

WORK SESSION OF FEBRUARY 6, 2001

Mayor Ganz called the meeting to order at 7:30 p.m. Municipal Clerk Kwasniewski read the statement of compliance with the Open Public Meetings Act.

PRESENT: Mayor Ganz, Deputy Mayor Adler (late), Councilmembers Amato, Dobrow and Etler.

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

Review of Tentative Agenda - Municipal Clerk Kwasniewski advised that she would like to add a resolution approving the Warren Point PTA 50/50 raffle and a resolution to award the bid for barrier free ramps and curbs. The Council concurred.

Home Based Business Bill - Councilmember Etler explained that a group is working very hard to get legislation passed that allow businesses in residential zones. He spoke to Senators McNamara and Baer who helped kill the bill in the Senate. The League of Municipalities issued an alert that Senate Bill 2069 has been reintroduced. This bill permits any business. Any municipality who wants to restrict the number of visitors will also have to restrict them for normal residential visitors. He thought it was a dangerous bill. He submitted a sample ordinance to Attorney Lustgarten for his review. Attorney Lustgarten advised that the current code has restrictions on home business use. The Council does not have to do anything unless the bill is past.

Mayor Ganz suggested that Attorney Lustgarten review the bill and make recommendations. The Council can then take a consensus and pass a resolution.

AT&T Fiber Optic Cable - Manager Sacks advised that AT&T will pay \$500 a year for a right-of-way agreement to install fiber optic cable. Attorney Lustgarten advised that he wrote to Lyndhurst in December asking for a copy of the agreement but they never responded. The agreement is a good one but he does not know why the Borough would enter an agreement for \$500. Manager Sacks noted that AT&T says that the Borough has no choice. Mayor Ganz wanted a legal opinion. Attorney Lustgarten pointed out that the only municipality that has an agreement has not responded. Municipal Clerk Kwasniewski was asked to contact the Municipal Clerk. If she were not successful, Mayor Ganz will contact Lyndhurst's Mayor.

This item will be on the March 6 agenda.

JIF Bylaw Amendment - The Joint Insurance Fund needs the municipalities to approve an amendment to their bylaws to restrict the towns from appointing a risk manager who is an officer or employee of a JIF service provider. Attorney Lustgarten thought it was a good idea and the resolution provided by the JIF was fine.

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

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

Additional Cellular Tower Specifications - Manager Sacks asked the Council if they wanted to go ahead with the other two sites permitted in the ordinance. Memorial Park and Fire Company 2 do not have towers yet. She also asked if they wanted to retain the ordinance that says that only three carriers can be on one tower. The carriers have asked that it be changed to five. She recommended not doing that because it would not be competitive since there are only five carriers. If the Council does change the ordinance, then the specifications should set a minimum bid. Mayor Ganz suggested keeping the number of carriers but changing the number of antennas allowed on the tower.

The consensus was to develop the four sites.

Deputy Mayor Adler arrived at 7:55 p.m.

Attorney Lustgarten pointed out that the more areas developed within the ordinance the more insulated the Borough becomes against suits. No other cases are pending against Fair Lawn. He was a little concerned about the three carrier limit. He was not sure that it mattered how many carriers were on the tower if the number of antennas was limited. He suggested seeking an opinion from the technology expert. Mayor Ganz expressed concern that there was a little arbitrariness in limiting the carriers. There should be unlimited carriers if they can make to do with the number of antennas permitted. Attorney Lustgarten suggested that Manager Sacks draft specification while waiting for the opinion of the expert.

Manager Sacks advised that several applications are before the Zoning Board of Adjustment. Two of the applicants have said they are willing to withdraw their application if they can bid on the Fire House site. She advised them not to withdraw because only three

carriers are permitted and they do not know if they will be the successful bidder.

Attorney Lustgarten will send a letter to the technology expert.

Schedule Dates for Budget Discussions - Budget meetings were scheduled for February 13 and February 20 at 6:00 p.m. Municipal Clerk Kwasniewski will check with TJ Middle School to make sure the Council can use the auditorium at 6:00 p.m. instead of 7:30 p.m.

Rotary Hepatitis B Shots - Manager Sacks advised that the Fair Lawn Afternoon Rotary arranged for a grant to be given to the Health Department to cover the cost of inoculating fifty fifth graders. Deputy Mayor Adler added that it was a matching grant. The local Rotary donated \$1,000 and Rotary International matched that with another \$1,000.

The consensus was to acknowledge the donation with a proclamation and a resolution. Municipal Clerk Kwasniewski will schedule the presentation when it is convenient for the Rotary.

Sidewalk Sale Ordinance - Attorney Lustgarten presented a proposed ordinance according to what he thought the Council wanted. He used Ridgewood's ordinance as a guide. Manager Sacks submitted a memo this evening that he will review.

Deputy Mayor Adler suggested that if food is involved the ordinance should require a permit from the Health Department. Manager Sacks wondered if the merchants can only sell items from their own store or can others bring items to sell. Mayor Ganz did not think that the Borough can prohibit anything outside the store that could be sold inside the store. Deputy Mayor Adler thought it should only be merchandise from the store. She did not want this to turn into a flea market.

Manager Sacks then asked about peddlers asking the merchants to let them put things outside the store in return for a percentage. Mayor Ganz stated they can make the merchants responsible for what is sold. Attorney Lustgarten thought the Council wanted to enhance business and without getting into enforcement issues, he wondered why they were concerned if outsiders put their merchandise with a store. He was not sure it made a difference as long as the items are generally sold in retail stores. He suggested trying it and seeing what happens. He can draft the language, but enforcement is going to be a problem.

Manager Sacks felt if outside people wanted to sell things they should have to take a booth in Radburn. They should be not selling in front of other stores. She stressed that they are trying to promote the Fair Lawn businesses throughout town not what other people sell. Attorney Lustgarten thought that displaying merchandise in front of their store other peoples would be counterproductive for the merchants. Manager Sacks suggested including language that says goods, services and merchandise normally sold from that business. Deputy Mayor Adler thought the ordinance should say what a merchant sells inside should be what he can sell outside. They should only be able to display merchandise in front of their store. Mayor Ganz wondered if Manager Sacks was prepared to have the police enforce it. Manager Sacks replied that it would not just be the Police Department but also the Property Maintenance Department. They would certainly try to enforce it. Attorney Lustgarten reminded the Council that this ordinance requires a permit but not a fee. Now the Borough is committing to overtime to enforce it.

The consensus was that the ordinance would require a permit without a fee limited to merchants selling customary merchandise without a right to sublet the space or to have anyone outside Fair Lawn use outside the store unless they are licensed for the sale with Mayor Ganz dissenting.

Attorney Lustgarten will draft the ordinance for March 6.

Bus Stop Century Road/Dunkerhook Road - Manager Sacks advised that the County Engineer and New Jersey Transit do not feel the bus stop needs to be indented. The Council should do the ordinance and create the bus stop because the bus is stopping to pick up people who are flagging them down. The County Engineer and New Jersey Transit feel there is enough room for traffic to go around the bus. The stop should be 150 feet from the intersection.

Mayor Ganz pointed out that the Council recommended that the stop should be indented. The Manager has said that the County Engineer and New Jersey Transit have said the stop is fine as long as it is 150 feet back from the intersection. He expressed concern that the traffic backs up on that road without a bus stopping. Councilmember Etlar thought the Council should reiterate their concerns and their request for the indentation. Manager Sacks advised that New Jersey Transit will not put a bus stop in if the Council does not do the ordinance. People are flagging the bus down now and it is very dangerous. The County Engineer has said that having the bus pulling out into traffic may be more dangerous. The County does not normally do the indentation.

The consensus was to authorize the bus stop with a sunset of June 1, 2002. If it is not a problem, the Council can extend the ordinance. The ordinance will be introduced at the next meeting.

Closed Session Resolution - Upon motion by Deputy Mayor Adler and a second by Councilmember Amato the following closed session resolution was unanimously adopted at 9:00 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 pending litigation, personnel, attorney/client privilege and contract 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 pending litigation within 60 days, relating to personnel by appointment within 60 days, relating to attorney/client privilege within 60 days except strategic advice and relating to contract negotiations if the sale occurs, specific time not known;

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 9:45 p.m.

Child Safety Booklets - Mayor Ganz advised that he received a letter from Student Safety Books asking if the Council would sponsor a booklet called Free Police Officer Safety Books. There is no cost to the Borough. They solicit the businesses. They send it to the school children in the district. It contains child safety product warnings as reported by the US Consumer Product Safety Committee. Manager Sacks wondered if this were a legitimate operation.

The consensus was to have the Police Department investigate to make sure they are a legitimate organization and if so, to do it.

Capital Budget - Mayor Ganz reported that he spoke to 150 seniors at an AARP meeting. They are angry that they have to park at Memorial Pool instead of the parking lot in the rear of the Municipal Building. It is isolated and there are no facilities for them to use. They want to go back to using the parking lot beyond the Municipal Building. He wanted to add extending the parking lot to the fast track budget so they could extend the paving and the seniors could go back to using that lot. Manager Sacks noted if they add fifty spaces there will be enough room for them to park for their trips. Mayor Ganz felt if the Council were going to authorize this later in the year, it makes sense to do it now. Deputy Mayor Etlar thought they were going to create fifty spaces for other reasons than the seniors. Councilmember Amato wanted to know the purpose of the extra spaces. He thought they were expanding it for those who are coming to the Municipal Building. Mayor Ganz said the purpose of the extra spaces was that the citizens of Fair Lawn would use them. Deputy Mayor Etlar thought the seniors were using spaces needed for those coming to the Municipal Building. Manager Sacks pointed out that when the Senior Citizen Center has an overflow, the lot gets filled.

The consensus was to add this project to the fast track ordinance.

Manager Sacks wanted to know if they want to do all the paving or just this lot. She would like to do the lot at Memorial Park and Walsh Pool before the season starts, but if they are not in the fast track ordinance it will not get done until next year. Mayor Ganz the lot at Walsh Pool needs to be done and the lot at Memorial Pool needs to be resurfaced. If the Council is going to do it this year, then they should put it in the fast track ordinance. Manager Sacks would like to bid all the projects at the same time to get a better price.

Deputy Mayor Etlar suggested bringing the Seniors back to the lot until the paving starts. Manager Sacks advised that she could not do that because the lot was just too crowded. Manager Sacks noted she did not move them. George Frey, June Schwartz and the Police Chief approached her. Deputy Mayor Etlar told them at a senior citizens meeting that the Council would revisit the situation. Manager Sacks stated it was her intention to move them back when the lot is paved.

Deputy Mayor Etlar asked for a map of the lot showing the 10 foot buffer and the fences.

The consensus was to include the Senior lot, Dobrow Complex, Memorial Park and the roads in the fast track ordinance.

Mayor Ganz asked the Council to consider what other items they want in the fast track ordinance for the next meeting.

Book Drop for the Library - Councilmember Amato stated that he had wanted to meet with the Traffic Safety Officer on the location of the book drop for the Library but he was unable to make it. He did look at the location again. He suggested placing it to the right of the Borough's lock box instead of to the left. Manager Sacks responded that they looked at that location but people would block

the sidewalk or the curb.

Deputy Mayor Etler asked for a diagram showing where the box will be in relation to the sidewalk and driveway for the next meeting.

Judges' Pictures - Deputy Mayor Etler received a call from Art Ranuska who volunteered to get the pictures on the wall. Manager Sacks advised that have to some pictures done and those they have need to be framed. They have to be uniformly sized. Deputy Mayor Etler thought it would cost about \$2,000. Mayor Ganz volunteered someone to size the photographs. Manager Sacks advised that she needs photographs of Dennis LaHiff and Alan Harris. She will check to see how far back the pictures go.

Mayor Ganz advised that he has pictures of Mayors before 1950 that are reproducible. A prior Council had talked about hanging the Mayors photographs. Attorney Lustgarten advised that the project had been delegated to him several years ago. He tried but was not able to do it. It was just too expensive.

ADJOURNMENT - Upon motion of Deputy Mayor Adler and a second by Councilmember Amato the meeting was adjourned at 10:05 p.m.

Respectfully submitted,

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