

WORK SESSION OF OCTOBER 16, 2007

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

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

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

Closed Session

Upon motion by Deputy Mayor Etler and a second by Councilmember Trawinski, the following closed session resolution was unanimously adopted at 7:35 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 Investigation of a violation of law - Fair Lawn Jewish Center;

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 7:50 p.m.

Review of Tentative Agenda (10/23/07)

Municipal Clerk Kwasniewski stated that she would like to add a resolution awarding the bid for the Borough Hall Camera System and Project 2146 Recreation Lighting at Vander Plaats Field to the Consent Agenda. Manager Metzler has signed the recommendation of awards. She will send the minutes of the Regular Meeting, Work Session and Closed Session of September 25th home in Council's packet tomorrow so that they can also be added to the Consent Agenda.

Council Liaison Reports:

Councilmember Baratta reported that she and Deputy Mayor Etler attended a presentation at the library by the Historical Commission. She complimented the Commission on job well done.

RRIC - Councilmember Trawinski stated that he was told by Don Smartt that he had a letter from Bob Landzettel on the RRIC but he was unable to find it. He felt there must be an issue that RRIC wanted him to bring forward to Council and he apologized for not having the information. Manager Metzler stated that the issue was regarding Chase Bank lot. The signs were being

removed. Traffic Safety Officer Franco is working with them. Councilmember Trawinski noted that RRIC was concerned that when Chase Bank took over they violated the agreement the Borough had with their predecessor. Manager Metzler will notify RRIC that this is being corrected. He will get a follow up report from Traffic Safety Officer Franco.

BIC - Deputy Mayor Tedeschi reported there was a combined meeting with RRIC at the Hyatt. There was a simple presentation. Councilmember Baratta and Deputy Mayor Etler also attended. Councilmember Baratta noted that she was not invited to the meeting but attended anyway as did Deputy Mayor Etler. Deputy Mayor Tedeschi had raised that question and was told only the liaisons were invited. Municipal Clerk Kwasniewski stated that technically they should not have attended. Councilmember Baratta noted that she votes on expenditures for those organizations. Deputy Mayor Tedeschi felt Councilmembers had the right to be there as long as they were not discussing Council business. Deputy Mayor Etler stated Council has given the committee \$30,000 a year. He felt he should be able to attend the meeting.

Mayor Weinstein reported that he had just met with George Bate and Jim Vanderbeck from the Property Maintenance Committee. The Committee was happy that Council would be regulating clothing bins, but would have preferred that all bins be located at the DPW Complex. There is an issue with trash barrels which he will discuss at a future work session. He asked Manager Metzler if the Property Maintenance Committee could receive a petty cash allocation of \$100 to purchase frames for certificates of appreciation. The Committee is researching a welcome booklet for new businesses.

Tree Ordinance:

Mayor Weinstein thanked his fellow Committee members: Councilmember Baratta, Attorney Rosenberg, Jim Vanderbeck, Jane Spindel, Wendy Dabney, Walter Neil and Howard Mark.

Attorney Rosenberg explained that the ordinance will amend Chapter 125-45. The current ordinance was weak on the issue of trees located within the Borough right of way and trees on publicly owned land. A Shade Tree Advisory Committee will be formed by resolution. There will be a restriction on activities for trees located in the right of way. Residents will not be allowed to remove or trim public trees. The Committee received input from the Building Department, Construction Officer Kolano, Assistant Zoning Officer Ann Peck, and DPW Superintendent Conte.

Attorney Rosenberg stated the draft would prevent people from planting a tree or shrub on public right of ways without authorization from the Supervisor, who is defined in the ordinance as the Borough Manager and the DPW Superintendent. This would protect Borough trees in the right of way and restrict residents from doing anything to the trees without approval. Residents will be restricted from placing signs or mailboxes on Borough trees in the right of way. The ordinance will regulate tree removal on private property. The ordinance allows homeowners to remove no more than three trees within a twelve month period.

Attorney Rosenberg explained that a person wishing to remove a tree on their property, who feels they are exempt from a tree removal permit would be required to file a request for exemption with the Zoning Officer 14 days prior to removal. That would included people with three trees in a 12

month period. The Committee worked with staff on this issue because if they don't have a record within the Borough of a particular property owner who has removed trees during a 12 month period then they would not be able to monitor that activity on that particular lot. Staff recommended an exemption certificate from a property owner who believes that the activities of tree removal on his or her property are exempt. If the Zoning Officer determines the activities do not fall within the exemption then they fall back into the tree removal permit process. The ordinance lists the criteria under which the Zoning Officer can issue a Zoning Removal permit. The ordinance also sets a schedule for required mitigation under a list of circumstances. If a resident feels that they have a hardship, they can file an appeal with the Zoning Officer, DPW Superintendent and Borough Manager. If not satisfied with the results they can file an appeal to the Mayor and Council. There are provision for violations. The ordinance gives Council the ability to designate certain Borough trees as landmark trees upon the recommendation of the Shade Tree Advisory Committee. There are regulations governing trees in the Borough to ensure their survival. He noted that there have been several tree ordinance cases within the last two years. The appellate division in Jackson found that the tree ordinance which allowed a builder or developer to buy out of a mitigation obligation was deemed unenforceable. This ordinance does not allow a buy out.

Jane Spindel complimented Attorney Rosenberg on his diligence. She noted that the ordinance was based on a model from Tenafly and Monroe Township. The ordinance was reviewed extensively by the Committee. Jim Vanderbeck reiterated the amount of time the Committee spent preparing this ordinance. He thanked Attorney Rosenberg. Councilmember Baratta also acknowledged Attorney Rosenberg's efforts. She stated that this was a difficult ordinance to work on and noted that the entire Committee contributed. The Committee felt it was important to advertise this ordinance as there were some major changes. They would like to work with the Shade Tree Department and produce an informative video to alert property owners. She wanted residents to identify landmark trees so they could be protected.

Deputy Mayor Tedeschi wondered how a landmark tree was defined. Attorney Rosenberg explained it was defined as a tree designated by Council which has met the standards set forth in the ordinance. Deputy Mayor Tedeschi inquired how the ordinance would be enforced. Attorney Rosenberg stated enforcement was given to the Zoning Officer and Manager. The current ordinance did not provide for any type of pre-removal application. Education will be crucial. He suggested they send a copy of the ordinance to tree removal entities within the County.

Deputy Mayor Tedeschi asked about the trimming of trees in the right of way by Public Service. Attorney Rosenberg explained that Public Service and the Borough would be exempt. Businesses who wanted to trim trees to maintain their health could apply for a permit.

Councilmember Trawinski asked for clarification of a tree in the right of way. Mr. Vanderbeck stated the rule of thumb is ten feet from the face of the curb. It is based on the width of the street. He explained that the town will not plant trees outside the ten foot area. Councilmember Trawinski wondered if a tree planted beyond the ten foot area, with a branch canopy extending over the section between the sidewalk and curb could be trimmed by a resident. Ms. Spindel stated they could as the tree was on private property. Councilmember Trawinski thought they

needed to define what constituted a tree within the public right of way. Attorney Rosenberg stated

a definition was contained in the ordinance.

Councilmember Trawinski inquired about the prohibition of tree topping on public trees. Flowering pear trees become top heavy if not topped. He wondered if the trimming of existing pear trees in public right of way sites by property owners would also be prohibited or would a resident need to notify the Borough. Mr. Vanderbeck clarified that a homeowner is never allowed to touch a tree on Borough property. Councilmember Trawinski suggested that they review the exceptions on the tree removal permits, with regards to emergency circumstances due to storms, as it was subject to 14 day prior notice. Mayor Weinstein noted that emergency removals were discussed and thought they were included in the ordinance.

Councilmember Trawinski thought a definition about landmark trees should be included in the ordinance as to what constitutes abnormal height, abnormal trunk diameter or drip line. Jane Spindel explained that they had a list of what was typical or not typical for each species. Councilmember Trawinski wondered if they had in their site plan and subdivision ordinance a checklist that would require specimen trees be delineated and marked with specificity as to what was going to be removed and what would stay. Attorney Rosenberg stated they will have to amend the site plan ordinance. The ordinance is supposed to work together with the site plan approval process. There is a mechanism in the ordinance for developing applications and what must be included.

Councilmember Trawinski complimented the efforts of the Committee. He inquired if the appellate process was envisioned under 40:55D. Attorney Rosenberg envisioned some due process.

It was the consensus of Council to introduce the ordinance at the next meeting.

Garage Sales:

Attorney Rosenberg discussed the revised ordinance which increased the permit fee to \$10. Permits must be visibly displayed or made available for inspection and no more than two permits per premise per calendar year will be issued. One garage sale sign will be allowed and must not exceed 16 square feet which is four x four, which is the size of an oaktag poster. Applicants must comply with all other signage requirements.

It was the consensus of Council to introduce the ordinance at the next meeting.

Readdressing POD Ordinance:

Mayor Weinstein stated that he received several complaints about the ordinance. A resident used a POD to store furniture during construction and received a notice that he had to remove it in seven days. The resident had another month of construction left so he removed the POD and piled the furniture in his livingroom. Another resident faced a hardship issue as he was using the POD due to flooding in his home. Manager Metzler and Municipal Clerk Kwasniewski also received calls. Mayor Weinstein stated that the Building Department and Planning Board felt seven days was too restrictive. He felt PODS used during construction and hardship cases should fall under the jurisdiction of the Building Department. He noted that the Property

Maintenance Committee recommended 15 days in and 15 days out. For a resident working full

time seven days means one weekend to load the POD. Fifteen days would give them two weekends. He recommended that they amend the ordinance to allow 15 days for a resident to load the POD and 15 days to unload it for a total of 30 days.

Deputy Mayor Etlar felt seven days was adequate. He did not feel neighbors should have to look at a POD for thirty days. Councilmember Baratta would support the 15 day time limit for people who have flooding in their basement and need the weekends to work. For construction and hardship cases she favored leaving the time limit at seven days. Councilmember Trawinski was willing to allow 14 or 15 days. He thought they had a provision that allows the Zoning Officer or Building Department to set the time period for residential fire, hurricane, natural or manmade disaster. He did not support allowing PODS for the duration of construction.

Deputy Mayor Tedeschi thought they should hold onto the concept that a container was not there for storage, but felt they should still take step to ease the transition process. He felt 15 days seemed reasonable. It would still limit the amount of time a POD could remain.

Manager Metzler stated that he had received one complaint call from a resident about PODS since he has been Manager. He estimated that there were 28 PODS in town. In the last two weeks, he has received at least two calls from every homeowner renting a POD complaining that the time frame is too short. He asked Council to consider how much time they could dedicate to filling a POD if their home was under construction. He did not feel two weeks was enough time and it was creating a problem. He felt 30 days to load and 30 days to unload during a construction project was reasonable. Mayor Weinstein stated that extensions for hardship should be determined by the Building Department. Deputy Mayor Etlar did not feel the Zoning Officer should grant extensions for a resident who had two more months of construction. Mayor Weinstein clarified that he received a call from a resident who had been flooded. That should be considered a hardship issue. The Planning Board requested 30 days in and 30 days out and he agreed with their recommendation. Manager Metzler stated that this issue has come to every office because it is too restrictive.

Deputy Mayor Etlar stated that PODS were not designed to be left on site forever. Mayor Weinstein stressed that 30 days was not forever. Deputy Mayor Tedeschi noted there was one extension period with good cause in the current ordinance. Mayor Weinstein stated they could come back and revisit this issue but noted that there were two residents with immediate concerns. Councilmember Trawinski felt flooding should be added to the list of hardships defined in the ordinance. Deputy Mayor Tedeschi stressed that the POD was not there for storage and was a transient item, either coming or going.

It was the consensus of Council that the POD Ordinance be amended to extend the time limit to 14 days in and 14 days out and include flooding on the hardship list, with Deputy Mayor Etlar dissenting.

Discussion of Canoe Regatta:

Mayor Weinstein reported that he and Councilmember Baratta attended a meeting with Bob DeVita, Passaic Valley Water Commission and resident Emil De Luccia to discuss the boat
Page Six Work Session October 16, 2007

launch at Memorial Park. He attended a canoe race on the Passaic River over Labor Day

Weekend and thought it would be a good idea to hold a race on Fair Lawn's side. Mr. De Vita and Mr. De Luccia would do all the planning and obtain the canoes and life vests. They would speak with the Borough's first responders about safety issues.

Deputy Mayor Tedeschi inquired as to the purpose of the race. Mayor Weinstein stated the event would increase awareness of the Passaic River and the River Walk. He and Councilmember Baratta discussed the idea of holding the event sometime in late May or early June. He would like to involve the community. Participants would have to be 12 or 14 years old.

He asked Council to authorize Manager Metzler to speak with Mr. De Vita and Mr. De Luccia. Councilmember Baratta was given a book that highlighted Fair Lawn's route and included pictures of their trails and River Walk. Councilmember Trawinski felt they should submit this to the DEP with the Open Space Recreation Plan as that also referenced the River Walk. Councilmember Baratta reiterated that everything will be provided for them. She wondered if Memorial Day weekend might work. Manager Metzler did not think that would be a good day to hold the race. Councilmember Baratta noted that Passaic Valley Water Commission had previously approached the Environmental Commission about using Fair Lawn's launch site. She walked the path in its entirety and thought it was beautiful. Mr. De Luccia will set up the course from weir to weir which is about one mile. Mayor Weinstein stated they will showcase the River Walk and offer refreshments. He thought it would be a great day.

Councilmember Trawinski noted that Rutherford had a vision for a rehabilitative facility on the Passaic River, which is now a Boat Barn that is used as a meeting place for various Municipal Organizations. The view is magnificent. Councilmember Baratta showed pictures of the Paterson Canoe Club from the 1920's that she received from Mr. De Luccia. The Club had canoe races on the Passaic River.

It was the consensus of Council that Manager Metzler speak with Bob De Vita, Passaic Valley Water Commission about setting up canoe races on the Passaic River.

Fire Suppression Grenades:

Councilmember Trawinski explained that fire suppression grenades disburse a substance that would extinguish a fire in very confined areas. It reduces flames in less confined or lower areas. The grenades reduce temperatures but do not snuff out the oxygen. The devices were discovered by the United States Army and will soon be deployed to Iraq for use in humvees.

Manager Metzler explained the grenade works on the same principle as halon, but uses a potassium based product which breaks down the chemical make up of fire. It is intended to be used as a personal safety device for a firefighter and is not intended to be a replacement for other equipment. The Bergen County Police and Fire Academy will be scheduling a demonstration for November for the Bergen County Fire Chiefs. Fair Lawn firefighters will be allowed to go into the burn room and work with the grenades.

Update on McDonalds:

Councilmember Trawinski asked for a status report. Manager Metzler reported that the latest issue has been the presence of a tow truck owned by McDonald's to enforce their parking violations. A commercial vehicle was parked on their lot overnight, which is not permitted. The vehicle did not have lettering. There are six Police reports indicating that the vehicle was checked at approximately 1:00 a.m. and then again at 6:30 a.m. They have verified that the vehicle was being left there. A violation notice was issued by the Zoning Officer on October 15th. A complaint was received from IHOP that a tow truck was on the property with the engine running and lights on. A Police Officer responded within three minutes and the vehicle was parked and the lights turned off. The times were computer times stamped by the docket.

Manager Metzler stated that it was a violation to have a commercial vehicle on the road without lettering, but they could not have a Police Officer sit there waiting for the truck to pull out. If the vehicle was seen on the roadway it could be enforced. Councilmember Trawinski wondered if a resident could take a picture of the vehicle on the road and submit it. Manager Metzler stated the resident would have to sign a complaint. Councilmember Trawinski suggested the residents be informed that this was an option.

Deputy Mayor Tedeschi stated that there was an ordinance that the maximum time a vehicle can idle is five minutes. Manager Metzler verified that the ordinance could be enforced on private property. He was only aware of one complaint and the vehicle was not running when the Police arrived.

Authorizing the Manager to Mediate the Issue Relating to the Basketball League Between the FLJC and the Residents:

Councilmember Trawinski stated it seemed that both sides incorrectly felt this now a political issue. He stated that Municipal Clerk Kwasniewski advised him that Manager Metzler would be the proper person to handle any mediation. He suggested they authorize Manager Metzler to mediate the issue and keep Council removed. He felt everyone was sincerely committed to having the issue between the residents and the Jewish Center resolved.

It was the consensus of Council that Manager Metzler be authorized to act as mediator between the Fair Lawn Jewish Center and the neighbors.

AG's Opinion re: Keg Registration Ordinances:

Attorney Rosenberg stated he was asked by Council to draft an ordinance that required keg registration. The Attorney General issued an opinion which stated that the regulation of kegs by local municipalities was deemed unenforceable because it was pre-empted by State ABC Regulation. The Attorney General who wrote the opinion to the Attorney for the City of Bridgeton has encouraged municipalities that are concerned about this issue to deal directly with their legislative representatives in terms of amending the State's legislation to enact a state wide keg registration statute. He does not feel Council should adopt an ordinance which will be deemed unenforceable. A resolution has already been drafted and sent.

Councilmember Trawinski suggested that Municipal Clerk Kwasniewski send a copy of their

resolution to the Governor's Council on Alcoholism and Drug Abuse and the Central Bergen Co-op.

Healthy Advisory Board Recommendation to Amend Ordinance to Allow for Alternate Members:

Manager Metzler stated that he received a memo from Carol Wagner, Director of Health and Human Services indicating there were occasions when their Health Advisory Board did not have a quorum at their meetings. New Jersey statutes allow for up to two alternates for that Board but their ordinance does not. Ms. Wagner has requested that the ordinance be amended to allow the appointment of two alternate members. Manager Metzler concurs.

It was the consensus of Council that the ordinance be amended to allow the appointment of two alternate members to the Health Advisory Board.

Engineering Study - Sewer Collection System:

Manager Metzler stated that Borough Engineer Garrison met with several engineering firms at the Council's request to discuss the sanitary sewer system in or around the area of flooding on Jasper Road. The estimated cost of the study would be \$75,000 - \$125,000. The study would require a localized master plan of the collection system including a topographic survey to determine inverse pipe slopes and hydraulic analysis and an evaluation of the various pumping stations. He stated that Borough Engineer Garrison does not believe the issue is the local sanitary system but rather the Passaic Valley Sewer Commission trunk lines that they are pumping to. The pumping stations as recorded by the DPW Superintendent Conte and Borough Engineer Garrison worked during the recent flooding. They pumped at 100% capacity but the Passaic Valley Commission trunk lines were overloaded.

Mayor Weinstein clarified that if they did the master plan study the results would show that they were doing everything they were supposed to be doing and that everything was working properly. He wondered what could be done to resolve this issue for the residents. Manager Metzler reiterated the same recommendation made by DPW Superintendent Conte and Borough Engineer Garrison, which was the installation of a check valve on the sewer lateral. Upon Installation the check valves would have to be flushed every six to twelve months. The Borough had chosen not to get involved with check valves in the past because proper operation depends on the maintenance of the homeowner.

Councilmember Baratta wondered if the increased impervious coverage and development in the neighborhood impacted on the flooding. Manager Metzler stated that he met with each Department Head to try to understand the capacity and what the pumps could do. The pump stations have three pumps with two pumps required for normal operation. On the day of the flooding two pumps were operating. This was a case of volume. The system became taxed by flooding on the streets not in our town but in Paterson. There was no place to pump the water.

Councilmember Baratta noted that residents are now getting water in their basements during small storms, when ten years ago they never had a problem. She wondered if tree roots in the system or soil piled in the street caused some of the problems. Manager Metzler stated that street

flooding was caused by an overload of the drain water system. The drains lead to streams. When

the streams become flooded the water backs up into the road. He did not have the answer to her question.

Deputy Mayor Tedeschi felt that some of the issues Councilmember Baratta mentioned probably impacted on the flooding. There is also the issue of I & I which is infiltration and inflow into systems that attacks an older system. The solution can cost billions of dollars. He wondered if they could verify that the problem was the inability of Passaic Valley Sewer Commission to accept the water that Fair Lawn pumped. Manager Metzler believed that they could. Deputy Mayor Tedeschi suggested they confirm that. He inquired as to the cost of the reverse flow valves. Manager Metzler stated that he would obtain a cost estimate for installing a valve.

Councilmember Trawinski thought that doing the study would be beneficial to the whole community. He was told ten years ago when he was on Council that everything was fine and then the main trunk line on Sunnyside Drive collapsed. He thought that they should do a study of areas with known problems. They should solicit proposals. He felt they would acquire a great deal of information that would not only benefit a specific neighborhood but would be useful over time in other locations, particularly in terms of helping them develop a rational basis for tightening up their impervious coverage ordinance or ensuring that their construction ordinances were tight on silt fencing.

Deputy Mayor Tedeschi wondered if Councilmember Trawinski was discussing the same study. Councilmember Trawinski stated that they could be discussing a topographic survey to determine inverts, pipe slopes, hydraulic analysis system and evaluation of various pumping stations that was specific now to a particular area. He felt they needed to look at the issue of interim solutions and then look at the bigger picture. He understood the significant budgetary impact the study would present, as it could not be funded by a capital ordinance and would come from the operating budget. He noted that the Master Plan could be budgeted over five years. He suggested they ask CFO Eccleston if they could do similar funding arrangements for the study.

Mayor Weinstein suggested Councilmember Trawinski add in the additional features that he wanted researched as that would impact the cost. Councilmember Trawinski felt the study would help them analyze where the real problem was. It wouldn't hurt to have this information in the event of litigation, although that was not his primary motivation for requesting the study. It might verify a problem with Passaic Valley Sewer Commission's trunk line. They pay the PVSC a great deal of money.

Mayor Weinstein noted that the study will take time to complete and then they will have to make decisions. He felt it was important for the residents to know about the check valve, its cost and what was involved with maintenance. This is something they can do to help themselves until the study is completed. Manager Metzler stated that if a sanitary line coming into basement is raised off the floor, the installation of a valve is relatively simple. If the line comes in under the floor, they would need to cut the floor to access the line and box the area so that line could be accessed for service. Deputy Mayor Etlar stated that the check valve would stop the back flow. He wondered what would happen if the water was flushed and the water went up against the check valve. Manager Metzler explained that the street side pressure against the flapper would be stronger than the house side pressure. If the resident did a load of wash it would back up at the lowest point in the house.

Mayor Weinstein suggested Manager Metzler inquire if the funding for the study could be put into the Capital Budget versus the operational budget. Councilmember Trawinski suggested they hire

were giving extra credit. Mayor Weinstein asked Attorney Rosenberg what could be done.

Attorney Rosenberg felt Engineer Garrison could tell the DEP that the Council wanted a Fair Lawn company to be given the contract. There may be some leeway as it wasn't based on the lowest amount and the scores were close. Mayor Weinstein thought it was worth a try. Deputy Mayor Etlar wondered if they would be exposed to a lawsuit. Attorney Rosenberg stated that they would merely be asking a question. He felt it was a fair question under the RFP standards.

It was the consensus of Council that Attorney Rosenberg speak to Borough Engineer Garrison and the DEP about awarding the RFP to the Fair Lawn engineering firm of Malcolm Pirnie.

Fair Lawn Jewish Community Council - Request for Endorsement of CDBG Application:

Manager Metzler explained that the request was for their home delivered meals program in the amount of \$10,000.

It was the consensus of Council to endorse the Fair Lawn Jewish Center's application.

Public Comments:

Sheryl Cashin, 1 Glenfair Road wondered why they were hooked into the Passaic Valley system. There are other options. Ms. Cashin stated Fair Lawn was one of the few Bergen County towns hooked into that system. She found a list online that showed which systems towns use.

Manager Metzler stated that he asked Borough Engineer Garrison why they used the Passaic Valley system. He could not remember the answer and apologized for not having that information. He will follow up again. Ms. Cashin wondered if the problems would stop if they stopped using Passaic Valley's system. She will give Manager Metzler the information she obtained online. Councilmember Trawinski inquired as to how many towns were in the Bergen County Utilities Authority. Deputy Mayor Tedeschi stated there were 56 out of 70 towns. It is based on the geography of the County. The BCUA maintains about 110 miles of trunk lines that extend up the eastern side of Bergen County.

Manager Metzler noted that Paramus goes into Bergen County and their system overloaded. Saddle Brook goes into Passaic Valley and their system overloaded. Ms. Cashin wondered if Borough Engineer Garrison thought this situation was normal. Ms. Cashin stated that the DEP would not view their situation as safe. She felt they did not have a true understanding of her situation. Fair Lawn did not even help homeowners clean up. She found their answer unacceptable. She noted that legal fees for the town would cost more than the solution. She assured them that she would pursue legal action.

Ms. Cashin stated that a neighbor looked into installing a check valve but could not find a company willing to do it. The companies do not want to be held responsible if the system fails due to improper maintenance by the resident. Her pipe line runs underneath the floor which requires additional work and possibly a sump pump or french drain. She stated that check valves do not have a high rate of success even with proper maintenance.

Ms. Cashin understood that periodic maintenance is done on the infrastructure and wondered if she could obtain a copy of the reports. Manager Metzler informed her that she could file a OPRA request with the Municipal Clerk requesting the Sewer Department's sanitary maintenance

records.

Richard Cashin, 1 Glenfair Road stated that his block is the furthest street from Paterson. If the main trunk line was clogged homes closer to the river would have flooded. The new pumping station was installed in 1984 in a low lying area. It should never have been installed in a low lying area. He inquired if there were controls in the pump station. Attorney Rosenberg directed Manager Metzler not to answer the question as the Cashin's have filed suit against the Borough. He noted that Council has been very lenient and has been allowed to respond to Mr. & Mrs. Cashin's questions. He would not allow Manager Metzler to make any statements against the Borough's interests.

Mr. Cashin felt a study on the sewer system would be beneficial to the entire town. Check valves used for waste water have a 66% failure rate after 90 days and 100% after one year. He is trying to cooperate with the Borough but something needs to be done. He had 3,000 gallons of human waste in his basement. He lost their furnace and furniture. He urged Council to proceed with the study.

Mr. Cashin noted that he received correspondence from Attorney Lustgarten and the Borough's insurance company. Both parties stated that there was nothing wrong. He feels an impartial party should look into this matter and conduct a study that pinpoints the problem. He stressed that the infrastructure is not going to last forever.

Mrs. Cashin, 1 Glenfair Road asked if she could obtain a diagram of the pump station. Attorney Rosenberg advised her to submit a request to Municipal Clerk Kwasniewski so that it could be processed under the Open Public Records Act. He advised her that certain documents were not available due to security issues. Mrs. Cashin wondered if an attorney could obtain the records. Attorney Rosenberg stated that it might be possible to obtain them under discovery.

Harvey Rubenstein, 28 Rutgers Terrace felt it made sense to do a study.

Mr. Rubenstein noted that the minutes from the September 10th Work Session, page 14, indicated that he had stated that his basement had flooded in the past. He asked to have that statement stricken from the minutes as he was only questioning or offering a situation where Manager Metzler was explaining who would be in charge of a situation in a flood.

Mr. Rubenstein asked if Mr. Neidani was or was not the owner of the Naugle House. Councilmember Trawinski stated Mr. Neidani does not own the Vander Plaat property as there is no recorded deed. Someone mentioned that they thought Mr. Neidani had the right of first refusal. He thought Manager Metzler spoke with Nick Felice, who spoke to Mrs. Vander Plaat. Mrs. Vander Plaat would not speak with them.

Mr. Rubenstein noted that three Councilmembers were at the meeting. He questioned if that was a violation of the Sunshine law. Councilmember Trawinski stated that it was not. Mayor Weinstein explained that Councilmembers are invited to events in town on a regular basis. He noted that all five Councilmembers attended the Columbus Day event. Mr. Rubenstein wondered

if Attorney Rosenberg could answer the question. Mayor Weinstein reiterated that they were allowed to attend.

Charles Coviello, 17-15 Maple Avenue thought an infrastructure study was done many years ago. He questioned the removal of 48 real estate signs last Sunday. Manager Metzler stated that they have received complaints about signs placed in cross walks. To do enforcement the town must remove all signs in the cross walks and the public right of way. Council was aware of the plan but did not know when it was going to occur. He met with the Zoning Officer and contacted the local realtors in writing advising them that they could not place signs in the public right of way. Forty four signs were removed. They were photographed prior to removal to document that they were improperly placed. If the ordinance remains the same they will probably do another sign removal in the future.

Mr. Coviello did not see any harm as long as a sign did not obstruct the handicap ramp or pedestrians walking. Manager Metzler verified that Mr. Coviello's signs were not in crosswalks but were in the public right of way. Mr. Coviello stated that he had photographs of his signs. He has liability insurance for one million dollars. He was advised by his insurance company that he would be covered if someone tripped or got hurt by his sign because he owned the sign. He felt that most real estate agencies carried insurance. Since liability was not a concern he wondered what the real issue was.

Mr. Coviello noted that they used an employee earning \$65,000 to pick up the signs. He understood that it was a new position entitled Support Specialist but was unable to find the job description on the Borough's website. Municipal Clerk Kwasniewski had once told him that any information she could give him could be found on the website. Municipal Clerk Kwasniewski informed him that she would not be able to give him salaries either as they must be obtained through the Finance Office. Salaries are public information and can be obtained by filing an OPRA request.

Mr. Coviello wondered if the employee was an assistant to Manager Metzler. He inquired if Manager Metzler presented a request to Council for an assistant. Manager Metzler verified that he made the request. He explained that sign enforcement was one of the special assignments handled by his assistant and noted that Health Department and traffic observations were also made the same day.

Deputy Mayor Tedeschi asked Attorney Rosenberg if the issue was potential liability. Attorney Rosenberg stated that it was the ordinance. Councilmember Trawinski explained that the ordinance was initiated by Councilmember Dobrow many years ago. He suggested that they review that provision of the ordinance as most real estate companies have insurance. He wondered if they could impose a requirement that realtors have insurance. Realtors have stated that an open house sign helps residents to sell their home. He suggested they revisit the issue of signs placed appropriately in the public right of way.

Deputy Mayor Tedeschi thought they would be doing a disservice to residents by regulating the signs during a slow housing market. He wondered if political signs could be placed in the public right of way if the candidates had liability insurance. Councilmember Baratta felt they would need to be specific. Deputy Mayor Tedeschi stated that they could not selectively enforce signs.

Manager Metzler noted that a number of towns require permits for real estate signs. Deputy Mayor Etlar wondered how they would differentiate between garage sale and real estate signs. Attorney Rosenberg clarified that garage sale signs would not be permitted in the right of way

whereas Council may establish a permit or licensing process allowing real estate signs to be placed appropriately in the right of way. Requirements regarding size and location of signs would be defined and analyzed to ensure pedestrian safety.

Mr. Coviello noted that because his signs for the open house were removed shortly after they were placed he only had four prospective buyers show up. He acknowledged receiving the letter about sign placement.

Anna Dinardo, 13-06 2nd thought \$10 was an exorbitant fee for a garage sale permit as the newspaper ad cost \$60. She felt it was becoming costly to run a simple garage sale. She understood that they were trying to regulate businesses disguised as sales but felt it was unfair to the residents.

Deputy Mayor Tedeschi stated that they determined the fee based on the cost of issuing a license. It was not designed to produce revenue. Ms. Dinardo thought the standard procedure was to apply for a garage sale at the Building Department. Mayor Weinstein explained that currently they do not have a permit process and have no control over garage sales. Deputy Mayor Tedeschi noted that they researched the permit process and fees of other towns. Ms. Dinardo stated that she usually paid a small fee of \$2 - \$5.

Ms. Dinardo inquired as to the owner of the river property near Memorial Park. Manager Metzler thought that the property was owned by the Borough and the Board of Education. Mayor Weinstein asked Manager Metzler to verify this. Ms. Dinardo stated that the area was covered in poison ivy. Both the Borough and the Board of Education told her it was not their responsibility to remove it. She noted that garbage collection would be needed along the river walk. Councilmember Baratta stated that students from Memorial School's Environmental Club organizes clean ups and has installed garbage cans along the way. A boy scout put up signs near the poison ivy to warn people. The trail does not have poison ivy but it is climbing up the trees. She saw several men doing maintenance last week. Ms. Dinardo reiterated that there was poison ivy on the trail during the summer and that the garbage cans were overflowing with garbage. The river is loaded with garbage. Councilmember Baratta stated these issues were being addressed. She did not see cans overflowing with garbage when she was there. Passaic Valley had crews in canoes on the river this past weekend pulling tires out of the river. She stated that Mr. Deluccia witnessed a contractor's dump truck dumping garage doors into the river. Ms. Dinardo felt the view from the bridge was disgusting. She was glad that it was going to be cleaned but wondered who would be responsible for the maintenance. Mayor Weinstein noted that a great deal of the cleanup was done by volunteers.

Jane Diepeveen, 14 Ryder Road was upset about a nearby house undergoing major renovation which used several dumpsters and had a portable toilet in the front yard. She did not think residents had so much furniture that they could not load a POD in one weekend. If a resident is spending a small fortune on construction they could afford to hire help to remove the furniture in a timely manner. She felt nine days would give the residents two weekends. She did not think it was fair for a neighbor to have look at a POD, dumpster and portable toilet.

Ms. Diepeveen inquired about the status of the ten town consortium for joint services that Manager Metzler discussed earlier in the year. Manager Meztler stated that it was difficult to identify the amount saved . Fair Lawn, Rochelle Park, Garfield and Lodi went in on a shared bid for road

repaving. The volume purchased was almost double what Fair Lawn would have spent. It was difficult to determine the savings because the price of fuel was high at the time of bid but there were savings because of the volume. The communities looked at shared bidding of Police vehicles but they could not get more than two towns to agree on a model and vehicle options. The savings will be on large equipment requested by the DPW. Rather than replace a piece of equipment they will borrow from another town. He noted that several Boards of Education pooled their funds for investment. The Riverside Co-op had just sent a questionnaire on that issue. They are moving forward slowly.

Ms. Diepeveen noted that the ten town consortium was looking into electricity and wondered if Fair Lawn was considering this. Manager Metzler stated that he and Mayor Weinstein had just discussed the issue that morning. Fair Lawn belongs to two cooperatives. He felt it would be pursued through the Riverside Co-op. Ms. Diepeveen stated they were not contiguous. Manager Metzler stated that was only a problem in terms of sharing equipment and personnel. Road flares were purchased through the Riverside Co-op because that is where they received the best price. The Riverside Co-op has paralleled their shared service agreement for equipment by using the FEMA scale which is something they adopted from the Central Bergen Co-op.

Ms. Diepeveen advised them that poison ivy growing on trees would kill the trees and should be removed. She felt garage sale signs benefit the residents too. She would like to put up signs when the Cadmus House museum is open which would also benefit the residents. She felt that if they allowed real estates signs they should allow all signs.

Closed Session

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, the following closed session resolution was unanimously adopted at 10:10 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 & Salnikov and Contract Negotiations - Spillman Technologies;

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 10:15 p.m.

Page Sixteen

Work Session

October 16, 2007

ADJOURNMENT:

Upon motion by Deputy Mayor Etlar and second by Councilmember Trawinski the meeting

was adjourned at 10:15 p.m.

Respectfully submitted,

Joanne Kwasniewski, RMC/CMC/MMC

The undersigned have read and approve the foregoing minutes.

Mayor Steven Weinstein

Councilmember Jeanne Baratta

Deputy Mayor Martin Etler

Deputy Mayor Joseph Tedeschi

Councilmember Ed Trawinski