

SPECIAL MEETING OF JUNE 19, 2001

Deputy Mayor Adler called the meeting to order at 8:40 p.m.

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

ABSENT: Mayor Ganz.

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

RESOLUTION NO. 197-2001 Award of Bid: Ductile Iron Pipe, Fittings and Valves

Upon motion by Councilmember Dobrow and a second by Councilmember Amato, Resolution No. 197-2001 awarding the bid for ductile iron pipe, fittings and valves was unanimously passed.

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

Respectfully submitted,

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

WORK SESSION OF JUNE 19, 2001

Deputy Mayor Adler 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 (late), Deputy Mayor Adler, Councilmembers Amato (late), Dobrow and Deputy Mayor Etlar.

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

Review of Tentative Agenda - There were no changes.

Request from Fair Lawn Borough Gardens Committee for Ordinance re Theft of Plants, Flowers and Tools - Jane Spindel was present. She had sent a letter to the Council regarding damage to and theft of the plants. They have had plants stolen in Radburn and had the workers' tools stolen. They are looking for something to deter the thefts. She suggested an ordinance that included community service as the penalty.

Councilmember Amato arrived at 7:40 p.m.

Attorney Lustgarten advised that theft is a crime and is already on the books so an ordinance is not needed. He suggested that the Manager could be directed to post signs saying "property of the Borough." The signs would have to conform to the regulations in Radburn. Deputy Mayor Etlar suggested adding "violators will be prosecuted" to the sign. He did not think the Radburn Association could object to small signs. Deputy Mayor Adler did not want signs everywhere they have planted the plants. Ms. Spindel pointed out that the thefts have mostly been in Radburn. Attorney Lustgarten suggested a small wooden sign on a stake. Deputy Mayor Adler suggested that the Gardens Committee put a letter on the web site and Channel 66 reminding the public that the plants are the property of the Borough, that stealing them is a crime under Title 2C and violators will be prosecuted.

The consensus was to support the Gardens Committee in getting signs for the flower beds.

Deputy Mayor Adler asked Ms. Spindel to submit a letter for the web site and Channel 66. She also suggested that Ms. Spindel put an article in the Focus.

Parking Changes and Restrictions - Manager Sacks advised that Rosalie Street is a commercial area with a great deal of off-street parking, but people continue to park on the dead end section of the street. It blocks the trucks from getting in and out. The Traffic Safety Officer and the Assistant Engineer have recommended that no parking be allowed on the north side of Rosalie Street. They

do not permit parking on the south side. An ordinance is required.

The consensus was to ban parking on the north side of Rosalie Street. After the ordinance is introduced Manager Sacks will circulate the ordinance to the business owners in the area.

Sampson Road is a dead end. When people park there they block the driveway so a truck cannot get in and out. The Traffic Safety Officer and Assistant Engineer are recommending that 15 feet from the south end of the driveway be posted as no parking.

The consensus was to introduce the ordinance at the next meeting.

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

Extension of Use Variance in Residential Zone -. Deputy Mayor Etlar expressed concern that the new owners of a grandfathered deli on Loretta Avenue that is a residential zone have decided to run bus trips from the deli to Atlantic City. Forty to fifty cars will be parked on the street while they are on the trip. He thought the Construction Official should stop it before the trips starts on July 8. Councilmember Amato asked if an ordinance existed to prohibit this use.

Attorney Lustgarten replied that he did not think the Council has jurisdiction. If the issue is whether the trip is an expansion of its use, it needs to go to the Construction Official and possibly to the Zoning Board for an interpretation. Land use procedures cover expansions of preexisting nonconforming uses if the expansion is not proper. It is not within the Council's purview or jurisdiction.

Wendy Dabney, 41 Albert Avenue was present and explained that a sign is posted on the door that they would be running a bus trip to Atlantic City.

Attorney Lustgarten pointed out that if this is a business in a residential zone, there may be a prohibition against running tour trips. The issue is whether running a tour is within the scope of the preexisting use. This is a matter that will require research.

Manager Sacks suggested that either she or the Borough Attorney send a letter requesting an interpretation from the Zoning Officer. If the Council is not satisfied with that interpretation, she would send a similar letter to the Zoning Board. Attorney Lustgarten disagreed. He did not think the letter should come from the Council. A resident can write to the Zoning Officer and ask for that interpretation.

Ms. Dabney stated that she had a difficult time in getting the Construction Office to take a complaint although they did eventually write it down. She believes that Mr. VanHook then went to the deli owner and told him that he should have spoken to the Zoning Board to be sure it is allowed. Today Mr. VanHook told him that as long as it was not done all the time, it would not be considered an expansion of a preexisting use. If it were a pattern of use, he would have to get a variance. She felt that the residential areas need to be protected in some way. The bus will park along the length of her property. She did not think it was right that any business can do what they want.

Attorney Lustgarten explained that this is a business in a residential zone that is a grandfathered use. It is not permitted to expand a preexisting nonconforming use. The use is lost if it is abandoned. If a business is in a business zone and then sets up tour trips, it can do it. The business permitted in a residential zone is very strictly defined. He suggested getting a copy of the letter from the residents and the written response from the Construction Official. He cautioned the Council not to prejudge this issue. He suggested that the residents ask the Construction Official to give it to the Zoning Board for an interpretation. The Board should determine if this operation is within the purview of this use and if it fits within the preexisting nonconforming use of the business. The Zoning Board may determine that the deli cannot expand its use this way in which case the deli owner can appeal to Superior Court. If the Board decides it is a proper use, the residents can file an appeal.

Deputy Mayor Etlar wanted to know how the residents get relief now. Attorney Lustgarten reiterated that relief should be sought from Mr. VanHook. If they do not get relief, they can go to court. The administrative process needs to work itself out.

Radburn Pathways Grant Application (Open Space) - Manager Sacks stated that the Borough has applied before for Phase II of the Radburn Pathway Reconstruction but DOT did not have sufficient money to fund it. They are applying again for \$150,000. In addition, the Radburn Pathways qualifies for the Open Space Program that requires a 50/50 match. She would use the grant from DOT for the match for the Open Space grant. She asked the Council for a resolution endorsing an application for the open space money. If they do not get the funds from the State, the Council would have to consider if they want to go forward and spend Borough funds.

The consensus was to apply for the Open Space grant.

Destruction of Flags - Deputy Mayor Etlar reported that the four Veterans' organizations have always gathered flags and then once a year burned them. They have too many flags, many of which are not from Fair Lawn. The Fire Marshal has said that they can burn them at the DPW complex in special containers. They were going to do it June 3 but due to inclement weather they did not. The flags have since disappeared. The problem is that the citizens do not want the flags desecrated but they cannot be burned in the open.

Deputy Mayor Adler thought they should not be accepting flags from other areas. Attorney Lustgarten pointed out the Borough is not accepting flags, it is the Veterans' organizations. Deputy Mayor Adler thought they should have a designated space to burn the flags at the DPW Complex, but it should only be for those from Fair Lawn. Attorney Lustgarten advised that the Federal statute requires a dignified disposal. It does not preclude burial. If the Veterans' organizations understand that the Borough cannot allow massive burning, it is up to them to decide what they will do. Deputy Mayor Etlar advised that the joint counsel of the War Veterans will be meeting to discuss this issue. He will report the results of that meeting to the Council.

Special Meeting - Upon motion by Councilmember Amato and a second by Councilmember Dobrow, the meeting was adjourned to a special meeting at 8:40 p.m.

Deputy Mayor Adler reconvened the meeting at 8:45 p.m.

Request to Use Walsh Pool by Saddle Brook - Municipal Clerk Kwasniewski advised that Peter LoDico, Administrator/Municipal Clerk of Saddle Brook has requested that their residents be allowed to use Walsh Pool.

Mayor Ganz arrived at 8:50 p.m.

The consensus was to permit Saddle Brook residents to use Walsh Pool under the same conditions as Elmwood Park.

Prototype for Handi-Guide - Deputy Mayor Adler reported that Iris Rosini discovered 700 businesses which she placed on a prototype handi-guide that Deputy Mayor Adler distributed. Twenty-five thousand copies cost \$25,000 paid for by selling logo space. The cost would be totally underwritten. The Council may like to put some information on the handi-guide, i.e., names of the Mayor and Council. It could be ready for the Civil War Reenactment if everything is done by September 1.

Councilmember Amato wondered if the businesses were receptive. Deputy Mayor Adler stated that she showed the prototype at the Chamber of Commerce meeting and they were receptive. One business has already asked how he can get his logo on it. She will bring a selling kit next week. The Economic Development Committee will do the coordinating and selling.

Deputy Mayor Etlar wondered who would make up the difference if they cannot raise the \$25,000 from the business community. Deputy Mayor Adler stated that they will have to have the sponsorship before it is printed. This can be a flexible project because there is no deadline. Manager Sacks added that this project addresses the entire business community. The Fair Lawn Economic Committee does projects that are Borough-wide and benefits all the businesses.

Deputy Mayor Adler explained that it takes three weeks to print after they get the artwork. The logos cost between \$1,000 and \$5,000. Small businesses will not put their logos on it, but she felt that some more substantial businesses will. She will have more information for the July meeting.

Emergency Response Team of Inspectors - Manager Sacks explained that the Bergen/Passaic Municipal Inspectors Association Inc. is putting together a mutual aid agreement so that if there is an emergency such as Tropical Storm Floyd, inspectors could help getting the FEMA claims filed by making damage assessments. If another town has an emergency, the Borough's inspectors would go to that town. She spoke to the Borough's risk manager who said that it would be the same as the mutual aid agreements for the Fire Department and Ambulance Corps.

Attorney Lustgarten pointed out that the resolution says the cost will be borne by Fair Lawn limited in nature which he thought was meaningless. He wondered how they would ensure that the inspectors would go to Fair Lawn first and not the other municipalities. Mayor Ganz explained that they would do a triage and go to the areas most affected. Councilmember Amato explained the way mutual aid works for the Fire Department. It is a wonderful system that works well. Attorney Lustgarten reminded them that the inspectors just assess the damage. It is post disaster. It is assessing the damage after the problem. Deputy Mayor Etlar felt they had to trust the judgment of the Manager to let their inspectors out when they are needed. He did not think the Council should try to over control it. Manager Sacks added that when Fair Lawn responds to a mutual aid they do not send everyone. It would be the same with this agreement. Fair Lawn would send what they could spare.

The consensus was to participate in the mutual aid arrangement. The resolution will be adopted at the next Council meeting.

Schedule Dates - The dedication of the Department of Public Works will be held Friday August 24 at 8:30 a.m.

The Council will review the schedule of the Council meetings in July and August next week.

Fence Ordinance - Manager Sacks stated that the ordinance use to allow six foot fences unless it was in the front yard setback. Three foot fences are allowed for the front and corner lots. The ordinance now states five feet. Mayor Ganz stated that he had received an e-mail on this matter that made sense. He comes from a tradition of the Zoning Board not liking fences but he did not think that was true for the side yard. He would be willing to change it back to six feet.

The consensus was to introduce an ordinance changing it to six feet.

Mayor Ganz suggested that an article be included in the October newsletter. Attorney Lustgarten suggested adding the change to the web site.

Status Reports to Council - Manager Sacks thought the Council did not want this format and wanted instead the format the Mayor provided. They continue to get the same action taken but it does not tell the whole story. There are things on it that are closed. Deputy Mayor Etlar wanted to discontinue the report unless the format is changed. Councilmember Amato remembered that they discussed it and that Deputy Mayor Etlar wanted to discontinue it but he thought it was a good idea. He thought the problem was that the Municipal Clerk was not being told when action was taken. He likes the idea. Deputy Mayor Adler thought the items should be taken off when they are completed.

Municipal Clerk Kwasniewski stated that items are taken off. She has another report that contains all the completed items. Everything left on the report has not been finished. She gave several examples of why items were still on the list.

Manager Sacks stated that Municipal Clerk Kwasniewski use to have a tickler that she thought was a better way to do it. Deputy Mayor Adler did not think that every item they discussed had to be on the list. Councilmember Amato felt that just because something is on the document that should not be does not mean that the document is wrong. If items do not belong, they should just be removed. Municipal Clerk Kwasniewski wondered who would decide to take something off. She did not think she should be taking things off just because they had been on the list for a long time. Mayor Ganz agreed with Councilmember Amato that having a tickler serves a valuable service. He also agreed with the Municipal Clerk that she should not be taking things off. He asked the Council to take control. He asked the Municipal Clerk to circulate the report and the Council to take off the items they feel to try to make it a working document. They should try to update it monthly.

Shielding of the Electrical Station in front of the Administration Building at Memorial Park - Deputy Mayor Etlar suggested that panels of fiberglass with drawings on it be placed around the electrical station to shield it. He thought the students could do the drawings. Mayor Ganz thought it was an excellent idea.

The consensus was to cover the electrical area with panels to make a visual improvement.

Mayor Ganz suggested that they leave it to Manager Sacks to oversee a committee of Deputy Mayors Etlar and Adler. Deputy Mayor Etlar should make the Planning Board aware of the change. He thought it could be done over the summer. Deputy Mayor Etlar will speak to Mrs. Panella and set it up. Mayor Ganz wanted the panels installed as quickly as possible even if the drawings take longer.

Rotary Road Race - Deputy Mayor Adler reported that Sunrise Rotary wants to sponsor a road race as a fund raiser on New Year's Day at Memorial Pool. It would be a foot race. She wanted to know what type of permit would be required.

Attorney Lustgarten pointed out that snow and ice may be a problem. It is a liability issue. Rotary could limit the liability of the Borough by taking out a one day insurance policy for \$1 million to cover the participants. They would also have to hold the Borough harmless. Rotary would also have to realize that the race might be canceled if the weather is inclement. Manager Sacks recommended not involving any Borough streets.

Deputy Mayor Adler will speak to Rotary and report to the Council again.

Rent Leveling Board Attorney and Borough Prosecutor - Manager Sacks announced that the Prosecutor Lois Lipton is going back to being the Rent Leveling Board Attorney and Steve Schechter is now the Prosecutor. They resigned their positions and she appointed them to their new positions the same day.

Emergency Services - Councilmember Amato stated that at the last work session he had asked that his response to Don Oliver's complaint be routed to the emergency stations. Manager Sacks thought it was a personnel issue and should be discussed in

Closed session.

Closed Session Resolution - Upon motion by Deputy Mayor Adler and a second by Councilmember Dobrow the following closed session resolution was unanimously adopted at 10:55 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, attorney/client privilege pending and anticipated litigation; 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 in 30 days; relating to anticipated litigation by formal resolution authorizing condemnation specific date unknown; relating to pending litigation as to legal strategy not to be disclosed;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Lawn that the public be excluded since these matters as set forth above are ones which permit the exclusion of the public from such discussions.

Mayor Ganz reconvened the meeting at 10:45 p.m.

Commerce Bank - Commerce Bank has requested that two properties be rezoned from residential to commercial. They will make a presentation to the Council at a work session immediately following the next Regular Council meeting.

Attorney Lustgarten suggested asking the Planning Board if the rezoning would be consistent with the land use element of the master plan and if they would deem it spot zoning. Municipal Clerk Kwasniewski will send the letter to the Planning Board.

Deputy Mayor Etlar expressed concern about the property at 10-06 Bergen Street being rezoned to commercial. Mayor Ganz thought they needed to hear what they propose before making any judgments. They can ask the council to rezone or ask for a variance from the Zoning Board. They believe that coming to the Council is better.

ADJOURNMENT - Upon motion of Deputy Mayor Adler and a second by Deputy Mayor Etlar the meeting was adjourned at 10:50 p.m.

Respectfully submitted,

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