

## Work Session - November 3, 1999

In the absence of the Mayor and Deputy Mayor, Municipal Clerk Kwasniewski 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 (late), Councilmembers Dobrow, Tedeschi and Trawinski.

ABSENT: Deputy Mayor Ahearn

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

Nomination of Chair - Councilmember Dobrow was chosen to chair the meeting.

Review of Tentative Agenda 11/9/99 - Municipal Clerk Kwasniewski advised that she would be adding a resolution to award the bid on the Hockey Concession Trailer. Attorney Lustgarten thought the Council had wanted the people on Broadway notified that Susan Gruel was going to present her report. Manager Sacks indicated that she notified Charles Tredigo who will notify the members of the Broadway Advisory Committee. She will also send them a notice. Notice of the meeting is on the web site. It is also posted at the Library and on the bulletin board.

Walgreen's Sidewalk - Attorney Lustgarten advised that he received responses from Shop Rite that they are not responsible but they are willing to cooperate. The attorney for Walgreens has contacted him. Manager Sacks advised that Engineer Garrison is satisfied with the plan. It does what the County wants and everything the Borough wants. They are going to start excavating for the sidewalk November 4. The parking spaces will be cut back but will still be 16 feet. They will move the curb back and still can put in the five-foot wide sidewalk the County is requiring. Councilmember Tedeschi thought the spaces had to be 9 feet by 18 feet and modified space would be for compact cars. Councilmember Trawinski noted that the ordinance calls for 9 feet by 18 feet. Compact car spaces require Planning Board approval. Attorney Lustgarten added that the Engineer needs to advise the Council if they are in compliance. If they are not, they will have to go to the Planning Board for amended site plan approval.

Councilmember Trawinski thought amended site plan approval is required even if it is after the fact to allow the building to stay in that location. He thought the alternate safety route was not that safe. They have to walk on Maple Avenue. He expressed concern that the safety issue was not resolved. Attorney Lustgarten suggested asking the Engineer for a report for November 9. Councilmember Dobrow thought the Engineer should be at the meeting.

The consensus was to have a thirty minute work session to meet with the Engineer, Construction Official and a principal of Walgreens on November 9. Susan Gruel could come at 8:00 p.m.

Shop Rite - Manager Sacks reported that the Borough Engineer has been out to Shop Rite. She will ask him for an updated checklist. Attorney Lustgarten thought that getting a timeline from Shop Rite for the completion of items would be appropriate. Councilmember Dobrow asked for a computer generated run of items every week.

Review and Explanation of the Council Protocol Regarding Requests for Information and Input from Administrative Staff by Councilmembers both Collectively and Individually in Fulfillment of their Oversight Responsibility as Elected Officials - Attorney Lustgarten sent a memorandum of October 6 incorporating the comments of November 5. He felt that for oversight responsibility the information flow should be free and forthcoming. If there is a conflict between the Council and Manager in extraordinary circumstances, the Council has the right to bypass the Manager because it is in their domain to get the information. The Council must have the information to fulfill their responsibilities. There may be some compelling circumstances when the documents should be restricted, but other than that they should get the information. The Council cannot bypass the Manager in directing employees.

Councilmember Tedeschi thought the Borough Attorney's opinion was consistent with past policy. He thought the Borough would own the work product so the Council should have the right to review it. Attorney Lustgarten noted that historically the Council has encouraged the free flow of information and everything was public unless there was a

compelling reason not to be. Manager Sacks wondered if that applied to correspondence between the Manager and Department Head that contain information or opinions that they do not think will be shared. Attorney Lustgarten felt that if there is factual information that is being shared it should be sent to the Council. If anyone acting on behalf of the Borough states a position, the position should be shared with the elected officials. Councilmember Tedeschi thought the Council was entitled to unfiltered or unabridged opinion of a Department Head that is going to help them make a decision.

Councilmember Trawinski asked when the Council would receive the specific memorandum Councilmember Tedeschi requested. Manager Sacks advised that she will put it in the packages November 4.

Attorney Lustgarten stressed that in order for everyone to make informed decisions, there must be a free flow of information. It should not be restricted unless there are extremely limited circumstances, i.e., personnel, litigation, police protocol that would hamper an investigation.

The consensus was that there would be a free flow of information.

Request for Borough Attorney to Opine Regarding Manager's Comp Time - Attorney Lustgarten submitted his opinion on November 1, 1999. He did not think the position of Borough Manager by statute was entitled to comp time. Manager Sacks indicated that she had followed the practice of the former manager. She indicated that she has made no claim for comp time nor will there be any such claim.

Truck Chassis with Snow Plow Bid - Manager Sacks recommended rejecting the bid that was \$181,043 since it was over the budgeted amount. They would like to rebid with alternates. The consensus was to reject the bid.

Draft Ordinance re Landlord Registration - Attorney Lustgarten advised that he had called the State on preemption but has not yet received a response. This matter was deferred to the November 23 work session.

Council Liaison to Broadway Advisory Committee - The Committee is anxious to have a liaison. It was agreed to defer this matter to the November 23 work session.

Sidewalk Ordinance - Attorney Lustgarten preferred to discuss this matter with the entire Council present. There will be a budgetary impact. This matter will be on the November 23 work session.

Comments from Planning Board re CCO Ordinance - This matter was deferred to the November 23 work session.

Status Report Fair Lawn Fire Department First Responders - Fire Chief Reardon and Deputy Chief Tyminski were present. Chief Reardon indicated that Elmwood Park has had a manpower shortage during the day. Fair Lawn Fire Department has gone to Elmwood Park once during the day. It is a mutual aid call. They have a mutual aid agreement with Central Bergen that includes eight towns.

Mayor Ganz arrived at 8:15 p.m. and resumed the chair.

Chief Reardon indicated that Elmwood Park does not call Fair Lawn until they are sure it is a fire and they know they will be short men. It is really mutual aid. Councilmember Trawinski noted that the Council was under the impression that Fair Lawn was providing the aid that Elmwood Park does not have. He had no problem with supplying mutual aid. Councilmember Tedeschi thought there was a memo that said Fair Lawn was the first responder from 6:00 a.m. to 6:00 p.m. Chief Reardon responded that if it is a confirmed fire, Fair Lawn will respond. Elmwood Park is trying to get the manpower. Councilmember Trawinski asked if Borough employees would be responding. Chief Reardon replied when that happens they call the DPW and let them know how many men are at the fire. Councilmember Trawinski would like to see the documentation because he thought the residents of Elmwood Park have the impression that Fair Lawn is providing the fire department services during certain hours. Chief Reardon stressed that there is a mutual aid agreement but they are not providing primary coverage.

Chief Reardon asked the Council to consider using the sirens from 7:00 a.m. to 11:00 p.m. if there is a call. Manager

Sacks advised that OEM Director has said that it was not necessary. It would be a real nuisance and would desensitize the public when there is a real emergency. There are many means of communicating other than the siren system. Councilmember Trawinski pointed out that one selling point of the new system was the elimination of the annoyance of the sirens. He thought it should be worked out between the Manager, OEM and the Fire Department and they should advise the Council.

The consensus was to have this worked out administratively between the Manager, OEM and the Fire Department and advise the Council.

Request by M. Hirshklau to Purchase Borough Owned Property (Block 3517, Lot 21) - Councilmember Trawinski was recused. Attorney Lustgarten advised that this is the property contiguous to the property owned by Shotmeyer. It is not an undersized lot according to the tax assessor and appraiser. To sell the property, the Borough will have to auction it. They may already have site plan approval to expand the property subject to the purchase of this piece of property. The appraiser the Borough generally uses has advised that he has a conflict so he will have to find another appraiser.

Pedestrian/Bicycle Safety Task Force - Phil Plotch was present. He reviewed the short term recommendations presenting pictures to illustrate the Task Force's report. The Borough received \$40,000 from NJ Department of Transportation for the consultant. The Borough will get grants to implement some of these improvements. He thought the Task Force would be ready with their final recommendations in January. Mayor Ganz thanked Mr. Plotch for an excellent presentation. Mr. Plotch offered to get prices for the tree grates.

The consensus was to stripe crosswalks as suggested at all fifteen identified locations.

The consensus was to install signs that remind motorists that NJ State Law requires that Motorists Must Yield to Pedestrians in Crosswalks.

The consensus was to install the bicycle racks as recommended.

Manager Sacks was asked to send the report to the Broadway Advisory Committee.

The consensus was to have Manager Sacks to ask the Traffic Officer to give his opinion with respect to recommendation number 8 concerning more enforcement of traffic laws.

The consensus was to intensify lighting at intersections.

Mayor Ganz asked Attorney Lustgarten to incorporate the recommendations on the sidewalk into his discussion on this matter.

The consensus was to add the Task Force's recommendations to the target areas except the new pedestrian signal heads at Plaza Road and the tree grates.

Mr. Plotch noted that the consultant strongly urged only putting the imprinted asphalt crosswalks at signalized intersections.

This item will be on the December 7 agenda.

Fifth Street Sewer - Manager Sacks advised that they are still checking it daily and scheduling it for television inspection. The last time it was cleaned out there was grease. Councilmember Trawinski noted that Engineer Garrison told him that the root cutter was impaired when it was run through there. He thought the grease was having an impact because the roots are there and the area is closed. Manager Sacks indicated that was not the case this time. It was strictly grease and paper. The residents are not putting in the grease, it is getting in there before it reaches them. Attorney Lustgarten recommended that a letter be sent to the Fifth Street homeowners summarizing the Manager's memo and telling them that the line is going to be televised.

Ordinance Amendment for Health Program Fees - This was an ordinance for the cost of services plus overhead. Attorney Lustgarten drafted the amendment to the ordinance setting forth the fees for general services. The fee will be the actual cost and a percentage of the overhead. Manager Sacks recommended adding 15 percent. Councilmember Trawinski wanted to be sure that the ordinance does not authorize the Hepatitis B program. Manager Sacks noted the Council was going to authorize the ordinance and then decide whether the Council wants to do the program. It is scheduled to begin November 22, 1999 if the Council agrees. There have been meetings with the Health Officer and the High School. Attorney Lustgarten pointed out that if the Council goes ahead with the program an interlocal government services agreement is required.

The consensus was to introduce the ordinance as drafted.

Councilmember Trawinski was not convinced that the Borough should be providing the service. The Board of Education can do it. Manager Sacks advised that they cannot get the vaccine at the rate that the Health Department can buy it. It would be the same thing as taking the student's privately. Councilmember Tedeschi noted the Board of Education has doctors and nurses. The doctors can order the drugs and the nurses can administer the inoculation. There are programs that would pay for the cost if the student cannot pay for it. The program will last for five years because children will have the shots. Manager Sacks the Board of Education can have their doctors do it as private doctors. It would be at least triple the price because they cannot qualify as a public health provider. Mayor Ganz noted that the colleges will require the students to have the inoculation. It is an opportunity to pass along to the residents a service at a significantly lower cost. Attorney Lustgarten thought the Council needs to weigh the risk against the benefit. Manager Sacks pointed out that the Health Department thinks it is an important program. Attorney Lustgarten wondered about lending the Health Officer on a per diem basis to the High School.

The consensus was that the Manager will work out an administrative at per diem cost. Board of Education will have to collect the cost from the students and the borough will submit a voucher.

Transition - Manager Sacks indicated that she would like to begin circulating information to the Councilmembers-elect so that they can get ready for January 1, 2000.

The consensus was that everything will be sent to the Councilmembers-elect unless it is something only the current elected officials should be involved with.

Mayor Ganz asked that the Councilmembers-elect be invited to the meetings.

The consensus was to invite them to all meetings and that they would be invited to Closed Sessions as observers.

Department of Transportation Take Over of Broadway - Manager Sacks advised that she received a call from Deputy Commissioner Bubba regarding the resolution the Council adopted about the take over of Broadway. The DOT is concerned about the safety and asked if they could do something with the Borough to achieve what the Borough wants instead of this route. Councilmember Tedeschi advised that he had lunch with Mr. Bubba two months ago. Mr. Bubba is not the right venue. Manager Sacks indicated that Debbie Hirt is the person with whom the Borough needs to meet. The DOT is ready to work with the Borough.

The consensus was that Manager Sacks continue to work with the DOT on this matter.

Retirement Party for the Staff - Manager Sacks asked for authorization to have the annual party that honors the retiring employees and to spend \$2,000.

The consensus was to authorize the expenditure.

Street Hockey Concession Trailer - Manager Sacks advised that the bid was \$39,626 which is within the budgeted amount. The consensus was to award the bid.

Sale of Equipment - Municipal Clerk Kwasniewski advised that she has received requests to purchase the vactor and

the old street sweeper. She asked for authorization to auction these items.

The consensus was to authorize the sale of the two pieces of equipment. A resolution will be on the next Council agenda.

Refund of Parking Fee - Councilmember Trawinski asked if Michelle Novelli had gotten the refund she asked for at a recent Council meeting. Manager Sacks thought it was done. If not, she will take care of it.

Special Meeting - Upon a motion of Councilmember Trawinski and a second by Councilmember Dobrow, the meeting was adjourned to a Special Meeting at 9:55 p.m.

Mayor Ganz reconvened the meeting at 10:20 p.m.

Meeting Time for November 23, 1999 - The work session will start at 6:00 p.m. with the Regular Council Meeting immediately following.

ADJOURNMENT - Upon motion by Councilmember Trawinski and a second by Councilmember Tedeschi, the meeting was adjourned at 10:25 p.m.

Respectfully submitted,

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

### Special Session - November 3, 1999

Mayor Ganz reconvened the meeting at 9:55 p.m.

PRESENT: Mayor Ganz, Councilmembers Councilmember Dobrow, Tedeschi and Trawinski.

ABSENT: Deputy Mayor Ahearn.

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

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. 1775-99

AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FAIR LAWN, 1981, BY AMENDING CHAPTER XXIII, ENTITLED, "HEALTH", TO ESTABLISH A UNIFORM SCHEDULE OF FEES FOR SERVICES PROVIDED BY THE DEPARTMENT OF HEALTH FOR INOCULATIONS, BLOOD SCREENING AND OTHER SIMILAR DIAGNOSTIC PROCEDURES

Upon motion by Councilmember Trawinski and a second by Councilmember Dobrow, Resolution No. 311-99 introducing Ordinance No. 1775-99 was unanimously adopted.

RESOLUTION NO. 295A-99 Appointment of Liaison to Broadway Advisory Committee

Upon motion by Councilmember Trawinski and a second by Councilmember Tedeschi this resolution was withdrawn from the agenda. This item will be on the November 23, 1999 agenda. Councilmember Trawinski suggested that an interim appointment be made of a citizen member until January 1, 2000.

RESOLUTION NO. 312-99 Rejection of Bids Leaf Removal

Upon motion by Councilmember Trawinski and a second by Councilmember Tedeschi, Resolution No. 312-99 Rejection of Bids Leaf Removal was unanimously adopted.

RESOLUTION NO. 313-99 REJECTION OF Bid Truck Chassis with Snow Plow

Upon motion by Councilmember Trawinski and a second by Councilmember Tedeschi, Resolution No. 312-99 Rejection of Bid Truck Chassis with Snow Plow was unanimously adopted.

Closed Session Resolution - Upon motion by Councilmember Tedeschi and a second by Councilmember Trawinski, the following closed session resolution was unanimously adopted at 10:05 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 personnel/attorney client privilege; 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 90 to 120 days if the matter is resolved;

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.

Councilmember Trawinski asked why this issue is being discussed in closed session if it refers to the supervisor's contract. Attorney Lustgarten indicated he had a matter totally unrelated to that issue. Manager Sacks indicated that her portion of the discussion concerns a title and the individual who was in it so she was not sure that could be discussed in open session. The person being discussed is no longer an employee and will not longer be affected but she would be giving them information that should not be discussed in open session. Councilmember Tedeschi noted that his memo did not ask any questions about specific employees. He thought they should discuss the other seven questions in open session. Attorney Lustgarten suggested that question two be discussed in closed session and then discuss the rest of the questions in open session. It was agreed that this matter will be discussed on November 9.

The Council went into Closed Session.

Respectfully submitted,

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