

REGULAR MEETING OF APRIL 23, 2002

Mayor Ganz opened the meeting at 7:35 p.m. Municipal Clerk Kwasniewski 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 January 26, 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 and News. 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 Amato and Caan.

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

MANAGER'S REPORT

Mayor Ganz stated Manager Sacks was on vacation and that the Acting Manager Engineer Garrison was not present because his Dad had serious surgery this morning. The report is on the table and there have been no changes or additions.

PROCLAMATION:

Mayor Ganz stated they were doing four proclamations this evening. Two are honoring extraordinary men, one honors a holiday of long national duration and one calls upon everyone to honor the National Day of Prayer.

National Prayer Day

Municipal Clerk Kwasniewski read the proclamation which the entire Council signed.

Honoring Vincent Borst

Mayor Ganz stated they were very pleased to honor two men who are genuine heroes. He stated he does not use that term lightly for the reasons that will be evident. The first person honored is Vinnie Borst, who on September 11, 2001, at great risk to himself went into the twin towers and actually brought seventy-five people to safety. It is an absolutely remarkable story that appeared in The Record edition of January 22, 2002. The Council has decided to name Parmelee Avenue as Vinnie Borst Way for a limited period of time to honor him. Municipal Clerk Kwasniewski read the proclamation. He and the Council presented the proclamation to Vinnie Borst and his family. Mr. Borst received a standing ovation from everyone present. Mayor Ganz thanked him on behalf of everyone in the Borough of Fair Lawn.

Deputy Mayor Weinstein stated the term hero is often used in a trivial way which diminishes its meaning. On September 11 there were many true heroes and one of them resides in the Borough of Fair Lawn who we just honored. Tonight they honored a person who under tremendous pressure braced himself for the worst, had confidence in his abilities, took command in a most precarious situation, and saved seventy-five lives. He paraphrased a quote he heard just the other evening that Vinnie Borst has enabled seventy-five people to continue to celebrate the birthdays, anniversaries, mothers' days, fathers' days and other special events with their loved ones. It is a privilege to be there to honor Vinnie Borst, a true hero and a good friend.

Arbor Day

Mayor Ganz stated the next proclamation was for Arbor Day. He quoted a poem from Joyce Kilmer, which began "I think I shall never see a poem as lovely as a tree" and coming so shortly after Earth Day, Arbor Day takes on an important significance.

Ramon Forman

Mayor Ganz stated the fourth proclamation was for another hero of Fair Lawn. This one is a lot closer to home. The heroic event did not involve seventy-five people and the generations that will follow them but instead it involved a two-year-old boy whom Ramon Forman rescued from the Passaic River. Municipal Clerk Kwasniewski read the proclamation and Mayor Ganz presented it to Mr. Forman and his family. Mr. Forman received a standing ovation also. Mayor Ganz stated on behalf of the entire community he congratulated him and thanked him and presented him with the proclamation. He said they were very grateful for what he did.

ORDINANCES: FIRST READING

Upon motion by Deputy Mayor Etlar and a second by Councilmember Amato, it was unanimously agreed to read the following

ordinance by title.

Ordinance No. 1910-2002

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN, 2000, BY AMENDING AND SUPPLEMENTING CHAPTER 94 ENTITLED "FEES" TO ESTABLISH A FEE FOR WORK ZONE SAFETY PROJECTS

Upon motion by Councilmember Caan and a second by Deputy Mayor Etlar Resolution No. 169-2002 introducing Ordinance No. 1910-2002 was discussed.

Attorney Lustgarten stated this ordinance allows reimbursement to the Borough when a Police Officer does traffic safety work at a construction site.

There being no further comment, Resolution No. 169-2002 introducing Ordinance No. 1910-2002 was unanimously passed.

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

Ordinance No. 1911-2002

AN ORDINANCE FIXING THE SALARIES OF CERTAIN EMPLOYEES OF THE BOROUGH OF FAIR LAWN, BERGEN COUNTY, NEW JERSEY AS AMENDED

Upon motion by Deputy Mayor Etlar and a second by Councilmember Amato, Resolution No. 170-2002 introducing Ordinance No. 1911-2002 was discussed.

Attorney Lustgarten stated this ordinance establishes salary ranges for the Municipal Court Administrator, Judge to the Municipal Court, Prosecutor and Recreation Leader.

There being no further comment, Resolution No. 170-2002 introducing Ordinance No. 1911-2002 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. 1912-2002

AN ORDINANCE TO AMEND ORDINANCE NO. 1903-2002 OF THE CODE OF THE BOROUGH OF FAIR LAWN, 2000, SPECIFICALLY CHAPTER 232 ENTITLED "VEHICLES AND TRAFFIC", MORE SPECIFICALLY SUBSECTION 232-11 ENTITLED "PARKING PROHIBITED DURING CERTAIN HOURS ON CERTAIN STREETS" AND SUBSECTION 232-13 ENTITLED "PARKING TIME LIMITED ON CERTAIN STREETS"

Upon motion by Deputy Mayor Etlar and a second by Councilmember Caan, Resolution No. 171-2002 introducing Ordinance No. 1912-2002 was discussed.

Mayor Ganz thanked Councilmember Caan for observing the changes that need to be done on Ordinance No. 1903-2002 and making the amendments to it.

There being no further comment, Resolution No. 171-2002 introducing Ordinance No. 1912-2002 was unanimously passed.

ORDINANCES: SECOND READING

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

Ordinance No. 1908-2002

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 232, ENTITLED "VEHICLES AND TRAFFIC", MORE SPECIFICALLY SUBSECTION 232-56 ENTITLED "MID-BLOCK CROSSWALKS"

There being no further 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 Deputy Mayor Weinstein, Resolution No. 172-2002 adopting Ordinance No. 1908-2002 was discussed.

Mayor Ganz thanked Councilmember Caan for his diligence in recognizing that there was not only an issue of not having mid-block crosswalks but there was a pedestrian safety issue that could be easily and safely resolved by creating mid-block crosswalks or at least authorizing them. The ordinance will be sent to the County and when necessary to the State for approval. Attorney Lustgarten stated this ordinance relates to a proposed crosswalk on River Road by the Post Office. If the Council adopts this tonight, it will be sent to the County. Since River Road is a County road, their approval is required to install a mid-block crosswalk. Councilmember Caan stated he had received considerable support from the River Road Improvement Corporation, the Chamber of Commerce and the local businesses in that area even though it means eliminating a couple of parking spaces. Mayor Ganz instructed Municipal Clerk Kwasniewski to send a copy of this ordinance to the County and to the River Road Special Improvement District along with a copy to the Chamber of Commerce.

There being no further discussion, Resolution No. 172-2002 adopting Ordinance No. 1908-2002 was unanimously passed.

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

Ordinance No. 1909-2002

AN ORDINANCE AUTHORIZING THE BOROUGH OF FAIR LAWN, PURSUANT TO N.J.S.A. 40A:12-11, TO LEASE FROM THE FAIR LAWN BOARD OF EDUCATION, A CERTAIN PIECE OF PROPERTY LOCATED ALONG THE EASTERLY SIDE OF LOT 1, BLOCK 4515, IN THE BOROUGH OF FAIR LAWN "

Mayor Ganz stated this ordinance will allow the Borough to lease from the Board of Education an area known as a grassy knoll for the express purpose of offering some relief to the residents of Orchard Street where cigarette smoking is currently involved. He stressed that no one on the Council approves of teen smoking, and they do not believe in smoking overall. They do believe in making certain that local neighborhood residents have relief from a significant problem.

Keith Brown, 23-05 Ellington Road, stated the way he understood it the Board of Education would still own the property therefore smoking should not be allowed on that area. Mayor Ganz thanked him for his opinion but the Council has a different view. The view is that smoking will be permitted at that site.

Leon Wender, 7-22 Manor Avenue, stated he attended the last Council meeting at Thomas Jefferson Middle School. He listened to the children, the parents, the High School principal, the property owners affected, health officials and concerned parties. It was a sad fact that those addicted to nicotine will not give up the habit. Leasing this area will not solve the littering problem. It will only give them their own private littering lot. He has seen adults and kids litter. It is against the law. Police Officers must be more diligent. Enforce the law and find the guilty parties. If they are hurt financially, they will think twice before dirtying other peoples property. Manners and respect go a long way.

Ellen Tanner, 0-30 Hamlin Court, stated she was there representing the Health Officer's Tobacco Coalition. When she was there last week, she had eight out of eleven Health Officers sign a letter. It was on the recommendation that they send a letter to the Mayor and Council by the Borough of Fair Lawn's Health Officer. She felt the Mayor and Council wield a great deal of power at this time by giving this town the nickname of Fair Ashtray instead of Fair Lawn by leasing property for the express purpose of becoming a human ashtray. It is unfathomable that Fair Lawn has gotten to this point. She implored them to reconsider their position that this is a viable option. They have no way to even know if the students will use that location. If they knew anything about peer pressure, the kids are not going to want to be seen there. They want to hang out by the cars. She doesn't get it, giving them a place to smoke.

Julia Tanner, 0-30 Hamlin Court, she felt they should not lease the land. She is ten years old and is in fourth grade. They have just finished the DARE program. They taught them how not to choose to smoke. One night her Mom told her the town wanted to lease the land for the High School kids to go smoke. She wanted to know why the Mayor and Council was doing this. Miss Tanner said they are being taught not to smoke now but the Council is going to rent the land for kids to go smoke on. Mayor Ganz thanked her for talking to them and for her very well researched, well-thought out opinion. He said he knew how hard it was to get up and speak in public and that was very courageous of her to do that.

Jaimie Taylor Tomko, 1-39 28th Street, stated she spoke last week at Thomas Jefferson Middle School but she will repeat that she is not only a resident but she is a coordinator of a countywide anti tobacco coalition, called the Communities Against Tobacco or

CAT. She is also a member of the Fair Lawn Health Advisory Board and understands this is pretty much a done deal but felt she needed to say a few things. She said she is still in astonishment that this town would even consider such an ordinance. Ms. Tomko said at the last meeting Mayor Ganz said tobacco was a societal issue and she agrees. She suggested using a society wide program that already exists in New Jersey, called the New Jersey Comprehensive Tobacco Control Program. The number one killer in the country is tobacco which happens to be the number one lobbyist. She stated they can take this town by town because local municipalities are freer to battle this issue. Ms. Tomko implored them not to enable addiction by passing this ordinance. New Jersey is spending thirty million dollars this year on tobacco prevention and control. Encouraging a smoking area defeats the efforts of the State's Department of Health and Senior Services and our education system. She has heard that this ordinance by no means is condoning smoking on their part but she has a hard time believing that. The spirit of the state law was not to allow smoking on school property. It has come to her attention that there may be plans in the future to ban smoking by minors. She wondered how they can create a smoking area now and then ban it in the future. Ms. Tomko stated she was disappointed and embarrassed to have moved here if this is something that will actually go through. She has heard several times by health officials in the state what is wrong with the town.

Judy Ranges, chairperson for the Bergen unit of the Communities Against Tobacco, stated that Fair Lawn has come to her attention because of what the Mayor and Council are trying to do. She knows about the school system and knows that they prohibit drugs and alcohol. They teach the children why they should not use them. The Fair Lawn High School's cessation program is the best in the County. Ms. Ranges stated they have taught the children to obey the laws and that laws are to protect them. They have passed a law in New Jersey which states they prohibit smoking on school grounds. She said that Fair Lawn, as a municipality, has decided that they can go around the law. She wondered what this was teaching the people of Fair Lawn. Ms. Ranges felt that as a community Fair Lawn was saying to the State of New Jersey they don't care what the laws are they are going to make their own. Ms. Ranges told them shame on them.

Arlene Rubinstein, 28 Rutgers Terrace, stated she failed to understand how avoiding this law would benefit Fair Lawn or benefit the children. She wondered if the Borough were going to lease property so that they will allow smoking of marijuana which is also illegal. She thought if they avoided one law they may as well avoid another. As a former President of the Board of Education they made a drug education program. In that program they taught the children why they should not use drugs. She said they taught them that alcohol and drugs and heroin, cocaine and marijuana are as equally dangerous to their health. She asked the Council to reconsider this ordinance because they are avoiding the law and they are not teaching the youngsters anything beneficial.

Sister Margaret Lopez, from the American Cancer Society, stated she is a lobbyist in New Jersey but most of all she is a former educator. She said she was amazed the leasing of this piece of property was even being considered. Sister Lopez wanted to clarify that it is not against the law for minors to smoke but it is against the law for them to buy any kind of cigarettes. She stated she knows that the schools teach health, physical education and good nutrition. She finds it hard to believe that the Borough is now providing them with a place to smoke when they are being taught the very opposite in the school system. She stated that the American Cancer Society is in support of the new taxes on cigarettes that the Governor is proposing that would raise the amount of tax to \$1.30 per pack. Sister Lopez said she came here hoping the Council would reconsider what they are trying to do. She said after hearing the people tonight it made her want to continue her fight against tobacco.

Barbara Simon, 15 Schweid Court, stated she works for the heart association and is part of the Bergen County Coalition Against Tobacco but is also a long time resident of Fair Lawn. She felt it was going to be embarrassing to read in tomorrow's paper that the Fair Lawn has passed an ordinance which will enable kids to smoke. Somehow that does not seem right or fitting for the image of the Fair Lawn that she has known for a long time. She hopes the Mayor and Council will reconsider.

Eric Levin, 42-39 Herold Drive, stated he goes to Thomas Jefferson Middle School and is a member of New Jersey Rebel which stands for Reach Everyone By Exposing Lies. REBEL is a state funded organization who's goals are to reduce teen use of tobacco. By creating a smoking area on former school property they are in essence promoting teens use of tobacco. Besides that they are trying to skirt the law. Nicotine is an addictive drug. Many teens are already addicted. Placing a strip of land to skirt the law is not the answer. He supports Mrs. Panella's proposal of no smoking within one thousand feet of the high school. By leasing this land they are promoting smoking. With so much anti smoking press going around such as REBEL, this just puts all of their efforts one giant step backwards. Mr. Levin hoped that this Council chooses to reevaluate this non solution to a very serious problem.

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

Upon motion by Deputy Mayor Etler and a second by Deputy Mayor Weinstein, Resolution No. 173-2002 adopting Ordinance No. 1909-2002 was unanimously approved.

Mayor Ganz stated there may be the belief that the Council is promoting smoking and in a vacuum they are suddenly providing a

place for kids to smoke. In fact the kids are smoking on the corner of Orchard Street and if they look at the 2,933 cigarette butts that one of the residents brought in they will understand the exact nature of the problem for the local residents. The Council does not condone smoking. Smoking is an awful disease. The Council knows they lack the capacity and the ability to make them stop. This is an attempt to move the problem to where it is not going to hurt any of the neighbors. Parents who are listening to this if you think that the Council is promoting smoking stop it yourselves. Tell your teens they cannot smoke.

Deputy Mayor Etler stated the problem they have is that more than thirty percent of the students in the high school are smoking. He does not smoke, his colleagues do not smoke. He thinks it is a very serious and insidious thing to do. If the Council designates an area for them to smoke on it does not mean that the school or anyone else cannot implement the programs to have these people stop smoking. He felt it was a necessary function that they do this today.

Deputy Mayor Weinstein stated that personally he does not allow smoking in his home but the Council has a choice tonight to attempt to contain this away from the neighbors or to do nothing and allow them to be littered with cigarette butts.

Councilmember Caan stated this is not the last step that they will look at. This is just something right now for the residents on Orchard Street to get some relief. He prefers that the teens do not smoke. He realizes that no matter what they are going to continue to smoke and the question is where are they going to do it.

Councilmember Amato stated this is not a very pleasant thing for the Council to do. Not one member of the Council condones smoking. He felt they have a very serious problem where teenagers from the high school are not allowed to smoke on school grounds now go across the street to the residents. He wondered why the state went only part way when they passed this smoking law on school property. The state has created a problem for all municipalities. The Council is trying to do something with the smoking and littering problem near the school. He felt the people who spoke tonight should take this to the state level.

Mayor Ganz stated being a local municipal legislator is a difficult task in which they have to balance inequities and balance the interest of different and competing groups and that is what this Council is attempting to do tonight. They are attempting to balance the interest of the people on Orchard Street who's lawns are covered in cigarette butts and those of the students who they don't want to smoke but whom they want to move away from where they are currently smoking.

RESOLUTIONS BY CONSENT #9-2002

Upon motion by Deputy Mayor Etler and a second by Deputy Mayor Weinstein, Consent Agenda #9-2002 containing the following items was unanimously adopted.

- a. Resol. #174-2002 - Approval of Minutes:
Budget Meeting 2/26/02
Regular Meeting 2/26/02
Work Session 2/26/02
Closed Session 2/26/02
Budget Meeting 3/2/02
- b. Resol. #175-2002 - Interlocal Agreement with Prospect Park
- c. Resol. #176-2002 - Interlocal Agreement with Saddle Brook

MISCELLANEOUS PUBLIC COMMENTS

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

Harvey Rubinstein, 28 Rutgers Terrace, said that six weeks ago trees were cut down and new trees were planted on Warren Road behind Goodman's, CVS, and Marty's. A piece of one of the trees is on an electrical wire. He said he had called Manager Sacks informing her through her secretary but nothing was done. Mayor Ganz asked Municipal Clerk Kwasniewski to send a memo to the Department of Public Works advising them of Mr. Rubinstein's concerns and ask for them to report back to the acting manager. Deputy Mayor Etler asked what the address was. Mr. Rubinstein said it was on Warren Road by the shopping center. He stated in reference to the smoking, he hasn't smoked in thirty years, but recently his Doctor asked if he ever smoked because he could see the scars in his lungs. He suggested those people who belong to big organizations have their lawyers sue the town.

Ellen Tanner, 0-30 Hamlin Court, stated the ordinance they just passed has a one year lease and wondered if the Council could come up with something better than this. Mayor Ganz stated he certainly hoped to come up with something shortly but they want to

give relief to the neighbors between now and the end of the school year. Ms. Tanner said the Rickett family was not in favor of having this. She did not know who came up with this idea but it is very misguided. She appreciates that the Council is trying to serve her neighbors, however, the bigger picture is that they are sending out a very loud and resounding message throughout the county. She asked if they have an opportunity to speak with the media or to other local officials to make sure they know that this is done with a very heavy heart. This is a very temporary situation. At the last meeting she asked that they form a task force that would include representatives from the school, both students and faculty, a representative of the Council and herself along with Jaime Taylor Tomko. She suggested using the experts in their own backyard. Mayor Ganz asked that it be added to a Work Session.

Councilmember Amato wondered if she knew how long this has been a problem in Fair Lawn. It has been since September when the State law went into effect. That is when this problem festered. The residents came before the Council two months ago. He asked her what the solution should be. He wondered how the Council could stop the teenagers from smoking now. He is in favor of educational programs. Ms. Tanner stated to make it illegal for youth to not only purchase cigarettes but to be caught possessing cigarettes. They can't hold it. It is extreme and would take great courage. The other alternative which Ramsey has done is to outlaw smoking within one thousand feet of the high school. She thought that would just move the problem. She suggested including tobacco in the drug free school zone. Ms. Tanner said she would like to see some of the non smoking students, the seventy percent, patrolling areas for litters or smokers. It has been shown that when there is bullying and violence it takes just one voice of one student to say they are not going to do this. They could encourage and spotlight students who have chosen the right way. Councilmember Amato stated the school administrator has been working hard on this. It is a very tough problem.

Attorney Lustgarten stated Ms. Tanner indicated that she believed it was within the authority of this Council to ban smoking by minors. Ms. Tanner stated she said possessing not smoking cigarettes. Attorney Lustgarten said New Jersey has a fairly comprehensive set of laws related to smoking. In his opinion the State has preempted the issue of smoking. Mayor Ganz explained preemption means introducing a comprehensive regulation that covers the subject completely. Attorney Lustgarten stated throughout the debate certain comments have been made about what the Council can and cannot do. The Council is trying to strike a balance to prevent a neighbor's house from being trashed. As a local legislative body the Council could do nothing and the people of Orchard Street would continue to suffer or try to get a comprehensive program within the limits of their authority. This ordinance is only a step. The lease has an expiration date which was done deliberately. Attorney Lustgarten stated that even with all the publicity since September and all the peer pressure a segment of the high school population still disregards the peer pressure, disregards their principal, disregards the mandates of this Council, and shows disrespect to the homeowners in the area and yet a lot of the arguments to the Council is for them to solve the problem. He felt this was unfair.

Ms. Tanner stated that other municipalities have passed other laws. The Borough will have a lot of resources if they decide to go with other types of ordinances. She encouraged them to be courageous with this because they can change things. Ms. Tanner hoped the message goes out loud and clear so Fair Lawn is not perceived as a community in favor of teenage smoking.

Sister Margaret Lopez, with the American Cancer Society, responded to Councilmember Amato question of what can they do. The solution would be to repeal preemption in the State of New Jersey so it will come back to the municipality to repeal cigarette smoking. The American Cancer Society's priority this year is to knock on every legislative door to repeal the preemption law but unfortunately the tobacco industry is very strong. She suggested everyone contact their legislators to abolish preemption.

Lauren Bergmiller, a REBEL member and a Bergen County resident wondered why the Council is giving them a spot to smoke. Mayor Ganz asked if she was there at previous meetings to see the resident who came in with over three thousand cigarette butts that were removed from his front lawn. They have removed some of the incentive to smoke on Orchard Street and have given them a space where they will be able to smoke. Ms. Bergmiller stated she did not know how to answer that she just did not understand how they could give them a place to smoke. Mayor Ganz stated if they don't have a place that is near the high school they will go across the street and dump it on the lawns of private citizens.

John Gorgis, 130 Garfield Avenue, Lodi, New Jersey, a member of REBEL, stated by passing this ordinance the Council is condoning smoking. Mayor Ganz stated the Council is not condoning smoking. They are just trying to regulate where they are going to smoke by allowing them to smoke in a certain place. Mr. Gorgis felt this is going against what the State of New Jersey is doing to try to stop smoking.

Judy Ranges, chairperson for the Bergen unit of the Communities Against Tobacco, wondered what was going to happen to the kids who are still on Orchard Street smoking. Mayor Ganz stated they do not believe there is any incentive for them to be there.

Ray Welsh, 7-24 Fern Street, felt there should be enforcement of the current laws. Deputy Mayor Weinstein stated students are smoking in front of homes and it bothers people's health. The Council has taken six or seven steps to try to resolve this problem. All of these things they have initiated have to work together. Councilmember Amato stated his first thought was to double the fines for littering but that alone would not help. Mr. Welsh felt there should be more patrols in the area. He said there were many areas

where you can walk by and purchase drugs. Deputy Mayor Etler stated he has heard all the reasons but the fact is that over thirty percent of the high school students use drugs and tobacco. He thought the problem got worse when the State made the new law.

Pam Bratton, Rockaway, New Jersey, a member of REBEL, stated she tries to be a positive role model. She thought this did not set a good example for youths and she can almost understand why the kids go against rules. Attorney Lustgarten stated before the State put into effect the new law many schools allowed smoking. He wondered if she would have the same opinion of those schools. He also stated because of the shift in the law it now falls into the Council's lap. No one on the Council condones smoking.

Keith Brown, 23-05 Ellington Road, stated he is considering sending his daughter to a private school. He thought the Mayor and Council could have been more proactive in their solution to the problem. He stated he was pleased to see Channel 66 airing the meeting. He requested that tapes be made of the meetings.

Don Oliver, 8-32 Mitchell Place, stated he had lost both parents to cancer. He suggested the Council think about this. He thought the Council should pass an ordinance banning smoking within one thousand feet of the high school except for the cancer coral.

Jaimie Taylor Tomko, 1-39 28th Street, stated if no one is enforcing the law how do they know it works. She thought that community service would clean up the lawns. Ms. Tomko felt to make a point they could add the provision that the parents would have to clean up the lawns. She mentioned preemption of the State law. Mayor Ganz asked that this be added to the Work Session. Attorney Lustgarten stated the Borough has had a littering law for more than thirty years. He has instructed the Prosecutor to give Community Service to clean up the areas. Ms. Tomko stated she commended the State for passing this law.

Phil Plotch, 17 Bancroft Place, said he was there to talk about pedestrian problems on Fair Lawn Avenue. He spoke about the task force that was set up and the solutions they came up with. He said everyone agreed with the task force's ideas. There are three E's - enforcement, education and engineering. Mr. Plotch stated the task force determined the existing traffic laws needed to be upgraded and they also suggested engineering changes. He spoke of a resident who was killed while crossing Fair Lawn Avenue. Mr. Plotch said the task force could tell them how to improve the area to prevent future tragedies. He explained that the task force asked the Borough to move a trash bin and it has not been moved. He suggested the Council look at these recommendation and act on them.

Leon Wender, 7-22 Manor Avenue, said the Borough needed more Police enforcement. He thought that manners and respect do not get taught at home. He wondered if the kids will be allowed to using the cancer lot were going to be responsible for cleaning the lot.

Felice Koplitz, 6 Reading Terrace, said as a member of the Pedestrian Task Force she is fearful of crossing Fair Lawn Avenue. She witnessed a young man die in front of Grand Union. She knows that the Mayor and Council could use those suggestions. Mayor Ganz stated the County has rejected bump outs in the road. He asked if she knew the Council enacted several of their ideas. Ms. Koplitz felt more Police enforcement was needed. She thought Fair Lawn Avenue should not be used as a cross county road. Mayor Ganz stated the County designated it that way from Paterson to Paramus. Attorney Lustgarten stated there were over 3,000 motor vehicle summons issued. Ms. Koplitz stated the Borough needs the interaction with the County. She did not want to see more deaths.

Todd Malkin, 16 Brearly Court, said he believed enforcement is helpful. He felt more Police presence would help to slow the traffic down.

Don Oliver, 8-32 Mitchell Place, a member of the Homeowner's Association, thanked Municipal Clerk Kwasniewski and Assistant Municipal Clerk Bojanowski for getting him the minutes and information he had requested. He spoke about the \$18,000 bill for the Palm Trees and how it was a violation of the purchasing laws. He said the Borough was out \$2,800 because of the Manager ordering them. Mr. Oliver stated that competitive bidding should have been done. He stated the Manager must be terminated. Mr. Oliver said that on May 15, 2001 Manager Sacks requested the building addition. Mayor Ganz stated the building addition was discussed at the following meetings: June 7, 2000, November 8, 2000, and December 12, 2000 and also at a Budget meeting. Mr. Oliver stated the consensus was to put money in to it. He also said that a resident asked Manager Sacks when it was discussed and she told him it was before her term. Mayor Ganz responded that minutes are very vague. He said that he along with Deputy Mayor Etler had a recollection of discussions about the Police Department and the Municipal Building that did not appear in the minutes. Mr. Oliver mentioned the Carl Mecky report on upgrading the Police Station and for the Arts Center. He thinks a half million dollars far exceeds what Mecky suggested. He felt that report was good and also asked for a floor plan of the new addition. Deputy Mayor Etler stated the Mecky report was before this administration. The plan he saw was abandoned because the Police Department would not benefit from it. Mr. Oliver thought the west wing addition will not benefit the Police Department. He recommended the Council go back and read the Mecky report.

Mr. Oliver continued stating that at the last meeting he asked about the Manager's contract. He received a copy of that contract which clearly states that she can be terminated without benefits. Mayor Ganz informed him to check the 1998 - 1999 minutes for discussion regarding waving comp time. Mr. Oliver said he thought this was a clear violation of the bid law which is a good reason for termination. He asked how Manager Sacks gets the information to the Mayor and Council. Municipal Clerk Kwasniewski stated the Manager distributes her own mail to the Council.

Mr. Oliver spoke about the feasibility study for the horse patrol and suggested the Council go back and read it. He said this was not the 1800's. Horses cannot be used all of the time. Mayor Ganz asked that the study be recirculated. Councilmember Caan stated he read the report and that is why it is not in the budget. He felt it was not for Fair Lawn. Councilmember Amato stated he was against it from the beginning. A mounted patrol is for crowd control. Mr. Oliver stated he brought this up because it came from someone running the town. He stated that he thought Manager Sacks was insubordinate on March 2, 2002 to the Mayor and Council. Mr. Oliver stated that Parks & Recreation's matter was discussed privately which is a violation of the sunshine law. The way Manager Sacks hired the Court Clerk cost the Borough \$20,000 in legal fees. Mr Oliver continued that Manager Sacks has violated the law, cost the Borough money, has held private meetings and felt it was time for the Council to let her go. He said she needed to be terminated. He also thought terminating her would boost the moral in the Borough. Mr. Oliver thought that Manager Sacks owed the other Don Oliver an apology for the accusations that were made. He asked that the Council pass that on to her.

Felice Koplitz, 6 Reading Terrace, wondered about traffic calming measures for Fair Lawn Avenue. Mayor Ganz stated they have been rejected by the County. Ms. Koplitz stated these measures were done on Kinderkamack Road and thought the County should be contacted. Mayor Ganz advised her to go ahead.

Phil Plotch, 17 Bancroft Place, stated there was someone from the County at the Radburn Association meeting who did agree to bump out the curbs. He wondered if the Mayor and Council would endorse such a project. He said the County Freeholders were sympathetic to the problems that exist and asked what was needed to help the situation. The County was told to check with the Borough Engineer and Manager Sacks. Mayor Ganz stated they did that. He asked that this be passed on to the Borough Engineer to get a status report on what has been adopted from the task force study. He asked that it be placed on the next Work Session Agenda following next week's meeting.

There being no additional comments from the public, upon motion by Deputy Mayor Etler and a second by Councilmember Caan, the time for public comments was unanimously closed.

ADJOURNMENT TO WORK SESSION

Upon motion by Councilmember Amato and a second by Deputy Mayor Weinstein, the meeting was adjourned at 9:55 p.m.

Respectfully submitted,

Marilyn B. Bojanowski, RMC
Assistant Municipal Clerk

WORK SESSION OF APRIL 23, 2002

Mayor Ganz reconvened the meeting at 10:00 p.m.

PRESENT: Mayor Ganz, Councilmember Amato, Councilmember Caan, Deputy Mayor Etler and Deputy Mayor Weinstein.

Also present: Municipal Clerk Kwasniewski and Attorney Lustgarten.

Enforcement of Littering and Other Ordinances - Mayor Ganz thought that if the Council is really serious about eliminating litter they should request through the Manager that the Police Chief makes sure that the littering ordinance is being enforced on a Borough-wide basis.

The consensus of the Council concerning the enforcement of the littering and traffic ordinances on a Borough-wide basis was to convey to the Police Chief that they are quite serious about this as are the Borough residents who have been voicing their concerns about the lack of enforcement of the Borough's ordinance.

Municipal Clerk Kwasniewski was asked to send a memo to the Police Chief asking that he, consistent with his discretion as the Police Chief, be sure that the Borough ordinances are being enforced throughout the Borough. The only way the Mayor and Council can measure whether or not the wishes of the Council are being seriously considered is through the monthly reports they

receive showing the number of tickets issued.

Memorial and Walsh Pools - Superintendent of Parks and Recreation Frey was present and advised that the aquatic permit application required by the DEP before the pool can be filled will not be affected by the drought. He expects to have that permit within a week. He explained what steps need to be taken in order to open the pool if the drought emergency is lifted including purchasing tags, membership cards, chlorine, uniforms and the geese patrol. It takes 10 to 12 days to fill the pool. May 8 is his target date. He pointed out that he will have to spend \$18,000 for supplies which may not be needed. Mayor Ganz pointed out that supplies could be saved for next year. Attorney Lustgarten added that they could order colored tags and cards instead of having a date on them so they could be used next year. He realized that hiring the staff may be a problem. He recommended that they should be proceeding in the same way as in the past. The only way the pool is not going to open is if the State prevents it from opening. Everything must be in place to open the pool as usual. Mayor Ganz felt strongly that they should plan for a Memorial Day opening but if it is not possible to start filling the pool on May 8, then everything should proceed on a continuing sliding calendar so that as soon as the restrictions are lifted the pool can be opened forthwith. Superintendent Frey pointed out that they may start losing staff as they find other positions if the opening is delayed. He could open just a section of the pool in that case.

Councilmember Amato asked if Walsh Pool is under the State restrictions since well water is used to fill it. Mayor Ganz pointed out that it is not the source of the water that is important. It is the use of the water.

Councilmember Caan thought it was a good move to buy the supplies now. Under the worst case scenario they will have the supplies for next year at this year's prices. He proposed if Walsh Pool is using less water so that it falls under the guidelines, that they just open Walsh Pool. Mayor Ganz did not know if they could open Walsh Pool but if it were possible, it would be a wonderful thing. They have added amenities to Walsh Pool.

The consensus was that the Manager has the Recreation Department move ahead with all deliberate speed to ensure an opening on Memorial Day and if that date evaporates, then everything should proceed on a continuing calendar so that as soon as the restrictions are lifted the pool can be opened forthwith. The consensus includes the appropriate expenditure of needed supplies and contractual agreements as if the pool were to open.

Municipal Clerk Kwasniewski will convey the consensus to the Manager with a copy of the memo to Superintendent Frey.

Mayor Ganz asked if the sprinkler heads at Walsh Pool can be used despite the drought. Superintendent Frey explained that those heads give a spray and are aesthetically pleasing. Mayor Ganz added that if they cannot use the sprinkler heads he wanted to know if a misting device which uses very little water can be available if neither pool is open. He thought it would be useful to know if they can legally use them and what the cost would be to make it happen.

Councilmember Amato asked what will happen to the summer program if the pool does not open. Superintendent Frey advised that they have started registration and the Kindergarten and first grade program is at about the same level as last year. The registration for second grade to eighth grade program is down perhaps because parents are waiting to see if the pool is going to open. The program will operate. He is looking at other options for swimming.

The consensus was to have the campers transported to a camp or other facility for swimming and the cost to be included within the camp registration.

Deputy Mayor Etler suggested contacting the Radburn Association to see if they are willing to work with the Borough. Superintendent Frey has spoken to them and they are working on the details. He has contacted other municipalities and other agencies. They are in the planning stages. He will come back to the Council once everything has been worked out.

School Budget - Mayor Ganz proposed that they appoint a subcommittee to meet with a subcommittee of the Board of Education to review the defeated school budget and to look for areas to be cut. He felt that there was room in the budget to make significant cuts. The Council must make line by line cuts with an explanation of those cuts. The Board does not have to follow the line by line cut only the total amount to be cut from the budget.

The consensus was to have a subcommittee composed of Mayor Ganz and Deputy Mayor Etler meet with the subcommittee of the Board of Education.

Municipal Budget - Mayor Ganz thought they should wait for at least two weeks before proceeding with the municipal budget. It was agreed to schedule a budget meeting for May 7 at 6:00 p.m.

Attorney Lustgarten proposed that they sunshine a meeting for April 30 at 7:30 p.m. with an agenda to follow in case they need to meet on either the school budget or the municipal budget.

Requesting the State to Amend the Number of Passengers for Certain Age Drivers - Councilmember Caan indicated he understands the rationale for the graduated driver's license but it will have an impact on the parking problems at the High School. He suggested asking the State representatives to amend the law to allow more passengers in the vehicle going to and from school. The change would allow more car pooling. Mayor Ganz wanted a recommendation from the Traffic Safety Officer. If he felt it was a good idea, the Council can adopt a resolution requesting the change in the law.

The Council concurred.

Closed Session Resolution - Upon motion Deputy Mayor Etlar by and a second by Councilmember Caan, the following closed session resolution was unanimously adopted at 10:45 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 attorney/client privilege; 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 within eight to twelve weeks and relating to attorney/client privilege that is information only and legal strategy will not be disclosed.

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.

ADJOURNMENT - Upon motion of Councilmember Caan and a second by Deputy Mayor Weinstein the meeting was adjourned at 11:30 p.m.

Respectfully submitted,

Joanne M. Kwasniewski, RMC/CMC/AE
Municipal Clerk