

WORK SESSION OF DECEMBER 6, 2005

Mayor Ganz called the meeting to order at 7:33 p.m.

PRESENT: Mayor Ganz, Deputy Mayors Etlar and Weinstein, Councilmembers Caan and McCarthy.

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

REVIEW OF AGENDA - 12/13/05:

Mayor Ganz asked that Item J on the Consent Agenda be removed to non-consent.

MAPLE AVENUE DEED RESTRICTIONS:

Attorney Lustgarten discussed the past deed restrictions and told the Council the issue was whether they want to charge this applicant for a deed restriction or do they want to wait until the new Council comes in January. Deputy Mayor Etlar questioned why the car wash was being charged \$3,000. Attorney Lustgarten stated that no one thought about it when doing the other deed restrictions. He advised that historically no Council has said they need a vacation fee. Attorney Lustgarten suggested asking Tax Assessor Henderson what the property is worth. Deputy Mayor Etlar felt it was unfair for one to pay and not the others. Attorney Lustgarten explained the various lots that have gotten the deed restrictions and what buffers applied to each one. Councilmember Caan asked other than Maple Avenue has this been done. Mayor Ganz stated in residential areas where they have put fences up.

Councilmember-elect Trawinski felt they should ask Mr. Liebman, who was present, if his client would pay. He did agree that they should get input from the Assessor.

Mr. Liebman felt it made sense to get information from the Assessor. He spoke about the value of the buffer. If the Council establishes a license fee, it would be a burden to the owner and it would be a diminution of the value since the property would be able to be fully taxed. Attorney Lustgarten asked if they had applied to the Planning Board. Mr. Liebman said they had not filed yet. Attorney Lustgarten suggested that the Council have the Manager ask the Assessor for the value. Mayor Ganz asked that the Assessor give the tax value now, the tax value with a deed restriction and the tax value on the developed property without the deed restriction. Attorney Lustgarten felt the project may not be able to go forward without the restriction.

There was a unanimous consensus to authorize the Manager to have the Assessor give the tax value on the property.

SUNRISE ROTARY CLUB ANNUAL RUN:

Manager/Municipal Clerk Kwasniewski stated she had received a letter from Father Kevin

Coffey apologizing for the lateness of his request seeking the Mayor and Council's consent and support for their annual 1st Day 5K Race and Family Walk. This event will be held on Sunday, January 1, 2006. Manager/Municipal Clerk Kwasniewski said this has been a great project in the past. She had spoken to OEM about the CERT team helping. Mayor Ganz stated the race has grown in size each year.

There was a unanimous consensus to approve and support the 1st Day 5K Race and Family Walk.

ENDORSEMENT OF CDBG APPLICATIONS:

Manager/Municipal Clerk Kwasniewski stated that she had received a request from Bris Avrohom asking the Council to endorse their grant applications. One was for their After School Program and the other was for the Employment Skills Program. Mayor Ganz stated that there is no cost to the Borough.

There was a unanimous consensus to endorse Bris Avrohom's CDBG applications.

RECYCLING ENFORCEMENT:

Manager/Municipal Clerk Kwasniewski stated that New Jersey's recycling rates have fallen 12% from 1995 through 2002. The recycling fund expired in 1996. Senator Bob Smith and Assemblyman John McKeon have sponsored the "Recycling Enhancement Act" which will restore the Recycling Fund. S-2615 and A-4075 will impose a \$3 per ton tax on garbage disposed of at a registered solid waste facility in New Jersey or is transported to an exempt solid waste facility in New Jersey. The tax will generate \$34 million each year that will be used to support municipal, county and state recycling programs. Manager/Municipal Clerk Kwasniewski stated that the Borough's rates have not fallen but have remained steady from 1998 through 2004. However, the infusion of funding from this act will allow the Borough to increase the recycling efforts and education. She recommended that they pass a resolution supporting this bill.

Deputy Mayor Etlar asked how much it would cost the Borough. Mayor Ganz asked that the Manager get more information and circulate it to the Council. Councilmember Caan wanted to know if it addressed how much the Borough would get. Mayor Ganz felt that while getting this information they should ask the County Counsel about the Overpeck landfill. Councilmember-elect Trawinski felt that the BCUIA should also be advised of this. Deputy Mayor Weinstein asked about the time frame. Councilmember Caan suggested the matter be discussed again in January,

JANUARY MEETING SCHEDULE:

Manager/Municipal Clerk Kwasniewski stated there are five Tuesdays in January and wanted to know if the Council would like to use all five of them since the Reorganization will take up one Tuesday.

There was a unanimous consensus to use all five Tuesdays in January for meetings.

Manager/Municipal Clerk Kwasniewski stated that there is a regular meeting scheduled for December 27, 2005 and wondered if they would like to cancel it. Mayor Ganz suggested canceling it unless something important comes up.

COAH UPDATE:

Manager/Municipal Clerk Kwasniewski stated that the professional services resolution that was adopted with Schoor DePalma for the Housing Plan Element required by COAH was not to exceed \$10,000. She received a request from Schoor DePalma requesting to increase the contract by \$3,000. They have done work already that exceeds the \$10,000 by \$1,031. They estimate that the work left to be done will cost \$1,900. She reminded the Council that they need to get this done by December 20, 2005.

Councilmember-elect Trawinski asked how the Borough got there. He watched the September 27, 2005 meeting where Mr. Mondello stated it would cost between \$7,500 and \$10,000. He assumed that Mr. Mondello had a figure on which to base this cost. Manager/Municipal Clerk Kwasniewski stated that according to Schoor DePalma, the \$10,000 estimate was too low. Deputy Mayor Weinstein felt he would be willing to split the difference. Councilmember-elect Trawinski stated he would support giving the Manager discretion to negotiate with Schoor DePalma. If she is not successful, he would be comfortable with authorizing the full payment. Deputy Mayor Weinstein offered for consensus not accepting anything more than half.

There was a consensus authorizing the Manager to negotiate an amount up to half of the difference, with Deputy Mayor Etlar, Councilmember McCarthy, and Mayor Ganz dissenting.

Councilmember-elect Baratta felt like the Council was being held over a barrel with the deadline looming ahead of us.

There was a consensus to authorize the Manager to negotiate the full amount or lower.

Manager/Municipal Clerk Kwasniewski stated the other issue was that the Borough is required to adopt a resolution for the housing plan. The Planning Board will have to accept this by resolution and once they do, the Council will have to adopt a similar resolution.

FREE E-MAIL:

Mayor Ganz stated there is a free email service that the Borough could partake in. He suggested a committee made up of Deputy Mayor Weinstein and Councilmember McCarthy. He suggested they report back next year.

MISCELLANEOUS PUBLIC COMMENTS:

Donal Meyers, 8-22 Mayfair Terrace, questioned the Maple Avenue deed restrictions. The only one that has to pay for the restrictions is the car wash. In 2003 this Council had reached a consensus to treat the other deed restrictions the same way as the car wash. A couple of months later a consent judgement with no consideration was given. He said that Attorney Lustgarten had gone against it even though it had been the Council's wish to get deed restrictions.

Mr. Meyers questioned an award of bid to Rapid Pump and Meter Service. He said they were not the lowest bidder and wondered if they used prevailing wages. He asked if any of them were aware of this problem. He felt it should have been rebid. Mr. Meyers felt the Consent Agenda item should be removed.

Arlene Rubinstein, 28 Rutgers Terrace spoke about the contract with Schoor DePalma and stated that it should be made clear to them that it was a binding contract.

Harvey Rubinstein, 28 Rutgers Terrace asked if there was a record of any discussions regarding the buffer on Maple Avenue. Attorney Lustgarten stated years back they were concerned about run off. As the years went by they saw there was no run off. Mr. Rubinstein felt it would make sense to have the Engineering Department survey it for the value. Attorney Lustgarten said that he was advised that the buffer was not needed any longer.

Mr. Rubinstein asked what the cost to the Borough was for the Raffles and Bingos. Mayor Ganz explained that the organizations apply to the Borough and the Council has to approve it. There is no cost to the Borough.

Michael Rooney, 14 Burnham Place, asked about the status of the Landmark litigation. Attorney Lustgarten advised that they are looking for documentation through interrogatories. Depositions will have to be taken by January 6, 2006. Mr. Rooney asked if the Borough could serve them with the same number of questions. He wanted to know if Attorney Lustgarten had seen the contact. Attorney Lustgarten advised he had not and that was one of his questions for them to reply to.

Maureen Moriarity, 14 Burnham Place, thanked every Councilmember that has stood up to the developer for not rezoning Daly Field. She asked how long this litigation will take. Attorney Lustgarten felt that maybe by October of 2006. Ms. Moriarity stated they never came before the Borough with an application. Attorney Lustgarten noted Landmark failed to exhaust all its legal remedies. Ms. Moriarity questioned the number of COAH units that the Borough has to set aside. Attorney Lustgarten thought it was 87 but there is a number in a report. Mayor Ganz said they would get the number to her.

CLOSED SESSION:

Upon motion by Councilmember McCarthy and seconded by Deputy Mayor Weinstein, the following closed session resolution was unanimously adopted at 7:28 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, 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 Personnel upon formal appointment by the Mayor and Council of the Borough of Fair Lawn within 90 to 120 days;

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 Councilmember Caan and a second by Deputy Mayor Weinstein, the meeting was adjourned at 9:38 p.m.

pectfully submitted,

Marilyn B. Bojanowski, RMC
Assistant Municipal Clerk

The undersigned have read and approve the foregoing minutes.

Mayor David L. Ganz

Councilmember Allan Caan

Deputy Mayor Martin Etlar

Councilmember Owen McCarthy

Deputy Mayor Steven Weinstein