

Work Session - April 6, 1999

Mayor Ganz called the meeting to order at 7:30 p.m. Municipal Clerk Kwasniewski read the statement of compliance with the Open Public Meetings Act.

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

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

Review of Tentative Agenda - The Council discussed Ordinance 1752-99 concerning the fees for the use of the Arts Center. The Council agreed to rescind the ordinance as introduced and introduce a new ordinance listing the organizations that are exempt from the \$100 per day fee. Attorney Lustgarten will review the bids for the SCADA to be certain that the Council has proper grounds to reject these bids as recommended by Engineer Garrison. The budget for the Special Improvement District will be introduced.

Special Meeting - Upon a motion by Councilmember Trawinski and a second by Deputy Mayor Ahearn the work session was unanimously recessed to a Special Meeting at 7:50 p.m.

Mayor Ganz reconvened the work session at 8:00.

Tierney Place Parking - The Council changed the parking restriction for certain blocks but not the last block. The residents have asked for the restriction on Tierney between Lyle and Jerome so that they will not have commuters parking in front of their houses. Getting in and out of their driveways is dangerous for the residents. Councilmember Trawinski noted that a former intern did a survey of the streets that the Council thought should have parking restrictions. Eight or ten streets were done simultaneously in one ordinance. The Council agreed to introduce an ordinance restricting the parking as requested by the residents.

Certificate of Continued Occupancy Ordinance - Construction Official Thomas VanHook was present because he thought there should be some changes to the ordinance. Attorney Lustgarten noted that every other reference he has seen talks about a certificate of continued occupancy. Construction Official VanHook thought that if the word compliance was incorporated, it would distinguish it from the Construction Code's certificate of continued occupancy that is somewhat different from a zoning certificate. The residents would receive a certificate of compliance to sell their home rather than a certificate of continued occupancy. Any homeowner can get a certificate of continued occupancy right now if they ask for it. He would be satisfied if the ordinance called for a certificate of continued occupancy/compliance. He will have to create a separate zoning form.

The inspection will also be different from the Uniform Construction Code inspection because those rules and guidelines are only for the building code and this does not relate to the building code. He will be measuring the inspection against common sense standards. He will be looking at relative safety issues. He did not believe that he could require someone to take out something sixty years old as long as it works properly. Mayor Ganz expressed some confusion since he had been told the purpose of this ordinance was to upgrade the housing stock and could force new electrical. Construction Official VanHook advised that if there are additions to an electrical panel put on without proper inspections, he can declare that it be corrected. On the other hand if there is a 1945 panel with nothing changed and it is in good working order, there is nothing in the law that says it has to be changed. Attorney Lustgarten advised that the authority to inspect already exists under safety matters. If the inspector sees something that could not be part of original construction, he would check to see if there is a permit. He felt it was an objective standard not discretion or common sense.

Mayor Ganz thought the Construction Official has a very different view from the Attorney. Deputy Mayor Ahearn noted the appeals section contains a dollar amount. He wondered if language could be added so it says "or at recommendation of the Construction Official". Attorney Lustgarten suggested adding "if in the judgement of the Construction Official and Borough Manager the violation does not meet the intent of the ordinance a waiver can be issued." He felt that would build in a great deal of discretion.

Councilmember Trawinski advised that there was a similar discussion about this section when it was first proposed. The thinking was that the Borough should not allow people to escape the obligation of obtaining the permit. They should have to pay the permit fee and get a permit. He wondered why Fair Lawn is one of the few towns that does not have this type of ordinance. The other municipalities' ordinances always call it a Certificate of Continued Occupancy.

Construction Official VanHook asked the appeal process be changed to fifteen days. Under the UCC the construction office is not permitted to estimate the cost of compliance because he is licensed to inspect and to review plans. He has not done estimating for ten years so he is not comfortable doing that since he cannot do that accurately. He can tell them what code violations exist. Borough Lustgarten suggested changing section e on page 3 to read the owner may obtain the cost of compliance. Construction Official VanHook asked for 120 days before the ordinance becomes effective. The Department of Community Affairs has told them not to include Certificate of Occupancy in the zoning issues because it is a uniform construction code term. Councilmember Trawinski suggested that perhaps the ordinance does not belong in Chapter 26.

Attorney Lustgarten noted that if the Council allows discretion, they build in a statute of limitations based on the inspector and they have given the homeowner a license to escape detection. Councilmember Trawinski said the timing of this is when there is a free market to determine the upgrade. It becomes a function of the buyers and sellers. Construction Official VanHook noted that there is an appeal process so the Council can see how it works. If it turns out to be a burden, they can amend it. He only wanted to bring it to their attention that there will be a backlash and the Council will get those complaints. Attorney Lustgarten did not think the Council should be involved in the appeals process. Mayor Ganz pointed out that if it does not work, the council will have to refine it.

The consensus was to rescind the ordinance introduced. They will introduce an amended ordinance that will be effective January 2000 at the first meeting in May.

Arts Center - Superintendent of Parks and Recreation Frey was present. Mr. Mecky had told the Council it would cost \$500,000 for the first floor and \$350,000 for the second floor. Manager Sacks and Superintendent Frey met with Mr. Mecky again. Manager Sacks felt the issue was whether the Council wants to spend \$850,000 to renovate the facility on River Road that will still have limited parking and limited use or do nothing or do they want to spend \$1,000,000 to build something new adjacent to the Recreation Building. She asked for direction. She did not recommend putting \$500,000 or more into the Arts Center on River Road at this point. She thought that they should put the \$850,000 toward a new location.

Superintendent Frey indicated that he reread Mr. Mecky's report and just did not think the Arts Center should stay on River Road. He did not think it will add anything to River Road development. He felt that the Council should sell the Arts Center and put that money toward building a new Arts Center. There is more parking and everything will be under one roof if they build the Arts Center adjacently to the Recreation Center.

Councilmember Dobrow advised that dancing in the afternoon and evening is very popular with the seniors. She will visit several studios to get more information. Superintendent Frey noted that they have dance programs now at the Senior Center. He could develop some additional programs in the future. He just did not think the Arts Center will bring in business to River Road. He questioned the feasibility of putting \$850,000 toward an old building.

Deputy Mayor Ahearn did not see any sense in putting any money into the old building nor did he see putting any money into the Rec Center without seeing what could be done in coordination with the schools. Superintendent Frey noted that the schools are heavily used by recreation and All sports. Councilmember Trawinski advised that three years ago when the Council asked the School Board said the schools were being utilized to the maximum.

Councilmember Tedeschi distributed an abstract of Carl Mecky's report. He pointed out that Mr. Mecky had listed several disadvantages to adding onto the Rec Center building. He did not think it was the Council's goal to rebuild the Arts Center for the benefit of River Road. If that happens, it was an ancillary benefit. He thought the question was spending \$500,000 or leaving the building the way it is. Superintendent Frey thought they needed the second floor to meet all the needs. He housed several clubs on the second floor. He believes it should be incorporated as a recreation center and a cultural arts center.

Councilmember Trawinski noted that the deciding factor for not including it at Center Rec was that it would bring traffic into the residential zone. He was not even sure that he was prepared to spend any money on this facility. He thought they needed to work with the School Board to share the facilities. Renovating it on River Road was an ancillary benefit but the Council needs to do it because they are committed that this facility needs to be a government function. He was willing to revisit it, but he did not want that to be misunderstood that he was prepared to spend the money. Perhaps it is time to ask the School Board again.

Mayor Ganz was struck by how close the existing Arts Center and the addition to the Rec Center was and how arbitrary the numbers are. Mayor Ganz the Council has seen plans showing what could be done at the existing premises. He asked if there were comparable plans for the addition at the Rec Center but Superintendent Frey advised that had not been Mr. Mecky's charge. Councilmember Dobrow felt that the Council has to decide how they are going to use the Arts Center. Councilmember Tedeschi disagreed indicating that the first decision is whether or not the Council wants to revisit this issue. Mayor Ganz summarized the fundamental issues as what does the Council want to do and does it want to do it at the Arts Center or do they want to do it some other place.

Deputy Mayor Ahearn noted the police want new space, the Ambulance Corps. needs new space and now Recreation is saying it needs new space. Superintendent Frey assured the Council that he was not asking for more space, he suggested merging two buildings into one. Councilmember Trawinski pointed out that there were some locations for the Police Department that they rejected for a variety of reasons. Deputy Mayor Ahearn thought the Council should figure out a way to build new buildings without having to bond them. Mayor Ganz suggested directing the Manager to work with the Department Head that need space to come back with a common plan and recommendation. Councilmember Tedeschi disagreed because when the users of a building design it, it costs too much. He suggested that they narrow the choices to doing nothing or to spending \$500,000 to renovate the existing building. Anything beyond that was too much. Deputy Mayor Ahearn suggested that the Manager tell the Council what the Borough's buildings needs will be in the next five years.

Attorney Lustgarten noted that the reality might just be that the Borough cannot spend the money for the needs and it just has to be deferred. Mayor Ganz wanted to know the maximum number of people who can use the facility if they renovated just the downstairs. Councilmember Trawinski pointed out that the Council should get an annual certificate that the building is still safe.

The consensus was to ask Construction Official VanHook to inspect the facility and to defer this project for a year.

Rotary Park - Manager Sacks advised that the Executive Board of the Rotary recommends that the only part they play be fund raising. They do not want to be responsible for the design or the building of the park and they asked that the Borough do that. Manager Sacks met with Engineer Garrison and Superintendent Frey who feel they can do the landscaping. They can design a simple park. She felt the Council should go ahead with the sprinklers since that is already in the budget. She recommended doing the sprinkler system and working around the lines for the plants, the brick work and the benches and have a scaled down version. It will be nicer than what is there now. Deputy Mayor Ahearn appreciated what the Rotary does about beautification, but he did not think the front yard was all that ugly. He thought that there were other areas that are in need of improvement. He did not see any reason to put any Borough funds into this project. Councilmember Tedeschi explained that the original concept was that Rotary was going to raise the money, do the design work and build the park. The first piece was the capital money for the sprinkler system that was appropriated. It was much too big a project for Rotary. Councilmember Trawinski noted that he did not support the appropriation of \$20,000 at the time and he did not think it was a project the Borough should spend any funds on. This is not a priority for him. Councilmember Dobrow thought the Garden Club could build it little by little.

The Council had no problem with doing the brick program as long as the Borough does not do it with Deputy Mayor dissenting. They asked the Manager to reach out to other organizations to see if there was any interest in such a program.

The consensus was to proceed with the irrigation system.

Walsh Pool/Columbia Heights Park Citizens Advisory Committee - Councilmember Trawinski noted that it was apparent to him that there is no unanimity of opinion on what should be done with the facility but to alleviate concerns that the Council is going to close the pool and put something other than recreational facility he felt they should create a committee to form a vision for Walsh Park. If the

Council is going to decide to close the pool after this season the residents will know what will be done. If the decision is to close Walsh Pool, as long as the 5 percent needed as the down payment for any capital project is already in the budget the capital appropriation could be done at any time.

Mayor Ganz suggested a 10-person committee two of whom will be Councilmember Trawinski and Deputy Mayor Ahearn and four to be nominated by Councilmembers Trawinski and Tedeschi and four to be nominated by the remainder of the Council. Councilmember Tedeschi preferred to have people volunteer. Suggestions were Sue Benjamin, Wendy Dabney, Reina Ramirez and Jane Young. Deputy Mayor Ahearn pointed out that there are people who are relatively new who might not know how to get on a committee. He thought it should be an open committee.

The consensus was to create a ten-person committee with two Councilmembers who will co-chair the committee to report to the Council in sixty days. The Council can adopt the resolution creating the committee at the next Council meeting and hold a short Closed Session to discuss appointments and then make the appointments in public session.

Budget Wrap Up - There are some outstanding issues to be decided. The changes the Council already agreed to added \$28,200. Mayor Ganz suggested that the Senior Citizens Center be open Sunday. Manager Sacks suggested adding \$1,000 to the other expenses line item for programs and \$1,300 to salaries so the Center could be open from 11:00 a.m. to 2:00 p.m. Sundays. Councilmember Trawinski pointed out that the \$2,500 was already agreed to and this was not an open issue. He thought the issue was whether to add additional money so the Center could be open on Sunday. With the size of the expansion he did not think they could provide the programs with what is in that line item. Councilmember Tedeschi asked that the attendance be included in the Manager's monthly report.

The consensus was to add \$1300 to salary and wages.

CFO Eccelston advised that a decision is needed on the request for \$15,000 for ice hockey. There is \$63,000 lost in grants. He reviewed all the departments and cut \$5,200 from overtime. He increased Recycling salary line item \$82,000 because of the loss of the grant. There are two bills from prior years totaling \$5,011 that need to be added. The cost of water for the pools for last year was \$92,750. He has a \$50,000 appropriation to reimburse the water fund. The Council needs to decide if they want to increase the line item to reflect the actual cost. He recalculated the tipping fees which would be a reduction of \$132,000. He provided for \$100,000 for leaf removal if they change the existing system so that would reduce the line item by \$32,000. CFO Eccelston thought that if the BCUA raises their fees to \$59.50 the rest of the markets will also raise their fees. He could take \$37,000 out of this line item.

Closed Session Resolution - Upon motion by Councilmember Trawinski and a second by Councilmember Dobrow, the following closed session resolution was unanimously adopted at 10:35 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 anticipated and pending litigation; 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 upon adoption of the budget except for legal strategy which may not be disclosed;

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 are ones which permit the exclusion of the public.

Mayor Ganz reconvened the meeting at 11:50 p.m.

Budget Wrap up Continued - Mayor Ganz suggested leaving \$50,000 as the appropriation for reimbursement to the water utility. Councilmember Tedeschi noted there is a shortfall of \$42,000 and asked how is that made up. CFO Eccelston advised that the ratepayers pay for it. Councilmember Tedeschi noted that Memorial Pool is a pay for fee service but the taxpayers have been paying for the pool all along and they should know that.

The consensus was to leave the appropriation at \$50,000 with Councilmembers Tedeschi and Trawinski dissenting.

The consensus was to include \$15,000 for ice hockey with Deputy Mayor Ahearn dissenting. The Manager was asked to look at a six-month rink and a twelve-month rink. Manager Sacks indicated that a six-month rink would cost \$300,000.

CFO Eccelston advised that \$71,183.73 has been added to the budget which would be a tax increase of .32 or the Council could take that amount out of surplus.

CFO Eccelston advised that there is \$15,800 worth of radios to be purchased. The consensus was to include these items in the capital budget with Councilmembers Tedeschi and Trawinski dissenting.

The consensus was to increase the salaries for the legal professionals as follows: Attorney Lustgarten 3.25%; Judge to \$30,000, Prosecutor to \$12,000, Public Defender to \$5,000; Planning

Board Attorney to \$10,750; Zoning Board Attorney to \$10,000; Rent Leveling Attorney to \$8,000.

CFO Eccelston advised that \$183,000 is needed from surplus to have a half a point tax decrease but that would be using more surplus than ever before. The budget as proposed uses \$2,644,000 of surplus leaving \$1,183,000. There would be \$1,110,000 if the \$71,000 is taken out of surplus. CFO Eccelston would not recommend using that much surplus.

The consensus to have a half point tax decrease failed with only Mayor Ganz in favor.

The consensus was to take the \$71,000 out of surplus to allow for a zero increase budget with Councilmember Trawinski dissenting.

Mayor Ganz noted that he would support a half point decrease to give the money back to the homeowners in an amount that he thought was safe, prudent and reasonable. Councilmember Tedeschi noted that it was over the objection of the Chief Financial Officer that the Mayor made that suggestion. Deputy Mayor Ahearn did not think that anyone would actually see a real decrease so in view of the future and warnings from Councilmember Tedeschi about next year, he could not support a decrease. Councilmember Trawinski reminded the Council that Moodys had advised that the Borough used too much surplus.

Minutes on the Web Site - The consensus was to place approved minutes on the web site after they have been signed by all members of the Council and reviewed by the Borough Attorney.

Marathon Letter - Councilmember Tedeschi distributed a copy of the letter he would like included with the vendor's checks. CFO Eccelston did not think it was a good idea. Councilmember Tedeschi then asked for labels but CFO Eccelston did not have a label program. Councilmember Tedeschi withdrew his request.

Remaining Agenda Items - The Council deferred the remaining items for two weeks.

Closing Times of Meetings - Mayor Ganz suggested that the meetings end between 11:00 p.m. and 11:30 p.m.

ADJOURNMENT - Upon motion of Councilmember Trawinski and a second by Deputy Mayor Ahearn, the meeting was adjourned at 12:40 a.m.

Respectfully submitted,

Joanne M. Kwasniewski, RMC/CMC/AAE

Municipal Clerk

Special Meeting - April 6, 1999

Mayor Ganz reconvened the meeting at 7:50 p.m.

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

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

PROCLAMATIONS: "HADASSAH MONTH" & "DAYS OF REMEMBRANCE"

Municipal Clerk Kwasniewski read the proclamation declaring April as Hadassah Month within the Borough.

Municipal Clerk Kwasniewski read the proclamation declaring the week of Sunday, April 11 through Sunday, April 18, 1999, as the Days of Remembrance.

RESOLUTION NO. 118-99 AWARD OF BID INSTALLATION OF ENERGY EFFICIENT LIGHTING

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Ahearn, Resolution No. 118-99 Award of Bid Installation of Energy Efficient Lighting was considered.

Councilmember Trawinski expressed concern that this bid is a full third lower than the other bids and the engineer estimates. He wanted to be sure that the references had been checked so that the Council can be sure that this is the lowest responsible bidder. Manager Sacks advised that she spoke to the consultant, SYCOM to make sure that they had checked on the company and that everything was bid correctly. SYCOM has worked with this company before and found them to be very reliable. Checking the companies that bid is part of the contract with SYCOM so she relied on them. They have the technical expertise that she does not.

With no further discussion Resolution No. 118-99 was unanimously adopted.

ADJOURNMENT - Upon motion of Councilmember Trawinski and a second by Deputy Mayor Ahearn, the meeting was adjourned at 8:00 p.m.

Respectfully submitted,

Joanne M. Kwasniewski, RMC/CMC/AAE

Municipal Clerk