

WORK SESSION OF JUNE 5, 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 Adler (late), Councilmembers Amato (late), Dobrow and Deputy Mayor Etlar.

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 to award the bid for the Electrical Lift Truck. They took the bids today but they are trying to get the 2001 model. The deadline for placing that order is June 15. The Council concurred.

Discussion on Recommendations by RRIC re Cooperative Parking and Site Plan Approval - This item was deferred to next work session. Attorney Lustgarten advised that the Planning Board responded to those recommendations. The Mayor and Council have to make some discretionary policy calls. Mayor Ganz recommended that the comments be sent to Don Smartt for distribution to the RRIC committee, ask them to respond to each point and then recalendar this matter for July.

Campbell Road Property - Manager Sacks advised that signs were posted at the no parking area where the residents of Parmalee and George were complaining. Mayor Ganz asked her to report again in 30 days. Manager Sacks added she would have a plan ready by the end of the week. She will distribute it. She is trying to give the residents two months notice.

Ordinance re Exigent Circumstances for Parking on the Street (Burbank Street) - Attorney Lustgarten drafted an ordinance that would delegate to the Police Chief the discretion to allow on-street parking on restricted streets. Manager Sacks circulated a response. He was not aware of a response from the Chief. He recommended that the ordinance have town-wide applicability. Manager Sacks has suggested that the permit not be for more than five consecutive days and that it only be issued if two people approve it. He thought that would be fine but suggested that it be the Chief and the Manager or their designees.

Deputy Mayor Etlar wanted to know what the Council was trying to accomplish. Mayor Ganz explained that a need exists to allow temporary parking on the street where no parking is permitted. The Police Department has no discretion to allow residents to park in those areas.

Attorney Lustgarten explained that the current ordinance for overnight parking is for emergencies. The ordinance for the day time permit is for three specific circumstances, construction of the driveway, medical necessity or infirmity and vehicle incapacity. The standard for waiving the parking prohibition is that waiving it outweighs the necessity of its enforcement. Attorney Lustgarten suggested a quarterly report detailing how many permits they issue and if they are repetitive.

Mayor Ganz was concerned about the time the Manager would have to spend approving these requests. Attorney Lustgarten thought if the ordinance sunsets after a year, they could try it with just the Chief or his designee.

The consensus was to introduce the ordinance with the Chief or his designee or the Manager or her designee for five days with a one year sunset.

Attorney Lustgarten asked if they wanted to incorporate exemptions for Borough vehicles, emergency vehicles or delivery vehicles in this ordinance. Mayor Ganz suggested holding that portion and revisiting it in a month.

Broadway - Mayor Ganz stated that Deputy Mayor Adler had wanted to discuss this item but Deputy Mayor Etlar has some suggestions. Deputy Mayor Etlar thought that increasing the commercial zone was a technical matter that they should send to the Planning Board for their review and comments.

The consensus was to send the question to the Planning Board.

Deputy Mayor Etlar also thought amending the sign ordinance to allow for larger signs since it is a State highway should go to the Planning Board for their comments. Mayor Ganz thought the Broadway Committee had done a wonderful job identifying the problem areas but having the Planning Board review it first would be more practical.

The consensus was to send this question to the Planning Board.

Deputy Mayor Etlar thought the letter to the State to address issues of traffic safety about school crossing areas, crosswalks, signage and speed limits should be referred to the Manager. Manager Sacks replied that she would need specifics. She would write the letter but she will speak to Deputy Mayor Adler and the chair of the Committee first.

The consensus was for the Manager to write a letter.

Attorney Lustgarten suggested that either the Manager or the Mayor and Council send something to the principal of the Warren Point School and the PTO president asking for their ideas on the safety issues. Manager Sacks will send a letter advising that she intends to write to the State and asking if they have any specific concerns and recommendations. Mayor Ganz asked her to get their ideas by the end of the month.

Modification to Sedgwick CMS Service Agreement - Attorney Lustgarten advised that CFO Eccelston had addressed his concerns.

The consensus was to adopt a resolution authorizing the Mayor and Municipal Clerk to execute the addendum to the agreement.

Petition to Move Saddle River Road Bus Stop at South Broadway - Manager Sacks advised that she and the Traffic Safety Officer recommend that the bus stop remain on the far side of the intersection. It is safer. A bus shelter should be built. Engineering will determine how to correct the grade of the land. Better maintenance of the island is required by the Parks Department. They should pave part of that planting strip for safety reasons.

Deputy Mayor Etler stated that he has repeatedly asked the Manager to include a map showing the location of the areas to be discussed. He does not know where exactly this bus stop is.

The matter was deferred for two weeks so a map could be distributed to the Mayor and Council.

The policy of the Council is that a map should be included whenever streets are involved.

Underage Possession or Consumption of Alcohol on Private Property - Manager Sacks explained that this is the issue of giving the Police an edge on underage drinking. Twelve municipalities have adopted the ordinance. She attended a meeting where the Assistant Prosecutor urged the towns to adopt the ordinance. Penalties include a fine and a second infraction will limit the ability to obtain a driver's license. Right now the police cannot do anything to the children on private property. Mayor Ganz pointed out that this subject came up at the Board of Education liaison meeting where he asked for an opinion from the High School and the PTO. He asked if that information had been received. Manager Sacks advised that it had not.

Attorney Lustgarten advised that until this legislation there was not a specific statute on possession of alcohol on private property. The argument against this ordinance is the Big Brother argument. That is to say, unless people are violating other aspects of the ordinance why does the municipality have an interest. He wondered how many times the police have felt immobilized by the lack of an ordinance. The drunk and disorderly statutes can be used for most instances. The benefit of this type of ordinance is that it is a municipal ordinance so a teen can be charged with an ordinance violation instead of a criminal violation.

Councilmember Amato arrived at 8:00 p.m.

Mayor Ganz advised that Ms. Pannella has said that this is a serious problem. Manager Sacks advised that the youth tell the guidance counselors about the parties. The guidance counselors in turn tell her.

Mayor Ganz wondered what happens when the child cannot pay the fine and how the police would prove consumption. Attorney Lustgarten felt they would use the standard coordination tests. He did not think they could just bring in a minor for blood testing. Mayor Ganz said he wanted to hear from the PTO before getting involved in this type of ordinance.

Deputy Mayor Adler arrived at 8:10 p.m.

Deputy Mayor Etler felt the police had enough power to stop the drunk and disorderly behavior. Mayor Ganz stated that if they are drinking and not disorderly, the police believe they cannot go onto private property unless there is a complaint. If they become disorderly, the police can go onto the property. Attorney Lustgarten concluded that the thrust of this type of ordinance is that it allows the police to go into areas where there are really problems.

The consensus was for the Manager to contact the PTO's with Councilmember Amato abstaining.

Mayor Ganz asked Manager Sacks to send a letter over his signature to the White House for their opinion on this ordinance.

Public Comments on Items on the Agenda - Aida Mancinelli, 13-18 11th Street stated that she attended the meeting where Detective Bastinek spoke about this ordinance. There was no consensus. Some favored it but others objected. She objected to the ordinance. The police have the right to break up parties that was all she thought they should be able to do on private property. She

expressed concern about punitive damages that do not fit the crime.

Charles Tregidgo, 12-68 4th Street commented on the ordinance noting that he could foresee circumstances where the police could be overzealous. He then asked if they had given the Broadway Advisory Committee's report to the Planning Board. Mayor Ganz advised him that he thought it was given to them but they never responded. Mr. Tregidgo pointed out that sixteen months of work went into those reports. As a resident and a person responsible for writing that report, he is dismayed that nothing has been done in a year. He suggested that the report be sent to the Planning Board again. He also thought they should send the report to the State with the letter on the traffic safety matters. Manager Sacks advised that the report has already been sent to DOT and NJ Transit.

Mr. Tregidgo repeated that the report should go with the letter because it addressed many issues that she will raise in that letter. Mayor Ganz felt the report would be a good back for the letter. Deputy Mayor Adler suggested extrapolating items relating to traffic safety.

Mr. Tregidgo wondered what happened to their request for the flashing school sign similar to the one at Lyncrest School. Manager Sacks advised that the Borough could not install that because it is a State highway. The State has let them add more signs.

John Mancinelli, 13-18 11th Street, a trustee of the Board of Education and chair of the Liaison Committee thanked the Council for the ordinance changing the parking restrictions around Sasso Field. They will attempt to get the students to stick to the legal parking areas. While he appreciated the Council's prompt action to help alleviate the situation, this solution was only temporary. Mayor Ganz advised that the Council also felt that the change would help alleviate some problems while a long term solution is considered. Mr. Mancinelli concluded that the change was a commendable first step.

Alida Mancinelli, 13-18 11th Street also thanked them for the prompt attention to their concerns. While they do not believe it is a complete solution, it is an excellent start. Mayor Ganz noted that the Council wanted to do something to help in the short term. Manager Sacks advised that the second part is to promulgate another list where students can park legally all day.

Computer and Electronics Recycling - Manager Sacks advised that the company the Borough had a contract with last year went out of business. They have found another company who is willing to recycle electronic parts at a per pick up cost of \$200. They would have about four pick ups a year. They will use the Recycling Center. DPW Superintendent Maslo has investigated the company and is satisfied with them.

The consensus was to enter a contract with Supreme Computer Wholesalers, Inc.

Grant for Recreational Facilities for the Disabled - Manager Sacks advised that they have applied for a grant for Camp Shining Star. The application requires a resolution from the Council endorsing the application.

The consensus was to endorse the application. A resolution will be on the next Council agenda.

Credit Cards to be Accepted by Municipal Court/Collection Agency for Municipal Court Fines - Attorney Lustgarten stated that about a year ago he had suggested that if the Administrative Office of the Courts did not conform their regulations to use credit cards in municipal court the Borough should start a suit. He has done additional research on this matter. The placement of the ATM has obviated some of the necessity of the credit cards. A suit by the municipality is going to be difficult. He suggested revisiting this matter in four or five months. The Director of Municipal Court Services has not called him back. Mayor Ganz suggested that Attorney Lustgarten report to the Council in July or August.

Technical Corrections to Codification (CCO ordinance) - Municipal Clerk Kwasniewski advised that the CCO ordinance was inadvertently omitted from the recodification. She proposed adopting the ordinance as originally adopted. Attorney Lustgarten advised that the ordinance should be effective retroactively to the date the Code was adopted. Municipal Clerk Kwasniewski will circulate the proposed ordinance to the Council. It will be introduced at the next Council meeting.

Special Meeting - Upon motion by Deputy Mayor Adler and a second by Councilmember Dobrow, the meeting was adjourned to a special meeting at 8:35 p.m.

Mayor Ganz reconvened the meeting at 8:45 p.m.

Archival Picture - Deputy Mayor Etlar read a letter from County Executive Schuber regarding decorating the new County building by displaying photographs of the municipalities. He suggested a photograph of Radburn from 1993 would be suitable. He had it blown up to the size requested and asked for the authority to submit the picture to the County.

The consensus was to submit the Radburn photograph to the County.

Fuel Usage Reports - Councilmember Amato requested the report from January 1, 2001 to June 30, 2001. Manager Sacks submitted the report to date. She will supplement the report for the remaining days in June.

Councilmember Amato stated that CFO Eccelston had told him that the software that came with the cards used to authorize gasoline usage generates the report. He wanted to contact the vendor to ask a few questions. He wanted to know if that report could be enhanced to make it easier to analyze. Manager Sacks noted that the Department of Public Works generates the report. She will provide the name and phone number of the vendor and Councilmember Amato will contact him.

Mayor Ganz asked for the fuel numbers that show the average price per gallon in October and in December.

Personnel Time Off for Seminars - Councilmember Amato stated that he had spoken to the Borough Manager about seminars the Borough employees and had asked who approves the seminars that the Borough Manager attends. He stated that Manager Sacks had told him that under the Faulkner Act no one did, but he reviewed the Faulkner Act and did not see anything about seminars in it. Manager Sacks explained that she had said that no one approves the seminars but her. Councilmember Amato asked if she notifies the Council when she attends seminars. Manager Sacks advised that if she were going to be out of the office for several days she notified the Council but not if she were going to be out for a few hours. Councilmember Amato then wanted to know if taking seminars consistently were possible for her so that she was not in the office very often. Manager Sacks replied that it was conceivable but there are not that many seminars. If she attends a half day seminar, she returns to the office.

Attorney Lustgarten stated that this issue came up many years ago. The Manager has the authority to approve seminars for subordinate personnel. He thought the Manager's contract contains a clause that the Manager has the right to attend seminars. Implicit in that language is the reasonable exercise of that discretion. He thought the Council can reasonably regulate the discretionary seminars subject to what is in the contract. If a manager were abusing the privilege, he thought the Council has the authority to say that is not reasonable. Oversight lies with the Council.

Councilmember Amato pointed out that if the Manager is approving her own seminars, he might not even know how many she was attending. Manager Sacks replied that she routinely works 50 to 60 hours a week and she goes to very few seminars, she did not think it was an issue. No one has complained. Councilmember Amato stated that he was not making any accusations. He just did not think it was right that a Manager can approve attendance at seminars without even notifying the Council. He thought there was something wrong with the procedure.

Manager Sacks asked if anyone else had a problem with the procedure. Deputy Mayor Adler did not think it was a problem. As the CEO she thought it was appropriate. Deputy Mayor Etlar stated that the Manager has always told him when she was going to be out. He had no problems with the procedure as it exists. Councilmember Dobrow concurred.

Attorney Lustgarten will look at the contract and report to the Council. This item was rescheduled for the next work session.

Emergency Response Team of Inspectors - Manager Sacks reported that Construction Official VanHook and OEM Director Metzler have requested that the Borough participate in a mutual aid agreement with the Bergen Passaic Municipal Inspectors Association. It would allow the Borough's inspectors to go to another municipality in the case of a disaster or if the Borough needed assistance the other municipalities would come to Fair Lawn. The purpose is to have prompt damage assessment. She spoke to the Risk Manager about liability and was assured that the inspectors would still be covered. Attorney Lustgarten was unable to comment on any legal ramifications since he had not seen any paperwork.

The consensus was that the Council approves the concept and that Attorney Lustgarten would review the paperwork for any legal issues.

Borough's Website - Mayor Ganz asked for a consensus to put some of the activities that the Mayor and Council have had this year on the Mayor and Council page on the website. Deputy Mayor Etlar wanted the clean up of the Passaic River added.

The consensus was that the items would be added to the website.

Flag Burning - Deputy Mayor Etlar advised that apparently everyone around Fair Lawn has been giving their flags to Fair Lawn to burn. The Fire Marshal is concerned about the quantity. Deputy Mayor Etlar wanted to know what they could do to control this problem. Mayor Ganz thought flags could be burned or buried. He asked Attorney Lustgarten to research this matter and then the Council can make recommendations. He thought the Veterans Organizations should only be accepting flags from the Borough.

Attorney Lustgarten pointed out that the VFW is private organization. He wondered why the Borough was involved. Mayor Ganz replied that the fire regulations require it. Deputy Mayor Etlar will speak to the County Veterans Organization to see if they have recommendations.

This matter will be on the next agenda.

Emergency Services - Councilmember Amato reported that he responded to Don Oliver's letter. He asked for a consensus from the Council to have the Manager ask the OEM Director to post the letter and his response at emergency stations. Mayor Ganz asked him to recirculate the letter and the response and then put it on the agenda.

Manager Sacks advised that she shared the letter with the Rescue Squad. An investigation was done.

Closed Session Resolution - Upon motion by Deputy Mayor Adler and a second by Councilmember Amato the following closed session resolution was unanimously adopted at 9:25 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 attorney/client privilege; 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 in two weeks by public resolution if consensus is reached on an appointment and nondisclosure on legal strategy;

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 9:30 p.m.

Dedication of DPW Building - Manager Sacks asked the Council to bring their calendars to the work session so they can pick a date in August.

Fence Applications - Manager Sacks announced that the Zoning Board decided to move the fence applications up a month. Mayor Ganz stated that it was his recollection that the limit was three feet without any application and that the Zoning Board would not grant a six-foot fence but a four or five-foot fence. Manager Sacks stated that the back yard was always six feet but during the recodification it was changed to five feet. Mayor Ganz asked to see the zoning law from 1981 because that was not his recollection.

Request from Fair Lawn Borough Gardens Committee - The consensus was to ask Jane Spindel to attend the next work session to discuss the problem of theft of plants.

Dates - Mayor Ganz asked for the estimated dates for the completion of the DPW Building, laying the cornerstone for the extension of the municipal complex and the completion of Memorial Pool. Manager Sacks advised that Memorial Pool is for all practical purposes finished. There are only a few things that remain to be completed. The footings for the DPW building are 80% in; the building arrives on June 13. The cement floor will be poured before then. The building will look like it is ready in August but interior work will still be needed. Manager Sacks thought the expansion of the municipal building will be in late October. Mayor Ganz asked for a time line for this construction.

Expansion of the Parking Lot - Deputy Mayor Etlar asked for a map of the proposed construction of the extension of the parking lot. Manager Sacks advised that she will have that either Friday or Monday. Deputy Mayor Etlar asked that it show the 52 spaces, the five foot buffer and the ten-foot extension on the buffer and approximately where the fence will be. Mayor Ganz wanted it to show the landscaping.

Expansion of Municipal Building - Councilmember Amato asked if the Council had voted on the expansion. Manager Sacks advised that they had voted on the bond ordinance which included \$450,000 for the expansion. It will add 3,000 square feet. They may be able to make it accessible from one or two floors of the existing building if it is modular instead of trailers. It will look like a seamless building. It will look like regular construction and not look like pieces.

Councilmember Amato indicated that he was familiar with how they construct them. He asked if the only difference between what they will have and normal construction is that it is preassembled. Mayor Ganz advised that it will meet all the Uniform Construction standards. Manager Sacks added that it will have a real foundation. Attorney Lustgarten wondered how it will be ADA compatible if there is no elevator. He thought it would have to be accessible from the existing building. Manager Sacks indicated that Construction Official VanHook has said that it will be ADA compliant.

ADJOURNMENT - Upon motion of Councilmember Amato and a second by Deputy Mayor Etlar the meeting was adjourned at 9:50 p.m.

Respectfully submitted,

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

SPECIAL MEETING OF JUNE 5, 2001

Mayor Ganz called the meeting to order at 8:35 p.m.

PRESENT: Mayor Ganz, Deputy Mayor Adler, Councilmembers Amato and Dobrow and Deputy Mayor 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 Dobrow, it was unanimous agreed to read the following ordinance by title and open the time for public hearing.

Ordinance No. 1860-2001

AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FAIR LAWN 2000, CHAPTER 232 ENTITLED "VEHICLES AND TRAFFIC" AS MORE SPECIFICALLY SET FORTH AS SCHEDULE A ATTACHED HERETO

There being no 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.

Upon motion by Deputy Mayor Adler and a second by Deputy Mayor Etlar, Resolution No. 175-2001 adopting Ordinance No. 1860-2001 was discussed.

Mayor Ganz thanked Deputy Mayor Etlar for walking the area, staking it out and making it clear that this solution was viable. He also thanked Manager Sacks, Attorney Lustgarten and Municipal Clerk Kwasniewski for acting so quickly to make this an action item for the Council to approve.

There being no further discussion, Resolution No. 175-2001 was unanimously passed.

RESOLUTION NO. 176-2001 Appointment to the Fair Lawn Borough Gardens Committee

Upon motion by Deputy Mayor Adler and a second by Councilmember Dobrow, Resolution No. 176-2001 appointing Howard Mark to the Fair Lawn Borough Gardens Committee was passed, with Deputy Mayor Etlar dissenting.

RESOLUTION NO. 177-2001 Easement Agreement - 26-02 Berdan Avenue

Upon motion by Deputy Mayor Adler and a second by Deputy Mayor Etlar, Resolution No. 177-2001 authorizing an easement agreement between the Borough and Joel and Joann Berlin was discussed.

In response to Mayor Ganz's question, Attorney Lustgarten advised that the recording fees are the responsibility of the property owner. Mayor Ganz thanked Deputy Mayor Etlar for staking the property and giving the Council the benefit of his expertise from

twenty years on the Planning Board and Zoning Board.

There being no further discussion, Resolution No. 177-2001 was unanimously passed.

ADJOURNMENT - Upon motion of Deputy Mayor Adler and a second by Deputy Mayor Etler, the meeting was adjourned at 8:45 p.m.

Respectfully submitted,

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