

REGULAR MEETING OF JULY 24, 2001

Mayor Ganz opened the meeting at 7:37 p.m. Municipal Clerk Kwasniewski read the following statement of compliance:

In accordance with the Open Public Meetings Act, annual notice of all meetings of the Borough of Fair Lawn was published in "The Record" issue of December 27, 2000. 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 Annual Notice identified the meeting location and the time of the Council Meetings and Work Sessions.

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

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

Mayor Ganz welcomed everyone to the televised Council meeting and stated they had an ambitious agenda tonight.

MANAGER'S REPORT

Borough Manager Sacks stated there were no changes or additions made to the report.

ORDINANCES: FIRST READING

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

Ordinance No.1869-2001

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN, 2000, SPECIFICALLY CHAPTER 24 ENTITLED "LENGTH OF SERVICE AWARDS PROGRAM" MORE SPECIFICALLY SCHEDULE "A"

Upon motion by Deputy Mayor Adler and a second by Councilmember Dobrow, Resolution No. 221-2001 introducing Ordinance No. 1869-2001 was discussed.

Mayor Ganz explained that this ordinance relates to the Length of Service Award Program previously approved by the Mayor and Council and by the voters last November. A few adjustments need to be made to the system. He said the Council was asked to make these changes.

There being no further discussion, Resolution No. 221-2001 introducing Ordinance No. 1869-2001 was passed.

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

Ordinance No.1870-2001

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN, 2000, SPECIFICALLY CHAPTER 33 ENTITLED "POLICE DEPARTMENT" MORE SPECIFICALLY ARTICLE VI ENTITLED "HOURS OF WORK; LEAVES OF ABSENCE; RESIDENCE; WAGES

Upon motion by Deputy Mayor Adler and a second by Councilmember Dobrow, Resolution No. 222-2001 introducing Ordinance No. 1870-2001 was discussed.

Mayor Ganz stated it was his understanding that the Borough Manager brought this ordinance to the Mayor and Council's attention to update it. He suggested that the Council vote on the ordinance's first reading, then forward it to the Labor Counsel.

Borough Attorney Lustgarten stated he was on vacation last week and read the information left for him but did not get a chance to write a memo to the Mayor and Council on it. He did not think they should introduce it tonight. It should be pulled from the Agenda and be re-worked. He felt the Labor Counsel should see it first. He would like the Mayor and Council to digest his memo before they proceed further.

Borough Manager Sacks stated the Labor Counsel read the ordinance and said the language was fine. She said Civil Service

instructed the Borough to use their language. There is no conflict with the PBA. Her recommendation was to introduce the ordinance now because the Labor Council did not see anything wrong with it. Deputy Mayor Etlar stated he was prepared to vote on this tonight. Councilmember Amato stated the lawyer should write the legal documents. Deputy Mayor Adler stated she believed they should discuss this ordinance at the next Work Session as the only issue they are debating is if it is in accordance with the law. She suggested they table it for the Work Session.

Borough Manager Sacks stated an attorney, the Attorney General of the State of New Jersey for the Department of Personnel drafted the language. Deputy Mayor Adler said she suggested they discuss it briefly so they all can be on the same page.

Upon motion by Deputy Mayor Adler and a second by Councilmember Amato, the introduction of Ordinance No. 1870-2001 was unanimously postponed for further discussion at the Work Session following the public meeting tonight with Deputy Mayor Etlar dissenting.

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. 1867-2001

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN, 2000, SPECIFICALLY CHAPTER 232 ENTITLED "VEHICLES AND TRAFFIC" MORE SPECIFICALLY SUBSECTION 232.9 "PARKING PROHIBITED AT ALL TIMES ON CERTAIN STREETS"

There being no comments by the public, upon motion by Deputy Mayor Adler and a second by Councilmember Dobrow, 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. 223-2001 adopting Ordinance No. 1867-2001 was discussed.

Mayor Ganz explained that this ordinance concerned Rosalie Street and Sampson Road.

There being no further discussion, Resolution No. 223-2001 adopting Ordinance No. 1867-2001 was passed.

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. 1868-2001

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN, 2000, MORE SPECIFICALLY CHAPTER 125 ENTITLED "LAND DEVELOPMENT", SECTION 125-38 ENTITLED "FENCES AND WALLS"

There being no comments by the public, upon motion by Deputy Mayor Adler and a second by Councilmember Dobrow, 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. 224-2001 adopting Ordinance No. 1868-2001 was discussed.

Mayor Ganz stated this ordinance relates to the Borough Code that was recodified. At the time of recodification for some reason the fence height was put in as five feet instead of six feet.

There being no further discussion, Resolution No. 224-2001 adopting Ordinance No. 1868-2001 was passed.

RESOLUTIONS BY CONSENT #14-2001

Upon motion by Deputy Mayor Adler and a second by Councilmember Amato, Consent Agenda #14-2001 containing the following items was unanimously adopted.

a. Resol. #225-2001 Approval of Minutes
Regular Meeting 5/22/01

Work Session 5/22/01

Closed Session 5/22/01

Work Session 6/5/01

Special Meeting 6/5/01

Closed Session 6/5/01

Regular Meeting 6/12/01

b. Resol. #226-2001 CDBG Agreement: Senior Center Parking Lot Addition

c. Resol. #227-2001 CDBG Agreement: Senior Center Rehabilitation

d. Resol. #228-2001 Approval of Raffles & Bingo:

St. Anne's Church Off-premise 50/50

Congregation B'Nai Israel Off-premise 50/50

St. Leon Armenian Church Off-premise 50/50

e. Resol. #229-2001 Renewal of Membership in Bergen County Joint Insurance Fund

f. Resol. #230-2001 Award of Bid: Municipal Parking Lot Expansion Bergen Avenue

g. Resol. #231-2001 Award of Bid: Sanitary Sewer Improvements Sanford Road

h. Resol. #232-2001 Award of Bid: Industrial Supplies

i. Resol. #233-2001 Asking DOT to Allow Left Hand Turns onto Midland Avenue

j. Resol. #234-2001 Endorsing Bris Avrom CDBG Application

Mayor Ganz stated that the resolutions just approved included block grants in the amount of forty thousand dollars.

RESOLUTION No. 235-2001 BID HEARING CENTER CONVERSION

Upon motion by Deputy Mayor Adler and a second by Councilmember Amato, Resolution No. 235-2001 was unanimously passed.

RESOLUTION No. 236-2001 BID CELLULAR TOWER

Upon motion by Deputy Mayor Adler and a second by Deputy Mayor Etlar, Resolution No. 236-2001 was discussed.

Borough Manager Sacks stated the bid was submitted without a bid bond. The Borough Attorney and she decided that the bid was unresponsive. Both recommended the rejection of this bid. Mayor Ganz asked how soon they would re-bid the project. Borough Manager Sacks stated the re-bid date is August 6, 2001.

There being no further discussion, Resolution No. 236-2001 was unanimously passed.

RESOLUTION No. 237-2001 PROFESSIONAL SERVICES ENGINEERING / ARCHITECTURAL DESIGN

Upon motion by Deputy Mayor Adler and a second by Councilmember Dobrow, Resolution No. 237-2001 was discussed.

Mayor Ganz asked what was the time frame for this project. Borough Manager Sacks stated that it should be completed within three weeks so that the specifications can go out for bid.

There being no further discussion, Resolution No. 237-2001 was unanimously passed.

RESOLUTION No. 238-2001 BERGEN COUNTY HISTORIC PRESERVATION TRUST FUND

Upon motion by Deputy Mayor Adler and a second by Councilmember Dobrow, Resolution No. 238-2001 was discussed.

Borough Manager Sacks explained that this is an application to the County of Bergen for restoration of cabinetry at the Cadmus House.

There being no further discussion, Resolution No. 238-2001 was unanimously passed.

MISCELLANEOUS PUBLIC COMMENTS

Upon motion by Deputy Mayor Adler and a second by Councilmember Dobrow, it was unanimously agreed to open the time for public comments.

Jane Diepeveen, 14 Ryder Road, stated she was the Borough Historian and Vice President of the Trustees of the Cadmus House. She said they would like to add seven thousand dollars to the application that the Council just passed. The additional money will be for repairing the masonry. Ms. Diepeveen said this was an important project because water is getting in. Borough Manager

Sacks said the Council could amend Resolution No. 238-2001 to include the additional amount. The Borough is the sponsoring agent because they own Cadmus House. The application must be submitted by the end of this week. Mayor Ganz stated there is no net cost to the taxpayers.

A unanimous consensus was taken to amend the resolution to include the additional amount needed to repair the masonry.

Jane Levine, 5-16 Dorothy Street, appeared on behalf of the Dorothy Street residents. Since the relocation of the New Jersey Transit Saddle River bus route to Morlot Avenue conditions on Dorothy Street have deteriorated. The residents on Dorothy Street moved to that area because it was clean and safe. They no longer live in a clean and safe environment. Cars park from 6:00 a.m. to 8:00 p.m. on both sides of their houses and driveways. Several near misses have already occurred as residents have attempted to leave their driveways between the commuters' cars. She felt it was only a matter of time before a near accident becomes a real tragedy. Ms. Levine said that Dorothy Street was once a clean street now it is a dirty street. Cigarette butts, fast food wrappers, empty soda cans, bottles and other debris are tossed into their street, curbs, lawns and driveways. The commuters use their block as their personal garbage can. The residents feel that their property values have gone down due to the parked cars and garbage.

Ms. Levine stated that in the past the Borough posted "No Parking 6:00 a.m. to 10:00 p.m." signs on blocks adjacent to the Saddle River bus route. The residents of Dorothy Street demand equity. They want parking restriction signs to be posted and enforced on Dorothy Street.

Borough Manager Sacks stated she had met with Mrs. York who is a resident on Dorothy Street and saw that they needed the parking restriction. She strongly recommended that the restriction be established on Dorothy Street. Deputy Mayor Etlar stated he concurred with the Borough Manager's suggestion. The Council should move this relief as quickly as possible. Mayor Ganz instructed Borough Manager Sacks to have the Traffic Officer look at the situation and to prepare an ordinance with the restrictions. Borough Manager Sacks stated that was already being done depending on how far the Council wanted to go. Deputy Mayor Etlar felt they should post all of Dorothy Street. Mayor Ganz stated he preferred to get the recommendation from the Traffic Officer and the Borough Engineer for what is needed.

Councilmember Amato stated he favored this parking restriction. He understands their problem because he lives near a train station. The unfortunate part is that no one can park on the street once the restriction is in place. He just wanted to make her aware of that. Mrs. Levine stated most of the people are in agreement.

There was a unanimous consensus to have the Borough Manager make a recommendation to the Council based on discussions with the Traffic Safety Officer and the Borough Engineer.

Dan Whalen, 7-17 Manor Avenue, stated that at the Council meeting on June 25, he asked the Council some questions about the Bond Ordinance. Specifically he asked at which public meetings they had discussed the Municipal Building expansion. At that time Mayor Ganz asked Municipal Clerk Kwasniewski to provide the minutes, she kindly has and he has reviewed them. He felt the discussions were almost nonexistent. Before the May 15 meeting where the Borough Manager requested these funds, February 26, 2000 was the last public record of the possible Municipal Building expansion. He wondered why. Mayor Ganz stated the minutes are widely representative but not stenographic. They reflect general thought patterns and general comments. It is the collective recollection of each Councilmember that they discussed this. They all recall the reasons why they discussed it and the reason they need it. People are sitting on each other's laps in the Building Department and Detective Bureau so the Council believes it is necessary. Mr. Whalen asked if Mayor Ganz was stating the minutes were not complete. Mayor Ganz stated that is the way minutes are. Mr. Whalen stated they do not need to be stenographic, however, there is no mention of the expansion for a year and a half. He has read previous minutes this past year and they have been very reflective of what goes on in these meetings. Mayor Ganz stated it is rare in a budget meeting, in the four years he has been on the Council, for there to be precise items on budgetary items even for substantial expenditures.

Mr. Whalen asked about the Supreme Court case that Mayor Ganz referred to regarding the Council meeting going live and if Mayor Ganz could state the case. Mayor Ganz said he could not. He had read the case and was persuaded by it and now the meetings are televised live.

Borough Attorney Lustgarten stated he remembered the case. He said it made tougher standards to sue the publisher. The summary of the case was that no one had to show actual malice. Borough Attorney Lustgarten said he called Mayor Ganz regarding the case citing it was a parallel situation. It made sense so the Mayor used it to go live. He does not remember the name either. Borough Attorney Lustgarten felt if Mr. Whalen had to blame someone he should blame him and not the Mayor. Mr. Whalen said the name of the case was Barnicki. Borough Attorney Lustgarten stated the issue of going live goes back several Councils ago. This Council decided to air the Council meetings live. Initially there were technical glitches. Creative Cable did not want to be edited. The Council had to decide what was the best way to broadcast for the residents. Mr. Whalen stated he was a

strong advocate of going live unedited. He continued by asking the status of the Court Administrator position. Borough Attorney Lustgarten stated it was pending in Superior Court. He believed that the Deputy Attorney General had to file a Statement of Case. Once they have filed this statement, the Borough has a certain amount of time to respond.

Mr. Whalen asked whose idea was it to put the Periodic Council Report on the website and wondered when it was discussed. Mayor Ganz stated it had to have been discussed before being posted on the website.

Jane Diepeveen, 14 Ryder Road, said she submitted the original application to the Borough and they need a copy for their records. Borough Manager Sacks gave her copy to Ms. Diepeveen.

Lloyd Dorfman, 12-16 Fairclough Place, asked if there was a way issues that need public consensus or other topics that relate to the Borough can be e-mailed to people who have registered their e-mail addresses. Mayor Ganz stated with the exception of notifying people that changes have been made to the website, notices are sent to the registrants. He suggested that Mr. Dorfman use the Borough's website for information. It is one of the accomplishments of this Council that the Borough has such a fine website with the help of the Borough Webmaster Ron Lottermann. The Council has not engaged in a push out program that would require the Borough to collect the names and e-mail addresses of individuals. Mr. Dorfman asked if any legal ramifications surround this or can issues be sent out like that. Mayor Ganz said there probably are legal issues. He would let the Borough Attorney comment on it at such time there is a proposal before the Council. He also said that once the Borough becomes a repository of e-mail addresses, there will be the legal issue of what entities are entitled to access them because then it would become a public document. That is potentially problematical. Mr. Dorfman asked if public notices can be put out to residents via e-mail that have registered their e-mail addresses. Mayor Ganz stated from a legal standpoint that is not good notice. It does not legally satisfy notice requirements written either into the Land Use Law or various statutes. The legislature has not caught up with the fact that electronic methods of communications are much easier, faster and more likely to get a response than the old fashioned snail mail. There is a series of legal issues that he thought would be involved before the Borough could do something like that.

Councilmember Amato stated he was trying to understand what Mr. Dorfman was referring to as far sending out information to residents. Currently notices are sent when there is a change in the website. Mayor Ganz stated previously they used Microsoft Listbot but when that became a paid frequency, Webmaster Lottermann found another one that does the same thing at no cost. Councilmember Amato said the Borough website was a repository of information. Mr. Dorfman stated the Borough website was just a bulletin board. He noted there were only six people present in the audience. Mayor Ganz told him that was actually a large crowd. Councilmember Amato felt the website was chock full of information. Mr. Dorfman said he wanted to know if the Borough could expand on it. Councilmember Amato stated he was in favor of expanding the information base. When he goes to the website he saw links for dozens of things and wanted to know what Mr. Dorfman would like to see on the website. Mr. Dorfman cited, as an example, the ordinances passed tonight. Many people would not have even known about this unless sitting in the meeting. Mayor Ganz informed him that every ordinance is published in the Bergen Record. The overall Agenda can be seen on Channel 66, on the Borough website and on the bulletin board in the Municipal Building. Mr. Dorfman wondered if they were missing another avenue that many people would use. Mayor Ganz stated that the Council is acutely aware that according to the Department of Commerce about seventy six percent of the American people do not have computers and lack access to the Internet and six percent of the population lack access to the telephone.

Mr. Dorfman wondered why on issues that were important to the Council and important to the town e-mail was being overlooked. Deputy Mayor Etler stated if the issue is important, they advertise the meeting. If there is a matter of concern they can come to the meetings. They can air their concerns and questions. Mr. Dorfman wondered why that avenue was not being considered.

Deputy Mayor Adler stated they require the ideas of the public and that is why they publish the ordinances. She can imagine that one day the Agenda could be e-mailed to everyone that has an e-mail address. She does not know if that is feasible. The final analysis is that ordinances are the responsibility of the elected Council. She felt it was a wonderful suggestion but right now they have to wait for public input and the agenda is always ready before the meeting date. Deputy Mayor Adler told him he could request an Agenda in advance. She said there are a variety of avenues to express his opinion. Mr. Dorfman stated there are more people participating in the Fair Lawn News discussion than are attending this meeting.

Borough Attorney Lustgarten said he was not sure he understood what he was saying. The Council's responsibility is to formally publish notices of what the Council is going to do at a Work Session and at the public meeting. With the advent of new technology, agendas are posted prior to the Council meetings and are posted on the website in advance. Instead of coming to Borough Hall residents can access Channel 66 or the Borough website to see what is going to be discussed. If Mr. Dorfman is talking about an interactive participation of dialog between the Council and the residents there is a practical impediment because Councilmembers are not full time. In addition, that kind of dialog is more appropriate at a Council Meeting collectively. Under the Faulkner Act the Council has to act as a collective body. He said he was not sure that is what Mr. Dorfman was saying. If he is talking about that kind of interaction, the only legal mechanism is to have people come to the Council meetings. This Council introduced something

that prior Councils have not done and that is to allow public comment at Work Sessions on Agenda items only. The discussions that are on the Fair Lawn News website are like discussions that used to take place in town square years ago. Now it is done electronically. Asking the Council to get involved in that type of dialog creates legal issues because if there are one or two Councilmember's in that dialog are they speaking as an individual or are they taking a Council position. Council positions have to be taken by formal action at meetings. Fair Lawn is almost there in getting the information out. The Council cannot force the people to attend the meetings. If they are interested in a particular subject, they have filled these chambers. He felt that the people think if it is not a major issue let the Councilmember's do their jobs.

Borough Manager Sacks stated the Municipal Clerk sends a great deal of information on a timely basis to the Webmaster and it does get posted. She said her office gets calls about the Agenda items and what is coming up and gets requests for information based on the Municipal Clerk posting these things on the website. People are getting the information.

Councilmember Amato stated Mr. Dorfman wants information to go out. The website won an award for being one of the finest in the state. He wanted to stress although he did not have the statistics many towns do not have websites. He is satisfied with where the Borough's website is at this time.

Mr. Dorfman stated he was not here to blast the website. What he was asking was does the Council feel they are using that website and e-mail to its best possible use. Mayor Ganz stated probably not because they are relatively new at it. When he joined the Council, they had depended on a private website. He thought the Borough needed to have control over the content that is on the website. They now have Ron Lottermann as the Webmaster who is very innovative.

Deputy Mayor Adler stated it was her understanding that Mr. Dorfman's vision was to send e-mails to XYZ addresses. So far the website does not do it. As he heard before the Municipal Clerk read the statement of compliance in regard to the open public meeting's act. The purpose of these meetings is to have open dialog, the Internet is still a closed discussion. She wanted him to keep in mind that the purpose of having a meeting and having that kind of dialog is to keep the communication channel open and until they can do a better job of it she suggested he log onto the website to see what the Agendas contain. A public forum is the best way to do it.

Mr. Dorfman stated he agreed with the Borough Attorney that this might not be the best avenue to get into dialog because you can cloud up the website. He tends to look at it simply - if issues need a yeah or a nay, could they be put out to the people for a consensus. Councilmember Amato stated the Internet serves two purposes, one is to spread information to the public and the second is to make money. What the Borough does is governmental, it sends information. He did not think sending notices of what happened at meetings would be productive Mr. Dorfman said he had to disagree with him because they would be informing more people that do not have time to read newspapers or watch cable television. Councilmember Amato asked Mr. Dorfman if he knew of any other town or state government that sends out notices about meeting discussions that transpired. Mr. Dorfman stated he could not but all he wanted to know is the Borough using the website to its fullest capability.

Deputy Mayor Etler stated that what he was asking for may sound reasonable to him but in the governmental sense it does not make sense. Nothing replaces person to person contact. Mr. Dorfman said he agreed with him but felt it was a shame that no one was present at the meeting. He was not here to blast anyone or blast the website, he was simply asking can the Borough website be used more effectively. Mayor Ganz stated it can and he is certain that this Council or future Councils will look at it.

There being no additional comments from the public, upon motion by Deputy Mayor Adler and a second by Councilmember Amato, the time for public comments was unanimously closed.

Upon motion by Deputy Mayor Adler and a second by Councilmember Amato, Resolution No. 238-2001 was unanimously amended to reflect the new amount of \$4,800.00.

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 anticipated litigation and attorney client privilege; and

WHEREAS, these matters permit the exclusion of the public from such discussion; and

WHEREAS, public disclosure of the results of this discussion may be made by the governing body of the Borough of Fair Lawn at the conclusion of the legal matter 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 set forth above is one which permits the exclusion of the public.

Mayor Ganz reconvened the meeting at 9:45 p.m.

Upon motion by Deputy Mayor Adler and Councilmember Amato, Resolution No. 222-2001 introducing Ordinance No. 1870-2001 was taken from the table.

Attorney Lustgarten advised that the Mayor and Council discussed the proposed ordinance about the specific language regarding the residency requirement. The language that the Municipal Clerk will use will conform to N.J.S.A. 14-123.1a.

Hearing no further discussion, Resolution No. 222-2001 introducing Ordinance No. 1870-2001 was passed.

Attorney Lustgarten advised that the Council also discussed, in Closed Session, the language concerning when an officer is on duty. The Council agreed to have the labor counsel review that language. Mayor Ganz suggested that having their opinion for the August 14 Work Session would be helpful.

ADJOURNMENT

Upon motion of Deputy Mayor Adler and a second by Deputy Mayor Etlar, the meeting was adjourned at 9:50 p.m.

Respectfully submitted,

Marilyn B. Bojanowski, RMC
Assistant Municipal Clerk