

SPECIAL COUNCIL MEETING AND WORK SESSION OF APRIL 18, 2001

Mayor Ganz opened the meeting at 8:00 a.m. Municipal Clerk Kwasniewski read the following statement of compliance:

In accordance with the Open Public Meetings Act, notice of this special meeting of the Borough of Fair Lawn was published in "The Record" issue of April 11, 2001. 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 notice identified the meeting location and the time of the Special Meeting.

PRESENT: Mayor Ganz, Deputy Mayors Adler and Etlar, and Councilmember Dobrow.

ABSENT: Councilmember Amato.

Also present: Acting Manger Marshall and Municipal Clerk Kwasniewski.

PROCLAMATIONS: Days of Remembrance

Mayor Ganz stated that Yom Hashoah is a significant event not only in Fair Lawn but for humanity. It marks a very significant and important time not only for Jews but people throughout the world. It marks the remembrance for the six million Jews that died and the twelve million whom the Nazis annihilated simply because of whom they were.

Municipal Clerk Kwasniewski read the proclamation.

Mayor Ganz presented the proclamation to Blanche and Hiller Porway.

Mrs. Porway thanked Mayor Ganz stating that it was an honor to accept the proclamation. She has been a member of the Fair Lawn community for forty-two years. She was pleased to accept the plaque for the survivors of this terrible time in history.

Upon motion of Deputy Mayor Adler and a second by Deputy Mayor Etlar the meeting was moved to Room 201.

ORDINANCES: SECOND READING

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

Ordinance No.1850-2001

AN ORDINANCE ESTABLISHING A COOPERATIVE PARKING PLAN FOR THE RIVER ROAD SPECIAL IMPROVEMENT DISTRICT IN THE BOROUGH OF FAIR LAWN

Robert Landzettel of RRIC commended the Mayor and Council for their efforts in finally getting some clarification and definition on cooperative parking. It will go a long way to help spur development in the district. It will provide a method for property owners to avail themselves of additional parking within the parameters of the ordinance. That the Borough will be leasing spaces shows the cooperation of the Borough and the business community in trying to foster business development in the community. He believes the ordinance on the whole is good but they had a few questions. He thanked Attorney Lustgarten for his efforts in drafting the ordinance. RRIC transmitted some recommendations.

Mayor Ganz stated that the Borough has received a memorandum from RRIC dated April 14, 2001 from Don Smartt, Project Director. Mayor Ganz had circulated an e-mail with his comments to some of the recommendations. He asked Municipal Clerk Kwasniewski to distribute that to the Councilmembers.

Arthur Levine asked that the word "parking" in the title be capitalized. Mayor Ganz felt that change was not substantive and therefore, will be corrected.

Mr. Levine wondered if requiring site plan approval for a decrease in off-street parking was necessary. Mayor Ganz felt this change would be substantive and requires discussion.

Mr. Levine pointed out that "d" in Article VIII appears to conflict with Schedule A. Mayor Ganz thought the intention is that the space needs to be designated as a cooperative parking space but the public at large can park in that space. It needs clarification. It is beneficial to have people be comfortable parking wherever they can. It would have to be posted for XYZ company parking plan.

If it is a private lot, it does not have to be open to the public. Deputy Mayor Adler felt Mr. Levine had a valid point. If two people agree to share spaces without the Borough being involved, does that mean they are also available to the public. Mayor Ganz did not think so. Deputy Mayor Adler thought they were making a distinction between a private/private agreement and a private/public agreement. Mayor Ganz agreed indicating that the schedule should be consistent with the ordinance. This section needs clarification. The spaces need to be signed.

Sy Karas raised a question about the after hours metered parking. Mayor Ganz thought it was a good suggestion but it was a substantive change that needs to be discussed at another time.

Deputy Mayor Etlar had a problem with underground parking. He did not think they should allow it because it was not warranted on River Road. Mayor Ganz thought they were talking about parking under the building the same as Shop Rite. Mr. Karas explained that the idea was just ground level under the building parking. The building would be raised one level. Parking would be at ground level. Deputy Mayor Etlar indicated he would have to look at this more thoroughly. He expressed concern that they would be expanding the building. Mayor Ganz felt it was not expanding the building just the parking. The building would have been scaled back because they can only go up two stories. The purpose is not to give them more office space but to give more parking.

It makes sense on River Road. He generally favored the idea but they would have to discuss it further. Deputy Mayor Etlar wanted to be sure that it was the ground floor. Mayor Ganz stressed they were talking about under building parking.

Mr. Landzettel concluded that he felt the ordinance clarifies cooperative parking. He believes that new construction can start because a cooperative parking agreement will be in place.

Deputy Mayor Etlar wanted to see the Bohler Plan and the Maser Sosinski plan side by side. Mr. Murphy will get the plans to Deputy Mayor Etlar.

Municipal Clerk Kwasniewski announced that the Planning Board completed their statutory review of the ordinance. They had one question about leasing the spaces from the Borough. They did not want anyone to be able to lease spaces and then sublease them at a profit. Deputy Mayor Adler thought the Planning Board needed to understand that they do not literally own the spaces. It only allows people to complete their site plan and by pass certain parts of the process. Mayor Ganz asked Municipal Clerk Kwasniewski to send a letter to the Planning Board thanking them for their review and advising that the Council declines to answer their question. The ordinance speaks for itself.

Mr. Karas complimented the Mayor and Council for proposing this ordinance. He believes it will solve many problems and is very forward looking.

Hearing no further comments by the public, upon motion by Deputy Mayor Adler and a second by Deputy Mayor Etlar, it was unanimously agreed to close the time for public hearing.

Upon motion by Deputy Mayor Adler and a second by Deputy Mayor Etlar, Resolution No. 127-2001 adopting Ordinance No. 1850-2001 was discussed.

Deputy Mayor Adler stated she was proud to be a member of the Council who is making cooperative parking a reality. They should make aspects of cooperative parking plan available to other sections of the municipality.

Mayor Ganz stated that they said it could not be done but in a very short period, the Council was able to take the comments from various sources and put it into memo form and have the Borough Attorney draft an ordinance. The ordinance will require some tinkering but cooperative parking began as an idea in 1986 and this Council has done it.

Deputy Mayor Etlar stated that in 1993 one of the first questions asked was how parking was going to be handled. He did not realize then that he would be voting on it.

There being no further discussion, Resolution No. 127-2001 adopting Ordinance No. 1850-2001 was unanimously passed.

Upon motion by Deputy Mayor Adler and a second by Deputy Mayor Etlar, it was unanimously agreed to amend Ordinance No. 1851-2001 to delete Section 156-65 B (5).

Municipal Clerk Kwasniewski read into the record Attorney Lustgarten's opinion that the change is not substantive.

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

Ordinance No.1851-2001

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN, 2000, MORE SPECIFICALLY CHAPTER 125, ENTITLED "LAND DEVELOPMENT", SECTION 65, RELATING TO THE GENERAL PROCEDURES FOR SITE PLAN APPROVAL

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

Municipal Clerk Kwasniewski announced that the Planning Board completed their statutory review and agrees with the intent of the ordinance.

Upon motion by Deputy Mayor Adler and a second by Councilmember Dobrow, Resolution No.128-2001 adopting Ordinance No. 1851-2001 was discussed.

Mayor Ganz explained that this ordinance represents a Council being responsive to the business communities reasonable request. They are delighted to help the River Road process.

There being no further discussion, Resolution No. 128-2001 adopting Ordinance No. 1851-2001 was unanimously passed.

RESOLUTION No. 129-2001 Farmer's Market

Upon motion by Deputy Mayor Adler and a second by Councilmember Dobrow, Resolution No. 129-2001 was unanimously passed.

Review of Tentative Agenda 4/24/01 - Municipal Clerk Kwasniewski advised that she was adding two proclamations; Day of Prayer and the National Insurance of Insurance Women Week.

Parking at Train Station - No one wished to speak on this matter.

Add-a-Level - Deputy Mayor Etler expressed concern about a house on Burbank Street that was expanded under the current ordinance. He felt it blocked the neighbor's light and air. The Council sent an inquiry to the Planning Board and the Construction Official. The Construction Official recommended and the Planning Board concurred that they should require 12 feet of space between dwellings.

The consensus was to introduce an ordinance at the next meeting.

Review of Proposed Ordinances - Attorney Lustgarten had previously submitted draft ordinances regarding the payment of services by the Public Advocate by the applicant and the sale of Borough owned property to Mr. Davidi.

The consensus was to introduce both ordinances as drafted.

Towing Ordinance - Attorney Lustgarten had requested Council concurrence to release the ordinance and to have them direct the Manager to provide a list of towing companies to him.

The consensus was to authorize the release of the ordinance and his opinion and to direct Manager Sacks to provide the information requested.

Publisher's Agreement/Fair Lawn Photographs - Deputy Mayor Etler explained that Dr. Winshell presented a proposal to write a book about Fair Lawn history. She needs pictures. She has contacted a publisher who has sent an agreement for publishing and releasing the pictures. He gave the agreement to Attorney Lustgarten who has some problems with it. Although there is no cost to the Borough liability is a concern. Mayor Ganz thought the contract required the author to warrant that she can use the photographs. Dr. Winshell has assigned all the royalties to the Borough so the Borough will have the liability. He is not convinced that the Borough can warrant that they own the pictures. He expressed concern about copyright issues. He thought the Council should be cooperative and allow Dr. Winshell to use the archives but the Borough is not representing that they have any rights to the photographs. It is up to her and the publisher to work it out. He explained the copyright laws.

It was agreed that the Council needed a legal opinion. Municipal Clerk Kwasniewski will ask Attorney Lustgarten to prepare his opinion for May 1.

The consensus was that the Borough will cooperate fully with Dr. Winshell and anyone else who wishes to use the archives and

the photographs of the Borough for any educational or other purpose.

Status of Room 201 - Mayor Ganz asked about the status of the renovations to Room 201. Deputy Mayor Adler stated she had seen a three-dimensional layout that the engineer has prepared. Mayor Ganz asked that Manager Sacks bring that plan with her to the next meeting and give a status report.

Economic Development Committee - Deputy Mayor Adler advised that the Committee is meeting monthly. They want to be able to get some promotions out to various areas. They are asking for a budget of \$1,000. They will be doing another pull out supplement section highlighting the Street Fair with more advertising and written messages from the Committee. It is an active committee.

The consensus was to approve \$1,000 to be expended in accordance with the usual principle of expenditures after a majority vote of the Committee.

Release of Historical Photos - Deputy Mayor Etlar stated that he received a request from Commerce Bank to use photographs for a mural. Mayor Ganz felt the Council should establish a policy that they will make available archival photographs and documents to the public who will bear the cost of reproducing or copying them for use by nonprofit or commercial activity with the caveat that the person sign an acknowledgment that the Borough is making the document available without any warranty or representation of any kind.

Deputy Mayor Adler thought the photographs should be cataloged. Acting Manager Marshall advised that the Police department has photographs. He thought the pictures were on the web site. Mayor Ganz wondered about digitizing the photographs. Municipal Clerk Kwasniewski was asked to present a proposal to digitize the photos.

Specifications for Additional Cell Towers - Acting Manager Marshall advised that he spoke to Manager Sacks who wanted to be sure that the Council wants to bid the Fire Company 2 site. Mayor Ganz replied that is what the Council requested. Manager Sacks also thought it would be a good idea to put in a minimum bid for the co-locators on that site. Municipal Clerk Kwasniewski noted the minimum is \$2500 for the main bidder. Mayor Ganz suggested that they authorize Manager Sacks to set a minimum rate after the appropriate investigation. He suggested she speak to Matt Ahearn to use his expertise in this area. Acting Manager Marshall stated she has included free cell service for the Borough in the specifications. She also raised the question of off site improvements at Fire Company 2. Deputy Mayor Etlar pointed out that the building is too small for the truck and they need an extension. Mayor Ganz said that the suggestion the Manager made was to put into the bid specifications that the carrier will pay the cost of the expansion. Mayor Ganz noted that is consistent with the land use law. It would benefit all Borough residents not just the fire department.

The consensus was to add the off site improvement to the specifications.

Closed Session Resolution - Upon motion by Deputy Mayor Adler and a second by Councilmember Dobrow the following closed session resolution was unanimously adopted at 9:45 a.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 by formal appointment of the Mayor and Council within 30 to 90 days or sooner if an appointment is made;

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.

Mayor Ganz reconvened the meeting at 9:50 a.m.

Taping Council Meetings - The Mayor and Council were distressed about the correspondence between Manager Sacks and Creative Cable about televising the Council meetings. Mayor Ganz asked if the Council had any objections to hiring an intern to get this done.

Deputy Mayor Etlar was also distressed because the Borough owns the station and the equipment. He did not like that Creative Cable s telling them how to run the station. Deputy Mayor Adler suggested Manager Sacks have a meeting with Creative Cable.

Mayor Ganz felt that the Council has to ratify what the Manager has done so far. The Council wants the meetings to be on Cable. They want it taped with a sign language interpreter and they want it to happen now. If they are not cable of doing it, the Manager is authorized and directed to hire interns to do it. Deputy Mayor Adler felt the community has the perception that editing has become censoring. The Council needs to make it clear to the members of Creative Cable that those are two different things. This is too valuable a commodity not to use. She also expressed concern that Ms. Vivino is not putting the various events on Channel 66 in the same quantity as before. Deputy Mayor Etlar felt the bulletin board works well, but the rest is not working well. Mayor Ganz noted that the Council appreciates the fine work the volunteers of Creative Cable but if they do not want to broadcast the Council that is fine. He emphasized that the Council is talking about a review that is no more than bleeping out inappropriate language. If someone says libelous things about someone not in government, it will be edited out. Deputy Mayor Adler noted that interns are often available from the various colleges but they are generally paid. Mayor Ganz thought the Council should authorize the Manager to do whatever she has to to get this done for the April 24 meeting. If that is not possible, then it should be in place for the meeting in May.

Mayor Ganz asked that guidelines for televising the meetings be placed on the first work session in May. They need to decide who will have the authority to do the editing. He is going to recommend that it be the Municipal Clerk, the Borough Attorney and the Borough Manager. They also need to decide the black out period during the election season. He suggested after the August meeting and resuming after the election in November. He felt strongly that as a candidate and an incumbent he did not want to have an unfair advantage by appearing on television. Deputy Mayor Adler disagreed. Although as the Mayor he has an advantage, if they do not air the meetings, it may appear that they are not allowing other candidates the opportunity to be visible. She wanted to think about this further. Mayor Ganz pointed out that most communities have a black out during the political season.

Mayor Ganz wanted to be sure that the hand-held mike was working. Municipal Clerk Kwasniewski will make sure that it is repaired.

ADJOURNMENT - Upon motion of Deputy Mayor Adler and a second by Deputy Mayor Etlar the meeting was adjourned at 10:00 a.m.

Respectfully submitted,

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