

REGULAR MEETING OF DECEMBER 12, 2000

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, notice of the meeting of the Borough of Fair Lawn was published in the "The Record" issue of December 17, 1999. 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 and The Shopper. The Annual Notice identified the meeting location and the time of the Council Meetings and Work Sessions.

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

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

ORDINANCES: SECOND READING

Upon motion by Deputy Mayor Adler and a second by Councilmember Etlar, it was unanimous agreed to read the following ordinance by title and open the time for public hearing.

Ordinance No.1829-2000

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN, 2000, MORE SPECIFICALLY CHAPTER 125, ENTITLED, "LAND DEVELOPMENT, SECTION 59, PROVISIONS APPLICABLE TO BOTH PLANNING BOARD AND BOARD OF ADJUSTMENT", SUB-SECTION B, PUBLIC HEARINGS

There being no comments from 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 Dobrow, Resolution No. 359-2000 adopting Ordinance No. 1829-2000 was discussed.

Attorney Lustgarten gave a brief synopsis of the ordinance. Mayor Ganz stated that based on his experience on the Zoning Board this ordinance is sorely needed and that it will save a great deal of time.

Hearing no further comments, Resolution No. 359-2000 adopting Ordinance No. 1829-2000 was passed.

Upon motion by Deputy Mayor Adler and a second by Councilmember Etlar, it was unanimous agreed to read the following ordinance by title and open the time for public hearing.

Ordinance No. 1830-2000

AN ORDINANCE AMENDING THE CODE OF THE BOROUGH OF FAIR LAWN 2000, MORE SPECIFICALLY SECTION 125-25.C. ENTITLED "CONDITIONAL USES" TO PROVIDE A COVENANT OF COMPLIANCE RELATING TO THE COOPERATIVE PARKING PLAN REQUIREMENT OF THE B-4 RIVER ROAD BUSINESS ZONE

Bart D'Andrea, 2-14 Fair Lawn Avenue, read a prepared statement expressing his thoughts and concerns about this ordinance. He is the owner of the a building at 2-14 Fair Lawn Avenue. He has had several people interested in renting the upstairs portion. The would be tenants had problems obtaining a Certificate of Occupancy. They had been told they had to obtain site plan approval and to pay \$1,600 in fees to the Borough. He felt that because the use was not changing and no construction was being done the fee was exorbitant. He also felt it was not fair. Mr. D'Andrea also expressed his concerns about giving away his property by signing on to the co-operative parking agreement.

Deputy Mayor Adler stated that some of the concepts would impact his property and she stressed the ordinance was furthering River Road Improvement Corporation's goals. She informed him the intent was to form cooperative parking. His piece of property may not even be impacted. Mr. D'Andrea reiterated his feelings that a site plan was not needed.

John Coleman, 40 Linwood Avenue, Paramus, New Jersey, manager of a building on the corner of Berdan Avenue and River Road, felt this ordinance would be hurting River Road and must be amended. He stated it would discourage people from investing on River Road. He asked Attorney Lustgarten to investigate this issue and suggested to the Mayor and Council to reconsider and to not vote on this ordinance.

Attorney Lustgarten said he thought there was a misconception as every business in town has a right to go with a site plan. No one is being forced to sign on to the parking agreement. He explained that the RRIC came to the Council requesting this be done.

Sylvia D'Andrea, 2-14 Fair Lawn Avenue, explained that she and her husband were trying to rent the space to a limousine company. They have enough parking spaces. When the limousine company came to Borough Hall they were told they had to pay the fees and could not get a Certificate of Occupancy. Attorney Lustgarten stated he did not have the details. If the Council approved he would like the D'Andrea's to forward their application to him so that he can review it expeditiously and give them an explanation. He will also talk with Construction Code Official Van Hook.

Mrs. D'Andrea continued that they have been in business in Fair Lawn for thirteen years. She felt the growth here has come to a grinding halt. Start up businesses do not have the cash to lay out for site plans and fees. She is concerned about the liability of having other people use her lot and questioned how the Borough came up with the number of spaces needed. Mrs. D'Andrea suggested the Borough buy property to make parking lots. Mayor Ganz informed her the Borough had already done that.

Councilmember Amato stated that River Road is an independent agency and not part of the Borough. Cooperative parking is their next phase. He stated that each Councilmember has an opinion and that they have not agreed to any proposals that have been made. Councilmember Amato said the ordinance was to encourage people to sign on to cooperative parking. RRIC said it was a necessity.

Deputy Mayor Adler stated the cooperative parking plan is available through RRIC. They have businesses that have sufficient parking and there are some that do not have enough parking so this would allow everyone to have parking. If someone came to shop or rent on River Road and there is no parking cooperative parking would allow them to have parking. She asked that the area be considered a mall with enough parking. Mrs. D'Andrea stated she had a problem signing onto the agreement thinking it was forever.

John Coleman, 40 Linwood Avenue, Paramus, New Jersey, stated it was important to assure the renters that they can get in quickly. He thought this plan was intended for new business. He felt the problem is there is a definite need for immediacy to be back again. The businesses on River Road must be able to maintain the ability to rent.

Bart D'Andrea, 2-14 Fair Lawn Avenue, stated he did not think the solution was to force someone to sign on the cooperative parking agreement. Mayor Ganz informed him that a conceptual hearing will not require the fees. Deputy Mayor Adler stated it is conceptual for future development. She also explained that an escrow fund is not a fee. Mr. D'Andrea stated he was not against signing the agreement but cannot envision trying to sell his property and imposing this on someone else. Mayor Ganz explained that if he had a lot and it was used up he would have no input. Mr. D'Andrea stated the ordinance was illegal.

Mayor Ganz stated they had heard the comments from the residents about their concerns. He requested that the Council, at their Work Session, refer this to the Planning Board and RRIC to see if they think the ordinance should be amended.

There being no further comments from the public, upon motion by Deputy Mayor Adler and a second by Councilmember Amato, it was unanimously agreed to close the time for public hearing.

Upon motion by Deputy Mayor Adler and a second by Councilmember Dobrow, Resolution No. 360-2000 adopting Ordinance No. 1830-2000 was passed.

RESOLUTIONS BY CONSENT #21-2000

Upon motion by Deputy Mayor Adler and a second by Councilmember Dobrow, Resolutions by Consent #21-2000 which contained the following items was unanimously passed.

a. Resol. #361-2000 Approval of Minutes:

Work Session 10/17/00

Special Meeting 10/17/00

Closed Session 10/17/00

Special Meeting 10/24/00

Regular Meeting 10/24/00

Work Session 10/24/00

Closed Session 10/24/00

b. Resol. #362-2000 Refund of Overpayment of Taxes

c. Resol. #363-2000 Approval of Raffles & Bingos:

Knights of Pythias off-premise 50/50

d. Resol. #364-2000 Emergency Appropriation

e. Resol. #365-2000 Participating in the Bergen County Cooperative Pricing System

f. Resol. #366-2000 Participating in the State of New Jersey Cooperative Purchasing Program

g. Resol. #367-2000 Award of Bid: Electrical Repair

h. Resol. #368-2000 Professional Services - Capital Alternatives Corp.

i. Resol. #369-2000 Verizon New Jersey, Inc. Easement Agreement (Block 6501, Lot 1)

j. Resol. #370-2000 Verizon New Jersey, Inc. Easement Agreement (Block 5806, Lots 12 & 13)

RESOLUTION NO. 371-2000 Rescinding Resolution No. 201-2000

Upon motion by Deputy Mayor Adler and seconded by Councilmember Amato, Resolution No. 371-2000 was discussed.

Borough Attorney Lustgarten explained that the resolution being rescinded established a contract with Horizon Healthcare Insurance Agency that was not for the calendar year. The next resolution authorizes the contract from January 1, 2001 to December 31, 2001.

Hearing no further comment, Resolution No. 371-2000 was unanimously passed.

RESOLUTION NO. 372-2000 Professional Services - Flexible Spending Account

Upon motion by Deputy Mayor Adler and seconded by Councilmember Amato, Resolution No. 372-2000 was discussed.

Mayor Ganz stated the Flexible plan is often called a Cafeteria Plan. He feels this is a win-win situation for both the employees and the Borough of Fair Lawn.

Hearing no further comments, Resolution No. 372-20000 was unanimously passed.

RESOLUTION NO. 373-2000 Award of Bid: Fire Apparatus

Upon motion by Deputy Mayor Adler and seconded by Councilmember Amato, Resolution No. 373-2000 was discussed.

Mayor Ganz thanked Manager Sacks for bringing to the Council's attention that an expeditious award of the bid could save the taxpayers thousands of dollars.

Hearing no further comment, Resolution No. 373-2000 was unanimously passed.

ORDINANCES FIRST READING:

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

Ordinance No. 1835-2000

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN, 2000 MORE SPECIFICALLY CHAPTER 2 ENTITLED "ADMINISTRATION, DEPARTMENTS AND BUDGETS AND FISCAL PROCEDURES", SUBSECTION 2?57 ENTITLED "HUMAN SERVICES DUTIES"

Municipal Clerk Kwasniewski stated they had to first determine when they could meet for the adoption of this ordinance. Mayor Ganz questioned the Council regarding a Special Meeting which they all agreed upon as Friday, December 29, 2000 at 7:50 a.m. Attorney Lustgarten stated he had comments to make on this ordinance.

Upon motion by Deputy Mayor Adler and a second by Councilmember Etlar, Resolution No. 374-2000 introducing Ordinance No. 1835-2000 was postponed.

MISCELLANEOUS PUBLIC COMMENTS

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

Leonard Miller, 12-67 River Road, stated he represents Nina and Pasquale Terrano who purchased property on Maple Avenue. He

has asked several times to be put on the Agenda. He wanted to know why his client could not receive the same treatment as the car wash and Johnny and Hagnes did. His clients application has been at the Planning Board since March 2, 2000. He and his client were looking to improve the piece of property and the Borough of Fair Lawn. Mayor Ganz stated that piece of property is the same as other property on Maple Avenue. There is a deed restriction which has to be lifted in Superior Court. Attorney Lustgarten stated it did not appear that the Council could waive restrictions and that there is no agreement with Johnny & Hagnes. Mayor Ganz stated the Council has agreed not to oppose lifting the deed restriction with just some small provisos.

Leon Wender, 7-22 Manor Avenue, stated he appreciated the savings of eighty thousand dollars by removing Bernice May but felt they could save more by closing Walsh Pool. He questioned the future of Walsh Pool. He asked if the part time DPW position would be used in conjunction with the outside vendors. Manager Sacks stated if they need the people they will use them. Mr. Wender felt that affordable senior housing should be built on Broadway at the Columbia Savings annex site. The Fair Lawn Rotary and Fair Lawn Chamber of Commerce both had their luncheons out of town and he felt they should have remained in Fair Lawn. He said the wreaths looked nice but wondered how much electricity this was costing. Mr. Wender felt it was a shame that all religions were not represented. He questioned parking at Memorial Park for the Senior Citizen bus trips since the security there is poor. He felt it was unacceptable.

Murray Greene, 0-40 29th Street, stated that every time it rains more than a sprinkle his street gets flooded. He presented a photo and a petition with two hundred names on it which were made part of the record. Manager Sacks stated the Borough has applied for a \$900,000 grant for drainage on Berkshire Road. Mr. Greene said he has gone to the Engineer who informed him the Borough has been asking the State for the money to make the repairs but it has never come through. Mr. Greene suggested having dry wells installed. Mayor Ganz stated the Borough will ask the State and County for assistance and will also ask the Borough Engineer about the dry wells.

Pacifico Dumandan, 0-41 28th Street, said he wanted to say thank you to Councilmember Etlar and the Planning Board and Borough Manager Sacks. He asked that the Mayor and Council keep on going and doing a terrific job.

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

WORK SESSION

Upon motion by Deputy Mayor Adler and a second by Councilmember Dobrow the meeting was recessed to the Work Session at 9:10 p.m.

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

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

Ordinance No. 1835-2000

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN, 2000 MORE SPECIFICALLY CHAPTER 2 ENTITLED "ADMINISTRATION, DEPARTMENTS AND BUDGETS AND FISCAL PROCEDURES", SUBSECTION 2?57 ENTITLED "HUMAN SERVICES DUTIES

Upon motion by Deputy Mayor Adler and a second by Councilmember Dobrow Resolution No. 374-2000 introducing Ordinance No. 1835-2000 was unanimously passed.

ADJOURNMENT

Upon motion by Deputy Mayor Adler and a second by Councilmember Dobrow, the meeting was unanimously adjourned to work session at 10:45 p.m.

Respectfully submitted,

Marilyn B. Bojanowski, RMC
Assistant Municipal Clerk

WORK SESSION OF DECEMBER 12, 2000

Mayor Ganz reconvened the meeting at 9:10 p.m.

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

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

Fair Lawn Chamber of Commerce Spring Fair - Manager Sacks reported that RRIC has not met so they have not given her an answer. The Fire Department thought it would be a problem to have the traffic rerouted to George Street. They not only have to get the equipment out, but the fire fighters have to be able to get to the fire house.

Deputy Mayor Adler wondered if an ordinance needs to be adopted to allow the merchants to be open Sunday and to have a sidewalk sale. She suggested that the Council do that.

Councilmember Etlar expressed concern about the \$3,000 cost for the clean up. He would be willing to pay half that cost. Manager Sacks advised that if the Council thinks the Spring Fair is worthwhile, she can put the cost in the budget. The promoter did most of the clean up the last time so it was a very nominal amount. It included moving the band shell. Deputy Mayor Adler pointed out that Chamber of Commerce contributes to the community in many ways. If the street fair can bring business to Fair Lawn, it is worth the investment. Manager Sacks added that it would have cost about \$12,000 if the Borough had to do everything itself.

The consensus was to commit to spending \$3,000 for the clean up for the Spring Fair in Radburn and to allow on a Borough-wide basis sidewalk sales to coordinate with the street fairs.

The consensus was to introduce an ordinance to allow sidewalk sales for the Spring Street Fair.

Manager Sacks is to give Attorney Lustgarten the information to draft the ordinance two months before the street fair. Attorney Lustgarten suggested that they get a report from the police department about pedestrian safety and sidewalk sales.

Manager Sacks wanted to know if the Council wanted to coordinate the October fair with the Civil War Reenactment. The Council will begin discussing the October Street Fair in January.

Letter from Westmoreland 3rd Grade Class - Municipal Clerk Kwasniewski will send a letter to the teacher thanking them for thoughtful suggestions.

Possible Sources for Funding for Arts & Cultural Activities - Mayor Ganz advised that he is waiting for a response from Marlene Casey.

Task Performance List - Mayor Ganz suggested list was circulated. He asked everyone to look at that list again and if they have any changes to let him know. Municipal Clerk Kwasniewski explained that if the items do not come back to the Council meetings they stay on the list. It was designed to report on the items at the Council work session. Attorney Lustgarten explained that because many items were not getting done timely a previous Council decided to create a tickler list. They asked the Municipal Clerk to put items from the agenda, the action taken and a date when it was coming back to the Council. He thought it was a useful list. Mayor Ganz advised that this is an informal document not intended for outside consumption.

Campbell Road Property - Manager Sacks wanted to know what the Council wanted to do about the end pieces of the property. Councilmember Etlar suggested continuing the parking lot. He would leave fifteen feet on each side green. He would allow the property owners to use it but they cannot install fences. The existing fences must be removed. He would install a six-foot high fence at the end so no one can get through.

The consensus was to extend the lot approximately 180 feet so that it goes 150 feet from a Campbell Road to give about fifty-two parking spaces.

Attorney Lustgarten wondered if the area paved will affect the encroachments. The Council should let the residents know that they will have to remove the encroachments. He suggested that allowing the encroachments to remain may be a way to sell the idea to those residents because now a parking lot will be there. Mayor Ganz noted that this would be similar to what the Council has done with the license agreements on Route 208 or in Radburn. He did not see why they should treat them differently. Councilmember Etlar did not agree. Mayor Ganz suggested that they allow three foot fences similar to the ones in Radburn five feet from the curb of the parking lot. Councilmember Amato suggested holding a work session with the residents. Manager Sacks suggested that the

Borough do the fencing. Deputy Mayor Adler thought they should make the area around the parking lot as attractive as possible. Councilmember Etler asked for a map showing a five-foot buffer and the position of the fence. Mayor Ganz added that if the Borough engineer wants a different buffer, he would consider that as well. He also wanted costs' estimates.

Manager Sacks suggested that they subdivide the 100 x 110 lot at the end of the parking lot into two lots and sell them that would give the Borough about \$8,000 in income from the ratables. Councilmember Etler did not want to sell them. Councilmember Amato thought they might need that land for more parking spaces or buildings. Mayor Ganz did not think it would be good planning or zoning to put an office building in the residential area. Councilmember Amato felt that it was valuable property that could be used for parking if they extend the Municipal Building into the parking lot. Mayor Ganz suggested that Manager Sacks discuss this with the expert planner used by the Planning Board to get his opinion whether it would be good planning to build a municipal building annex in that location. Manager Sacks thought an architect would answer that question. Mayor Ganz disagreed. A licensed planner can look at it and determine if it is good planning to put a municipal building in a residential area 500 feet from residential dwellings. Attorney Lustgarten suggested that they also asked if it is good planning to extend the parking into that area. Deputy Mayor Adler noted that she was not happy with a parking lot that extends all the way into the residential area. Councilmember Etler pointed out that the Borough for expansion purchased the property.

The consensus was for Manager Sacks to send it to the Planning Board and Zoning Board planners for their opinion and report back to the Council right after the first of the year.

Borough Hall Parking Lot - Manager Sacks pointed out that the Council never reached a conclusion about the use of the visitors' spaces after 2:00 p.m.

The consensus was not to allow the use of those spaces until after 4:30 p.m. No further action is required by the Council.

Sidewalk Repair - Attorney Lustgarten advised that he has sent several memos on this issue and reminded them that some of the discussion should be in closed session.

Manager Sacks advised that she has included \$20,000 in next year's budget. The Council has to decide if they want to start a program for paying for repairs and if so what standards will be used. Attorney Lustgarten cautioned the Council that they should not discuss this item in open session. It is a matter that needs to be considered before the Council adopts the capital budget. He recommended that they continue the discussion in closed session.

Hirschhorn Inquiry to Purchase Borough Property (Block 5412 Lot 26) - Manager Sacks advised that Mr. Hirschhorn would be willing to pay the Borough's costs to foreclosure on this property. Attorney Lustgarten recommended not doing it. The title search will be \$600 but they probably cannot find anything but the last owner who cannot be found.

He will have to do an in em tax foreclosure that will give the Borough title. The Borough will have to subdivide the property unless the property owner who lives behind the other half is interested in buying what is behind his property. If not, the Borough will have to maintain the remaining parcel that is landlocked. Mayor Ganz pointed out that the other option is to sell the entire parcel. Manager Sacks advised that the Borough should not be in a position to own that strip of land. She thought Mr. Hirschhorn was interested in the whole parcel. Attorney Lustgarten felt that they should enter a contract with Mr. Hirschhorn so that the Borough does not get stuck with this parcel. Councilmember Etler felt they should notify the other property owners.

Manager Sacks will check with Mr. Hirschhorn and come back to the Council.

Codification Change Health and Human Services - Attorney Lustgarten advised that he looked at the existing ordinances and one section that is not being included in the proposed language relates to the management of the mini bus system. If they delete it, it should be under some other department. Manager Sacks thought that having it in an ordinance was unusual. It does not need to be in the Code. Mayor Ganz suggested allocating it to the Manager with the authority to wherever she thinks it should go. Manager Sacks advised that the budget contains the funds to run the mini bus. Manager Sacks stated this is a transportation issue. There are better places to put it. It does not need to be in the ordinance.

The consensus was that the mini bus should be in the Manager's discretion to decide which department would be running it.

Renewal of Risk Manager's Contract (Burton Agency) - The consensus was to renew the contract.

Borough Calendar - The consensus was that the Council will hold one meeting during February, March, April, May, September, October and November at a school. The Mayor and Municipal Clerk will coordinate the dates and schools.

Appointments - Appointments for the Reorganization Meeting will be discussed at the next meeting.

Dates for Trailer Tour and Budget - The Council will tour the trailers Saturday, December 16 at 9:00 a.m. Municipal Clerk Kwasniewski will sunshine that the Council is making a visual inspection of the trailers, no discussion and no action will be taken. The work session on January 2, 2001 will be devoted to the capital budget except 15 minutes to take care of housekeeping items. The Reorganization Meeting will start at 6:00 p.m. Manager Sacks will schedule the larger departments for their budget discussion.

Refrigerator Magnets - Mayor Ganz advised that Indoor Billboard Advertising has offered to solicit for a refrigerator magnet that would list the Borough, the Council and various telephone numbers and a calendar at no cost to the Borough. They get the sponsors. Councilmember Etlar wanted to see it.

The consensus was to authorize the Manager to do it.

Audio for Council Meetings - Mayor Ganz advised that at this point there is a microphone problem. He pointed out that the Municipal Clerk did everything she was supposed to and more. In fact she did everything they asked for and more. Creative Cable claims that it is incompatible. Manager Sacks explained that the cabling is compatible, but the microphones are not. Another set of microphones is needed. Mayor Ganz advised that when they have the microphones the meetings will be taped and then aired.

Return to Regular Meeting - Upon motion of Councilmember Amato and a second by the Deputy Mayor Adler the Council returned to the Regular Meeting.

Closed Session Resolution - Upon motion by Deputy Mayor Adler and a second by Councilmember Amato the following closed session resolution was unanimously adopted at 10:45 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 contract negotiations, attorney/client privilege and personnel relating to the sale of public property; 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 contract negotiations when the contract is effectuated within 90 to 120 days and relating to the sale of property when the ordinance is introduced except legal strategy and relating to personnel after appointments are made or 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 Deputy Mayor Adler and a second by Councilmember Amato the meeting was adjourned to the Regular Meeting at 11:20 p.m.

Respectfully submitted,

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