

WORK SESSION OF SEPTEMBER 19, 2001

Mayor Ganz called the meeting to order at 7:31 p.m.

PRESENT: Mayor Ganz, Deputy Mayor Etler, Councilmember Dobrow.

ABSENT: Councilmember Amato

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

Review of Tentative Agenda - Assistant Municipal Clerk Bojanowski advised that she would like to add resolutions to award bids for re-roofing the sewer garage, and 2nd Street water main replacement, to endorse CDBG funding for Alliance Against Homelessness, to oppose A-1193 and the New Jersey Family Home Occupations Act to the tentative agenda. The Council had no objection.

Berkshire Road Area Flooding - Manager Sacks advised that the Borough Engineer and the Sewer staff met with Saddle Brook. The sewer line has to run through Saddle Brook before it lets out to the river. The problem has worsened in the last year and a half. People have had water problems that did not have them in the past. It has gotten worse because Saddle Brook has a clogged culvert and a sewer collapse. She informed them that the Borough has applied for a nine hundred thousand-dollar DOT grant that would allow them to construct a bypass. The bypass could easily take all of the water away from Fair Lawn through Saddle Brook and into Fleisher's Brook into the river. She did not know if they would get the grant. In the past two weeks the Sewer Department has snaked out everything on the Fair Lawn side so that sewers are clear and free running but that is not enough because the clogs are not in Fair Lawn. They are in Saddle Brook. Manager Sacks stated Saddle Brook has awarded a contract to Matina & Sons to make repairs on their side. Even if Saddle Brook succeeds in getting their problem fixed, she feels they will still have a problem in Fair Lawn. Saddle Brook's capacity is not adequate to take care of the run off from the Borough.

Manager Sacks noted Fair Lawn needs the grant from the state or the Borough decides to do the project on its own, there has to be a design. The Borough can start the engineering and surveying work on its own. She estimated that the cost could be \$100,000. Mayor Ganz asked if the Borough's Engineering Department was capable of doing the design. Manager Sacks informed him they were not because it is a major job. The sewers go from Fair Lawn through Saddle Brook, through County property, under railroad property and under New Jersey Transit property so there are many entities involved in this project.

A lengthy discussion followed regarding bonding of this project. Attorney Lustgarten informed them if a prior bond ordinance was drawn generically for drainage projects and not allocated to a specific area, they have already approved the money and can fund it by the issuance of bond anticipation notes.

Manager Sacks continued that four jurisdictions are involved. The County has been cooperative and they have to see what Saddle Brook would be willing to contribute along with New Jersey Transit.

Mayor Ganz offered for a consensus to direct Manager Sacks to prepare a request for proposal for the engineering, design work and expenditure up to \$100,000 by using previously approved funds. If those funds are not available they will authorize the bonding for this project.

Attorney Lustgarten stated the request for proposal should specifically include at least three options: 1) tying into the existing Saddle Brook pipe assuming that they fixed it, 2) tying into other existing Saddle Brook pipes that can receive the volume of water or 3) tying into new pipes that have to be constructed. Mayor Ganz offered a fourth element, any other Engineering alternative that is apparent to the Engineer. Manager Sacks felt they should not get into such details because that is going to confuse the request for proposal. She suggested using any other Engineering recommendations that are obvious or not obvious. Attorney Lustgarten stated they may think the Borough is not looking into tying into Saddle Brook and why limit it. Manager Sack stated the Borough wants the cheapest way to solve the problem. If tying into Saddle Brook solves the problem then it will be solved but if they find Saddle Brook cannot carry the water then it cannot be done. Borough Engineer Garrison will lay that out in more technical detail. Mayor Ganz stated the problem is that there are six of them sitting there that are not engineers and each of them is trying to get the right verbiage and the right person for that is Ken Garrison. Attorney Lustgarten stated they just want to make sure that they do not come in with a limited request for proposal with a mind set thinking that is what the Council wants. Manager Sacks said she would pass that on to them but did not feel it should be put in the resolution. Attorney Lustgarten said the Council could direct the Manager to work with Engineering to put the proposals out.

There was a unanimous consensus for Manager Sacks to work with Engineering to prepare a request for proposal.

Deputy Mayor Etler told the people present that help is on the way. Mayor Ganz stated they are all committed to make sure it

happens.

Discontinuance of Construction Debris Containers at DPW - Deputy Mayor Etlar expressed concern about how much money is being spent on the containers at the DPW site. He would like to direct Manager Sacks and the DPW to monitor the site to make sure just homeowners are using it. Mayor Ganz stated he understood it was not the homeowners abusing it but the people who work for them. Deputy Mayor Etlar said contractors who live in Fair Lawn are offloading tons of debris. Mayor Ganz stated he understands, as a homeowner, that getting rid of construction debris is expensive. He asked Manager Sacks if they could do an ordinance requesting that only residential construction debris be dumped and if not they will be fined. Manager Sack stated it might hurt the people who are seriously using it. They have to keep the contractors out. If a resident is doing a big job they need to get a permit, the permit has an address. When the resident goes to the dump site they have to sign in. Borough Attorney Lustgarten suggested the homeowner should sign a certification. Deputy Mayor Etlar said if they have a big project they should pay a dumping fee. Borough Attorney Lustgarten said that once they get the permit they can bring debris in from other towns. Manager Sacks stated the new garbage contract included twice a year curbside collection of construction debris. That will help relieve the load on the DPW. Once that is in place they can concentrate on the people who are taking advantage of it. She also said they would not be able to tell until the new pick ups are done. Manager Sacks said part of the permit the Building Department issues has a permit for the person to dump at the DPW.

Opposing A-1193, as amended, The New Jersey Family Home Occupation Act - Deputy Mayor Etlar stated there was an alert from the League of Municipalities regarding people operating businesses in residential homes. He asked that the Council go on record to the Governor that the Borough of Fair Lawn is against this act. Borough Attorney Lustgarten suggested some changes on the form resolution.

A unanimous consensus was to have the Municipal Clerk take the form resolution and delete the next to last whereas clause, fill in the blanks and send to the Acting Governor and the people to whom Deputy Mayor Etlar asked it to go. The resolution will be on the consent agenda for the September 25, 2001 meeting.

Harassment Ordinance - Borough Attorney Lustgarten stated his suggestions Labor Counsel agreed with some of and disagreed with some of them. He asked that Manager Sacks get a disc from the Labor Counsel with the changes they agreed to so they can have it in a format so they can discuss it. Mayor Ganz instructed Manager Sacks to get the disc from Labor Counsel.

Public Comments on Agenda Items - Charles Tregidgo, 12-68 Fourth Street, wondered if there were easements already in place for Berkshire Road. Mayor Ganz stated he did not know but Engineering would. Borough Attorney Lustgarten stated it is a joint project and if they have easements the Borough would have to enter into an interlocal agreement with them. Mr. Tregidgo questioned who owned the properties. Borough Attorney explained that it belonged to Saddle Brook, the County and New Jersey Transit. Mr. Tregidgo stated that before spending \$100,000 for a report the Borough should wait to see if this needs to be done as Saddle Brook may have fixed 90 percent of the problem. Mayor Ganz informed him that the Borough was just getting a request for proposal. Borough Manager Sacks stated a request for proposal is asking for a proposal for a job unknown. When the job is awarded, it will be for each service as needed. Borough Attorney Lustgarten stated the Council would not even consider spending money without considering Saddle Brook's construction.

Mr. Tregidgo spoke about the discontinuance of construction debris containers at the DPW. He wondered if the Borough had an ongoing contract. If they are not under any obligation they should be discontinuing it until they know how to stop the abuse. Borough Attorney Lustgarten stated the homeowners have complained that it is expensive to get rid of the debris. People were bringing construction material down there and dumping it illegally. He felt the residents like the service. Deputy Mayor Etlar said the object here was not to punish the average guy. The object was to stop the abuse. People will always find loopholes. Mr. Tregidgo stated he did not see, as a Borough, that they ought to be subsidizing the homeowner that is tearing out the entire inside of his house and throwing it in the dumpster or the private contractors who has included the dumping fee in his price to the homeowner. Mayor Ganz stated they will let the Borough Manager's method stand for the time being. They will come back to it in the future.

Community Resource Council Request for Contribution - This item was deferred to the next work session.

CDBG Funding Request by Board of Education - Borough Manager Sacks stated the Board of Education sent the Borough three funding requests for Community Development Block Grant funds to bring them into ADA compliance with various facilities. They need the Borough Council's endorsement to submit these applications. She recommended that the Council support the Board of Education applying for these monies. The resolutions are on for the Special Meeting scheduled for that evening.

The consensus was to support the applications.

Schedule Discussion on Broadway 100 Foot Rezoning - Mayor Ganz stated that at the last work session Mr. Tregidgo suggested

that it would be desirable to have the residents most affected offer their opinions. He felt the best way to accomplish that would be to have a facilitator meet with the residents and then articulate to the Council what direction the people most affected want. The residents and the Broadway Advisory Committee should be present. He hoped they could have the meeting in a relatively short period. He suggested the middle of October.

Deputy Mayor Etler felt the residents should participate in any decision that they make. Mayor Ganz reiterated his suggestion of a meeting with a professional facilitator, the residents the Broadway Advisory Committee and any of the merchants interested in this.

Borough Manager Sacks asked if the Council wanted to be at such a meeting.

Mayor Ganz stated he would rather get his impressions from a professional facilitator. If he has questions they could schedule a Council meeting. Borough Attorney Lustgarten suggested having the meeting in that area. Mayor Ganz said if Warren Point School would allow that it would be wonderful. He said he might attend the meeting as a private citizen but not as the Mayor. Mayor Ganz asked Borough Manager Sacks to co-ordinate the meeting with the school and the facilitator.

The consensus was to have Borough Manager Sacks co-ordinate the meeting between the residents, a professional facilitator and the merchants at Warren Point School.

Charles Tregidgo, 12-68 Fourth Street, wondered what the Mayor had in mind for a professional facilitator. They are going to have to get someone up to speed in a relatively short period of time. He was sure Ken Bratspies would be happy to have the school available as long as it does not conflict with something else. He thought it was a difficult proposition to have an answer back in one month.

Mr. Tregidgo stated that looking at the response from the Planning Board he is wondering if they were reading the same report that he wrote. The committee's report dealt with two options that were to rezone increasing the depth of the business zone to the depth of 200 feet and as a conditional use to permit parking in the same 250-foot area. It appears that they have reduced the 250 feet to 100 feet with no mention in the Planning Board minutes. It seems to him that if you present a plan to the neighbors, to someone who is not familiar with what is going on, the only thing they are going to get is some people upset. The facilitator will not have the slightest idea why they are upset except that they are going to lose their homes. Mr. Tregidgo felt the time frame was insufficient to properly notice the meeting. Borough Attorney Lustgarten stated sixty days would be more realistic, sometime before Thanksgiving.

Mr. Tregidgo stated he did not know what they meant by a professional facilitator. Borough Attorney Lustgarten explained they wanted someone to chair the meeting who does not have an opinion and to present the various options. Mr. Tregidgo stated if this person comes in not knowing about the area all they will do is sit there and people will be taking pot shots. He feels it is going to create a problem where there is going to be more heat than light. Borough Attorney Lustgarten stated sixty days is more reasonable than thirty days to give notice, to see if there is a person who is familiar with the area and the report and has reasonable meeting skills, to get a transcriber to take down the meeting. He suggested deferring this matter to the next work session to see if they can get that kind of person, either someone who is local or someone with professional skills to come in to read the report and to meet with anyone from the Broadway Advisory Committee, the Manager or the Engineer to get a general feeling of what is going on.

Deputy Mayor Etler wondered if Mr. Tregidgo spoke to any of the homeowners that are adjacent to those properties. Mr. Tregidgo stated the only contact they had with the homeowners was the meeting they had in February. They did not knock on doors.

Mayor Ganz instructed Borough Manager Sacks to arrange this meeting for November 13, 2001.

Mr. Tregidgo asked if this meeting would be addressing the issue of conditional use in addition to rezoning as a business zone. Mayor Ganz said he hoped it would take all of the Broadway Committee's recommendations and explore them. Mr. Tregidgo stated he looked at the Planning Board's minutes and it appears they spent about ten minutes on the report. He felt it deserved more than ten minutes consideration. He knows that Tom Metzler is adamantly opposed to it because he lives in the area and it clearly would affect him. Not everyone will be overjoyed with this idea. He hoped to get the word out that there are alternatives. The report does not recommend taking of property but rather the ability for someone should they chose to do so to sell their property to an adjoining business owner so that parking can be increased on Broadway. He does not anticipate that overnight they could turn the north side of Broadway into a parking lot. Mayor Ganz stated that as he understood the report the goal was that over a period of years to allow for an expansion of parking selectively where it made sense for the homeowner to sell to the adjacent commercial landowner at the time they were selling their residents rather than selling it to a private homeowner. Mr. Tregidgo stated it may take ten to fifteen years but what he was concerned about was he felt the Planning Board did not have any consideration of this concept in its mind that this is what was going to be done. It appears that the comments were directed to "they are going to take over Broadway, we are going to have a zone that is two hundred and fifty feet deep; all the homeowners are going to be displaced." He stated that is not the intent. Hopefully they will Borough Manager Sacks stated November 13 is the League of Municipalities convention. Mayor Ganz asked to have it between the 7 and the 13th. Borough Manager Sacks suggested November 8th. Mayor Ganz

suggested she arrange it out Ken Bratspies, find a facilitator send notices out and get the process started.

Special Meeting - Upon motion by Deputy Mayor Etlar and a second by Councilmember Dobrow, the meeting was adjourned to a special meeting at 8:48 p.m.

Mayor Ganz reconvened the Work Session at 8:53 p.m.

#### Closed Session Resolution

Upon motion of Deputy Mayor Etlar and a second by Councilmember Dobrow, the following closed session resolution was unanimously adopted at 8:53 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, anticipated litigation and personnel; and

WHEREAS, this matter permits 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 if litigation strategy otherwise with 180 days, personnel by December 31, 2001;

WHEREAS, this matter permits the exclusion of the public from such discussion; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Lawn that the public be excluded since the matter set forth is one which permits the exclusion of the public.

Upon motion by Deputy Mayor Etlar and a second by Councilmember Dobrow, the meeting was reconvened to the Work Session at 9:15 p.m.

Riverwalk along Passaic River - Manager Sacks stated Mayor Mola of Elmwood Park proposed a riverwalk through Fair Lawn into Elmwood Park along the Passaic River. She realizes that DEP is not in favor of such a project. Mayor Ganz directed Manager Sacks to ask the DEP what they would allow.

ADJOURNMENT - Upon motion of Deputy Mayor Etlar and a second by Councilmember Dobrow the meeting was adjourned at 9:20 p.m.

Respectfully submitted,

Marilyn B. Bojanowski, RMC  
Assistant Municipal Clerk

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#### SPECIAL MEETING OF SEPTEMBER 19, 2001

Mayor Ganz called the meeting to order at 8:48 p.m.

PRESENT: Mayor Ganz, Deputy Mayor Etlar and Councilmember Dobrow.

ABSENT: Councilmember Amato

ALSO PRESENT: Manager Sacks, Borough Attorney Lustgarten and Assistant Municipal Clerk Bojanowski.

RESOLUTION No. 284-2001 ENDORSING BOARD OF EDUCATION CDBG APPLICATION - BARRIER FREE ACCESS (RADBURN SCHOOL)

Upon motion by Deputy Mayor Etlar and a second by Councilmember Dobrow, Resolution No. 284-2001 was unanimously passed.

RESOLUTION No. 285-2001 ENDORSING BOARD OF EDUCATION CDBG APPLICATION - BARRIER FREE ACCESS (VOTING MACHINES)

Upon motion by Deputy Mayor Etlar and a second by Councilmember Dobrow, Resolution No. 285-2001 was unanimously passed.

RESOLUTION No. 286-2001 ENDORSING BOARD OF EDUCATION CDBG APPLICATION - BARRIER FREE ACCESS (FIRE ALARMS, DOOR SIGN & DOOR MODIFICATIONS TO HARDWARE)

Upon motion by Deputy Mayor Etlar and a second by Councilmember Dobrow, Resolution No. 286-2001 was unanimously passed.

ADJOURNMENT TO WORK SESSION

Upon motion by Councilmember Dobrow and a second by Deputy Mayor Etlar, the meeting was adjourned to the Work Session at 8:53 p.m.

Respectfully submitted,

Marilyn B. Bojanowski, RMC  
Assistant Municipal Clerk