

REGULAR MEETING OF JULY 22, 2003

Mayor Ganz opened the meeting at 7:35 p.m. Assistant Municipal Clerk Bojanowski read the following statement of compliance:

In accordance with the Open Public Meetings Act, annual notice of all meetings of the Borough of Fair Lawn was published in "The Record" issue of December 27, 2002. Notices were also posted on the Bulletin Board located on the First Floor of the Municipal Building and at the Maurice Pine Free Public Library, copies mailed to The North Jersey Herald News and Shopper. The Annual Notice identified the meeting location and the time of the Council Meetings and Work Sessions.

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

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

PROCLAMATIONS:

Fireworks Sponsors - Assistant Municipal Clerk Bojanowski read the Proclamation for fireworks sponsors.

Mayor Ganz stated that the fireworks wouldn't have been as successful without the support of the various sponsors.

Merchants Selling Fireworks Tickets - Assistant Municipal Clerk Bojanowski read the Proclamation for merchants selling fireworks tickets.

Mayor Ganz stated that even with the sponsors, they would not have had success if it were not for the individuals who sold the tickets.

Parent's Day - Assistant Municipal Clerk Bojanowski read the Proclamation for Parent's Day.

Mayor Ganz stated that having said how important it is having merchants and sponsors for the fireworks celebration, there is probably something more important, and that is the role that parents play in life.

PRESENTATION:

Mayor Ganz introduced Senator Joseph Coniglio, State Senator from District 38 who stated that Fair Lawn will receive \$500,000 from the Department of Transportation for the drainage project on Berkshire and Archadia Road. It has taken thirty years to get this money to address this issue. Fair Lawn has historically had flooding problems in this area. The DOT grants will finally give the local officials in the Borough the funds to solve it.

National Air Borne Day - Assistant Municipal Clerk Bojanowski read the Proclamation for National Air Borne Day.

Mayor Ganz stated that Robert Alcine and Assemblyman Ahearn were present. They came up and accepted the award.

Korean War Veterans Armistice Day - Assistant Municipal Clerk Bojanowski read the Proclamation for

Korean War Veterans Armistice Day

Mayor Ganz stated that James Lomoro was in the audience to accept the award. James Lomoro thanked the Mayor and Council for this proclamation. He represents Korean War veterans. Veterans have a trinity ritual, the able, the wounded and the dead, as long as the able remain, they will care for the wounded and honor the dead. Fair Lawn assists their efforts to remember to care and honor veterans of all wars in on going annual programs.

Captive Nations Week - Assistant Municipal Clerk Bojanowski read the Proclamation for Captive Nations Week.

MANAGER'S REPORT

Mayor Ganz stated the Manager's Report was on the front table. Borough Manager/ Municipal Clerk Kwasniewski stated that the fireworks were successful. Everybody seemed to have a good time and it was a beautiful show. The Borough doesn't make any money on the show, in fact they lose money. This year the revenue was down about \$5,000.00. After the overtime is calculated, She expected to be short \$5,600.00 which is just about what it was last year. That money will come from the general funds. Mayor Ganz added he received a letter from Walter Poppe, General Contractor to the Borough Engineer dated 7/17/03 stating that the Municipal Building, West Wing completion date is 8/14/03.

ORDINANCES FIRST READING:

Upon motion by Deputy Mayor Etler and a second by Councilmember Caan, it was unanimously agreed to read the following ordinance by title.

ORDINANCE NO. 1957-2003

AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FAIR LAWN, 2000, BY AMENDING AND SUPPLEMENTING CHAPTER 232 ENTITLED AVEHICLES AND ATRAFFIC@, ARTICLE II APARKING@ SUBSECTION 232-9 AND SUBSECTION 232-11

Upon motion by Deputy Mayor Etler and a second by Deputy Mayor Weinstein, Resolution No. 223-2003 introducing Ordinance No. 1957-2003 was discussed.

Mayor Ganz stated that this ordinance accomplishes two things. It cleans up some no-parking zones for commuter purposes with respect to Hazel Place, Banta Place, Mayfair Terrace and adds Tryon Place.

There being no further discussion, Resolution No. 223-2003 was unanimously passed.

Upon motion by Councilmember Caan and a second by Deputy Mayor Weinstein, it was unanimously agreed to read the following ordinance by title.

ORDINANCE NO. 1958-2003

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 125, ENTITLED ALAND DEVELOPMENT@, AND SPECIFICALLY, SECTION 125-48A.(2) ENTITLED, APARKING AND LOADING AREAS; OFF-STREET PARKING SPACES

Upon motion by Councilmember Caan and a second by Deputy Mayor Weinstein, Resolution No. 224-2003 introducing Ordinance No. 1958-2003 was discussed.

Mayor Ganz stated that this amends the land development ordinance to define parking requirements for commercial schools of dance, and does so in a matter that makes sense. He believes that there should be parking spaces for the teachers, parents and visitors. As soon as the Council approves this, it will be sent to the planning board for comment. Borough Attorney added that the purpose of this ordinance is to make the parking regulations more realistic.

There being no further discussion, Resolution No. 224-2003 was unanimously passed.

RESOLUTIONS BY CONSENT #23-2003

Upon motion by Deputy Mayor Etler and a second by Deputy Mayor Weinstein, Consent Agenda #23-2003 containing the following items was unanimously adopted.

a. Resol. #225-2003 - Approval of Minutes:

Regular Meeting 2/25/03

Special Meeting 3/4/03

Work Session 3/4/03

Closed Session 3/4/03

Regular Meeting 3/11/03

b. Resol. #226-2003 - Refund of Overpayment of Taxes

c. Resol. #227-2003 - Special Item of Revenue - Domestic Violence Training Grant

d. Resol. #228-2003 - Special Item of Revenue - Clean Communities Grant

e. Resol. #229-2003 - Special Item of Revenue - Drunk Driving Enforcement Grant

f. Resol. #230-2003 - Extension of Contract for Industrial Supplies

g. Resol. #231-2003 - 2003 - 2004 Snow Plowing Agreement

h. Resol. #232-2003 - State Local Cooperative Housing Inspection Program Agreement

i. Resol. #233-2003 - Authorizing Consent Judgement - Block 5903, Lots 34 and 35

j. Resol. #234-2003 - Open Space Grant Application

MISCELLANEOUS PUBLIC COMMENTS:

Upon motion by Deputy Mayor Weinstein and a second by Deputy Mayor Etler, it was unanimously agreed to open the time for public comments.

Zoya Gomstein, 13-40 Commerford Place stated she was there a month ago to complain about the scooters. She went to Environmental Commission with her husband. The problems on her block are now much worse. Last month she complained that four or five kids would ride around on motorized scooters. Last Saturday, she called the police on seven kids riding motorized scooters. One parent told her to close her window if it bothered her. The Borough Manager told her that there are no laws against the scooters. She is sure that Fair Lawn can have its own ordinance.

Mayor Ganz stated that two things have happened since last month. He introduced a resolution last Wednesday before the County Freeholder Board prohibiting the use of motorized scooters on any County road which is the only thing the county has any jurisdiction over. On July 23, he is meeting with Chief Marshall and Traffic Officer Franco to discuss specifically if there is some ordinance that can be drafted that is consistent with state law to try to regulate the use of motor scooters in Fair Lawn. He is not optimistic about it because the experts that they have consulted tell them that this is an area that the State governs. The County can prohibit the use on County Roads but the Borough cannot prohibit the use on Borough streets because the streets belong to all the people. If it is appropriate, it will be his recommendation to the Council to urge the State Legislature to give either local or county authority or that they enact a law state

wide to cover what he thinks is a problem. He is not as concerned about the noise as he is about the safety. Safety issue is paramount.

Mrs. Gomstein stated that she spoke to many neighbors and they are very upset. But people are intimidated and do not complain.

Mayor Ganz stated that the opinion they have thus far is that the state has pre-empted them on the issue of riding motor vehicles on local streets, but they will try to do something to try to regulate safety, health and welfare, which includes noise.

Mrs. Gomstein stated that the problem usually starts after school and when school isn't in, it will start at 10 a.m. and last all day. Borough Attorney Lustgarten stated that in order to bring a complaint the noise needs to exceed a certain decibel level. They have to be willing to sign a complaint.

Assemblymember Ahearn, 6 Beekman Place, a member of the Second Airborne Division Association thanked the Council for honoring the airborne.

Ed Trawinski, 3-33 Lyncrest Avenue, also former Mayor and Councilmember, was present to celebrate a tremendous victory and that is the partial solution to a longstanding drain problem at Berkshire and Arcadia Roads. The real fight began about 13 years ago when the then Council eliminated a half a million dollars from the budget that was earmarked by the Engineering Department. It wasn't until 1996 under Mayor Tedeschi and himself as Deputy Mayor worked with the entire Council, and Manager Kendall renewed consideration. At that time they didn't have the cooperation from Saddle Brook which they needed to connect with their drainage system.

Mayor Ganz stated that this had already been done. He had a meeting with the County Engineer to not only confirm this but to bring the County in together with the County Grant Apparatus and funding to complete the project.

Mr. Trawinski urged Senator Coniglio to fight for more money for Fair Lawn because they'll probably need another \$800,000 to finish this project.

Ed Zajack, 29-10 Berkshire Road, thanked everyone behind the scenes for getting the money to help fix the flooding problems that effects his family directly. He wondered how quickly they will see the improvements. Mayor Ganz answered that a lot of work has to be done. Engineering has to be done by the County and the Municipality. The first and most important step which is the funding is a great start.

Mr. Zajack then asked when a realistic view of this project was going to start. Mayor Ganz stated that it has already started. The flooding problem is going to be a time consuming project. It is not something that is going to done in the next six weeks.

Borough Attorney Lustgarten stated that the money is dedicated to Fair Lawn. So as long as the project is going forward, the state is not going to take the money back. The emphasis is on engineering right now.

Mayor Ganz stated that he and Deputy Mayor Etlar made an on-site inspection of the area in February or March. Fleischbrook needs to be dredged out. Piping and excavation needs to be done which is expensive. There are environmental concerns that need to be resolved.

Councilmember Caan added that in the past they have seen projects that have gone through the legislature of New Jersey that were approved but were never funded and then the project never took place. This is a different scenario, the money is there and this is a commitment. They just need to come up with a viable plan.

Mayor Ganz stated that the commitment that he will make to him is that if they are unable to fund this through other grants, he will try to work this through the Borough's normal Capital Improvement program in stages so they are not crippled by it.

Murray Greene, 0-40 29th Street, asked if this money can be used for anything else. Mayor Ganz replied that this money has a specific purpose and this is the only thing it can be used for.

Mr. Greene asked if there is some way to prevent any further building on Berkshire Road until the road is fixed for at least one year. Borough Attorney Lustgarten stated if someone wants to build and it is within the zoning code they have a right to do so. There is no moratorium on building in New Jersey.

Mr. Green asked if it is possible to pass a regulation that states exactly that. Borough Attorney Lustgarten stated that it would be against the municipal land use law.

Mr. Green understands what he said, but laws are made for reasons and exceptions are made for reasons and this may be an exception because it is a terrible situation to have building going on in an area that floods. Borough Attorney Lustgarten stated that he respectfully disagrees. He doesn't believe he would get any relief from the Legislature because there is a long history in this state not to have moratoria. This problem is very significant to him, but multiply that by a thousand problems throughout the State and all the Legislature would be doing is making exception to the Municipal land use law. They are disinclined to do so. He could get in touch with his state representative and ask them if they'll introduce a statute in the legislature.

Deputy Mayor Weinstein stated that one of the first issues when he joined the Council was this issue on Berkshire. He has been to Berkshire and Fleisher Brook a number of times. This Council has persevered and they have gotten the \$500,000. They will move forward and get this problem resolved.

Alan Haber, 9-04 Maynard Place, expressed concern about a slow to moderate deterioration of both street and curbing. The street is beginning to break up around these holes, and he was told that it is his responsibility to repair the curbs. He doesn't feel that it is his responsibility to have to repair the curb. He believes that it is the Borough's responsibility to maintain the roads and the curbing. He spends a great deal of money on his house to make it pleasing to the eye, this is appalling to look at and is dangerous. He does not have the finances to spend several thousands of dollars to maintain the curbs. Also two years ago the water department replaced the fire hydrant which sits on his property. He has filled in where it sinks in the property twice. He has spent probably \$200 so far and it is still sinking and still settling. The curb is sinking, his sidewalk is raising and it also doesn't look nice.

Borough Attorney Lustgarten stated that property actually goes to the center line. The Borough doesn't really own the 10 to 15 feet. It is an easement for the public right of way. Mayor Ganz stated that anywhere between three and five miles of street are done each year. There are 111 miles of road throughout the Borough. Borough Attorney Lustgarten stated that a certain number of streets are allocated each year on a rotational basis so every 10 to 12 years the whole town is resurfaced. There are three ways curbs can be replaced. First is the homeowners responsibility, second the municipality can pass a special assessment and allocate the cost to that particular homeowner, or just have Borough replace the curb.

Mayor Ganz stated that the only curb replacement going on right now are the barrier free curb ramps that are going up in a number of areas around town.

Borough Attorney Lustgarten stated that the last time a curb was paid for was about 35 years ago. His personal opinion is that if they put the hydrant in and it is sinking, there may be a leak in that hydrant and that is something the Manager should recommend to the DPW to look at it. If it is caused by the hydrant it should

be taken care of by the Borough=s expense.

Mr. Haber stated that the biggest issue was the curb because where it is completely gone and there is a hole it is damaging the street, the asphalt is starting to break away in chunks.

Borough Attorney Lustgarten suggested that the manager send somebody out to investigate that.

ADJOURNMENT:

Upon motion by Deputy Mayor Etler and a second by Deputy Mayor Weinstein, the meeting was unanimously adjourned at 9:02 p.m.

Respectfully submitted,

Marilyn B. Bojanowski, RMC
Assistant Municipal Clerk