

## WORK SESSION OF JANUARY 16, 2001

Mayor Ganz called the meeting to order at 7:37 p.m. Municipal Clerk Kwasniewski read the statement of compliance with the Open Public Meetings Act.

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

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

Review of Tentative Agenda - There were no changes.

Ambulance Corps. - Gail Cebular, President of the Ambulance Corps. was present with several committee members involved with the cellular tower and ambulance purchase. They asked for clarification of the resolution that states that the Ambulance Corps will collect lease payments and turn them over to the Borough. It does not say how long they have to continue to turn the payments over to the Borough. Mayor Ganz explained that it would not be more than \$2500 a month based on the amortization of the ambulance. It would actually be less than \$2500 a month based on his calculations. Attorney Lustgarten added that the agreement was up to \$2500 a month until they paid off the ambulance. Mayor Ganz stated that the Council made a commitment that if the actual cost exceed \$2500 a month, the Council would bear the additional cost.

Lisa Fusco, 9-06 Mason Place stated that the Ambulance Corps. wanted to be sure that payments do not exceed the useful life of the ambulance. Attorney Lustgarten advised that the resolution is talking about a single ambulance. Nothing in the resolution commits the Ambulance Corps. to pay for another ambulance. Mayor Ganz stressed that the Council did not make any commitments for any future ambulances.

David Epstein, 47-1 Florence Street, Wyckoff did not think the ordinance specifies for how long the Ambulance Corps. is committed to paying \$2500 a month. Mayor Ganz assured him that it is for however long it takes to pay off the ambulance. Attorney Lustgarten stated the Ambulance Corps. is obligated to pay the actual amortized cost of the ambulance.

President Cebular expressed concern that they have no guarantees that future Councils will continue funding ambulances. Mayor Ganz replied that while that is true, this Council has committed to honoring the pledge made to meet the reasonable needs of the Ambulance Corps. While the revenue stream continues, the Council will expect the Ambulance Corps. to contribute those funds. Attorney Lustgarten stressed that they need to get the agreement signed. The agreement contains the \$2500 monthly payment. Language could be added so that this agreement clearly pertains to this ambulance only.

Councilmember Etler wanted to know why the ambulances were not being taken care of with transmissions, engine work and rust.

Mr. Epstein assured the Council that local mechanics and factory mechanics do take care of the ambulances. Regular maintenance programs are in place. The only corrosion problem is because of the way they were built. The old units are steel and aluminum. The 1997 ambulance is all aluminum so there is no corrosion. The volume of service the ambulance gets is the highest in the Borough. It is old equipment that is not state of the art.

In response to Councilmember Amato, President Cebular advised that they are always in need of drivers but they are not in a dangerous situation. She thanked the Council for the opportunity to speak on this matter.

Environmental Commission - Elaine Winshell, chair, Mary Burdick, Marcia Greenwald and Jenna Greenwald were present. Ms. Winshell stated that the role of the Commission is to advise the Council on environmental issues. While Fair Lawn has no undeveloped land, a few opportunities exist to purchase some land. She mentioned the piece of land next to Lackland Storage that they might be willing to donate to the Borough. The Garden Club would help with plantings and it could be added to the twice a year clean up. Purchasing the land next to Pathmark might be possible.

An ongoing issue is the necessity to enforce the property maintenance ordinances. Since the property maintenance officer only responds to complaints, she suggested that he needs an assistant so they can actually enforce the ordinance. The Commission is also concerned about the Passaic River. The river front along Memorial Park is in dreadful condition. It is full of grass clippings and other improperly dumped items.

The Commission feels that not enough trees are planted each year. They were distressed that the trees were taken down at Walsh Pool. The CCO inspection should include the tree in the right-of-way. If the tree is not there, they should require the owners to plant one or put money in escrow. Having a tree should not be optional.

Mary Burdick, 12-01 12th Street did not think the general public understood the value of trees. She expressed concern that the Board of Education paves over the trees and no one stops them. The Environmental Commission meets every month but they get no reaction from the community or the Council. She asked for an indication of how many items the Council is interested in pursuing.

Councilmember Etlar advised that \$100,000 has been included in the capital budget this year for trees. The Council has told the DPW that trees are not optional. Clean up on the River will be done in March so the emergency services can launch a boat. He asked for a plan for the land next to Lackland Storage. Manager Sacks added that she and Councilmember Etlar made a site visit and she plans to have the area cleaned up.

Attorney Lustgarten advised that several years ago the Council discussed and rejected the suggestion about the land by Lackland Storage because of the maintenance problems. Mayor Ganz suggested asking the Engineering Department for help with a plan for the area. Councilmember Amato thought the Passaic River was dirty and cleaning up the land will not help the River. Ms. Winshell, however, felt that if the Passaic River Coalition continues to work on the development of the River it will improve. Councilmember Amato indicated that before he votes for money for a river front, he would have to see some evidence that the River is being cleaned up. Deputy Mayor Adler suggested that any plan for the property by Lackland Storage should be shared with RRIC. It should be a long range plan to figure out how to develop the River front but the River has to be cleaned up.

Attorney Lustgarten pointed out that there was an issue with the trees being paved over by the Board of Education, but the Council had no jurisdiction over their buildings and grounds. The consensus was that the Environmental Commission would send the Board of Education a letter.

Ms. Winshell asked that gravel be considered pervious. Attorney Lustgarten advised that this issue was discussed before and graveling the entire front lawn would be possible. That Council did not want that to happen.

Deputy Mayor Adler suggested that the Council have a discussion on how to enforce the property maintenance ordinance. Manager Sacks explained that the office only has one licensed sub code official and the unlicensed officer. There simply is not enough personnel and there are no others from other departments to bring into this department. Ms. Burdick felt the Council needs to consider how badly the town needs to look before they hire more people to enforce the ordinance.

Ms. Winshell asked that Gina Greenwald be appointed. The Commission will be submitting another name shortly.

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

Sidewalk Sale Obstructing Sidewalks - The Council had asked for a recommendation for the setback for the area to be kept clear if they approve sidewalk sales. The ordinance requires five feet of non-obstruction for sidewalk cafes. Manager Sacks recommended the same requirement apply to the sidewalk sales. Attorney Lustgarten advised that no ordinance exists relating to sidewalk sales. A general prohibition on obstructing sidewalks exists. He distributed Bloomfield's ordinance. He had previously distributed Ridgewood's ordinance that he thought was good. He is still concerned about the safety issues on Broadway. Manager Sacks pointed out that in some places there is not enough safe clearance.

Mayor Ganz stated that philosophically the Council has to decide if they should prohibit sidewalk sales unless there is a permit or some general or area-wide exception.

The consensus was that sidewalk sales are prohibited unless there is a permit or some general or area-wide exception. The consensus was that the Borough Manager should be able to allow a sidewalk sale in connection with a street fair without coming to the Council. Following a lengthy discussion on how much clearance was needed, it was the consensus that four-foot clearance would be required with Mayor Ganz dissenting. The consensus was that a permit would be required but no fee would be charged and the application for a permit must be filed 30 days before the event.

Attorney Lustgarten recommended that the merchant be required to have insurance and to hold the Borough harmless though the Borough would not have any liability. The consensus was to require an indemnification and hold harmless agreement. The consensus that the merchants be required to have insurance did not pass with only Councilmember Amato in favor. The consensus was that a violation would result in the general penalty.

Attorney Lustgarten will draft an ordinance using the Ridgewood ordinance as a model and will circulate it to the Council. Manager Sacks suggested that they be required to post the permit in a conspicuous place visible from the street.

Underage Drinking Ordinance - Manager Sacks advised that the legislation has changed so that the municipality can adopt an

ordinance to allow the police to enforce the underage drinking laws on private property. It will deal with teen parties where the parents are not home. Mayor Ganz wanted to refer this matter to the Youth Advisory Committee. He will meet with them within the next two weeks and report back to the Council two weeks after that.

Fourth of July Fireworks - Mayor Ganz suggested having the fireworks after the Sunday, July 1 concert. The concert would have to be moved for safety reasons. The Council concurred. Manager Sacks will see if she can coordinate such an event. The rain date would be July 8 with a concert and if necessary the second rain date would be Labor Day weekend without the concert.

Plaza Road North Parking - Manager Sacks advised that she has received several e-mails on this matter. The first two buildings have serious parking problems. 3-18 Plaza Road North has no parking at all, 3-20 has the driveway, 3-22 and 3-24 are parking in their backyards.

Councilmember Amato wondered why they were revisiting the same issue already voted on by the Council. Manager Sacks explained they are revisiting this issue only for the first two buildings. Councilmember Amato then raised a point of order whether the Council can revisit something. Mayor Ganz advised that it cannot unless there is a proper motion before the Council.

Upon a motion of Councilmember Dobrow and Councilmember Etlar the matter was reopened.

Councilmember Etlar reiterated that these people have no place to park. They are parking in Plaza Lane. They need relief by allowing them to park on the street. Councilmember Amato wondered if the alternative the Council suggested to park in the train station was unacceptable. Manager Sacks advised that three residents have told her that parking at the train station will not help them. Mayor Ganz wondered why parking at the Radburn Building is not acceptable. Manager Sacks advised that it is too far.

Councilmember Dobrow expressed concern that allowing them to park on the street overnight would be the beginning of the end of the ban on overnight parking throughout the Borough. Councilmember Amato expressed concern that others could say the same thing and the Borough would not be able to deny their request. Manager Sacks felt allowing it in this situation was not going to set a precedent since the circumstances are so unique. It was not their fault that they lost their parking. Attorney Lustgarten pointed out that everyone has a hard luck story. They may have a legitimate complaint but so do many other residents.

The Council will meet at 3-18 Plaza Road North to walk the area with Manager Sacks at 8:30 a.m. Saturday, January 20.

Upon a motion by Councilmember Dobrow and a second by Deputy Mayor Adler the Council agreed to postpone further discussion for two weeks.

Opinion on Building on Campbell Road Lot - This matter was deferred to May 8.

Chamber of Commerce Fall Fair - Manager Sacks advised that they are not having a fall fair. They will be having the Spring Fair May 20.

Mayor Ganz asked Manager Sacks to ask the Civil War Reenactment Committee if they are interested in having sutlers at the Fair and then see if a fair can be organized at the site. He wanted to know whether the Chamber or merchants would be interested in being sutlers. Manager Sacks advised that the Civil War Reenactment Committee has vendors coming in.

Special Meeting - Upon motion by Deputy Mayor Adler and a second by Councilmember Dobrow, the meeting was adjourned to a special meeting at 10:05 p.m.

Mayor Ganz reconvened the meeting at 10:20 p.m.

Salary Range for Municipal Court Judge and Prosecutor - Manager Sacks advised that in 1991 an ordinance was passed for the prosecutor's salary. The salary is currently \$11,330. She asked if the Council would object if she made a salary adjustment.

The consensus was that the Council recommends to Manager Sacks that the salary for the prosecutor be raised to \$16,000. The appointment is the Manager's but the Council made the commitment that they would budget \$16,000.

Mayor Ganz proposed raising the salary of the judge by 4 percent.

The consensus was to increase the Judge's salary from \$25,000 to \$26,000 retroactive to January 1, 2001 recognizing that the Judge is running a very effective court.

Parking for a Fee - Temple Beth Sholom has been charging \$25 a month for commuters to park in their lot. No ordinance exists to permit that practice. Manager Sacks requested that the Council consider an ordinance to allow these arrangements. Mayor Ganz indicated he would agree to allow any nonprofit or educational organization to charge for the use of their property. Councilmember Etlar noted that other areas exist that they would not want to allow that because the surrounding residents would not want it. Attorney Lustgarten felt the Council should be aware of all the areas that would be affected before making a decision. Mayor Ganz suggested that they would have to have at least ten parking spaces. The Borough will need to inspect the lot to confirm safety and that sufficient spaces are available for the regular number of parking spaces required.

Deputy Mayor Adler wanted to discuss the concept of someone starting a business without getting permission. She wanted to determine if it is a good idea overall to allow them to go into the business of selling parking. She objected to the idea. They can use the Saddle River Road lot. Councilmember Amato was not in favor of it either. Mayor Ganz disagreed. They have found a way to make some money and the commuter parking problem is a very real one. Councilmember Etlar indicated if they could decide a case by case basis, he might consider it. Mayor Ganz pointed out that the Planning Board could decide if they changed the ordinance so it is a conditional use.

Attorney Lustgarten suggested referring this matter to the Planning and Zoning Boards. A letter should be sent to Temple Beth Sholom advising them that no legal authority exists and asking them not to do it.

Deputy Mayor Adler objected to turning parking lots into a fee for parking. Councilmember Amato expressed concern about permitting more traffic to flow in the Borough. He was not prepared to vote for this concept. Mayor Ganz pointed out that the concept keeps cars off the street. It allows organizations to use empty spaces for parking. Councilmember Amato did not want Fair Lawn to become a parking lot. Unless they can restrict it to Fair Lawn residents, he would not agree. The consensus was to ask the Planning Board and Zoning Board for a recommendation on whether there should be parking for non profit organizations for a fee.

Attorney Lustgarten will send a letter to Temple Beth Sholom.

Overnight Parking at the Train Station - Councilmember Amato asked for the status. Manager Sacks advised that she is gathering information and will be making a report to the Council.

Use of Experts by Zoning Board and Planning Board - Manager Sacks felt that Resolution No. 27-2001 is not clear whether the Council only intends the experts for the use of the public advocates or its alternates or for the Boards as well. Attorney Lustgarten advised that the Zoning and Planning Boards have independent authority to hire their own experts. Mayor Ganz noted that the Council decided last year to create the panel of experts. He felt it was very clear that it was the Council's intent that the Boards use these experts.

The consensus was that if the experts are not used by the Public Advocates, the Boards can use them.

B4/B5 Cooperative Parking Ordinance - Manager Sacks reported that a discussion occurred at the Chamber of Commerce meeting about the cooperative parking agreement. RRIC does not have a parking plan in place so perhaps they should suspend the ordinance until they have a plan. Deputy Mayor Adler added that apparently because some people feel that they cannot sign onto a plan that does not yet exist, they have lost prospective tenants. Members of RRIC are objecting to the ordinance. They would like the Borough to step back for a year or two.

Attorney Lustgarten pointed out that if cooperative parking is removed, the whole concept of River Road changes. Mayor Ganz added that at least twenty people have obtained variances by agreeing to participate in cooperative parking. A certain group who are vocal and vociferous opposes cooperative parking. He felt it was fair to say that the Council was sold a bill of goods a number of years ago and have committed and spent more than 1.5 million dollars of taxpayer money based on this concept. If RRIC wants to come back as an organization and tell the Council they want to abandon cooperative parking, he was prepared to repeal the ordinance. However, he will get the taxpayers money back even if that means dismantling the parking lot by the Bank of New York. The lots can then be sold and the Borough would get the ratables. Attorney Lustgarten wondered what happens to the approvals of the variances that were based on the cooperative parking agreement if cooperative parking is abandoned. Councilmember Etlar felt enough parking exists. The problem is how to get them to turn it over to the public and who will maintain it. Mayor Ganz stated he drafted a parking agreement that RRIC did not like because all the responsibility was on them.

Manager Sacks indicated that she would like to see the issue of the Bank of New York lot resolved. It has been delayed waiting for the larger picture of cooperative parking to be resolved. She would like it separated. People are using it without permits and leases. Mayor

Ganz commented that the concept is to require people who need space to buy it so those spaces are an integral part of the plan.

The consensus was to advise RRIC that they have 120 days to present the cooperative parking plan for the Council to consider and if they fail to do so the Borough Attorney will draft it. It is the Council intention to draft it within 180 days. Attorney Lustgarten will send the letter.

Municipal Almanac - Councilmember Amato requested permission to order the Municipal Almanac.

The consensus was that any Councilmember can purchase a book or related items for less than \$100 and just advise the Council.

Capital Budget - A meeting was scheduled for January 23, 2001 at 6:00 p.m.

Operating Budget - Manager Sacks distributed the budget. Mayor Ganz noted that this budget if adopted as presented would cost the taxpayers \$2.51 a week more than last year.

Agreement for Solid Waste Collection - Attorney Lustgarten presented the proposed agreement which Mayor Ganz thought was excellent.

Closed Session Resolution - Upon motion by Deputy Mayor Adler and a second by Councilmember Amato the following closed session resolution was unanimously adopted at 11:30 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

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 personnel by appointment within 30 days;

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 Adler and a second by Councilmember Amato the meeting was adjourned at 11:45 p.m.

Respectfully submitted,

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

### [SPECIAL MEETING OF JANUARY 16, 2001](#)

Mayor Ganz called the meeting to order at 10:05 p.m.

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

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

#### ORDINANCES: SECOND READING

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

Ordinance No. 1836-2001

**AN ORDINANCE FIXING THE SALARIES OF CERTAIN EMPLOYEES OF THE BOROUGH OF FAIR LAWN, BERGEN COUNTY, NEW JERSEY, AS AMENDED**

Attorney Lustgarten explained that this ordinance amends the salary of the Manager and creates a salary for the web master.

Bea Leiderman, 13-05 Orchard Street, asked the Mayor Ganz to repeat the explanation. Mayor Ganz reiterated that this ordinance amends the salary of the Manager and creates a salary for the web master.

There being no further comments from the public, upon motion by Deputy Mayor Adler and a second by Councilmember Dobrow, it was agreed to close the time for public hearing, with Councilmember Amato dissenting.

Upon motion by Deputy Mayor Adler and a second by Councilmember Etler, Resolution No. 49-2001 adopting Ordinance No. 1836-2001 was passed, with Councilmember Amato dissenting.

Upon motion by Deputy Mayor Adler and seconded by Councilmember Etler, it was agreed to amend headnote to read "no left or right turn".

Mayor Ganz indicated that on first reading he had thought the headnote was confusing. Attorney Lustgarten apparently agreed and it has been amended accordingly. Attorney Lustgarten confirmed that amending the headnote to read "no left or no right turn" is not a substantive change because the Council is not changing the essence of the ordinance but merely procedurally amending the headnote to conform to the substance of the section.

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

Ordinance No. 1837-2001

**AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FAIR LAWN, 2000, BY AMENDING AND SUPPLEMENTING CHAPTER 232 "VEHICLES AND TRAFFIC", ARTICLE VIII TRAFFIC, SUBSECTION 232-51 NO LEFT OR RIGHT TURN**

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

Upon motion by Deputy Mayor Adler and a second by Councilmember Amato, Resolution No. 50-2001 adopting Ordinance No. 1837-2001 was unanimously passed.

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

Ordinance No. 1838-2001

**AN ORDINANCE AMENDING THE CODE OF THE BOROUGH OF FAIR LAWN, 2000 MORE SPECIFICALLY ARTICLE II, ENTITLED "THE COUNCIL", IN ORDER TO ESTABLISH THE POSITION OF DEPUTY MAYOR FOR COMMUNITY AFFAIRS, AND AUTHORIZING THE DEPUTY MAYOR TO SOLEMNIZE MARRIAGES**

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

Upon motion by Deputy Mayor Adler and a second by Councilmember Amato, Resolution No. 51-2001 adopting Ordinance No. 1838-2001 was unanimously passed.

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

Ordinance No. 1839-2001

**AN ORDINANCE TO AMEND ORDINANCE NO. 1553-94 ENTITLED "AN ORDINANCE GRANTING MUNICIPAL CONSENT AND A NON-EXCLUSIVE RENEWAL FRANCHISE TO CABLEVISION OF NEW JERSEY, A JOINT VENTURE, TO UPGRADE, OWN, MAINTAIN AND OPERATE A CABLE TELEVISION SYSTEM IN THE BOROUGH OF FAIR LAWN, COUNTY OF BERGEN AND**

STATE OF NEW JERSEY" TO CREATE A COUNCIL LIAISON TO THE CABLE TELEVISION BOARD

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

Upon motion by Deputy Mayor Adler and a second by Councilmember Amato, Resolution No. 52-2001 adopting Ordinance No. 1839-2001 was unanimously passed.

CONGRATULATIONS

Upon a motion of Deputy Mayor Adler and a second by Councilmember Amato, the Mayor and Council congratulated Municipal Clerk Kwasniewski upon her election as Secretary to the Bergen County Municipal Clerk's Association.

ADJOURNMENT - Upon motion of Deputy Mayor Adler and a second by Councilmember Amato the meeting was adjourned at 10:20 p.m.

Respectfully submitted,

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