

## REGULAR MEETING OF JANUARY 11, 2000

Mayor Ganz opened the meeting at 7:35 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 Record, 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 and Etlar.

ABSENT: Councilmember Dobrow.

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

### ORDINANCES: FIRST READING

Upon motion of Deputy Mayor Adler and a second by Councilmember Amato Ordinances No. 1778-2000 and 1784-2000 were unanimously removed from the agenda for further discussion at a work session. Mayor Ganz announced that at the suggestion of the Borough Attorney these ordinances require more work by the Council before they are introduced.

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

Ordinance No.1779-2000

AN ORDINANCE TO PROVIDE FOR A CERTAIN CAPITAL IMPROVEMENT IN THE BOROUGH OF FAIR LAWN AND TO PROVIDE FOR THE RECEIPT, ACCEPTANCE AND DEPOSIT OF FUNDS FROM THE STATE OF NEW JERSEY, DEPARTMENT OF TRANSPORTATION THEREFORE

Upon motion by Deputy Mayor Adler and a second by Councilmember Amato, Resolution No. 36-2000 introducing Ordinance No. 1779-2000 was unanimously passed. Mayor Ganz explained that this ordinance is at the request of CFO Eccelston.

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

Ordinance No.1780-2000

AN ORDINANCE TO PROVIDE FOR A CERTAIN CAPITAL IMPROVEMENT IN THE BOROUGH OF FAIR LAWN AND TO PROVIDE FOR THE RECEIPT, ACCEPTANCE AND DEPOSIT OF FUNDS FROM THE COMMUNITY DEVELOPMENT REVENUE SHARING PROGRAM THEREFORE

Upon motion by Deputy Mayor Adler and a second by Councilmember Amato, Resolution No. 37-2000 introducing Ordinance No. 1780-2000 was unanimously passed.

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

Ordinance No.1781-2000

AN ORDINANCE CREATING THE POSITION OF PUBLIC ADVOCATE TO THE PLANNING BOARD AND PUBLIC ADVOCATE TO THE ZONING BOARD OF ADJUSTMENT, AND OTHER PURPOSES

Upon motion by Deputy Mayor Adler and a second by Councilmember Amato, Resolution No. 38-2000 introducing Ordinance No. 1781-2000 was considered.

Mayor Ganz explained that this ordinance will make available to the Borough residents who are unable to have an advocate on their behalf to attend the meetings of the Zoning Board of Adjustment and the Planning Board to help develop the record. It is an important initiative.

Hearing no further discussion Resolution No. 38-2000 was unanimously passed.

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

Ordinance No. 1782-2000

AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FAIR LAWN, 1981, BY AMENDING AND SUPPLEMENTING CHAPTER II, ENTITLED, "ADMINISTRATION", MORE SPECIFICALLY, SECTION 2-15, PUBLIC DEFENDER, SUBSECTIONS 2-15.3, 2-15.4 AND 2-15.7

Upon motion by Deputy Mayor Adler and a second by Councilmember Amato, Resolution No. 39-2000 introducing Ordinance No. 1782-2000 was considered.

Mayor Ganz read from a pamphlet of the Department of Justice noting that the criminal justice system needs all components to function properly. He believes that the addition of an Assistant Public Defender will assist in the proper adjudication of justice.

Hearing no further discussion, Resolution 39-2000 was unanimously passed.

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

Ordinance No. 1783-2000

AN ORDINANCE TO ESTABLISH A MEDICAL REIMBURSEMENT PLAN, A FLEXIBLE BENEFITS PLAN, AND A DEPENDENT CARE ASSISTANCE PLAN, COLLECTIVELY KNOWN AS A "CAFETERIA PLAN" UNDER SECTION 105 AND SECTION 125 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED

Upon motion by Deputy Mayor Adler and a second by Councilmember Amato, Resolution No. 40-2000 introducing Ordinance No. 1783-2000 was considered.

Councilmember Etlar asked for an explanation of this ordinance. Mayor Ganz explained that it is really three plans that are part of this ordinance including a dependent care assistance plan, a medical assistance plan and a flexible benefits plan because it allows the employees to set aside up to \$5,000 each year. The money becomes nontaxable income. The employee can use this fund to pay for medical expenses, child care expenses, eye glasses and other items.

Hearing no further discussion, Resolution No. 40-2000 was unanimously passed.

RECEIPT OF BIDS: GROUND SPACE LEASE

Upon motion by Deputy Mayor Adler and a second by Councilmember Amato it was unanimously agreed to open the time for receipt of all bids. Upon motion by Deputy Mayor Adler and a second by Councilmember Amato, it was unanimously agreed to close the time for receipt of bids.

Ground Space Lease

The following bids were opened and read by Municipal Clerk Kwasniewski:

Bell Atlantic Mobil Bid Bond Attached \$18,024.00  
141 Industrial Parkway  
Branchburg, NJ 08876

Sprint PCD Bid Bond Attached \$15,000.00  
One International Blvd.  
Suite 800  
Mahwah, NJ 07495

Attorney Lustgarten advised that the bids would be referred to the Engineer, the Manager and the Legal Department for recommendation to the Mayor and Council at the work session of January 18. He reminded the Council that they are looking for

the highest bidder.

#### RESOLUTIONS BY CONSENT #2-2000

Upon motion by Deputy Mayor Adler and a second by Councilmember Amato, Consent Agenda #2-2000 containing the following items was unanimously adopted.

- a. Resol. #42-2000 Refund of Overpayment of Taxes
- b. Resol. #43-2000 Veteran Property Tax Exemption Refund
- c. Resol. #44-2000 Professional Services Loss Control and Safety Training Services
- d. Resol. #45-2000 Urging Legislators to Clarify Statute on Official Newspapers
- e. Resol. #46-2000 Professional Services Claims Management

#### RESOLUTION NO. 46A-2000 Ratifying Claims Management Contract for 1999

Upon motion by Deputy Mayor Adler and a second by Councilmember Amato, Resolution No. 46A-2000 was unanimously passed.

#### MOTION TO REMOVE ADDED SECURITY AT TABASCO'S, 18-15 MAPLE AVENUE

Mayor Ganz explained that when the Council renewed the liquor license there were some incidents that led the Council to require additional security. The Council agreed to reconsider this requirement after six months. The Council reviewed the police reports and found that there were several incidents but they did not relate to the liquor license. At the work session it was represented that if there were further incidents, the Council could ask for additional security.

Upon motion by Deputy Mayor Adler and a second by Councilmember Amato, the motion to remove added security at Tabasco's was unanimously passed.

#### 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.

Shirley Giamongo, 5-12 Fifth Street, stated that she and several neighbors were present several months ago to complain about the sewer back up. She thanked the Mayor and the Manager for their correspondence. So far things are fine. She noted that it is very detrimental to the voters that there is no parking at the schools on Election Day. She suggested that the schools be closed for elections. Mayor Ganz thought the suggestion was good but it was the Board of Education who decides. He wondered if they could suspend the parking restrictions on those days. Deputy Mayor Adler thought it would help if the staff could park elsewhere on those days. Mayor Ganz asked Attorney Lustgarten to report to the Council before the next election. Attorney Lustgarten noted that the Council has a Board of Education Liaison meeting so he suggested that they discuss this situation then. He added that the Council would have the power to indicate that the parking restrictions on municipal roads are for every day but those three days. The County would have to act on the County roads.

John Port Vliet, 23-26 Ellington Road noted that the Councilmember Etler was on their street. He asked what was happening. Councilmember Etler advised that the Council has asked the police department for three workable solutions for the January 18th Work Session. Mayor Ganz added that he received a letter from Mr. Brenneisen that he forwarded to the Commissioner of Transportation.

Leon Wender, 7-22 Manor Avenue congratulated the new administration and suggested that they work to alleviate apathy, to have stricter enforcement of ordinances, to eliminate antiquated or irrelevant ordinances, to add striping at all intersections and to eliminate unnecessary noise.

Seymour Karas, 11 Lamring Drive wondered if the new larger street signs in that have been installed at various locations will be installed throughout the town. Manager Sacks advised that they are being added intersection by intersection. She has included money in the capital budget request to continue the project. She does not know when it will be completed. Mr. Karas asked that the Council push the Council to have the signs installed at River Road and Fair Lawn Avenue and River Road and Berdan Avenue. Mayor Ganz asked Manager Sacks to get a timetable from the County.

Mr. Karas continued that the plastic membrane on Shop Rite's property on Richard Street should be removed. It has been there six months. There is no purpose for it and it is ugly. Manager Sacks advised that the Borough Engineer has communicated with Mr. Inserra on many items and this is one of them. Mr. Karras then asked about the broken sidewalk and the wall on Richard Street.

Don Oliver, 8-32 Mitchell Place and a member of the Homeowner's Association, asked for the salary of the public advocate's position. Mayor Ganz replied that they have not established it, but he thought it was going to be \$5200. The bulk of the cost should be paid for by the applicant.

In response to Mr. Oliver's question, Mayor Ganz explained that the flexible spending program is voluntary and will cover items that are not completed covered by the medical insurance. The funds must be spent by the end of the year or in the first ninety days of the following year. Councilmember Amato added that this is not a unique plan. It is quite common among businesses that offer quality benefits to their employees. Attorney Lustgarten added that the Borough does not mandate the amount so the employee can make sure that the amount in the plan is spent. It allows nontaxable dollars to be used to pay for the services. Mayor Ganz concluded that the Borough does not have to pay FICA so there is a savings for both the Borough and the employees.

Mr. Oliver then asked for an update on Shop Rite. Manager Sacks advised that Shop Rite is moving ahead with the requests the Borough has made. They still have to go to the Construction Board of Appeals in March. They are complying with the resolution and the other items that they have been asked to do. They still have a temporary certificate of occupancy. Walgreens has met every requirement but the entire site including Shop Rite must be finished.

Mr. Oliver concluded by asking when the Council meetings will be on cable. Mayor Ganz responded that the Municipal Clerk advised them that the cabling should be completed in the next few weeks. A protocol still needs to be drafted.

Al Placa, 38-12 Pellington Drive expressed concern that at the work session the Borough Manager indicated that department heads do not want to put everything in writing and that she wanted to filter the information. The Council was elected by the people and the department heads including the Manager work for the Council. Manager Sacks assured Mr. Placa that everything required to be put in writing is being done. They were discussing those items that are not required to be in writing. The staff was concerned that the documents were not secure. Mr. Placa felt everything should be in writing.

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

Mayor Ganz announced that there would be no Closed Session this evening,

#### Planning Board Matters:

Mayor Ganz advised that there was an error in the action of the Council at their reorganization meeting in the naming of the two alternate members. It was said correctly, recorded correctly by the Municipal Clerk and then when reduced to a resolution there was a scrivener's error. The names were reversed. Phil Plotch should have been Alternate I and Joseph Schembri should have been Alternate II. Letters of resignation have been received from Mr. Plotch and Mr. Schembri. He proposed appointing Mr. Plotch as Alternate I and Mr. Schembri as Alternate II which was the Council's original intention.

Attorney Lustgarten recommended accepting the resignations and then making the appointments for the expiration of the terms.

Mayor Ganz noted that Mr. Plotch, thinking that he was the Alternate I, voted as Alternate I at the Planning Board meeting last evening and Mr. Schembri did not vote. Attorney Lustgarten advised that any action taken by that Board is a nullity and must be redone.

Upon motion by Deputy Mayor Adler and a second by Councilmember Etlar the resignations of Mr. Plotch and Mr. Schembri were unanimously accepted.

Mayor Ganz announced that there are two vacancies on the Planning Board.

Upon motion of Deputy Mayor Adler and a second by Councilmember Amato Resolution No. 47-2000 appointing Philip Plotch as Alternate I and Joseph Schembri as Alternate II to the Planning Board was unanimously passed.

Mayor Ganz requested that Attorney Lustgarten send a letter to the Planning Board and that Municipal Clerk Kwasniewski convey the Council's appreciation to the two gentlemen for their understanding.

Upon motion by Deputy Mayor Adler and seconded by Councilmember Amato it was unanimously agreed to adjourn at 8:50 p.m.

Respectfully submitted,

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