

REGULAR MEETING OF FEBRUARY 22, 2000

Mayor Ganz opened the meeting at 7:31 p.m. Municipal Clerk Kwasniewski read the following statement of compliance:

In accordance with the Open Public Meetings Act, annual notice of all meetings of the Borough of Fair Lawn was published in "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 Notices 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: Borough Attorney Lustgarten, Municipal Clerk Kwasniewski and Assistant Municipal Clerk Dugan.

ABSENT: Borough Manager Sacks

Mayor Ganz asked the Girl Scouts to lead the Flag Salute.

PROCLAMATION: GIRL SCOUT WEEK

Mayor Ganz said he was delighted the Girl Scouts were present to receive this proclamation. He told them that Municipal Clerk Kwasniewski's mother was still involved with the Girl Scouts and that Deputy Mayor Adler is a former Girl Scout. There are many good role models for them to look up to.

MANAGER'S REPORT

Mayor Ganz stated the report was on the table and there have been no changes or additions made. Manager Sacks will be able to answer any questions there may be at the next meeting.

ORDINANCES: FIRST READING

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

Ordinance No.1792-2000

AN ORDINANCE TO REGULATE TATTOOING AND BODY PIERCING PARLORS, TATTOOISTS AND BODY PIERCERS WITHIN THE BOROUGH OF FAIR LAWN

Upon motion by Deputy Mayor Adler and a second by Councilmember Amato Resolution No. 77-2000 introducing Ordinance No. 1792-2000 was unanimously passed. Mayor Ganz stated there was a change on Page 10, Section 4E that should be changed from two autoclaves to an autoclave. He thanked Councilmember Etlar for bringing this to the Council's attention.

ORDINANCES: SECOND READING

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

Ordinance No.1787-2000

AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FAIR LAWN, 1981, BY AMENDING AND SUPPLEMENTING CHAPTER XV "MUNICIPAL PARKS, PLAYGROUNDS AND SWIMMING POOLS", SUBSECTION 15-6 "MEMBERSHIP FEES" TO ADD A FEE FOR SENIOR CITIZEN GUESTS

There being no comments by 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. 78-2000 adopting Ordinance No. 1787-2000 was discussed. Deputy Mayor Adler recused herself. Mayor Ganz stated this ordinance creates a new classification for Senior Citizen guest at Memorial Pool.

Hearing no further comment, Resolution No. 78-2000 adopting Ordinance No. 1787-2000 was unanimously passed.

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

Ordinance No. 1789-2000

AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FAIR LAWN, 1981, BY AMENDING CHAPTER XII, ENTITLED "WATER", SUB-SECTION 12-4.2, "WATER RATES"

Donald Oliver, 8-32 Mitchell Place, spoke about raising the water rates. He compared other towns rates to Fair Lawn's rates. Last summer residents were asked to conserve water because of the drought. He felt the biggest waste of water were the pools. Mr. Oliver thinks they have done an injustice to the public because the rate is too high and he cannot see how they can justify it.

Mayor Ganz explained that the water utilities must be self sustaining. Last year there was a loss of revenue due to the water shortage.

Mr. Oliver stated there have been a large number of water pipes breaking. Mayor Ganz informed him that was due to the age of the system and the cold weather.

Councilmember Etler said comparing water rates of other towns to Fair Lawn is like comparing apples and oranges. He explained the way water is delivered through the towns. He said they have to understand the cost of delivery is different with each town.

Mr. Oliver said he did not understand why Fair Lawn was constantly being compared to Teaneck. He cannot imagine the rate going up eleven points in one year.

Deputy Mayor Adler referred to his comment about the pools. The pool is a public amenity whether they use it or not. The rate increase sounds like a lot but it isn't.

Attorney Lustgarten stated on the Manager's Report on page 3 there were 22 water main breaks listed. He said when they have less usage there is less revenue. The CFO is charged by law to see what the costs are and cannot fix the rate without basing it on past revenue.

Mr. Oliver concluded by saying he felt the pool was a large debt to the Borough.

There being no further comments by 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 Amato, Resolution No. 79-2000 adopting Ordinance No. 1787-2000 was unanimously passed.

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

Ordinance No. 1790-2000

AN ORDINANCE RELATING TO BLOCK 2705, LOT 1.01

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

Upon motion by Councilmember Dobrow and a second by Councilmember Amato, Resolution No. 80-2000 adopting Ordinance No. 1790-2000 was discussed. Attorney Lustgarten described this ordinance as a housekeeping procedure and that it was the Council's intent to sell this property by auction.

Hearing no further comments, Resolution No. 80-2000 adopting Ordinance No. 1790-2000 was unanimously passed.

RESOLUTIONS BY CONSENT #5-2000

Upon motion by Deputy Mayor Adler and a second by Councilmember Amato, Consent Agenda #5-2000 containing the following items was unanimously adopted.

- a. Resol. #81-2000 Approval of Minutes
Reorganization Meeting 1/2/00
Work Session 1/4/00
Closed Session 1/4/00
- b. Resol. #82-2000 Refund of Overpayment of Taxes
- c. Resol. #83-2000 Approval of Raffles & Bingo:
HB Milnes School PTA non-draw
HB Milnes School PTA on premise mdse.
- d. Resol. #84-2000 Temporary Emergency Appropriation
- e. Resol. #85-2000 Award of Bid: HVAC Repair and Maintenance

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.

John Scalice, 5-22 Second Street, said he was a victim of Tropical Floyd's flooding that occurred last September. It wiped out the first floor of his home and caused major damage. His home was also flooded in 1984. He did have flood insurance but was told the damage to the structure was not due to the flood. He read a letter to the Mayor and Council which is hereby attached as Schedule A. He showed the Mayor and Council an estimate of \$30,000 to repair his home.

Attorney Lustgarten advised him to submit the damage Tropical Floyd caused. He advised Mr. Scalice to submit the difference between the flood of 1984 and 1999 to the Mayor and Council. Mr. Scalice said all he was looking for was relief because there was more damage than before.

Mayor Ganz advised him if he spent any money during a specific time due to the flood he would be able to get a refund of the sales tax paid.

Richard Mecinois, 8-62 Forrest Street, spoke about the property on Chester Street and about the different areas that drain into the Henderson Brook. He said there was a gas line, sewer lines, two wells, a water tank and various other things on that property. He mentioned that the Borough cleaned up the brook last year. He asked that the property be

held and not auctioned off. He hoped to leave the property the way it was. There is no area where the kids can play in a field. He passed photos of the floods around to the Mayor and Council.

Attorney Lustgarten stated that an individual submitted a letter to purchase the property. This Council has not made a final determination and nothing has been decided.

Donald Oliver, 8-32 Mitchell Place, asked about the school bus licensing fees. Mayor Ganz explained that many years ago the fee was put into place to get a handle on the number of buses in the Borough. He said there were a number of complaints in the past.

Mr. Oliver spoke about the number of parking tickets that are issued, how much they cost and that because the fees are only \$15 he feels it is not a deterrent to keep people from parking in the lots. He also mentioned the number of speeding tickets is lower. He feels that more police should be out stopping the speeders instead of issuing parking tickets. Mr. Oliver mentioned the back lot of CVS and the number of people parking there to take the train. Mayor Ganz asked if the Borough had the right to deal with parking on private property. Attorney Lustgarten informed them that CVS would have to deal with that.

Mr. Oliver asked about the garbage hauling paper per fee. Mayor Ganz explained that Manager Sacks was looking into it and they are not there yet. Mr. Oliver asked what was going on with tattoo parlors. Mayor Ganz told him the regulations are to make certain that everything is properly sterilized and to register the people that are there. Attorney Lustgarten stated the original draft of this ordinance was from 1998 and has been pending for two years. Mr. Oliver spoke about the wiring of the Council Chambers. Deputy Mayor Adler advised him it would be started March 7th.

Ed Reilly, 18 Godwin Avenue spoke about the property on Chester Street that might be auctioned. Attorney Lustgarten explained the Mayor and Council have not made a final decision. The Mayor and Council will get input from the public before making a decision. Mr. Reilly asked if the Borough was aware of all the things Mr. Mecinois explained and why try to sell it if it is not buildable.

Attorney Lustgarten stated the Borough is not familiar with every single aspect dating back to the 1940's. He explained that an individual made an inquiry of the Borough and the Borough goes through the process. This piece of property is not a dedicated piece of public property. The only concern the Council would have to consider if this is needed for public purpose and if there is a broader reason to maintain the property in its current state such as neighborhood interest and for the reasons Mr. Mecinois described. That is coupled against the statutory right of the Council to sell the property upon an inquiry. The Council's decision is whether public's interest in this property is greater than the need to sell the property. Mr. Reilly wondered why with all the things that are underground on that property they are even thinking of selling this. Mayor Ganz stated the reason the Borough would sell the property is to put it on the tax rolls.

Mr. Reilly stated what he really wanted to talk about was Scholastic Bus Company. He said it occurred to him that the public met at these various meetings about two or three years ago. It was decided back then that Scholastic Bus Company could not put their buses on that particular piece of property. Mayor Ganz stated he gave recognition to the fact that at the time he said it was an inherently beneficial use for the Borough as did the State Supreme Court. Mr. Reilly asked if the Court said it could be used for the school buses and feels that it is dangerous and will tie up traffic. Mayor Ganz explained it has gone back to the Zoning Board to see what conditions can be imposed. The Zoning Board will hold a hearing.

Attorney Lustgarten stated that the Supreme Court has remanded it back to the Zoning Board meaning that the Board can address the issues. The Court's opinion may not spell it out but that is why it is remanded back to the Zoning Board.

Councilmember Etler explained that he was on the Zoning Board. The resolution is on file in the Zoning Office. In that file there will be everything that went to the Court. Mr. Reilly asked if the resolution was incorporated into what the judge saw. Attorney Lustgarten explained the procedure of what happens when an appeal is done. The brief should be in the Zoning Office.

Leon Wender, 7-22 Manor Avenue, spoke about the lines that should be completed on the pedestrian crosswalks when the weather permits, jaywalking laws and fines should be enforced, the Broadway Advisory Committee on February 2, 2000 did not have a good turnout. He also said the Borough must induce businesses to open in town, there are no stores that cater to homeowners, what kind of stores and business should be located on Broadway, River Road project is a flop, expunge from the books about rental vehicles not being allowed at the dump, his next door neighbor has a peeling garage, another neighbor has a fence falling down, asked why the Library needs an exterior garden and to fix what is broken.

Richard Mecinois, 8-62 Forrest Street, wondered about the water main break that no one knew where the line came from. Councilmember Etler explained that it was an unmarked line. The Borough has taken responsibility to repair it.

There being no additional comments from the public, upon motion by Deputy Mayor Adler and a second by Councilmember Dobrow, the time for public comments was unanimously closed.

ADJOURNMENT TO WORK SESSION

Upon motion by Deputy Mayor Adler and seconded by Councilmember Dobrow it was unanimously agreed to adjourn at 9:10 p.m. to Work Session.

Respectfully submitted,

Marilyn B. Dugan, RMC
Assistant Municipal Clerk

WORK SESSION OF FEBRUARY 22, 2000

Mayor Ganz reconvened the meeting at 9:15 p.m. Municipal Clerk Kwasniewski read the statement of compliance with the Open Public Meetings Act.

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

Also present: Municipal Clerk Kwasniewski and Attorney Lustgarten.

Pool of Experts for Public Advocate - Mayor Ganz announced that anyone who would like to make suggestions should send them to Municipal Clerk Kwasniewski who will keep a list. This item will be on the agenda again in a month.

Municipal Court Credit Cards - Attorney Lustgarten advised that PNC Bank did not send the materials nor did they return his call. Councilmember Etler felt that if they installed an ATM machine in the building having credit cards would not be necessary. This item will be on the next work session agenda.

Park Hill Condos Parking Permits - Mayor Ganz indicated that Manager Sacks has suggested that the Council give permits to the Condo Association and let them distribute them to their members. Attorney Lustgarten pointed out that in 1972 the US Supreme Court indicated that for environmental reasons in limited circumstances municipalities could issue permits on public streets. On Abbott Court the Council received certification from Engineering that there was an environmental problem based on the number of vehicles on the street looking for parking spots. He did not think that Bergen County has issued permits for County roads. He thought the Manager should see what they County thinks before proceeding further. He thought they needed local justification from an environmental standpoint. He suggested that this matter be sent back to the Manager with the request that it go to the Engineer and the Environmental Commission.

Councilmember Etler expressed concern that allowing these permits would bring other requests for parking on the streets. Attorney Lustgarten explained the way the permits on Abbot Court work. Mayor Ganz noted that they are getting many complaints from people who cannot park their cars. Attorney Lustgarten pointed out that the larger issue is whether the Council wants to maintain the ban on parking from 2:00 a.m. to 5:00 a.m. Mayor Ganz noted that the police want that ban because they can tell who is supposed to be there. Attorney Lustgarten added that there is an aesthetic and police argument. Councilmember Etler raised the issue of not being able to clean the streets and people not bothering to use their driveways.

Mayor Ganz noted that the residents of the condos are asking for relief. The Council has to decide conceptually if they want to give them the spaces. He can see both sides of this issue. They are not so different from those other residents who asked to restrict parking. Councilmember Dobrow was not in favor of allowing them to park on the street. Councilmember Amato concurred, expressing concern that the initiative will move forward. Attorney Lustgarten suggested that they check with the County to see if they would allow parking on Fair Lawn Avenue.

The consensus was to have the Manager make a neutral inquiry to the County to see what position they take.

Departments to Attend Budget Session of 2/26 - Councilmember Amato wanted to be able to compare other towns. Attorney Lustgarten explained why that approach does not work. Deputy Mayor Adler added that the Council has to analyze the needs of their own community.

It was agreed that Municipal Clerk Kwasniewski would obtain last year's budget of Saddle Brook, Hawthorne, Glen Rock, Ridgewood and six other towns with the County. The Council wants a per capita cost for the DPW, Police, Recreation and Administration.

It was agreed that the Council would review the Municipal Clerk, Manager, Police, Health, Tax Collection, Legal and Tax Assessing budgets on Saturday. The Chief and the Health Officer should be present.

Mayor Ganz advised that he spoke to bond counsel to get a sense of which vehicles can be purchased with capital funds instead of out of the current fund. If it is a Jeep and used for emergency response, they can purchase the vehicle as a capital expense.

Open Space Program Suggestions - Manager Sacks asked the Council to prioritize the Open Space applications which must be submitted by February 29. Mayor Ganz advised that the funding for this will probably not become available before July. He thought filling in the Walsh pool was a significant decision that requires some discussion. Attorney Lustgarten pointed out that there was a representation made to the neighborhood that the Council has not decided to fill in Walsh Pool. He suggested not submitting the Walsh Pool project unless the Council makes that determination.

Deputy Mayor Adler advised that she has received a request from residents from the other side of Broadway that there was no park for children. She wondered if there was any Borough property available. Mayor Ganz suggested that Deputy Mayor Adler send a memo to the Manager to consider this project for next year. Attorney Lustgarten noted that there may be a list of Borough owned vacant land available.

The consensus was to prioritize the list as follows: (1) sand replacement if it meets the criteria; (2) trailers for bath house, office and recreational storage of outdoor pool tables and ping pong tables; (3) lights; (4) food service and (5) a park on Broadway if there is a list.

Memorial Pool - Mayor Ganz advised that he and Manager Sacks met with the real estate director of Wendys who said that no one in the fast food business would take over the concession at the pool. It does not meet their standards. He suggested putting in one of the portable suite trailers with a kitchen. He thought it would cost between \$45,000 and \$80,000. Mayor Ganz thought it was a good idea. He also thought it could be done for the bathhouse which would be much cheaper. The existing buildings would be demolished but the hookups would remain. If the Council did it that way they could do Memorial Pool this year. The cost would be about \$250,000. Using the trailers would probably eliminate many DEP building requirements. The Borough would lease out the trailer and set out the menu they want.

Mayor Ganz also noted that they have to replace the sand at Memorial Pool. If there was a Council decision to close Walsh Pool, a source for the sand from Memorial Pool would be the Walsh Pool so the cost of disposing of the sand would be saved. Deputy Mayor Adler did not think it was a good idea to make a decision on Walsh Pool this evening. She liked the food trailer.

The consensus was to have Manager Sacks to explore and report as expeditiously as possible on the trailers for the bathhouse, office and lunch facility and the demolition costs for this season.

ADJOURNMENT - Upon motion of Deputy Mayor Adler and a second by Councilmember Amato the meeting was adjourned at 10:40 p.m.

Respectfully submitted,

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

[disclaimer](#)

[web master](#)

[CWN Web Technologies](#)