

REGULAR MEETING OF OCTOBER 23, 2007

Mayor Weinstein called the meeting to order at 7:31 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.

MANAGER'S REPORT:

Manager Metzler reminded the Volunteers and Veterans that it was time for their cards to be renewed. The next date that photos will be taken will be October 25.

Manager Metzler said residents with unlisted phone numbers can contact the Office of Emergency Management to give their number to be used in case of an emergency.

COUNCIL COMMENTS:

Mayor Weinstein spoke about three precious resources they have in the Borough. One of which were the trees and tonight there is a first reading of the tree ordinance which preserves this precious resource for shade, havens for birds and other wild life, replenishes the ground water and beautifies the community. The second is the Passaic River. He and Councilmember Baratta met with Emil DeLuccia and Bob DeVir of the Passaic Valley Water Authority. He explained that on Labor Day he and his son took part in a canoe race in the Passaic River. There has been a lot of discussion about the Borough's river walk, and a launch pad for boats. They are thinking of doing either a canoe regatta or a canoe race in the spring time. It would be for kids and adults. He felt the regatta would bring an awareness of the river. Education about the river would help them restore the river to the way it once was.

Mayor Weinstein stated that the most cherished resource in town was the children. On the Consent Agenda tonight is a second grant application for turfing the Vander Platt field at the Dobrow Complex. For years it has been used by thousands of kids for football, soccer, lacrosse and baseball. They are working hard to turf it so that it could be used in a more effective manner as well as maybe give an incentive to other kids to sign up for these sports. Fair Lawn is one of the few towns in Bergen County that does not have a turf field. He is looking forward to the opening day when the Borough does have it.

Councilmember Baratta reminded everyone about the Halloween parade sponsored by the Recreation Department this Saturday at Memorial Pool. They will assemble at 10:00 a.m. and the parade will begin at 10:30 a.m. There will be children in costumes and parents also. There will be refreshments served. If it rains, the parade will be held in Memorial School.

Deputy Mayor Etler stated this past Sunday he attended the open house for Fire Company 3 on Plaza Road. There were a lot of activities and it looked like everyone was having a good time.

Councilmember Trawinski complimented the Chamber of Commerce for the excellent job done on the street fair this past weekend. He and Deputy Mayor Tedeschi guesstimated there may have been between five and six thousand people who attended the street fair.

He said the Americans With Disabilities Committee are putting the finishing touches on a brochure which lists resources that are available for people who have disabilities. The Americans With Disabilities Committee will host, with the Senior Center, on November 15 at 1:00 p.m. Bobbi Wales who is not only a speaker but an actress who is disabled. She ran the Americans With Disabilities program at Lincoln Center and also won a gold medal in the Disabled Olympics. She has been credited for putting together the access for disabled people at Lincoln Center.

Deputy Mayor Tedeschi thanked Columbia Savings Bank for the 7th year of making a very substantial contribution to the Concert of Thanksgiving which will allow the program to go forward. He thanked them for all the good work they do in Fair Lawn.

Deputy Mayor Tedeschi stated that the Mayor of Saddle Brook advised him today that the DEP had approved the permits for Fleischer Brook. The County and Saddle Brook will be moving forward to resolve the issues they have in Saddle Brook and hopefully this will solve the issues on Arcadia Road by giving the water a place to go. He heard from Mayor Mola in Elmwood Park who is somewhat concerned that it is going to affect his town.

ORDINANCES ON FIRST READING:

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

ORDINANCE NO. 2094-2007

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SO AS TO ESTABLISH A NEW CHAPTER 112, ENTITLED "GARAGE SALES"

Upon motion by Deputy Mayor Etler and a second by Deputy Mayor Etler, Resolution No. 321-2007 introducing Ordinance No. 2094-2007 was discussed.

Attorney Rosenberg explained this ordinance creates a new Chapter 112 which would

regulate garage sales within the Borough. It would establish a fee, allow only two sales a year, require a permit, allow each sale to be only for two days and the hours of operation will be from 9:00 a.m. and to 6:00 p.m. This ordinance will establish a regulation governing the size of the sign which should not exceed a total of 16 square feet.

There being no further discussion, Resolution No. 321-2007 was unanimously adopted.

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

ORDINANCE NO. 2096-2007

AN ORDINANCE TO AMEND SECTION 125-45 OF THE CODE OF THE BOROUGH OF FAIR LAWN 2000 ENTITLED "TREES"

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Etler, Resolution No. 322-2007 introducing Ordinance No. 2096-2007 was discussed.

Attorney Rosenberg stated this ordinance amends chapter 125-45 of the Code to regulate the removal of trees. The purpose of the ordinance is to better consolidate the coordination of tree removals within the Borough. The ordinance will limit the removal of trees to no more than three trees on private property during any twelve-month period. There are mechanisms in the ordinance to require applications for exemption from the tree ordinance. He asked that the ordinance be amended to indicate that the fee for one to three trees should be zero, not \$50.00.

Mayor Weinstein complimented the members of the committee, Attorney Rosenberg, Councilmember Baratta, Walter Neill from the Shade Tree Department, Jane Spindel, Howard Mark and Jim Vanderbeck for all their work. It took over a year to get it done but he thought it was a good ordinance.

Councilmember Baratta echoed the Mayor's comments. A lot of work was done by this committee who was made up of concerned residents and Borough employees. Attorney Rosenberg was there to make sure they got everything right with this ordinance. She was sure that in the future there will be information about this ordinance on Channel 77. She reminded everyone that Fair Lawn is a tree city and they want to keep it that way.

There being no further discussion, Resolution No. 322-2007 was unanimously adopted.

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

ORDINANCE NO. 2097-2007

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 125, ENTITLED "LAND DEVELOPMENT" MORE SPECIFICALLY SECTION 125-40 ENTITLED "OUTDOOR STORAGE"

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Tedeschi, Resolution No. 323-2007 introducing Ordinance No. 2097-2007 was discussed.

Councilmember Trawinski asked if this is the ordinance that they discussed in the Work Session prior to this meeting with the amendments they discussed.

Attorney Rosenberg said the purpose of this amendment to the ordinance is to extend the period of time for outdoor storage of units known as PODS. Currently the ordinance is seven days in and seven days out. The ordinance changes the time limit to 14 days in and 14 days out. The Zoning Officer can extend that period for an additional fourteen day period for good cause and undue hardship. It recognizes that for those residential properties that already have a POD on their property for good cause shown to the Zoning Officer, they would be grandfathered through December 31, 2007.

There being no further discussion, Resolution No. 323-2007 was unanimously adopted.

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. 2098-2007

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN, 2000 SPECIFICALLY CHAPTER 2 ENTITLED "ADMINISTRATION, DEPARTMENTS AND BUDGET AND FISCAL PROCEDURES" MORE SPECIFICALLY SECTION 2-56 ENTITLED " HEALTH ADVISORY BOARD"

Upon motion by Councilmember Baratta and a second by Councilmember Trawinski, Resolution No. 324-2007 introducing Ordinance No. 2098-2007 was discussed.

Manager Metzler stated this ordinance will allow for the appointment of two alternate members to the Health Advisory Board by the Council. Each alternate would serve a term of two years.

There being no further discussion, Resolution No. 324-2007 was unanimously adopted.

ORDINANCES ON SECOND READING:

Upon motion by Deputy Mayor Etlar 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. 2087-2007

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 125, ENTITLED "LAND DEVELOPMENT" TO REQUIRE MINOR SITE PLAN APPROVAL AND LICENSURE FOR DONATION CLOTHING BINS WITHIN THE BOROUGH

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

Upon motion by Deputy Mayor Etler and a second by Councilmember Baratta, Resolution No. 325-2007 adopting Ordinance No. 2087-2007 was discussed.

Attorney Rosenberg stated this ordinance regulates clothing bins within the Borough and require non profit entities other than those that are sponsored by the Borough to go for minor site plan approval. He noted that they had received the statutory review from the Planning Board who recommended against it because they do not feel the site plan approval should be the Planning Board venue citing among other things the cost. If the Council is inclined to adopt on second reading, he asked that they recognize and acknowledge the Planning Board's recommendation and indicate why they do not wish to follow the Board's recommendation.

Councilmember Trawinski thought they should adopt the ordinance as written and if the Planning Board would like to make a recommendation to them as to alleviating or reducing the filing fees for minor site plan approvals in connection with clothing bins, they should do that. The fees should not be the reason to do this. They have seen how these bins spring up throughout the Borough, some interfering with site plans. There is a need to reasonably regulate them. He wanted to adopt the ordinance and then amend it at a later date.

Mayor Weinstein agreed that the purpose was to put some control on the clothing bins. There was a discussion about putting them in the DPW complex. They felt there has been no control and now they would have the oversight to see the names and phone numbers to keep the bins clean and trouble free. He agreed with Councilmember Trawinski to move forward but to be open minded regarding any lesser fees or processes as well.

Councilmember Baratta stated she would vote yes for this ordinance and understood the Planning Board's concerns. She agrees that the Board should look over the fees and for them to give their recommendation.

Deputy Mayor Etler said he would vote yes because this was a long time coming.

There being no further discussion, Resolution No. 325-2007 adopting Ordinance No. 2087-2007 was unanimously passed.

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

ORDINANCE NO. 2093-2007

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 125, ENTITLED "LAND DEVELOPMENT" TO REQUIRE THE RECORDATION OF ANY TERMS AND CONDITIONS OF ANY SITE PLAN, SUBDIVISION, VARIANCE OR OTHER APPROVAL GRANTED BY THE PLANNING BOARD OR ZONING BOARD OF ADJUSTMENT

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

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Tedeschi, Resolution No. 326-2007 adopting Ordinance No. 2093-2007 was discussed.

Attorney Rosenberg stated that this ordinance will amend Chapter 125 to require the recordation of any terms, conditions or restrictions placed on any approvals from the Zoning Board or Planning Board. The Planning Board has recommended to the Council that food handler applications be excluded from this requirement. He did not believe that kind of amendment was material and therefore, it could be amended tonight on second reading.

Deputy Mayor Tedeschi thanked Councilmember Trawinski for proposing this ordinance.

Councilmember Trawinski stated he would be willing to consider the amendment as long as the Borough Attorney is satisfied that it was not a substantial change and they can still adopt it this evening. Mayor Weinstein stated he agreed. Councilmember Baratta said she thought the amendment was a good one.

Attorney Rosenberg said the language would read: Each board shall require an applicant to execute and record as a covenant running with the land any terms and conditions of any site plan, subdivision, variance or other approval granted by such Board other than a food handler application.

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Tedeschi the amendment was unanimously approved as stated by Attorney Rosenberg.

There being no further discussion, Resolution No. 32-2007 adopting Ordinance No. 2093-2007 was unanimously passed.

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. 2095-2007

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

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

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta, Resolution No. 327-2007 adopting Ordinance No. 2095-2007 was discussed.

Manager Metzler explained that this ordinance will prohibit parking between 8:00 a.m. and 10:00 a.m. on Brookside Avenue from Saddle River Road, the entire length of Margaret Court, Northern Drive from Saddle River Road to Leonard Terrace, the entire length of Pellington Drive and also the entire length of Pickett Place. The ordinance will prohibit parking between 7:00 a.m. and 9:00 a.m. on Lucena Drive from Fair Lawn Avenue to Leslie Place.

There being no further discussion, Resolution No. 327-2007 adopting Ordinance No. 2095-2007 was unanimously passed.

PUBLIC COMMENTS ON CONSENT AGENDA ITEMS ONLY

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

Harvey Rubinstein, 28 Rutgers Terrace asked about Resolution No. 330-2007 regarding the Borough having to match a share of the project in the amount of \$266,840. Manager Metzler explained that it was in the budget for open space acquisition.

Charles Coviello, 17-15 Maple Avenue, wondered if green acres funds were used, will the parks be open to everyone. Manager Metzler stated that the fields would be available to everyone as long as the scheduling permitted it.

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

RESOLUTIONS BY CONSENT # 25-2007

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Tedeschi, Consent Agenda 25-2007 containing the following items was unanimously passed.

- a. Resol. #328-2007 - Approval of Minutes:
 - Regular Meeting 9/11/07
 - Work Session 9/18/07
 - Closed Session 9/18/07
 - Special Meeting 9/19/07
 - Regular Meeting 9/25/07
 - Work Session 9/25/07
 - Closed Session 9/25/07

- b. Resol. #329-2007 - Refund of Overpayment of Taxes
- c. Resol. #330-2007 - Authorizing Application for Green Acres Funds - Dobrow Sports Complex Field Renovation
- d. Resol. #331-2007 - Confirmation of Fire Board Actions
- e. Resol. #332-2007 - Award of Bid: Municipal Building Security System
- f. Resol. #333-2007 - Award of Bid: Project No. 2146 Recreation Lighting Vander Plaat Ball Field Lighting
- g. Resol. #334-2007 - Endorsement of Community Development Block Grant Application - Fair Lawn Jewish Community Council

MISCELLANEOUS PUBLIC COMMENTS

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

Daniel Shapiro, 39-02 Vanore Drive spoke about the concerns that he and his neighbors had about a house being built on Vanore Drive. The height of the house was too high. The Zoning Board approved the height but he felt there was a question on how high it actually was. They have complained to the Building Department asking them to have the owner reduce the height. The house that is being built is not what was said was going to be built. The neighbors have thought about litigation but felt it would be foolish to spend their money or the Borough's money. Mayor Weinstein said he had been monitoring this situation because one of the residents had called him and he had received letters about it. He said he spoke to the Zoning Officer today and was not sure if they had made a determination if the house was too high.

Manager Metzler stated the residents on Vanore had sent a letter to the Mayor and Council on October 15. He reached out to the Zoning Officer on the morning of the 18th. By the afternoon they had visited the site and instructed the contractor to prepare as built drawings so the determination could be made as to whether or not they have exceeded the height approved by the Zoning Board. It was made clear to the contractor that no framing or sheathing inspections would be done until the drawings were presented. He said he did not know when they made first contact with the Zoning Officer to complain about this height issue but did want to assure them the moment someone spoke about the height it was acted upon quickly.

Mr. Shapiro said the neighbors contend there is a third story. The house has clearly two stories above the garage. They have been told it is not considered a three story building. One of the things they removed today was a cedar closet from the attic area. The neighbor's concern is not only the massive height but the fact that there will be three stories.

Attorney Rosenberg stated they have reviewed the minutes of the April meeting of the Zoning Board Adjustment. A few months ago the Council adopted an ordinance which modified the height permitted in residential zones. Prior to that, the height was measured to the mean of the ridge line and that is exactly what this applicant applied for. With this

application, the measurement was not to the highest point of the building. The FAR ordinance that was adopted would have applied now. Certainly the issues have been raised with the Zoning Office and they are going to investigate whether or not the builder has violated the approvals that were granted by the Zoning Board. If there are violations, they will take the appropriate action.

Mr. Shapiro said if they violated those rules would they have to come back to the Zoning Board and abide by the new ordinance. Attorney Rosenberg advised that they would have to do so.

Councilmember Trawinski stated the neighbors sent the Mayor and Council portions of the April Zoning Board meeting, particularly page six, where the applicant's witness testified that the height to the peak would be 32.75 feet, not the height to the mean under the ordinance. He detected a little bit of arrogance when asked about reducing the height and they replied they were fully complying with the zoning ordinance why should they reduce the roof. Councilmember Trawinski felt if they said it was going to be 32.75 feet to the peak, which is the relief they sought, they should be held to that height. Attorney Rosenberg advised that he was not sure that was the relief they looked for. Councilmember Trawinski wondered if they made a misrepresentation to the Zoning Board would that warrant the Zoning Board rescinding the approval if the Zoning Board determined that there was a misrepresentation that the height to the peak was 32.75 feet. The other issue goes to the third story. The photographs that the neighbors supplied to them show a roof that clearly looks like there will be a room on that third floor. That in itself would constitute a third story which would not be permitted. He wanted to know if they can direct the Manager to report back to them and can they issue a request to the Zoning Board because it is apparent to him that it is a persuasive case made by the neighbors that there may be violations with their approvals

Manager Metzler said he had received photo copies of the house while it was being framed. He, too, expressed the same concerns that Councilmember Trawinski had about the third floor. The Assistant Zoning Officer advised him that the third floor elevation was consistent with the drawings that were submitted to the Zoning Board. There is no staircase that goes to that space. It is a pull down stairway and therefore under the ordinance constitutes an attic.

Attorney Rosenberg advised that the Council has the jurisdictional authority to ask the Manager to continue to investigate this with respect to the nature of the approvals that were granted by the Zoning Board and whether or not the applicant is complying with those approvals.

Councilmember Trawinski wondered if effectively there has been an indication that there would be no more inspections. Manager Metzler stated as of late today, the drawings have not been submitted. There would be no framing or sheathing inspections until those as

built drawings were submitted and reviewed by the Zoning Board. This does not mean they cannot continue to do plumbing and electrical work.

Councilmember Trawinski felt the Council should take a look at the definition of a third story. He also thought the Zoning Board should take a look at the testimony that was made at that hearing.

Deputy Mayor Tedeschi felt that everything should be stopped. Attorney Rosenberg advised if they violated the application then there should be a stop order.

James DeSomma, 38-50 Vanore Drive stated the area is definitely a third story and it is definitely a room.

Arlene Rubinstein, 28 Rutgers Terrace, said that Attorney Rosenberg was supposed to address the Mayor and Council about a house being built at 28-15 Rutgers Terrace and wondered what action was taken. Attorney Rosenberg advised that the Council reviewed the actions of the Zoning Board and the Council unanimously decided not to appeal their decision. Mrs. Rubinstein wondered even though the height exceeds the FAR ordinance which was measured from the street at 35 feet. She said Mayor Weinstein had suggested that she hire an attorney. Deputy Mayor Tedeschi said he told her that. Mrs. Rubinstein said that was what the Council was elected to do. She felt this house was too big. She thought the same situation on the house on Vanore Drive pertains to the house on Rutgers Terrace.

Jack Susser, 33-09 Hillside Terrace, thanked Mayor Weinstein and the entire Council for applying for a grant for the turf field at Vanderplatt Field. Many other towns have turf fields and Fair Lawn is behind the times in that regard. He had a petition of 300 people thanking them for going through with this.

Patty Marcoux, 12-42 Sunnyside Drive, thanked the Council for doing this for the fields. A lot of games have to be cancelled because of the conditions of the fields.

Jeffrey Mazzola, 0-99 Yeager Road, thanked the Council for doing this. He said it would be a great benefit for the kids and it would be great to have the turf fields.

Mark Merlholtz, 4-21 26th Street, stated he hoped the turf fields go through because Fair Lawn has the worst fields. He felt the fields were used by all ages.

Sue Benjamin, 8 Albert Avenue, hoped they support this program. Many small towns have turf fields. In fact she thought 10 out of 12 towns have turf fields. She thought it would make the Borough's fields much better to play on.

Larry Heller, 38-07 Grant Street, stated that having taught at schools with turf fields there is such a difference. The kids are out on the fields earlier in the year. He felt it was just not

a case of keeping up with the Jones. It had to do with the functionality of the fields. The kids will be better for it.

Mike Aversa, 19-09 Chandler Drive, stated he was very happy that the Council was filing the grant application since many towns have a turf field. It would be a benefit to the kids in town.

John Grossberg, 1 Schweid Court, indicated that this would give the kids an advantage by being able to spend more time on the fields.

Ron St. John, 1-14 Lambert Road, stated he has two kids in the program and when they go to turf fields it is just a pleasure to play on them. He would like the Borough's kids to have some respect and pride in their fields.

Ron Barbarello, 10-27 3rd Street, thanked the Council. The kids are the future of the community and they want them to be happy and safe and play as many sports as possible on these fields. It will save the town money on maintenance.

Cliff Schwartz, 13-38 Sunnyside Drive, said he has three children in the Fair Lawn All Sports programs and is a coach. There are hundreds of kids out on the field every day from soccer, football and baseball. He felt it was a great thing the Council was doing.

Keith Meerholz, 13-21 Sunnyside Drive, thanked the Mayor and Council for doing the right thing.

Mayor Weinstein thanked them all for their comments.

Councilmember Trawinski suggested they all send a letter to Freeholder Ganz, Assemblyman Gordon and the DEP because all of those things help when they determine who the money goes to. He felt that once these minutes were approved by the Council they should go with the petition to the DEP and Green Acres. Mr. Susser said that he would go out and get more signatures since everyone wants them to have turf fields.

Harvey Rubinstein, 28 Rutgers Terrace, felt for the public interest and public good, the Council should go to Court in regard to the house being built on Rutgers Terrace that violates the zoning regulations. The house violates the whole streetscape.

He understood at the last public meeting that the State says they can create a debt to \$180 million dollars and that Fair Lawn has a world class credit rating. He wondered why they would quiver to spend \$75,000 to \$80,000 for sewer system engineering reports to determine why the homeowners are getting sewerage in their basements when it rains.

Deputy Mayor Tedeschi wondered about the house on Rutgers Terrace and if the height variance was part of the application. Mr. Rubinstein stated that Mr. Newman consistently said that the height variance was not part of the application but he did point out that it

exceeded the regulations and it was being measured from the first floor and not from the street. It should have been taken up by the Board of Adjustment.

Stewart Golding, 14 Rutgers Terrace, on October 10 there was an article in The Record about New Jersey losing residents and taxes to other states. He felt it was staggering that more than 72,000 residents left the area in 2006. He wondered why build more houses and raise taxes. Instead of raising taxes they should look at other ways to reduce the taxes which might be to reduce services. He thought the Council should realize that the Borough will be in trouble because they have not even started to pay for the Recreation Center.

Mr. Golding wondered what was being done to get professional businesses in Fair Lawn. No high density housing but real business that would not use the services but would pay the taxes. The money spent on the EDC should have been given to professionals who would deliver.

Mr. Golding asked what plan they had to reduce traffic once Home Depot opens on the western end of Fair Lawn Avenue. It should be ready before the store is open because there will be a lot of traffic.

Maureen Moriarity, 14 Burnham Place stated that she supported a turf field but she thought they had already applied to the State. Manger Metzler stated they have applied to the State through Open Space for 50%. The resolution that was approved tonight will go to the County for 25%. Ms. Moriarity stated she is on the Open Space Committee and has been advocating for preservation of open space for the kids since 2004. The only parcels that are open space that could be recreation fields are Daly Field and the Heyward tract. They have been advocating to preserve those tracts for years. They have talked about having a central park for years. They were at the street fair this past weekend and collected 296 signatures from people all over Fair Lawn who would like a central park and would like their local open space tax funds to be used to acquire those pieces of property. Everyone knows that the Borough does not have enough recreation fields for the kids. They have to keep an open mind that these are the only two pieces of property that could be recreation fields.

Ms. Moriarity spoke about a letter that Deputy Mayor Tedeschi wrote to The Community News on October 3 that said hundreds of people would like to know whom CCRF thinks they are reclaiming Fair Lawn from. Organizations all over the country that are working to preserve open space use the word reclaim. It is a word that is used to reclaim open space from over development.

Ms. Moriarity hoped they would keep an open mind and consider a central park for Fair Lawn. She thought a referendum would be fine. They are not imposing their view on Fair Lawn. CCRF did a lot of work to preserve open space and to bring a local open space trust fund to Fair Lawn. She asked that they don't just think of them as a small group of people.

Claude Beinstock, 39-11B Broadway, urged the Council to continue to support the Alliance on Drug Abuse and Alcohol Abuse. He had very high praise for Councilmember Baratta for

the outstanding work she has done. He urged the Council, the Mayor, the Attorney and Manager to work with Councilmember Baratta in all of her endeavors.

Robert Gulack, 4 Bancroft Place, stated the people of Fair Lawn want a central park. The Democrats on the Council might have to get out of the way and let the people of Fair Lawn have the central park. As they were just told 296 voters walked into the CCRF booth and signed their petition calling on the Borough Council to use Fair Lawn's open space fund to buy the Heyward property before buying anything else. If they looked at the petitions, they will see 93% of the people signing it are not from Radburn. It is a town wide issue and CCRF has taken the lead to bring it to the attention of the Council.

Mr. Gulack felt using the funds already available from Fair Lawn's open space fund, spending one million dollars and change, could achieve the result of twelve acres of continuous park in the center of town. It would also drive the Landmark Developer, who is suing Fair Lawn, out of town and end the threat of 175 high density townhouses in the middle of town. He wants to build a central park for his children.

Mayor Weinstein asked Mr. Gulack how many ballfields and parks the Borough has. Mr. Gulack replied that he knows his children are kept up playing because the teams stack up their playing times until late in the night. There are not enough active fields. Mayor Weinstein asked again how many fields there were in Fair Lawn. Mr. Gulack said there are not enough.

Mayor Weinstein informed him there were 24 fields and parks in Fair Lawn. The reason why kids are playing so late at night is because that is when the volunteers get home from work, sometimes 6:00 or 7:00 at night. It is not because there are not enough fields. The biggest issue is the cost of maintenance.

Mayor Weinstein said he could never make a pledge about a central park until he received all of the details. No one has come to them to discuss where people were going to park. There was talk about the development of 175 townhouses which would bring a lot of congestion to the area but a ballfield would create traffic and parking issues. He suggested that Mr. Gulack come to the Council with all of the details then they could make an informed decision. The Open Space Committee, which Ms. Moriarity is a member of, had talked about the priority levels of privately owned potential space and recreation resources identified. There were divided into three categories. All of these properties were considered to be valuable to the community. Each potential resource offers something very different to Fair Lawn. It would be presumptuous at this point to subjectively decide which one provides the most value to the community. Secondly, the order that opportunities present themselves will play an important role in prioritization which is occurring right now. The Open Space Committee diligently meets month to month. The level of threat influences these decisions in a reactive manner. Mr. Hakim, the Open Space Planner, felt if there was any immediate danger that a piece of property could be

developed Green Acres would work with the community to help save that property. In his opinion, they don't have any issues. They could work together and go over all the facts and

circumstances to see how the 1.7 million dollars could work for Fair Lawn. At this point in time, Mr. Gulack did not tell them how the Council could do this. He will never make a promise until he gets all of the facts.

Mr. Gulack stated the key fact was that Landmark was suing Fair Lawn. They have to stop paying the lawyers to fight off the suit. As soon as they acquire the property the lawsuit would be ended and they would stop spending money defending it. Then they could look at this 12-acre property and see what could fit on the land once it is acquired. The danger is that as long as they procrastinate, they could get an adverse COAH decision or end up with 175 townhouses. He urged them to not have any more delays.

Deputy Mayor Tedeschi asked if they could agree that the funds to keep open space are coming from all of the taxpayers of Fair Lawn. Mr. Gulack said he hoped so. Deputy Mayor Tedeschi stated that every resident in Fair Lawn is entitled to some open space. Mr. Gulack agreed that all Open Space planning should be done on a town-wide basis and that all neighborhoods should be considered equally. CCRF has fought for open space in all of the neighborhoods in town. For Deputy Mayor Tedeschi to constantly allege that it is a localized organization when for three and half years, their public record is clear that they stand up for all of the Fair Lawn people. Deputy Mayor Tedeschi recapped what he said and at the last meeting Mr. Gulack said this would cost one million dollars and change. The change is about another million dollars. The taxpayers all over Fair Lawn are going to pay it. He wanted to know how he came to this decision because the Borough has an Open Space Committee that he has usurped all of their rights and duties.

Mr. Gulack stated the government should spend the necessary funds and take the Heyward property under their control. Buying that land gives them the 12 continuous acres of recreation area. Mr. Gulack said the Borough is being sued by a predatory developer that stands to make a lot of money while congesting the center of town and placing stress on the schools and emergency services. The Borough is paying lawyers to fight them off. In the next few months, they could suffer an adverse decision that removes the Borough's control from this issue. He urged them to realize the Heyward tract is different. As a responsible public official, he felt it was their duty to make sure the worse case scenario is not visited upon Fair Lawn.

Deputy Mayor Tedeschi stated at the last meeting he had asked what the situation was on acquiring Daly Field and Archery Plaza to make this park. He said Mr. Gulack informed him they would worry about that later. Mr. Gulack stated Daly Field is open space and a recreational area. Archery Plaza is a deed restricted recreational space. Those properties do not need to be tampered with on an immediate basis once the town takes control of the Heyward properties, the Landmark Developer is driven out of the picture and then they can resolve on how to develop the central park. Once the Borough secures the property in the middle they can easily and economically make arrangements with the owner of Daly Field

and Archery Plaza to coordinate recreational development on this property. Mayor Weinstein informed him that they were private properties.

Councilmember Trawinski stated that Mayor Weinstein posed some very good questions about the maintenance of the property. He wished that he had posed the same questions when they were getting ready to borrow \$13 million for the recreation center. The Council at that time turned over an empty folder on how the center would be paid for and maintained in the future. The same questions were valid then as they are now, except there was no public referendum. There was no asking the voters to decide if they want to spend that type of money. It should have been done then and it doesn't mean they shouldn't do that now.

Mayor Weinstein replied that referendums are not the greatest way to go. He thought if there was a small turnout of people that come out for this issue and if it wins, the Council would be asked to implement eminent domain on private property. If the houses along Plaza Road are needed for parking that should be in a referendum as well.

They are elected officials and it is their duty to make those really tough decisions. It is their duty to go out and speak to the public. They did not have a full public forum and maybe they should have because what you would have seen and what you are seeing right now is that people want this Center. More than 9,000 people have signed up to use it. More than 500 kids use it Friday and Saturday nights. The theater is used for concerts and lectures. In fact, Michael Rooney and his wife Maureen Moriarity have helped much with the theater. The vision has been surpassed. The time and effort that he put in speaking to all of the groups shows that it is working now. The fact is it is not costing \$30 million, but it will be paid out over time. He stands by the Community Center.

Councilmember Trawinski stated the issue is not whether they stand by the Community Center or not. They all stand by it. As he has indicated, there is a substantial amount of people using it. Sitting on the Open Space Committee, they both know that there are 4,500 children that use the ballfields. The issue is whether or not they could create another ballfield or two for those children. He referred to Mayor Weinstein' comment about a referendum, maybe if they had a referendum on the Community Center, who knows what they might have said. He cannot believe that they are having a fight as to whether or not they should preserve open space from the developers wrecking ball and to allow a developer to create 175 townhouses on that space. People will decide in this Election. He hoped that they come to a consensus to stop that development and build ballfields for all of the people in Fair Lawn.

Deputy Mayor Tedeschi referred to a chart in the Open Space plan which talked about the fields that were available. When it came to softball fields, it says none are needed. The Borough is missing one half of a football field. The requirement for little league fields has been met based on population. They are trying to make the fields better so there can be better usage of them.

In regard to the Community Center, Councilmember Trawinski has said that he would like to sell it. He wondered who they would sell it to. Councilmember Trawinski stated that he

proposed to sell it and then lease it back so the people of Fair Lawn would not incur the debt.

Councilmember Trawinski stated that years ago they started a plan to take fields out of service. That plan could not be followed for many years because there were not enough fields. Between the Borough and the Board of Education they are struggling to take the fields out of service. As far as using eminent domain that is grossly unfair because that will create fear. They both know that the Open Space Committee has committed to explore with the developer whether the developer would be willing to sell the property to the Borough.

Alan Katz, 39-02 Northern Drive, stated he was a professional landscaper and felt the problem was the fields are in poor condition. He also coaches and before they play they have to clean the fields. The conditions of the fields are the problem. Councilmember Trawinski stated this is the same problem the Council faced a decade ago. The problem is if they take the fields out of circulation, they are not enough fields for them to play. Mr. Katz said the quality of the topsoil is not good because there are rocks in the soil. Deputy Mayor Tedeschi said ten years ago they made a commitment to maintain the fields. Since then there was a question about the money needed to maintain them and also an increased use of the fields. Councilmember Trawinski felt that if Mr. Katz had other ways of maintaining the fields he should talk to the Manager about it.

Robert Gremillot, 1 Bristol Place, stated he was also at the street fair collecting signatures. He found the majority of the people he spoke to wanted to keep open space and they want ballfields. In fact, a number of people wanted a central park. A lot of people said they didn't want to create more traffic but wanted more parkland.

Paul Shansky, 9-05 12th Street, talked about the cost difference between open space and development. He reminded them about the cost of school construction. He felt if 175 townhouses were built it would cause major traffic problems on Fair Lawn Avenue. He urged the Mayor and Council to support a central park.

Howard Mark, 12-23 Ferry Heights, talked about ground water pollution and what it effects.

Anna DiNardo, 13-06 2nd Street, felt the owner of Daly Field would not give the ownership up that easily. She said she was not for or against a central park. She did not want the townhouses built on the Heyward tract. She urged the Council to be careful in what they decide.

Craig Miller, 5 Ramapo Terrace, stated that he lives three or four houses from the Heyward property. He has heard discussions about a parking deficit around Radburn and at the Community Center. Fair Lawn should not be blacktopped but should stay green.

Councilmember Trawinski stated they have discussed using property by the railroad tracks which is Borough owned.

Sheryl Cashin, 1 Glenfair Road, thanked CCRF for their efforts. Open space is not just for parks but for water to run off. If there is too much coverage there are flooding problems. She urged the Council to keep it green. She supports open space and not just for Radburn. Mrs. Cashin said she was informed that an outside engineer was not needed because of the cost. She felt as a taxpayer they were entitled to the services so they could be healthy.

Harvey Rubinstein, 28 Rutgers Terrace, said there would never be a million dollars in the budget if it were not for the CCRF. If the Council had maintained the zoning on the Heyward tract this would not be an issue. He suggested that the Council take this money and apply it to the purchase of the Heyward tract. Mayor Weinstein acknowledged that a lot of people worked hard to establish the open space tax.

Charles Coviello, 17-15 Maple Avenue, said that years ago an infrastructure study was done. He wondered if anyone had looked at that study. Manager Metzler said he would discuss it with the Engineer. He explained the flooding in question was due to the Noreaster this past April. The pump station was overloaded with water from areas upstream. The system was overwhelmed and overloaded. Mr. Coviello asked if this was the only time it happened. Manager Metzler explained it happened in 1995 and 1999.

Mr. Coviello thanked them for looking into the realtor signs as long as they are not in harms way and he offered to provide a certificate of insurance. Councilmember Trawinski said they would have to change the ordinance.

Larry Greenberg, 15-21 Raymond Street, said he had something written down from his daughter who was there but had to leave because it was getting late. She was asking the Council to consider building a skate park. They should also build an area where children could be taught how to skateboard. She also had another concern about difficult it was crossing Fair Lawn Avenue in front of the Library. She suggested a traffic light or stop sign be installed.

Felice Koplik, 6 Reading Terrace, felt a central park would help the Radburn business district. It worked in Millburn and she thought the Council should consider it.

Mrs. Koplik spoke about the height of the house on Vanore Drive. She said there should be a topographic drawing of the site done by a licensed surveyor. She was at the Zoning Board meeting when the drawings were shown and she thought the height was taken from the first floor. This is something the Council should look into. Deputy Mayor Etler said this was addressed in the FAR ordinance. Mrs. Koplik said it was not in the ordinance but should be. Councilmember Trawinski felt this was something the Council should discuss further. He told her it was an excellent suggestion.

Michael Rooney, 14 Burnham Place, announced that the debate will be held this Thursday. He urged people to attend and if they cannot it will be shown on Channel 77.

Space Committee has done. He cannot judge what CCRF and Mr. Gulack want to do because he has nothing to look at. A million dollars is not spent without having all of the details and going through the process.

Deputy Mayor Tedeschi asked Ms. Moriarity if she had to chose between the Heyward tract and the Naugle property which would it be. Ms. Moriarity said she would chose eminent domain on the Naugle House. Deputy Mayor Tedeschi said everyone has different interests and points of view.

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

ADJOURNMENT

Upon motion by Councilmember Baratta and second by Deputy Mayor Etlar, the meeting was adjourned at 10:08 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 Etlar

Deputy Mayor Joseph Tedeschi

Councilmember Edward Trawinski