinski felt it would be difficult to charge back taxes.

Jane Diepeveen, 14 Ryder Road reported that the Cadmus House will have a Police History exhibit on the third Sunday in October. She suggested they make realistic residential zones to cut down on Zoning Board applications. Sometimes a resident only needs a variance for lot size and lot frontage. She felt they should go through the tax maps and put the lots in the right zones. There are large portions of Fair Lawn that have 40 or 50 foot lots that should be in the appropriate zone with the appropriate set back.

Ms. Diepeveen did not think it would be fair to enforce garage sale signs as the improper placement of real estate signs was never enforced. It was her understanding that the use of fields had to be open to all if Green Acres funding was used. Deputy Mayor Tedeschi clarified that they retained the right to permit the use of the fields. Manager Metzler stated Green Acre funding was used on all of the Columbia Heights fields with the exception of Vander Plaats.

Councilmember Trawinski stated that he and Deputy Mayor Tedeschi laid the groundwork for rezoning before they went off Council many years ago. He remembered Ms. Diepeveen or the League of Women Voters raising the issue that large sections of town had 50 x 100 foot lots. He does not know why this was never placed in the new ordinance and wondered if there was any history available on the ordinance change which occurred in 2000. He asked Municipal Clerk Kwasniewski to circulate the minutes pertaining to this change. He recalled Council proposing a series of changes by the Borough Planner and one of the issues was the lot sizes. He felt she raised a valid point. Ms. Diepeveen recalled Council wanting the Zoning Board to have control.

Deputy Mayor Etler stated their objective was to make all 50 x 100 lots non-conforming so that they could control encroachment and front and backyard setbacks. Ms. Diepeveen stated that a 50 foot zone would make the front, side and backyard appropriate. Councilmember Trawinski felt this forced everyone into the mix. They approved 88 out of 106 residential applications anyway.

Dennis Frank, 16-30 Saddle River Road stated as a former member of the Board of Education, he took exception to a comment made about the Board of Education and felt it was inappropriate. Councilmember Trawinski explained it was an inside joke among Council and should not be construed as laughing at the Board of Education. Councilmember Baratta apologized for offending him with her comment.

Mr. Frank wondered why there was such a concern about garage sales. Deputy Mayor Etler felt the system was abused by residents. Mr. Frank questioned why the overnight parking restriction was lifted for an entire week during Hanukkah. Councilmember Trawinski explained that the Police Department receives numerous overnight parking requests during the holiday season due to visitors and college students home for the holiday.

Anne Brodsky, 11-12 Norma Avenue also felt the neighbors should be contacted. She wondered if Council could appeal the Zoning decision and require the Zoning Officer to speak with the neighbors. Attorney Rosenberg felt strongly that the Zoning Department's independence was

sacrosanct and should be pursued without Council's influence. Councilmember Trawinski did not feel Council could appeal the Zoning Board's decision.

Ms. Brodsky inquired how she could file a public nuisance complaint. She stated that the Health Department had never investigated with the decibel reader. She felt the burden has been placed on the neighbors. There is a reasonable assumption that there is a public nuisance. She questioned the Jewish Center's non-profit tax status. She did not feel there was true dialogue and viewed the meetings as stalling tactics on the part of the Jewish Center. She felt the Jewish Center did not want to lose their revenue.

Craig Miller, 5 Ramapo Terrace stated that he attends many Zoning Board meetings. He noted that Board members do not visit the properties under review and felt they would have a better understanding of the applicant's request if they visited the site. This would expedite the process. Mr. Miller asked how the Zoning Officer could allow the Jewish Center to have a for profit entity in their building. He discussed the shooting comment made in the parking lot and felt it was unsafe to wait until something actually happened. If it is not permitted, they should cease.

Councilmember Trawinski suggested they direct Manager Metzler to have the appropriate Municipal official conduct a thorough investigation, which included speaking with the residents. Deputy Mayor Tedeschi questioned if they had the legal right to make this request. Attorney Rosenberg did not think they had the right by consensus to instruct the Zoning Officer. Councilmember Trawinski stressed that he wanted to instruct Manager Metzler to contact the appropriate Municipal official and did not specify the Zoning Officer. Deputy Mayor Tedeschi wondered if they were able to instruct Manager Metzler. He was concerned about the process. Councilmember Trawinski stated they had the right under the Faulkner Act to direct the Manager as long as it was not something illegal. It would be at the discretion of the Manager.

Councilmember Trawinski suggested Council direct Manager Metzler to send the appropriate Municipal official, at his discretion, to interview and meet with the residents and conduct any investigation deemed necessary to determine whether or not that information should be presented to Council or the Zoning Officer.

Manager Metzler noted that the Zoning Officer did not have to accept his recommendation. Attorney Rosenberg confirmed that. Councilmember Trawinski stated the Zoning Officer had the discretion to make a decision. Manager Metzler inquired if the Zoning Officer had to accept the recommendation of the Borough official who interviews the residents. Councilmember Trawinski stated the Zoning Officer would make his judgement based on the information gathered by that official.

It was the consensus of Council that Manager Metzler direct a Municipal official to meet with the residents and investigate this issue further.

Closed Session:

Upon motion by Councilmember Baratta and a second by Councilmember Trawinski, the following closed session resolution was unanimously adopted at 9:40 p.m.

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

WHEREAS; the Mayor and Council of the Borough of Fair Lawn desire to discuss Pending Litigation - Yirce, Personnel - Historic Preservation Commission and Police, and Attorney/Client Privilege - Naugle House Settlement and 28-15 Rutgers Terrace.

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

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

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

Mayor Weinstein reconvened the meeting at 10:20 p.m.

ADJOURNMENT:

Upon motion by Councilmember Trawinski and second by Councilmember Baratta the meeting was adjourned at 10:20 p.m.

Respectfully submitted,

Joanne Kwasniewski, RMC/CMC/MMC
Municipal Clerk

The undersigned have read and approve the foregoing minutes.

Mayor Steven Weinstein

Councilmember Jeanne Baratta

Deputy Mayor Martin Etlar

Deputy Mayor Joseph Tedeschi

Councilmember Ed Trawinski