

## SPECIAL MEETING OF FEBRUARY 29, 2000

Mayor Ganz called the meeting to order at 6:35 p.m. Municipal Clerk Kwasniewski read the statement of compliance with the Open Public Meetings Act.

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

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

Recodification of Borough Ordinances - Mayor Ganz announced that the aim is to finish something that can go the Code Company. Municipal Clerk Kwasniewski has identified thirty-eight policy calls and there are a few policy calls from the Code Company. Attorney Lustgarten noted that the last major recodification of the ordinances was in 1981 that coincided with a change in government. That codification established major chapters of organization which Attorney Lustgarten mentioned. As ordinances were adopted since then the Code Company would decide where to put them in the Code. One of the purposes of this recodification is to have the Code organized so that finding information is easy. All the Departments looked at the Chapters then Attorney Lustgarten and Municipal Clerk Kwasniewski reviewed every comment from the Departments and the Code Company. The decisions made by the Council this evening will be sent to the Code Company for inclusion in the final product. The Council recognized that technical corrections will be needed later this year.

Councilmember Amato arrived at 6:40 p.m.

The Council reviewed each of the following items and made decisions as follows:

1. Section 3-1.1 Page 10 (page 4 of manuscript) Minimum Penalty - should it be raised from \$100.00. Mayor Ganz noted that in many instances penalty provisions are only \$100. The Statute now allows for penalties of fines up to \$1,000, ninety days incarceration or community service. He suggested that whatever they decide to do it should be consistent throughout the Code. Attorney Lustgarten advised the minimum cannot be raised beyond \$100. All the penalties should say that all the violations shall have a maximum of \$1,000, ninety days in jail or ninety days community service.

The consensus was to use the recommended language where no specific penalty is specified.

2. Appendix to Chapter II Rules of Procedure (pages 11-14 of manuscript) - The Council reviewed each rule.

I. No change.

II. Add: In the Mayor's absence the Deputy Mayor may preside. In the absence of the Mayor and Deputy Mayor the Council shall choose the chair.

III a. Change immediately to within five minutes of the appointed hour.

b. No change.

IV. Add: except the presiding officer shall be called last.

V. Reading of the minutes of the Council meeting shall be deemed waived unless a majority of the full membership of the Council requests their reading provided that they are circulated three business days preceding the day of the meeting.

VI. a. No change.

b. Add: councilmember who is present shall be recorded as present.

c. Add: Minutes shall be signed by Councilmembers present with Deputy Mayor Adler objecting. She did not think people who were absent should sign.

VI A. Add to fourth paragraph: by notifying the Municipal Clerk or the Mayor.

VII. a. No change.

b. Add: and Council.

VIII. a. Delete first sentence. Add: The Council will consider such nominations for offices to be filled by the committee of the whole, which will report at a regular meeting of the council which shall vote thereon.

b. Delete.

c. Change at once to together.

IX. a. No change.

2. Change councilman to councilmember.

c. Change Getting to Obtaining; change personalities to personal attacks.

4. No change.

5. No change.

f. Delete paragraph and add: Closing debate. Any Councilmember shall have the privilege to ask that the question be called.

X. Councilmember Etlar felt that any person should have the right to address any member of the Council. The consensus was to change the language to: All remarks shall be addressed to the chair and not to any member thereof unless the chair so directs.

XI. a. No change.

2. Change shall forthwith to may.

XII. Change to The presiding officer may utilize all appropriate Borough personnel to maintain decorum at Council meetings.

XIII. a. No change.

b. Delete not exceeding 100 words and if the Council consents and add an abstract of reasonable length. Deputy Mayor Adler felt that there should be a limit on the number of words. Yes, with Deputy Mayor dissenting.

3. No change.

2-2.13 Accept proposed changes.

2-2.14 Accept proposed changes

2-2.15 delete with Mayor Ganz dissenting.

Manager Sacks pointed out that the section on Purchasing had been moved into a Division of Purchasing which she felt was a policy call. Purchasing is a function of the Manager's office. Attorney Lustgarten indicated that they were trying to make it easier to find Purchasing.

The consensus was to move Purchasing back to the Manager and to add an R indicating that the Manager shall handle Purchasing generally pursuant to whatever section the Code Company assigns.

3. Section 4.3 Acting Manager (page 16 of manuscript) - except Borough Attorney, Judge and Chief Financial Officer.

4. Section 2-8.1 Department of Public Safety Page 11 provides for Chief of Police and Police Director (page 24 of manuscript) - delete reference to Police Director.

Section 2-6.5 Manager Sacks will find out if there are any outside safety deposit boxes. The reference will be changed to reflect safes that hold securities.

Section 2-10.3c Assistant Engineer - This section was changed to reflect reality. The consensus was to change shall to may.

5. Section 2-10.4 Designation of Public Works - does not reflect reality; should it be in or out (page 39 of manuscript)- delete.

6. Section 2-14.6 Borough Attorney as Member of a Law Firm - does the Council really want a substitute (page 53 of manuscript) - accept the proposed language change.

7. Section 2-18.7 Pages 13 and 14 - NJSA 40:56A-1 provides for alternates for Environmental Commission - we don't currently have alternates, but Environmental Commission would like them (page 59 of manuscript) - add the alternates.

8. Section 10-8.5 Page 17 Fire Police - this is statutory language which General Code recommends not including (page 100 of manuscript) - delete.

9. Section 11-4 Page 18 Bergen County Housing Authority - does the Borough still wish to participate in this program (page 115 of manuscript) - Manager Sacks will find out. If it exists, leave it in.

10. Chapter IX Police Department needs to be reviewed (page 162-169 of manuscript) - Manager Sacks did not think the Organizational Chart belongs in the Code. The Council would have to amend the ordinance every time a new division was created. The creation of divisions is administrative. Attorney Lustgarten explained the rationale for the inclusion of the chart. The Council recognized that the Chief and the Manager have the right to maneuver personnel. Mayor Ganz did not think that just one department should be in the Code. Manager Sacks said that the Council cannot set how many officers should be in each position. The chart is not accurate and she did not think there was any need for it to be included.

The consensus was to add to the Manager's responsibility: to prepare organizational charts for each department in the Borough.

Mayor Ganz noted that organizational chart is a public document but it does not belong in the Code. The chart should be on the web site.

The consensus was to delete the organizational chart.

Qualifications - deleted the references to height and weight. Manager Sacks noted that Civil Service dictates the qualifications. Attorney Lustgarten thought the age had been changed to 18. Municipal Clerk Kwasniewski will check with Chief Marshal. The consensus was that if the statute says 18 the change will be made. Attorney Lustgarten noted that case law states that the municipality can require them to be residents when appointed but they cannot be required

to maintain residency. He asked the Chief with the Manager to review this section again.

11. Section 4-15 Page 30 Alarm Systems do we want an insurance bond (page 185 of manuscript) - delete this section.

12. Section 6-8 Page 31 Penalties if the general penalty is referred to it would change the penalty from \$500 to \$1000 since 3.1.1 on page four sets the penalty for everything not specifically set to \$1,000 (page 169 of manuscript) - The Council has already agreed to make this change.

13. Section 3-4 Page 32 Alcoholic Beverages in Public Places do we want to raise permit fee from \$5 to \$10 (page 197 of manuscript) - yes.

14. Section 4-10.2 Page 32 Amusement Games do we want to increase fee from \$50 to \$100 (page 198 of manuscript) - yes.

15. Section 4-10.11 Page 33 Penalty do we raise penalty from \$500 to \$1,000 (page 200 of manuscript) - The Council already made the decision on this item.

16. Section 5-2.2 Page 33 Fees NJSA 4:19-15.3 allows for exemptions for seeing eye and hearing dogs from the fee - do we want to exempt them (page 203 of manuscript) - yes.

17. Section 5-5.1 Page 34 Reasons for Impounding NJSA 4:19-15.16 allows for "offered for adoption" in addition to destroying stray dogs - we recommend adding that language (Page 206 of manuscript) - yes. Language should be added that prior to destruction, the animal control officer shall make reasonable attempts place the animal in a no kill shelter, with Councilmember Etlar dissenting.

18. Section 3-8.9 Page 36 Violations do we want to increase fine from \$5 to \$25 (page 224 of manuscript) - leave at \$5.

19. Chapter XXII Fire Prevention Code - we have deleted this entire section and replaced it with what Fire Marshal Bender has proposed. General Code has reviewed this change and found it to be acceptable. The issue now is to whom does the Fire Marshal report. Manager Sacks advised that Civil Service does not allow them to use the Fire Marshal title. They have said that the Borough cannot limit this position to members of the Fire Department. The consensus was to accept the recommendations without discussing the chain of command issue.

Fire Marshal Bender wants to report to the Manager and be under the supervision of the Borough Manager. Attorney Lustgarten concurred. Councilmember Amato noted that while the Fire Chief is a volunteer, he has been thoroughly trained. He was not sure the Manager understood firematics. Attorney Lustgarten advised that as a full time employee the Fire Marshal should report to the Manager. Councilmember Amato was concerned with function. He wanted to know all of his functions beside inspections and the fire scene. Deputy Mayor Adler felt he should come under the supervision of the paid employee. Manager Sacks advised that she does supervise him. Most of his duties relate to inspections and Code enforcement. She thought that Fire Marshal Bender was concerned if there was a conflict between different priorities. Attorney Lustgarten pointed out the Fire Marshal's responsibility at the fire scene is different from the fire fighters. Councilmember Amato thought the Fire Chief was responsible at the fire scene. The Fire Marshal should report to the Fire Chief even though he is a part time volunteer. If they were problems, they should look at them specifically. Attorney Lustgarten suggested that at the fire scene the Fire Marshal reports to the fire chief and at all other times he reports to Manager. Deputy Mayor Adler agreed that the Fire Chief is in control at the fire scene but she did not think the Fire Chief should have administrative control. Attorney Lustgarten thought it would be fair for the Fire Chief give a recommendation. He suggested that they let it go in the way it is now with the understanding that they were going to look at it this again. Mayor Ganz would like to hear from the Fire Chief. The consensus was to leave it as it is.

20. Section 23-1.8 Page 40 Renewal of Certificate - The Council previously agreed to change the renewal from one year to five years and to change the fee to \$25.00 (page 298-299 of manuscript) - yes.

Councilmember Etlar wanted to discuss the food handler's license as it relates to the Planning Board. It was agreed that within 30 days, this item would be on an agenda.

21. Section 23.7.4 Page 43 Penalties do we want to increase fine from \$500 to \$1,000 (page 322 of manuscript) - The Council already agreed to this change.

22. Section 15-17 Page 48 Penalty; Expulsion and Fine do we want to increase fine from \$25 to \$1,000 (page 363 of manuscript) - yes.

23. Section 4-1.8 Page 49 Fees do we want to increase processing fee from \$3 to \$5 and license fee from \$10 to \$15 (page 373 of manuscript) - yes.

24. Section 3-12.1 Grass Weeds over 12 inches prohibited - Code says 12 inches but General Code suggests 4 inches (page 410 of manuscript) - the consensus was to change it to six inches.

25. Section 4 Page 51-52 Public Health Nuisance Penalty do we want to retain the minimum fine of \$50 or do we want to refer to the general penalty which would raise the fine to \$1000 (page 412 of manuscript) - yes.

26. Section 11-6 Page 52 Rent Control - Lois Lipton, Rent Control Attorney and Sylvia Tedona reviewed this section and made substantial changes. We sent it to General Code for their comments. Do we want to adopt Ms. Lipton's proposal. (page 418 of manuscript) - The consensus was to accept Ms. Lipton's proposal and add: or its successor.

27. Section 4-13 Page 54 School Buses we had suggested deleting this section because it was not being done. In light of recent events this should be discussed. (page 455 of manuscript) Mayor Ganz drafted an ordinance that allows the Borough to regulate the traffic on a parking lot or storage area for buses the same as on any other parcel. Attorney Lustgarten recommended that the Council defer this item for one week. This is a general police power ordinance. The consensus was to leave 4-13 as a head note and preamble and delete everything else for now.

28. Section 20-1.1 Page 55 Soil Removal Permit Required - do we want a fee for this permit (page 492 of manuscript) - The consensus was to have a \$15 fee.

29. Section 17-6.12 Page 56 Violations and Penalties do we want to refer to the general penalty section which would increase the fine from \$500 to \$1,000 (page 517 manuscript) - The Council already made the decision.

30. Section 17-1 Page 58 Street Excavations:

a. 17-1.1 Insurance Richard recommends increasing the insurance requirement to \$300,000 personal injury and \$50,000 property damage (page 525 of manuscript) - yes.

b. 17-1.2 Application for Permit do we want to change from Manager to DPW Superintendent or Engineer (page 525 of manuscript) - Add: or designee.

c. 17-1.5 Borough to Repave Excavations - do we want to raise fee from \$20 to \$40 (page 526 of manuscript) - 100% of actual cost including reasonable direct and indirect costs.

d. 17-2.2 Fees - seem outdated (page 527 of manuscript) - 100% of actual cost of inspection.

e. 17-2.3 Applicant to Obtain Lines and Grades from Borough Engineer - Engineer would like to delete; Richard would like to leave it in (page 527 of manuscript) - leave it in.

f. 17-3.2 Application for Permit; Fees - do we want to specify a fee (page 528 of manuscript) - \$20.

31. Section 19-6 Page 65 Planting of Street Trees and Shade Trees - do we want to leave the list of trees or leave it up

to the Borough Manager. We recommend changing the deposit from \$35 to \$75 (page 594 of manuscript)- The Council expressed concern that this section as written requires that every homeowner have a tree planted in front of their home at their expense. The consensus was to leave 19-1 Definitions in and delete the rest of this section for now. Shade Tree will look at this section again.

32. Section 7-3.8 (d) Page 67 - we recommend referring to the general penalty for fraudulently obtaining a parking permit (page 607 of manuscript) - yes.

33. Section 8-3-1, 3.2 Parking Stickers - G. Brouca has suggested dropping the 4:00 p.m. restriction - do we want to do that (page 716 of manuscript) - The consensus was to delete 4:00 p.m. and add each day after 9:00 a.m.

34. Section 12-2.22 Page 69 Installation of Meters: Fees - do we want to raise fees:  
5/8 inch to \$35 plus cost of meter and remote from \$40 including cost of meter and remote  
1 inch to \$40 plus cost of meter and remote from \$15 plus meter cost  
1 1/2 inch to \$45 plus cost of meter and remote from \$40 plus meter cost  
Anything over two inch must be supplied and installed by applicant instead of over four inches (page 737 of manuscript) - yes.

35. Section 12-4.3 Page 69 Meter Tests and Service Calls - do we want to raise the fee from \$15 to \$35 (page 740 of manuscript) - yes.

36. Section 12-4.9 Page 69 Hydrant Flow Tests - we are adding this section and setting the fee at \$35 - yes.

37. Section 12-6 Page 70 Permit Required - do we want to charge a permit fee (page 743 of the manuscript) - The consensus was to charge \$25.

38. Section 2-7 Assistant Tax Collector - change shall to may.

The new Land Use Ordinance as proposed by the Planning Board was reviewed. Mayor Ganz thought adjacent should be added to the definitions. He will supply a definition.

24-3.7 Mayor Ganz wondered if hotels should be prohibited in all zones which is what the proposed ordinance does. Attorney Lustgarten advised that a decision had been made many years ago that a variance should be applied for and justification for a hotel would have to be proved.

Fast food is banned but fast food is not defined. The consensus was to include the definition of fast food from the old Code.

24-3-8.2 Houses of Worship - Mayor Ganz felt this represented a substantial change in philosophy. Right now any citizen can have a house of worship in his home. He thought it was constitutionally protected. He would be comfortable if language were added: nothing herein shall preclude anyone from using their own home as a house of worship. Attorney Lustgarten did not think this section applies to residential houses used for worship collectively. Deputy Mayor Adler noted that she had no objection to people gathering to worship in their house but she objected to saying that it is a church or a house of worship. Councilmember Amato did not agree with the Mayor. Attorney Lustgarten thought there was a difference between the house of worship and worshipping in your house. Houses of worship are subject to reasonable zoning conditions. Mayor Ganz did not think there were many Page Nine Special Meeting February 29, 2000

lots in Fair Lawn that could meet the requirements. The consensus was to keep the section as proposed by the Planning Board with Mayor Ganz dissenting.

Section 24-3.8.3 - change to shall give notice.

Section 24-3.17.3 - change approved by Planning Board to approved by the Borough Council.

Section 24-3-20.3 - Attorney Lustgarten thought this might be a problem because of the Court case. Councilmember Etler, however, thought they should leave the section as proposed. Mayor Ganz suggested indicating that this section does not apply to school buses. Attorney Lustgarten suggested adding subject to law. The consensus was to following Attorney Lustgarten's suggestion.

Satellite Dishes - Mayor Ganz expressed concern that the ordinance is presently illegal. Attorney Lustgarten felt that they can enforce the ordinance if they are not prohibiting reception.

24-6.1.1 B - change to Alternate members shall be appointed for two years as designated by the Council as Alternate #1 and Alternate #2.

24-6.2.1 A (1) - Class I - change to the Mayor or the Mayor's designee.

(4) - Class IV - change to the Council.

Mayor Ganz distributed Rules and Regulations for the Zoning Board. The consensus was to include the Mayor's proposal.

Manager Sacks raised some concerns about placing the agendas on the web site and channel 1 and 58 particularly if the people who do the work are absent. The consensus was to insert: shall be posted unless circumstances preclude same.

Chapter 3-5 Noise - Councilmember Etler raised concern about the table under 3-6.5. He wanted that changed to 8:00 a.m. and 8:00 p.m. Attorney Lustgarten reminded the Council that garbage trucks start before 8:00 a.m.

Councilmember Etler indicated that he meant leaf blowers and snow blowers. He thought the decibel levels allowed were too high. Attorney Lustgarten noted that when this ordinance was drafted a great deal of thought went into it. Mayor Ganz asked that the Health Department make recommendations on this chapter.

Municipal Clerk Kwasniewski will send the revisions to General Code.

#### ORDINANCES: FIRST READING

Attorney Lustgarten advised that original ordinance establishing the Flood Assistance Coordinator contained a sunset provision of March 1. That ordinance needs to be amended to extend that position. The Council has not discussed the other items in the proposed Ordinance No. 1793-2000. He suggested introducing an ordinance to extend the flood assistance position this evening. He wondered if there was funding for the new position. Manager Sacks advised that she sent a memorandum explaining the funding. Manager Sacks indicated that the revised position which incorporates the second portion which was discussed was to be in effect until December 31. She was not sure why they were not introducing that ordinance. If they were not considering the dual position, she thought the flood assistance portion would be finished in two or three months. Mayor Ganz suggested June 30. The Council concurred.

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.1793-2000  
(Resolution No. 86-2000)

AN ORDINANCE TO AMEND ORDINANCE NO 1772-93 ENTITLED "AN ORDINANCE TO AMEND CHAPTER II ENTITLED 'ADMINISTRATION' OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FAIR LAWN, MORE SPECIFICALLY SECTION 2-8.6 OFFICE OF EMERGENCY MANAGEMENT TO CREATE THE TEMPORARY POSITION OF FLOOD ASSISTANCE COORDINATOR TO EXTEND THAT POSITION

Upon motion by Deputy Mayor Adler and a second by Councilmember Etler, Resolution No. 86-2000 introducing

Ordinance No. 1793-2000 was discussed.

**RESOLUTION NO. 87-2000 OPEN SPACE APPLICATION**

Upon motion by Deputy Mayor Adler and a second by Councilmember Amato, Resolution No. 87-2000 was unanimously passed.

Additional Duties for Flood Assistance Coordinator - This item will be on the March 14 agenda.

BUDGET DATES - Dates for budget discussions were selected: Saturday, March 11 at 9:00 a.m. and Thursday, March 9 at 6:30 p.m.

**ADJOURNMENT**

Upon motion of Deputy Mayor Adler and a second by Councilmember Amato the meeting was adjourned at 11:45 p.m.

Respectfully submitted,

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