

**SPECIAL MEETING OF MAY 9, 2000**

Mayor Ganz called the meeting to order at 7:35 p.m.

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

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

**PROCLAMATION: OLDER AMERICANS' MONTH**

Municipal Clerk Kwasniewski read a proclamation proclaiming May 2000 as Older Americans Month. Mayor Ganz presented the proclamation to June Schwartz, Director of the Senior Citizens Center and several representatives of the Senior Citizens Clubs.

**RESCINDING ORDINANCE**

Upon motion by Deputy Mayor Adler and a second by Councilmember Etlar, it was unanimously agreed to rescind Ordinance No. 1782-2000.

**ORDINANCES: FIRST READING**

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

Ordinance No.1800-2000  
(Resolution No. 158-2000)

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

Upon motion by Deputy Mayor Adler and a second by Councilmember Etlar, Resolution No. 158-2000 introducing Ordinance No. 1800-2000 was discussed.

Mayor Ganz stated that they are introducing this ordinance to replace the ordinance the Council just rescinded. After adoption the Borough will have an ordinance in place that legally, properly and constitutionally regulates tattoo parlors.

Hearing no further discussion, Resolution No. 158-2000 introducing Ordinance No. 1800-2000 was unanimously passed.

**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 open the time for public hearing.

Ordinance No.1799-2000  
(Resolution No. 159-2000)

**AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FAIR LAWN, 1981, BY AMENDING AND SUPPLEMENTING CHAPTER XXVI "ZONING", SUBSECTION 26-6-13 USES PROHIBITED IN ALL DISTRICTS TO ADD FARMERS MARKET**

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. 159-2000 adopting Ordinance No. 1799-2000 was unanimously adopted.

Mayor Ganz announced that he was delighted that they were able to accomplish this so quickly so that there will be a Farmer's Market that all residents will be able to attend. Deputy Mayor Adler added that the Farmer's Market, sponsored by the Chamber of Commerce, will be open Mondays all summer. Mayor Ganz noted that it will be held at the Van Riper Ellis Church.

#### RESOLUTION NO. 163-2000 APPROVING STREET NAME BLOCK 3723 LOT 12

With the permission of the Council, Mayor Ganz relinquished the Chair. Deputy Mayor Adler assumed the Chair.

Upon motion by Mayor Ganz and a second by Councilmember Etlar, Resolution No. 163-2000 was considered.

Mayor Ganz explained that they are naming this street for Mort Hirschklau who served the Borough with distinction for many years in many official capacities and many unofficial capacities. His early death saddened the Council. This will be a permanent reminder to the people of the Borough of Fair Lawn that Mort Hirschklau spent his life in Fair Lawn. He was pleased to offer the resolution.

There being no further comments by the public, Resolution No. 163-2000 was unanimously adopted.

Mayor Ganz resumed the Chair.

#### PUBLIC HEARING ON BUDGET

Upon motion by Deputy Mayor Adler and a second by Councilmember Etlar it was unanimously agreed to open the time for public hearing.

Jill and Joe Bonamarte 39-27 Pellington Drive asked about the sewer on Pellington Drive. Mayor Ganz advised that it is not reflected in this

budget. It is reflected in the capital budget. Funds are in the capital budget to resolve this problem. Manager Sacks advised that \$50,000 is included in the capital budget so that the sewer can be connected.

Leon Wender, 7-22 Manor Avenue, questioned the need for outside help since the Borough has a Shade Tree Department, a Roads Department and a Parks Department. He suggested using part timers. Mayor Ganz advised that the Council has found that it cannot manage to trim and remove the trees. It is less expensive to contract out than adding employees. Councilmember Etlar added that the Borough has taken down 200 years and contracting out another 200. Attorney Lustgarten noted that the taking down trees requires a certain amount of skill. Finding part timers to do that kind of work safely would not be possible. Manager Sacks explained that they do some painting but the Borough does not do the therma plastic so they have to be repainted. It is more cost effective to use the therma plastic paint. The Borough does not have the equipment. It is much more cost effective to hire someone else to do it. CFO Eccelston advised that the Borough does all its own lawn cutting. No cutting is done by an outside contractor.

Scott Levy, 2-19 Lyons Avenue expressed concern that the trees are not being replaced. He asked how much was included for the replacement of the trees.

Bob Landzettel, representing the River Road Improvement Corporation raised the issue of the \$75000 that they had asked the Council include in the budget to complete the cooperative parking plans. RRIC has included \$7500 in their

budget as they did in the prior year. They are asking the Borough to share in this expense to finalize the plan. Specialized help is needed, particularly legal help to frame the agreements necessary and engineering assistance to determine the cost of creating the shared parking. The District itself raised \$116,000 from the SID members, \$25,000 from the trustees' contributions. They asked the Borough to set aside \$7500 for this purpose. Councilmember Etler noted that this amount was taken out of the budget being considered. CFO Eccelston advised that the Council would have to approve an emergency appropriation after the budget is adopted. If it is a capital, expenditure, it could be included in the capital budget. Manager Sacks felt it could be included in the capital ordinance so the funds would be available if the Council decides to use it. Mayor Ganz recommended that the Council consider this request when they consider the capital projects.

Deputy Mayor Adler advised that she would be willing to consider it but she wanted to know what the additional expertise is needed. Mr. Landzettel advised that they will need expertise to put together agreements between property owners and the Borough and potential developers. Donald Bier will be at the meeting along with the representatives of the RRIC to discuss this with the Council.

Jane Young, 38 Pomona Avenue questioned the amenities for the pool. She wondered if they were getting new sand. Mayor Ganz advised that 2,200 tons of sand will be going to Walsh Pool. Manager Sacks advised that a bond ordinance has been introduced for many items at Walsh Pool. Besides the basketball court and the bike path, there will be water slides, sprinklers in the shallow water and outdoor ping pong and pool tables.

Ed Reilly, 18 Godwin Avenue, asked where the revenue from the increase in the assessments will be reflected in the budget. CFO Eccelston explained that the increase in assessed value brings in about \$645,000 in tax dollars. The Borough will only get \$158,000 of that \$645,000. The largest portion goes to the schools.

Don Oliver, 8-32 Mitchell Place wondered why some items in the budget have a "zero" in the amounts from last year. CFO Eccelston explained that the State of New Jersey created a new chart of accounts and they wanted certain items separated. The Borough had a category called Administrative and Executive that included Human Resources, the Municipal Clerk, the Manager, the Council and Purchasing. Those departments are now separate which is why there are no numbers from last year.

There being no further comments, upon motion by Deputy Mayor Adler and a second by Councilmember Etler the time for public comment was closed.

Upon motion by Deputy Mayor Adler and a second by Councilmember Etler, Resolution No. 160-2000 Adopting the Budget was discussed.

Mayor Ganz expressed his pride in being associated with four people who have put aside personal preferences and to work with the professional to present this budget that gives many new services and still tries to hold back the increase in taxes. The taxes are relatively stable with a very slight increase of \$55.10 for the average home.

Hearing no further discussion, Resolution No. 160-2000 adopting the budget was unanimously passed.

#### RESOLUTION NO. 161-2000 ANNUAL BUDGET EXAMINATION

Upon motion by Deputy Mayor Adler and a second by Councilmember Etler, Resolution No. 161-2000 was unanimously passed.

#### PUBLIC HEARING ON SID BUDGET

Upon motion by Deputy Mayor Adler and a second by Councilmember Amato it was unanimously agreed to open the time for public hearing.

Don Oliver, 8-32 Mitchell Place, pointed out that there were no copies of the SID budget available for the public.

Upon a motion by Deputy Mayor Adler and a second by Councilmember Etler the meeting was recessed at 8:30 p.m. for the Municipal Clerk to make copies of the SID Budget for the public.

Mayor Ganz reconvened the meeting at 8:35 p.m. and reopened the public hearing.

Don Mitchell, 8-32 Mitchell Place thanked the Mayor for providing copies of the SID Budget.

There being no further comments, upon motion by Deputy Mayor Adler and a second by Councilmember Etler the time for public comment was closed.

Upon motion by Deputy Mayor Adler and a second by Councilmember Amato, Resolution No. 162-2000 Adopting the SID Budget was considered.

Councilmember Etler questioned the amount for professional services and financial services. Mayor Ganz explained that the professional services amount was for Don Smartt. Mr. Landzettel explained that the RRIC has an accountant who does the financial reports and the tax returns at a cost of \$3,000. They are also required to have an independent auditor that costs \$1,200. Mr. Smartt and his firm provide professional services for which they are paid \$50,000 for the year. If RRIC has some areas to be developed, they can retain an architect or planner to develop conceptual plans for particular sites.

Councilmember Etler noted that in 1998 there was insurance and bonding and in 2000 there is nothing budgeted. Seymour Karas, 11 Lamring Drive explained that in 1998 River Road was running a program with Bergen County who required them to carry insurance to cover that program. That program ended so the insurance cost is no longer necessary.

Councilmember Etler thought they spent too much on marketing and not enough on recruiting new business. Mr. Landzettel explained that the marketing effort is promoting the businesses that already exist on River Road. They will have to devote more efforts to business recruitment. They have done a little bit of advertising but they are relying on real estate professionals to bring in businesses when there are vacancies. They contributed \$20,000 to support the Focus. The publication is very well received in the community. The budget includes \$25,000 to be returned to the Borough for the George Street lot. The \$116,000 raised is from the businesses in the district though the assessment.

Upon motion by Deputy Mayor Adler and a second by Councilmember Amato, Resolution No. 160-2000 Adopting the SID Budget was unanimously passed.

#### ADJOURNMENT TO WORK SESSION

Upon motion of Deputy Mayor Adler and a second by Councilmember Amato the meeting was adjourned at 8:55 p.m.

Respectfully submitted,

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

#### **WORK SESSION OF MAY 9, 2000**

Mayor Ganz reconvened the meeting to order at 8:55 p.m.

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

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

Scott Levy, 2-19 Lyons Avenue stated that it is a great honor for Mort Hirschklau to have a street named after him. He knows what Mort meant to the town and how much Fair Lawn meant to Mort. Mort was always ready to lend a hand. He commended the Council for taking this action.

Stop Sign on Berkshire Road - Manager Sacks advised that Berkshire Road is a through street not a cross street so the State would have to approve it. It would be a four-way stop sign. She wanted to know if they wanted to do the traffic counts and gather the other data that has to be submitted to the State. Mayor Ganz suggested that the Borough Manager refer this matter to an outside firm for the traffic analysis.

The consensus was to refer this to an outside firm.

Plaza Road North Parking - Manager Sacks advised that the residents from 3-18 to 3-28 Plaza Road North lost their parking due to the development of Foster garages. They have requested permits for overnight on street parking in front of their houses. It is a hardship. The traffic safety officer recommended that parking also be allowed in front of the tennis courts. If the Council approves it, the permit should be applicable only to those residents so the people from Eldorado Village do not park there and vice-a-versa.

Attorney Lustgarten did not think the Council should endorse any overnight parking. He expressed concern that if the Council allows this request there will be many others. The only exception has been Abbott Court for environmental reasons. Legally, if the Council allows exceptions there is a chance that at some point this will become an equal protection issue.

Councilmember Etlar stated that while he does not support overnight parking, in this case there is a real hardship because for thirty years people have been parking in the back. Now they cannot find parking spaces anywhere. This is a real hardship that he can defend. Mayor Ganz noted that if the Council allows permits based on hardship someone else can argue in court that they have a hardship and that on an equal protection basis they are entitled to have that parking space. If the court accepts that argument, there will be overnight parking throughout the Borough.

Manager Sacks advised that the traffic safety officer had discuss what makes this hardship different. They have not added cars. They have lost access to parking with which they bought their homes. The landlord was kind enough to build the wall far enough back to allow them parking. The Borough approved the development of the property so they have been displaced. They simply do not have backyards or driveways anymore. This request is different from the other requests.

Deputy Mayor Adler expressed concern because everyone has a good argument. If framing some type of exception that is very specific to this case is possible, she would consider it. Otherwise, this is precedent setting.

Manager Sacks noted that she would not classify the requests that the Council received before were hardships. This case is a hardship because they bought their house with the understanding they had parking. The other requests were just problems.

Attorney Lustgarten expressed concern that this will have town-wide impact. Mayor Ganz asked for a legal opinion on equal protection and constitutional issues. Attorney Lustgarten will give Manager Sacks his opinion and she will respond. This matter will be on the June 13 agenda.

The consensus was that as a general policy the Council does not want twenty-four hour parking throughout the Borough.

Amendment to Ordinance Food Handler's License/Minor Site Plan, etc. Councilmember Etlar advised that the Planning Board has been waiving the notice requirement on these applications. He disagreed with this practice. Any applicant that comes before the Planning Board should be required to notify those residents within 200 feet. He also proposed reducing the application and escrow fees.

Chairman Barry Winston and Vice Chairman Scott Levy were present. Chairman Winston deferred to the Vice Chairman who has been a member of the Planning Board the entire time the foodhandlers' ordinance has been in existence. Vice Chairman Levy explained that the ordinance allows people to ask for waivers. Not all applications for food handlers' licenses receive waivers. They look at each application on its own merits. In practice applicants that have come in with like businesses with no change but for the name received a waiver of the formal notice requirement. The Municipal Land Use Law allows this discretion to the Planning Board. He did not want that right taken away from the Board. In 1998 five applications were received, only two received waivers. In 1999 six applications were received, five were waived. Those that were waived were just changing names. This process works. There have been applications that have critical factors so that the Planning Board does not waive any of the technical requirements. He expressed concern that this change shows a lack of trust. He thought the change increased the burden on the applications. Fair Lawn should be business friendly.

Attorney Lustgarten stressed that no one is questioning the integrity of the Planning Board. It is legally permissible, but it is bad policy. While the Planning Board is meeting the statutory requirements, they may not be meeting the fairness standards. The Planning Board is only hearing one side. If notice is sent out, the Board may get a different story from surrounding neighbors. He recommended that the ordinance be amended so that notice is given for every application.

Mayor Ganz indicated he favored the amendment, but he expressed concern about the delay. A special meeting should be available to the applicants although they would have to pay for it. The Planning Board has an obligation to let the public know things that are within their expertise to know. Councilmember Etler felt that the public's right to know about any business is paramount. Deputy Mayor Adler expressed concern that the people do not know what is happening in the business community. The Planning Board is deciding whether the public speaks or not because if they do not know about an application they cannot speak.

Chairman Winston pointed out that there is a difference between a restaurant that is in a residential area and one that in the middle of an area with no residents. He asked that the Council craft legislation that allows the Board to act consistently. Vice Chairman Levy read from Cox which allows the waivers. He asked that the Council look at the ordinance and refine it. Attorney Lustgarten pointed out that the Council has to decide whether it wants notice given or not.

A motion by Councilmember Amato and a second by Councilmember Etler to call the question was defeated.

Attorney Lustgarten noted that State law allows the discretion so that the Planning Board can waive notice. The Planning Board is following the law. Councilmember Etler is proposing that public notice will not be waived.

Seymour Karas 11 Lamring Drive, stated that the Planning Board has discretion. They are required to balance certain interests. He did not see why it is necessary to impose an additional impediment on the business community. What the Planning Board is doing now is reasonable. They are evaluating each case and if they determine it to be a name change, they do not require notice and a hearing. He did not see why a complete site plan presentation with all the associated costs is required when it is only for a food handler's license. The State law permits the Planning Board to do what it is doing. He did not see any reason to impose any further burdens on a small business. He felt the proposal before the Council is business unfriendly.

The consensus was to accept Councilmember Etler's proposal with Deputy Mayor Adler and Councilmember Dobrow not voting.

The ordinance will be introduced on May 23.

Cooperative Parking Plan - Councilmember Amato had invited several trustees from Fire Company 1. He is opposed to any inclusion of the Fire Company 1's parking lot in the cooperative parking plan. He did not think the plan adequately addressed the issues. Attorney Lustgarten advised that prior Councils have decided not to use the parking lot for anything else because of safety issues and they did not want to put a parking lot in a residential area. Manager Sacks noted that the scenario to include the Fire Company's lot is only one. They are other ways to work around it and

not disturb that property.

Tim Yuskatitis, Drive advised that they have had problems with others parking in the lot. They allow the neighbors across the street to use the lot because they have lost their on-street parking. There is a big problem with the students using it as a cut through and breaking glass in the parking lot. They wanted the Council to be aware of these concerns. Computers - Councilmember Amato pointed out that there is no policy for purchasing software which he thought was a problem. He advised that except the Chief Financial Officer he is receiving information by e-mail. He asked for the spreadsheets electronically.

Borough Manager pointed out that municipal government is unique. The Department's do not exchange information. They are tied into different systems. The Tax Collector is tied into a system with the County. The Police Department is tied into a system with the State. There is no rationale to be using the same software. It is counterproductive and its micro managing. If the Borough goes to a GIS system then each Department would be layering onto it. That would require additional software and a network. Former Councilmembers Ahearn and Mondello who were computer experts also felt it was not necessary for everyone to have the same software. She did a complete survey of all the Departments and gave that information to Ron Mondello in connection with Y2K. That inventory will be up dated annually.

Councilmember Amato reminded the Council that during the budget discussions he asked for a report on telephone usage which has not been received. Manager Sacks replied that she and CFO Eccelston review the telephone bills but she does not have a written analysis. Many phones are restricted to local calls. Mayor Ganz asked Manager Sacks to find out if the telephone company can get the bills on a disc. Manager Sacks replied that AT&T was asked but it could not be done. Mayor Ganz asked for the rate on a per minute basis the Borough is paying.

Mr. Winston stated that Bell Atlantic provides the Centrex System.

National Information Fire Reporting Systems - Councilmember Amato asked Attorney Lustgarten whose responsibility it was to send the incident reports to the State, the Fire Chief, the Fire Marshall or the Fire Clerk. Attorney Lustgarten will find out.

Manager Sacks called the State who is going to put the program on two or more of the computers. It is in progress. Councilmember Amato pointed out that for two years they did not file these reports. Manager Sacks advised that she recently found that out. They have made a commitment to the State that the Borough will participate in NIFRS. This is a voluntary system. The Borough is not required to do the reports. To increase participation the State has said that municipalities must commit to the program if they want a thermal imaging camera.

CFO's Transportation Allowance - This will be discussed in Closed Session.

Municipal Parking Lot Configuration and Ordinance - Manager Sacks presented a revised plan that allows for more visitors' parking and classifies the lots as A, B and C. Visitors can use any of the lots. They would get all of the front row spaces in lot A. This plan allows for enough spaces for the Police vehicles, Borough vehicles and employees. Library patrons and visitors are parking in the back lot. Patrons of the Fair Lawn Athletic Club will not be able to use the spots because there will be a time limit. Visitors will get a pass if they are going to be in the Building longer than thirty minutes.

Councilmember Etlar thought the employees should be using the lot across the street. The contract only says they have to have a parking space. It does not say they have to be right by the building. He suggested that more spaces be set aside for visitors by eliminating some spaces for the Borough employees. Mayor Ganz asked if they had ever gotten the labor counsel's opinion as he had requested. Manager Sacks did not recall that request.

The consensus was to get a written opinion from the labor counsel to see if the employee spots can be moved to lot B or C, with Councilmember Etlar dissenting.

Attorney Lustgarten noted that there are seventy employee spaces in lot A and lots B and C are for the overflow. He wondered what happens if the opinion is that all employees have to be in lot A. He recommended not seeking that

opinion, working with the configuration suggested and adopting the ordinance. Manager Sacks pointed out that part of the reason for making the three lots one is to be able to move the spaces. It gives her flexibility. Attorney Lustgarten agreed with Manager Sacks' concept of treating the three lots as the municipal parking lot. He agreed with Councilmember's Etler suggestion to change some of the employee spaces to spaces for visitors. He thought they could get seventeen more visitor spaces. Manager Sacks suggested making fourteen unassigned spots that would allow anyone to use them, but Attorney Lustgarten thought that would not solve the problem because employees arrive before visitors.

Mayor Ganz repeated that this has been a labor contract issue. He wanted to be sure that he understood Attorney Lustgarten that he did not recommend contacting labor counsel. Attorney Lustgarten felt that by treating the lots as one lot, they were meeting the language of the contract and providing spaces for employee parking.

The consensus was that as long as the Borough Attorney is satisfied that there is no breach of the contract, the Council reversed their action and they would not contact the labor counsel.

The consensus was to change the fourteen employee spaces by the police vehicles to visitor spaces subject to the Council revisiting this issue to see if visitors are using the spaces. The ordinance will be introduced at the first meeting in June.

Bus Depot Ordinance - Attorney Lustgarten pointed out that this ordinance is for a bus parking lot not a bus depot. The Borough has no regulations for bus parking lot. He drafted some basic definitional sections which are taken from State statute. He does not have the technical expertise to draft the lot configuration regulation but the Borough Engineer does. They need input from several agencies in the Borough. The Planning Board should recommend whether this should be a permitted use or a conditional use in the business zone. Municipal Clerk Kwasniewski was asked to prepare a memo to the Chairman of the Planning Board.

The consensus was that bus parking does not belong in a residential zone.

Attorney Lustgarten raised the issue of fuel pumps. The Borough Engineer's recommendation is that they be above ground not underground. It can be done safely. There are State regulations on fuel pumps.

He excluded repairs and maintenance of the buses on site because he did not believe repair and maintenance is an ancillary use to a parking lot. This is a policy call. Deputy Mayor Adler wanted to be sure that there is some provision included in the ordinance to allow daily cleaning of the buses.

This item will be on the agenda for June 13. The Departments should have all the information to the Manager before that date. The agencies and the Boards must understand that these are generic regulations.

Closed Session Resolution - Upon motion by Deputy Mayor Adler and a second by Councilmember Amato the following closed session resolution was unanimously adopted at 11:25 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, anticipated litigation and personnel;

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 30 to 60 days other than legal strategy; concerning anticipated litigation within six months if litigation is commenced other than legal strategy and concerning personnel by appointment of the Manager or by resolution by the Mayor and Council;

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 Amato the meeting was adjourned at 12:05 a.m.

Respectfully submitted,

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