

WORK SESSION OF MARCH 16, 2004

Mayor Ganz called the meeting to order at 7:35 p.m.

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

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

Tentative Agenda for 3/23/04

Manager/Municipal Clerk Kwasniewski stated they would like to add an award of bid on the sprinkler repair and modification.

Councilmember Caan advised they needed to discuss the checks received from new residents program, they need to prepare an ordinance to collect the funds. Manager/Municipal Clerk Kwasniewski stated legally they cannot collect funds unless it is a donation or is done by ordinance. Mayor Ganz stated a pledge to a charitable organization is no different, he advised them to wait for Borough Attorney Lustgarten to come back.

Discussion of Community Center

Manager/Municipal Clerk Kwasniewski stated Deputy Mayor Weinstein was ill so he asked that this marketing plan be distributed to everyone for him. She stated it is a list of groups that they identified that they should be targeting. Mayor Ganz mentioned John Cosgrove will come up with a cohesive marketing plan. Allan Weitzman stated they need to put together a mailing to the Community and the citizens in general. The smaller donation should be next.

Mr. Weitzman stated the drawings should be done by the end of March. He stated they have four current bidders. Mayor Ganz asked if they resolved the issue of the footage. Mr. Weitzman replied they will stay at 35 feet. Manager/Municipal Clerk Kwasniewski stated she and the Borough Attorney will meet with Ray Jacobus and Paul Green tomorrow morning to finalize that. Borough Attorney Lustgarten stated he wrote them a letter after speaking with the Manager and asked them to respond but has not heard back from them. Mayor Ganz asked if it mattered if they get three more feet. Mr. Weitzman replied they are talking about five space. Manager/Municipal Clerk Kwasniewski stated Azzolina is working on the site plan based on the 35 feet. Councilmember McCarthy asked when the next meeting would be. Manager/Municipal Clerk Kwasniewski stated she tried to arrange the meeting, but the Board cancelled. She sent a letter that the Council needed to meet with the Board and it came back without the Administrative Board they would not meet. Deputy Mayor Etlar stated they were interested in parking by Edison School. They want to swap land. Borough Attorney Lustgarten stated they want to prepare an ordinance in two weeks, so they need to get the board together to see if that is okay. He stated they still have their authority to indicated within reason the Council will consider meeting over that little strip at Edison to help parking. They have 35 feet but would like 38 feet.

Mr. Weitzman stated he has spoken to River Drive, March Associates and BCIA confirming their interest. He stated the deadline is March 23rd. His goal is to bring the bids to the next meeting. Borough Attorney Lustgarten stated that they need bylaws and the tax exemption. Manager/Municipal Clerk Kwasniewski stated they need to look at the concerns of the neighbors. They need to get back to them with answers to their concerns by meeting or by sending a letter. Mayor Ganz stated they should send a letter addressing any issues they have and tell them the Mayor and Council would be happy to meet with them but it would be better if they met with the contractor to address issues like this. Borough Attorney Lustgarten stated the 501(c)(3) is established but they need permanent members of the Board.

DOT Meeting

Mayor Ganz stated there was a DOT meeting this morning. The DOT did not favor left hand turn on to Midland Avenue going westbound on Broadway (Route 4). He stated the Council members asked them to look at it again from a different perspective and look at other alternatives including a flyover to Route 4 over the Garden State Parkway through a Paramus exit. He stated they will look at this and come back to them to see if they feel it has merit as well as other engineering alternatives to try to take some of the traffic off the ABC streets. Deputy Mayor Etlar stated that their plan to alleviate traffic on the ABC streets was to put trail blazing signs up along Route 4 and route the traffic down to Route 20 to Route 80 and the Parkway. Councilmember Caan added this is moving as quickly as other projects they are working on. This is not that fast because the DOT keeps trying to give an answer the Council does not want to hear and the Council gives them more options which they have to go back and research. Mayor Ganz stated the Council wants a future meeting with someone there who has the ability to make a decision.

Naugle House

Manager/Municipal Clerk Kwasniewski stated they received a memo from the Planning Board secretary that stated the Board recommended that townhouses be permitted on Lots 4 and 10 of Block 1702. She stated this was not a unanimous motion but it did pass. Mayor Ganz stated rezoning would mean saving the Naugle House and having it deeded over to the Borough. He suggested that Borough Attorney Lustgarten write to the developer and advise them that the Council does have a willingness to entertain this. Mayor Ganz added they will not entertain it until they have a firm and fixed contract without contingencies and DEP approval. The Council will consider rezoning without regard to changing density or offering any variances which is up to the various boards. He recommended to Borough Attorney Lustgarten it would be a good idea to let them know if they do not have counsel and an architect and planner they should do so in the near future.

Miscellaneous Public Comments

Pat Idone of 2-14 Kenneth Avenue stated she was amazed that the Planning Board recommended to the Council rezoning since no traffic study or DEP approval has been granted. She stated nothing was presented to the Planning Board considering the density in terms of moving the home. Mayor Ganz stated the density of the townhouses will be in accordance with the Borough=s ordinance which calls for either 10 or 11 on 2.2 acres. Ms. Idone stated in terms of moving the home. Mayor Ganz intervened and explained they will not be moving the home. Borough Attorney Lustgarten stated the only thing the Planning Board has done is recommended to the Council that it approve a new townhouse zone in that area. Whatever specific site plan whether leaving the Naugle House where it is or moving it somewhere else is not before the Council yet so that discussion is premature.

Ms. Idone was concerned about the environmental impact of 23 townhouses on the County Park. Mayor Ganz stated they have not dealt with the number of townhouses, 23 or 24 would be in excess of what would be permitted so there would be a variance required for anything over 10 or 11. Ms. Idone stated a lot of people are interested in this issue of townhouses being built on this property and no one knew this meeting was happening. She just happened to see it on the Agenda on Saturday, but people don=t really know these things are happening. Mayor Ganz asked if she was interested in saving the Naugle House or having it destroyed. Ms. Idone stated she was interested in saving it but also in saving the environment. Mayor Ganz stated the choice is probably that someone is going to buy it and tear it down because there is an outstanding contract to do that or someone is going to buy it, save it and develop the remaining portion of the area. Ms. Idone stated she would like to have proof that is really true, it sounds like there is threat in that. Mayor Ganz stated there is no threat at all. The developer is not buying it to preserve the Naugle House, they are buying it to develop. He stated the person under contract has met with him and several other members of the Council on several different occasions. The contractor would like to preserve the Naugle House because he believes in the history of it. There is an under contract that is behind this with the owner that if this falls through that contract is there and that one would provide for the land to be sold and the person who is going to do that is going to tear the house down and develop it. Ms. Idone stated that is predicated on their being able to develop by permission by Fair Lawn. Mayor Ganz stated that is incorrect. It is consistent with the Town=s existing law. Borough Attorney Lustgarten stated if a contractor comes in and buys the property and builds within all the towns regulations they don=t even have to come before any board. Councilmember Caan stated if they are not asking for a variance and meet all the qualifications with the site plan they are free to do what they want and the Council cannot say no.

Ms. Idone asked if they could build 10 or 11 townhouses without any variances. Borough Attorney Lustgarten stated they have a townhouse ordinance that indicated the bulk regulations something like 11 or 12 for every 2.2 acres. If that particular area Block 1702, lots 4 and 10 is rezoned to a townhouse zone then all the bulk requirements of any other townhouse zone are applicable to this site. He added a builder can do one of three things, build to exactly the town=s maximum limit and get no variances, get approval with or without the Naugle House, leave it up or take it down and they would be well within their rights as private property owners to develop. He stated they could come in and ask for greater density in which case they would need a bulk variance. The Planning Board would have to determine what is reasonable and with or without Naugle House or third option is to buy the property and leave it the way it is and do nothing with the Naugle House. He stated he thought this conversation started with how does the Council help to save the Naugle House. There is a potential builder out there who has orally represented to some of the members of the Council that if he gets approval for any stream encroachment permits he may need he would be willing to build a certain amount of townhouse which would be economically feasible for him and at the same time save the Naugle House. He stated he did not have the details the contractors has only submitted a conceptual plan which has something like 21 or 22 houses. It is not a done deal, no one has passed on that. He stated if the Borough rezones this then the gentlemen would make his application to the Planning Board with or without variances and see what they are entitled to do.

Ms. Idone stated they are concerned about the quality of the water in Saddle River based on this kind of development. They are happy the Naugle House can be saved but they do not want it moved. They are concerned about the environment as well as the home. Borough Attorney Lustgarten stated as part of the site plan approval application there would be have to be a environmental impact statement on a development of this size. He added that this is not only subject to Fair Lawn but the County Planning Board because it is on a County road.

COAH Request by Ron Mondello:

Mayor Ganz suggested letting Mr. Mondello monitor but take no action without Council approval. Borough Attorney Lustgarten stated the monitoring has a financial impact. Mr. Mondello is talking about reading the pleadings and responding to same. He suggested right now they do not need that kind of monitoring. Mayor Ganz asked Borough Attorney Lustgarten if he would be willing to do the monitoring for them, and if he felt there was any affirmative action that need to be done he would notify Mr. Mondello and the Council. Borough Attorney Lustgarten stated he would be willing to do that, and asked for authorization to send Mr. Mondello a letter to that affect.

There was an unanimous consensus to authorize Borough Attorney Lustgarten to send the letter.

Refresher Course in Zoning:

Manager/Municipal Clerk Kwasniewski stated Deputy Mayor Weinstein thought Mr. Mondello and Mr. Matule could put together some kind of course to give to the Planning Board. Mayor Ganz has an approved program that he wrote. He would be happy to lend the expertise that he has which is both as a lawyer and a member of the Zoning Board for more than ten years. He suggested that Manager/Municipal Clerk Kwasniewski contact the other individuals that were mentioned by Deputy Mayor Weinstein and see if they have an interest and see if they could put together a convenient day for about three hours anyone who want to attend can. Borough Attorney Lustgarten volunteered to moderate. Mayor Ganz stated that would be fine.

Possible dates for the Veteran=s Memorial Dedication:

Deputy Mayor Etlar suggested May 9th, May 16th and May 23rd. Manager/Municipal Clerk Kwasniewski stated May 9th was Mother=s Day. Deputy Mayor Etlar stated he would talk to Superintendent Frey, Jim Storzak and Harvey Maher. Mayor Ganz suggested May 16th right now but asked the Manager to send letters out to all the Veteran Organization and make certain that does not interfere with any other event. Manager/Municipal Clerk Kwasniewski stated she understood that they were going to give Superintendent Frey dates and he was meeting with Deputy Mayor Etlar and the Veteran=s Council to plan it. Deputy Mayor Etlar stated they need to set a date for the 16th and then she should send letters out and then they will proceed with this. Mayor Ganz suggested 11:00 a.m. on the May 16th. Mayor Ganz asked about Mr. Storzak=s letter referring to the additions to the honor roll that may change from time to time, how is that being handled. Borough Attorney Lustgarten stated it would be up to the Veteran=s groups. Mayor Ganz added Borough Attorney Lustgarten and Manager/Municipal Clerk Kwasniewski should look at it and come back with their recommendations to accept with modifications or they will write their own.

Property Maintenance Committee:

Manager/Municipal Clerk Kwasniewski stated she sent back a memo answering two questions contained in Borough Attorney Lustgarten=s memo. The Property Maintenance Committee was asking about quite a number of things they want to do that are Council policies. Borough Attorney Lustgarten thanked Manager/Municipal Clerk Kwasniewski for her response and will send them his memo. The Council should re-list this at some time, maybe a few weeks after they get the memo and then George Bate may want to come in to talk about some issues. He told Mr. Bates on the issue of paper signs they should start a dialog with the Chamber of Commerce since he felt the Council would make any decision on signage they would want to hear from both the Property Maintenance Committee and the business owners.

Fair Lawn Avenue Barriers:

Manager/Municipal Clerk Kwasniewski stated there is no report, Deputy Mayor Weinstein asked that it be deferred so he could bring this to the Business Leadership Committee. The Business Leadership Committee met last Thursday but their agenda was so long and they ran an hour later than they were supposed to and they never got to that.

Movies Under the Stars:

Manager/Municipal Clerk Kwasniewski stated she gave them some information and received a list from them, but it was very long, she recommended if they were going to do this they should do PG or PG13 rated movies. She stated they have rated R movies on

their list and did not believe that is was good idea for Fair Lawn. People go to these movies as a night out with their families. They bring blankets and watch the movies. Manager/Municipal Clerk Kwasniewski stated each movie costs \$2,365.00 and they would require overtime but they can basically do it with part time staff so it would not be that expensive. She stated they could use the CERT members. Deputy Mayor Etlar stated he did not believe that this was a prudent use of taxpayer=s money and he is adverse to spending \$3,000.00 for outside movies. Councilmember McCarthy agreed with Deputy Mayor Etlar. He would be inclined to having another summertime event similar to the Luau that was held last year and was very successful. They should plan something at the pool and aim for the younger families. Manager/Municipal Clerk Kwasniewski

stated she would have the Recreation Department look into that.

April Meeting Dates:

Manager/Municipal Clerk Kwasniewski stated April is a problem month for dates because of Passover and School Board Elections. She stated the dates is going to have to be April 7th on Wednesday. Mayor Ganz suggested they just cancel the meeting for that week. Manager/Municipal Clerk Kwasniewski stated they could have a Work Session and Regular Meeting on April 13th. Manager/Municipal Clerk Kwasniewski stated they could have the meeting on April 19th at 7:30 p.m. and the 27th stays the same. She stated if they are changing the Budget dates they need to make an announcement next week. Borough Attorney Lustgarten stated they need to take formal action because the resolution initially had a different date so whatever the consensus for the hearing date, ratify it by resolution. Mayor Ganz asked what that date would be. Manager/Municipal Clerk Kwasniewski stated May 11th.

Cablevision Renewal:

Borough Attorney Lustgarten stated he spoke with Officer O=Conner of the Emerson Police Department who wasn=t even sure the Emerson Council was meeting but he would contact Mr. Shaw.

Proposed Ordinances - Hardship Permits - Plaza Road North

Borough Attorney Lustgarten recommended they keep the ordinances the way they are. He sent a memo March 3rd stating they are willing to keep the monthly permits, no change. Deputy Mayor Etler believed the Traffic Safety Officer is issuing these permits on a monthly basis. Two of these houses where the permits are being issued he was pretty sure they had adequate space to park. He stated he does not believe they should issue them on a yearly basis right now. He does not want the idea to go out that they have perfect right to be out there. Councilmember Caan asked what the harm would be in doing it yearly. Borough Attorney Lustgarten answered it would set a precedent to others who own privates homes, they can control this by leaving it that way. Manager/Municipal Clerk Kwasniewski stated they could continue to do this on a monthly basis it would not be a problem.

There was a unanimous consensus not to change the ordinance.

Field Lighting Status:

Manager/Municipal Clerk Kwasniewski stated PSE&G delivered the poles to bring in the utilities to supply the power. They are not the actual light poles they are what they have to use to put the power in. The actual poles are in the process of being manufactured.

Manager/Municipal Clerk Kwasniewski replied they expect them the first week in April. They have been working closely with PSE&G. Mayor Ganz asked Manager/Municipal

Clerk Kwasniewski to report back to them at the next meeting on the status.

Policy and Procedures/Employee Handbook:

Manager/Municipal Clerk Kwasniewski stated she distributed a memo and proposed personnel policy and procedure manual which is mandatory by the JIF in order to keep their premium down. Mayor Ganz asked if it was that manual. Borough Attorney Lustgarten stated they are making very strong recommendations that they utilize JIF=s proposed language if it does not conflict with what they do here. Mayor Ganz asked Borough Attorney Lustgarten if he had read it and was satisfied with it. Borough Attorney Lustgarten replied he had read it and he was satisfied. He stated that he and Manager/Municipal Clerk Kwasniewski cross correlated this with every collective bargaining agreement and every ordinance that they have relating to personnel and payroll policies. They took all the boilerplate conformed everything they felt needed to be conformed, deleted things that were optional that they don=t do and filled in the blanks accordingly. He added the JIF wants to have this in place because if they have any employee lawsuits or third party lawsuits against the Borough they want to show under the recent Supreme Court Law that policies and procedures are in place and actually enforced. If the employer shows reckless indifference to sexual harassment complaint, brutality complaints and the parties internal grievance procedures then the Borough becomes more vulnerable for liability, these procedures have to be updated at least once a year. Each employee receives a copy of this and an acknowledgment that they got it and becomes part of their personnel file. Mayor Ganz asked what the time frame that is required for the approval of the Council of this. Manager/Municipal Clerk Kwasniewski stated it need to be done by April 1st, however there is a series of things they had to do by April 1st . Mayor Ganz asked if there was a reason why this was coming to them on March 11th. Borough Attorney Lustgarten stated the actual cut off date was March 1st, and JIF realized

everyone couldn't get it done. Mayor Ganz stated on March 12th when he received it until today he had not read it yet and was not prepared to say yes or no tonight. Manager/Municipal Clerk Kwasniewski stated they need a resolution to adopt it anyway.

Mayor Ganz suggested to the Council that between now and Monday they review this and if they have any proposed changes to it or issues they don't understand convey them by email to the Manager. He stated they can adopt by resolution on Tuesday as it is with the understanding they have the right to amend it. Borough Attorney Lustgarten stated he was pleased when he went through this even though they don't have everything here in one place, Fair Lawn was probably in conformity in one way or the other with a good 90% of this. Mayor Ganz stated one thing he was concerned about was to make certain the Attorney General Guidelines that are in effect for the Police Department are not superceded in any way. In fact it is very explicit that it is not the case.

Miscellaneous Public Comment:

Pat Idone asked how far in advance it would be before the agenda is set. Mayor Ganz replied 72 hours. Ms. Idone asked if things are added last minute. Mayor Ganz replied yes. Ms. Idone asked if she could be notified if anything comes up with the Naugle House. Deputy Mayor Etlar stated he would notify her by email.

Capital Items for the Fire Department:

Councilmember McCarthy attended the Fire Board Meeting where the Fire Chief indicated that their number one item in the fire departments proposal was \$7,000.00 for a trailer. He stated the supplies and equipment that will be used to be stored on that trailer are being paid for by the County Emergency Management. He stated it includes a contamination shower, various other showers, sprays anything that can be used in a mass disaster. He added in light of some of the events that happened in Spain recently he advised the Chief he would bring it back to the Council's attention. Mayor Ganz asked Councilmember McCarthy if he had any recommendations. Councilmember McCarthy recommended that they vote in favor of this. Deputy Mayor Etlar added the foam truck would be brought in substantially less than the \$34,000.00. He wanted to negotiate and talk to the Manager about using some of the money that would not be spent for the foam truck to use for the trailer. Mayor Ganz stated if he brings the foam truck in \$30,000.00 as opposed to \$34,000.00 then there is a savings but still no trailer. He stated it is not the Manager's decision. It is a capital item that they took off the budget and Councilmember McCarthy's suggestion is that it be restored. He felt it was a good suggestion and if they had the ability to lower the price on the foam even better.

Manager/Municipal Clerk Kwasniewski stated what the Fire Chief really wants is to get the trailer and one of the things they are going to put on the trailer is the foam. She added the Chief does not see the point of the rehabbing that foam truck. All they are going to do is fix the leaks and he figures it is going to be substantially less than what was put in there. Borough Attorney Lustgarten stated if the Council does not put the trailer back then they can't use the money for it. Mayor Ganz stated they came before the Council to get money for the foam truck, they can't decide now it is going to be water without coming back to the Council and making a presentation and having the Council agree to it. Councilmember Caan stated he thought by repairing the leak would allow it to be a foam truck. Manager/Municipal Clerk Kwasniewski stated they want the same amount of money that they asked for and they want to be able to get the trailer and do less work on the truck. Borough Attorney Lustgarten stated if the Council took a consensus right now to add the trailer, would the Fire Department not convert this to a foam truck then. Councilmember McCarthy replied he spoke to Company #3 who has that truck and they think they may be able to do it cheaper and save the Borough money. Manager/Municipal Clerk Kwasniewski stated if the Council agreed she would reduce the amount of the foam truck to get the money for the trailer. Borough Attorney Lustgarten stated regardless of the amount of money is it still their intent to convert to foam or are they talking about repair to make it a water carrier. Councilmember McCarthy stated he believed foam, but they could reiterate to them this is to fix the leak so it is still a water truck. Councilmember Caan stated if they think the trailer is a priority and they need it, it should be part of the capital budget.

Councilmember McCarthy added the Freeholder Board and County Executive were willing to give money to capital programs that service multiple municipalities. They should reach out to the Freeholders and County Executive and see if there is money available. He added although they are buying it will be used by all the areas in this section of Bergen County. Mayor Ganz stated that is not what the Freeholders and County Executive contemplated by that particular proposal but it is a good one. He stated they are looking more toward new equipment rather than rehabbing old. Councilmember McCarthy replied he was talking about for the trailer. Mayor Ganz stated that was possible. Deputy Mayor Etlar stated he does not think they should be spending any money on a twenty year old truck since this is a mutual aid thing that Company #3 was designated to do, all the towns involved should put in to buy a share of that trailer.

Consensus was taken to add \$7,000.00 back into Capital Budget, with Deputy Mayor Etlar dissenting.

Warren Point School:

Manager/Municipal Clerk Kwasniewski stated Warren Point PTA is going to do a family fun run on March 28th behind their school.

They worked with the Traffic Safety Officer to devise the run. The kindergarten and first grade and their parents are going to do one mile, the second and third graders are going to do two miles and the fifth graders are going to do three miles. She added they will use the CERT people to man the barricades so there is no overtime. They will use two officers that are on duty.

Letters to New Residents:

Councilmember Caan questioned whether an ordinance is needed to collect funds. Attorney Lustgarten stated unless it's a donation, which he understood it is not, it's a fee payment effectively. They have to adopt an ordinance. Mayor Ganz asked how quickly can an ordinance be prepared. Attorney Lustgarten stated that actually the Chief Financial Officer has to do that. Manager/Municipal Clerk Kwasniewski stated she would talk to the CFO tomorrow.

Planner for the Planning Board for the Areas in Need of Redevelopment:

Mayor Ganz stated that Schoor DePalma has reduce their proposal to a sum not to exceed \$50,000. The Council authorized \$40,000. Their original proposal was for \$60,000. He is inclined to think that is a reasonable sum and he is hopeful that they will not exceed the original \$40,000.

He put out for consensus to authorize the \$50,000 rather than the \$40,000. Deputy Mayor Etlar asked what he meant. Mayor Ganz explained this would move it from \$40,000 to \$50,000 in response to their counterproposal and their original \$60,000. Councilmember McCarthy stated he would agree as long as it was in the incremental stages.

Attorney Lustgarten asked if they responded to the other items such as fees for photocopying and faxes and a down payment which the Borough does not do. Mayor Ganz stated he noted that the Planning Board Chairman Barry Winston was present. Mayor Ganz asked him if they had responded to the other aspects of Borough Attorney's letter to them. Mr. Winston stated no but he was sure they would be responsive to their stated intentions. Mayor Ganz asked him to get a confirming letter. Attorney Lustgarten stated there were three items. Mayor Ganz asked that the Attorney Lustgarten send a copy of the letter he sent Schoor DePalma to Mr. Winston. Attorney Lustgarten advised the items were no down payment, the Borough will not pay for photocopies and would not pay for faxes. Mayor Ganz stated this is a firm that does a ton of municipal work and they all ask for the same thing. Attorney Lustgarten stated they probably do it and they are not supposed to do it. He advised the Borough is not allowed to prepay for services as stated in the local budget law.

Senior Citizen Liaison:

Mayor Ganz stated they need to name a new liaison and asked Councilmember Caan if he would like to do it. Councilmember Caan replied he would do.

Adjournment: