

## WORK SESSION OF APRIL 3, 2001

Deputy Mayor Adler 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: Deputy Mayor Adler, Councilmembers Amato, Dobrow and Deputy Mayor Etlar.

ABSENT: Mayor Ganz.

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

Review of Tentative Agenda - There were no changes.

Zoning Change Proposals - Larry Morgenstein, Vice-chairman of the Zoning Board of Adjustment and Paul Gutekunst, Assistant Zoning Officer were present. Mr. Morgenstein asked the Council to consider increasing building coverage from 25 percent to 35 percent and increasing the impervious coverage from 35 percent to 45 percent. In 2000 the Board received 71 residential applications; 47 fell within the range being considered and the Board approved 41. Deputy Mayor Adler pointed out that the Environmental Commission was not in favor of this type of change. Deputy Mayor Etlar was against the proposal. He did not want to lose control.

Mr. Morgenstein stated that they had approved only four applications in the last two years that had more than 50 percent impervious coverage. The Board is extremely careful. The Board is so overwhelmed with commercial applications that the proposed change would bring relief to the Board members who are volunteers. Attorney Lustgarten pointed out that the Planning Board several years ago reviewed the ordinances. He suggested that before they decide, they should allow the Planning Board to comment. Every zoning code he has seen has 35 percent.

Deputy Mayor Adler allowed Jane Spindel and Wendy Dabney to speak. Ms. Spindel indicated that the League of Women Voters has requested twice that impervious coverage be reviewed to decrease the amount allowed. Ms. Dabney felt that change would be regressive and encourage overbuilding.

The consensus was not to consider this change with only Councilmember Amato being in favor of sending the request to the Planning Board for their comments.

Farmer's Market - Manager Sacks advised that the Chamber of Commerce wants to move the farmer's market to Saturdays at the Train Station. They did not do too well on a week day at Van Riper Ellis. She suggested they consider Sundays as well. Unfortunately the whole point is to promote the stores which are closed on Sunday. Mayor Ganz had suggested allowing Saturday and Sunday. Deputy Mayor Etlar had no problem with Saturday at the train station. Manager Sacks suggested authorizing Saturday and Sunday and leaving the choice to the Chamber. Deputy Mayor Adler realized that the Chamber does not want to leave anyone out, but she was not sure it was viable on Sunday. Councilmember Amato was only in favor of Saturday.

The consensus was to authorize the Farmer's Market for Saturdays at the Train Station.

Public Comments on Items on the Agenda - There were no comments.

Parking for Residents at the Train Station - This item will be held until Mayor Ganz is present.

Renewal of Loss Control and Safety Training Services - Manager Sacks advised that Commerce National Risk Control has taken over Reinhart and Associates. They have submitted a proposal for loss control and safety training services that she recommended the Borough accept. The proposal is slightly higher than last years but for more services. Deputy Mayor Etlar wanted to know why they could not provide these services in-house. Manager Sacks advised that no one has the certifications or licenses to do the training. She pointed out that item B is incorrect as drafted. It should be four hours not eight hours.

The consensus was to renew the contract. A professional services resolution will be adopted at the next meeting.

Health Benefits for Part-time Employees - Manager Sacks advised that benefits cannot be provided to part-time employees nor is there any provision for part-time employees to purchase them at Borough rates. If the Council wants to, they can change that so the part-time employee would pay the Borough quarterly for the coverage. Deputy Mayor Etlar wondered if it would add any more liability to the Borough. Attorney Lustgarten stated that if people are added to the pool it could increase the risk but it probably is not significant. If this is allowed, it would have to be offered to all part time employees. Deputy Mayor Etlar thought it was an important decision. He would like information on how this would work and what it would cost. Deputy Mayor Adler noted that if at a

future date the Borough is interested in using part timers instead of full time employees, the benefit of being able to buy coverage would make employment with the Borough more attractive. She thought they should consider this more carefully. Councilmember Amato wondered whether Saddle Brook or Elmwood Park offer this benefit.

This item will be discussed again on May 15.

Pool Use in Pre-Season - Superintendent of Parks and Recreation Frey recommended that pool tags be issued for the preseason this year instead of using the same procedure as last year. The preseason last year was an enticement to have people look at the new improvements. Most people are now well aware of these improvements. She agreed with the recommendation.

The consensus was that there would be no free preseason this year. Pool tags must be purchased for the entire season including the preseason.

Telephone Management Report, Monitoring E-mail and Internet Access and Use and Gasoline Usage - Mayor Ganz had requested that these matters be deferred until he was present. They will be scheduled for May 1.

AT&T Local Fiber Optics - Attorney Lustgarten announced that he had completed his research and recommended that they not automatically enter into the agreement. The Borough cannot preclude the fiber optics but they should bid it out. He thought the \$500 offer was arbitrary. The Borough could establish a reasonable amount for usage of the right-of-way. The cable is an alternative to the copper cable that is an integral part of the wired system so it comes under the statute. He did not have the expertise to draft the specifications. Manager Sacks read from a letter from their attorney that says that they are a public utility which allows them to place cable in the right-of-way. Attorney Lustgarten noted that they have not given the Borough a site plan showing where they want to run the lines. Perhaps she could request them to send a sketch map and then the Council can decide if they want to execute the agreement. Manager Sacks advised that they are using the Verizon conduit. Deputy Mayor Adler wanted to see that in writing.

The consensus was to ask for a map and confirmation from Verizon that they have approval to use the conduit.

Ordinance re Cellular Towers - The opinion from the consultant concerning the need to limit the carriers has been received indicating that there is no reason for the limitation. Attorney Lustgarten noted that several applications are pending before the Zoning Board. Attorneys for the applicants have indicated that if the Borough bid out the Route 208 Fire House they would bid and withdraw their applications before the Board. Mayor Ganz had questioned if specifications were needed or could they just go to the Planning Board for a use variance. Attorney Lustgarten felt it had to be bid. Mayor Ganz had also suggested allowing a mobile tower but Attorney Lustgarten did not recommend doing that because if the carrier wanted to leave the tower he could.

Manager Sacks advised that there are problems with the Fire House site relating to the configuration of the property. Mayor Ganz suggested looking at the site across the street in the Park. Superintendent Frey and Assistant Engineer Brouca looked at the site. The tower would abut the entrance way to the highway. Attorney Lustgarten noted that he had also discussed that suggestion with the Mayor. One problem is the perception that the cell towers radiate something that is not good. Children use the park so the perception would be that the children might be in harms way. He continued that the Borough received a letter from Attorney Czura requesting action before May 7. The law has evolved since the Council adopted the ordinance establishing the four sites. Manager Sacks added that Voicestream has been working with the Borough to help determine the feasibility of the sites. The cell carriers like the Route 208 site.

Ms. Dabney did not want a tower near the playground equipment. Columbia Heights already has more than its share of towers.

Deputy Mayor Etler noted that the perception is that it is bad but the law says the Borough has to allow the towers. By having the municipal sites, the Borough can require them to be where the Borough wants them. Attorney Lustgarten explained one rationale in the federal case was that they have to prove that the existing sites do not work before they go to other sites. The Bedminister case said that they would have to have adequate service not optimum service. Manager Sacks reiterated that the Route 208 Fire House site is very limited. They do not know if more than one carrier can locate on that site. They could indicate in the specifications that the carriers have to work around the shed on the property.

It was agreed to discuss this item again next week following the regular meeting. Municipal Clerk Kwasniewski was asked to send the opinion from the consultant to the Planning Board regarding eliminating the limit on the carriers. Attorney Lustgarten will respond to Mr. Czura after the meeting on April 10.

Fire Fighter Grant from FEMA - Manager Sacks advised that she would like to apply for a grant of \$225,000 to purchase bottles and packs. The Borough was going to phase in this purchase over a five-year period. It is an item in the capital budget. The grant requires a 10 percent match. They are preparing the application. A resolution is needed supporting the application and approving

the match if the Borough gets the award.

The consensus was to submit the application.

Senate Bill S-1338/Assembly Bill A-2403 - Deputy Mayor Etlar explained that this legislation has passed both houses and is waiting to be signed by the Governor. The legislation will require a municipality to issue a zoning permit within ten business days that is just too short of time. He asked the Council to pass a resolution asking Acting Governor DiFrancesco to conditionally veto the bill to extend the period of application review to twenty business days.

The consensus was to adopt a resolution at the next meeting.

Closed Session Resolution - Upon motion by Councilmember Amato and a second by Councilmember Dobrow the following closed session resolution was unanimously adopted at 9:20 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 discussion; and

WHEREAS, public disclosure of the results of these discussions shall be made regarding personnel within 60 days if an appointment is made by public announcement and regarding attorney/client privilege within 150 days except as to strategy;

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 Amato and a second by Councilmember Etlar the meeting was adjourned at 9:30 p.m.

Respectfully submitted,

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