

## **WORK SESSION APRIL 22, 2009**

Mayor Weinstein called the meeting to order at 7:34 p.m.

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 16, 2008. 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 Swain and Tedeschi and Councilmembers Baratta and Trawinski.

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

### **New Jersey Clean Energy Program**

Acting Manager Kwasniewski introduced Bill Steets, of EAM Associates. Mr. Steets explained that his company, along with TRC Associates, runs the commercial and industrial programs for the Board of Public Utilities (BPU). This program is funded by taxpayers through their utility bills and federal money also adds to the funds. The New Jersey Energy audit program allows the BPU to pay 75% of the cost of an energy audit for municipal buildings with a cap of \$100,000 per year. The municipality selects five contractors from the list supplied by the BPU who furnish a scope of work and a price for the audit.

Mr. Steets said that if the municipality follows through with the upgrades recommended in the audit, it will be reimbursed the additional 25% of the cost. This program is part of the New Jersey Smart Start Program which has been in existence for eight years. Mr. Steets advises commercial building owners of their energy use and programs that are available to help them change out existing equipment for higher efficiency equipment. This program, coupled with the free energy audit, provides incentives to replace older, inefficient equipment. An example of an incentive would be covering 80% of the cost of replacement. Mr. Steets stated that there are real long term energy savings to be realized if these two programs are utilized.

Mr. Steets had applications available to the Council along with back up information needed to begin the process. He explained that after the submittal is made the municipality will be contacted by the TRC to develop a scope of work. The buildings for the energy audit will be selected along with the list of contractors and when the audit is complete, the municipality will receive the reimbursement.

Acting Manager Kwasniewski asked how much the audit would cost; however, Mr. Steets said that it would be difficult to estimate. He indicated that the contractors would be able to make a better determination based on the square footage of the building or energy usage. Mr. Steets pointed out that 229 of the municipalities in New Jersey have

entered the program. The goal is to take part in an audit at a reasonable price, or even at no cost, in order to make basic upgrades that will save money in the long run. He added that even without the audits there are other programs and incentives that are part of the New Jersey Smart Start program that are straight forward and available. Mr. Steets said that the program is administered by Colleen Klenck and he encouraged anyone interested to give her a call with questions.

Upon questioning by Councilmember Baratta, Mr. Steets said that \$100,000 is available to each municipality every year for this program and he said that this may increase to \$200,000 in the near future.

Deputy Mayor Swain asked about the turnaround time period for the 75% reimbursement. Mr. Steets stated that from the time that the audit is completed there is approximately a 60 day turnover for reimbursement. Deputy Mayor Swain asked about the other 25% and Mr. Steets explained that if changes are implemented by the municipality, it would receive the remaining 25% of the cost of the audit. Deputy Mayor Swain asked if there are enough trained individuals available in the State to perform the audits. Mr. Street said there are five companies throughout the state that are busy and staff has been added.

Upon questioning by Councilmember Trawinski, Mr. Steets said that 75% of the cost of the energy audit will be reimbursed to the municipality whether the recommendations are implemented or not.

Acting Manager Kwasniewski asked if there is a time frame in which the upgrades have to be made. Mr. Steets said that the municipality has exactly one year from the time that the audit is complete and if nothing is done the process can be started all over again the following year.

Deputy Mayor Tedeschi asked if any of the companies would accept assignment of the refund. Mr. Steets said he wasn't familiar with this on the municipal level and he would get back to Deputy Mayor Tedeschi with an answer.

Attorney Rosenberg asked whether the municipality was required to do a Request for Proposal or Request for Qualifications. Mr. Steets said that this was needed and all the municipality had to do was pick one of the contractors from the list. He said that sometimes the Council has to sell the idea of re-equipping municipal facilities with energy efficient equipment to the town and this is the best way to get a low cost audit. The program is simple and there is a lot of money to be given out.

Acting Manager Kwasniewski noted that if there are any large capital outlays for equipment replacement this would have to be included in the 2010 budget. Mr. Steets reiterated that the municipality has a year from the date of the audit to implement the changes and still be reimbursed for the last 25% of the cost of the energy audit.

Councilmember Baratta asked what other towns are far along in the process so that the Acting Manager could get input as to how successful the process seems to be. Mr. Steets will e-mail this information to Acting Manager Kwasniewski.

Councilmember Trawinski asked if Mr. Steets' office would help with grants and incentives that are available for new equipment. Mr. Steets said that his office would help the Borough participate in the Smart Start program.

Mayor Weinstein thanked Mr. Steets. Councilmembers agreed that the Acting Manager and the Borough Attorney should review the contract and get in touch with other municipalities regarding this program. Acting Manager Kwasniewski said that she attended a Central Bergen meeting that included a presentation by Richard Dwyer of PSE&G. They have a new solar program coming out and she said that this could work together with the energy audit. Central Bergen wants to be the test group for this program because the test group always receives most of the benefits.

Councilmember Trawinski asked Acting Manager Kwasniewski to ask Mr. Steets if there would be any benefits in participating in this program with the School Board. Mayor Weinstein said that he could count eighteen buildings that could participate in this audit including the fire house on George Street where work is being scheduled. Councilmembers agreed to move forward.

### **Review of Tentative Agenda**

Acting Manager Kwasniewski said that it was brought to her attention that the noise ordinance actually states that work cannot be done between 9 a.m. and 4 p.m. on Saturdays. Borough Attorney Rosenberg will make the necessary changes.

Acting Manager Kwasniewski referred to the Greenstar Agreement and indicated that the company is pressing to have it signed. Although the agreement seems to be what everyone wants it needs to be done by resolution to authorize the Mayor to sign it since it was awarded by resolution.

### **Council Liaison Reports**

Deputy Mayor Swain reported that she attended a grand opening earlier today for Prominent Ticket Services at 2100 Route 208. Acting Manager Kwasniewski said that they have already joined the Chamber of Commerce.

Deputy Mayor Swain stated that the organization "Rebuilding Together" is working on a house on Pomona Avenue on Saturday. This organization assembles teams of experts to work on houses and on May 1<sup>st</sup> they will be accepting applications from people who need work done on their homes. The organization always considers veterans from any of the wars and others who are in need of necessities.

Deputy Mayor Swain said that she and Councilmember Baratta were at the meeting for volunteer physicals. The only thing they are still working on is the issue of the doctors because some woman may want to see female doctors for religious or orthodox reasons. Borough Attorney Rosenberg was working on strong language that explained "fit for service" and "not fit for service" for the doctor to check, however, she thought there should be another option stating "fit for light duty". The Fire Department and Rescue could then set the criteria for these descriptions. Deputy Mayor Swain pointed

out that there is a bill going through the assembly at this time regarding annual physicals for fire fighters. Councilmember Baratta said that all of the groups were asked if they were comfortable with this and the group indicated that they were satisfied.

Deputy Mayor Swain reported that the Planning Board Meeting approved a conceptual plan for the Ambulance Corp for a gazebo. Planning Board Members had a problem with the riparian buffer ordinance and recommended that it be looked at during the Master Plan review in 2010. The concerns were that this type of analysis would be very costly because a consultant would have to be hired by a homeowner. They said that the DEP is already regulating site plans; therefore, nothing additional is needed. Some members felt it would be restrictive to homeowners who wanted to add a patio or deck.

Councilmember Trawinski said that the DEP encourages municipalities that have watercourses, such as C-1 trout streams or special water protection areas, to adopt these types of ordinances. There was a question of whether or not Fair Lawn has C-1 water courses and Attorney Rosenberg said that they could get a confirmation from Ken Garrison. Councilmember Trawinski did not believe that the Planning Board Members took the time to give this ordinance the attention it warrants because there are exemptions and waivers that can be granted to homeowners. If the Council is serious about trying to protect and improve the waterways in the Borough this is an essential step. He asked that this be sent to the Environmental Commission because he felt they would have a different perspective. Councilmember Trawinski said that the longer they wait the longer the water quality of the Passaic River is impacted.

Deputy Mayor Swain said that the sense of the Planning Board is that all of these issues are already being taken care of because of the many regulations that would be encountered for someone wanting to build on a waterway. Councilmember Trawinski disagreed and said that the regulations contained in the ordinance were tailored specifically to Fair Lawn and he said that he could not believe that the Planning Board would not support an ordinance that would provide local protection for riparian buffers.

Mayor Weinstein said that they need to hear the opinion of an expert and Deputy Mayor Tedeschi recommended sending the ordinance back to the Planning Board. Mayor Weinstein suggested going through the Environmental Commission to have someone explain the situation to the Council.

Deputy Mayor Swain reiterated that the Planning Board felt this was an onerous ordinance that didn't need to be looked at right now and it would be better looked at within the context of the Master Plan in a year. Mayor Weinstein asked for a consensus by the Council for a review by an environmental expert at the Council level through the Environmental Commission and Councilmembers agreed.

Deputy Mayor Swain stated that the Planning Board approved an application for additional cell antennae at the Ambulance Corps site and a sign variance application for a new building at 22-50 Maple Avenue. She also thanked the competitivation committee for their minutes which were excellent.

Regarding property maintenance, Councilmember Baratta said that there were concerns about signs on the new Krauzers building on River Road. Acting Manager Kwasniewski will pass on these concerns. Councilmember Baratta reported that several people are keeping chickens in their yards and Carol Wagner said that there is no ordinance that speaks to this issue. Acting Manager Kwasniewski will check on this also.

Councilmember Baratta met with Mr. Paek, the owner of Cliff Park Florist on Saddle River Road, who wants every resident to have a lilac tree. He also wants to donate money for trips to Botanical Garden for 5<sup>th</sup> grade school children. The Garden Committee will begin giving out the plants in May during the Bike Rodeo that is sponsored by the Alliance at Memorial Pool. Councilmember Baratta has spoken to a reporter from the Shopper about this program and it will be publicized in the paper.

Councilmember Baratta stated that Connie Wagner will be attending the May 5<sup>th</sup> meeting to discuss the resolution regarding the Alliance for Substance Abuse Prevention. Members from the Governor's Council on Alcohol and Drug Addiction also want to attend along with members from the Bergen Alliance. This bill is already in the Governor's budget and has been put into a new category. Even if the bill itself is not approved it will become effective when the budget as a whole is approved.

Councilmember Baratta reported that the Garden Committee is working on a Farmer's Market and she gave Attorney Rosenberg information on joining the Farmer's Coalition. For a \$300 fee, the Coalition will do all the advertising for the market. She asked about competing vendors and Attorney Rosenberg said that applications will be received from vendors who will be vetted and then selected for the market.

Councilmember Baratta said that the funds for the Garden Committee have been substantially cut from \$4,000 to \$1,500 annually. About \$3,600 is normally spent and half of that is spent on mulch. The Committee has been asked to do new plantings on Broadway. Deputy Mayor Tedeschi wondered whether there could be a source of revenue derived from the Farmer's Market. Attorney Rosenberg said that the Garden Committee asked if there could be a fee ordinance for the vendors at the market. Other municipalities were surveyed and the fee charged for the season varies widely.

After more discussion, Mayor Weinstein suggested the lilacs could be sold as a fundraiser. Deputy Mayor Tedeschi recalled that bread was sold as a fundraiser by the Chamber of Commerce at one time. Councilmember Baratta said that the Gardening Committee contacted the Chamber of Commerce to provide advertising. Mayor Weinstein and Deputy Mayor Tedeschi agreed that the Committee should have the opportunity to conduct fundraising. If the money raised isn't sufficient the Council could consider a transfer of funds.

Councilmember Trawinski reported that he and Acting Manager Kwasniewski attended the Broadway Improvement Corporation (BIC) meeting where the Zap Lube resolution was discussed. There were many conditions imposed that should run with the land. He asked the Borough Attorney to speak to the Zoning Board Attorney and remind him that this is an ordinance that must be followed. Acting Manager Kwasniewski pointed out

that ZAP Lube has completed what they wanted to do but hasn't completed the other conditions of approval. There is nothing in the resolution that requires him to do some things before others and this is where the problem lies.

Deputy Mayor Tedeschi said the Board is not an enforcing entity and the Zoning Board's attorney should include the clause referring to "running with the land" in the resolution and building permits should not be issued until the resolution has been recorded in the chain of title. Attorney Rosenberg will contact the Zoning Board Attorney on this. Upon further questioning by Deputy Mayor Tedeschi on whether this is an issue of enforcement, Acting Manager Kwasniewski said that there is nothing in the resolution that refers to enforcement. Councilmember Trawinski said that the construction official should be responsible to have the Board's professionals certify in writing that the applicant is in compliance with the resolution before a building permit or a Certificate of Occupancy is issued. Acting Manager Kwasniewski said that this was a good recommendation but it is not the case at the moment.

Councilmember Trawinski asked Attorney Rosenberg to look at whether or not a Developer's Agreement is necessary on a site plan where there are many conditions. Attorney Rosenberg said he would look into this further and the Councilmembers agreed that stricter enforcement is necessary.

Regarding dedicating Berdan Grove to John Nakashian, Councilmember Trawinski said that the vote was affirmative; however, they were asking for something closer to Warren Point.

Regarding the ADA Committee Meeting, Councilmember Trawinski said that in mid May the Emergency Management will begin a File of Life Campaign which is the retention of relevant medical information that can be placed on the refrigerator with a magnet. If emergency management is called to a house, this information will explain medical conditions and any medication that is being administered. Initially this program will be available to people with disabilities and who are on the registered list for special needs, however, eventually the program will include everyone in the Borough.

Councilmember Trawinski stated that the ADA Committee was pleased that the Council authorized a trial of the audible alarm countdown signal for the traffic light at Plaza Road and Fair Lawn Avenue. The Committee suggested the same system be installed at Fair Lawn Avenue and River Road. He reported to them that the Memorial Pool Handicapped Accessible Pool Path will be part of the grant application. An ADA brochure which outlines what the Committee has done will be given to all Councilmembers. Councilmember Trawinski suggested that at the beginning of every meeting an announcement should be made that there are hearing devices available in the Council Chambers for the hearing impaired. A sign to that effect should also be posted. An ADA Committee Performance Task List has been completed which describes the tasks that have been assigned and it is a good way to track the accomplishments. Councilmember Trawinski reported that the Committee will be working with the High School on a handicapped accessible garden.

Referring back to an earlier zoning issue, Borough Attorney Rosenberg spoke about the covenant running with the land and he read from the code book stating that “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 the form of document to be recorded shall be subject to the review and approval of the Board Attorney. Evidence of proper recordation of such document shall be presented to the Zoning Official of the Borough prior to the issuance of any building or any other permit”. Acting Manager Kwasniewski will bring this to the attention of the Building Department.

### **2010 Master Plan**

Councilmember Trawinski stated that he thought the Master Plan should be completely redone and should involve substantial public input. He realized that this would cost in the area of \$150,000 to \$250,000 and he said that this can be paid for over a five year period without having to bond for it. Mayor Weinstein said that the Council should get the Planning Board’s thoughts as to when they want to start the process and indicate to them that that they would like a comprehensive plan. The Planning Board should be contacted about this now since they will probably start the process towards the end of the year. This would be an appropriation for next year’s budget. Attorney Rosenberg will mention this to the Planning Board Attorney.

### **Nepotism Policy for Fair Lawn**

Deputy Mayor Tedeschi said that the Council should want Fair Lawn citizens to know that there is a level playing field. He read from the policy of the Village of Ridgewood and the Fair Lawn Board of Education. He recommended using the Village of Ridgewood’s policy.

Councilmember Baratta asked how this would work with their form of government where Councilmembers don’t get involved with personnel. Attorney Rosenberg said that he would speak to the Village Attorney in Ridgewood to find out how this is reconciled. Councilmember Trawinski had additional questions concerning how a family member of a Councilmember would be treated for a civil service position in a Faulker Act Type E situation. Acting Manager Kwasniewski said that she would pose this question to the Manager’s Association and report back with an answer. She added that Ridgewood has the same form of government as Fair Lawn. Councilmembers were in agreement that they needed to have these questions answered.

### **PSE&G – NJLM Energy Efficiency and Conservation Block Grant**

Councilmember Baratta stated that New Jersey is being allocated \$14.5 million for this program with Bergen County getting \$7,400,000. Fair Lawn is eligible and funds can be used community wide. This would dovetail with the other program and include items such as development of an energy efficiency and conservation strategy, technical consultant service to assist in the development of a strategy, residential and commercial building energy audits, financial incentive programs and mechanisms for energy efficiency improvements, etc. Councilmember Baratta said that this program is also

targeted to business districts through the Borough. She pointed out that the program discussed earlier tonight does not reimburse for anything that is implemented. The Borough could get the money to implement the recommendations through this program, after the recommendations have been made under the New Jersey Clean Energy Program.

Acting Manager Kwasniewski said that this is another program run by the BPU and there are a lot of similar programs available. Mayor Weinstein said that they have to research all of the programs and try to get everything they can for the Borough. Councilmember Baratta said that they have until June to apply for this program. Councilmembers agreed that Acting Manager Kwasniewski should look into this program also.

Councilmember Trawinski mentioned the Transportation Enhancement Area grant and said that this grant money was used for many street improvements in the River Road and Fair Lawn Avenue area. The applications are due by May 13<sup>th</sup> and Councilmember Trawinski stressed the importance of getting a grant writer or grant firm.

### **Creation of Committee to Review Parking Around the High School**

Deputy Mayor Swain said she would like a committee of eight or nine people representing students, parents, residents, the Traffic Safety Office and someone appointed by Bruce Watson. Councilmember Trawinski suggested that the Manager or Manager's representative should be included. There were also residents in the areas that they wouldn't normally think of that wanted to be included.

Councilmembers agreed that Deputy Mayor Swain will work together on this issue.

### **League of Municipalities Mandates Survey**

Councilmember Trawinski said that a recent email from Marilyn regarding the League of Municipalities contained a chart from Hardyston and he asked the Acting Manager to prepare a similar chart for Fair Lawn. The chart would be for Connie Wagner and the Chairman of the Committee. Acting Manager Kwasniewski said she had collected the information needed to go forward with the chart.

Councilmembers agreed that the chart should be submitted to Connie Wagner and the Committee. Mayor Weinstein recommended that the Board of Education be part of this issue.

### **Knight of Pythias Circus**

Acting Manager Kwasniewski said that the circus is scheduled for June instead of October this year. There was a consensus among Councilmembers to approve the request for the circus.

### **Creation of Green Team**

Councilmember Trawinski recommended a Green Team that would look at what would be appropriate Planning and Zoning incentives to implement in the Borough. Attorney Rosenberg suggested an energy component as part of the Master Plan. Councilmember Trawinski said that the Green Team could provide input for this part of the Master Plan.

Mayor Weinstein said he received some information on solar energy from the Fire Department that he has to research. The Council indicated their agreement.

### **Proposed JIF Bylaw Amendments**

Acting Manager Kwasniewski said that these amendments are not mandatory. The amendment allows the Borough to seek a Risk Manager who is willing to accept less than 6% commission. She didn't see anything wrong with approving the amendment since it is not mandatory. She said that Risk Manager should go to the meetings as it is part of the 6% he is earning. Councilmember Trawinski recommended that this requirement be added to next year's contract.

Councilmembers agreed that this should be stated to the Risk Manager and added to the contract. They also agreed to the bylaw amendments.

### **Interlocal Agreement with Prospect Park for use of Walsh Pool**

Councilmembers agreed to allow Prospect Park residents to use Walsh Pool again this year. Acting Manager Kwasniewski will include in the agreement the fact that Walsh Pool will close early and residents would be free to use Memorial Pool for the rest of the summer.

### **Fair Lawn High School Marathon**

Acting Manager Kwasniewski said that the marathon is being moved from Memorial back to Center Rec which is where it had been years ago. Councilmembers agreed to allow the use of the Borough field.

### **Pay to Play**

Attorney Rosenberg prepared and distributed two versions of the Pay to Play ordinance. One of the versions includes contributions to the Bergen County Joint Candidate Committee and eliminates nexus language that is in the current ordinance. The other ordinance is a version that integrates non-circumvention language which was in several of the ordinances previously presented to the Council. The Council needs to decide what to incorporate into an amended ordinance.

Mayor Weinstein commented that the first ordinance seemed to work. There was a major reduction in fund raising dollars from 2005 to 2007 and a professional who was found violating the ordinance is no longer with the Borough. He suggested adopting a resolution stating that candidates will not accept a contribution in excess of \$300 from any individual entity. This would curtail the fundraising for an election and puts the

responsibility on the candidates themselves. The \$300 limit is a pledge and is not to be included in the ordinance. Mayor Weinstein added that he is concerned about interfering with people's rights to contribute to others outside of Fair Lawn. It is up to the Councilmembers, as candidates, to police themselves. He reiterated that he thought the original ordinance worked well and Deputy Mayor Swain indicated her agreement with Mayor Weinstein.

Deputy Mayor Tedeschi said that they have previously discussed how to control wheeling and he noted that it can only be controlled at the door of this Council Chamber. Councilmember Trawinski said that he didn't think the ordinance could be fixed because it can be fixed for this instance that is occurring now but inevitably something else will come up and it will have to be altered again. He added that he couldn't make the pledge regarding the \$300 limit because he has already accepted donations for this campaign.

Councilmember Baratta said that the State sets these types of thresholds and she feels that an individual has the right to donate whatever they feel they want to donate to a candidate but that individual has to realize that they are not going to get any preferential treatment in return. Mayor Weinstein said he is suggesting that they pledge not to accept an amount in excess of \$300 and no one is being forced to make that pledge. Councilmember Baratta said that Pay to Play means that someone makes a donation to a politician in return for a favor of some kind. Mayor Weinstein pointed out that a candidate can't pick and choose whatever the amount is so if the most you can accept is \$300 then everyone is on a level playing field.

Councilmember Baratta stated Mayor Weinstein is not involved in an election campaign at the moment so this pledge wouldn't apply to him. She recalled that when three of the Councilmembers were running they accepted a \$500 donation from a developer who planned to come to the Council for a zone change at the Kodak property. She said that this is an example of Pay to Play.

Councilmember Trawinski noted that the Fair Lawn website on line contribution form has a box to be checked which states that the contributor understands that he is going to get nothing in return for his contributed except for good government. Mayor Weinstein stated that there is also a disclosure form for people coming before the Planning Board.

Deputy Mayor Tedeschi asked Councilmember Baratta which election she was referring to regarding the \$500 donation. Councilmember Baratta said that the date the report the donation was filed was 11/13/07. Councilmember Trawinski said that it appeared as though Councilmember Baratta has an expanded view of Pay to Play that the Fair Lawn ordinance doesn't cover. Mayor Weinstein said that Pay to Play could encompass almost anything and this is why he is recommending that the amount be capped at \$300.

Councilmember Trawinski stated that there is not limit on how much money a candidate can spend on their own campaign which gives them an unfair advantage over candidates who are trying to raise money. He said he is willing to say that the Council

would award zero no bid contracts for professional services. Every contract would be bid consistent with the State bidding laws not consistent with the Fair and Open process. This means the contract would have to be awarded to the lowest bidder. Mayor Weinstein said that this might not be the best thing for the Borough but Councilmember Trawinski pointed out that this way the Council wouldn't have to worry about who contributed money.

After further discussion, Mayor Weinstein asked if the Pay to Play ordinance should be left the way it is. Councilmember Baratta and other Councilmembers agreed that this was the best option. Mayor Weinstein asked if the Council should pass a resolution that the Council candidates pledge that they will not accept more than \$300 per individual and or entity. Councilmember Trawinski said that this should be a \$300 limit per election and he is not willing to take this pledge without speaking to his opponents in this election. Deputy Mayor Swain said she wouldn't accept that restriction because people will find ways around it. Mayor Weinstein said he supports this recommendation.

Acting Manager Kwasniewski said that the consensus is two votes yes and three votes no.

### **Public Comments**

Maureen Moriarty, 14 Burnham Place, said that she has concerns regarding the COAH decision. Ms. Moriarty stated that the decision found that Fair Lawn has allowed market rate development on other parcels that were supposed to have been preserved for affordable housing. Councilmember Trawinski said that Fair Lawn's submissions were never reviewed. The Planner's submission argued that there was an excess of unmet need which COAH rejected. They claimed that the Borough's refusal to accept one overlay zone was a violation of the Round Two certification. Councilmember Trawinski said that this is not the case because he negotiated the settlement which described certain conditions under which an overlay zone would be created. He added that the number of units they are obligated to build as part of the Round Two certification was 52 and 53 were built on the McBride tract.

Ms. Moriarty said that in the paper Richard Lustgarten had stated that COAH has agreed that the overlay zone for the property did not need to be created until 45 days after environmental remediation was completed on site. Councilmember Trawinski confirmed that this was put in writing by the COAH mediator sometime around the fall of 1996 but the Judge won't take the time to read the paperwork.

Ms. Moriarty asked how the residents of Fair Lawn could help. Attorney Rosenberg said that the matter is now in the hands of the Supreme Court

Craig Miller, 5 Ramapo Terrace, said that the Council is appealing the COAH ruling to the State Supreme Court.

Mr. Miller pointed out that on Harristown Road in Glen Rock there are signs run by solar power. There is nothing like that in Fair Lawn and Mayor Weinstein said that the

Committee they spoke about earlier in the meeting is going to look into this. Mr. Miller referred to the clock for the Library and wondered if it would be solar powered. Acting Manager Kwasniewski said it is not solar powered and it will cost \$53 to run annually. The clock is being donated by the Rotary Club.

Harvey Rubenstein, 28 Rutgers Terrace asked if the Borough had hired an environmental expert. Mayor Weinstein said that Malcolm Pirnie is the environmental expert who is working on the Kodak property. They are being paid by the proposed developer.

Mr. Rubenstein recalled that a cell tower had been approved by the Planning Board at the Ambulance Corp property. He said he had heard something about raising the tower and Deputy Mayor Swain explained the tower will be raised ten feet along with increasing coverage around the base. This was one of four locations authorized by the Borough.

Mr. Rubenstein referred to Tender Years Nursery School on Saddle River Road and said it looks like it is being turned into an RV park.

Referring to the Master Plan, Mr. Rubenstein recalled about two years ago Cheryl Bergailo said she could do the research and preparation of the Master Plan for \$80,000. Mayor Weinstein said they would ask her about this. Regarding the Green Team and the Planning Board Mr. Rubenstein said that the standard seems to be LEED certification. They should look to LEED certification as the criteria to be met for the Borough.

Jane Diepeveen, 14 Ryder Road, said that about a year ago she brought up the fact that there was no sidewalk under the overpass by the Community Center and she is delighted to see that it has been installed. She was also happy to hear about a new Master Plan and she hoped there would be a lot of public input before the plan is drawn up.

Councilmember Trawinski said he favors two approaches for the Master Plan, which would include a series of discussions involving citizen input on each of the various aspects of the Master Plan. This would be followed by a general combined public meeting of the Planning Board and the Council where the plan is presented to the public before it is adopted. He stated that the twelve parts of the plan should be broken down for public participation.

Ms. Diepeveen said that there are a lot of things in the Master Plan that need updating. Mayor Weinstein commented that there have been a lot of changes in the town since he has been on the Council and a completely new Master Plan is necessary. Deputy Mayor Tedeschi said that a lot has been done. Councilmember Baratta said that this is a case of putting it all together. Ms. Diepeveen said that a policy on the Clariant property is needed.

Ms. Diepeveen commented on how beautiful the Ambulance Corps Building is and Councilmembers indicated that it was funded by the cell tower.

Michael Rooney, 14 Burnham Place, asked if the energy audit would include the Community Center. He was told it would. He asked about solar options and Mayor Weinstein reiterated that there was a discussion regarding solar energy. The Fire Department has sent him information concerning safety issues that he will be evaluating. Mr. Rooney also recalled that Cheryl Bergado said she would charge \$80,000 to prepare the Master Plan. He stated that the American Institute of Architects has a program where they would underwrite the cost of a Master Plan and Councilmembers indicated they would look into this.

Maureen Moriarty, 14 Burnham Place, asked whether the Council would have any control over senior housing that would fulfill COAH obligations. Mayor Weinstein said that he couldn't answer that question.

Councilmember Baratta said that resolutions have been received from other towns about Joseph McGowan being paroled. This involves the case of a man who was convicted of killing a Girl Scout. Mayor Weinstein said that he hasn't had the opportunity to look at these yet.

Councilmember Trawinski spoke about a criminal lawyer who is proceeding on a civil case against a convicted criminal serving a life sentence for the murder of a 13 year old. This criminal had a wealthy aunt whose estate is immune from suit due to a quirk in the law. He spoke to Senator Gordon about this and the Senator acted quickly to ensure that this lawsuit will never take place and that the trust fund will go to the victim's family. He thanked Senator Gordon for acting so quickly on this.

### **Closed Session:**

Upon motion by Councilmember Trawinski and a second by Councilmember Baratta the following Closed Session resolution was unanimously adopted at 9:40 P.M.

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

**WHEREAS;** the Mayor and Council of the Borough of Fair Lawn desire to discuss Personnel – Terms of the New Manager's contract, CFO Police Records; Contract Negotiations – Supervisors; Attorney/Client Privilege – Condemnation ; and, General Contract Negotiations.

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

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

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

**Adjournment**

Upon motion by Deputy Mayor Swain and second by Councilmember Trawinski the meeting was adjourned at 11:00 P.M.

Respectfully submitted,

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Marilyn B. Bojanowski, RMC  
Assistant Municipal Clerk

The undersigned have read and approved the foregoing minutes.

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Mayor Steven Weinstein

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Councilmember Jeanne Baratta

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Deputy Mayor Lisa Swain

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Deputy Mayor Joseph Tedeschi

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Councilmember Ed Trawinski