

WORK SESSION OF SEPTEMBER 5, 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 Amato(late), Dobrow and Etlar.

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

Closed Session Resolution - Upon motion by Deputy Mayor Adler and a second by Councilmember Etlar the following closed session resolution was unanimously adopted at 7:40 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; and

WHEREAS, this matter permits 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 if settlement is approved, within thirty days, if not approved, within the next six to nine months and as to litigation strategy there will be no disclosure;

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 7:50 p.m.

Review of Tentative Agenda - There were no changes.

Corrective Action Plan - CFO Eccelston was present to discuss the official action that they will take to satisfy the items identified in the audit report. Mayor Ganz was concerned about the single signatory on the Court checks. CFO Eccelston explained that if there was a deputy court administrator both signatures could be on the check, but that position was eliminated years ago. He could be the second signatory although they do not reconcile the court books through his office. Since the court is small, he did not think that having two signatures on the account was necessary. The likely person would be the judge, but she is part time so having checks signed would be difficult. Mayor Ganz asked the Manager to come back to the Council with a recommendation on who should be the other signatory.

Treasurer of School Monies - Councilmember Amato wondered if there was a conflict if the school budget was defeated since CFO Eccelston represents both the school board and the Council. CFO Eccelston advised that he does not participate if the budget is defeated. He would answer questions but he would not recommend cuts in the budget. He reminded the Council that the Statute requires the Treasurer of the municipality to be the Treasurer of school monies. He does not participate in the Board of Education process. He keeps a parallel set of receipts and disbursements and submits reports to the Board monthly. He does not sign vouchers or prepare the budget. Attorney Lustgarten noted that the legislator has decided that there is no conflict.

Changes to Property Maintenance Ordinance Requested by RRIC - Seymour Karas was present to discuss the changes that River Road and the Property Maintenance Committee support. He reviewed the suggested changes. Attorney Lustgarten asked the Council to allow him to send Mr. Karas his memo to the Council dated August 24 that would probably be helpful.

Mr. Karas noted that no ordinance exists relating to how sidewalks should be maintained although the CCO ordinance requires an inspection. Manager Sacks stated that the Borough does not have the authority to issue a summons. They send a letter after the inspection asking the homeowner to make the repairs. Attorney Lustgarten noted that sidewalk maintenance was discussed extensively. The Council made a compromise that sidewalks would be in the CCO ordinance. Mayor Ganz thought the Council should discuss sidewalk maintenance. Municipal Clerk Kwasniewski was asked to send the Council minutes regarding past discussions on sidewalks.

Mr. Karas felt that a number of parking lots are not properly striped or lit. RRIC would like all the driveway aprons to be made of concrete instead of asphalt. They discussed the cost to the property owners. It would be a hardship to many but there are means to help those in that situation.

Based on Attorney Lustgarten's memo, Mr. Karas felt that except for sidewalks the other items have been covered. Attorney Lustgarten will send Mr. Karas a copy of his memo.

B\$/B5 Districts Ordinance Amendment - Charlie Rubel and Arthur Levine were present. Attorney Lustgarten advised that he reviewed the sections and rewrote the amendment to make B4/B5 consistent with the other districts in the Borough so that if there is no change in use providing that they sign the cooperative agreement no site plan approval is required. He did not send his memo or the new draft to RRIC. He asked for feedback from the Manager, Construction Official and RRIC. He asked that RRIC look at the new language and the existing general provisions of the Code and they will see that it accomplishes what they want. The change of use cannot increase the parking requirement.

Seymour Karas asked about deleting new construction. Attorney Lustgarten pointed out that new construction would need site plan approval. Mr. Levine noted that they are trying to encourage property owners to make improvements that would not increase the size of the parking requirement. Deputy Mayor Adler reminded them that the intent was to treat anyone who had signed the cooperative parking agreement the same as anyone else in the Borough. She thought the proposed ordinance accomplishes that goal.

The consensus was to authorize the release of Attorney Lustgarten's memo and proposed ordinance to RRIC.

Easement Acquisition for Intersection Improvements (Morlot Avenue/Plaza Road) - Attorney Lustgarten stated that part of the Borough's responsibility was to acquire an easement from the Church of Christ of Fair Lawn at the intersection. They have now agreed to accept the appraisal figure of \$1200 in lieu of condemnation. Once the deed of easement is recorded, the County can proceed. The Borough will send the County the ordinance after it is introduced.

The consensus was to spend \$1200 to acquire the property.

Zoning Permits (Ordinance 1820-2000) - Manager Sacks advised that the initial request was for installation and replacement of driveways. Ordinance 1820-2000 as introduced includes repairs. Repairs do not require a permit. In addition, the Zoning Officer will issue the permit. She recommended that references to repairs and Construction Official be deleted. Attorney Lustgarten did not have any problem with the changes but thought they were substantive. He recommended rescinding Ordinance No. 1820-2000 and introducing an amended version.

The consensus was to follow Attorney Lustgarten's recommendation.

Massage Parlor Ordinance - Manager Sacks asked for guidance. Attorney Lustgarten pointed out that an ordinance regulating massage parlors already exists. Manager Sacks advised that the Health Officer did not think it addressed all the issues. She thought the ordinance should be in place to prevent an offensive situation before it happens. Attorney Lustgarten noted that the existing ordinance does not cover somatic therapy although he felt statewide regulations will be forthcoming. Randolph Township's ordinance is more extensive than the Borough's.

The consensus was for the Manager and Health Officer to draft something for the Council to consider.

Planning Experts for Zoning Board Public Advocate - Mayor Ganz advised that the public advocate needs to hire some experts. He had distributed the resume of a professional planner, Michael Kauker and recommended that the Council add him to the pool of experts.

The consensus was to add Michael Kauker, professional planner to the pool of experts to be used by the public advocates for the Planning Board and Zoning Board.

Collection of Court Fines - Mayor Ganz advised that the statute allows the municipality to turn over the outstanding court fines to a collection agency. The Council authorized the Manager to pursue this avenue but she has said that the Office of Court Administration requires their fees despite how much is collected. If the Borough has to pay the entire amount to the Court and the collection agency receives a percentage for collecting the fine, there may be nothing left for the Borough. Mayor Ganz did not think that was what the legislature intended. He thought the Council should sue to protect the Borough's rights. The balance of outstanding fines is about \$300,000.

Councilmember Etlar thought the installation of an ATM machine would eliminate the problem. Manager Sacks pointed out that the type of person who owes on fines does not have credit cards and cannot use the ATM machine because they do not have those resources. Councilmember Amato thought the Council voted for the purchase of the ATM machine. Manager Sacks advised that the ATM machine has not been bought because there is no contract for the service to process the transactions. Attorney

Lustgarten asked if any response had been received to his comments. Manager Sacks advised that she has had telephone conversations but she has nothing in writing. Councilmember Amato asked that the Manager have something in writing from the service company for the September 19 work session.

Attorney Lustgarten advised that the Borough would have to sue the Administrative Office of the Court which is the procedural arm of the courts. A law suit would not cost anything but he was not sure how successful it would be. Mayor Ganz wondered about an amicus brief by other municipalities or the League of Municipalities. Attorney Lustgarten thought many municipalities would be interested.

The consensus was to authorize Attorney Lustgarten to send a letter to the Administrator of the Courts stating the Borough's position and to decide if a cognizable federal court issue exists without authorizing him to go to the next step. Manager Sacks will provide the amount of outstanding fines for the past three years and will ask the collection agency to look at this issue.

Update on Economic Development Committee - Deputy Mayor Adler reported that she had several people that have agreed to serve on this committee. The first thing the Committee wants to do is formulate a Borough-wide plan to encourage business during the holiday season. This item will be discussed during the Closed Session.

Plaza Road North Apartments Parking. - Councilmember Etlar wanted the Council to reconsider this matter. However, he was not eligible to make that motion.

Manager Sacks advised that the property owner of the Radburn Building is interested in renting spaces for overnight parking. Mayor Ganz pointed out that paid overnight parking has Borough-wide implications. Councilmember Amato wondered if the residents would be willing to pay for the parking. Councilmember Etlar felt they should not have to pay when there is parking in front of their homes. The hardship is not the result of their actions. The governing body should provide some relief. Councilmember Amato did not think Manager Sacks should put the effort into finding paid parking areas if the residents are not interested. Manager Sacks pointed out that sixteen units have the biggest problem but she was not sure if they all need parking. Some of them are parking in the alley. They may not be interested in paying to park, but others in the area might be interested. Although that will not fix the problem for these apartments.

The consensus was for Manager Sacks to ask all the residents in this area if they are interested in paying for parking.

Cablecast for Religious Services - Manager Sacks recommended that no religious serves be cablecast on Channel 66. Attorney Lustgarten concurred.

The consensus was that Manager Sacks will reply to Reverend Morris of the Van Riper-Ellis Church advising that the Borough's cable channel is not open for this use.

Broadway Planner - Manager Sacks asked for guidance since she did not get a sense of whether the Council wished to spend the money for the street by street planning study. It would be very detailed on a block by block basis. She is trying to decide if they could get a grant. Councilmember Etlar thought it was too expensive and did not include enough for the cost. He wanted to know specifically what they would do for that price. Manager Sacks advised that there are two studies. One is a traffic study for \$6500. The larger study relates to revitalizing the entire Broadway corridor from border to border. It would relate to economic development. Deputy Mayor Adler wanted to know how this study would differ from prior work done, if it would show where parking lots would be and what recommendations contained in the Broadway report could be implemented. Manager Sacks indicated it would also recommend ordinances that they need.

Mayor Ganz noted that the members of the Broadway committee are nonprofessionals. A professional planner will look at it and provide alternatives on what can be done. Councilmember Etlar did not think they needed a planner. The Broadway committee has already presented suggestions. He would rather use that money to implement those suggestions. Deputy Mayor Adler was not sure another study was necessary. She wanted to know what it would show and if it would depict what it will look like if the Council implements the committee's suggestions. Attorney Lustgarten wondered if the impetus will be lost if the study is not done. Mayor Ganz added that the master plan has to be amended to implement what the Broadway committee has suggested. A planner must be engaged to do that project. He suggested that Susan Gruel be invited to attend a work session to tell the Council what she would do, why, what benefit it would be and can the Borough do it itself without professional guidance.

Manager Sacks noted that the Broadway committee gave general recommendations that covered only certain areas. The professional planner fills in the specifics, gives a detailed analysis block by block and addresses areas that the Broadway committee did not cover. Attorney Lustgarten noted that the prior Council and this Council made a commitment the residents to make meaningful change. He felt they need professional experts. Manager Sacks stated that they are moving ahead piecemeal as best they can, but staff does not have the professional expertise that a planner has.

The consensus was that the Manager Sacks would invite Susan Gruel to make a presentation.

SPECIAL MEETING - Upon motion by Deputy Mayor Adler and a second by Councilmember Etlar the meeting was adjourned to a special meeting at 10:00 p.m.

Mayor Ganz reconvened the meeting at 10:15 p.m.

Closed Session Resolution - Upon motion by Deputy Mayor Adler and a second by Councilmember Dobrow the following closed session resolution was unanimously adopted at 10:15 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 contract negotiations, pending litigation and personnel; and

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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 contract negotiations when and if the piece of property is sold; relating to pending litigation at the outcome of the litigation within one year with the exception of legal strategy and relating to personnel within 30 days or when formal appointment is made if sooner;

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 Councilmember Amato and a second by Councilmember Dobrow, the meeting was adjourned at 10:30 p.m.

Respectfully submitted,

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

SPECIAL MEETING OF SEPTEMBER 5, 2000

Mayor Ganz reconvened the meeting at 10:00 p.m.

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

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

PROCLAMATIONS: GRANDPARENTS DAY

Municipal Clerk Kwasniewski read the proclamation.

AMERICA GOES BACK TO SCHOOL 2000

Municipal Clerk Kwasniewski read the proclamation.

ORDINANCES: FIRST READING

Attorney Lustgarten recommended that Ordinance No. 1819-2000 relating to the B4/B5 districts not be introduced until next week.

Upon motion by Deputy Mayor Adler and a second by Councilmember Amato, it was unanimously agreed to postpone the introduction of Ordinance No. 1819-2000 until September 12, 2000.

ORDINANCES: SECOND READING

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 comment.

Ordinance No. 1817-2000

AN ORDINANCE IMPLEMENTING THE EMERGENCY SERVICES VOLUNTEER LENGTH OF SERVICE AWARD PROGRAM (LOSAP)

There being no comments by the public, upon motion by Deputy Mayor Adler and a second by Councilmember Etlar, 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. 277-2000 adopting Ordinance No. 1817-2000 was considered.

Mayor Ganz announced that this ordinance was good for the community. Municipal Clerk Kwasniewski will send this ordinance to the Bergen County Elections Division and this question will be on the ballot for the voters to decide in November.

Hearing no further comments, Resolution No. 277-2000 adopting Ordinance No. 1817-2000 was unanimously passed.

Upon motion by Deputy Mayor Adler and seconded by Councilmember Amato, it was unanimously agreed to read the following ordinance by title and open the time for public comment.

Ordinance No.1809-2000

BOND ORDINANCE PROVIDING FOR VARIOUS CAPITAL IMPROVEMENTS TO THE BOROUGH'S POOL AND TENNIS COURTS, ALL LAWFUL AND PUBLIC PURPOSES, BY AND IN THE BOROUGH OF FAIR LAWN, IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY (THE "BOROUGH"); APPROPRIATING \$1,866,900 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,778,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF

There being no 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 comment.

Upon motion by Councilmember Dobrow and a second by Councilmember Etlar, Resolution No. 278-2000 adopting Ordinance No. 1809-2000 was unanimously passed.

Upon motion by Deputy Mayor Adler and seconded by Councilmember Amato, it was unanimously agreed to read the following ordinance by title and open the time for public comment.

Ordinance No.1810-2000

BOND ORDINANCE PROVIDING FOR VARIOUS 2000 WATER UTILITY CAPITAL IMPROVEMENTS, ALL LAWFUL AND PUBLIC PURPOSES, BY AND IN THE BOROUGH OF FAIR LAWN, IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY (THE "BOROUGH"); APPROPRIATING \$302,400 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$288,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF

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 comment.

Upon motion by Deputy Mayor Adler and a second by Councilmember Dobrow, Resolution No. 279-2000 adopting Ordinance No. 1809-2000 was unanimously passed.

ADJOURNMENT:

Upon motion of Deputy Mayor Adler and a second by Councilmember Amato the meeting was adjourned to Work Session at 10:15

p.m.

Respectfully submitted,

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