

SPECIAL MEETING OF DECEMBER 18, 2001

Mayor Ganz 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: Mayor Ganz, Deputy Mayor Etler, Councilmembers Amato, Dobrow and Weinstein.

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

PROCLAMATIONS AND PRESENTATIONS:

A piper lead the Mayor and Council into the Council Chambers.

Mayor Ganz announced that this will be one of the last official meetings of this year and one of the last meetings for Councilmember Dobrow. Councilmember Dobrow will retire on December 31 after more than 25 years of service and the legacy of her ongoing work will move into history. Her accomplishments are legendary and there is not one area of Borough life that she has not impacted. She has served as Mayor, Deputy Mayor and Councilmember. It is appropriate to acknowledge and recognize these accomplishments. Room 201 has been dedicated as the Florence Dobrow Conference Room in recognition of her attending more than a quarter of a century of meetings in that room. The Governor of Kentucky bestowed upon her the title of "Kentucky Colonel" and the Governor of Nebraska has appointed her a Grand Admiral in the State Navy of Nebraska. She received congratulations from President Clinton and President Bush. U.S. Representative Steve Rothman read a tribute to Councilmember Dobrow into the congressional record. The Council will vote to make her honorary Mayor and has voted to change the name of Parmelee Avenue to Flossie Dobrow Way for the month of December. He concluded by saying that he will miss her.

Deputy Mayor Etler stated that he was present in January 1975 when Flossie took the oath of office as a Councilmember. Twenty-six years later he is present as she concludes her distinguished career. She has touched many with her good works and will live long in the memories of those in Fair Lawn. He concluded by thanking her for a job well done.

Councilmember Weinstein stated that when he moved to the Borough in 1988 Councilmember Dobrow was one of the first people he met. She encouraged him to get involved. Although he has only served on the Council with her for a short time, he has cherished every moment. He hopes to make her proud by following in her footsteps.

Councilmember Amato stated that he will miss Flossie on the dias. He will never forget her courage 40 years ago when stood up to the establishment. He has a great deal of admiration for her.

Attorney Lustgarten stated that Flossie Dobrow is the reason and the cause of his submitting a resume to be come Borough Attorney. She has always been a beacon of light for Fair Lawn. Her legacy is all the people she touched. He thanked her for everything she has done.

Municipal Clerk Kwasniewski read the proclamation which Mayor Ganz presented to Councilmember Dobrow. The proclamation was signed by the Mayor and Council, the Manager, the Borough Attorney and the Municipal Clerk. Mayor Ganz then presented her with the key to the Borough of Fair Lawn.

Assemblyman-elect Ahearn read an Assembly Resolution by Assemblywoman Loretta Weinberg and Assemblyman Ken Zisa honoring Councilmember Dobrow on her retirement. He then stated that in the seven years he has known her, her guidance has been invaluable and instrumental in his success. He presented the Resolution to her.

Senator-elect Joseph Coniglio, on behalf of Senator Byran Baer, presented a Senate Citation honoring her 26 years of dedicated service.

OPEN TO THE PUBLIC:

Manager Sacks stated that she met Councilmember Dobrow many years ago when she came to see the downtown redevelopment in South Orange. Flossie was one of the reasons she came to Fair Lawn. Flossie typifies the residents. She is enriched by having known Flossie. She admires Flossie's grace, class and dignity.

Barry Winston, 19-11 Greenwood Drive, thanked Councilmember Dobrow for making him proud. Her campaign was the first one he ran. He thanked her for everything she has done for Fair Lawn.

Don Oliver, 8-32 Mitchell Place, wished her well on behalf of the Homeowner's Association. He stated that while they have not always agreed over the years, they have always come away with respect for each other. He thanked her for all the dedicated years of service to the Borough and her tireless efforts.

The piper played and those present sang Auld Lang Syne as a last tribute to Florence Dobrow. The piper played the Marine Corps Hymn as he left the Chambers.

Councilmember Dobrow was excused at 8:00 p.m.

ORDINANCES: SECOND READING

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

ORDINANCE NO. 1879-2001

AN ORDINANCE TO AMEND SECTION 125-1, ET SEQ., OF THE CODE KNOWN BY SHORT TITLE AS "LAND DEVELOPMENT ORDINANCE OF FAIR LAWN BOROUGH", MORE SPECIFICALLY SUB-SECTION 125-41.G.(5)

Attorney Lustgarten explained that this ordinance allows signs on the light poles on River Road.

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

Upon motion by Deputy Mayor Etlar and a second by Councilmember Weinstein, Resolution No. 356-2001 adopting Ordinance No. 1879-2001 was unanimously passed.

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

ORDINANCE NO. 1881-2001

AN ORDINANCE TO AMEND CHAPTER 33 OF THE CODE OF THE BOROUGH OF FAIR LAWN, 2000, ENTITLED "POLICE DEPARTMENT" MORE SPECIFICALLY SECTION 33-2

Attorney Lustgarten explained that this ordinance establishes the number of officers in the ranks and sets forth the order of the ranks. It is an interim ordinance until the Mayor and Council adopts the rules and regulations.

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

Upon motion by Deputy Mayor Etlar and a second by Councilmember Weinstein, Resolution No. 357-2001 adopting Ordinance No. 1881-2001 was unanimously passed.

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

ORDINANCE NO. 1882-2001

AN ORDINANCE TO AMEND CHAPTER 125 OF THE CODE OF THE BOROUGH OF FAIR LAWN, 2000, ENTITLED "LAND DEVELOPMENT" AND MORE SPECIFICALLY SECTION 125-25 ENTITLED "B-4 RIVER ROAD BUSINESS ZONE", SUBSECTION C ENTITLED "CONDITIONAL USES" AND SECTION 125-26 ENTITLED "B-5 RIVER ROAD BUSINESS ZONE", SUBSECTION C ENTITLED "CONDITIONAL USES"

Attorney Lustgarten stated that this ordinance merely changes the title of a subsection.

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

Upon motion by Deputy Mayor Etlar and a second by Councilmember Weinstein, Resolution No. 358-2001 adopting Ordinance No.

1882-2001 was unanimously passed.

RESOLUTION NO. 359-2001 Professional Services - Surveying

Upon motion by Deputy Mayor Etlar and a second by Councilmember Amato, Resolution No. 359-2001 was discussed.

The cost of the services to be rendered was changed from \$2,000 to \$15,000 and the resolution so amended. Manager Sacks explained that they will survey a long strip of Borough owned property on Well Drive which is landlocked. It is in the Borough's best interest to divest itself of this property. The Engineering Department has tentatively divided it into 26 lots but more likely it will be closer to 20 to 22 lots since some of the residents do not want the lots and others want more than one. Attorney Lustgarten stated that the contiguous owners will be sent a letter to see if they accept or reject the parcel. If no contiguous property owner wants the lot, the Borough will have to keep it.

There being no further discussion, Resolution No. 359-2001 as amended was unanimously passed.

RESOLUTION NO. 360-2001 Budget Transfers

Upon motion by Deputy Mayor Etlar and a second by Councilmember Weinstein, Resolution No. 360-2001 was unanimously passed.

RESOLUTION NO. 361-2001 Cancellation of Unexpended Balances

Upon motion by Councilmember Weinstein and a second by Councilmember Amato, Resolution No. 361-2001 was discussed.

Manager Sacks explained that when funds are not spent and the Chief Financial Officer does not anticipate spending it by the end of year, the accounts are canceled and the money goes into surplus for use the next year. The State allows the municipalities to cancel capital project funds and use them to fund other capital projects.

There being no further discussion, Resolution No. 361-2001 was unanimously passed.

RESOLUTION NO. 362-2001 Refund of Overpayment of Taxes

Upon motion by Deputy Mayor Etlar and a second by Councilmember Amato, Resolution No. 362-2001 was unanimously passed.

RESOLUTION NO. 363-2001 Authorizing Execution of Supervisor's Contract

Upon motion by Councilmember Weinstein and a second by Councilmember Amato, Resolution No. 363-2001 was discussed.

Manager Sacks explained that this contract was settled a few months ago but the last item was the terminal leave. The Mayor and Council have now adopted the ordinance so the contract can be executed.

There being no further discussion, Resolution No. 363-2001 was unanimously passed.

RESOLUTION NO. 364-2001 Tax Settlement - Kuiken

Upon motion by Deputy Mayor Etlar and a second by Councilmember Amato, Resolution No. 364-2001 was discussed. Mayor Ganz stated that this settlement represents a job well done by the Borough Attorney, the Borough's appraiser and the Tax Assessor. He thanked them for their efforts on reaching a fair settlement for the Borough.

There being no further discussion, Resolution No. 364-2001 was unanimously passed.

Mayor Ganz wondered why these resolutions were not done on a Consent Calendar. Attorney Lustgarten advised that the Borough's ordinance does not provide for it. Mayor Ganz asked that this item be on the agenda for the next work session.

ADJOURNMENT

Upon motion by Councilmember Amato and a second by Deputy Mayor Etlar, the meeting was adjourned to Work Session at 8:25 p.m.

Respectfully submitted,

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

WORK SESSION OF DECEMBER 18, 2001

Mayor Ganz reconvened the meeting at 8:30 p.m.

PRESENT: Mayor Ganz, Deputy Mayor Etlar, Councilmembers Amato (late) and Weinstein.

ABSENT: Councilmember Dobrow.

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

Mr. Rickett - Problems at the High School - Mr. Rickett lives on Berdan Avenue right across from the High School. He is having difficulties with the students littering and loitering. He has been working with Manager Sacks and Chief Marshall.

Stephan Rickett, 14-13 Berdan Avenue, stated that he has lived at the corner of the High School for 27 years. For 26 of those years he has had no problems. Since the State changed the law prohibiting all smoking the campus has become the resident's homes. Sometimes there will be 40 students dropping their cigarette butts at various times of the day. He went to the High School Principal first, but her response was that it was not her problem because it was not Board of Education property. Other residents have spoken to her about the problem. The problem exists whenever the school is used. Dr. Watson has agreed to meet with a small group of residents. The rules are not enforced.

Attorney Lustgarten suggested that they ask the Board of Education to videotape the students whenever they are there and then ask the school to respond. Manager Sacks stated that she asked them to do that a month ago. They know who the students are. The police have been giving out summonses and taking the students into the school to get their lunch suspended. It does not seem to be enough. She thought part of the problem was that they park on the street. If they could not park there, the problem would be alleviated.

Mr. Rickett concluded that there are regulations and rules that would eliminate about 60 percent of the problem, but he cannot get them enforced.

Councilmember Weinstein suggested community service as a penalty so that they have to pick up the butts and litter. Attorney Lustgarten noted that it is not in the ordinance but the ordinance could be amended.

The consensus was to the request the Manager to arrange to video the area in question, report it to the Chief for the appropriate enforcement and have it enforced in Court.

Wayne Tennis/Fire Department - After reviewing the minutes of the Fire Board which Municipal Clerk Kwasniewski had obtained and distributed, Attorney Lustgarten stated that it is clear that Mr. Tennis did not leave the Fire Department in good standing. He is not entitled to the uniform allowance because he did not retire, he was expelled. He cannot receive the allowance unless the ordinance is changed. There was no sentiment to change the ordinance.

Mr. Tennis stated that he joined the Fire Department on May 7, 1965. On April 12, 1992, he sent letter of resignation. He denied that he was expelled from the Fire Department. He moved out of town. The environment was bitter and hostile. He received a phone call in 1992 telling him to write a letter of resignation. He sent the letter and turned in his fire gear. He did not know he was expelled. He was only 46 when he resigned so he was not eligible for the allowance at that time. If he was expelled, he should have been told.

Attorney Lustgarten reiterated that the only legal issue is whether he was in good standing and he was not. The Fire Board voted and the Mayor and Council confirmed it. Perhaps if he had done something earlier but it has been ten years since that action was taken.

The consensus was that the Council would take no action but Mr. Tennis can go to the Fire Board and if the matter comes back to the Council, they will consider it again at that time.

Grants for Facade Improvements - Councilmember Weinstein advised that he received information from the County which he will review with Manager Sacks. He felt applying for a grant this year should be a priority. This item will be on the agenda again.

Scheduling Dates for Meeting with Residents re Broadway - Manager Sacks advised that the residents are anxious to meet with the Council. She suggested that they schedule a meeting in either January or February and that it start at 7:00 p.m.

The consensus was to schedule the work session of February 5 at Warren Point School. The agenda will be short so the meeting can be devoted to Broadway issues.

Bergen Street School - Deputy Mayor Etlar advised that on December 17 he met with Dr. Watson, Mr. Jacobus, Mr. Csigi and Dr. Winshell to discuss whether to put the Bergen Street School on the State register. A representative of the State Historic Preservation Committee will be looking at the building on January 11 to determine if the building will meet the criteria for a grant to paint and restore the outside of the building.

Replacement for Sedgewick (Claims Management) - This item was deferred to December 28. Attorney Lustgarten thought that CFO Eccelston should look at the proposals to make sure that the process is reasonable. Manager Sacks assured him that CFO Eccelston will be involved.

Chamber of Commerce Street Fair - The consensus was to allow the Chamber of Commerce Street Fair on May 19, 2002.

Public Comments on Items on the Agenda - Keith Brown, 23-05 Ellington Road, commended the Council for their presentations to Councilmember Dobrow. Mr. Brown asked if the meeting in February would be lead by a facilitator. Mayor Ganz stated that the meeting on February 5 will be with the Mayor and Council and the residents. He has prepared a lengthy memo which he distributed to the Council. The residents of the Broadway corridor will be invited and the meeting is going to be held at the Warren Point School. Mr. Brown suggested that the invitation to that meeting include a notation that the Broadway Advisory Report is available at the library so that they are aware of the recommendations before that meeting.

Don Oliver, 8-32 Mitchell Place asked that notice of the meeting be in the local papers so other residents in the community can attend. Mayor Ganz indicated that they can put it on the web site and on Channel 66.

Charles Tregidgo, 12-68 Fourth Street stated that at the last meeting he attended a comment was made that someone was going to count all the parking spaces on Broadway. Mayor Ganz indicated that he had said that he was going to recommend that the Council engage someone like Maser and Sosinski to identify all parking spaces in and about the Broadway area. It will be considered by the Council. Mr. Tregidgo advised that the Broadway Advisory Committee has already done that and Bob Kneer has the results. Mayor Ganz indicated that they will obtain it from Sgt. Kneer. If it is adequate from a land use point of view, it will be used.

Mario Lepore, 2-02 Fair Lawn Avenue explained that problems he encountered with the Building Department in his efforts to erect a modular home. He has done the work himself. Construction Official VanHook will not issue a Certificate of Occupancy. He has not passed the inspections. He claimed that the Construction Official was rude and offensive. He did not understand why he was having so much difficulty because the modular home is fully compliant with State inspections. Once the house is placed on his foundation no more inspections are required. Attorney Lustgarten asked him to define exactly what he needs to obtain the Certificate of Occupancy but Mr. Lepore was not specific.

The consensus was for Manager Sacks to meet with Construction Official VanHook to define the issues and then call Mr. Lepore to arrange for a meeting to resolve this mater. If it cannot be resolved among the three of them, then Mr. Lepore can come back to the Council. Manager Sacks is to report to the Council on December 28.

OBS Zoning Language Modification - Attorney Lustgarten recommended that they refer the letter from Mr. Beshlian to the Planning Board for their comments.

Consent Calendar for Special Meetings - Attorney Lustgarten felt that a consent calendar for special meetings was not permitted under the Administrative Code of the Borough. He recommended that the Code be amended to allow it under the same conditions as for the Regular Council meetings.

The consensus was for Attorney Lustgarten to draft an ordinance allowing a Consent Calendar at Special Meetings.

Expanding a Pre-existing Non-Conforming Use - Attorney Lustgarten explained that comments have been received from the attorney for the Zoning Board that perhaps a different ordinance would be helpful. He recommended that he be authorized to send a letter to the Planning Board citing the issue and asking for suggested language.

The consensus was to authorize Attorney Lustgarten to send a letter to the Planning Board.

Police Department Rules and Regulations - Manager Sacks circulated the proposed Rules and Regulations. They follow the current Attorney General guidelines and the Joint Insurance Fund guidelines. It was an extensive project that took more than a year. Mayor Ganz thought it was a commendable job, but he was concerned that there was nothing about the use of excessive force. Attorney Lustgarten also commended the Police Department. There are a few typographical errors and perhaps a few of the sections are redundant but on the whole it is a commendable effort. It is very methodical and well written. He did not think a code of ethics belonged in the Rules and Regulations. Ethics are more of a credo than a force of law.

Mayor Ganz felt that the Attorney General guidelines should be incorporated by reference. Attorney Lustgarten thought it was unfair to incorporate them by reference because each officer must sign for the manual and they are subject to disciplinary action if they do not abide by the rules and regulations. Manager Sacks explained that each police officer is given a copy of each new Attorney General guideline and is given training to explain it. Mayor Ganz indicated that he has seen a substantial amount of litigation concerning the Attorney General guidelines and the use of force. He thought it either needed to be in the Rules and Regulations verbatim or incorporated by reference. Attorney Lustgarten pointed out that Section 52 discusses the use of force. Manager Sacks suggested they expand the section to include all force not just deadly force. Mayor Ganz thought it needed to be addressed in isolation. He also thought it would be useful to have an index which he volunteered to prepare.

This item will be discussed again at the second work session in January.

Closed Session Resolution - Upon motion by Councilmember Weinstein and a second by Deputy Mayor Etlar the following closed session resolution was unanimously adopted at 10:10 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 labor negotiations; 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 appointments at the reorganization meeting or as soon as the Council decides not later than 90 days and relating to labor negotiations upon the Borough finalizing the contract with Borough employees, specific dates unknown but expected within 60 to 90 days with the exception of legal strategy which 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 Weinstein and a second by Deputy Mayor Etlar the meeting was adjourned at 11:20 p.m.

Respectfully submitted,

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