

## **WORK SESSION OF NOVEMBER 1, 2004**

Mayor Ganz called the meeting to order at 6:03 p.m.

**PRESENT:** Mayor Ganz, Deputy Mayors Etler and Weinstein, Councilmembers Caan and McCarthy (late).

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

### **Review of Tentative Agenda 11/9/04**

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

#### **Planner**

Mayor Ganz stated that the Borough should hire a planner to review the site that Topps Cleaners is on now from east of the railroad tracks to the western side of the Exxon gas station. He asked Manager/Municipal Clerk Kwasniewski to contact Schoor DePalma to see if they can perform the study for under \$10,000. He advised her to negotiate with them since they had already done a review of that area. Mayor Ganz stated that the report will go to the Planning Board then it will go to the Mayor and Council.

There was a unanimous consensus to hire Schoor DePalma to do a study of the Topps parcel.

Mayor Ganz stated that the Council wants Daly Field to remain green. The Heyward tract is suitable for development. Deputy Mayor Weinstein and Councilmember McCarthy are to interview planner for Daly Field. He suggest they interview the companies and get back to the Council within two weeks. Deputy Mayor Etler stated that it was the Council's consensus to keep Daly Field green. He felt they did not need a planner to tell them to keep it green. Mayor Ganz stated the planner can tell them other uses besides just keeping it green.

There was a unanimous consensus to interview planners for Daly Field.

#### **Length of Time for Minutes on Website**

Deputy Mayor Weinstein stated that he had gotten a call from someone who was heard at the Planning Board a year and a half ago. He had concerns about how long the minutes remain on the website. He suggested that they get pulled off after six months or so. Mayor Ganz stated they stay on the website forever. Attorney Lustgarten suggested that Planning and Zoning Board minutes should stay on for a 30 day period after the application has been heard or after a Court decision. He felt the Council minutes should be left on the website for a six month period.

There was a consensus for the Planning and Zoning Board minutes to be taken off in six months after posting with Mayor Ganz voting against it.

### **Defibrillator Demonstration**

Chief Erik Rose and Officer Stephen Cannici were present to give the demonstration on the defibrillator. They explained how many calls they went to in 2003 and 2004. Councilmember Caan felt defibrillators should be placed around the Borough buildings. He gave examples of how many people die from cardiac arrest. He felt one of the machines should be placed in the Borough Hall, in the Senior Center and in both pools. Chief Rose explained that the machine is very easy to operate and comes with step by step instructions. Mayor Ganz questioned how much the unit costs. Officer Cannici explained that they recently upgraded the units with a pediatric update. He suggested that people get trained as part of the CPR training. Councilmember Caan felt it would be beneficial to have it at the Senior Center and other locations since the unit could be used to save lives instead of having to wait for help. Councilmember Caan anticipated Attorney Lustgarten's questions and downloaded the statutes. Attorney Lustgarten asked that this item be placed on the Work Session agenda in two weeks.

### **Status on Richard Street**

Mayor Ganz asked Chief Rose for an update on what was happening on Richard Street. Chief Rose felt they should leave the parking as it is since there is no safety issues present. Mayor Ganz asked that this get referred to the Construction Code Official and report back in two weeks.

### **Rodent Issues - Route 208**

Manager/Municipal Clerk Kwasniewski stated that she had contacted Senator Congilio and had asked Health Officer Wagner to join them at the meeting tonight. She said she had requested that the prisoners from the Sheriff's office clean up the area and to get rid of the underbrush along Route 208.

Councilmember McCarthy arrived at 6:40 p.m.

Health Officer Wagner stated that the exterminator did bait Southern Drive between the back yards. The underbrush will be cleaned up by the DOT and the prisoners. She stated that she had gone out and checked the area and did not see any rats. She said the exterminator will bait the sewers.

Deputy Mayor Etlar stated that he had talked to the State and the Sheriff's office about cleaning up the area along Route 208. He thought they could get rid of them quickly. Mayor Ganz stated that the DOT's equipment is down and asked Manager/Municipal Clerk Kwasniewski to check with other towns to see if they have the correct equipment. He

asked that she report back to the Council at the next meeting. Councilmember McCarthy asked if the County had the equipment. Mayor Ganz advised her who to call at the Park's Department.

### **Length of Time for Minutes on Website - continued**

Mayor Ganz explained that since Councilmember McCarthy was not present for the prior discussion regarding the minutes, he wanted to review it for him. Deputy Mayor Weinstein explained why he thought the minutes should be removed after a certain period. Councilmember Caan felt that Council minutes were different and should remain on the website for a longer period of time so it gives people the opportunity to see them. Deputy Mayor Etler felt that anything the Planning or Zoning Board does is public record. Deputy Mayor Weinstein felt they should not post the personal or private information. Councilmember McCarthy said he would like to think about it.

Mayor Ganz asked if the addresses could be redacted. Attorney Lustgarten advised that it was public record. He said that once it was stated it becomes part of the public record. This is a policy call. In the past the Council has been sensitive to leaving children's names and addresses out of the minutes. He felt it was not compelling enough to change the policy just for one complaint.

### **Meeting Time/schedule 11/23**

Manager/Municipal Clerk Kwasniewski stated that since there is no meeting scheduled for November 16 she thought they should have a Work Session prior to the Regular Meeting on November 23 at Milnes School. Mayor Ganz thought it was a good idea to have the Work Session begin at 6:00 p.m. here at Borough Hall. He felt the meeting notice should state that the meeting will begin at 7:30 or as soon thereafter.

### **JIF Proposals**

Manager/Municipal Clerk Kwasniewski stated she had circulated Mr. Ciminelli's reply to the questions. There has been no response from the applicants. She felt it would be impossible for either of the JIF's to respond to the other's quote. Attorney Lustgarten advised that one of the JIF's should price the proposal. Mayor Ganz asked that they do it in writing. He felt that Mr. Ciminelli has not been responsive to their request.

### **Legal Opinion Re: Two Tier System**

Attorney Lustgarten advised that basically they would collect fees to meet their cost. If they justify additional cost they could justify it. He recommended that they not do it. Mayor Ganz wondered if the Council could charge the rate and spread it out over all users.

## **League of Municipalities Convention**

Mayor Ganz asked if the convention was still being held. Manager/Municipal Clerk Kwasniewski stated that the strike was on going and they are proceeding but there is no room service in the hotels. Mayor Ganz stated he would not cross the picket lines.

Attorney Lustgarten stated unless they picket in front of the convention center they can avoid the boardwalk. Manager/Municipal Clerk Kwasniewski stated she heard the Casinos were flying people in from Las Vegas to fill in. Mayor Ganz asked that she stay on top of the situation.

## **Miscellaneous Public Comments**

Don Oliver, 8-32 Mitchell Place, questioned the meeting schedule for the rest of the month. Manager/Municipal Clerk Kwasniewski gave him the information.

Carole and Ralph Basso, 36-14 Southern Drive stated they were at the meeting because of the rat problem they are experiencing. Mayor Ganz stated they have been on the phone with Senator Coniglio's office and the Department of Transportation. Manager/Municipal Clerk Kwasniewski said they had baited the sewers down the road from them. Mrs. Basso stated that people walk their dogs with sticks in their hands. She also felt the cold weather will not deter them. Mayor Ganz asked where they come from. Mrs. Basso felt they were looking for water. She said it is very scary.

Mrs. Basso explained that her husband has a heart condition and she wanted to thank the Police Officers for responding to them when he needed their help. They always have the defibrillator which has saved her husband's life many times.

Louise Orlando, 12 Arlington Place, questioned the hiring of a planner to report on the Topps property. Attorney Lustgarten stated a professional services resolution will be needed. Mrs. Orlando spoke about interviewing the six planners that will get back to the Council. She wondered if the Council believed that the Heyward tract should be developed and if that included Daly Field. Attorney Lustgarten stated that the Council took a consensus to have Daly Field studied and to look at the other three parcels. Mrs. Orlando wondered if the planner would be looking at one of the parcels as an area in need of redevelopment. Mayor Ganz informed her that the Council has not opined if it should be an area in need of redevelopment. Attorney Lustgarten advised that after the planners look at the properties the Council will report on what they recommend. Mrs. Orlando asked about Schoor DePalma doing the study. Attorney Lustgarten advised that since they have already done some work in the area the Council feels it is a logical planner to review this.

## **Special Meeting:**

Upon motion by Deputy Mayor Etlar and a second by Councilmember McCarthy, the meeting was recessed to the Special Meeting at 7:26 p.m.

### **Status of Traffic Light at Chandler Drive**

Attorney Lustgarten advised that he had received only one response from someone who has consented to give an easement for \$1. Mayor Ganz thought that was good strategy. Attorney Lustgarten stated that the metes and bounds would have to be changed. Mayor Ganz stated that he had spoken to Gary Ascolese from the County who advised him that the project was hung up because Riggs did not do the drawings. Manager/Municipal Clerk Kwasniewski stated she had called Riggs but will call again. Mayor Ganz asked that she look into it and stay on top of it.

### **Noise Ordinance Waiver**

Councilmember Caan spoke about a noise ordinance waiver deadline for Route 4 which would be November 19. He did not know what this involved. Manager/Municipal Clerk Kwasniewski stated that in reality this is like Routes 4 and 208, the DOT needs to do the work. Mayor Ganz suggested that the Borough do nothing.

### **Length of Time For Minutes on Website - continued**

Councilmember McCarthy thought they should keep the information available since the government should be open. The more people know the better it is. He felt the internet was a great resource.

A consensus for the Council minutes to be taken off in six months did not pass with Mayor Ganz, Councilmember Caan and Councilmember McCarthy voting against it.

### **Closed Session:**

Upon motion by Councilmember Caan and seconded by Deputy Mayor Weinstein the following closed session resolution was unanimously adopted at 7:44 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 Contract Negotiations; 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 60 to 90 days except for legal strategy and for Contract Negotiations upon resolution of the matter; 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 Work Session at 8:24 p.m.

### **Introduction of Construction Official**

Manager/Municipal Clerk Kwasniewski introduced the new Construction Official Dennis Kolano who comes to Fair Lawn from Clifton. She checked his references and they were all good. He believes in enforcing the code. Mayor Ganz stated he would like to articulate a vision of how the department should be run. He explained that the Council believed it was not just black and white, there is a lot of gray, which means he should be flexible. He stressed that the office needed to be friendly to the residents and work with them although they realize the huge burden that is on the office. Mayor Ganz felt the time to get a CCO should be reduced since 90 days seems like a long time.

Mr. Kolano responded that he was there to serve the public and work with them. The other aspect is that it is a living code and there is always room to work around hardships and find other ways to meet the code. He stressed that the residents must realize that they have to work with the code. Deputy Mayor Etlar questioned how he would handle one of his inspectors being rude. Mr. Kolano stated he would question the inspector and see if both sides could change a little. Usually the person will get a satisfactory answer, they just want to be heard. Councilmember Caan question if someone comes in with incomplete plans, what would he do. Mr. Kolano stated he would contact the homeowner to explain what is wrong and ask them to get more information. Councilmember Caan stated that he would like to see the department to be more proactive. Mr. Kolano explained that a lot of times the homeowners ask for help but he is not comfortable telling them what to do.

Attorney Lustgarten felt that a different approach should be taken to explain what is wrong. He felt that sometimes the inspectors are rough on the homeowners and do not tell them what is wrong so they can fix it. Mr. Kolano stated the homeowner should be told what is wrong. Attorney Lustgarten advised that what was not acceptable is how the residents are treated. They should be given a few minutes to explain what is wrong. He felt they should go the extra step to be consumer friendly. Mr. Kolano stated they should be given an explanation of why they failed.

Deputy Mayor Weinstein stated that during the time he has been on the Council he has received numerous complaints of attitude problems in that department. He asked that Mr. Kolano pass on to the employees that they should have a user friendly attitude. He also asked him to review his records regarding the amount of CCO's and inspectors since the Council would like to know this before they add staff. Mr. Kolano stated this was the first time he has seen this many part time people. That department has a lot of heavy traffic. He will take a look at the number of inspections.

Attorney Lustgarten stated that there seems to be a feeling that Fair Lawn is unfriendly to the contractors. He asked if the word could go out that there is a new department head and to develop some type of program to get the contractors back. Mr. Kolano gave an example of a contractor who had a problem. He does not want to chase the contractors away either.

Deputy Mayor Etlar wished him good luck in his new position.

### **Credit Cards**

Attorney Lustgarten stated that this agreement has not been done properly. He does not want the Borough to pay anything but the agreement states that the Borough will. Deputy Mayor Weinstein questioned how much time is given to the Agency to see if the card is bad. Attorney Lustgarten stated it is usually a seven day clearance date unless it is on a watch list. Mayor Ganz asked that Attorney Lustgarten update them at the next Work Session.

### **Levine Tax Refund**

Mayor Ganz asked that this refund be placed on the next consent agenda.

### **Heat Issue - Ms. Kelly**

Mayor Ganz questioned when the Borough can go in and turn the heat on. Attorney Lustgarten stated if the Police hear a baby crying they go in but they do not have legal authority to turn the heat on. It is case by case. In the past someone had to get a Court order to have the heat turned on. Manager/Municipal Clerk Kwasniewski asked Health Officer Wagner to get ordinances from other towns that cover three family housing. Mayor Ganz asked Attorney Lustgarten to report back to the Council the first week in December.

### **Adjournment:**

Upon motion by Deputy Mayor Etlar and a second by Councilmember Caan, the meeting was adjourned at 9:01 p.m.

Respectfully submitted,

Marilyn B. Bojanowski, RMC  
Assistant Municipal Clerk

The undersigned have read and approve the foregoing minutes.

Mayor David L. Ganz

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Councilmember Allan Caan

Deputy Mayor Martin Etlar

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Councilmember Owen McCarthy

Deputy Mayor Steven Weinstein