

Regular Session - August 31, 1999

Mayor Ganz opened the meeting at 7:35 p.m. Municipal Clerk Kwasniewski read the following statement of compliance:

In accordance with the Open Public Meetings Act, notice of this meeting of the Borough of Fair Lawn was published in the "News Beacon" issue of August 5, 1999. Notices were also posted on the Bulletin Board located on the First Floor of the Municipal Building and at the Maurice Pine Free Public Library, copies mailed to The Record, The North Jersey Herald and News, and The Shopper. The Notice identified the meeting location and the time of the Council Meeting and Work Session.

PRESENT: Mayor Ganz, Councilmembers Dobrow, Tedeschi and Trawinski. Deputy Mayor Ahearn arrived at 7:37 p.m.

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

MANAGER'S REPORT:

Manager Sacks stated the reports were on the table with no changes or additions.

ORDINANCES: FIRST READING

Upon motion by Councilmember Trawinski and a second by Councilmember Tedeschi, it was unanimously agreed to read the following ordinance by title.

Ordinance No.1767-99

AN ORDINANCE TO PROVIDE FOR A CERTAIN CAPITAL IMPROVEMENT IN THE BOROUGH OF FAIR LAWN AND TO PROVIDE FOR THE RECEIPT, ACCEPTANCE AND DEPOSIT OF FUNDS THEREFORE

Upon motion by Councilmember Trawinski and a second by Councilmember Dobrow, Resolution No. 237-99 introducing Ordinance No. 1767-99 was unanimously passed.

Upon motion by Councilmember Trawinski and a second by Councilmember Dobrow, it was unanimously agreed to read the following ordinance by title.

Ordinance No.1768-99

AN ORDINANCE TO PROVIDE FOR A CERTAIN CAPITAL IMPROVEMENT IN THE BOROUGH OF FAIR LAWN AND TO PROVIDE FOR THE RECEIPT, ACCEPTANCE AND DEPOSIT OF FUNDS THEREFORE

Upon motion by Councilmember Trawinski and a second by Councilmember Dobrow, Resolution No. 238-99 introducing Ordinance No. 1768-99 was unanimously passed.

Upon motion by Councilmember Trawinski and a second by Councilmember Dobrow, it was unanimously agreed to read the following ordinance by title.

Ordinance No.1769-99

AN ORDINANCE AUTHORIZING THE MAYOR/CHIEF EXECUTIVE OFFICER AND CLERK OF THE BOROUGH OF FAIR LAWN TO EXECUTE AN AGREEMENT WITH THE COUNTY OF BERGEN TO PARTICIPATE IN THE BERGEN COUNTY OPEN SPACE, RECREATION, FARMLAND AND HISTORIC PRESERVATION TRUST FUND

Upon motion by Councilmember Trawinski and a second by Councilmember Dobrow, Resolution No. 239-99 introducing Ordinance No. 1769-99 was unanimously passed.

A motion by Councilmember Tedeschi and seconded by Councilmember Dobrow to remove Resolution No. 242-99 from the Consent Agenda was unanimously passed.

RESOLUTIONS BY CONSENT #15-99

Upon motion by Councilmember Trawinski and a second by Councilmember Tedeschi, Consent Agenda #15-99 containing the following items was unanimously adopted.

- a. Resol. #240-99 Approval of Minutes:
 - Work Session 6/15/99
 - Closed Session 6/15/99
 - Special Meeting 6/15/99
 - Regular Meeting 6/22/99
 - Work Session 6/22/99
 - Closed Session 6/22/99
 - Work Session 7/13/99
 - Special Meeting 7/13/99
 - Closed Session 7/13/99
 - Regular Meeting 7/20/99
- b. Resol. #241-99 Refund of Overpayment of Taxes
- c. Removed
- d. Resol. #243-99 Confirmation of Fire Board Actions
- e. Resol. #244-99 Award of Bids: Water & Sewer Pump Station Maintenance
- f. Resol. #245-99 Award of Bids: SCADA
- g. Resol. #246-99 Confirmation of Treasurer's Purchases
- h. Resol. #247-99 Law Enforcement Block Grant
- i. Resol. #248-99 Appointment of Representative to Open Space Regional Advisory Committee
- j. Resol. #249-99 Professional Services - Health Educator
- k. Resol. #250-99 Appointment to Environmental Commission

RESOLUTION No. 242-99 Approval of Raffles & Bing
Warren Point PTA - on-premises 50/50
St. Anne's R.C. Church - off-premises 50/50
Cerebral Palsy Center Bergen County, Inc. - off-premises 50/50
St. Leon's Armenian Church - off- premises 50/50
Fair Lawn High School - on-premises 50/50
Temple Beth Sholom Mens Club - Bingo
Sunrise Rotary Club of Fair Lawn - Calendar Raffle

Upon motion by Councilmember Tedeschi and a second by Deputy Mayor Ahearn, Resolution No. 242-99 was unanimously adopted with Councilmember Trawinski recusing himself.

RESOLUTION NO.251-99 Authorization to Execute Grant Agreement Auxiliary Police Barrier Free Improvements

Upon motion by Councilmember Trawinski and a second by Councilmember Tedeschi, Resolution No. 251-99 was unanimously passed.

RESOLUTION NO.252-99 Confirm Endorsement of Community Development Project - Bris Avrohom

Upon motion by Councilmember Tedeschi and a second by Deputy Mayor Ahearn, Resolution No. 252-99 was discussed. Mayor Ganz asked what this resolution was about as it was not previously discussed by the Mayor and Council. Councilmember Tedeschi explained that it was for job counseling and ESL programs for people from Russia. Mayor Ganz asked to postpone this to the next work session.

A motion by Councilmember Trawinski and a second by Councilmember Tedeschi, Resolution No. 252-99 was unanimously postponed to the Work Session of September 7, 1999.

MISCELLANEOUS PUBLIC COMMENTS

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

Harvey Rubenstein, 28 Rutgers Terrace, voiced his concerns about several issues which included the new sidewalk that is cracked at the Library; the broken sidewalk at the Medical Arts Building located at 19-21 Fair Lawn Avenue; the hedges at the Recycling Center blocking the traffic's view turning on to Saddle River Road and the stones placed around the trees are a potential hazard to the windshields of cars at the Grand Union.

Mayor Ganz asked Attorney Lustgarten about citizens advising the Council of potential problems.

Councilmember Trawinski asked the Manager Sacks to advise the Borough Engineer of these situations. He also asked that the Property Maintenance Officer look at the Medical Arts Building. He stated the Borough has an ordinance regarding blocking the view of traffic and he felt this was a safety issue at the Recycling Center.

Deputy Mayor Ahearn said the pavers and sidewalks have been a concern of his and was curious if anything could be done to make sure they are stable.

There was a consensus to have Manager Sacks check into it.

Arlene Rubinstein, 28 Rutgers Terrace, questioned the payments listed on the Manager's Report. Manager Sacks and Attorney Lustgarten explained each item she questioned.

Tipi Jasphy, 5-36 Philip Street, spoke about the recent evacuation that took place at the Thomas Jefferson Middle School and the refuse that was left behind on her property by the various people handling the situation. She also spoke about the amount of guards at the pools and how people are sneaking in to use the facilities.

Leon Wender, 7-22 Manor Avenue, asked how much the Broadway study would be costing the Borough. Mayor Ganz explained the Borough did not have to pay for it and the only expense is for Susan Gurel. Mr. Wender also raised issues regarding security at Memorial Pool, traffic signs at the pool and about the architect designing the DPW complex.

Ed Reilly, 18 Godwin Avenue, spoke about a store located on Broadway that has a garage sale every weekend and is a fire trap. He asked where the Building Inspector has been and wanted to know how many summonses the he gives out. Mayor Ganz asked if a complaint was filed. He also explained that the Building Inspector does not make informal inspections unless there is a complaint. Mr. Reilly stated it should be in The Shopper that residents should notify the town of complaints. Attorney Lustgarten stated with over 13,000 line items, in all fairness it is virtually impossible to get to every one.

Mr. Reilly spoke about the gas meters that are uncovered on the outside of the Fair Lawn Commons buildings that look awful. He discussed the Police Department regarding their request for additional space and also the time frame for the new uniforms. He wondered why the Council would want to sell the Arts Center as that is prime property that would be an excellent site for Senior Citizen Housing.

Ron McPhee, 12-10 Burbank Street, thanked the Council for taking care of his tax refund. He questioned the school budgets for the various years stating the teachers are robbing the residents. Mayor Ganz asked Manager Sacks to get the figures for him.

Irving Pollard, 0-50 34th Street inquired when the report from Susan Gruel was due to be delivered to the Borough. Mayor Ganz informed him that it was being assembled and would be delivered shortly.

Margot Brandes, 16-36 Raymond Street, spoke about the new Shop Rite on River Road stating that while the new store was dazzling the neighborhood around it should not be forgotten. There has been a tremendous encroachment of noise and traffic. She has heard from many neighbors who say they cannot trust Fair Lawn. She thought that if Shop Rite is not monitored they will encroach further. She also felt that the Planning Board and Zoning Board should be aware of this.

Maurice Michaels, 7-16 Richard Street, echoed everything that Ms. Brandes said. He explained that he lives across the street from the exit of Shop Rite and had concerns that Shop Rite was not living up to their end of the agreement. Construction had started early in the morning, their store hours were supposed to be until 10 p.m. and they have stayed open until midnight, litter is all over,

there is a wall that is hard to see past when exiting the parking lot and there are weeds growing between the sidewalk and the wall. He hoped that before they are given the permanent certificate of occupancy all of these issues would be resolved.

Councilmember Trawinski stated that he was the Planning Board attorney at the time and would like to see if the Borough Engineer signed off on all the conditions. He asked Manager Sacks to have the Borough Engineer look into this matter.

Manager Sacks stated their certificate of occupancy is temporary. She had a conversation with Shop Rite and have told them they have to fix these conditions. She stated she has asked them to be a good neighbor and cooperate.

Mr. Michaels thanked her for returning his call. He stated that Engineer Garrison has come by and found more things they did not like.

Ms. Brandes spoke in reference to Shop Rite being good neighbors. She said there was filth all over and wondered if Shop Rite would be maintaining it once they get their certificate of occupancy. She said she was also surprised that customers have to climb a huge staircase to get to the restrooms.

Mr. Michaels asked how long Shop Rite can operate with a temporary certificate of occupancy. Manager Sacks stated if they don't comply they close.

Mr. Wender spoke about chemicals that are being applied to people's lawns. Deputy Mayor Ahearn stated the Borough cannot stop people from applying chemicals to their lawns.

Harvey Rubinstein spoke about the Medical Arts Center conforming with an ordinance regarding permanent structures on a building. In regard to Mrs. Jasphy's comments he suggested to have someone designated at the end of an emergency situation to clean up the area. Mayor Ganz stated he would ask Manager Sacks to find out what the policy was and if there was none to inform whomever was in charge to assign a person to clean up after these type of situations.

Mr. Rubenstein also asked if the Court recognized minutes of meetings where residents spoke and asked if what they say can be incorporated into the conditions. Attorney Lustgarten stated that unless the Planning Board specifically incorporated those conditions whether they were put in the minutes, spoken orally or someone submitted a document, it is not included in the final approval and in his view would not be enforceable.

Deputy Mayor Ahearn stated that was absolutely right. He thought the residents could direct action against the applicant for nuisance under a theory of nuisance.

Councilmember Trawinski concurred with both of them. The other piece of it is if there is a representation made, even though it is not picked up in the resolution, the resolution can be set aside on the basis of fraud and the inducement and misleading or deliberate misrepresentation of the board.

Councilmember Trawinski spoke about looking into Mrs. Valenzuela's problem with Lackland Storage and has found that they are not finished with their landscaping.

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

Adjournment:

Upon motion by Councilmember Trawinski and a second by Councilmember Tedeschi, the meeting was unanimously adjourned at 9:15 p.m.

Respectfully submitted,

Marilyn B. Dugan, RMC
Assistant Municipal Clerk