

Work Session - April 21, 1999

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, Tedeschi and Trawinski.

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

Review of Tentative Agenda - A place to place transfer of Shop Rite's liquor license will be added to next week's meeting.

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 7:45 p.m.

Mayor Ganz reconvened the work session at 8:50.

Police Chief vs. Police Director - Mayor Ganz said maybe it should read Police Chief or Director. Manager Sacks said she was recommending that the Borough go back to a Police Chief and at our last meeting when we were discussing this, you had asked me for some of the things that went into my thinking and so I wanted to recite them to you. Councilmember Tedeschi said a point of order. He asked that these be entered verbatim in the record, please. Mayor Ganz said without objection the Clerk will transcribe these verbatim.

Manager Sacks stated the following are the items I took into consideration and these are what a town generally should think about when you are deciding whether to have an outside civilian police director or to have a chief from within the ranks.

Is there a lack of leadership in the top ranks and I don't feel there is.

Is there a lack of cohesiveness among the higher ranked officers? I don't think there is a lack of cohesiveness.

Is there a lack of talent from within the department upon which to draw from the top executive? No there is no lack of talent. The talent exists.

Is there a lot of litigation within the department concerning areas which necessitate outsider clean up? For example, civil rights violations, charges of employment discrimination, massive or routine coverups, etc. No, we are not having those kind of problems.

Would an outside civilian director hurt morale or help it? I believe that at this point an outside civilian director would hurt morale.

Are there current morale problems that require outside intervention? Not currently. Currently morale is good.

Would a signal be sent that upward mobility is limited by bringing in an outside civilian director? Yes, it would be a very negative signal and it is one that you really don't want to send to any police department.

Is the department in a geographic area where chiefs or directors are traditional? What is the acceptance of the two positions by other law enforcement executives in the geographic area? In this geographic area, that is Bergen County, chiefs are traditional not directors. There are other parts of the State where the reverse is true.

Is there an added expense to hiring a civilian director? Yes, there is. The department has to go up to 57 and stay there because of the federal grants. A chief is counted as one of the 57, a director is not. So you would be paying the salaries of 58 people and the added \$100,000 would not give you any credit toward fulfilling your table of organization for the purpose of your obligation under the federal grant.

Does the public demand outside leadership of the department? What is the tradition in your municipality? Well, the tradition has always been to have a chief here and the public has not raised any great demand for outside leadership of the department. In fact, I have heard no demand for outside leadership from the public.

Is there a risk that a civilian will be more subject to political interference and political control than a chief would be? Is a chief perceived as less political and more objective? Do you have a civil service qualification of a chief or is the chief a political appointment from any rank or any department? The chief in Fair Lawn would be a promotion from within the ranks. It is governed by Civil Service and objective criteria prevail. It is non political and it is removed from the political sphere.

Are there ways to rid your department of a bad chief? Can charges be brought against a chief who fails to do his or her job? Yes charges can be brought and yes there are ways within the Civil Service structure to rid the department of a bad chief. It takes work but it can be done.

Is the chief a member of the collective bargaining unit? No, that's not a problem in this Borough. The chief would be outside the collective bargaining unit.

Would bringing in an outsider stifle the creativity and energy of current top ranking officers or do they prefer to be led by an outside civilian? Would senior ranks be negatively affected by bringing in an outside civilian director or would they thrive better under outside leadership? Would an outsider be in a better position to develop leadership among the senior cadre of officers? The answer here is that there is creativity and energy which would likely be stifled by an outsider at this point. The ranks from within would be negatively affected and I believe that the ranks would thrive better under internal leadership.

Is there a great deal of turmoil which cannot be settled without bringing in an outside civilian? No, there is no turmoil and if there were turmoil, I believe that the department is now at the point where it could be settled from within without outside intervention.

What are the economic considerations. Will the director add another salary or would the position be paid with funds that would otherwise be spent anyway for a sworn officer? As I said before, the Borough is obligated to keep 47 people, sworn officers on the payroll and the chief is considered one of those sworn officers. So yes there is an economic consideration of the additional \$100,000 or so to be paid by the taxpayers for this salary.

Is there a lack of accountability among the senior ranking officers that can only be addressed by outside civilian leadership? No, there is no lack of accountability currently among the senior ranking officers.

Is there the perception that the rank - by the rank and file that there are no real leaders from within their own ranks and that there is nobody they would choose to follow? That is not at all their perception. They perceive that there are leaders from within their own ranks and they would choose to follow them.

Has there been a change in the population being served such that it is not represented by the makeup of the current sworn leadership in the department? Is there a lack of sensitivity among the senior leadership to the changing needs of the population? No, there is no lack of sensitivity and there is no change that is failing to be recognized by the current sworn leadership in the department.

Is the senior sworn leadership opposed to input from the public, from the city's management or from other agencies, law enforcement and non-law enforcement? No, the senior sworn leadership readily accepts input from the public, city management and other agencies.

Does sworn leadership accept input and follow up on suggestions for improvement? Yes.

Is there resistance to external input? If so, would a civilian director correct that problem? Well, the problem doesn't exist and a civilian director would have nothing to correct in that area.

So those are some of the things. I am staying away from personalities intentionally. I am just looking at the department and the senior ranks and that's what went into my recommendation that the Borough would be better served going back to a police chief.

Mayor Ganz - Alright, before we take any questions, are there any particular ground rules for this that we need to be aware of Richard.

Attorney Lustgarten - I don't think you should discuss anything about the litigation and you shouldn't discuss anything about specific individuals. You are really talking about the philosophy of running a department by either a chief or a director.

Mayor Ganz - Alright within the scope of that, any members of the Council have any questions.

Councilmember Tedeschi - Mrs. Sacks you said these are - at the beginning of your presentation you said these are items that a town should consider, what is your source on that?

Manager Sacks - various sources.

Councilmember Tedeschi - Would you cite them for the Council please.

Manager Sacks - that includes -

Councilmember Tedeschi - No, I mean in writing. Can we get those in writing?

Manager Sacks - I do not think it's necessary. Are you questioning the criteria or what -

Councilmember Tedeschi - excuse me a point of order. I made a request. If the Council agrees with me for the request, I think it is incumbent, I think it is inappropriate for the Borough Manager to say that's not a good request. Let my fellow Councilmembers

decide that.

Manager Sacks - I think that you should know what goes into making that request and it would take many, many, many hours and it would definitely -

Councilmember Tedeschi - to cite sources?

Manager Sacks - it would definitely take me away from the duties I am paid to perform as Borough Manager and it's a major undertaking.

Councilmember Tedeschi - This is one of those duties. Excuse me I have been recognized and I choose not to get into a colloquy with the Borough Manager. My question is the Borough Manager has stated for the record that these are the items that a town should consider. My simple question is what is the source of those considerations otherwise it is simply opinion.

Manager Sacks - You could accept it to as opinion then.

Mayor Ganz - I understood the answer to be various sources. I understood the next question to be can you give us those sources and

I understood the next answer to be yes and then I understood the next question to be can you put it in writing and I understood the next answer to be that would take a considerable amount of effort.

Councilmember Tedeschi - That recollection is incorrect as I remember my own questions. I think my first question was can you cite those sources. That was my first question. I am asking that the sources be cited. That's all I am asking and if that takes too much time well then it's going to take too much time. If it's not the will of the Council to know the sources that go into the evaluation of a very important position after a number of stormy years, that's the Council's will and desire. I'd like to go back and read some of those sources myself and I don't want to be deprived of the opportunity or the right to read them.

Councilmember Dobrow - Joe, it seems to me what's important is whether and you may not feel that they are intelligent statements. Where it came from it could have come from her head or from somebody else's head, if it is legitimate, if it's meaningful then that's OK. It doesn't matter if it's written in the book some place.

Councilmember Tedeschi - It doesn't matter if it is professionally cited anywhere?

Councilmember Dobrow - Not to me.

Councilmember Tedeschi - Well, listen. I made a request. I think the Council has the right to say yes or no they agree with me and then we'll move on. I am not looking to make this a big deal.

Mayor Ganz - Let me ask a question Mrs. Sacks if I may. Your professional background in law enforcement would you just take a few minutes and give us your general academic background from which you're I presume offering this.

Manager Sacks - I have a bachelors in criminal justice from John Jay which is the preeminent school of criminal justice in the world. I also hold a masters in criminal justice administration from John Jay. I also have taught criminal justice courses, four different course over the course of several years at Rutgers University.

Councilmember Tedeschi - May I respond to that?

Mayor Ganz - No, she has the floor right now.

Councilmember Tedeschi - OK.

Manager Sacks - I have also advised senators when this issue was debated particularly vis a vis the Police Chief's Bill of Rights in Trenton during the late 70's and early 80's. So I think the question here is do you think these are legitimate criteria or do you think there are other criteria that should be considered. I told you that I think that these are the criteria that a town should look at. They're certainly the criteria I had to look at.

Councilmember Tedeschi - So this is in your opinion what you think the criteria should be.

Manager Sacks - I think these are the most important.

Councilmember Tedeschi - OK. Would you qualify -

Manager Sacks - I could say civil rights issues also that we don't have here -

Councilmember Tedeschi - let me ask you a question. Have you ever qualified as an expert witness at a trial or legal activity with regard to police chief's and their roles and responsibilities.

Manager Sacks - What was the first question?

Councilmember Tedeschi - Have you ever been qualified as an expert witness.

Manager Sacks - I don't think so.

Councilmember Tedeschi - OK. You know you mentioned that you taught at John Jay and your degrees and so forth so you are very familiar with the academic responsibility of citing sources when you are going through a process. In essence I am asking you to document your opinion. That's what I am asking you to do.

Manager Sacks - Well, it is my opinion. I did not cite this as coming from someone else. I cited this as my opinion and what I put together as the criteria.

Councilmember Tedeschi - Well, then you should have said in my opinion these are the items the town should consider.

Manager Sacks - I thought I did start out saying that

Councilmember Tedeschi - No, you said these are the items the town should consider.

Manager Sacks - Well, this is my opinion, my considered opinion. This is my considered opinion as backed up by something of a background in criminal justice having gone through this process in other municipalities.

Councilmember Tedeschi - I am very familiar with the background of your experience with police chiefs and directors in South Orange.

Manager Sacks - and other municipalities.

Councilmember Tedeschi - I don't know of any others. I said those are the ones I'm familiar with.

Mayor Ganz - Additional questions?

Councilmember Tedeschi - One more question.

Mayor Ganz - Sure.

Councilmember Tedeschi - You said that there are always ways you can rid a chief. It can be done. You have - it can be done. Have you ever fired a police chief?

Manager Sacks - Fired a police chief - I never fired a police chief. I wouldn't say I fired a policed chief nor have I worked in the Council-Manager form of government where I had to fire a police chief.

Councilmember Tedeschi - Ok. So the answer is no.

Manager Sacks - Right.

Mayor Ganz - Additional questions from the Council? Alright. We've now had our academic philosophical discussion and want to move towards a consensus as to whether or not we should have a police chief or a police director. I think before we do that I want to clarify -

Councilmember Tedeschi - One last question, if I may.

Mayor Ganz - Please.

Councilmember Tedeschi - You've been searching for a director for four months I believe more or less four months. You figure December, January, February, March.

Manager Sacks - Almost four months.

Councilmember Tedeschi - Three and a half months. When did you realize that we needed a police chief and not a director?

Manager Sacks - It was an evolving process. I went ahead and continued the search, Joe, as though I were looking for a director. I will also tell you very frankly my orientation has been always toward a director because I don't believe that tenured leadership of

any department. So this is a very big change for me because philosophically I've been opposed to police chief positions, but I find that when I had to look at the department in a very objective fashion, I came to a real different conclusion. You know a lot of thought went into this.

Mayor Ganz - So you're saying that if this was an academic exercise as opposed to involving real live people and a real live town, your predilection would be to have a director rather than a police chief.

Manager Sacks - Well I would have started that way, but I would have convinced myself after going through the reasons -

Councilmember Tedeschi - Is that your statement or Barbara's?

Mayor Ganz - No, I am asking her.

Manager Sacks - I would have started out with a predilection to hire a police director but after -

Mayor Ganz - but you've gone the other way based on

Manager Sacks - looking at the department, looking at the environment, looking at -

Mayor Ganz - using the criteria that you laid out.

Manager Sacks - exactly.

Councilmember Tedeschi - Just one last question, then I'll leave you alone. You said a director would hurt morale. In the past have directors hurt morale in Fair Lawn?

Manager Sacks - Well, you only had one experience with a director -

Councilmember Tedeschi - to my knowledge -

Manager Sacks - and you came from such a bad situation that it was not easy to say whether simply alleviating that situation created better morale or bringing in someone else created better morale.

Councilmember Tedeschi - So you couldn't - are you saying then that you could not state that a director could hurt or not hurt morale.

Manager Sacks - At this point I could - now or before?

Councilmember Tedeschi - now.

Manager Sacks - At this point in time, I would say a director would hurt morale.

Mayor Ganz - If you were to - if I were to catalize what some of the criteria are it strikes me that you are talking about economy and efficiency. Is that incorrect or is that correct?

Manager Sacks - That's a big part of it.

Attorney Lustgarten - Did you mean summarize, Mayor? You said catalize and since we are taking this verbatim minutes did you mean to say catalize?

Mayor Ganz - No, summarize.

Attorney Lustgarten - OK.

Mayor Ganz - Thank you.

Municipal Clerk Kwasniewski - Are we talking verbatim of everyone's statements or just what the manager -

Mayor Ganz - that's what was asked for.

Councilmember Tedeschi - No, that's not what I asked for. I asked for verbatim of the Borough Manager's because and I want to point out for the record we have never received one thing in writing from the Borough Manager vis a vis this issue.

Manager Sacks - Wasn't that discussed at the Closed Session meeting and the Council agreed that I should not send something and I believe Borough Attorney said not to send something in writing.

Councilmember Tedeschi - Do I not have the right to state a fact?

Manager Sacks - There was a reason why I didn't.

Councilmember Tedeschi - Mrs. Sacks, do I not have the right to state a fact? We have never received one document from you in writing of all the things you've covered, of all the comparisons to police chiefs and directors. That is a statement of fact.

Manager Sacks - and the statement of fact should be qualified in the record to reflect the fact that the Council directed that it not be put in writing. Borough Attorney directed that it not be in writing.

Attorney Lustgarten - I think we should stop that conversation right there. Ok.

Councilmember Tedeschi - Borough Attorney never directed that and I don't think you ought to put words in his mouth.

Attorney Lustgarten - I don't think that we should discuss anything that happened in Closed Session in Open Session. It would seem to me a simple thing that there are tapes -

Councilmember Tedeschi - Richard, I didn't bring it up the Borough Manager did -

Attorney Lustgarten - I am just trying to stop it at this point not to squelch discussion but keep it focused on what is on the table.

Councilmember Tedeschi - I have a question of the attorney. Is it inappropriate of me to state a fact that I have never as a councilman received anything in writing with regard to a police director police chief?

Attorney Lustgarten - It depends, Joe, because you know there were discussions about that in closed session so the answer to that is yes and no. You are entitled to say something is factual but if it is factual in closed session it ought to stay in closed session.

Councilmember Tedeschi - What I have said is not a component of a closed session conversation.

Attorney Lustgarten - It really is.

Councilmember Tedeschi - Oh, I don't think it is. I am sorry I disagree with you.

Attorney Lustgarten - You asked me I am telling you.

Mayor Ganz - It's unfair because if the Borough Manager can't respond properly the way she responded and including it in the record then you've crossed the barrier - I don't know what that barrier is -

Councilmember Tedeschi - I asked a question.

Attorney Lustgarten - There was a rationale for that which was discussed in closed session which should not be discussed here so stating the bald statement is factually true but it is not a complete statement.

Councilmember Tedeschi - I'll rephrase the question. Prior to that closed session have we ever received anything?

Attorney Lustgarten - The answer to that factually is no.

Councilmember Tedeschi - Thank you.

Manager Sacks - and might I add prior to that closed session you had no discussion on this matter either because I had not made a recommendation.

Councilmember Tedeschi - and I would add that the Council had directed the Borough Manager to provide weekly or meeting updates of the status of the Police Department and the searches on an on going basis.

Mayor Ganz - You know what, I want this all in every single statement, every single comment. If we are going to have a ridiculous discussion we'll put it all on the record and let everybody read it.

Municipal Clerk Kwasniewski - OK.

Manager Sacks - and the Council was given an update and I told you that I did find suitable candidates.

Mayor Ganz - Councilmember Trawinski.

Councilmember Trawinski - I am just troubled by the discussion on criteria. I remember very vividly that we were less than

sympathetic to Candice Vivino when she came in and read a memo to us. We are about to undertake perhaps the most significant decision we may undertake as a Council and I would like to see the criteria in writing -

Mayor Ganz - You're going to when the minutes are transcribed.

Councilmember Trawinski - to have an opportunity to reflect on them and to look at other criteria that may be out there. I just had them read to me the first time this evening and that concerns me. I am not sure Mr. Mayor, I am confused by your comment when you distilled it to economy and efficiency. I am not sure the economy item comes into play or how it comes into play. If the economy item is that we need to stay to avoid the supplanting issue on the Cops Fast at 57, the issue of whether the chief is counted in the sworn status or not it seems to me based on the presentation that Captain Marshall made to us in February of 1997 tells us that that's irrelevant and all we need to do is go back and look at that. Because based upon the number of retirements and the number of hires we need to make to stay ahead of the curve, keeping the chief in or it as a sworn position did not, in Captain Marshall's opinion based on the presentation he made to us in the presentation he made to us in February of 1997 adversely impact upon the supplanting issue. We need to hire and stay ahead of the curve, significantly ahead of the curve in order to put police officers on the street which the incidental benefit will be that we will be out of any potential supplanting problem whether there is a chief or a director. Also in this year's budget, operational budget which we just introduced we did not appropriate for the position of both a police chief and a police director. I did specifically ask that question of the CFO Eccelston at our last wrap up meeting and he said one position was budgeted but not both. If we changed, we would have to budget for the other.

Mayor Ganz - If changed we would have to - if we stayed with a police director we would have to budget for one more sworn officer.

Councilmember Trawinski - No. My understanding was no we would not because we had a table of organization that appropriated the 57 sworn officers. Also, historically what has happened although we have now fallen behind and although this Council rejected my suggestion that we take a good look at the overtime, we are grossly overfunded in the overtime position of this police department's budget and the reason we are is because we did not stay ahead of the curve anticipating retirements and we will now only incur additional overtime and additional sick time, but now we do have to hire a police officer whether it be a chief or a nonranking officer, a patrol officer in order to avoid the supplanting problem. We have fallen significantly behind that curve. What is going to happen is come next year in terms of shifts and the ability to supply manpower to the shifts, manpower will have to be reoriented significantly within this department. Another issue for another day. But I don't think the economy issue gets us there. It was never our intention as a Council to appropriate both for a director's position and a chief's position and we just did that in evidence that policy statement in the operational budget we just introduced. We always said that when the chief retired that there would be one or the other and not both.

Manager Sacks - Mr. Mayor -

Mayor Ganz - Borough Manager.

Manager Sacks - The nonsupplanting issue requires that we have 57 sworn personnel and that includes a chief. If you have a director that does not count toward the 57 so it means you must have 58 on payroll. With regard to the budget, part of the year was budgeted for hiring a police director, should the Borough go to a police chief that money would be - well part of it would be used to cover the difference between whatever the current salary is of whoever and the salary of chief so that there would actually be a net savings to the Borough. With regard to additional hiring, where we are on the 57 we will be going like this (Borough Manager gestures) as we have as we did due to retirements.

Mayor Ganz - Unfortunately the going like this is not descriptive, but you are referring -

Manager Sacks - We will be going up and down. At some points we may be up to 59 officers. At some points we'll be at 54, but we are going to finish out the year at the 57 that we are required to finish out the year out. So we will not have to make any major readjustments. That's already been factored into the budget. It's already been factored into the assignments and the rotations downstairs.

Mayor Ganz - Councilmember Trawinski.

Councilmember Trawinski - What the Manager says in terms of going to 58 and 59 is the point that I am trying to make because we went through this two years ago when we were avoiding the supplanting issue. We are going to get if we stay ahead of the curve so that we don't lose six months to a year while an officer is in the academy and FTO and not on the street even though the officer's on our TO, we're going to have authorize temporarily at some point if somebody is doing their job to go to 59, 60 maybe as high as 61 so my point is at the year end we are going to have to end up in excess of our authorized table of authorization regardless of whether we hire a chief or whether we don't hire a chief. We are going to be in excess of 57 assuming we want to stay ahead of the curve. Remember it takes a minimum of nine months from the time a police officer is hired until the time the police officer is on the street. More realistically we've been told by the previous manager, by the previous director, by Rod Marshall

when he was the Acting Chief and also by Chief Gormanns that it took a year realistically from the time. So we need based on the number of retirements that are coming up based on the fact that we lost one officer from the academy already, and we're down one, we are going to need to be ahead of the curve. So the economy argument to get us to sworn strength, in my opinion, does not hold water.

Mayor Ganz - Borough Manager.

Manager Sacks - It is not an economy argument to get us to sworn rank. We have to be where we are going to be whether we have a director or not. We still have to maintain the table of organization at a certain level and we will do so and we will finish out the year in accord with the federal requirements. A police director which is a civilian position does not count as far as the federal government is concerned. So that salary is above and beyond. If we are at 54, that's a 55 salary. If we are at 58, that's a 59 salary.

Mayor Ganz - Councilmember Trawinski.

Councilmember Trawinski - Once we get out of the supplanting situation this year, there will come a time and once we get out of the heavier retirement cycle, there will come a time when our a table of organization can go down to 56 or 55 sworn officers. Fifty-six including the chief or 55 and a director. The argument that the chief will help avoid the supplanting issue and get us to 57 without another salary to me is a make weight argument because again I am telling you that if we are going to stay ahead of the curve we are going to have to go to 59, 60 maybe even as high as 61. So whether we have a sworn chief in that 61, I understand that the director is not a sworn officer, but whether we have a sworn chief in that or not is not going to resolve the supplanting issue. We needed to resolve the supplanting issue.

Mayor Ganz - Councilmember Tedeschi.

Councilmember Tedeschi - I am just talking off the top of my head, so I am not sure of the numbers, but I believe the overtime increased from \$120,000 to about \$174,000. I think that was the number.

Mayor Ganz - I believe that you are correct. I think it's right. I remember the number 174 because I raised the issue with Barry and I was told that all things considered the numbers are actually about the same given the change in pay from the salary ordinance for retroactive -

Councilmember Tedeschi - from \$125,000 to \$175,000 they would have to get a substantial raise. Will having a police chief reduce overtime?

Manager Sacks - Having a police chief, reduce overtime? I don't know that it will have an impact one way or another on overtime unless it has an impact on morale. Overtime as you know has been very very low this first quarter. Whether that is a factor one might consider in considering morale. Indirectly. Do you mean would that 40 hours a week -

Councilmember Tedeschi - Directly it's not going to affect it. That's what I am trying to get you to say.

Manager Sacks - I don't think it will directly affect it no.

Councilmember Tedeschi - The other question is and Richard you're the person with the history here. We have been advised by the government that we have supplanted in the past. We have filed remedy plans to correct it and even though we have ended a year in essence below the authorized level where we should have been, given the fact that we were showing a plan, if you will recall Sgt. Cook's plan. Before we get hung up on the idea that there we are absolutely obligated at this number at year end, I can tell you historically, and you can go back in the history, you'll see that we were two or three people below at one point and the government accepted the fact that we had a plan in place. So we are not obligated by year end to do anything other than be solving a problem. I would point to the history that we have had before of that situation.

Manager Sacks - So are you saying that we don't have to obey to what we committed ourselves to in the terms of the grant.

Councilmember Tedeschi - We committed ourselves to the grant years ago and what I am saying is we were identified by the government of having supplanted and we were given an opportunity to remedy the situation.

Mayor Ganz - Borough Attorney.

Attorney Lustgarten - The issue of staying ahead of the curve is accurate, but I respectfully disagree with your conclusion. At the end of the day you have to show either a plan or numbers which have 57 sworn officers. So if you have 57 -

Councilmember Tedeschi - a plan

Attorney Lustgarten - let me just respond. I think the issue is that we don't know when that end of the day is.

Councilmember Trawinski - Yes, we do. We got a report from Rod that told us 12/31/99.

Attorney Lustgarten - But that's not taken into consideration a retirement that you didn't anticipate or -

Councilmember Trawinski - We are done with utilizing the Cops Fast money 12/31/99. We are finished with supplanting unless we as a Council make an affirmative decision.

Councilmember Tedeschi - With all due respect Richard, historically when I argued that we were supplanting and we were not in conformity you argued the fact that it was OK and we were alright.

Attorney Lustgarten - No, no, I said as long as they accept the plan. I am not disagreeing. Let me build in a couple of assumptions, assuming that the government offers the Cop Fast program and assuming this Council decides to continue it, at the end of whatever that day is that time frame is, Barbara's also correct that the chief counts towards those numbers and the director doesn't. That is an assumption.

Councilmember Tedeschi - The point I am trying to make is this - we cannot sit here and say that at a year end we must absolutely be in conformity and that conformity mandates that we have that.

Attorney Lustgarten - I agree with that too.

Councilmember Tedeschi - I just don't want to get that on the table that we have to do this.

Attorney Lustgarten - You either have to have a plan in place which effectively meets the supplanting issue or you have your numbers. May I just suggest this though, you have one particular criteria that's been suggested out of a series and you have a much larger issue to discuss. Number one, if I can move this along, I am not giving you an opinion on the issues or what I think the issues are. Number one, I think the Council has to make a determination are the criteria that Barbara has suggested collectively the criteria that the Council wants to use. Number two, if some of them are rejected by the Council, you have to go through that process. If there are other criteria that the Council wishes to inject they should be submitted and then I think, frankly, if there are new criteria that have not been mentioned they should be given to Barbara saying accept this as a criteria what is your opinion of director vs. Chief using that particular criteria and then the Council has to synthesize all that information. The only other thing I wanted to say for the record that the Council should be sure that it makes a distinction between the criteria stated and Barbara's opinion using the criteria because I think in the previous dialog the two of them were being lumped together. If you have criteria x, and Barbara says on that criteria it's director, the Council has to make two determinations. First is do you accept criteria x and then secondly do I accept the manager's recommendation. If you just lump everything together you are really not going to do that process.

Mayor Ganz - I think it would be difficult for anybody sitting here to say that the criteria used forgetting whether it is full and complete the criteria itself as set forth are things that should n't be considered. I think - do we all agree on that?

Councilmember Tedeschi - The only thing I can see is that I am looking forward to reading it because there was redundancy in it.

Mayor Ganz - We all agree that the criteria that was set forth we agree on. I don't know whether I am prepared this evening to suggest additional criteria without reading the minutes. I don't know about anybody else.

Councilmember Tedeschi - Are we going to discuss the criteria on why we would have a police director?

Attorney Lustgarten - That's got to be part of your process, doesn't it.

Councilmember Tedeschi - Well, thank you.

Attorney Lustgarten - I mean if you are choosing A or B -

Councilmember Tedeschi - We've only talked about why we are going to have a chief.

Attorney Lustgarten - No, all you have had is recommendations about chief which is a in the equation -

Manager Sacks - These criteria fit both.

Attorney Lustgarten - The Council should discuss why b the director in the equation also has merits. I think everybody at the table knows that there are pluses and minuses for each position. You're getting a recommendation. The Council now has to synthesize it.

Councilmember Tedeschi - Rich, my problem is and I agree with David, I have to read this.

Attorney Lustgarten - I don't disagree with you.

Councilmember Tedeschi - Because I'll tell you why. Many of the statements that the Borough Manager made are controvertible and subject to opinion. I want to go through it and read it.

Manager Sacks - The answers are opinion.

Attorney Lustgarten - That's why I want to go back to stage one.

Councilmember Tedeschi - Well the criteria are opinion too. You said that.

Manager Sacks - The questions in many municipalities would go the other way and would lead the governing body to say we have these situations we must go to an outside civilian director. Using these criteria in our suggestion today and I am not saying this was the case a year ago but today what followed the question was my opinionated answer. The way I see it.

Mayor Ganz - You have black letter questions. You have opinion answers. I think we all accept the black letter question. Some of us have some doubts about some of the answers. I think the thing that I would like to do is suggest that the Clerk expeditiously transcribe this and let her circulate it.

Councilmember Tedeschi - If I write a bid to a specific manufacturer and my bid specs specifically address themselves to fit what the outcome that I expect, have I not skewed that bid.

Attorney Lustgarten - Sure, but that's why I suggested that if the Council either through independent research, discussion or whatever finds additional criteria that should not be the end of the inquiry. Those additional criteria should be submitted to the Manager and say assuming that the Council will use this additional criteria or multiple criteria, what is your opinion of director vs. Chief based on that criteria and what is the rationale for that. That's how you synthesize all of this.

Councilmember Tedeschi - Just to clarify in the end results this is a Council decision based on the Borough Manager's recommendation.

Attorney Lustgarten - This is a council decision for two reasons. One there is obviously a philosophical discussion I am sorry a philosophical decision to be made as to which position should be field in Fair Lawn. Ultimately the appointing process would be the Manager's but secondly and more mechanically the Council would probably have to tinker with the ordinance. Right now our ordinance does not really comport with exactly reality.

Mayor Ganz - As I understand the choice that we have is three things. We can have a chief or we can have a director or we can have both.

Attorney Lustgarten - Correct.

Mayor Ganz - OK. Councilmember Trawinski.

Councilmember Trawinski - I did not agree, although it was not my decision to make back in December. We now find ourselves almost to the end of April and this department has functioned once again with acting leadership and we need, if we are going to go back on a decision that I reached with considerable difficulty as a Councilmember a year ago when Manager Kendall came to us and said things are not working out and it's time to go the director route, if we are going to go back on that decision, I personally am going this Council some time to go through that process and that thought process again. There was a fair amount of reading I did at the time when Bert made that recommendation to us and I need to go back to that reading and in the meantime we are still going to continue this department with an acting position. I am not sitting here to throw stones at anybody tonight, but we have a department that is entitled to have some measure of normalcy in terms of its leadership be it a chief or be it a director. We find ourselves now at the end of April is not the time we should have been talking about this and this is something that should be - that I was considered, I thought was over and done. I didn't like the decision that was reached I'll say that again, but we passed it and I thought we were assured that we would have a director in place by March 31. Now here we are rolling onto the end of April. We are doing a disservice to this department. We are doing a disservice to the men and women.

Mayor Ganz - We could have -

Manager Sacks - Who promised March 31st. I never promised March 31st. I said I would look and find someone as soon as possible. I don't think I said March 31st.

Mayor Ganz - If you are looking for expediency, I'll call it for a vote tonight.

Councilmember Trawinski - I am not looking for expediency. I am -

Mayor Ganz - OK -

Councilmember Trawinski - David, we are talking about one of the most serious decisions, one of the most fundamental things that government does for people, make them safe and secure.

Mayor Ganz - No argument and no argument.

Councilmember Trawinski - I don't want expediency but -

Mayor Ganz - We should look at the minutes carefully and that's why I asked the Clerk to do it expeditiously.

Councilmember Trawinski - I don't understand for the life of me when we talked about it a week or two weeks ago why we couldn't collectively come to decision to say take what you just read to us put it in a memo and give it to us so we could have had an opportunity to reflect on it and perhaps, perhaps, maybe not, but perhaps come to some sort of closure on this tonight.

Mayor Ganz - Well, without violating the stricture of the closed session suffice it to say there was ample and sufficient reason that some of us thought that was improper.

Councilmember Trawinski - But if those reasons were there and they were improper, Dave, we just laid out that whole blue print again tonight in an open public forum that is going to be part of the record. It was improper or not. If it was improper to do it then, it surely is improper this way.

Mayor Ganz - It's governmental and I don't see that we have a choice but to comply with the law. Councilmember Tedeschi.

Councilmember Tedeschi - I would like to make one request of the Borough Manager and I am taking - the Mayor established your credentials and so forth and you established your credentials, could you possibly just give us a little bibliography list that can help me go out and do some reading.

Mayor Ganz - How about a selected readings.

Manager Sacks - This will take a lot of work and going back and doing a lot of research.

Councilmember Tedeschi - But Barbara it's -

Manager Sacks - Let me explain something.

Councilmember Tedeschi - You're saying - let me tell you what you're saying then to me. Ok. And I don't know if I want a police director or not. I don't know if I want a police chief or not and I can say that very candidly. What you're saying to me is here's my opinion, take it or leave it. Go out and do your own research. So that's what I'll do.

Manager Sacks - OK. Then I am saying that.

Councilmember Tedeschi - Give me something to read. Point me someplace. That's all I am asking.

Manager Sacks - These are the criteria I think are important. If you want to go out and find your own criteria you can certainly do that. You asked me what went into my consideration and I am telling you what went into my consideration.

Councilmember Tedeschi - Do you have any suggested readings that might help me?

Manager Sacks - No, I really don't, but the Police Foundation has a slew of publications on this.

Councilmember Tedeschi - Thank you for your help.

Manager Sacks - but with regard to copies of the minutes, I would ask that the Clerk also circulate copies of the minutes wherein the discussion about going to the Police Director in the first place a year, two years whatever ago was made so that everyone could see whatever discussion went into that and who took what positions.

Mayor Ganz - OK.

Manager Sacks - I would also suggest that delaying this further is doing the disservice to the people downstairs and will definitely cause a morale problem.

Councilmember Tedeschi - Morale must be very fragile then.

Manager Sacks - Morale is pretty good right now, but you know, there's is this uncertainty. Continuing the uncertainty, as you very

well know from past experience is -

Councilmember Tedeschi - Are we supposed to make a decision tonight?

Manager Sacks - only going to lead to morale problems which then might be self-fulfilling in that the question would be well we've got an acting chief, we've got morale problems, therefore, let's go back to the director.

Mayor Ganz - Perhaps we can short circuit this. Can we establish a timeline that we're prepared to act by and we'll take a decision yes, no or which direction we are going by a date certain. Today is the 21st of April.

Municipal Clerk Kwasniewski - I'll try to get this into your packages Friday.

Mayor Ganz - Oh, how ambitious.

Municipal Clerk Kwasniewski - Well, I will.

Councilmember Tedeschi - Can we bring some additional people in to give us their opinions?

Mayor Ganz - I don't know the answer to that -

Deputy Mayor Ahearn - There's got to be -

Councilmember Trawinski - Bert gave us some sources and it wasn't a big production and he gave it to all of us. There was an article in the League of Municipalities Magazine, perhaps 14 16 months ago that cited some sources on the issues and Matthew went to a program in November where I'll bet he has got a bibliography also on -

Attorney Lustgarten - Can't the computerwise people on this Council go to the internet and throw in the term of Police Director and may be come up with some stuff.

Municipal Clerk Kwasniewski - You can get a million hits.

Mayor Ganz - Let the Clerk do that.

Municipal Clerk Kwasniewski - I'll do that.

Councilmember Tedeschi - Thank you Joanne.

Mayor Ganz - Joanne, will you also go the League of Municipalities and see if they have a list of selected readings.

Attorney Lustgarten - call John Jay directly.

Councilmember Tedeschi - I don't know what the big deal is.

Attorney Lustgarten - There may not be one source that has a checklist which is really what you are looking for.

Manager Sacks - There are several and you are going to run into several bibliographies and when I tell you that there are a couple of hundred writings on this.

Mayor Ganz - I am certain this is a topic of considerable interest in which there is a great deal of academic writing.

Deputy Mayor Ahearn - There may be law review articles.

Mayor Ganz - I am certain there are law review articles on it. I know that there is academic interest in because the fact is that someone that is academically trained will tell you that the academic predilection is one way and the reality check is you go the other. That says to me that there is a lot of writing on the subject.

Attorney Lustgarten - You were setting a timeline before we got.

Mayor Ganz - I wanted to set a time line.

Councilmember Tedeschi - Keep it moving Richard.

Mayor Ganz - that we have this resolved. Our first meeting in May is the 4th?

Municipal Clerk Kwasniewski - the 4th, yes.

Mayor Ganz - Up down whatever it is we are going to do May 4th. Can we do it by then?

Councilmember Tedeschi - I'll try my best.

Mayor Ganz - Matt?

Deputy Mayor Ahearn - Weekends, whatever we have to do. We did it for the budget, we can do it for this.

Mayor Ganz - Floss?

Councilmember Dobrow - OK

Mayor Ganz - Good, OK, May 4th. May 4th the Council will finalize it. Richard, depending if we go one way, we need an ordinance change and if we go the other way we don't need an ordinance change or we need an ordinance change regardless?

Attorney Lustgarten - I think ultimately we need an ordinance change and I can talk to you about that in Closed Session at some point. If the Council - it's tinkering.

Mayor Ganz - For purposes of establishing a time line, what's the time line for the ordinance change.

Attorney Lustgarten - That's fine.

Mayor Ganz - OK.

Attorney Lustgarten - If the Council, let me just put this in stark black and white, if the Council determines not to take the Manager's recommendation, your director ordinance is in place. It needs one refinement but concurrent with the Manager completing the appointment process, we can do that. So the ordinance is not going to be an impediment. If the Council accepts the Manager's recommendation, we have a police chief position. The statute relating to the police chiefs is in existence, our ordinance wouldn't impact it either way.

Mayor Ganz - But we would then need to eliminate that portion of the ordinance that relates to -

Attorney Lustgarten - Well, you don't have to eliminate it. It's on the books, but there's just no appointment. Either way the time line works because we can work it.

Manager Sacks - In other words, if you told me on May 4th whichever way you tell me on May 4th I could proceed immediately without a change in the ordinance.

Mayor Ganz - OK.

Attorney Lustgarten - But there's one if you continue the director, there is a little tinkering that has to be done, not a major thing. We can do that in the regular fashion.

Mayor Ganz - I just want to know that we can accomplish either goal whichever we decide.

Attorney Lustgarten - Your timeline fits, the ordinance does not affect that.

Mayor Ganz - So we are all agreed that May 4th. May I make a suggestion that any of us do research, share it. Anything that I get, I'll give to - we'll use the Clerk as the pointman on this - point person -

Municipal Clerk Kwasniewski - fine.

Mayor Ganz - and I'll ask that a copy of it through the Clerk go to the Borough Manager also the Borough Attorney.

Councilmember Tedeschi - My one concern is we don't have five people voting on one opinion. That's my only concern.

Deputy Mayor Ahearn - Well, that's what she gets paid for.

Councilmember Tedeschi - Except you don't get channelized and you don't get controlled input before you make a decision.

Mayor Ganz - OK let's move right along here.

Board of Education Liaison Coordination of Programs - Councilmember Tedeschi noted that in the summer there are many programs in the community that are running simultaneously. He would like to coordinate the programs and perhaps include

transportation to provide some interaction between the programs. This item will be added to the agenda for discussion with the Board of Education.

The ice hockey rink and Arts Center will be added to that agenda to see if there is any possibility of sharing the facilities.

BCUA - Manager Sacks advised that municipalities have been sending resolutions urging the State to pick up the additional cost caused by the stranded debt. Councilmember Trawinski pointed out that the Council adopted a resolution in October. He did not see why they should do it again. The Council concurred.

Indemnification Resolution re Martin Litigation - The original resolution as circulated will be amended to include the language suggested by Councilmember Trawinski that the Manager may retain an attorney of her own choosing subject to the consent and approval of the Borough Attorney.

Energy Deregulation - Municipal Cooperative - Manager Sacks advised that she met with the Riverside Cooperative on this issue. The consultant of PKF recommended that the Borough try to form a consortium within the municipality with the Board of Education. If they can include industry, there will be a very good user group. This is on the agenda for the Board of Education liaison meeting. The idea is to negotiate a good price and then try to include the homeowners. The Borough needs to protect itself by guaranteeing a reliable user base. Councilmember Trawinski thought the Council was also supposed to get a recommendation whether the Borough would be a group on its own or would go with other municipalities. If the Borough goes with another group there would be the ability to maintain the user group. Manager Sacks noted that before the Council decides which of the municipal groups to go with or to go on its own they should know that it will be including the Board of Education and the industrial base. Mayor Ganz asked the Manager to report to the Council on May 4 with a general course of action and a timeline.

McDonald's Lost Kids - A resolution honoring Officer Callons will be adopted at the May 11 meeting.

Resolution of Thanks Merck-Medco - Councilmember Trawinski suggested that the Council recognize the contribution that Merck-Medco has made by allowing two of their employees to provide ambulance service during the daytime. The Council concurred.

Status of 1999 Grant Applications including T-21 - Councilmember Trawinski noted that there are several grants that Capital Alternatives was supposed to be researching. He mentioned the nature walk along Diamond Brook. Mayor Ganz thought it was time to have Capital Alternatives attend a meeting to present an update.

Strathmore Parking/Overnight Parking Permits Status Reports - Manager Sacks advised that Strathmore Terrace is near Saddle Brook who permits overnight parking. The residents have asked the Council consider overnight parking permits. Attorney Lustgarten advised that it has always been the policy of the Council not to permit overnight parking in any particular area of the Borough. At one time the Council was supposed to get a report from Director Martin on overnight parking so the ordinance could be revised to reflect reality. He did not recommend changing overnight piecemeal.

Commendation for Arlene Glassman - Arlene Glassman is receiving an award from the New Jersey Tenants' Organization. A proclamation and resolution will be done so that it can be presented to Ms. Glassman at the breakfast in her honor.

Odor Control in Certain Businesses - Manager Sacks advised that the Health Officer is concerned that there are odors that waft from certain businesses that get into businesses that are dealing with food. She thought that there should be a proper barrier between the odor producing businesses and an odor sensitive business. Attorney Lustgarten noted that there has to be a practical approach to this issue. Deputy Mayor Ahearn pointed out that nail salons are using chemicals that OSHA and DEP regulate. Health Officer will be asked to present an affirmative recommendation and ordinances from other towns.

Use of Name of Fair Lawn as One Word - Manager Sacks received a request that the Council consider adopting an ordinance to prohibit people from doing business in Fair Lawn if they use Fair Lawn as one word. Attorney Lustgarten advised that such an ordinance would be unconstitutional and unless there is a fraudulent use of the name the Council cannot tell people how to spell it. Councilmember Tedeschi suggested that when someone is spelling the name improperly, a letter be sent advising them that Fair Lawn is two words and that the Council would appreciate it if they would spell it correctly.

Closed Session Resolution - Upon motion by Councilmember Trawinski and a second by Councilmember Dobrow, the following closed session resolution was unanimously adopted at 9:00 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 a matter involving the acquisition of property with Borough funds; 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 within six months;

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 11:25 p.m.

Radburn Sidewalks Phase II - Manager Sacks met with Marlene Casey to see if it was possible to continue the project. There are additional funds available. Councilmember Trawinski reminded the Council that once the pathways were improved the Council was going to turn them over to Radburn. Attorney Lustgarten advised that Radburn Association had agreed to acknowledge ownership of the pathways.

Request by Walsh Pool/Columbia Heights Park Citizens Advisory Committee for Title Search - Councilmember Trawinski thought one member of the committee was going to raise the issue of keeping the pool open at a public meeting. He also thought there was still a great deal of misinformation about how the Borough acquired the pool and the park and whether there are deed restrictions affecting that land. The Committee asked if the Council would authorize a title search of the property. The accurate story could then be included in the Columbia Heights newsletter. The consensus was to authorize the title search.

Sheriff's Family Day - Manager Sacks advised that the Council needs to authorize the use of Memorial Park because they are going to sell merchandise. It is the Sheriff's Department annual picnic. The Council requested additional information. This item will be a subsequent agenda.

Procedures for Executing Grants Contracts/Checklist - Councilmember Trawinski suggested that the procedure being used be formalized so that the contracts have been approved by resolution and if not prepared by the Borough Attorney that he has reviewed them and approves them. The Council concurred.

Abbott Road Status Report - Abbott Road was supposed to be made one-way all the way from Fair Lawn Avenue. Mayor Ganz did not like that idea because it pushes the traffic onto Sandford Road and Warren Road. He would support a no left turn instead. Manager Sacks will ask the traffic safety officer for the most efficient and safest flow of traffic on Abbot Road including the CVS Complex.

Bus Stop at Terhune Place Status Report - The Police Department advised that they liked the location of the bus stop before it had been deleted. They do not like the mid-block location. A written report was requested from the Police Department.

Sound System for Council Chambers - Municipal Clerk Kwasniewski advised that adding enhanced sound for the hearing impaired would cost an additional \$700. Mayor Ganz expressed concern that there were no cut off switches. Municipal Clerk Kwasniewski reminded the Council that the system must meet the court standards. The consensus was to improve the sound system and to include the system for the hearing impaired.

Personnel - Manager Sacks advised that there was someone working out of title in the Construction Department and Civil Service has said that if they came in and do a desk audit they would change the title. It would be a change from clerk typist to senior clerk typist. The consensus was to authorize the Manager to correct the title but the Council wanted to know the salary difference.

Video Cameras - Attorney Lustgarten asked if the video cameras installed on the first floor for security purposes are capable of capturing audio. He expressed concern about the audio capability and wanted to make sure that it does not get turned on. Manager Sacks did not think they were capable of audio recording. She advised that signs are going to be posted.

Millbrook Landscaping - Attorney Lustgarten advised that he and Councilmember Tedeschi met with Ray Bleeker and his attorney. They want to meet with the Council after next Tuesday's Council meeting.

Mr. Bleeker did not want to come into an adversarial atmosphere. He wants to explain his operation, the cause of the odors and the amelioration of those odors. It will be an informational discussion. He wants his attorney present. The primary purpose is to present the facts and what he is prepared to do. Attorney Lustgarten requested a short Closed Session meeting before Mr. Bleeker's presentation that will also be in Closed Session. They will invite Mr. Bleeker for 8:45 p.m. and the Council will adjourn to Closed Session at 8:30 p.m. Municipal Clerk Kwasniewski will confirm the meeting with Mr. leeker.

Adjournment - Upon motion by Councilmember Dobrow and a second by Councilmember Tedeschi, the meeting was unanimously adjourned at 11:55 p.m.

Respectfully submitted,

Joanne M. Kwasniewski, RMC/CMC/AAE

Closed Session - April 21, 1999

CLOSED SESSION OF APRIL 21, 1999

Mayor Ganz reconvened the meeting at 9:00 p.m.

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

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

Acquisition of Property - Mayor Ganz advised that he had met with Mr. Fish and was impressed so he invited him to meet with the Council. Frederick S. Fish, Managing Member of the Real Estate Equity Company, LLC, Nathan Shmalo, Managing Member of the Real Estate Equity Company, LLC, Albert Jay Krull, A.I.A., the Real Estate Equity Company, Sandeep Mathrani, Executive Vice President, Forest City Ratner Companies and Joel Ives were present.

Mr. Fish stated that TREECO has been in business since 1980 doing quality projects and working with communities. They were asked to look at a half mile strip of Route 4 between the Highway Movie Theater and Apple Chevrolet. They envision a life style quadrant of a shopping center, a village portion in the middle and the residential portion toward the movie theater. Mr. Shmalo added that they did downtown Englewood.

Councilmember Trawinski wondered why they were discussing this issue in closed session. Attorney Lustgarten replied that he was told that the discussion was going to involve individual properties for acquisition which was an appropriate item for closed session. Councilmember Trawinski disagreed. They should discuss the concepts in open session. Attorney Lustgarten reiterated that this item is allowed under N.J.S.A. 10:4-12B5.

Mr. Schmalo noted that other municipalities have held these preliminary discussion in closed session and then as the process goes forward it becomes public.

He continued that they are currently working on six properties in Englewood, North Bergen and Union City. The Borough has to reach a determination based on advice of planners that the area meets the statutory criteria for an area in need of redevelopment. The Council then decides whether it is going to retain jurisdiction or to create a formal development agency. The Planning Board is used as a resource.

Mr. Fish noted that they will have an 80 percent commitment for occupancy before construction. It is a hard project for the Borough to undertake because there will be major criticism. Councilmember Trawinski expressed concern that since this discussion was in closed session it looks underhanded.

They presented a pictorial of their projects, an aerial view of the area under discussion and how they envision the development. They explained the three elements including commercial (highway, retail), transitional (village) and residential. The residential component will have 150 to 200 units, three to five stories. Two houses would have to be taken and two others can be relocated. They estimated that this would be a \$75 - \$100 million project when it was done. The Borough will have to layout the costs for the properties but it is TREECO's investment from the beginning. The Borough will get back some portion of the incremental revenue in order to justify the project. Councilmember Trawinski suggested including NJ Transit in the project to have real train station with retail.

Mayor Ganz thought this was a window of opportunity. The firm has outstanding bona fides. He received an unsolicited phone call from a former Mayor of Englewood expressing his regard for them. Manager Sacks reported that she contacted the three municipalities who were overjoyed with the projects. They found TREECO to be reliable and TREECO had the means for the project so it did not cost the municipality money. She looked at two of their projects that were first class. Mayor Ganz visited the project in Englewood and was very impressed. He felt strongly that something must be done on Broadway. Councilmember Tedeschi asked for references.

Councilmember Dobrow noted that she had been waiting for River Road to finish. She saw how hard it is to make it work. It is such a slow process which she did not think would work on Broadway. Deputy Mayor Ahearn agreed that something has to be done on Broadway but he was skeptical on projects such as this. He had several concerns. Councilmember Trawinski noted that the Council could have done the McBride development in private but they decided to do it in public. He did not think an RFP is appropriate. The Borough should pick the developer and then work with him.

Attorney Lustgarten asked that the Council keep this issue confidential until they make a decision. If the Council decides to go with the project speculators could hike up the costs and if they do not, there is no need to upset the residents and tenants in the retail

stores. He was confident that this was an appropriate subject for closed session. If the Council moves forward, there are many areas that should be done in public.

Mr. Shmalo noted that they do make money. They are successful but they are very proud of what they end up doing. They are careful of what they select to do. If they do it, it is something they will be proud of and feel that they have done something more than just being in business.

Mayor Ganz thanked them for coming and advised them that they would be in touch with them.

Respectfully submitted,

Joanne M. Kwasniewski, RMC/CMC/AEE

Municipal Clerk