

## SPECIAL MEETING OF JUNE 20, 2000

Mayor Ganz opened the meeting at 7:45 p.m. Municipal Clerk Kwasniewski read the following statement of compliance:

In accordance with the Open Public Meetings Act, notice of the special meeting of the Borough of Fair Lawn was published in the "The Record" issue of June 15, 2000. 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 notice identified the meeting location and the time.

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

ABSENT: Councilmember Etlar

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

PRESENTATION: Hirschklau Lane

Mayor Ganz presented the resolution of the Council naming a street in Block 3723, Lot 12 as Hirschklau Lane with a small version of the street sign to Mrs. Hirschklau.

Mrs. Hirschklau thanked the Council for this a marvelous honor and recognition. She and Mort had a wonderful life in Fair Lawn.

Attorney Lustgarten commented that Mort Hirschklau was his immediate predecessor. The transition was as smooth as it could be. Mort was a great asset to the Legal Department and to the entire Borough.

Deputy Mayor Adler arrived at 8:50 p.m.

### ORDINANCES: SECOND READING

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

Ordinance No. 1803-2000

AN ORDINANCE AMENDING AND SUPPLEMENTING SECTIONS 24-1, ET SEQ., 25-1 ET SEQ., AND 26-1 ET SEQ. OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FAIR LAWN TO AMEND AND SUPPLEMENT MISCELLANEOUS FEES - FOOD HANDLERS LICENSE/MINOR SITE PLAN AND SUPPLEMENTAL REGULATIONS (MINOR SITE PLAN APPROVAL)

Mark Meyerwitz, owner of the Simply Delicious Bake Shop on Saddle River Road, wanted to be sure that he understood the ordinance correctly and that if he sold his business the buyer would have to appear before the Planning Board. Mayor Ganz explained that if the buyer wanted to be in the business of handling food he would have to go to the Planning Board. The present ordinance requires an appearance before the Board. This ordinance requires that notice would have to be given of the application. He felt that in most cases the public will not appear. Mr. Meyerwitz wanted know why adding a burden to the business owners is necessary. Mayor Ganz pointed out that notice to the public is the essence of government. The people have the right to protest or support the applications and they cannot do that if they do not have notice. Deputy Mayor Adler assured him that this ordinance was not punitive. It is giving the neighbors the opportunity to speak before the change occurs. Attorney Lustgarten added that the amendment makes sure that the people in the affected areas know what is happening in the neighborhood and have the opportunity to come before the Planning Board and comment. The Board makes the ultimate administrative decision. The only change in the ordinance is that the public will now be aware of the change in ownership of the business. He thought most people would not care if the business is the same. He concluded that he did not think it will be that restrictive.

There being no further comments by 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.

Attorney Lustgarten announced that the Council received a memo from the Planning Board that a majority of the Planning Board does not agree with the ordinance. The Mayor and Council is adopting this ordinance over the recommendations of the majority of Planning Board. The Council feels public notice is appropriate so that the people most affected would have the opportunity to come and object or not. Mayor Ganz added that notice is the fundamental principle of how democracy works. Appreciating that the Planning Board wants to move its calendar, he thought Councilmember Etlar's proposal would not seriously impede the way the

Planning Board operates. It is important for the public to be made aware of changes in ownership and to have the opportunity to offer appropriate neighborhood input.

Upon motion by Deputy Mayor Adler and a second by Councilmember Dobrow Resolution No. 193-2000 adopting Ordinance No. 1803-2000 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 and open the time for public hearing.

Ordinance No.1804-2000

AN ORDINANCE AMENDING ORDINANCE No. 1781-2000 ENTITLED "AN ORDINANCE CREATING THE POSITION OF PUBLIC ADVOCATE TO THE PLANNING BOARD AND PUBLIC ADVOCATE TO THE ZONING BOARD OF ADJUSTMENT, AND OTHER PURPOSES"

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.

Mayor Ganz stated that the Council adopted the public advocate ordinance earlier this year. The first time it was triggered was the Scholastic Bus matter. The public advocate had a conflict because one of the attorneys was a relative. The ordinance had not contemplated conflicts. This ordinance provides for alternate public advocates in the case of conflicts. Ron Mondello, Esq. has been named the public advocate in this instance. He will be paid under the salary ordinance and if, for some reason, the applicant does not pay, the Borough will pay him.

Upon motion by Deputy Mayor Adler and a second by Councilmember Amato Resolution No. 194-2000 adopting Ordinance No. 1804-2000 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 open the time for public hearing.

Ordinance No.1805-2000

AN ORDINANCE AMENDING ORDINANCE No. 1786-2000 ENTITLED "AN ORDINANCE FIXING THE SALARIES OF CERTAIN EMPLOYEES OF THE BOROUGH OF FAIR LAWN, BERGEN COUNTY, NEW JERSEY, AS AMENDED"

Attorney Lustgarten explained that this ordinance establishes the salary for the alternate public advocate.

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 Amato Resolution No. 195-2000 adopting Ordinance No. 1805-2000 was unanimously passed.

RESOLUTIONS BY CONSENT #12-2000

Upon motion by Deputy Mayor Adler and a second by Councilmember Dobrow, Consent Agenda #12-2000 containing the following items was unanimously adopted.

- a. Resol. #196-2000 Change Order - Barrier Free Ramps and Curb Replacement
- b. Resol. #197-2000 Change Order - Hockey Court
- c. Resol. #198-2000 Change Order - River Road Improvements
- d. Resol. #199-2000 Extension of Contract - Killam Associates (SCADA)
- e. Resol. #200-2000 Confirming Appointment as Alternate Public Advocate
- f. Resol. #201-2000 Professional Services - Flexible Spending Account

RESOLUTION No. 202-2000 Change Order - Roadway Improvements 1999

Upon motion by Councilmember Etler and a second by Deputy Mayor Adler, Resolution No. 202-2000 was passed.

## ADJOURNMENT

Upon motion by Deputy Mayor Adler and seconded by Councilmember Amato, it was unanimously agreed to adjourn to work session at 8:15 p.m.

Respectfully submitted,

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

## WORK SESSION OF JUNE 20, 2000

Mayor Ganz reconvened the meeting at 8:25 p.m.

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

ABSENT: Councilmember Etler

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

Review of Tentative Agenda - Municipal Clerk Kwasniewski explained the transfer of liquor license at Trakside Grille that is really an expansion of premises. The applicant will be present at the Council Meeting if the Council has any questions. Manager Sacks explained that the Broadway Advisory Committee will distribute the report, give highlights and ask the Council to review it over the next few months. The Council agreed that they would accept the report, read it, send it to the Planning Board and then invite the Committee to a Council meeting to answer questions. Municipal Clerk will advise Councilmember Etler and Chairman Tredigo how the Council plans to proceed. A copy will be placed in the Library.

Property Maintenance Issues Regarding Nonowner Occupied Homes (Rentals) - George Bate, chairman of the Property Maintenance Committee presented recommendations of the committee. He discussed problems with absentee landlords and property maintenance. They would like an annual registration with the name, address and telephone number of the owner of the property.

Mayor Ganz explained that landlords are currently required to file a statement with the Municipal Clerk. Unfortunately, they do not always do it. They cannot evict a tenant if the statement has not been filed. Attorney Lustgarten added that the tax assessor's record list every owner of property. The problem is that there is no incentive for landlords to comply with the Landlords Registration Act. There should be a penalty that could become a lien on the property. Through an in rem proceeding in the event the property is ever sold the Borough would collect. He asked about the number of instances where this is a problem.

Mr. Bate did not know the numbers but he felt there were many problems. It sometimes takes months to find someone. Manager Sacks noted that when a bank is involved they notify the bank and they generally resolve the problem because banks do not want liens on their property.

Attorney Lustgarten will review the existing ordinances and give a summary with a recommendation. The consensus was for Attorney Lustgarten to draft a statement that in the absence of landlords tenants are responsible for maintenance. The Manager is to put the statement on the web site and cable channel.

Salary Survey Analysis - Mayor Ganz was impressed by the depth of the survey, the information contained and the comparisons. He thought it was very worthwhile. Councilmember Amato noted that Fair Lawn was one of the twenty-three municipalities that did not respond. He did not think the Chief Financial Officer should take it upon himself not to respond to this type of survey. He did not think it was a great deal of work to send in this information.

The consensus was that the Chief Financial Officer will fill out the salary survey and to be responsive to the League of Municipalities.

Councilmember Amato also thought that the Council should be receiving copies of financial notices that the Local Finance Board sends out.

Councilmember Amato explained that the source for his data was the League of Municipalities salary survey. He did not know if

the salaries included longevity. Manager Sacks pointed out that many people included in the survey have multiple titles. Some municipalities do not give separate salaries for each of these titles. The salaries do not take into account staff.

Deputy Mayor Adler noted that while she was aware that departments differ from municipality to municipality, the survey gives some type of framework. Councilmember Amato stated he wanted to know how they compared with municipalities in the area. He would like to have someone go further with this survey. The numbers are in a data base. Deputy Mayor Adler would like some qualitative comparisons.

Manager Sacks asked what the Council is trying to achieve. She suggested focusing on the services and the comparable demands for services. Attorney Lustgarten suggested comparing per capita costs. Mayor Ganz asked the Council to identify general categories they would like to have explored, i.e., cost of waste haulers per capita. Manager Sacks would then review them. The Council would then decide which municipalities and who will have the task of getting the information. This item will be on the July 11 agenda to discuss the list of categories.

School Bus Parking Lot Ordinance - Attorney Lustgarten advised that he looked at the changes from the Planning Board attorney which he could incorporate into the draft ordinance. No information has been received from the Fire Department or the Engineer. Mayor Ganz did not want to wait any longer to introduce this ordinance.

The consensus was to introduce the ordinance on June 27.

Range Road - Manager Sacks advised that she received a request from the owner of the property next to Tanis to stripe Range Road properly. The complaint was about the lack of enforcement of the traffic laws because they have not properly striped the road. She is going to look into the matter. Mayor Ganz thought that Range Road was a paper street and not a legal road.

Presentation to Lewis Sprechman - Mayor Ganz advised that Lew Sprechman is retiring to Florida. He thought that having a proclamation to acknowledge his service to the Borough was appropriate. He asked the Council to rename Parmelee Avenue for the week of June 27.

The consensus was to do a resolution and a proclamation for June 27. Manager Sacks will invite the Sprechmans to the meeting.

Schutz Retaining Wall - Manager Sacks circulated the request from Mr. Schutz to have a retaining wall on the Borough's right-of-way. Mr. Schutz put in a drainage pipe which will put water onto the pathways that has to be change. The retaining wall meets the requirements for the rear yard setback. Attorney Lustgarten noted that Mr. Schutz says the wall is going on the Borough property. The footways are not Borough property. He wanted a diagram showing exactly where the wall is located. Mayor Ganz advised that Radburn gave him permission to build a wall on his property. It appears to be on the line with all the other houses on that side. A sewage easement is underneath. Attorney Lustgarten advised that the Council can allow the encroachment on the sewer easement. If the Council requires him to remove the retaining wall to get to the sewer line, the wall will be destroyed. He was not sure what the remedy is to allow this request. The issue is whether it is Borough property or Radburn property. The only authority the Council has is to allow the license agreement on Borough property. Manager Sacks noted one of the footpaths included in the Borough's grant application is next to the retaining wall. The Borough may be disturbing that wall in the reconstruction of the pathways. Mayor Ganz thought that as a condition to the agreement Mr. Schutz would have to allow any construction that is necessary and if the wall is damaged, he has to repair it at his sole cost. The wall is substantially built, but a stop work order was issued because he did not do what he said he was going to do. Attorney Lustgarten wanted to know from Engineering whether the encroachment is beyond Borough property.

Mayor Ganz added that the drainage pipes come out into the sidewalk that is a major problem in the winter. They have to be removed. He thought there was a way to handle this so they are not addressing the ownership of this footway. Radburn believes that they dedicated the footpaths and gave them to the Borough in the 1920's or 30's. The Borough does not appear to have a record. The Borough and Radburn have submitted a joint application to improve the footpaths. Attorney Lustgarten added that Radburn has maintained these paths for more than seventy years. The concept that they are Borough footpaths only came up when a law suit was started several years ago. The ultimate outcome of that suit was that Radburn was liable not the Borough.

This matter will be referred to Engineering for a definitive statement on where this is supposed to be built.

The consensus was that if this is on the Radburn footpath and over the Borough's sewer easement, the Council will require compliance will all Construction Codes, removal of the drainage pipes from the sidewalk, but will allow the person to install the retaining wall if he gives access to the Borough and that it never costs the Borough any money.

Update on Recodification of Ordinances - Municipal Clerk Kwasniewski advised that she sent the Code Company what she considered errors on their part that they will fix at no cost to the Borough. She also asked for an estimate for the changes that the

Planning Board has asked for before adoption of the Code. She expects that estimate sometime this week. The Department Heads have also submitted requests for changes. Some require policy calls. The Council will have to look at them and do technical amendments later this year.

The consensus was to authorize the Municipal Clerk to get the changes made so that the Code can be introduced as soon as possible and to add the public advocate portion of the land use law as adopted this evening and that the Municipal Clerk is authorized to use her budget and the Council's budget if necessary. The Council's intent is to introduce the ordinance in July.

Request by Shotmeyer to Purchase Block 3517, Lot 21 - Attorney Lustgarten explained that this strip backs up to Erie Railroad property. The Borough said they would be willing to sell this piece of property. He could not verify title. There was a street vacation by ordinance but Attorney Lustgarten has been unable to find a deed into the Borough. He wanted to know if the Council wanted to go the expense of a title search. He does not know if they are still interested in purchasing the property. Mayor Ganz suggested a quit claim deed.

The consensus was to have Attorney Lustgarten ask Shotmeyer if they wish to proceed and if they do, the Borough will hold an auction and give them a quit claim deed with a minimum price that was already established.

Attorney Lustgarten will report at the July 11 meeting.

Maple Avenue Deed Restrictions (Turano & Johnny & Hanges) - Attorney Lustgarten explained that there is a 75-foot strip owned by the Borough acting as a buffer to the ball fields. They granted one property owner a 20-foot easement over that strip. Two more requests have been received to park on the Borough owned property. He recommended that if the Council intends to allow them to use the strip there should be a lease agreement and there should be some equity of treatment. He thought the other lease agreement included an annual payment of \$3,000.

Manager Sacks thought they should only be allowed to use the strip for parking not for any building purposes. Mayor Ganz thought the Borough should offer it all at the same time. They would have to enter a cooperative parking agreement.

The consensus was to have Attorney Lustgarten contact all the property owners involved advising them that the Council would be willing to lift the restriction if there is a cooperative parking agreement and for a fee to be determined. Attorney Lustgarten will report to the Council on July 11. Manager Sacks will ask Engineering for a reasonable lease price.

Closed Session Resolution - Upon motion by Deputy Mayor Adler and a second by Councilmember Amato the following closed session resolution was unanimously adopted at 10:25 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 personnel and attorney/client privilege; 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 personnel at the time of the appointment within 60 days and on attorney/client privilege general subject matter only not legal strategy relating to the issue of equal protection and on-street overnight parking; and

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.

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

B4/B5 Changes - Mayor Ganz suggested that since the requirement to come before the Planning Board when there was a change in tenancy was a mechanism to require people to sign the cooperative parking agreement, they provide a waiver if they have already agreed. The fees would also be waived. Manager Sacks pointed out that if the same property were outside the SID, there is no requirement to come before the Planning Board on a change in tenancy. RRIC feels the landlords are being penalized for being in the SID. Mayor Ganz thought this would resolve an issue that has the entire River Road business community upset.

This matter will be on the July 11 agenda.

ADJOURNMENT - Upon motion of Councilmember Dobrow and a second by Deputy Mayor Adler the meeting was adjourned at

10:55 p.m.

Respectfully submitted,

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

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