

WORK SESSION OF JUNE 14, 2000

Mayor Ganz called the meeting to order at 7:45 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: Manager Sacks, Municipal Clerk Kwasniewski and Attorney Lustgarten.

Proclamations: Flag Day and 225th Anniversary of the United States Army - Mayor Ganz advised that President Clinton issued the two proclamations and urged municipalities to do the same. He issued the two proclamations and presented them before the meeting.

Coffee with Council - This function will be held Sunday, June 25 at 2:00 p.m. at the Senior Citizens Center.

Date for Capital Budget Review - A special meeting was scheduled for 6:00 p.m. Tuesday, June 27, 2000.

Summer Meeting Schedule/Vacation Schedule - Municipal Clerk Kwasniewski advised that work sessions will be held July 11 and August 15 and the regular meetings will be July 18 and 22. She distributed forms for the Council to complete indicating their vacation schedule.

Announcement re Property Maintenance Issues Regarding Nonowner Occupied Homes (Rentals) - Municipal Clerk Kwasniewski announced that George Bate was unable to attend this meeting. He will attend the July 20th meeting.

Change Orders - Manager Sacks advised that they received four change orders from the Borough Engineer. Two are decreases in the contract amounts - Hockey Court by \$500.00 and River Road Improvements by \$12,247.70. The Barrier Free Ramps and Curb Replacements contract is increased by \$4,800.00. The contract with Killam Associates for engineering services for the SCADA System ended in May. The Borough Engineer needs his services through the end of August which will cost \$9500. The construction of this project was supposed to be have been completed in May but the project is going slowly. It will not be completed until the end of August.

The consensus was to approve the change orders at the June 20 meeting.

Flexible Spending Account (Cafeteria Plan) - Manager Sacks recommended that the Borough use Horizon as a third-party administrator instead of CFO Eccelston. The cost the first year is \$2000 and \$400 for the processing. Next year it will probably be between \$1600 and \$18000 based on the size of the group. Councilmember Etler asked if there was an escape clause if the program does not work out. Manager Sacks advised that the Borough can discontinue the program anytime. Attorney Lustgarten wondered if the Borough will still have to pay the fee if no one signs up. He recommended no more than a one year term so that the Council can review it. On January 6 he wrote a memorandum pointing out that an appeals committee is needed on the dependent care aspect of the plan. That has not happened yet. Manager Sacks will see what other public entities do. Mayor Ganz thought it should be a three-person committee of the Council although Attorney Lustgarten did not think that was a good idea because it interjects the Council into personnel.

The consensus was to enter a single year agreement with a 30-day cancellation clause with Horizon.

Attorney Lustgarten felt a professional services resolution was required. Manager Sacks pointed out that it was under the bid limit and the Borough has never done a resolution for health plans. CFO Eccelston did not think they needed a resolution. The Council agreed to have a professional services resolution for June 20.

Handicap Parking at Radburn School - Manager Sacks spoke to the Superintendent of Schools concerning the Borough's recommendation to make the parking space at the top of the ramp a handicap space. He agrees and is making a recommendation to the school board.

School Bus Parking Lot Ordinance - The draft was circulated to the various departments. The Planning Board had comments. Attorney Lustgarten asked the Planning Board attorney to draft language and send it to him to review. He has not received anything. Municipal Clerk Kwasniewski was asked to send a letter to the Planning Board attorney to have the draft language to her and Attorney Lustgarten within one week. Mayor Ganz asked Manager Sacks to advise the Departments that the Council is going to proceed by the end of this month with or without their input.

Plaza Road North Parking - Manager Sacks received a letter from the attorney representing the Plaza Road Coop which is

different from Park Hill Condo requesting overnight parking. Mayor Ganz pointed out that Attorney Lustgarten has rendered his legal opinion that needs to be discussed in Closed Session.

Manager Sacks noted the other part of this issue is what to do about the people who had parking before the Foster Garages were demolished. She recommended approving the parking in front of their houses and the tennis courts. Their situation is entirely different. They have not added cars. They have lost their parking spaces.

Councilmember Etlar felt that this particular situation is unique in Fair Lawn. They need relief. He is very much against over night parking on the street, but this situation is different. Deputy Mayor Adler advised that she has received calls from residents who would like to see a change in the concept of not allowing overnight on-street parking. The Council needs to be very careful and must have a very good explanation for the community. They need to understand that this is a good idea for this one instance. Councilmember Amato asked why this situation is different. Councilmember Etlar explained the apartments were built without parking spaces. Attorney Lustgarten disagreed with Councilmember Etlar and the Manager because it needs to be an all or nothing approach. This is not going to be an isolated case. He felt this will have the same domino affect that 8:00 a.m. to 10:00 a.m. parking restrictions had. Councilmember Amato thought the overnight parking ordinance was a significant ordinance in the Borough. It defines Fair Lawn. Mayor Ganz felt it was a quality of life issue. This matter will be discussed further in Closed Session under Attorney/Client privilege.

Mayor Ganz was excused at 8:20 p.m. and Deputy Mayor Adler assumed the chair.

Upon a motion by Councilmember Amato and a second by Councilmember Etlar the work session was recessed until 8:30 p.m.

Deputy Mayor Adler reconvened the meeting at 8:35 p.m.

Cooperative Parking Plan/Dr. Kaner's Lease/George Street) - Don Smartt, Lenny Bier, members of the River Road Improvement Corporation and Robert Gordon, Arthur Levine, Douglas Carlson and Bob Beshelin, Dennis LaHiff and Mary and William Albert were present. Three things were before the Council for review, the cooperative parking plan, Dr. Kaner's lease of two parking spaces at the Arts Center and the George Street parking lot and how that would impact with the parking plan on River Road.

Mayor Ganz resumed the chair at 8:40 p.m.

Mr. Bier explained that there are many alternatives on how to handle the cooperative parking. He felt a parking utility was the entity that would serve both Fair Lawn and the RRIC. It is an independent entity so the Council retains control and makes final decisions. The body that creates the utility can dissolve it. The utility can be created so that the parking system belongs to the Borough and use RRIC's Board of Trustees as commissioners. He thought a parking utility could accomplish what needs to be done at a minimal cost. They probably would need a parking enforcement officer to issue tickets for parking violations.

He explained the financial mechanisms including contributions from the SID; contributions by those who are short on parking; fees for required maintenance and donations of resources of the Borough. He explained how the Fort Lee plan works.

Deputy Mayor Adler indicated that her major concern is liability. Mr. Bier explained that the liability resides with the utility or whatever entity that manages the parking. Some municipalities insure the lots through the Joint Insurance Fund.

Mr. Bier explained that once the parking system is created, it should be a product of the public policy. The Council will be directly responsible for setting the policies. If another entity has control, they will set the policies. Mr. Smartt noted that the primary benefits are shared by the customers and the residents not just those who own or operate a business.

Bob Gordon pointed out that Fair Lawn will not have a viable refurbished area unless there is a partnership of the business community and government. There are benefits shared by both entities. A renewed River Road will benefit every taxpayer with new ratables and every resident who wants a convenient pleasant place to shop as well as the business owners. Resources should be shared to benefit everyone.

Mr. Smartt noted that in 1986 the Planning Board first talked about shared parking on River Road. This is not RRIC's idea. They have worked with two administrations to try to put the details on a concept generated in 1986. Through a variety of municipal entities the Borough has responsibility of managing parking areas. For the last two years RRIC has said that they will work with the Borough. If the Borough wants to do it alone, they can use the system already in place. They do not have to create a utility or authority. On the other hand instead of having to do it all by themselves, they can do it through a utility that is the least costly method while still maintaining Borough control. They estimate it costs \$1400 to create a parking space from bare land. The Council can create a utility to make it more effective.

Manager Sacks pointed out that the Borough operates a parking system but it is on public land. On River Road the Borough would be operating a parking system on private land. Attorney Lustgarten thought there was a difference between municipal owned and controlled lands for commuter parking compared with patron parking lots.

Mr. Gordon stated during the ten years he was on the Council commuter parking was an issue. They made a decision that providing commuter parking was essential to keep Fair Lawn an attractive place to live and work. He thought the Council needs to consider whether stimulating economic development in the community is a desirable goal and important to the continuing vibrancy of the community. If it is, they should consider trying something new like a parking utility that would operate on land owned by another entity. This is a new issue that needs to be addressed and requires a new instrument to achieve their goals.

Councilmember Etlar noted that he identified thirteen places where there could be designated parking with appropriate signage. He did not think creating a utility is a good idea. RRIC can get the approvals of the owners, put lines on it and put signs on it and that would be more than adequate. He thought RRIC should go to the owners and get their permission. He listed the areas with which Mr. Smartt noted that RRIC agrees. Councilmember Etlar stressed that the Fire Department does not want their lot included.

Mr. Gordon commented that the report showed a surplus of 207 spaces. What they need is a legal mechanism to allow the parking to work to even out the supply and demand. Some lots are used completely while others are empty. They are meeting with the Fire Company #1 tomorrow evening to explore this matter with them. They are not aware of the financial gains that might be available to them.

Dennis LaHiff asked if anything could be done when someone refuses to participate in the parking plan. Mr. Bier noted that a utility can condemn the interest in the property that would be similar to a utility easement.

There was a discussion about the effect of the cooperative parking plan on approved site plans with Attorney Lustgarten believing that a cooperative parking plan would not supersede a prior approval by the Planning Board.

Attorney Lustgarten asked why RRIC would not be the appropriate vehicle to manage the cooperative parking agreement. Mr. Bier replied that it would be too cost prohibitive since the Borough does not want parking meters. Mr. Smartt advised that RRIC's does not want parking meters, although Mayor Ganz thought they should not be too quick to dismiss that idea. Mr. Smartt continued taking on the full burden of operating the parking system is not acceptable to RRIC. It has to continue to be a public private partnership. Councilmember Etlar noted that the Borough has already spent \$493,000. Mr. Gordon felt the Council would not want RRIC, which is a private sector entity, running everything because there are public benefits to a vibrant rejuvenated River Road that enure to everyone in the community. This project should be a shared enterprise.

Mr. Smartt indicated that RRIC did not recommend that the Borough do it all itself. They are willing to work with the Borough in a fair and equitable contributory matter to operate shared parking in the best interests of everyone on River Road. In his experience, the easiest and least expensive way to handle insurance liability is to relieve the individual and share it with the municipality.

Councilmember Amato wanted to know why they want the Borough involved. He did not understand why the people who own the property collectively did not come together to get the proper permission to have the barriers removed. Mayor Ganz replied that there is no unanimity along River Road and some landlords have no sense of communal good or interest.

Attorney Lustgarten added that legal mechanisms exist that would allow cooperative parking and not involve the Borough. The reason to come to the Borough is the wherewithal is not there. Mayor Ganz added that in reality that would mean forty-seven separate contracts looked at by forty-seven separate attorneys.

Mr. Smartt advised that more than twenty applicants have come before the Planning Board and have been required to acknowledge that they will participate in the cooperative parking plan. The Borough owns 25% percent of the existing parking now. The priority is to get the agreement in place. One property owner has now reneged.

Dennis LaHiff explained that Mary Albert owns a piece of property that is landlocked. She has consented to the cooperative parking plan. The Bagel Store previously agreed to the plan but has now said they will not do it. Meanwhile there is a question of what can be done to make a recalcitrant owner comply. Mayor Ganz thought that revoking the Certificate of Occupancy was possible. Mr. LaHiff continued that Mrs. Albert has deposited \$14,520 with the Borough. He wanted to know when the plan is going to be implemented or when can she get her money back. Mayor Ganz replied that he has promised that it will be this year.

Manager Sacks advised that if they adopt an ordinance and the agreements are in place there is another alternative. The Borough can take on certain responsibilities; i.e., enforcement and then SID pays for that officer. The SID would do the management rather than the Borough.

Attorney Lustgarten felt the Council has to decide if the Borough will take it over either through a utility or self-governing, the Borough will not take it over completely but will take over some responsibility or the Borough will not take over any of the responsibility. He cannot draft an ordinance until the Council decides conceptually which direction they wish to go. Councilmember Amato wanted to know how much it was going to cost the taxpayers. Mayor Ganz thought it was more than how much it is going to cost the taxpayers. It is how much it is going to cost RRIC, the tenants and landlords who want to buy the Borough spaces. Deputy Mayor Adler disagreed. The Council needs to decide whether it wants to go ahead with cooperative parking. She believes that neither side should take full responsibility. She would not want it to go forward without some fee from people on River Road. The Borough does not have to pay for it all.

Mr. Smartt advised that RRIC has contracted with Mr. Bier at RRIC's expense to develop the numbers. Mr. Smartt suggested a task force of Mr. Bier, the Borough professional staff and RRIC members to develop the numbers and answer the questions. Mayor Ganz thought the entire Council had to remain involved to bring this to a resolution. Councilmember Amato thought the idea of cooperative parking was good, but he would not vote for anything that involves extensive amounts of Borough money.

Mr. Gordon stressed that RRIC is not asking the Borough to take over the whole burden. They are looking for a sharing arrangement.

Mayor Ganz thought the Council needed to have hard numbers on what it is going to cost for insurance, the cost of ongoing maintenance and daily maintenance and who is going to be responsible for that maintenance and the capital costs of the construction and what the role of Fire Company #1 is and if it is critical to the plan.

Mr. Gordon stated he did not think that Fire Company #1 was aware of the possibility of a revenue stream. Fire Company #1 is not critical to the plan.

The consensus was that Mr. Bier continue to draw upon Borough professionals to draw up the cost.

Mr. LaHiff asked for a timetable. Mayor Ganz advised that they will resolve this matter in this calendar year. Mr. Smartt indicated that they would be back to the Council in thirty days. Mayor Ganz noted that he would be willing to devote another meeting to focus on this issue. Attorney Lustgarten suggested that RRIC present what it is willing to contribute.

The consensus was that RRIC would come back to the Council in thirty days.

Attorney Lustgarten reminded the Council that Dr. Kaner's lease has expired. Mayor Ganz suggested that it be renewed on a month to month basis pending further discussion. Dr. Kaner has agreed to sign any cooperative parking agreement. Attorney Lustgarten advised that the Council needs to adopt a resolution authorizing the extension of the lease for two parking spaces.

The consensus was to extend the lease. A resolution will be prepared for the June 27 meeting.

Charlie Rubel noted that cooperative parking is a long term benefit to the Borough in additional ratables and services. It is not an easy process. Most of the people involved are very much in favor of a cooperative agreement provided there are reasonable shared efforts on both RRIC's part and the Borough.

Mr. Bier concluded by advising that he has had outstanding cooperation from the Borough staff for which he was grateful.

Closed Session Resolution - Upon motion by Councilmember Etlar and a second by Councilmember Dobrow the following closed session resolution was unanimously adopted at 10:25 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 desire to discuss pending litigation, attorney/client privilege and personnel; and

WHEREAS, these matters permit 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 concerning pending litigation within thirty days and on attorney/client privilege when the Council either adopts an ordinance relating to off street parking or announces that there will be no change in policy and relating to litigation strategy not all and personnel at the time of the appointment;

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.

ADJOURNMENT - Upon motion of Deputy Mayor Adler and a second by Councilmember Etlar the meeting was adjourned at 11:30 p.m.

Respectfully submitted,

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

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