

WORK SESSION OF SEPTEMBER 19, 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 Etler.

Also present: Municipal Clerk Kwasniewski and Attorney Lustgarten.

Review of Tentative Agenda - Attorney Lustgarten advised that the Planning Board completed their statutory review of Ordinance Nos. 1819-2000 (site plan approvals for B4/B5 zones) and 1825-2000 (zoning permits for sheds, fences and driveways). He has not had an opportunity to review their comments. He thought they should carry Ordinance No. 1819-2000.

Mayor Ganz wanted to know if a resident wanted to patch his driveway or make some other minor repair would he require a permit. Attorney Lustgarten advised that a permit is not required for repairs. Municipal Clerk Kwasniewski was requested to pose that question to Tom VanHook. His answer could be made part of the record.

Mayor Ganz noted that River Road Improvement Corporation has made some suggestions regarding the B4/B5 ordinance. Attorney Lustgarten advised that he added only a new paragraph d; everything else remains the same. He recommended that the ordinance not be adopted next week. Councilmember Etler disagreed. He did not think the changes requested by RRIC addressed what the Council wants to do. Attorney Lustgarten thought he drafted the ordinance exactly the way the Council wanted it. It addressed the concerns River Road raised. B4/B5 will be in parity with other zones in the Borough. Councilmember Etler advised that the Planning Board was concerned that restaurants would no longer have to go before them for site plan review. Attorney Lustgarten advised that he had not had an opportunity to review the food handlers' portion of the ordinance. A conflict may exist. Deputy Mayor Adler thought the whole intent of this ordinance was that if someone has signed onto the cooperative parking agreement, they would be treated the same as everyone else. She did not understand why that would affect the food handler's section; that should stay the same. Attorney Lustgarten explained that Ordinance No. 1819-2000 creates a general waiver in B4/B5 districts that only applies if someone has signed the parking agreement. The food handler's license is another section but someone might interpret it that the new ordinance subsumes the section. He needs time to review the two items to be sure no conflict exists. He will try to review it before next week.

Municipal Clerk Kwasniewski advised that she would like to add the approval of a raffle for the Knights of Pythias and a resolution to award the bid on water main insertion valves. The Council concurred.

Councilmember Etler advised that he would like to add establishing a historical commission to this evening's agenda. The Mayor and Council concurred.

Status of ATM Machine Contract - Attorney Lustgarten advised that on May 8 he sent a five-page memo to the Manager, copied to the Council and the Municipal Clerk, critiquing the proposed contract with the vendor. He has not seen any new correspondence that the vendor was given the critique or that they responded. Mayor Ganz stated the Council directed that this project be accomplished. He suggested that they direct the Manager to implement this within thirty days and that the Borough Attorney is directed to assist her. There was some disagreement over the reason for the delay. Councilmember Amato thought they had resolved everything and the Manager was supposed to get the machine. Attorney Lustgarten pointed out that it does not make any sense to buy the machine if there is no contract with a processor. His concern is that he does not know if any progress has been made on the contract. He recommended several items the Council not agree to and if the vendor does not change them, he cannot recommend entering this contract.

Mayor Ganz agreed but was disappointed that seven months after the Council directed something to take place they were still talking about it. It is appropriate that it either gets done or the Manager should tell them that it cannot be done.

The consensus was that it either is fully resolved and installed within thirty days or the Council is to get a written report telling them why it cannot be done and what has to be done.

Collection of Court Fines - Councilmember Amato asked the status of this matter. Attorney Lustgarten reported that he is doing the necessary research. He is trying to get a consent from the State so the Borough does not have to start a suit. This matter will be on the October 17, 2000 agenda.

Required Collection of Solid Waste from Apartments - Attorney Lustgarten advised that the moratorium expires January 1, 2001. The apartments want to know the Council's position. He suggested deferring this matter for one work session since neither the Manager nor the Chief Financial Officer are present. The Chief Financial Officer should provide what he anticipates the financial impact would be if the Borough does not supply the service, but had to pay the apartments. Manager Sacks needs to find out what the present hauler would charge if he would provide the service. He thought they would have to bid that service because they cannot compel the existing hauler to provide it.

A lengthy discussion followed concerning providing equal service to the apartments as that service provided to homes. Attorney Lustgarten noted that the court did not spell out the formula for calculating the cost to provide equal service. The Borough does not have to provide greater services to the apartment complexes than it provides to the homes. The court has decided that the solid waste generated by a tenant is no different from the solid waste generated by a homeowner. The Borough will have an increase in cost next year that they do not have now. Attorney Lustgarten will look at the rent leveling ordinance to see if there is anything the Council can do regarding pass throughs.

Mayor Ganz asked Municipal Clerk Kwasniewski to ask Manager Sacks to provide the following statistics: how many units have Certificates of Occupancy; how many residents; the gross tonnage of waste collected in pounds, cubic yards or tons; frequency of pick up; and who their hauler is so that she can call them and find out the cost. Municipal Clerk Kwasniewski will also send a letter over the Mayor's signature telling the NJ Apartment Association they would be hearing from the Mayor and Council in the near future.

Establishment of a Historical Commission - Councilmember Etlar suggested that they form a Historical Commission. He read a set of rules that he and several others had formulated. Attorney Lustgarten advised that there is a statutory framework under which it must be established.

The consensus was that a Historical Commission be established; that Attorney Lustgarten does the research and prepares an ordinance and that suggested names be discussed in Closed Session.

Attorney Lustgarten advised that the statutory historical commission was not founded in 1986 but he was not sure why. Jane Dieveveen stated it was because of the powers the Commission had under the statute. They have the power to ask the Planning Board to refer applications to them for advice on architectural facades. She thought the Borough needed this kind of Commission to preserve facades and that they should publicly solicit members of the Commission.

This item will be on the next work session.

SPECIAL MEETING - Upon motion by Deputy Mayor Adler and a second by Councilmember Amato the meeting was adjourned to a special meeting at 8:35 p.m.

Mayor Ganz reconvened the meeting at 9:25 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 9:25 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 attorney/client privilege, 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 attorney/client privilege within 90 days other than legal strategy; relating to anticipated litigation within 90 days or never with the exception of legal strategy and relating to personnel within 90 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 Adler, the meeting was adjourned at 10:15 p.m.

Respectfully submitted,

Joanne M. Kwasniewski, RMC/CMC/AAE

Municipal Clerk

SPECIAL MEETING OF SEPTEMBER 19, 2000

Mayor Ganz reconvened the meeting at 8:35 p.m.

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

Also present: Municipal Clerk Kwasniewski and Attorney Lustgarten.

ORDINANCES: SECOND READING

Attorney Lustgarten advised that the Planning Board met last night and made some recommendations on Ordinance No. 1821-2000, but he had not had an opportunity to review them. Mayor Ganz stated that the ordinance needs to be adopted. They can always amend it if needed. Having the ordinance in place is more important. Councilmember Etlar thought the Planning Board's suggestion on the distance between parking spaces was not substantive. He wanted to be sure that the distance was between the buses and not just the parking spaces. He also thought the ratio should be changed to one parking space for each bus and that a provision should be added so that a parking space is required for each employee. Mayor Ganz advised that they already require a parking space for each employee under the land use law. He wanted to hear from the Engineer who recommended the ratio of 1.1. These were substantive changes. Attorney Lustgarten asked what the zoning rationale is for having a stall then a three-foot buffer. The three-foot buffer was suggested based on safety issues.

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. 1821-2000

AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FAIR LAWN AND SPECIFICALLY CHAPTER XXVI, ENTITLED, "ZONING", AND MORE SPECIFICALLY RELATING TO BUS PARKING LOTS AND BUS OPERATIONS

Don Oliver, 18-32 Mitchell Place, a member of the Homeowner's Association, asked if the ordinance would affect the Board of Education. Mayor Ganz advised that it will affect them in the same manner as anyone else, but they have an existing facility and any activities that they are presently doing will be grandfathered. Attorney Lustgarten noted they prohibit washing vehicles because the Borough wants a parking or storage facility not a maintenance facility.

Jane Diepeveen, 4 Ryder Road, wondered if they were adopting this ordinance to prevent the Zoning Board of Adjustment from granting a variance without proper guidelines. Mayor Ganz disagreed. This is an area that they do not regulate in the Borough and it needs to be. The Court has determined that this use is inherently beneficially. The Council understands that but wishes to establish regulations. Attorney Lustgarten added that there are areas where buses park but there is no singular ordinance for regulating that type of facility.

Ms. Diepeveen asked about landscaping. Attorney Lustgarten advised that the ordinance requires perimeter screening and buffers.

Hearing no further 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 Amato, Resolution No. 297-2000 adopting Ordinance No. 1821-2000 was considered.

Deputy Mayor Adler wondered if there was a way to streamline the process so they would receive information from the Planning Board more timely. Mayor Ganz explained that the Planning Board has to receive the ordinance after first reading and then they review it. Municipal Clerk Kwasniewski added that this time the Planning Board had changed their meeting date so the time frame was very short.

Hearing no further comments, Resolution No. 297-2000 adopting Ordinance No. 1821-2000 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.1823-2000

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN, 2000 MORE SPECIFICALLY CHAPTER 125, ENTITLED "LAND DEVELOPMENT", SECTION 10, OFFICIAL ZONING MAP, AND SECTION 41, SIGNS, SUB-SECTIONS B AND F AND SECTION 48.A(2), OFF STREET PARKING

Attorney Lustgarten advised that this ordinance formally adopts the zoning map, deletes references to Highway Development and adds to off-street parking houses of worship that was included in the text of the ordinance but not the chart. Mayor Ganz questioned the zoning map which was not signed nor sealed.

Jane Diepeveen, 14 Ryder Lane, asked if this ordinance includes all the zoning ordinances. Mayor Ganz explained that they already adopted the zoning ordinance. This ordinance just adopts the map that was not prepared then. It has been prepared and dated August 2000.

Councilmember Etlar pointed out that Cross Meadow is not on the map. Mayor Ganz asked Municipal Clerk Kwasniewski to ask the Engineer if it is a legal street.

Ms. Diepeveen asked why the Hayward tract had not been changed to match the master plan. R-4 Special Multiple Zone was contemplated for the Hayward tract, Archery field and Daly field. The Council has to pass a resolution that states the reason it is not following the master plan when it adopts the zoning map. She wanted to know why the Engineer had not drawn the map according to the master plan. She objected to it not being shown as R-4.

Mayor Ganz asked Municipal Clerk to ask the Engineer to respond to Ms. Diepeveen's concerns in writing to the Mayor and Council and to send a copy of that response to Ms. Diepeveen.

Ms. Diepeveen wanted to know about R-6 which is not described anywhere. Mayor Ganz advised that they have already adopted the zoning ordinance. This ordinance deals only with the zoning map.

Ms. Diepeveen stated that the League of Women Voters strongly endorses the zoning of the Hayward tract as R-4. Mayor Ganz ruled Ms. Diepeveen out of order since her statements do not relate to the substance of this ordinance.

Ms. Diepeveen continued that the map shows the Hayward tract zoned for industry. The League of Woman Voters strongly endorses the concept that the Hayward tract is shown following the master plan for homes not industry. Mayor Ganz ruled Ms. Diepeveen out of order.

There being no further 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 comment.

Upon motion by Deputy Mayor Adler and a second by Councilmember Amato, Resolution No. 298-2000 adopting Ordinance No. 1823-2000 was unanimously passed.

Upon motion by Councilmember Amato and a second by Deputy Mayor Adler, it was unanimously agreed to take the Resolution of adoption of the following ordinance off the table.

Ordinance No.1816-2000

AN ORDINANCE ADOPTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE BOROUGH OF FAIR LAWN, COUNTY OF BERGEN, STATE OF NEW JERSEY; PROVIDING FOR THE MAINTENANCE OF SAID CODE; REPEALING AND SAVING FROM REPEAL CERTAIN ORDINANCES NOT INCLUDED THEREIN, ESTABLISHING A PENALTY FOR ALTERING OR TAMPERING WITH THE CODE; AND MAKING CERTAIN CHANGES IN PREVIOUSLY ADOPTED ORDINANCES

Upon motion by Councilmember Amato and a second by Councilmember Etlar, Resolution No. 299-2000 adopting Ordinance No. 1816-2000 was considered.

Mayor Ganz advised that with the adoption of this ordinance they are unifying all the past pieces adopted by the Council into a single Code that will replace the Code of 1981. There will be a new Code book. The Code will be on line and from now on the Council will refer to the Code of 2000. This is a significant event because it is the first time in 20 years that the Code has been recodified and revised substantially.

Hearing no further comments, Resolution No. 299-2000 adopting Ordinance No. 1816-2000 was unanimously passed.

RESOLUTION NO.300-2000 Approval of Raffles & Bingo Licenses - St. Anne's Church and Sunrise Rotary Club of Fair Lawn

Upon motion by Deputy Mayor Adler and a second by Councilmember Amato, Resolution No. 300-2000 was unanimously passed.

MISCELLANEOUS PUBLIC COMMENTS

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

Jane Diepeveen, 14 Ryder Road, pointed out that there is no definition of farmers' market in the Code. She thought there should be one. Mayor Ganz advised that the Borough Attorney has advised that the ordinance is sufficient. The State has a definition of farmers market and without a local definition the State definition would prevail.

Ms. Diepeveen thought they should change the wording concerning signs on Page 69 of the Code. Attorney Lustgarten, however, pointed out that it would be an unnecessary expense to amend that section when everyone knows what it means. He felt the language was clear.

Alice Weissman, 347 Owen Avenue, commended the Council for concluding the codification project. She felt putting the Code on line was an important step in making information accessible to more people. Mayor Ganz explained that it will not only be on line but it has a search engine so people can find anything they want very easily. Municipal Clerk Kwasniewski added that the Borough's web site will have a link to the Code. Mayor Ganz concluded that the Code will be on line when they approve the minutes.

Jack Link, Sheffield Terrace asked what the activity was on Well Drive. Municipal Clerk Kwasniewski explained that the Council recently awarded an engineering contract for Well Drive Drain. Attorney Lustgarten added that is the project to construct a drain to get rid of the standing water problems in that area.

Jane Diepeveen, 14 Ryder Lane expressed concern that the prohibition of covering more than 25% of glass with signs is ignored in some sections of the Borough. She asked that it be enforced. Mayor Ganz advised that if a complaint is filed with the zoning officer he will enforce the ordinance.

There being no additional comments from the public, upon motion by Deputy Mayor Adler and a second by Councilmember Amato, the time for public comments was unanimously closed.

ADJOURNMENT:

Upon motion of Deputy Mayor Adler and a second by Councilmember Amato the meeting was adjourned to Work Session at 9:25 p.m.

Respectfully submitted,

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