

WORK SESSION AGENDA OF APRIL 5, 2005

Mayor Ganz called the meeting to order at 7:31 p.m.

PRESENT: Mayor Ganz, Deputy Mayors Etler and Weinstein and Councilman McCarthy.

ABSENT: Councilmember Caan.

ALSO PRESENT: Manager/Municipal Clerk Kwasniewski, Assistant Municipal Clerk Bojanowski and Attorney Lustgarten.

REVIEW OF TENTATIVE AGENDA - 4/12/05:

Manager/Municipal Clerk Kwasniewski stated there were no changes or additions.

CELL TOWER PROPOSAL - AT&T WIRELESS:

Manager/Municipal Clerk Kwasniewski stated that AT&T had made a proposal to place an antenna on the Gordon Place Water Tower. That area is not designated as a cell tower zone. Mayor Ganz stated it would require a zone or use change by the Zoning Board. Manager/Municipal Clerk Kwasniewski reminded the Council that they would have to bid out that site.

Anilkumar Avutu, Attorney for AT&T explained that AT&T had proposed to put antennas on the water tower at 31-15 Gordon Place. The antennas would be placed 97 feet above ground and the cabinets will be at the base. A general discussion followed regarding the site, the number of carriers that can be placed on the tower and the size of the cabinets. Ray Houck, Gem Engineering, Houston, Texas explained that the proposal has the antennas on the steel I beam using piping to hide the wiring. Mr. Avutu explained that the lease would have to go out to bid and AT&T would not make an application to the Zoning Board unless they received the bid or the Council made it a permitted use.

Mayor Ganz questioned if they would paint the tower. Mr. Avutu explained that it would have to be part of the bid specs. Manager/Municipal Clerk Kwasniewski stated the Borough is looking at the maintenance schedule of the tanks to be painted in 2010 and 2012.

Attorney Lustgarten advised that if the Borough had a need to remove the antennas from the tower, would AT&T be willing to enter into an agreement. Mr. Avutu explained that was something they could work out. Attorney Lustgarten explained that is something the Borough would have to know before hand. He wants the Borough to be insulated.

Mayor Ganz questioned why they needed to place antennas in that area. Mr. Avutu explained that under their FCC license they are required to cover all areas in the Country. A map was handed out showing the coverage. Mayor Ganz stated that on stretches of Route 208 there is no coverage.

Russ Mensch, 30-11 Gordon Place stated he objected to this. He quoted part of the Borough code. He explained that the area was zoned for one family use. Mr. Mensch felt it would lower the property values. There are two schools nearby. He is concerned about the health and safety issues.

Bischak Tal explained the FCC guidelines. There were scientists, including doctors who developed the guidelines of what was safe for humans. He assured them that nothing would penetrate the tower.

Mr. Mensch stated that the area is a residential area. They should not decide what goes in their backyards, they should follow their guidelines. He said he understands the FCC guidelines but who can say in a year from now that something is not right.

Stewart Golding, 14 Rutgers Terrace, questioned the power source and if it will be brought in from the street. He asked about the weight of the equipment. Mr. Avutu explained that is something the engineers will have to answer. Mr. Golding wondered if other areas have been looked at to see if there is better coverage. He thought the antenna should be placed higher to get better range.

Harvey Rubinstein, 28 Rutgers Terrace, asked if the antenna in Paterson gives coverage in Fair Lawn. Mr. Tal explained that it is not close enough to the Route 208 sight. Mr. Rubinstein asked about liability and who would be responsible for mischief to the tower. Attorney Lustgarten advised that he would ask for high coverage from the carrier and unless it was the Borough's negligence, it would be the carrier's responsibility.

Deputy Mayor Weinstein questioned if there is any additional security on the cabinets. Mr. Avutu explained that the cabinets will have alarms on them.

Mr. Mensch stated that the Borough makes money on this deal and his property values go down. Mayor Ganz advised that actually the property value will go up. Mr. Mensch stated that this site was turned down several years ago and wondered why the Council is entertaining this again. Mayor Ganz stated that ten years ago the Borough's rejection of the site was reversed by the Court. Also, if people have AT&T there is a gap in the coverage. Mr. Mensch said there is cellphone coverage in that area. Mayor Ganz explained that other carriers use different frequencies and other towers. Attorney Lustgarten advised that this is not a done deal. The law was changed in 1996. The Borough cannot discriminate against cellphone carriers. They know that not every site is reasonable. This site has appeal because it has the height. What Fair Lawn is trying to do is accommodate the rights of the citizens and obey the law. Mr. Mensch felt that Mayor Ganz was more concerned about reception on Route 208 instead of the homeowners. Mayor Ganz informed him it could be done against everyone's wishes.

Councilmember McCarthy questioned their insurance coverage. Mr. Avutu said he was not sure of the terms but felt it was a negotiable item. He does not negotiate leases himself. Mayor Ganz thanked AT&T for their presentation.

CELL TOWER PROPOSAL - T-MOBILE:

Ron Moore, T-Mobile was present. He gave out samples of the bids and leases they use. He believed that four carriers can fit on that tower. He described the land space his company needs for their cabinets.

Daniel Penesso of T-Mobile showed a map of the existing towers. He explained they cannot go higher because it will cause havoc in the network.

Attorney Lustgarten questioned where they would place their cabinets. Mr. Moore explained they would be placed as close as possible to the tower. Manager/Municipal Clerk Kwasniewski stated that the Fire Department equipment would need to be housed there. Mr. Moore said that typically they have provided shelter and he would make sure that was part of the bid proposal.

A lengthy discussion followed regarding shrubs around the area, how often they visit the site, the life span of the antennas, security concerns, maintenance issues, the ground equipment and insurance.

Russ Mensch, 30-11 Gordon Place, felt that even if this is approved, the site is still a limited area. They would have to come back and put more towers up. He suggested they look at another site.

Harvey Rubinstein, 28 Rutgers Terrace, wondered if there were any regulations prohibiting them from putting it in a County park. Mr. Moore said they could not put a tower on a green acre's site. Mr. Rubinstein asked if the DOT had any land for them to build towers on. Mr. Moore said they do not have any land. He said he understood Mr. Mensch's concerns. This site is an existing site therefore they felt it would be less invasive.

Mr. Rubinstein, 28 Rutgers Terrace questioned if there was a restriction of how much rent the Borough could ask for. Attorney Lustgarten explained that the Borough could not put a large amount in because the bidders would not bid.

Mr. Mensch asked if there was a limit to the number of cell towers. Attorney Lustgarten stated there are cellphone farms. The carriers can come in and inundate the town. The Court has said the towns must allow reasonable coverage. The Zoning laws still apply and there would be a limitation that is reasonable.

Mayor Ganz stated that Manager/Municipal Clerk Kwasniewski and Attorney Lustgarten would get back to them. He thanked them for making their presentations.

Upon motion by Deputy Mayor Etlar and a second by Councilmember McCarthy, the meeting was recessed at 9:10 p.m.

Mayor Ganz reconvened the meeting at 9:16 p.m.

NEW JERSEY TRANSIT UPDATE:

Don Smartt was present. He informed the Mayor and Council about a meeting that Senator Coniglio along with Assemblyman Gordon held with New Jersey Transit on March 7, 2005. Senator Coniglio encouraged New Jersey Transit to do as much as they can to improve the facilities around Radburn. Senator Coniglio asked for a wish list to garner support through New Jersey Transit. Some of which are built upon are the results of the Business Leadership Committee's input on what they would like to see take place at Radburn and on Broadway. The following services were described:

Technical Services:

Radburn - parking/traffic flow studies in and around the train station and to the station to establish current and projected utilization and flow patterns and recommendations to improve utilization, on and off-site, for commuter parking specifically examining use where possible of satellite parking. He estimated these services as less than \$40,000.00.

Broadway - engineering/architectural services to delineate and describe a new pedestrian/bicycle pathway via Rosalie Street to the station platform including identification of rights of way that may be needed/acquired; lighting, paving, landscaping and amenities that will provide a platform enhancement program with the assumption - supported locally - that funding for construction, rights of way acquisition and maintenance will be provided through private funding and contributions in association with a special improvement district being organized in the area. He estimated these services to be less than \$10,000.00.

Planning Services:

Radburn - evaluation of existing land uses and zoning undertaken by firms specializing in evaluating the "transit village" potential of the area. He believed that these services are less than \$50,000.00 in general and of course, dependent on the final scope of services agreed upon. He stated that it was clear to the Business Leadership Committee that this area of the community is more vehicular than pedestrian traffic. They want to make it safe for pedestrians.

Mr. Smartt stated that these services are designed to be like the Master Plan that was done more than 10 years ago. In his conversations with Ms. Baker, from New Jersey Transit, she was of the belief, and he agreed, that technical services were thought to be provided through New Jersey Transit's in-house and outsourced traffic and parking specialists. Planning services were thought to be provided through such organizations as the Regional Plan Association and Project for Public Services, both under contract to New Jersey Transit.

Further discussion with Ms. Baker indicated a portion of these services were thought to be covered under existing budget line items, while the remaining funding needed would be requested with local and state support from other institutional sources.

Mr. Smartt stated that the direction of the Mayor and Council is requested. Senator Coniglio would like to hear your comments.

Deputy Mayor Weinstein stated they should put these proposals out for discussion. He thought it would be very important to build a path around the Broadway station.

Deputy Mayor Etlar stated that he sees fees of \$100,000 and wondered where they were coming from. Mr. Smartt explained that Senator Coniglio asked for a shopping list of what the Borough wanted from New Jersey Transit. The services would have to be defined and Senator Coniglio would help fund it.

Deputy Mayor Weinstein asked what they needed realizing they cannot do it in one year. He felt there were other agencies that could help with the funding. Deputy Mayor Etlar asked what the plan was. Deputy Mayor Weinstein stated to minimize congestion around the Radburn business district and to make it better than it is now. New Jersey Transit has offered to do studies for the Borough. Deputy Mayor Etlar stated he could not agree to this until he knows what New Jersey Transit's scope is. Deputy Mayor Weinstein stated they are doing a study. Deputy Mayor Etlar wondered what they asked Senator Coniglio to do. Mr. Smartt stated they told him the Council's hopes and the need to look at alternatives for the parking. The Senator said he would fight for the funding. New Jersey Transit is at the table now. This defines the vision.

Mayor Ganz asked that Daly Field remain green. Mr. Smartt stated that in the past, while working with New Jersey Transit, there is a partnership and the Mayor and Council will administer the outcome. Mayor Ganz stated that the Borough does not have the resources to do anything so this will allow Senator Coniglio to fight for grant money.

Mayor Ganz stated he would like to see Broadway strengthened. Deputy Mayor Etlar said he would like to see a bridge over Broadway at the train station. Manager/Municipal Clerk Kwasniewski felt they should fight for both of those. Attorney Lustgarten felt that the Council should be precise and specific about it or they may get New Jersey Transit's vision.

There was a consensus to adopt the scope of service as a concept with the addition of Broadway, subject to the Council coming up with their own vision.

Mayor Ganz stated Daly Field should remain green, there should be satellite parking and additional parking in and around the Broadway Station.

There was an additional consensus to approve the plan along subject to the input from the Council.

HARRISTOWN ROAD & LINCOLN AVENUE PROPERTY:

Councilmember McCarthy introduced Colin Quinn who was developing property on the corner of Harristown

Road and Lincoln
Avenue. They are
planning on building
eight luxury Page
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condos. This area is currently zoned as a B2 zone and they were there asking the Mayor and Council to rezone the property. He had Architect Mary Fitzpatrick Scro with him.

Ms. Scro stated these units were geared toward young professionals. They will look upscale. She proposed that the cars would enter on Lincoln Avenue and exit on Heights Avenue. They would provide parking for 19 vehicles. The trash and recycling would be in an enclosed area.

Attorney Lustgarten wondered about the Environmental issues. Mr. Quinn stated they have received approvals from the DEP.

Attorney Lustgarten reminded them about the Borough's Mt. Laurel obligation. Mr. Quinn asked if the Borough had met its requirement. Attorney Lustgarten advised him to look into COAH since this would be subject to that requirement.

Deputy Mayor Weinstein questioned the grade and the number of bedrooms.

Attorney Lustgarten advised that since they were requesting a zone change it might be helpful for them to give the Mayor and Council a sketch map of what the zones are around it. He also suggested that it be referred to the Planning Board. He also felt they should pull out the Master Plan to see where this fits in.

There was a unanimous consensus to send this to the Planning Board.

FORESTRY MANAGEMENT PLAN:

Manager/Municipal Clerk Kwasniewski recommended that they adopt this plan with the emphasis on educating the community. Mayor Ganz stated they would continue to be a tree city by spending \$100,000 a year. Manager/Municipal Clerk Kwasniewski informed them that last year not many people asked to have a tree planted.

There was a unanimous consensus to adopt this plan.

UPDATE ON ARCADIA & BERKSHIRE FLOODING:

Manager/Municipal Clerk Kwasniewski stated that Engineering had finalized the plan, it would be going out to bid and construction should begin in the summer. She stated that the bids could come in around \$600,000 to \$700,000. She suggested they could go back

to the DOT for more funding or use the money on the Erie parking lot. Deputy Mayor Etlar asked her to explain. Manager/Municipal Clerk Kwasniewski stated that DOT would be paying extra funds for Arcadia and they would have to get the application into the DOT. Mayor Ganz stated he had concerns about the 1973 lease agreement and felt it should be renegotiate. He is reluctant to put any money into that lot when DOT could cancel the agreement in 30 days. Attorney Lustgarten advised him that they might not want to renegotiate the lease.

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Councilmember McCarthy wondered if the residents can be told that construction will start this summer. Attorney Lustgarten advised it was best to inform them that the project is going out to bid in the spring. Manager/Municipal Clerk Kwasniewski reminded them that the County is supposed to fund downstream from the area.

SPECIAL MEETING:

Upon motion by Deputy Mayor Etlar and a second by Deputy Mayor Weinstein, the meeting was recessed to the Special Meeting at 10:29 p.m.

Mayor Ganz reconvened the meeting at 10:34 p.m.

MISCELLANEOUS PUBLIC COMMENTS:

Harvey Rubinstein, 28 Rutgers Terrace, asked if the residents have to come to the Borough Hall to sign up for a tree. Manager/Municipal Clerk Kwasniewski told him that the residents would have to ask for the tree. The emphasis with this Forestry Management Plan will be to step up awareness.

Mr. Rubinstein felt in regard to the ordinance about the leaves, in the future the Council should think about enforcement and compliance. Attorney Lustgarten advised that the ordinance was mandated by the DEP. They want the least amount of time for the leaves to be on the street.

Mr. Rubinstein questioned if the groups that rent the Senior Center have insurance. Attorney Lustgarten stated if it is a one time request it would not be required. Mayor Ganz advised that they will find out the answer. Manager/Municipal Clerk Kwasniewski stated they do not have a lot of people asking to use it.

Mr. Rubinstein asked how many disabled Veteran's there are in town. Manager/Municipal Clerk Kwasniewski stated she will get that information for him.

Rita Golding, 14 Rutgers Terrace, felt it was a travesty to put an antenna on a cell tower. No one knows what the long term effects may be. She thought they should look for another location.

Ms. Golding stated that the Borough should have paid parking by the old Grand Union.

She also asked that if Daly Field was kept green the Council should go in a unified direction. She feels there is a political ploy to get housing there.

Closed Session:

Upon motion by Councilmember McCarthy and seconded by Deputy Mayor Etler the following closed session resolution was unanimously adopted at 10:48 p.m.

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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 Contract Negotiations, Personnel and Attorney Client Privilege; and

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

WHEREAS, public disclosure of the results of these discussions shall be made relating to Contract Negotiation upon resolution by formal resolution with 180 days, Personnel to be announced by the Borough Manager and Attorney Client Privilege at the conclusion or within 90 days but legal strategy never to be divulged.

WHEREAS, public disclosure of the results of these discussions shall be made upon the conclusion of these matters by the Governing Body of the Borough of Fair Lawn.

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 Weinstein and a second by Councilmember McCarthy, the meeting was adjourned at 11:49 p.m.

Respectfully submitted,

Marilyn B. Bojanowski, RMC
Assistant Municipal Clerk

The undersigned have read and approve the foregoing minutes.

Mayor David L. Ganz

Absent

Councilmember Allan Caan

Deputy Mayor Martin Etlar

Councilmember Owen McCarthy

Deputy Mayor Steven Weinstein