

## January 19, 1999 - Work Session

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 Ahearn, Councilmembers Dobrow (late), Tedeschi and Trawinski (late).

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

**Review of Tentative Agenda** - Municipal Clerk Kwasniewski advised that there may be the addition of an ordinance on George Street parking if the Council chooses to do that after discussing the matter later this evening.

**Rotary Park Committee Status Report** - Rich Purpose, Chairman of the Rotary Park Committee and John Stramiello were present to discuss the status of Rotary Park.

Councilmember Trawinski arrived at 7:40 p.m.

Mr. Purpose indicated that the Board of Directors of Fair Lawn Rotary asked him to speak to the Council. There have been some delays in the project with the architect who has been dismissed. They are now seeking to contact the architect that did the project in Ridgewood since that project is what they would like on a smaller scale. They had some questions that need to be resolved. They were under the impression that there was financing set up for this project. They believe that the Borough would pay for the project and Rotary would supply the fund raising for the costs. They wondered what would happen if the Rotary Park Committee cannot reimburse the Borough the expenses for the park. Manager Sacks explained that there was \$20,000 appropriated. The project would have to be bid. The landscape architect would prepare an estimate.

Councilmember Dobrow arrived at 7:55 p.m.

Councilmember Tedeschi indicated that he advised Stu Hermann to speak to CFO Eccelston so he could explain the financing of this project. Attorney Lustgarten explained that the private organization develops the concept and the plans and then the Borough would put it out to bid and the private organization would donate its share. If Rotary is unable to raise all of their share of the project, either the project fails or the scope of the project is reduced or the Borough puts in more money. Councilmember Tedeschi pointed out that the park is owned by the Borough and the Borough takes the bids, the donation by Rotary is incidental. The Borough will then maintain the park since it will be a Borough park.

Mayor Ganz noted that the Veteran's Council and the Flag Protocol Committee need to be included in the plans. He felt Rotary should start fund raising now. Mr. Purpose indicated that they wanted to have the plans prepared so they could get the final commitment from the Borough Council before doing any fund raising.

This item will be on the agenda for a follow-up in 45 days.

**Fair Lawn Commons Developer's Agreement** - Engineer Garrison was present. Attorney Lustgarten advised that the agreement for 12 temporary certificates of occupancy was accomplished last Friday. There are some suggestions for a second revision to the Developer's Agreement. He presented a color-coded map showing the various systems. The Council has to decide whether it is going to accept the potable water system as recommended by the Engineer or an alternative where the owner will own and maintain it with Borough's access to it. He wanted the map to be included as an attachment to the Developer's Agreement.

Councilmember Trawinski noted that the subdivision ordinance says the water system will go to the Borough. He wondered if the ordinance had to be changed if the Borough does not accept the system. The Borough accepted the water system in the Berkshire Park development.

Engineer Garrison indicated that he is the licensed operator and that the impact a problem with the water system could have outside the property can be tremendous and he felt strongly that the Borough should take over its operation and keep it under Borough control. He continued that although it is difficult to anticipate when a water break might occur or the costs that would be incurred he has not experienced a break in the water line since 1970. In the near future he thought the worst that could happen was someone knocking off a hydrant. The useful life of the line will exceed 100 years. If there is any infiltration into the potable system, the Borough does not have the ability to respond quickly.

Councilmember Trawinski noted that the Planning Board gave preliminary and final site plan approval. The statute says that the Borough cannot change the ordinances after the approval. Attorney Lustgarten noted that it would have to be negotiated with the developer and they would have to agree to it. Mayor Ganz noted that the window of opportunity relates to the issuance of the temporary certificates of occupancy which are not required under any statute. He indicated, however, that he was persuaded that the Borough should take over the water system.

Mayor Lustgarten indicated he was prepared to recommend to the Mayor and Council that they adopt the resolution to execute the Developer's Agreement. Mayor Ganz asked for a redline draft comparing the original document and this document. He was not prepared to authorize its execution this evening. Attorney Lustgarten advised that if the Council does not do that they need to amend the TCO agreement to include 12 more units to be rented on January 21. Councilmember Trawinski was willing to authorize the Mayor to execute the developer's agreement as long as he and Attorney Lustgarten were satisfied in addition to giving them the additional 12 temporary certificates of occupancy. The Council concurred.

**Special Meeting** - Upon a motion by Councilmember Trawinski and a second by Councilmember Tedeschi the work session was unanimously recessed to a Special Meeting at 8:15 p.m.

Mayor Ganz reconvened the work session at 8:25 p.m.

**George Street Parking** - Manager Sacks noted that the Borough Engineer has advised that additional parking spaces could be obtained for the River Road merchants by removing the parking restrictions on George Street. The Traffic Officer has said it is a good idea but parking should be limited to two spaces for two-hour parking. The ordinance needs to be changed to eliminate the no parking prohibition. Engineer Garrison indicated that the rest of the street has two-hour parking from 8:00 a.m. to 6:00 p.m. He recommended making it consistent with the rest of the street.

The consensus was to change the ordinance.

Attorney Lustgarten noted that the Borough is supposed to adopt parking ordinances for the George Street Parking Lot prior to its construction. He suggested that the Engineer and Manager review the agreement with Bank of New York. Councilmember Tedeschi asked if the River Road Improvement Corporation should be involved in developing the policies. He also has seen residents of the apartments using that lot for overnight parking which must be addressed. Councilmember Trawinski concurred indicating that the Council has to develop a fee for the residential users. Engineer Garrison noted that this agreement is with the Bank of New York and not the RRIC. At some point RRIC will be laying out the next phase of the parking plan.

This item will be on the agenda in 30 days for a recommendation.

**1999 Food Concession (Memorial Park)** - Mayor Ganz had asked that the resolution be tabled because of a concern about a sole source vendor. He asked the Manager to explore additional possibilities and to come back to the Council in 30 days with recommendations.

**Continued Certificate of Occupancy Ordinance** - Mayor Ganz expressed concern about the discretion on the part of the construction official. He suggested that the proposed ordinance be recirculated and this matter be placed on the agenda again in two weeks.

Councilmember Dobrow advised that Jim Vanderbeck mentioned that the sidewalks are in terrible condition throughout the Borough. The Face Lift/Property Maintenance Committee has suggested that the Borough follow Ridgewood's example and have the sidewalks redone and give the owner a certain amount of time to pay it off. The Committee did not think repairs should wait until the house is sold. Mayor Ganz noted that in Rockville Center there is a sidewalk inspection on resale and before the continued certificate of occupancy is issued it must be repaired. Councilmember Trawinski noted that sidewalks were taken out of the CCO ordinance because the Council thought it merited separate consideration. He suggested doing the CCO ordinance first. Attorney Lustgarten thought they were included in the CCO.

Engineer Garrison mentioned that there are a number of towns in the area that have sidewalk ordinances. It is on a safety basis. The owner has 60 to 90 days to fix it or the Borough fixes it and assesses the owner. Attorney Lustgarten expressed concern about the issue of the tree roots raising the slab. Sidewalks will be on the agenda two weeks after the Certificate of Continuing Occupancy ordinance is completed.

Mayor Ganz expressed concern if the repairs are more than what the resident would receive for the sale. Councilmember Trawinski felt that the Council has an obligation to make sure that the houses in the Borough are up to Code. Mayor Ganz noted that if the repairs are disproportionate to the value of the property it may be a taking.

Attorney Lustgarten noted that the Council is contemplating someone going to contract and making an application for the CCO. There should be some type of mechanism for getting the inspection before they go to contract so they can add the repair costs into their sales price. Councilmember Trawinski advised that in reality the seller's attorney negotiates an escape clause that if the costs are too high the deal is off.

**Petition to Restore Bus Stop on Saddle River Road** - A petition to restore the bus stop on Saddle River Road at Terhune Place was received. This bus stop was eliminated at the request of an attorney on behalf of John Raffiani whose house the bus stop was located in front of. Councilmember Tedeschi thought the Council may have made a mistake in taking away that bus stop.

Councilmember Trawinski suggested that they invite Mr. Raffiani, his attorney, the residents who signed the petition and their attorney and ask them to explain why it should have been moved and why it should be moved back. Municipal Clerk Kwasniewski will send a letter inviting them to the work session on March 2 to have a discussion on the bus stop.

Councilmember Tedeschi felt the real solution is to get an express bus to originate out of the municipal lot. Manager Sacks was asked to explore this option and to report back to the Council before the March 2 meeting.

**Truck Routes** - Councilmember Trawinski advised that most municipalities have ordinances that create exceptions that parallel the state statutes. He felt they should do the same. The residents still have a problem with the garbage trucks using Ellington Road as a cut through. He felt there was a problem with the signage as well. It clearly delineates that Plaza Road is prohibited but it is not too clear that Ellington Road is prohibited. Attorney Lustgarten noted that there is a misconception that the State statute exempts municipal vehicles which is not true. He read the statute. Councilmember Trawinski indicated the objective is to exempt municipal vehicles performing scheduled duty of pick up or delivery. Manager Sacks indicated that the trucks should not be using Ellington Road as a cut through although the day in question they were picking up garbage. Attorney Lustgarten indicated that an ordinance that allows them to perform their public function is what is needed.

The consensus was to fix the ordinance.

Councilmember Trawinski asked that the Manager write to Manella and tell them not to use it as a cut through. Manager Sacks will write to them although she has told them verbally. She should also send Manella the ordinance of the authorized streets so that they cannot claim ignorance.

**Renewal of Contracts** - Engineer Garrison advised that the contract with Riggs Associates to do surveying and updating tax maps needs to be renewed. They are used for minor projects.

The Council did not have a copy of the memo Engineer Garrison had prepared so this item was pulled from the agenda. There was a short discussion of who was responsible for distributing such memos. Councilmember Tedeschi noted that the Municipal Clerk serves as the Secretary for the Council and everything should be going through her. The memo will be recirculated and this item will be on the next agenda.

Proposals have not been received from Burton Agency or Reinhart & Associates. These items will be on the agenda as soon as they are received.

**Mader Letter** - Gulf Station Concerns - Councilmember Trawinski advised that a letter had been received from Mr. Mader concerning the Gulf Station being used as a cut through. Mr. Mader is asking for a focus on enforcement. Councilmember Trawinski thought when the intersection is improved the issue should be resolved.

Municipal Clerk Kwasniewski will write to him advising that the intersection is scheduled for improvement in the spring and the Council is confident that the issue will be resolved with that improvement.

**Recodification of Borough Ordinances** - Municipal Clerk Kwasniewski advised that the draft manuscript is not on disc because it is more than 1,000 pages and the final product will probably be only 500 pages so they do not want to do any unnecessary data entry. General Code will supply the copies at \$50 each. Municipal Clerk Kwasniewski will order the copies and ask for a 90-day extension. She will report back in two weeks.

**Budget Dates** - Mayor Ganz suggested starting with one general overview session and then breaking it down to several sessions by Department and then focus any significant changes from last year with the proviso that any Councilmember can raise for discussion any line item. Councilmember Tedeschi thought it was essential to have Department Heads present. Mayor Ganz suggested that Manager Sacks send them a memo detailing the tentative order and then the Council can decide on dates. Manager Sacks will have the list ready for the next work session.

**Use of Credit Cards in the Fair Lawn Municipal Court** - Councilmember Trawinski noted that Judge LaHiff sent Attorney Lustgarten a memo detailing several items that the Council should consider. The Office of Administrative Law has now promulgated procedures for the use of credit cards in the Court. There are several steps the Council has to take if it wants to authorize the Court to be able to accept credit cards. He thought it was another mechanism to collect the fines. Councilmember Tedeschi thought the credit cards would reduce the number of partial payments which are a problem. Mayor Ganz thought the Council should authorize the Manager to negotiate a contract with the credit card vendors and present it to the Council. Attorney Lustgarten noted that the Council has to adopt a resolution authorizing the Municipal Court to establish a system for electronic payments. In addition, the municipality has to enter into a contract with the credit card vendor in accordance with the Local Public Contracts Law which means that this will have to go out to bid unless this is deemed as a specialized service. Deputy Mayor Ahearn noted there was an article on a pilot project in the League of Municipalities magazine last month.

The consensus was to adopt the resolution authorizing the use of credit cards in the Municipal Court while Manager Sacks and

Attorney Lustgarten will do further research on this item.

Councilmember Trawinski noted that Judge LaHiff suggested that the Council might want to support Assembly Bill 2608 which permits the doubling of fines for certain offenses on residential streets and Assembly Bill 2634 which permits an amnesty program to enhance the collection of fines. Attorney Lustgarten will research these bills and report to the Council.

Judge LaHiff also raised the issue of handicap spaces. Attorney Lustgarten noted that there must be signs and the signs must state the fine. Sometimes the sign is knocked down and someone uses that as a defense. He will draft an ordinance with the suggested changes consistent with State statute.

Judge LaHiff also advised that they have to change the way they collect fines. Attorney Lustgarten suggested installing a moveable partition at the back of the room which would eliminate the need for additional security. Attorney Lustgarten, Manager Sacks and Judge LaHiff will present an inexpensive solution.

Status Reports on the Y2K issues for computers and Police Director search will be carried to the next work session.

**Closed Session Resolution** - Upon motion by Councilmember Trawinski and a second by Deputy Mayor Ahearn, the following closed session resolution was unanimously adopted at 9:50 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 of the Borough of Fair Lawn desire to discuss matters under 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 within 30 days.

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 above are ones which permit the exclusion of the public.

ADJOURNMENT - Upon motion of Deputy Mayor Ahearn and a second by Councilmember Tedeschi, the meeting was adjourned at 9:55 p.m.

Respectfully submitted,

Joanne M. Kwasniewski, RMC/CMC/AAE

Municipal Clerk

### January 19, 1999 - Special Meeting

Mayor Ganz reconvened the meeting at 8:15 p.m.

**PRESENT:** Mayor Ganz, Deputy Mayor Ahearn, Councilmembers, Dobrow Tedeschi and Trawinski.

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

#### **RESOLUTION NO. 48-99 AUTHORIZING EXECUTION OF DEVELOPER'S AGREEMENT**

Upon motion by Councilmember Trawinski and a second by Councilmember Tedeschi, Resolution No. 48-99 Authorizing Execution of Developer's Agreement with Fair Lawn Commons was unanimously adopted.

**ADJOURNMENT** - Upon motion of Councilmember Trawinski and a second by Councilmember Tedeschi, the meeting was adjourned at 8:20 p.m.

Respectfully submitted,

Joanne M. Kwasniewski, RMC/CMC/AAE

Municipal Clerk