

WORK SESSION OF MAY 18, 2004

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

PRESENT: Mayor Ganz, Deputy Mayor Etler, Councilmembers Caan and McCarthy.

ABSENT: Steven Weinstein

ALSO PRESENT: Manager/Municipal Clerk Kwasniewski and Attorney Lustgarten

Tentative Agenda for 5/25/04:

Manager/Municipal Clerk Kwasniewski stated they scheduled an ordinance for first reading concerning the expiration for final approvals. Borough Attorney Lustgarten had sent it to the Planning Board Attorney to comment on it but they never received anything from him. She suggested that they may not be ready to introduce it. Mayor Ganz stated he believed they should introduce it because they have asked them to comment and if they have chosen not to, they still have the opportunity to comment between first and second reading to do it. Deputy Mayor Etler stated they already approved this. Borough Attorney Lustgarten stated they did not communicate with them on it. Manager/Municipal Clerk Kwasniewski stated she spoke to the Planning Board secretary already. Mayor Ganz stated she should just check with the Attorney.

Memo of Understanding Between Bergen County Department of Health and Local Hazardous Material Data Response Team:

Borough Attorney Lustgarten stated he sent a letter on March 22nd to County Council's office with a follow up on April 21st but has had no response. He stated they said they agreed in concept with his prior comments and recommendations. He asked them to send him two executed memorandum of understanding which he also did not get. Mayor Ganz asked Manager/Municipal Clerk Kwasniewski to call Esther Suarez who is the County Council and ask her to be responsive to this within the next two weeks.

CDBG Alliance against homelessness:

Manager/Municipal Clerk Kwasniewski stated she only had the information Mayor Ganz gave her. She stated they usually get a letter which only tells them what they are going to do and the amount of grant they are going to apply for. Mayor Ganz understood from the documents they had applied for amount up to \$26,000.00 to improve the bathroom facilities at the house on Fair Lawn Ave subject to the HUD bidding requirements. Manager/Municipal Clerk Kwasniewski stated no organization can get a CDBG grant without the endorsement of the Municipality. The endorsement does not obligate the Municipality to spend any money. Councilmember Caan asked where in the Fair Lawn the house was located and if they should make sure they are requesting funds for a house that actually exists. Mayor Ganz stated they have at least six facilities in Fair Lawn. If they file an application for a house that does not exist they would be committing a federal crime.

Deputy Mayor Weinstein asked if the Council ever looks at these houses. Mayor Ganz replied he had never seen that done. Councilmember Caan stated all they have is a letter from a address in Dumont talking about a Fair Lawn property and he does not know where it is. Deputy Mayor Etler agreed with Councilmember Caan. Mayor Ganz stated there are no Borough taxpayer dollars that are involved at all. The Council has never investigated. If they meet the qualifications then they get approved. Councilmember Caan stated his only question was about the location, not about the funds or submitting it, he would be comfortable once he knew the location existed. Manager/Municipal Clerk Kwasniewski stated she could make a phone call

tomorrow and ask them.

Borough Attorney Lustgarten stated just so the record is clear, the resolution says this does not obligate the financial resources of the Municipality. He stated they could pass the resolution tonight but the effective date would not be until the 20th subject to confirmation of an address. The Manager could email that address to everyone and if the Manager receives a majority disapproval based on the address then the resolution would not be adopted. Deputy Mayor Etlar asked why is it unreasonable to find out if any bids were out against this. Borough Attorney Lustgarten stated because they are making an application to Bergen County Community Development and all those questions would be handled by their Board. Deputy Mayor Weinstein asked what the reason is that it has to come to a Municipality to approve of it. Mayor Ganz replied because the CDBG regulations issued by the Department of Housing and Urban Development require it. Deputy Mayor Weinstein stated before he voted he would like the address to take a look at the house. Manager/Municipal Clerk Kwasniewski stated CDBG won't act on it until they get the resolution.

Mayor Ganz stated he got this and put it on because it is a time issue and does not want to be responsible for a group home not being approved. Councilmember McCarthy agreed with Mayor Ganz, that it was a worth while cause helping the homeless to any extent that they can and because it is not Borough money it is just their approval they need. He stated providing they get verification of it he was in favor of it.

Solid Waste Issues:

Manager/Municipal Clerk Kwasniewski stated that Mr. Frisch advised her this was the price because it was based on tonnage. Even though the pick ups would be less frequent the tonnage does not go down. They do not have a price for occasional pick ups because they do not do that. Their hauler would not be interested in providing that service. The reduced level of pick up went down to the once a week which is \$28,560.00 compared with the \$32, 640.00 and the hauler position is the same tonnage whether it=s once a week or three times a week. Mayor Ganz asked if he had labor costs, costs for machinery, wear and tear on the trucks or any other cost. Manager/Municipal Clerk Kwasniewski stated that is probably why they gave the \$4,000.00 discount. Mayor Ganz wished to have it put on record that he finds that incredible as a matter of fact. Deputy Mayor Etlar asked if Mr. Frisch was saying it is the same amount of tonnage of garbage whether it is picked up once a week or three times a week why are they picking up three times a week. Mayor Ganz stated that was correct. Manager/Municipal Clerk Kwasniewski replied they are picking up three times a week because they do not want it sitting on the property for health reasons. This item will be discussed further in closed session

Request from Leiserv, Inc. - Amusement Games:

Borough Attorney Lustgarten prepared an ordinance and if the Council concurs he recommends that this be introduced on Tuesday. Mayor Ganz summarized the May 18th memo. Borough Attorney Lustgarten stated he did the ordinance the way he did so they did not set up an ordinance that effectively is spot zoning by picking up a particular use. It is a generic cross reference for theaters, bowling alleys, indoor tennis and similar recreation uses. Mayor Ganz stated right now only two machines are allowed in any of these place and this will increase it to twenty.

Councilmember McCarthy stated when they brought this to Acting Chief Rose, he suggested hours of the arcades. Borough Attorney Lustgarten stated he is not setting up an arcade he is making this a additional use for specific recreational facilities, what ever facilities exists now, hours of operation would apply. Mayor Ganz stated what Acting Chief Rose wanted to avoid is having an arcade that is open twenty four hours a day. Deputy Mayor Weinstein stated the bowling alley is a viable recreational facility in town. It is not close to any schools or residential housing. It is a place for the camps to go. If they wait any longer they are holding up a viable business entity in town and hurting the residents. He believes they should move forward with this.

Professional Service - Tax Map Revision:

Manager/Municipal Clerk Kwasniewski stated that Birdsall Engineering is substantially lower than the other firms. In fact so much lower that Engineer Garrison called them back to make sure they did not make an error, which they did not. They want to get their business up here because they feel they can gain a great deal by doing the tax maps. Manager/Municipal Clerk Kwasniewski believed they should be the beneficiary of that. There was an unanimous consensus to award the contract to Birdsall Engineering a professional services resolution will be adopted at the next meeting.

Cable Franchise Renewal:

Manager/Municipal Clerk Kwasniewski stated these were questions that the Cable Television Committee came up with almost two years ago and Cablevision finally supplied the information. Mayor Ganz stated he would be disinclined to favor a renewal in the absence high speed internet access of providing to the Borough at no cost. Borough Attorney Lustgarten stated he thought they need to get a response from the schools to see what their needs are. Mayor Ganz asked Manager/Municipal Clerk Kwasniewski to speak to Superintendent Watson and see if they can get a time frame for a response. Mayor Ganz stated they should ask Fair Lawn Television Productions if there anything they need. Borough Attorney Lustgarten recommended that after they find out the needs for the school they should have a list of all the municipal needs that he negotiate and bring back to the Council. The consensus was to authorize the Manager and Borough Attorney to meet with Cablevision.

AKnow Your Town@:

Mayor Ganz stated the League of Women Voters has published a new AKnow Your Town@ booklet. He stated they would sell them to the Council for \$3.50 each, but are actually selling for \$6.00. Deputy Mayor Etler asked how this differs from what the Chamber of Commerce puts out. Mayor Ganz stated this is about the history of Fair Lawn. Manager/Municipal Clerk Kwasniewski stated this is their biggest fund raiser. Councilmember McCarthy stated since it is a fund raiser they should tell people they are available to purchase them. Mayor Ganz stated he would be buying a hundred copies for himself. He suggested the Borough purchase 25 volumes. Deputy Mayor Etler felt the Borough should not be in the business of supporting any other institution, so he was opposed.

The consensus was to purchase the booklets with Deputy Mayor Etler dissenting.

Municipal Cross-Acceptance Representative:

Manager/Municipal Clerk Kwasniewski stated the County of Bergen is looking for a representative. She suggest either Ken Garrison or the Planning Board Planner or Master Plan attorney. Mayor Ganz suggested Deputy Mayor Weinstein if he was interested. Deputy Mayor Weinstein stated he would be very interested in doing this. Manager/Municipal Clerk Kwasniewski stated they need a resolution authorizing participation in the state development and redevelopment plan. Mayor Ganz asked if Deputy Mayor Etler would like to be the alternate and he agreed.

The consensus was to appoint Deputy Mayors Weinstein and Etler.

Status on the Traffic Signal at Chandler Drive:

Manager/Municipal Clerk Kwasniewski stated the plans have been sent to the County. The County work is being done and they are sending it to the State for approval. She expects to have the appraisals back by the

end of next week. Mayor Ganz asked Manager/Municipal Clerk Kwasniewski to find out when this went to Mr. Beisser and tell him that they would like to see this expedited. Deputy Mayor Weinstein asked if they had a date for a meeting with the business owners in that area. Mayor Ganz stated they can not hold a meeting until they have all of the Borough information. The County engineer advised him that they were still waiting for something from the Borough. Manager/Municipal Clerk Kwasniewski stated the County has had everything from them that they need for a while. The appraisals for the easements have nothing to do with the County. The next step would be the approval from the Department of Transportation. Manager/Municipal Clerk Kwasniewski stated she would speak with County Engineer Ascales and find out exactly where they are on this project.

Status on Field Permits:

Deputy Mayor Weinstein stated the fields are in pretty good shape. All-Sports has spent about \$17,000 on Garger Field. Their concern is that many of the residents who do not have permits are using the fields and abusing the fields after major rainstorms when they should stay off them. They need to come up with a way to protect these fields. They could put signs on these fields, open and closed. The Recreation Department would go around and turn the sign to closed. The Police could help as well by enforcing this situation to protect the assets of the Borough.

Deputy Mayor Etlar stated people other than Fair Lawn residents are using Memorial Park. Manager/Municipal Clerk Kwasniewski stated these are public facilities which have been built with Green Acres money so they have no choice. Borough Attorney Lustgarten stated that the Parks and Recreation Facilities are open to the general public subject to a few restrictions such as organized sports teams in town get preference for permits. Past Councils have unanimously not banned the use of the fields by the general public when they were not being used by organized teams. He stated it is unconstitutional in the State of Jersey to bar non residents from the fields as a universal concept. Deputy Mayor Etlar stated to say the taxpayers of Fair Lawn have to open up their facility to anyone else is ludicrous. They do not allow people to swim in Memorial Pool unless they pay a fee for it. Borough Attorney Lustgarten stated he was conveying the status of the law of New Jersey, not his opinion. He stated the bottom line is they can give preference to the residents, require permitting but they cannot adopt an ordinance that exclude the general public.

Deputy Mayor Weinstein stated his goal is to protect the fields. Borough Attorney Lustgarten stated a judgment call needs to be made either by the Superintendent of Recreation or his designee on a twenty four hours basis whether the field should be used. They need a sign besides the open and closed stating that users will be prosecuted for trespassing. Manager/Municipal Clerk Kwasniewski stated they have twenty two fields and this will all be done on overtime. Mayor Ganz asked does it pay to spend \$20,000.00 or \$40,000.00 a year to fix fields and not protect them. Manager/Municipal Clerk Kwasniewski stated they used to have Park Police, a person who went to all the fields from 5 p.m. until the parks closed and checked on the fields and asked people to leave if they did not they would call the police. She stated it is less expensive way. Mayor Ganz asked Manager/Municipal Clerk Kwasniewski to speak with Jack Susser from All Sports and inquire as to whether or not they would take directions from the Superintendent to cause this to be done based on a Superintendent's call. Borough Attorney Lustgarten recommended posting a sign with the penalties for trespassing as well as posting teams with permits have priority. Mayor Ganz stated they should wait to see if All Sports could organize this.

June Meeting Dates:

Manager/Municipal Clerk Kwasniewski stated June 8th is the primary, the regular meeting was scheduled for the 7th but Fire Company #4 is having a Golf outing followed by a beefsteak that night. She stated on June 15th they could combine the work session and regular meeting. Mayor Ganz suggested they do that with a work session at 6:00 p.m. followed by the regular meeting at 7:30 p.m. In the event there is anything urgent

that has to be done, she should notify the Council and they will meet there at 6:00 p.m. on June 8th.

Bank of New York Agreement Renewal:

Manager/Municipal Clerk Kwasniewski stated they have an agreement with the Bank of New York for the lot on George Street and Fair Lawn Avenue which expires July 11, 2004.

She spoke with them and while they are having some problems they do want to renew the agreement. She will be meeting with them and the Police Chief to resolve some of the issues which include signage and enforcement of their parking for their customers.

Mayor Ganz stated it would be in the Borough=s best interest to renew the contract with the bank subject to the addition of concerns the Manager expressed on behalf of the bank.

He suggested another five year period.

Use of Walsh Pool - Fair Lawn Community School:

Manager/Municipal Clerk Kwasniewski stated they received the request for the Fair Lawn Community School to use Walsh Pool. Mayor Ganz stated it=s a great use of the pool and it helps offset the costs.

The consensus was to approve this request.

Status on Field Lighting:

Manager/Municipal Clerk Kwasniewski stated the poles have been installed at both Center Rec and Memorial. The trenching at Center Rec has begun. Memorial will be next. It takes about a week and half to do the trenching. Mayor Ganz asked Manager/Municipal Clerk Kwasniewski to report back to the Council at the next work session as to when they can schedule a formal dedication.

Status on Diving Board:

Manager/Municipal Clerk Kwasniewski stated Engineer Garrison came up with a design which in reality was a concrete box that would have held the sand in place. They submitted the drawings to several places including Paragon Aquatics and they are still not willing to sell the board because they are afraid of the shifting sand. Mayor Ganz suggested that Manager/Municipal Clerk Kwasniewski speak to the Radburn Association and ask them if they can purchase a diving board and platform and sell it to them. Deputy Mayor Etler stated the liability would still be there. Borough Attorney Lustgarten stated he was not comfortable with that because they will get no warrantee and they are not in the business of buying material goods from private non profit associations. Mayor Ganz asked Borough Attorney Lustgarten to come back in two weeks with a plan of action. Borough Attorney Lustgarten stated there is no plan and the reality is they can=t get a diving board for a sand bottom pool. It is an amenity that is just not going to be installed under the current market place at Memorial Pool. Mayor Ganz asked Manager/Municipal Clerk Kwasniewski to solicit from any of the outside engineering firms that do business with the town as to how much it would cost to devise a plan that would be acceptable including the survey and the installation.

Construction Report:

Deputy Mayor Etler thanked Manager/Municipal Clerk Kwasniewski for getting him logs and in the next week he will go through them. Mayor Ganz stated he did a preliminary analysis and was amazed at how many of the inspections were reinspections and how many were failures. Manager/Municipal Clerk Kwasniewski stated she was told the reasons for that was that more people are doing their own work instead of using contractors.

Miscellaneous Public Comments:

Jane Diepeveen, 14 Ryder Terrace to invited the Mayor and Council, Borough Attorney and Manager to the Cadmus House Exhibit on this Sunday. She stated it will be held from 1:30 p.m. to 3:30 p.m. She said they have completed the restoration of the mortar for which they received a grant. The Fair Lawn Preservation Corporation has had various fund raisers and they paid for half of the work.

Closed Session:

Upon motion by Councilmember Caan and seconded by Councilmember McCarthy the following closed session resolution was unanimously adopted at 9:20 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 Anticipated Litigation; 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 or Mayor and Council and relating to Anticipated Litigation within 180 days except for legal strategy or upon resolution if the matter is resolved; 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.

Mayor Ganz reconvened the Closed Session to the Work Session at 9:45 p.m.

Adjournment:

Upon motion by Deputy Mayor Etler and second by Councilmember Caan, the meeting was adjourned at 9:45 p.m.

Respectfully submitted,

Marilyn B. Bojanowski, RMC
Assistant Municipal Clerk

SPECIAL MEETING OF MAY 18, 2004

Mayor Ganz reconvened the meeting at 9:20 p.m.

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

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

ORDINANCE: SECOND READING

Upon motion by Councilmember McCarthy and a second by Deputy Mayor Weinstein, it was unanimously agreed to read the following ordinance by title and open the time for public hearing.

Ordinance No. 1976-2004

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, BY AMENDING CHAPTER 2, ENTITLED ADMINISTRATION, DEPARTMENTS AND BUDGET AND FISCAL PROCEDURES, ARTICLE II ENTITLED THE COUNCIL, SPECIFICALLY SECTION 2-13 MEETINGS

There being no comments by the public, upon motion by Deputy Mayor Etlar and a second by Councilmember Caan, it was unanimously agreed to close the time for public hearing.

Upon motion by Deputy Mayor Etlar and a second by Councilmember McCarthy, Resolution No. 178-2004 adopting Ordinance No. 1976-2004 was discussed.

Borough Attorney Lustgarten stated when the code was codified the administration section allowed the work session to be out of Borough Hall but not the regular meeting. He stated this is cleaning that up and ratifying all other actions taken by the Council that occurred at meeting outside of Borough Hall.

There being no further comment, Resolution No. 199-2004 adopting Ordinance No. 1980-2004 was unanimously approved.

RESOLUTION BY CONSENT #12-2004

Upon motion by Deputy Mayor Weinstein and a second by Deputy Mayor Etlar, Consent Agenda #12-2004 containing the following items was unanimously adopted.

a. Resol. #179-2004 - Award of Bid: Solid Waste Collections

RESOLUTION NO. 1980-2004

Upon motion by Deputy Mayor Weinstein and second by Councilmember McCarthy, Resolution 1980-2004 was discussed.

Deputy Mayor Etlar stated he would be voting against this since they do not know the address of this house and he is not sure that \$26,000 is a valid fee for work to be done.

There being no further comments, Resolution No. 1980-2004 endorsing the CDBG application of the Alliance Against Homelessness of Bergen County, Inc. was approved, with Deputy Mayor Etlar dissenting.

Adjournment to Work Session:

Upon motion by Deputy Mayor Etlar and a second by Councilmember McCarthy, the meeting was adjourned to Work Session at 9:25 p.m.

Respectfully submitted,

Marilyn B. Bojanowski, RMC
Assistant Municipal Clerk