

WORK SESSION OF OCTOBER 3, 2000

Mayor Ganz called the meeting to order at 7:35 p.m. Municipal Clerk Kwasniewski read the Statement of Compliance with the Open Public Meetings Act.

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

ABSENT: Councilmember Amato

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

Review of Tentative Agenda - Manager Sacks advised that they never established the salaries for Assistant Supervising Mechanic and Assistant Senior Electrician. She requested that a salary ordinance be introduced at the next meeting. The Council agreed.

Capital Alternatives - Len Carney of Capital Alternatives appeared in place of Marlene Casey who was not feeling well. They have made several applications for the Borough. Five or six programs will be starting in the next six months. He presented the requirements for those programs which the Council reviewed. Grants for nonprofit organizations for arts and cultural activities might be of interest to the Borough. He advised that \$145,220 is still pending for the reconstruction and resurfacing project on McBride/Pollitt. The project for Arcadia Road was not chosen when the discretionary funds were given out. They had the support of the legislators but the DOT Commissioner or Governor Whitman did not choose it.

Mayor Ganz asked that establishing a Borough owned 501C be added to the agenda of October 17.

Mayor Ganz thanked Mr. Carney.

Parking for Plaza Road - Manager Sacks advised that the residents have said they are not interested in paying for parking at the Radburn Building. Mayor Ganz wondered if the Council would be willing to authorize free overnight parking at the train station.

The consensus was to ask Manager Sacks to have either the Borough Attorney or Borough Attorney draft an ordinance to allow parking from 7:00 p.m. to 7:00 a.m. at the train station.

The possibility of allowing paid for parking at the Radburn building or on the approval of the Council was discussed. Attorney Lustgarten pointed out that any provision would have to be applied throughout the Borough so it would not be spot zoning. It was agreed to ask the Planning and Zoning Boards for their recommendations.

The Dr. Martin Luther King, Jr. Commemorative Coin Act - Mayor Ganz asked the Council to approve a resolution urging the legislators to support H.R. 3633 that would create special gold and silver coins to be issued on the 40th anniversary of the famous "I Have a Dream" speech.

The consensus was to adopt the resolution.

Gating of Property End of Parking Lot C and Campbell Road - Councilmember Etlar advised that he had received a complaint from a resident on Campbell Road and Parmelee Avenue of people going through the Borough's property. He thought the solution would be to install about 180 feet of fence and gate it. Attorney Lustgarten advised that about four years ago the Council was concerned about the number of encroachments on the Borough's property. The thought then was to offer the property to the contiguous owners since they were the ones who were encroaching. It was decided that they did not need the land for parking. Councilmember Etlar did not want to sell that property because it will have to be used for parking. He proposed a chain link fence eight foot high with another eight-foot high fence on Campbell Road. The fence would be in the grassy area.

Manager Sacks felt that the Borough is going to need part of that property for parking. She suggested getting a variance to make two lots and selling them as buildable lots for \$80,000 each that would close off Campbell Road. She would pave over the rest within the year. It would be lit to discourage those who hang out there. A fence is an expense. The area would have to be surveyed.

Deputy Mayor Adler wanted a copy of the map for the next discussion. Attorney Lustgarten noted there was a survey of all the encroachments done some years ago. Mayor Ganz suggested asking the Engineer to plot out what Councilmember Etlar was suggesting and to invite those who would be affected to the next work session. Councilmember Etlar did not think anyone would be affected because the objective is to stop people from entering the property. Attorney Lustgarten suggested that a cost estimate be obtained. Manager Sacks advised that she had an estimate for a six-foot high fence around the perimeter of \$20,000.

Municipal Clerk Kwasniewski will send out the notices.

PUBLIC COMMENTS ON ITEMS ON AGENDAS

Marie McKenna, 4-12 Kenneth Avenue a trustee on the Welfare Board, felt that having a social service office where the clients live was extremely important. She felt they need the services in the Borough.

Susan Winston, 19-11 Greenwood Drive felt a decentralized system such as Fair Lawn has now is much more effective than a centralized system out of town. The General Assistance public is often displaced people who are not able to drive. Their needs are better met locally. They have limited funds and if they have to spend money to make trips to Rochelle Park to resolve their social services problems it is another burden. The County is not as well prepared as a local person is to wade through the general assistance regulations. A local person can weed out fraud faster than someone who is not familiar with the locale and the people who live in Fair Lawn. The County cannot provide the same service as a local person. She asked them to think about their decision very carefully.

Harry Becker, 9-01 Essex Street expressed concern that they will eliminate the mini bus, meals on wheels, the food pantry, gifts for the children at Christmas and the gift baskets. He felt they would be doing a great service to Fair Lawn and its residents.

Fair Lawn Creative Cable Contract - Manager Sacks asked for permission to share Attorney Lustgarten's memo with Creative Cable so they can bring it to their attorney. Attorney Lustgarten had no objection and in fact had recommended it in August. Councilmember Etlar thought the contract was heavily weighted against the Borough. Attorney Lustgarten felt the Borough would lose control under the proposed contract.

Mayor Ganz explained that the Council determines an amount to allocate each year. The source of the funding is the revenue the Borough receives from the franchise fees. This contract presumes that the Borough will turn over all those fees.

Deputy Mayor Adler was excused at 8:20 p.m. to attend another meeting.

Attorney Lustgarten advised that there are procedural and technical difficulties with the agreement.

The consensus was to release Attorney Lustgarten's memo.

Sale of Borough Land on Union and Elizabeth Streets - Manager Sacks sent a letter to the two property owners but neither responded. She asked what the Council wanted to do with this property. Attorney Lustgarten pointed out that the property is not worth anything except to the contiguous owners. The gentleman who had expressed interest did not own the contiguous property. He recommended that if the actual contiguous neighbors are not interested, this item should come off the agenda.

The consensus was to take this matter off the agenda at this time.

Warren Point School Bus Stop - Manager Sacks advised that the principal has asked if they can remove one bus stop that is too close to the children. The Traffic Safety Officer concurs. There are two other bus stops a few blocks away. Councilmember Etlar thought the bus stop was a safety hazard. There is a stop by 34th Street and one by 27th Street. Mayor Ganz wondered how many residents use that bus stop. Manager Sacks thought four or five.

Manager Sacks advised that they also would like an area to drop off the children. Attorney Lustgarten pointed out that if the ultimate decision is to have a drop off area the Council needs to get State approval. Mayor Ganz wanted to know what the Traffic Officer and the principal of Warren Point School say before inquiring of the state.

The consensus was to eliminate the bus stop. A resolution will be on the agenda for October 10.

This item will be on the agenda for October 17.

New Bus Routes in Fair Lawn - Manager Sacks advised that she is getting the list of new bus stops needed for the new bus routes. There will be deletions and additions. The stops are recommended by Engineering, the Traffic Safety Officer and the DOT. They have tried not to place the bus stops in front of any houses although, two or three will be in front of homes. She did not know if they will need any new shelters.

Councilmember Etlar wondered if additional two hour parking restrictions on the streets near the bus stops will be needed. Mayor Ganz wondered if Manager Sacks considered using the Memorial Park lot for parking cars. Manager Sacks pointed out that would be too far away and NJ Transit would probably not want to start the route at the Park because it would add time. Mayor Ganz

thought it would be worth asking NJ Transit to start the service in that lot. Manager Sacks stated she could ask them but it would mean adding cars to the residential neighborhood and bringing buses down residential streets. Attorney Lustgarten suggested that perhaps the mini bus could be used to bring riders to Berdan Avenue. Mayor Ganz asked for a cost estimate. This item will be on the agenda for October 10.

Request by Shotmeyer to Purchase Block 3517, Lot 21 - Attorney Lustgarten advised that Mr. Shotmeyer has not pursued this matter and suggested taking it off the agenda. Mayor Ganz asked Attorney Lustgarten to advise Mr. Shotmeyer.

Maple Avenue Deed Restrictions (Turano & Johnny & Hanges) - Attorney Lustgarten reported that there has been no change since the last time. This may be a parallel situation to the Nardella situation. This is not Borough owned property. It might require a court order to vacate the deed restrictions. He did not think the Borough had the authority to lift the restriction. If Mr. Turano does not encroach on the deed restriction, he does not need anything from the Council. He can develop the property according to the zoning regulations.

Municipal Clerk Kwasniewski will send a letter to Mr. Turano's attorney asking him to advise whether his client proposed expansion encroaches on the restricted area. She will also send the map the Engineer has drawn showing the restricted area to him and the other property owners.

Historical Preservation Commission - Attorney Lustgarten advised that he reviewed the statutes. The Council would be delegating a great deal of authority to the Commission. He did not recommend that the statutory commission be adopted. The Council can establish a Council committee. He did not think the State has preempted this area if the committee does not mirror the statute.

Councilmember Etlar indicated it was not his idea to look into preservation. He wanted a living history from the elderly. Attorney Lustgarten asked him to draft an overview of what he wants the committee to do so he can draft an appropriate resolution creating the committee.

The consensus was to create a Committee. Attorney Lustgarten will prepare and circulate a resolution. Mayor Ganz added that the Council will choose one Councilmember and then it will be an open-ended committee. This item will be on the October 17 agenda.

Concerns of Planning Board & RRIC on Ordinance 1819-2000 - Attorney Lustgarten thought RRIC's recommendations were more style than substance. He did not make any recommendations for changes. The Planning Board raised the issue of a conflict between the food handler's section and the new ordinance. He did not believe a conflict exists because each section is separate.

The Planning Board would like to add a three-foot gap between buses under the new ordinance. This is a policy call. There must be a bona fide zoning purpose. Mayor Ganz noted that the Fire Department wants three feet between each bus parked. Attorney Lustgarten suggested sending a letter to the Planning Board asking for their rationale. They have also asked that the ratio be changed to 1.0. The Borough Engineer recommended the ratio of 1.1. He suggested the ratio because some drivers did not drive there. He repeated that if the Council wants to amend the ordinance they should have something from the Planning Board with a rationale for these changes.

The consensus was that Attorney Lustgarten will send a letter to the Planning Board that he does not believe a conflict exists and the Council agrees with that position. He will also ask the Planning Board to explain their reasoning for each recommendation.

Clarification of Public Advocate Compensation - Manager Sacks advised that the public advocate has asked what the \$5200 covers and what he is supposed to do when he begins to accumulate too many hours. The alternate public advocate gets \$90 an hour. He wants a clarification. Mayor Ganz felt that the State statute is explicit. He does not think a clarification is needed. If the public advocate is having some difficulty in interpreting the statute, he should speak to either the Mayor or the Borough Attorney. The retainer covers the appearances at the meeting. The escrow accounts should cover the rest. If he reviews something, he charges the applicant's file.

Manager Sacks advised that the alternate public advocate has submitted a voucher for \$30,000. There are no funds so they cannot encumber it. There is no escrow account. She is waiting for November 1 so the Chief Financial Officer can make a transfer. Mayor Ganz pointed out that some of the money will come from escrow and will probably be for next year. This is an estimate not a bill. Manager Sacks noted that next year there will be a line item. Meanwhile she will send this bill back to the alternate public advocate and ask for his estimate for what will be charged for this year. Attorney Lustgarten suggested that he be advised in writing that funds cannot be encumbered. He has signed off that the fees are reasonable.

SPECIAL MEETING - Upon motion by Councilmember Etlar and a second by Councilmember Dobrow the meeting was adjourned to a special meeting at 9:05 p.m.

Mayor Ganz reconvened the meeting at 9:25 p.m.

Deputy Mayor Adler returned from a meeting undertaken at the request of the Mayor and Council at 9:27 p.m.

Closed Session Resolution - Upon motion by Deputy Mayor Adler and a second by Councilmember Etlar the following closed session resolution was unanimously adopted at 9:30 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 anticipated litigation 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 relating to anticipated litigation within 90 days to 120 days except legal strategy and relating to personnel within 30 days or when formal appointment is made;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Lawn that the public be excluded since the matters set forth are ones which permit the exclusion of the public.

ADJOURNMENT - Upon motion of Deputy Mayor Adler and a second by Councilmember Etlar, the meeting was adjourned at 9:45 p.m.

Respectfully submitted,

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

SPECIAL MEETING OF OCTOBER 3, 2000

Mayor Ganz reconvened the meeting at 9:05 p.m.

PRESENT: Mayor Ganz, Councilmembers Dobrow and Etlar.

ABSENT: Deputy Mayor Adler and Councilmember Amato.

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

RESOLUTION NO.312-2000 Conflict of Interest Counsel

Upon motion by Councilmember Etlar and a second by Mayor Ganz, Resolution No. 312-2000 was passed with Councilmember Dobrow abstaining. Attorney Lustgarten advised that since this resolution does not have a statutory minimum requirement, a quorum of the Council is sufficient to pass it.

RESOLUTION NO.313-2000 Appointment to Fair Lawn Economic Development Committee

Upon motion by Councilmember Etlar and a second by Councilmember Dobrow Resolution No. 313-2000 was unanimously passed.

RESOLUTION NO.314-2000 Turning over Municipal Welfare Services to Bergen County

Upon motion by Councilmember Etlar and a second by Councilmember Dobrow Resolution No. 314-2000 was considered.

Manager Sacks advised that the resolution came from the County. The State law changed several years ago to allow municipalities to save money by transferring these services to the County. The Borough did not take advantage of the change in the statute. She initially had a bias against making the transfer but other municipal managers have had a good experience with the County. The Council does not want a huge increase in taxes so efficiencies have to be found. She listed the many positions in the Borough that have not been filled or have been eliminated. Fair Lawn only has a handful of welfare cases. In 2001 the Borough will save more than \$80,000. The savings will escalate each year. The Borough will qualify for REAP grant that will reward the Borough residents

about \$40,000.

She concluded that it is only welfare that they are transferring. She does not plan to stop providing the mini bus, meals on wheels, the gift baskets or other human services programs. She urged the Council to approve the resolution.

Mayor Ganz noted that the ordinances have several sections involving the Director of Welfare. Attorney Lustgarten pointed out that the statute says that the Welfare Board is disbanded, it does not say what happens to the Director. Manager Sacks explained that she discussed

that question with Civil Service who said that once municipal welfare transferred, they eliminate that position. The incumbent is unclassified so is untenured. Attorney Lustgarten noted that the statute is silent on what happens to the statutory term. He asked for something in writing from Civil Service.

Councilmember Etlar concurred with the Manager. Councilmember Dobrow noted that it is quite a bit of money. Mayor Ganz wondered about the timing. Manager Sacks replied that the County says it takes a few months to complete the transfer. The State has said the Borough has to move quickly to qualify for the REAP grant. Mayor Ganz wanted to hear Deputy Mayor Adler's opinion. Manager Sacks felt that longer they stall the transfer the more problems will be associated with it. The faster they decide, the sooner the transfer will be in place.

Hearing no further discussion, Resolution No. 314-2000 was passed with Mayor Ganz abstaining.

RESOLUTION NO.315-2000 Supporting H.R. 3633 The Dr. Martin Luther King, Jr. Commemorative Coin Act

Upon motion by Councilmember Etlar and a second by Councilmember Dobrow Resolution No. 315-2000 was unanimously passed.

RESOLUTION NO.316-2000 Authorizing Execution of Agreement for State Local Cooperative Housing Inspection Program
Upon motion by Councilmember Etlar and seconded by Councilmember Dobrow, Resolution No. 316-2000 was unanimously passed.

ADJOURNMENT:

Upon motion of Councilmember Etlar and a second by Councilmember Dobrow the meeting was adjourned to Work Session at 9:25 p.m.

Respectfully submitted,

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