

Work Session - October 19, 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, Councilmembers Dobrow, Tedeschi and Trawinski.

ABSENT: Deputy Mayor Ahearn

Also present: Municipal Clerk Kwasniewski and Attorney Lustgarten.

The Manager was ill and not in attendance.

Review of Tentative Agenda 10/12/99 - Municipal Clerk Kwasniewski advised that she would like to add four resolutions: the corrective action plan which CFO Eccelston will review this evening and the Manager has recommended awarding bids on the broom sweeper, 18" wrap drive conveyor and snow plowing and removal. The Council concurred.

Corrective Action Plan - CFO Eccelston reported that most of the comments were minor. Municipal Clerk Kwasniewski has already upgraded the surety bond for the Tax Collector. He reviewed the recommendations of the auditor and the corrective actions to be taken. He indicated that the Recreation Department is now retaining the pool tags until after the audit is completed. He explained that it is the Department Head's responsibility to make sure that staff is doing things properly. Councilmember Trawinski asked if the Manager could include the audit comments as a criterion for her evaluations of the Department Heads. The Council asked Municipal Clerk Kwasniewski to advise Manager Sacks by memo. Councilmember Tedeschi suggested checking in three months to see that departments have taken the corrective action. CFO Eccelston advised that he did not have the staff to do that and that he thought it was the Department Head's responsibility.

Mayor Ganz asked the status of accepting credit cards by the Municipal Court. CFO Eccelston indicated he had suggested that they wait until the new Court Administrator gets acclimated. They will start working on it January 1st. Mayor Ganz wanted to start the procedures now so that they could start the program as soon after the new year as possible. Attorney Lustgarten explained that an ordinance must be adopted, the Court has to set up an area for processing the fees, the Chief Financial Officer has to establish a separate fund and an arrangement has to be worked out with a bank. Mayor Ganz indicated that he would like Attorney Lustgarten to draft the necessary ordinance so they can adopt it before December 31, 1999.

The consensus was to have the Manager meet with the Chief Financial Officer and the Court Administrator and to have the Borough Attorney draft the ordinance.

The consensus was to have the Municipal Clerk prepare a memo advising the Manager of those items the Council wants addressed because she was not in attendance due to illness.

Bond Ordinance Amendment - CFO Eccelston advised that the bond ordinance must be amended because the bid for the truck was higher than expected. The estimate was \$150,000 but they neglected to add the snow plow which is approximately \$15,000. In addition, the truck cost increased 10 percent. They could award the bid after they adopt the new bond ordinance. He would also like to redo the ordinance so that all the equipment is grouped together.

Councilmember Trawinski pointed out that the Council changed bond counsel this year. He thought the ordinance was poorly drafted. He supported the amendment as long as the fee is split so that they pay the correction caused by the Borough's error for but they do not pay for the revision to bring it into accepted practices and that this is communicated to the bond counsel.

CFO Eccelston will submit a schedule of outstanding balances on the bond ordinances.

Attorney Lustgarten wondered if the truck should be rebid although CFO Eccelston pointed out that it was only \$15,000 over the amount budgeted. Councilmember Trawinski thought if the truck were not needed for this season it should be rebid. CFO Eccelston will discuss this matter with the department of Public Works.

The consensus was to clean up the bond ordinance.

Board of Education Liaison Committee Agenda Items - Mayor Ganz asked for items to be added to the agenda although if the Manager were ill he was not sure the meeting would take place. Councilmember Tedeschi indicated that he would like to have minutes or a general summary of these meetings.

Shop Rite - A revised grid will go out either Friday or Monday. Attorney Lustgarten indicated that he dictated the letter to Walgreens architect, the owner and the engineer asking for the remedial action plan for the five feet taking into account that the County will not allow them to have the twenty spaces encroaching into their right-of-way. If they do not respond within seven days, the Council would discuss the discontinuance of the Temporary Certificate of Occupancy. The Council had directed a meeting with the Manager, Attorney Engineer and Construction Official, but that has not happened yet.

Councilmember Tedeschi expressed concern about safety due to the lack of sidewalks. Mayor Ganz wondered if the Council can direct some immediate action for the sidewalk. Attorney Lustgarten thought that under the police powers the Council can direct a solution, but he did not know the physical remediation. Mayor Ganz suggested that through the Manager asking the traffic safety officer to look at this and devise a plan. Councilmember Trawinski noted that the resolution says they have to comply with all directives. The topography immediately next to the parking spaces slopes so putting a sidewalk there is not possible. Attorney Lustgarten suggested that they have a person present during the school hours. If they want to use a police officer, they must reimburse the Borough.

Councilmember Tedeschi thought Walgreens should be advised that there is a safety problem and ask for their plan to remedy it. They must present an action plan before Tuesday or under the emergency powers the Council will implement a plan.

The consensus was to have Attorney Lustgarten send them the letter. This will be discussed a Work Session following the next Council Regular Meeting.

Attorney Lustgarten received a plan that shows the approved area on a slash line and the as-built on a solid line and they are off. Councilmember Tedeschi indicated he was prepared to be as cooperative with Walgreens as they have always been with the Borough. Attorney Lustgarten noted that the owner, the general contractor, the architect and the municipal body have specific responsibilities.

Mayor Ganz advised that the Manager, the Engineer, Shoprite and Walgreens are meeting this week. Attorney Lustgarten asked for documentation that visually shows the safety factor so that he can show a judge if it becomes necessary. He wanted the video to show the internal configuration. The Police Department can probably do that for him.

Council Liaison to Broadway Advisory Committee - Attorney Lustgarten noted that when the resolution was adopted on October 12th the Council liaison was not named. It was agreed to make this appointment at the November 3 meeting.

Public Advocate Ordinance - Attorney Lustgarten advised that he sent the draft ordinance to the Planning Board and Zoning Board. He received comments from the Planning Board attorney raising several concerns. He will circulate those comments to the Council. Comments have also been received from the Zoning Board Chairman.

Sidewalk Ordinance - Discussing this item was premature. The Council needs additional information from the Department of Public Works so they can determine the scope of the problem.

This item will be on the agenda for November 3 if the Manager has the information. If it cannot be done by then,

Manager Sacks should let the Council know when it can be done.

Municipal Clerk Kwasniewski was asked to obtain Paramus' sidewalk ordinance.

Attorney Lustgarten felt that a legislative remedy is needed. The cost factor is astronomical. The municipality still has a defense under the torts claim act. Councilmember Trawinski it is not on the agenda right now.

Comments from Planning Board Regarding the CCO Ordinance - Attorney Lustgarten noted that the final draft had sidewalks in the replacement section. The Planning Board disagrees with the catchall phrases because they thought it was too vague. The inspection section should exempt private sidewalks, walkways, fences, driveways and other items enforced through the property maintenance code. He thought having everything done at the same time so that things can be upgraded if needed would be better. Mayor Ganz pointed out that many communities do it all at once. The problem is that it presumes that the seller is getting more money for the house than they invested into it.

This item will be on the November 3 agenda.

Update on the Status of 1999 Leaf Collection Season & Discussion of Alternatives to Remove Leaf Excess of Licensing Capacity - Councilmember Trawinski pointed out that the Council never authorized bidding this item. Councilmember Tedeschi pointed out that there was a letter from a Councilmember in Paramus regarding the negotiations for an interlocal agreement. He wanted to see the specifications for the bid that was taken. Municipal Clerk Kwasniewski will circulate the specifications. The Council wanted to know where the funds were to pay for the leaf removal.

Councilmember Trawinski expressed concern with a three-year contract unless there was a good escape clause. Councilmember Tedeschi thought the Borough Manager would probably answer the questions the Council had. Councilmember Trawinski thought there were other options that should be explored. He would like to know if the Department of Public Works had made any other suggestions or if he was asked to explore any other options.

The consensus was to have the Manager obtain the information requested and discuss this at the work session following the Regular Council Meeting. Then if the Council wants to it can go back to the Regular Meeting to award this bid.

Status of Ellington Road - In response to inquiry of Mayor, Attorney Lustgarten advised that he had not received any photographs. He will send a letter to Mr. Breinissen.

Status Report Request Financial Disclosure Form Filing - Councilmember Trawinski advised that Bob Gordon had sent a memo that he was not sure if all areas of the Borough were complying with the disclosure laws and in particular the Library Board. Municipal Clerk Kwasniewski advised that she and Mr. Gordon talked about that Board. The Attorney General has made several rulings over the years on who is covered in response to municipalities questions. She and Mr. Gordon have decided that whether or not they are supposed to be included, they would include the Library Board. She sent them the forms and they have filled them out. Attorney Lustgarten added that when someone is appointed in the middle of the year, Municipal Clerk Kwasniewski will make sure they receive the form.

Status Report Request Odor Control Certain Businesses - Councilmember Trawinski advised that by a memo dated March 12, 1999 the Health Department requested that they consider odor control for certain businesses. The Environmental Commission has raised this issue again. He thought they should get a recommendation from the Manager. This item will be on the November 15 agenda and should be sent to the Planning Board and Zoning Board.

Status report Request Placing U.S. Attorneys 8/2/99 Correspondence in The Shopper - Councilmember Trawinski advised that The Shopper did not include the article. He suggested authorizing a paid ad be placed in it instead of the press release. The consensus was that if the article is not in Thursday's issue (or if Shopper will not run this story), the Manager is authorized to place a paid ad.

Status Report Fair Lawn Fire Department First Responders - Councilmember Trawinski pointed out that this was a

major policy change that the Council was unaware of and they had asked the Manager to send a letter to the Fire Department and obtain some information. That information was never received. The Council asked for this information again. This item will be on the November 3 agenda.

Status Report Ordinance 1732-98 Multi-Stop Prospect and Jasper - Manager Sacks had distributed a memo this evening.

Status Report Destruction of Tape Recordings of Council Meetings - The Manager had asked if the Council wanted to establish a policy for the destruction of the tapes. Municipal Clerk Kwasniewski indicated that a number of years ago the Council had established a policy of destroying them after 90 days. The State requires that they be kept for 80 days.

Councilmember Tedeschi noted that the purpose of taping the meetings was to supplement the notes of the Municipal Clerk. Attorney Lustgarten advised that the tapes are not required by law to be made. A Supreme Court case says if a municipality uses the tapes as their official record, they have to be kept and approved in the same manner as minutes. This is not what the Borough does, however. Mayor Ganz asked Attorney Lustgarten if there were any pending litigation that the tapes would be supoenable. Councilmember Tedeschi noted that if the Municipal Clerk is the keeper of the Borough's records, he did not understand why the Manager was making a decision in the destruction of the tapes. Attorney Lustgarten thought the Manager was asking the Council for its policy. He was not sure that there was anything in the tapes that would change the Borough's legal position. He did not recall any tapes being asked for during any litigation.

The consensus was that Attorney Lustgarten, Manager Sacks and Municipal Clerk Kwasniewski would meet and submit their recommendation. This item will be on the October 26 agenda.

Status reports Parking Fines at Pollitt Drive, Fair Lawn Avenue and Saddle River Road Lots - This item has been done.

Lackland - Councilmember Trawinski noted that the Council directed that they get the revised landscape plan. Manager Sacks said that the Council could have it in a few days but they still do not have it and the engineering review has not been done. He disagreed with her memo noting that it is contrary to what the Board intended. Attorney Lustgarten indicated he disagreed with the Manager's memo of October 18 because he felt the stipulations were incorporated into the conclusions of the Planning Board. Planting of the evergreens was a stipulation. The Council asked that the plans be included in their Monday packets.

Status of Supervisor's Contract - Councilmember Tedeschi expressed concern that on February 9 the Council authorized the execution of the Supervisors contract yet the contract does not exist. Attorney Lustgarten advised that on August 22 he sent a memo to the Manager asking for the details and conditions so he could prepare the contract. He has not received that information. Mayor Ganz asked Attorney Lustgarten to follow up on this matter.

Closed Session Items - Attorney Lustgarten advised that he has prepared a memo for distribution regarding the Morristown case as it relates to a request from one of the apartment complexes. He thought they should have the memo before discussing this issue. He suggested deferring it. The information needed from the Department of Public Works relating to the Norris case has not been received so he suggested deferring that discussion as well.

Municipal Clerk Kwasniewski indicated that there were appointments that need to be made to the Property Maintenance Committee and the Broadway Advisory Committee. The Council had no objection to adding anyone who wants to be on the Broadway Advisory Committee. They will make the appointment to that committee at the next meeting. They deferred the appointment to the Property Maintenance Committee.

ADJOURNMENT - Upon motion of Councilmember Trawinski and a second by Councilmember Tedeschi they adjourned the meeting at 9:30 p.m.

Respectfully submitted,

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