

WORK SESSION OF MARCH 15, 2005

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

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

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

Review of Tentative Agenda - 3/22/05:

Manager/Municipal Clerk Kwasniewski stated there were several items she would like to add. They have a proclamation for Greek Independence Day, approval of minutes for February 1, 2005, resolutions for Click it or Ticket Grant for Law Enforcement, overpayment of taxes and a request for a raffle. She stated they also need to ratify and confirm the appointments for the Prosecutor and an Alternate Prosecutor. She explained after speaking with Borough Attorney Lustgarten there was change in statute. This was always a Manager's appointment but it appears the governing body that appoints the Borough Attorney should appoint the Prosecutor and the Alternate Prosecutor. The Mayor and Council appoint the Borough Attorney but since she appointed the Prosecutor and Alternate at the reorganization meeting in January they need to ratify that appointment.

Traffic Improvements - Chandler Drive and Fair Lawn Avenue:

Borough Attorney Lustgarten stated they received proposed language from Fair Lawn Commons on the easement. He sent a memo to everyone and asked Engineer Garrison to respond also. He asked for authorization to amend the clauses relating to the general statement. He added Engineer Garrison had a specific objection to the Borough maintaining the grassy areas after the project is finished. Manager/Municipal Clerk Kwasniewski stated they do not maintain any of the other easements and for them to start maintaining what is essentially private property is just one more burden they do not need. Borough Attorney Lustgarten stated if the Mayor and Council concurs he will work out the language. Mayor Ganz asked if they could call instead of sending the letter in order to speed the process up a bit. Borough Attorney Lustgarten stated he would do both because he wanted to have it in writing.

There was a unanimous consensus to act on Borough Attorney Lustgarten's suggestion.

Borough Attorney Lustgarten stated he had a conversation with one the representatives of the Cosmos Club and they had received a letter from the engineering department on October 14, 2004. The letter indicated the kind of things the Borough would be doing. Part of what was represented to them was the repaving of their driveway area. He stated because it is a County/Municipal project they wanted make sure that the County agreed. He spoke to Engineer Garrison about it and asked him if he had anything in his file and all he sent back was the same October 14th memo.

Mayor Ganz stated he spoke with the County Engineer who assured him the County will do the paving. Borough Attorney Lustgarten asked for something in writing. He added they have not heard back from the second Doctor yet. Mayor Ganz asked if that was the Fox property. Borough Attorney Lustgarten stated it was the other one. He has not got final easement back from either of them yet. Mayor Ganz stated he would follow up tomorrow with Mrs. Fox. He suggested as each of these things are resolved that he file the necessary deed so they can keep moving along with this. Deputy Mayor Etlar asked when will they start the project. Mayor Ganz stated they are doing the best they can but cannot proceed until the last of the property owners have signed off. Councilmember McCarthy suggested sending a fax to their attorney and have everything in writing as to exactly what language they would prefer.

Motion to Extend Substantive Certification (COAH):

Manager/Municipal Clerk Kwasniewski sent paperwork to them that they had received from COAH. They are looking for more information. When they adopted several ordinances, in 1997 they had sunset clauses of 2002 and they were not extended. She sent the ordinances to Cheryl from Schoor De Palma who felt they needed to be extended without the sunset clause. The sunset clause was in there to coincide with the period of the substitute certification. She added it is a relatively easy process to reintroduce and adopt the ordinances. They have to give notice to everyone in the district because it is technically changing the overlay zone. They probably do not have to extend the ordinance on the McBride Property providing they have met the quota that was contained in their Fair Housing Element. There are affordable rental units in that project that were designed to meet that quota. Cheryl decided if they were doing the others they should just put that one in as well and have it there. It does them no harm since they already met the obligation that was contained in that ordinance.

Borough Attorney Lustgarten stated he would be meeting with Manager/Municipal Clerk Kwasniewski and will have the ordinance prepared for next Tuesday's meeting. It was his recommendation that they take the planner's advice. Borough Attorney Lustgarten wanted to check whether or not they have to notify everyone in the district. He felt there may be one exception because it correlates the Master Plan.

Manager/Municipal Clerk Kwasniewski stated it would also have to go to the Planning Board for their statutory review before they could adopt it.

Consensus was taken to re-adopt the ordinances.

Endorsement of Bris Avrohom CDBG Application:

Manager/Municipal Clerk Kwasniewski stated Bris Avrohom is applying for \$5,000.00 of unprogrammed funds from Bergen County Development. The Council has endorsed their application before. This one is to provide a safe and supervised environment for children of immigrants on Sundays. They have indicated that this will be in connection with the

Youth Program that they already run. They are looking for the endorsing resolution because they cannot apply for any funds from CDBG without the municipalities endorsement.

There was a unanimous consensus to accept Manager/Municipal Clerk Kwasniewski's recommendation to prepare a resolution of endorsement.

Mayor Ganz asked Manager/Municipal Clerk Kwasniewski to send a copy to the Freeholders office and he will see if he could be of any assistance. Manager/Municipal Clerk Kwasniewski stated she has listed on the tentative agenda two of their own projects, the playground improvements for the handicapped swings and the tables and chair for the Senior Center. Mayor Ganz told her to send all three to him.

Stormwater Management Ordinances:

Manager/Municipal Clerk Kwasniewski stated the State has mandated certain programs that the municipality must undertake and a number of ordinances that they must adopt. She sent them all a package on this. She stated the first one prohibits connections that are not legal and gives them the right to go after those who are violating the ordinance. The second one is for yard waste collection which they already have but it makes it clear that people cannot put it out earlier than seven days from the collection.

The third one required is a wildlife feeding ordinance which prohibits the feeding of wildlife on public property. Deputy Mayor Etler asked if that includes feeding birds. Manager/Municipal Clerk Kwasniewski stated they do not want people feeding any wildlife since it has been determined by the State that all of this stuff gets into the stormwater and is a contaminant. Deputy Mayor Etler asked how they are going to enforce it. Manager/Municipal Clerk Kwasniewski replied they will enforce it the same way they do now.

Borough Attorney Lustgarten reiterated they are talking about public property not someone's backyard, such as public parks or property owned or operated by the Borough. He added this is mandated.

Manager/Municipal Clerk Kwasniewski stated the Council received a copy of a municipal stormwater management plan which is modeled after what the State has mandated. It must be adopted by ordinance. Since that is in the Zoning Ordinance it has to go to the Planning Board before it can be adopted. It does not have any notice requirement because it does not change the boundaries or classification of a district. There is also a question that it has to be included in the Master Plan. She suggested they introduce it and send it to the Planning Board for their review. She stated unlike other towns Fair Lawn is already doing a great deal on stormwater management such as street sweeping and bike grates.

Deputy Mayor Etler thought that the plan was good. It also includes putting grates over the existing ones and preventing any refuse from going down.

Councilmember Caan asked when going through the model ordinances did they see anything that was really subjective that they may be able to change or is it just straight forward that it has to be done the way they say it. Borough Attorney Lustgarten stated he reviewed the documents and felt they should leave it as it is.

Councilmember McCarthy asked for an update on the Berkshire and Arcadia situation. He spoke to a few residents in the area who are concerned about what they perceive as lack of progress. Mayor Ganz asked Manager/Municipal Clerk Kwasniewski to get them a report in a month.

There was a unanimous consensus to introduce these ordinances.

Manager/Municipal Clerk Kwasniewski stated they are required to do public education. They already do an annual report. They need to do a public education event which they are working on. She added there is some grant money for which they will apply. She explained there is only \$6,000,000.00 for the whole State of New Jersey but whatever they get will go towards sending out a news bulletin.

Fair Lawn High School Marathon:

Manager/Municipal Clerk Kwasniewski stated the graduating class holds a marathon every year. They start with a parade on June 10th and on June 11th they continue with their baseball games, etc. The following day they usually spend cleaning up the area. They are given a list of conditions. She added they have never had a major problem with Marathon. It just requires more police presence. She recommended they give them permission under the same conditions as in past years.

There was a unanimous consensus to give permission for the Marathon under the usual conditions.

Substitute Prosecutors:

Manager/Municipal Clerk Kwasniewski recommended discussing this in Closed Session.

Photos - Columbia Bank's Annual Report:

Manager/Municipal Clerk Kwasniewski stated photos could be done next Tuesday at 7:00 p.m. It will take no more than 10 minutes. There were no objections to that day and time.

Special Meeting:

Upon motion by Deputy Mayor Weinstein and a second by Councilmember Caan the meeting was recessed to the Special Meeting at 7:55 p.m.

Upon motion by Deputy Mayor Etlar and a second by Deputy Mayor Weinstein the work session was reconvened at 7:56 p.m.

Miscellaneous Public Comments:

Officer James Corcoran, 2-10 35th Street extended apologies from PBA President David Boone for not being able to attend tonight. He stated he was there on behalf of PBA Local 67 to ask the Council to settle the PBA contract. They were not looking for anything out of the ordinary just something that is fair and equitable to everyone, similar to what the Department Heads were given. He stated according to a well respected Fair Lawn resident's website, Fair Lawn is the 18th largest municipality in the State of New Jersey and the 4th largest in Bergen County. He explained they are one of the lowest paid departments in Bergen County. According to New Jersey State PBA website in 2004, 75% of the police officers in Bergen County were paid a higher salary than their Fair Lawn counterparts and some even work less hours. The ratio across Bergen County is 2.78 officers per 1,000 residents in their town. Fair Lawn's ratio is 1.8 officers, which is almost 1 police officer per 1,000 residents and there are 32,000 residents in this town. He went on to say their officers deal with the worst of Paterson residents. Paterson is ranked 7th in reported violent crimes and 6th in murder out of 237 cities with over 10,000 residents. Their members patrol two highways that connect Washington Heights which according to the DEA is the east coast's largest clearing house for illegal drugs. Their members are dealing with the national epidemic of increased gang activity. Members of a Latin King gang lived in this Borough. Other gang members reside in Fair Lawn, frequent Fair Lawn and perpetrate crime in the town. The officers in town have been working an inordinate amount of overtime due to the fact they have had a record amount of members out of work on work related disability. These officers are fighting an upswing in violent crime which is evident in the UCR reports filed with the State of New Jersey. He presented various statistics to support his position.

Officer Corcoran stated despite all of this the officers in this town provide the following services sometimes without cost to the Borough, the DARE Program, Explorer Program, Bike Hikes & Rodeo, Citizens Police Academy, Junior Police Academy, Auxiliary Police, Honor Guard, RDF, Child Passenger Safety, Academy Instruction, Domestic Violence Training, DWI check points, Field Training of officers, Vehicle equipment installation, Bike Patrols, Apps Training, Fire Arms Training, School Shooter response training, Mobile vision maintenance, Radar Training, Blood Borne Pathogen Training, Symmunisation Training, Radio Repair and Programming and Pepper Spray Training.

Officer Corcoran explained since January 1, 2005 their members have been working without a contract but they continue to do the job to the best of their abilities in a professional manner. He added this is evident in their 50% increase in arrests, the seven burglars that have been locked up since January and the fact that their members are working a record number of overtime hours. These officers have been working above and beyond and doing more with less for some time now for the residents of the Borough of Fair Lawn. He stated he is also a resident of this fine Borough and they will not allow this to become another wasteland of drug dealing gangsters that rob and pillage its residents. They are the front line against domestic terrorism and the scourges of our society. Much like the soldiers fighting in Iraq they strap on a weapon everyday and a bullet proof vest to protect the rights and privilege of the people that are not able to protect themselves.

Officer Corcoran concluded by asking the Mayor and Council to settle the contract between PBA Local 67 and the Borough. He asked that they consider the impact on the residents and the members of the Local if they are forced to go to arbitration. Their Local would like nothing more than to settle this contract in a fair and equitable manner to everyone. He asked them to consider the facts they heard tonight and thanked the Council on behalf of the members of PBA Local 67.

Closed Session:

Upon motion by Councilmember McCarthy and seconded by Deputy Mayor Weinstein, the following closed session resolution was unanimously adopted at 8:04 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 appointment by the Borough Manager and or the Mayor and Council within 30 to 45 days; and

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.

Work Session continued:

Mayor Ganz reconvened the Work Session at 8:45 p.m.

Deputy Mayor Etler stated he was at the Planning Board meeting where Elaine Winshell made a statement on behalf of the League of Women Voters on Daly Field. She made a statement that after careful consideration they felt that Daly Field should be developed.

Deputy Mayor Weinstein felt based on that comment a member of the League of Women Voters should be added the list for Burgis to speak to.

Deputy Mayor Etler thought is was interesting that they would feel differently than the Radburn people who are against development.

Deputy Mayor Weinstein stated they were talking to Burgis and Associates who as part of their whole study would recommend whether the Master Plan should be changed to conform with the zoning of that property. Now he has heard that the Planning Board is coming to the Council to say they are going to do that study. He asked if both should do that study. Mayor Ganz stated there is nothing wrong with having two viewpoints. He added Burgis is very well respected and they are paying them and the Planning Board may or may not have something different. Manager/Municipal Clerk Kwasniewski stated the Planning Board got a quote from Schoor DePalma she believed it was \$3,500.00 in response to the Radburn Association Group that is represented by Ed Trawinski who requested they revise the Master Plan.

Borough Attorney Lustgarten asked if they wanted duplicate work done. Mayor Ganz stated the Planning Board is a separate entity and is entitled to hire the experts they want to hire. Borough Attorney Lustgarten stated the Council as holders of the fiscal responsibility to the Borough may want to think about that. Manager/Municipal Clerk Kwasniewski stated the Planning Board has funds set aside. Deputy Mayor Weinstein stated right now they negotiated with Burgis for a set fee to include all of that. He would rather have him come up with conclusion and then go to the Planning Board.

Consensus was taken to not authorize an expenditure of funds for that purpose by the Planning Board but to leave it to the full budget process or on an emergent issue after the Burgis study is finished.

Mayor Ganz stated they should notify the Planning Board they are not authorized. Mayor Ganz stated he did not believe any board had any application from anybody with respect to the 13 acres that are there. Deputy Mayor Etlar stated there is nothing before them and that area is still R-1. Manager/Municipal Clerk Kwasniewski stated they did have a OPRA request from Landmark for the zoning history. Assistant Municipal Clerk Bojanowski pulled the ordinances and they are coming in to read through them. She was not sure what they were looking for. Borough Attorney Lustgarten thought they maybe looking for a procedural glitch when a ordinance was not properly adopted. Mayor Ganz believed what they are looking for is in the 1931 zoning ordinance and felt they would find the information there.

Councilmember McCarthy stated he saw in the paper that the Municipal Court is going to have televised sessions and asked if there was any exposure for showing the faces of people. Borough Attorney Lustgarten did not know about it but it was his understanding that none of this could be happening unless the administrative director of the court and County Judge authorize it. He stated he would check with the judges, because once they are in court they are fair game and have no right of privacy.

Mayor Ganz suggested Borough Attorney Lustgarten check with Judge Mizdol as to whether she agrees with it. He should check with whatever other authorities there are as to whether there are any other conditions to this and to check with JIF if there are issue they need to be aware of before they allow the Council Chambers television cameras to be turned on. Borough Attorney Lustgarten stated if this has been authorized by the

Administrative Director of the Courts then this is the judicial aspect of Municipal Government then it would be judicial immunity. Councilmember McCarthy wondered if the Borough had any liability. Borough Attorney Lustgarten stated he would check it out.

Mayor Ganz was surprised that he read about it before he even heard about it from the Manager. Manager/Municipal Clerk Kwasniewski stated she did not know anything about it.

Borough Attorney Lustgarten asked Manager/Municipal Clerk Kwasniewski to talk to Fair Lawn TV and he would talk Court and JIF. Councilmember McCarthy suggested getting it in writing. Borough Attorney Lustgarten did not want to speculate but his educated guess was that none of this is happening unless Judge Mizdol had approved it. He added if it is ambiguous he believed the Manager had the authority to tell Fair Lawn TV they cannot televised until it is straightened out.

Adjournment:

Upon motion by Deputy Mayor Etlar and a second by Councilmember McCarthy, the meeting was adjourned at 9:00 p.m.

Respectfully 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