WORK SESSION OF OCTOBER 16, 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 Etler, Councilmembers Amato and Weinstein.

ABSENT: Councilmember Dobrow.

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

Review of Tentative Agenda - Municipal Clerk Kwasniewski advised that proclamations for Poppy Drive Week, Make a Difference Week, Jim Hile and Tom Metzler will be added. The Manager's report will be on the agenda. CFO Eccelston has been advised that the professional services resolution on the LOSAP provider did not include a paragraph on non-collusion. A new resolution will have to be adopted.

Civil War Re-Enactment - Jim Hile was present. Mr. Hile and Mr. Metzler coordinated the Civil War Re-Enactment this year. Manager Sacks invited Mr. Hile to see if the Council wanted to do it again next year. It takes about a year to put the program together. The cost to the Borough was very little with a negligible amount of overtime. Private money was raised to pay for many things.

Mayor Ganz commended Mr. Hile for a spectacular event. Deputy Mayor Etler noted that the only detraction was the cannon firing at 9:20 p.m. which resulted in numerous calls to the police desk.

Mr. Hile noted that the first event is the hardest. They now have a mailing list. The reactors were extremely impressed with the way the residents welcomed them. They would keep the event small perhaps adding only 40 reactors. Next year is the 140th Anniversary of Antietem which is a mega event which will probably take place the weekend of September 14 and 15. He probably would hold the event in Fair Lawn either the last weekend in September or the first weekend in October.
The consensus was that the Council endorses having a second Civil War Re-enactment with the Borough as a sponsor of the event.

Mr. Hile will advise the Council of the date. They have many ideas to make the event even better. He commended Tom Metzler for his outstanding efforts. Mayor Ganz suggested that they work with the Board of Education because one of the grades has a course in American History. Mr. Hile will be talking to Dr. Watson. Mr. Hile advised that he will be assembling a video which will be suitable for showing on Cable.

Bus Stop Saddle River Rd./S. Broadway - Tim Franco the Traffic Safety Officer was present. Susan Williams 16 South Broadway, Drora Kemp 0-22 Saddle River Road, Sallyanne Dantico 0-26 Saddle River Road and Ronald Kemp 0-22 Saddle River Road were also present. Officer Franco explained that at some point NJ Transit put in a bus stop sign. All the bus stops in the construction zone were investigated. No ordinance exists for the previous location so it is an illegal bus stop. By moving the bus stop to the present location, the safety issue was addressed because it is almost 200 feet from the curve so the view obstruction is eliminated. The present location is staggered away from the other bus stop. He tried to locate the bus stop so that it will have a minimal impact on the homeowners. He put it on the traffic island instead of in front of anyone's house. They will be able to add a bus shelter.

Susan Williams disagreed with the comments that the bus stop was moved because of the construction. It was done at the request of the resident at 0-16 Saddle River Road. An e-mail from that resident was sent to the Borough Manager on September 12 asking for a bus shelter. It was answered by the Borough Manager saying that she was working on the bus shelter. They sent a certified letter signed by 25 residents objecting to the move to the island because it was not safe. The pedestrians who have to cross the road were not considered. It is dangerous. An old walnut tree has dropped its walnuts which make it unsafe. The slope is slippery when it rains. She was outraged that they were not even given the courtesy of a reply from the Borough Manager.

Manager Sacks stated that she spoke to them and explained that she had sent it to the Police Department and the Assistant Engineer who said that it was not safe. It was moved when they rerouted the NJ Transit buses. A resident complaining is not sufficient to get it moved. The bus stop was moved for safety reasons. Mayor Ganz added that the former stop was illegal for many years.

Officer Franco stated that he has talked to Mrs. Williams in the past. There is a host of reasons for moving the bus stop. The resident did come to him but that is not the reason it was moved.

Mrs. Williams pointed out that Fair Lawn and Saddle Brook plow the snow around the island making it impossible to access the bus stop. She asked if it would be shoveled. Manager Sacks assured her that since it is Borough property, the DPW will take care of it. They clear the bus stop when they are on Borough property. The Engineer is looking at installing a cement platform. Mrs. Williams stressed that she does not want a bus shelter with a concrete slab. It will detract from her property.

Sallyanne Dantico stated that it is not a safe spot. It is a blind spot so the cars cannot see anyone who crosses the street. The bus stop should not be located where it is now. She has been commuting since 1978.

Drora Kemp felt that the Council did not have all the facts. She objected to the residents not knowing about the move until after the fact. For 38 years the bus stop was in the same place. She did not know why all of a sudden it was a problem. Just put it back. Mrs. Williams added that the resident had told then that he was going to get the bus stop moved. Mayor Ganz assured them that nothing was hidden. The Council was not even aware of a complaint. It was a routine maintenance matter that the Council discussed and approved. He asked them where they would put the bus stop.

Attorney Lustgarten stated that the Traffic Safety Officer has said that the prior location is not viable because it is not safe. He appreciated
their problem, but there must be some compromise between an unsafe spot and another location. Mayor Ganz added that the Council would be reluctant to put something back where the traffic safety officer has said it is not safe.

Ms. Dantico questioned the safety issue since there has never been any accidents.

Councilmember Amato stated that he had no recollection that he voted to change a bus stop because someone complained about the location. Councilmember Weinstein thought they would want to have a bus shelter for safety purposes. He thought there should be a cross walk. Deputy Mayor Etler felt that placing the bus stop on the island was a better location becauseit was safer. Safety could also be improved by the addition of some ladder stripes. He just did not understand why they thought it would be an improvement to put it back.

Ms. Williams felt a bus shelter would lower the value of their homes. Cross walks are not conducive because of the way the island is situated. At the Council meeting two weeks ago she gave the Council copies of the letter and the e-mail. The resident says he had the bus stop moved. Mayor Ganz reiterated that did not happen. The resident can say whatever he wants.

Ms. Williams wanted to know why the stop was moved because now there is no stop for the residents who live in the area of the Red Mill. Officer Franco explained that the bus stop was taken away because there is no sidewalk there. It is in the middle of the construction zone. It may be possible to put the bus stop back if that is what the ridership wants. The DOT traffic investigator went with Officer Franco and Assistant Engineer Brouca and this stop met the sight standards. He reiterated that when he investigated the bus stops in the construction zone, he discovered that there was no ordinance so it was illegal. The new location was included in the new ordinance.

Ms. Kemp stated that they were not at the meeting to propose new bus stops. They submitted a petition signed by 20 people. No one asked their opinion even though they are the people affected by the bus stop. The bus stop was not moved until April. She thought they would not be able to use it in the bad weather. It is extremely dangerous to cross the road. Officer Franco stated that they should be crossing straight from the sidewalk on the island. Also, there is a stop sign there so the cars are stopping.

Manager Sacks indicated that she will delay the bus shelter and she will make the area as safe as possible. They can look again to see if there is a better spot but she does not want to get into the winter. It may be that the stop has to be in Saddle Brook. The Borough cannot approve a bus stop that is not safe.

Ms. Kemp then asked for a pedestrian crossing for those getting off the bus. Mayor Ganz did not think the Council could do that because it is a County road, but they will have the Manager ask the County to make it safer with proper signing.

Ronnie Kemp noted that the stop on the north side is right in front of a house. He did not see why it could not be in front of a house on the south side. Manager Sacks replied that no prohibition exists against putting a bus stop in front of a house although they do receive complaints. If it is the safest place, the stop will be placed in front of someone's house. Mr. Kemp then asked who decided that the new stop was safer. Manager Sacks replied that it was a joint decision by the Traffic Safety Officer, the Borough Engineer and the Assistant Engineer.
Ms. Kemp asked the Council to look at it from a pedestrian's view point. The location is not safe. Mayor Ganz asked Officer Franco if the present location was safe to which Officer Franco replied that it was.

Ms. Williams asked why the Manager did not respond to the certified letter. Manager Sacks said she received a copy of it although she did not know if it was addressed to her or not. She thought she had talked to Ms. Williams about this bus stop. Ms. Williams

insisted that the Manager had never spoken to her. She expressed her dismay that the Manager answered the resident's e-mail the next day but did not answer their April letter. She then stated "that there is no doubt in our minds that there was influence exerted in moving that bus stop because there was no reason" Mayor Ganz interrupted and emphatically stated there was no influence whatsoever. Attorney Lustgarten stated that he was a resident and the Borough Attorney for 18 years. He was present when the bus stop ordinance was discussed. He assured them that there was no influence. The sole criteria was safety. Any petition received is sent to the Traffic Safety Officer for his opinion on whether it is safe.

Ms. Williams stated that she did not accuse the Mayor or Council. Attorney Lustgarten assured her that there was no influence of anyone including administrative staff because that is not how the process works. If he thought there was undue influence he would have taken it to the Council and said it was not a safety issue but a person who is trying to do something improper. That did not happen.

Ms. Kemp wondered if the Council saw anything wrong when a letter signed by 20 people is not answered by the Manager. Mayor Ganz advised that he routinely acknowledges the correspondence and sends it to the Manager. He tells them that if they are not satisfied within a certain amount of time to get back to him. If she did not get that letter from him, he never saw the letter. They are responding to the letter by having them at the meeting. Manager Sacks stated that she does not now where the original letter went. A copy of the petition was sent to the Engineer and Traffic Safety Officer. She was also sure that she had talked to Ms. Williams although Ms Williams disagreed. Ms. Williams stated that the envelope was addressed to the Borough Manager by certified mail. She never spoke to her. The only conversation she had was with her office who referred her to Officer Franco. Mayor Ganz stated that Officer Franco will look at it again. He assured them that they will have a safe bus stop.

Mr. Kemp wondered why the bus stop was changed since the route has not been changed. Attorney Lustgarten advised him that the other bus stop was not legal so it had to be moved. Although twenty people signed the petition only four people are present. He asked if they were all against the bus shelter. Councilmember Amato thought it was unlikely that everyone taking that bus does not want a shelter. As a commuter, he would appreciate a shelter but if they do not want it that was fine with him.

Mayor Ganz suggested that a letter be sent to those signing the petition asking if they want a bus shelter. The letter should also ask when they commute, what time and which buses they take.

Ms. Williams said those who signed the petition take the 144 and the majority take the 6:50, 7:04 or 7:12 a.m. She wondered if they were going to look for another location, why are they talking about the shelter.

Solid Waste Collection Bid Option 2A - Manager Sacks reported that she received an extension from the low bidder. She sent additional letters to the apartments but has only heard from Jan Court who is undecided. She recommended going ahead with option 2A. The apartments will get picked up beginning January 1, 2002. They will have to follow the same rules as the homeowners. She has sent the apartments a copy of the ordinance.

The consensus was to award the bid with option 2A.

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

Saturday Mini Bus Service - Manager Sacks advised that the grant runs out in October. It will cost $850 to continue the service until the end of the year. She will apply for another grant. They are averaging 24 riders on a Saturday. Many use it to get to the supermarkets and some to get to the Senior Center.

The consensus was to continue the service.

Transfer of Riverfront Property from Lackland to Peter TerLouw - Riverkeepers - Wendy Dabney and Jane Young were present. Deputy Mayor Etler explained that Peter TerLouw accepts riverfront property and holds it in trust. They depend on volunteers to work to improve the property. Lackland had wanted to donate the property to the Borough but the Borough did not want it because of the expense and problems of maintaining it. Although this is a private matter between Mr. TerLouw and Lackland, the Borough must be sure that the easement on that property remains intact. Attorney Lustgarten noted that if there is a recorded easement any transfer of property is subject to the easement. He suggested that the Manager ask the Engineer to see if any easements have been recorded.

The consensus was for Manager Sacks to go through Engineering to determine if there is a recorded easement. If it is not possible to track that down internally, Attorney Lustgarten is authorized to order a title search.

Wendy Dabney, 41 Albert Avenue advised that she spoke to Mr. TerLouw who authorized her to speak on his behalf. Mr. TerLouw

is the Passaic Riverkeeper with a liaison with the Passaic Valley Sewer Commission to revitalize the riparian resources of the Passaic River. If the Borough is amenable to upgrading the area of Lincoln Road and Wagaraw Road, he will help them develop the vision, find the funding and coordinate the efforts. The Environmental Commission and Fair Lawn Borough Gardens Committee is behind this proposal. The Columbia Heights Neighborhood Network will also help. Mr. TerLouw wants the approval of the Council so that he can approach Mr. Lackland. Right now the area is unsightly. The "river rats" will clean the banks but volunteers will have to clean it up on a regular basis so it is not allowed to fall into disrepair.

The consensus was that Ms. Dabney could tell Mr. TerLouw to proceed to try to obtain the property and grants.

Smoking within 1,000 feet of School - Manager Sacks advised that since the State changed the law about smoking on school property, the students are congregating on residential property leaving behind litter. They have provided a safe place for them but they are not using it. A letter was distributed by the High School showing them where they should go. Superintendent of Schools Watson felt the Council should adopt a ordinance prohibiting smoking within 1000 feet from any school so the students would stop congregating. She was not sure if the safe haven was within the 1000 feet. Attorney Lustgarten advised that an ordinance would encompass too many people who have nothing to do with the school. Such an ordinance may solve one problem, but it will cause many other problems. Councilmember Amato was not in favor of voting for a designated smoking area for high school students.

Manager Sacks stressed that it is becoming a significant problem for the residents. The police are enforcing the loitering and littering ordinance but the students are complaining. The residents are pleased. Councilmember Weinstein felt the problem was enforcement which would not be solved by instituting an ordinance. Mayor Ganz was not convinced that a 1,000 feet anti-smoking ordinance was constitutional since cigarettes are legal. Attorney Lustgarten felt providing the alternative location and enforcing the loitering ordinance is the viable solution.

The consensus of the Council is that they wish to have the police officials vigorously enforce all laws against loitering and littering in front of the school and they are making a portion of the Borough available to the students who wish to avail themselves of it without penalty.

Attorney Lustgarten thought the case dealing with hazing at soccer camp would allow the school to institute a policy that anyone smoking other than in the designated area shall be subject to school discipline. Mayor Ganz stated that he met with the Ms. Panella, principal last year about this problem. She wanted the Council to ban smoking around the school. He asked her to get the PTO's approval which she was not able to get because they do not agree with that view.

Harassment Ordinance - Attorney Lustgarten stated that he reviewed the Labor Attorney's revision of the ordinance. He pointed out a typo on page three. He recommended that the Mayor and Council decide whether someone who was charged but found not guilty should have their legal expenses reimbursed rather than the Manager as the draft indicates. Manager Sacks felt it should be the Manager because the Manager will have more knowledge of the situation. The matter may not even have gone to the Mayor and Council. In this form of government it is an appropriate item for the Manager to approve. Mayor Ganz questioned whether the Manager should have the ability to approve something that could be extremely expensive. Manager Sacks pointed out that she would have to bring it to the Council if it was a significant amount. Attorney Lustgarten added that it is not just the cost, it is damages after a hearing so the Council has a right to know about it. If the Borough Manager is the person defending the charge, she should not be making the decision to pay her own defense. Manager Sacks noted that in that case an Acting Manager would make the decision. She suggested that they talk to the labor attorney. Attorney Lustgarten pointed out that is a policy question not a matter of law. He thought it was bad policy to have the administrative person decide what could be a major expenditure that would impact the budget. Councilmember Weinstein felt the Council could be more objective and they should be the one to make the decision. Deputy Mayor Etler and Councilmember Amato concurred. Mayor Ganz indicated he was aware of the potential for a very expensive situation. Councilmember Weinstein added that he thought it would protect the Manager.

The consensus was to introduce the ordinance with the Mayor and Council making the decision on reimbursement of exepenses.

Closed Session Resolution - Upon motion by Councilmember Weinstein and a second by Deputy Mayor Etler the following closed session resolution was unanimously adopted at 9:35 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 labor negotiations; and

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

WHEREAS, public disclosure of the results of these discussions shall be made upon the adoption of a formal contract with the blue

and white collar union, specific date unknown but anticipated to be within 90 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 Councilmember Amato and a second by Deputy Mayor Etler the meeting was adjourned at 9:45 p.m.

Respectfully submitted,

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