

## WORK SESSION OF MARCH 19, 2002

Deputy Mayor Etler called the meeting to order at 7:35 p.m.. Municipal Clerk Kwasniewski read the statement of compliance with the Open Public Meetings Act.

PRESENT: Councilmember Amato (late), Councilmember Caan, Deputy Mayor Etler and Deputy Mayor Weinstein.

ABSENT: Mayor Ganz.

Also present: Manager Sacks, Municipal Clerk Kwasniewski and Attorney Lustgarten.

Review of Tentative Agenda - 3/26/02 - The fee ordinance was discussed regarding the George Street lot. The consensus was to delete the cost for residents with Deputy Mayor Etler dissenting. The fee for parking in the Arts Center lot was discussed. The consensus was to delete that fee with Deputy Mayor Etler dissenting.

Payment for Programming Log on/Log off Reports - Manager Sacks circulated a copy of the proposal of \$700 to pay for the programming for log on/log off reports. Councilmember Caan pointed out that this is something that the Council is doing for Councilmember Amato so perhaps they should wait until he is present later this evening. Deputy Mayor Weinstein agreed.

Petition to Remove Handicap Parking Space Radburn School - Deputy Mayor Weinstein advised that this parking space has been a problem. One particular incident caused the petition to be presented to him.

Melanie Guerra, 8 Glenfair Road, stated that the handicap parking space is right outside the kindergarten room. A car drove up through the children forcing them to move out of the way. It is not safe.

Lisa Yourman, 66 Nottingham Road, stated that she was the person referred to by Ms. Guerra. She has two children with progressive chronic lung disease. This has been an issue for four years. She asked for an accommodation for her children without any success. In August 2001 the Civil Rights Office issued a resolution requiring the Board of Education to put in a handicap parking space. The Board of Education chose the location. She did not think it was a safe space. She does not use it every day. She does use it in very cold weather and inclement weather. On September 14, 2001, she sent a letter to the Board of Education complaining that she did not have access to the space. She had asked for an accommodation to use the no stopping or standing zone in front of the school but the Police said she could not use it.

Deputy Mayor Etler thought it was the least likely place to put the handicap parking space. If it was up to him, he would shut it down but he does not have that power. He then asked Ms. Yourman why she was going up there. Ms. Yourman replied that she has the right to with her children who have handicap parking plates. The Office of Civil Rights has a legal document requiring the handicap parking space.

Manager Sacks stated that when the Board of Education had to put it at the accessible entrance. If they would make the entrance on Radburn Road accessible, they could put the space in front of the school. A CDBG grant has been approved so they can reconfigure the entrance so that they can put in a handicap parking space on Radburn Road.

Councilmember Amato arrived at 7:40 p.m.

Ms. Yourman stated that if the space had been placed in front of the school none of this would have happened.

Attorney Lustgarten asked Ms. Yourman for a copy of the documents she referred to. There is a cross walk and so the Traffic Safety Officer said it was not safe. Manager Sacks stated that the Board of Education did not have any choice in this matter. State law does not allow stopping or standing 25 feet from a crosswalk. The Traffic Safety Officer said there is nothing the Borough can do, but the Board of Education is looking at making a walkway separated from the driveway. The children would no longer have to go on the driveway at all. Councilmember Caan wanted to know what the Council can do to move the space to another location. Obviously the Council cannot just remove it. Attorney Lustgarten stated that the diagonally parking designated as teacher's parking was once considered but the area did not meet ADA requirements. He recommended sending the Traffic Safety Officer to do a feasibility study to determine what areas would be safe. He suggested that perhaps Manager Sacks could write to the Board of Education asking someone to do traffic control. The Borough has to comply with the ADA. Manager Sacks stated that the Traffic Safety Officer has been there several times. Unless there is a handicap entrance in the front there is nothing the Borough can do. It is up to the Board of Education. Deputy Mayor Weinstein wondered if one of the diagonal spaces could be designated as a handicap parking space temporarily until the walkway is done. It is a very dangerous situation which the fence does not help. Manager Sacks advised that the Council can do that by ordinance, but they would be in violation of the ADA.

Attorney Lustgarten noted that in a letter of June 29, 2001 from the Board attorney to the US Department of Education, the Board acknowledged that it does not have any handicap parking spaces. In spring 1999 they discussed the space in the front of the school but in 2000 the Borough overturned the Board's decision since the space did not meet the ADA requirements because of the pitch. Councilmember Caan wondered if they can find an alternative spot for Ms. Yourman while still keeping the designated handicap space.

Ms. Yourman suggested that someone should speak to Paul Cordozza of the Department of Education Civil Rights Office to help resolve this matter.

Deputy Mayor Etler asked Manager Sacks to speak to Bruce Watson to see if there is something that can be done and report to the Council in two weeks.

Pedestrian Yield Signs - Councilman Caan stated that in February the Council had discussed going ahead with the ordinance before the guidelines come out from the State. They were supposed to get an opinion from Officer Franco about putting them in the middle of the block. Manager Sacks explained the process which takes some time. She suggested that they introduce the ordinance for the yield signs at the intersections. Officer Franco and Assistant Engineer Brouca did not think mid block cross walks were a good idea. However, the one on River Road by the Post Office was the safer of the ones suggested. Putting in cross walks means losing 60 feet of parking spaces. She did not know if the Council wanted to do that since RRIC is trying to add parking spaces. Councilman Caan wanted to know what RRIC thought. Deputy Mayor Weinstein indicated that he will be at the meeting of RRIC Thursday. He will bring it up at that meeting.

The consensus was to introduce the ordinance for the signs at the intersection. The effective date of the ordinance will be after publication and upon the adoption of the rules and regulations relating to the signs by the Department of Transportation. Attorney Lustgarten pointed out that if the signs are installed before the guidelines are adopted, the Borough will not have immunity. Manager Sacks advised that they cannot install the signs until the regulations come out.

Edmunds Associates Accounting System - Councilmember Caan announced that Edmunds Associates will be making a presentation at the April 17 work session.

Verizon Power Bill - Communication Expense - Councilmember Amato distributed screen prints of the images of the displays of the spreadsheet. He explained each sheet. Manager Sacks explained that the Borough receives a discount so the billed amount will be less than the detailed itemization. Councilmember Amato asked where the detail for each of the lines is. He wants all the detail so he can look at all the costs summed up to the total amount by month. When he spoke to Verizon they had a training course to teach someone how to use the system. He asked for the documentation so he can understand how it is reported by Verizon. Manager Sacks thought she could send it to him this week.

Payment for Programming for Log on/Log Off Reports - Manager Sacks asked for a consensus for \$700 to pay for the programming for the computer connection to provide the log on/log off times in the format Councilmember Amato requested. Councilmember Amato pointed out that Ron Lotterman's memo indicated that the second candidate was \$700 more so there is really no difference between the two vendors because the Borough will now spend \$700 for the reports. Manager Sacks indicated that was true or the first year but Skyweb gets more expensive each year.

Public Comments on Items on the Agenda - No one wished to speak.

19-15 11th Street - Garage Access - Manager Sacks advised that she spoke to the Construction Official VanHook regarding the garage access. Manager Sacks stated that in 1971 the Borough approved a garage in the back of the house but there was no driveway for them to use except by going over Borough owned property. There should be something in the file showing why they gave permission for a garage when there is no access except over Borough owned property. Construction Official VanHook suggested something in the file acknowledging that they can use it for access to the garage but not for parking. The homeowner does not need parking space. They just need access. Attorney Lustgarten recommended that the Borough write a letter to Ira Levine, attorney for the homeowner, reiterating that the current owner of 19-15 11th Street, which is also known as Block 5802, Lot 2 in the Borough has been utilizing access over Borough owned property to reach a garage that is located on the property owner's property. Apparently this condition has existed after the Borough approved construction of that garage in or about 1971. Prior to March 19, 2002 there has been no official acknowledgment of usage by any owner of that property over Borough land to access the property owner's garage. The consensus of the Council is that the Borough will permit the current owner and any successor owner of 19-15 11th Street in the Borough to utilize Borough property for access only to the property owner's garage but not for parking on any Borough owned property in relationship to that access. Further, in the event that in the future that garage is removed by any property owner this right of access will automatically expire.

Manager Sacks wondered why the right of access would expire if the garage comes down. Attorney Lustgarten recommended that so that the property owner would have to come to the Council with a formal request. The Borough is not giving them an easement. It is only a right of access.

The consensus was to follow Attorney Lustgarten's recommendation.

Return of Palm Trees - Attorney Lustgarten suggested that the shipping be kept at the amount of shipping them back to Langhorn and an agreement be made in writing. Manager Sacks circulated a memo this evening which he has not had an opportunity to review. He will respond to it. He thought the Borough's liability was the cost of shipping them to the Borough and then the cost to ship them back. If the Borough has to store them and ship to them to a third party, the Borough's responsibility should only be the initial amount. He suggested that there be a cap on the amount of the time the Borough stores them. Councilmember Caan wanted to make sure that if the shipping cost is less than it would be back to the vendor, the Borough only pays the actual amount. If the Borough is storing them, what is the liability and how can they avoid it. Attorney Lustgarten felt the Manager needs to discuss it with the JIF to make sure that there is insurance since the Borough does not own the trees. She could try to get the vendor's insurance to cover it since the vendor still owns the trees. He thought they should only store them for a year. The vendor needs to be made aware that once the Borough delivers the trees to the carrier the Borough's liability ends. Manager Sacks indicated that they will have to pay the shipper the \$1400. She suggested capping the cost at another \$1400 to return them or ship them to other purchasers.

The consensus was for Manager Sacks to speak to the vendor.

Transfer of Borough Property to Ambulance Corps. - Attorney Lustgarten advised that on March 2, 2001 he obtained the title search, circulated it to the Council and asked them if they wanted to deed the property to the Ambulance Corps. He recirculated that memo last month. The Council needs to decide if they want to deed over the lots to the Ambulance Corps. Deputy Mayor Etler felt that the Borough would not have any use for that land. He thought the Council had agreed to give it to the Ambulance Corps. Attorney Lustgarten thought the deed should have a restriction that it can only be used for the Ambulance Corps. A statement is needed from the Engineer, the Department of Public Works and the Manager that the property is not needed for a public purpose. The Assessor needs to certify that it is not a buildable lot.

The consensus was to transfer the property for \$1 with the restriction that it is only used by the Ambulance Corps. and that it will revert back to the Borough in the event the Ambulance Corps. vacates the property and the building.

Attorney Lustgarten said they can deed it out by block and lot instead of by metes and bounds. It will cost between \$40 and \$50 for filing costs. An ordinance will be needed to transfer the property. The property will have to be offered to the State. Manager Sacks will notify the Ambulance Corps. that the Council has taken action.

Honoring Vinnie Borst - Deputy Mayor Weinstein advised that Mr. Borst works for the Port Authority. He lead a number of people safely out of the Twin Towers. He was honored last week by the State. He thought the Mayor and Council should honor him with a proclamation and naming Parmelee Avenue for a week.

The consensus to issue the proclamation on April 9.

Fuel Analysis and Dispensing Procedures - Councilmember Amato stated that a number of the Councilmembers wanted a representative of the vendor. The distributor is in Carlstadt. TenHoeve Brothers install the program. Kevin Ken can attend the work session on April 2 but he needs to visit the DPW to review the features the Borough has based on what PetroVend has told him before he appears before the Council. Manager Sacks asked Councilmember Amato to have him to call her or Superintendent Maslo to set up a time.

Councilmember Amato also spoke to Oradell, Paramus and Ridgewood who were extremely information about dispensing fuel. He would like to visit the site.

On-site Department Review - Councilmember Amato indicated that he would like to inspect some of the items being requested in the capital budget. He would like to try and coordinate that with the visit by TenHoeve Brothers. Deputy Mayor Etler did not understand why if this was a fact-finding mission, the entire Council cannot go. Attorney Lustgarten explained that if the majority of the Council is present, it is a violation of the Sunshine Law. Manager Sacks stated that when the visit is arranged with Kevin Ken, she will notify the Council. Councilmember Amato requested that Tom Metzler accompany him. Manager Sacks stated that she would go with him. Councilmember Amato indicated that while she could attend, he wanted someone else present. Councilmember Caan offered to go with them.

Special Meeting - Upon a motion by Deputy Mayor Weinstein and a second by Councilmember Amato the meeting was adjourned to a Special Meeting at 8:50 p.m.

Deputy Mayor Etler reconvened the meeting at 8:55 p.m.

Closed Session Resolution - Upon motion by Councilmember Caan and a second by Councilmember Amato, the following closed session resolution was unanimously adopted at 8:55 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 labor negotiations and personnel; 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 labor negotiations when a labor contract is finalized by formal resolution except for negotiation strategy estimated time within the next three to four months and relating to personnel if appointments are made by the Mayor and Council upon adoption of a resolution within the next one to two months;

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

ADJOURNMENT - Upon motion of Deputy Mayor Weinstein and a second by Councilmember Caan, the meeting was adjourned at 9:30 p.m.

Respectfully submitted,

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

#### SPECIAL MEETING OF MARCH 19, 2002

Deputy Mayor Etler called the meeting to order at 8:50 p.m.

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

ABSENT: Mayor Ganz.

ALSO PRESENT: Manager Sacks, Municipal Clerk Kwasniewski and Borough Attorney Lustgarten.

#### ORDINANCES: FIRST READING

Upon motion by Councilmember Caan and a second by Councilmember Amato it was unanimously agreed to read the following ordinance by title.

#### ORDINANCE NO. 1904-2002

AN ORDINANCE TO AMEND CHAPTER 140 OF THE CODE OF THE BOROUGH OF FAIR LAWN 2000 ENTITLED, "LITTERING", SPECIFICALLY SECTION 140-20.D (PENALTIES FOR LITTERING)

Upon motion by Councilmember Amato and a second by Councilmember Caan, Resolution No.120-2002 introducing Ordinance No. 1904-2002 was considered.

Attorney Lustgarten explained that this ordinance doubles the maximum fines for first, second, third and fourth offenders and will require a mandatory court appearance since it is not a flat fine. It adds community service for the first offense and makes community service mandatory for successive offenses. Attorney Lustgarten suggested that it be sent to Ms. Panella so she can let

the students know. Deputy Mayor Weinstein suggested sending to the Recreation Department and All Sports to give to the coaches.

Hearing no further discussion, Resolution No.120-2002 introducing Ordinance No. 1904-2002 was passed.

#### APPOINTMENT TO THE FAIR LAWN RECREATIONAL FACILITY REVIEW COMMITTEE

Upon motion of Deputy Mayor Weinstein and a second by Councilmember Caan Resolution No. 121-2002 appointing Audrey Pfeffer was unanimously passed.

#### ADJOURNMENT

Upon motion by Councilmember Caan and a second by Councilmember Amato, the meeting was adjourned to Work Session at 8:55 p.m.

Respectfully submitted,

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