

REGULAR MEETING OF AUGUST 20, 2002

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 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 Councilmember Caan.

ABSENT: Deputy Mayor Weinstein

LATE: Councilmember Amato arrived at 7:40 p.m.

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

MANAGER'S REPORT

Mayor Ganz stated the Manager's Report is on the front table and there were no changes or additions.

PROCLAMATIONS:

Prostate Cancer Awareness Month

Mayor Ganz stated they had three proclamation this evening, each of which is important and each of which has an importance for an entirely different reason. The first one he directed to the men in the audience and to anyone who is listening who have a loved one that might need to hear the advice they were about to give in the form of a proclamation for Prostate Cancer Awareness Month. Assistant Municipal Clerk Bojanowski read the proclamation.

National Alcohol and Drug Addiction Recovery Month

Mayor Ganz stated this proclamation relates to National Alcohol and Drug Addiction Recovery Month which comes our way at the request of the President of the United States. Assistant Municipal Clerk Bojanowski read the proclamation.

National Former Prisoner of War Recognition Day

Mayor Ganz stated this proclamation is to honor a number of individuals nationwide and someone within the Borough of whom the Council is very proud. They tend to forget because there has been so many years removed and detached from it that there are those who served in the armed services who were former prisoners of war. The national recognition of Prisoner of War Day has been proclaimed by the President and he has asked that municipal and other governments do likewise as a Borough resident is simultaneously recognized. Assistant Municipal Clerk Bojanowski read the proclamation. Mayor Ganz presented the proclamation to Mickey Callie.

Mayor Ganz stated the Council Meeting scheduled on September 10, 2002, will be held in the Council Chambers in the Municipal Building instead of Radburn School. The Council has decided to do that so that all residents will be able to speak about September 11. No Council business will be conducted that night. On the following day, September 11, there will be a memorial service at the Borough Hall.

ORDINANCES: FIRST READING

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

Ordinance No. 1922-2002

BOND ORDINANCE AUTHORIZING VARIOUS CAPITAL IMPROVEMENTS IN, BY AND FOR THE BOROUGH OF FAIR LAWN, IN THE COUNTY OF BERGEN, NEW JERSEY APPROPRIATING \$494,400 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$470,850 OF BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF

Upon motion by Deputy Mayor Etlar and a second by Councilmember Caan, Resolution No. 267-2002 introducing Ordinance No.

1922-2002 was discussed.

Mayor Ganz stated this bond ordinance was to fast track certain items which included improvements to the municipal facilities for the Fire Department and the Municipal Building, public safety equipment for the Fire Department and Ambulance, furniture and equipment for the Children's Department of the Library and the Recreation and Parks Department, electronics and computer equipment for Library and Legal Department, equipment for the Road Department, tree replacement for the Shade Tree Department and machinery and equipment in the Shade Tree Department.

There being no further comment, Resolution No. 267-2002 introducing Ordinance No. 1922-2002 was unanimously passed.

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

Ordinance No. 1923-2002

AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FAIR LAWN, 2000, BY AMENDING AND SUPPLEMENTING CHAPTER 232 ENTITLED "VEHICLES AND "TRAFFIC," ARTICLE II "PARKING"

Upon motion by Deputy Mayor Etlar and a second by Councilmember Caan Resolution No. 268-2002 introducing Ordinance No. 1923-2002 was discussed.

Attorney Lustgarten stated this ordinance continues the clean up process from the recodification of the Borough's code. As they go along there are items found that were left out of the code. He thanked Traffic Safety Officer Franco and Assistant Engineer Brouca for doing a wonderful job on this ordinance.

There being no further comment, Resolution No. 268-2002 introducing Ordinance No. 1923-2002 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.

Ordinance No. 1924-2002

AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FAIR LAWN, 2000, BY AMENDING AND SUPPLEMENTING CHAPTER 232 ENTITLED "VEHICLES AND "TRAFFIC," ARTICLE VIII "TRAFFIC," SUBSECTION 232-50 "BUS STOPS" AND ORDINANCE NO. 1841-2002

Upon motion by Deputy Mayor Etlar and a second by Councilmember Caan, Resolution No. 269-2002 introducing Ordinance No. 1924-2002 was discussed.

Attorney Lustgarten stated that a year ago a bus stop was located on Dunkerhook Road. The ordinance had a sunset period which was expiring. It has been determined that there have been no problems.

There being no further comment, Resolution No. 269-2002 introducing Ordinance No. 1924-2002 was unanimously passed.

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

Ordinance No. 1925-2002

AN ORDINANCE TO AMEND ORDINANCE NO. 1918-2002 WHICH PROHIBITS THE USE OR POSSESSION OF TOBACCO PRODUCTS IN THE BOROUGH OF FAIR LAWN WITHIN 1000 FEET OF SCHOOL PROPERTY BY ANY PERSON UNDER THE AGE OF EIGHTEEN (18) YEARS AND TO PROVIDE PENALTIES FOR THE VIOLATION THEREOF.

Upon motion by Deputy Mayor Etlar and a second by Deputy Mayor Weinstein, Resolution No. 270-2002 introducing Ordinance No. 1925-2002 was discussed.

Mayor Ganz stated the Chief of Police had requested the change in the language of the ordinance regarding who in the Police Department would receive the complaints. Attorney Lustgarten stated this was just a housekeeping item.

There being no further comment, Resolution No. 270-2002 introducing Ordinance No. 1925-2002 was unanimously passed.

ORDINANCES: SECOND READING

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

Ordinance No. 1921-2002
(Resolution No. 271-2002)

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

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

Attorney Lustgarten stated this ordinance relates to Orchard Street. Upon recommendation by Traffic Safety Officer Franco alternate side of the street parking will be established.

Upon motion by Deputy Mayor Etler and a second by Councilmember Caan, Resolution No. 271-2002 adopting Ordinance No. 1921-2002 was unanimously adopted.

RESOLUTIONS BY CONSENT #17-2002

Upon motion by Deputy Mayor Etler and a second by Councilmember Caan, Consent Agenda #17-2002 containing the following items was unanimously adopted.

a. Resol. #272-2002: Approval of Minutes:

Budget Meeting 5/28/02

Regular Meeting 5/28/02

Work Session 5/28/02

Closed Session 5/28/02

Special Meeting 5/30/02

Closed Session 6/5/02

Special Meeting 6/5/02

Work Session 6/5/02

Regular Meeting 6/11/02

Work Session 6/11/02

Closed Session 6/11/02

b. Resol. #273-2002: Refund of Overpayment of Taxes

c. Resol. #274-2002: Approval of Raffles & Bingo:

Sunrise Rotary Club of Fair Lawn Calendar Raffle

St. Leon Armenian Church off-premise 50/50

Fair Lawn High School PTA on premises 50/50

Fair Lawn High School PTA Calendar Raffle

d. Resol. #275-2002: Special Item of Revenue: Solid Waste Administration

e. Resol. #276-2002: Special Item of Revenue: Bergen County Division of Cultural and Historic Affairs

f. Resol. #277-2002: Dedication by Rider for Accumulated Absences

g. Resol. #278-2002: Supporting the Bergen County Board of Chosen Freeholders' Opposition to a New Arena in Newark

h. Resol. #279-2002: Professional Services - Jersey Professional Management

i. Resol. #280-2002: Professional Services - Professional Nursing Services

j. Resol. #281-2002: Award of Bid: Project 2098-2 Radburn Pathways Section 2

k. Resol. #282-2002: Monuments Required by Bergen County Planning Board

l. Resol. #283-2002: Interlocal Agreement with Ridgewood - Water Analysis

m. Resol. #284-2002: Endorsement of Alliance Against Homeless CDBG Application

n. Resol. #285-2002: Appointment to the Fair Lawn Borough Garden Committee

o. Resol. #286-2002: Change Order Project 2099 - Parking Lot Improvements

p. Resol. #287-2002: Brunswick Delaware Corp. Tax Appeal

MISCELLANEOUS PUBLIC COMMENTS

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

Howard Hyde, 13-07 Ellis Avenue, stated he was disappointed to see that the whole Council was not there because he thought what he had to say was important. He has gone through the resume of the Borough Attorney and has found some conflicts of interest between him and the members of this Council. The Borough Attorney is also the Attorney for the Fair Lawn Democratic Club. He is also a major contributor, financially, to that club. The Borough Attorney being a member of that club is obligated to, as the notes of the club's filings show, to further Democrat principles and to train, select and elect candidates for public office. Mr. Hyde stated he felt there was a conflict of interest and a possible ethics violation. He thought there was a violation of professional code of conduct, Section 1.7 of New Jersey statutes, in that the Borough Attorney is representing two different people and he cannot tell which hat Attorney Lustgarten is wearing. Mr. Hyde has noticed opinions of the Borough Attorney that seem to be enablers to a risk assessment as to whether the Borough is liable for litigation as opposed to making decisions based on eliminating litigation for the Borough. He thought Attorney Lustgarten had become too close to this governing body. He felt they should remove Attorney Lustgarten and that a replacement should be found for him immediately. If nothing else he thought they should suspend his appointment until an independent ethics examination of how he can serve both bodies is completed.

Attorney Lustgarten responded that Mr. Hyde is obviously a candidate for office and he thinks one of the targets will be himself. Attorney Lustgarten stated he has served in this capacity for nineteen years. He has been appointed by Republican administrations, by non partisan administrations and Democratic administrations. It would seem to him for the betterment of Fair Lawn, if they would address the issues concerning the Borough rather than himself. Nobody in the nineteen years that he has served the Borough has ever raised these kind of charges. He categorically denies them and felt they were fallacious. He thought it was an outrageous thing for him to say in a political campaign time. He told Mr. Hyde if he wanted to file with the State Bar Association or the New Jersey Supreme Court Committees or the Board of Ethics that the Borough has, do so. He does not think there is any conflict and if he were saying that an individual who is holding a position therefore cannot associate with people they choose to associate with, he thought that was a minority opinion and one not shared by the people of Fair Lawn. He also stated that when he served in another community he also received bi-partisan support so that whatever political credentials he may or may not have had has never been the criteria for his appointment. He stated that his performance has always been subject to review by any Councilmember for which he has served. He is basically an at will employee and unless the majority of the present Council feels the way Mr. Hyde does he intends to perform his services to the best of his abilities as he has done for nineteen years. He does not intend from now until November to comment on this issue again.

Mr. Hyde stated that he doubted this Council would find the Borough Attorney out of line since he serves them in two different capacities. The rules of professional conduct state that a lawyer shall not accept government legal engagements or appointments if the lawyer or law firm makes a political contribution or solicits political contributions for the purpose of obtaining or being considered for that type of appointment. Mr. Hyde stated the Borough Attorney has made political financial contributions and obviously his time is being contributed to the party in power in this town. It is a vicious circle. The people of this town pay the Borough Attorney more than \$66,000 a year to be their attorney not to be the attorney for the Councilmembers and the Councilmember's political party. New Jersey Statutes clearly state that any perceived conflict requires you not to represent both parties that is section 1.7C2. It is not a political statement. It is essentially his tax dollars that go to pay the Borough Attorney's salary that in turn goes to the Democratic club that in turn goes to further Democrat principles, train, select and elect candidates for political office. If they follow the trail of money the taxpayers of this town are paying, they are financing the election campaign of these Councilmen.

Leon Wender, 7-22 Manor Avenue, stated a he complained to the prior Council about the deplorable condition of the sidewalk on the east side of River Road between Park Avenue and Harrison Drive. He has not seen anything done and would like to see it addressed by this Council. Mr. Wender expressed concern about is the condition of several properties. He suggested that the Property Maintenance Officer be sent out to check on the properties in question. Mayor Ganz asked that he give the locations to the Acting Manager / Municipal Clerk to be investigated. Mr. Wender continued that Memorial Pool is filled with algae and something should be done about it. He also suggested they should weed the front of the Library. Mayor Ganz stated his comment would be passed along to the Garden Club.

Jane Diepeveen, 14 Ryder Road, stated she is the Vice President of the organization that takes care of the Cadmus House. They once had a strong board that included the Mayor and Manager but have lost those people. She said they needed people to serve on their board. Ms. Diepeveen asked the Council to talk to their contacts that might be interested in becoming a member. Mayor Ganz asked that she forward a note to the Acting Manager / Municipal Clerk. Ms. Diepeveen thought that one of the Historical Committee members would be interested in joining.

Ms. Diepeveen went on to speak about the parking situation at the High School and how she was against tax money being spent to use mini buses for those kids that were too lazy to walk to school. Mayor Ganz stated there are not enough spaces for the

students. He explained to her that New Jersey Transit gave the Borough a grant for a mini bus and a driver. He felt it would make life easier for the residents in that area. Deputy Mayor Etler stated when this came to the Council they took immediate steps to add parking spaces at Sasso Field, on Bellaire and Cadmus. He knows it is only a four minute walk because he walked it himself. Deputy Mayor Etler felt the problem was the student's feel it is too far away.

Ms. Diepeveen expressed her dismay that they removed the trees on Ramsey and Berdan Avenue because it is now dirt and mud. The appearance of the lot is a disgrace. She asked why the head of the DPW did this. Mayor Ganz stated he has seen the area and he understands the Borough is planning on seeding and putting plants in. Acting Manager / Municipal Clerk Kwasniewski stated the head of the DPW did not take it upon himself to take the trees down. The trees were leaning over Plaza Road and it was a safety issue. She told Ms. Diepeveen that the Borough will be replanting the trees. Ms. Diepeveen said she knew that Louise Orlando had several conversations with the Borough. Both feel that the Borough neglected the area. Acting Manager / Municipal Clerk Kwasniewski stated part of the problem was whose land did it belong to - Radburn Association or the Borough. Ms. Diepeveen stated it was too bad the Borough neglected that area for so long.

Mark Sedaka, 13-11 Ellis Avenue, stated he had approached the Council two months ago regarding temporary overnight parking. Mayor Ganz stated the Council's consensus was to do nothing at this time. Attorney Lustgarten stated the Council decided to stay with their policy of not allowing overnight parking. The Council has concerns that once they build in exceptions there will be equally compelling issues. Aesthetically it would end up looking like New York City. Mr. Sedaka stated by disallowing the temporary overnight parking the Council is not encouraging the children to stay in town. He said he talked to the Police and all they need is a simple permit. He felt rules were meant to be changed. Mr. Sedaka felt if the Council thought this would create problems they should look into extending the 10 day permit to 30 days. Mayor Ganz asked Acting Manager / Municipal Clerk Kwasniewski to get Traffic Safety Officer Franco's opinion.

Mr. Sedaka stated that he has not seen his street get paved since he has lived on that block. Three years ago he was told by the Manager that it would get paved the next year. Mayor Ganz stated he did not know about it. He said there were 111 miles of roadway in the Borough and every year seven to nine miles of it gets repaved. It takes 11 or 12 years to do all of the roads. Mr. Sedaka stated he has lived at his home for thirty years and they have never repaved his street.

Councilmember Amato stated several people have asked the Council for relief to park on the street overnight. His guiding principle is what is good for the town as a whole. He felt Mr. Sedaka's argument was targeted for one group of people not at what was good for the whole town. Mr. Sedaka stated he appreciated his comments and agreed it should be open to all residents of Fair Lawn.

Howard Lowenstein, 0-93 Plaza Road, stated he was a resident for more than twenty-three years. He praised Acting Manager / Municipal Clerk Kwasniewski, Assistant Municipal Clerk Bojanowski and Traffic Safety Officer Franco for being so helpful to him. Mr. Lowenstein said he was present because he wanted to speak about the dead-ending of Ellington, Dorchester, Cambridge, Berkshire and Arcadia. Mr. Lowenstein felt they should address all of the residents in that area. He suggested they should hold a general meeting as it will affect the whole area. Mr. Lowenstein stated he had no idea this was happening and felt only certain people were contacted. He said he was against it. The impact will be tremendous on the entire area. He suggested the Council get everyone's opinion. They should tell everyone what is going on. Mr. Lowenstein felt to close those streets would be a huge task because of where the streets meet the State and County roads.

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 Deputy Mayor Etler and a second by Councilmember Caan, the meeting was unanimously adjourned to a Work Session at 8:40 p.m.

Respectfully submitted,

Marilyn B. Bojanowski, RMC
Assistant Municipal Clerk

WORK SESSION OF AUGUST 20, 2002

Mayor Ganz reconvened the meeting at 8:45 p.m.

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

Also present: Acting Manager / Municipal Clerk Kwasniewski, Assistant Municipal Clerk Bojanowski and Attorney Lustgarten.

Street Fair:

Acting Manager / Municipal Clerk Kwasniewski informed the Council of the cost of for the overtime at the last street fair and felt it was a good idea.

There was a unanimous consensus to allow a street fair on Plaza Road on October 19, 2002.

Card Readers:

Councilmember Caan stated there were complaints submitted regarding faxing the sign- in sheets for LOSAP. The plan that was previously discussed was to put in a dedicated line for the fax but he felt before that was done they should get a cost estimate for the card readers. He wanted to see if it made sense to implement that since they were already doing the ID cards for the Veteran's and Volunteers program. Mayor Ganz suggested they install the new phone line to see if it solves the problem even though he felt it would not. Acting Manager / Municipal Clerk Kwasniewski stated the LOSAP sheets are now being faxed to her machine since it has a dedicated line. They have found some of them come in clear and some are illegible. Councilmember Amato stated he was not sure faxing was the way to go and felt the swipe card would do the job. Attorney Lustgarten stated they would have to weigh the accountability and the cost. He felt they should see if the line works. Acting Manager / Municipal Clerk Kwasniewski felt putting the dedicated line at one fire company is the best solution for now. She thought they should explore the card readers further.

There was a unanimous consensus to explore the card reader further and to install one dedicated phone line.

Signs:

Mayor Ganz wondered about the status of the signs. Acting Manager / Municipal Clerk Kwasniewski stated she was informed by DPW Superintendent Maslo that the curbs on the streets surrounding the high school have been painted and the signs have been ordered. Mayor Ganz stated the County has approved the Borough to put signs on their roads.

Salary Report:

Councilmember Amato spoke about the salary report. Mayor Ganz informed him that longevity was not included in the report he already received. Councilmember Amato would like a three column report with the current and gross salaries listed.

Closed Session Resolution:

Upon motion by Deputy Mayor Etlar and a second by Councilmember Amato the following closed session resolution was unanimously adopted at 9:35 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

WHEREAS, these matters are ones which permit the exclusion of the public from such discussion; and

WHEREAS, public disclosure of the results of these discussions shall be made relating to personnel within 120 days or as soon as the Council decides;

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 by Deputy Mayor Etlar and a second by Councilmember Caan, the meeting was adjourned at 9:15 p.m.

Respectfully submitted,

Marilyn B. Bojanowski, RMC
Assistant Municipal Clerk