

REGULAR MEETING OF NOVEMBER 23, 1999

Mayor Ganz opened the meeting at 8:15 p.m. Municipal Clerk Kwasniewski read the following statement of compliance:

In accordance with the Open Public Meetings Act, annual notice of all meetings of the Borough of Fair Lawn was published in the "News Beacon" issue of December 17, 1998. 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 Annual Notices identified the meeting location and the time of the Council Meetings and Work Sessions.

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

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

PROCLAMATION: NATIONAL DAY OF THANKSGIVING

Municipal Clerk Kwasniewski read the proclamation.

MANAGER'S REPORT

Manager Sacks reported there were no additions or changes to the report.

ORDINANCES: SECOND READING

Upon motion by Deputy Mayor Ahearn and a second by Councilmember Dobrow, it was unanimously agreed to read the following ordinance by title and open the time for public hearing.

Ordinance No. 1776-99

BOND ORDINANCE AMENDING BOND ORDINANCE No. 1770-99 FINALLY ADOPTED BY THE BOROUGH COUNCIL ON OCTOBER 12, 1999, ENTITLED "BOND ORDINANCE PROVIDING FOR ADDITIONAL VARIOUS 1999 CAPITAL IMPROVEMENTS, ALL LAWFUL AND PUBLIC PURPOSES, BY AND IN THE BOROUGH OF FAIR LAWN, IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY (THE "BOROUGH"): APPROPRIATING \$481,800 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$468,380 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF," TO INCREASE THE APPROPRIATION THEREIN BY \$33,600 TO \$525,400, TO INCREASE THE AUTHORIZATION OF BONDS OR NOTES THEREIN BY \$32,000 TO \$192,000 AND TO AMEND THE DESCRIPTION THEREOF

There being no comments by the public, upon motion by Councilmember Trawinski and a second by Councilmember Dobrow, it was unanimously agreed to close the time for public hearing.

Upon motion by Deputy Mayor Ahearn and a second by Councilmember Dobrow, Resolution No. 327-99 adopting Ordinance No. 1776-99 was unanimously passed with Councilmember Trawinski dissenting.

Upon motion by Deputy Mayor Ahearn and a second by Councilmember Dobrow, it was unanimously agreed to read the following ordinance by title and open the time for public hearing.

Ordinance No.1777-99

"AN ORDINANCE FIXING THE SALARIES OF CERTAIN EMPLOYEES OF THE BOROUGH OF FAIR LAWN, BERGEN COUNTY, NEW JERSEY" AS AMENDED

Councilmember Trawinski verified that the only change in this ordinance would be the title change. Mayor Ganz consulted with Attorney Lustgarten who stated that was the only change.

There being no comments by the public, upon motion by Councilmember Dobrow and a second by Deputy Mayor Ahearn, it was unanimously agreed to close the time for public hearing.

Upon motion by Deputy Mayor Ahearn and a second by Councilmember Dobrow, Resolution No. 328-99 adopting Ordinance No. 1777-99 was unanimously passed.

RESOLUTIONS BY CONSENT #21-99

Upon motion by Deputy Mayor Ahearn and a second by Councilmember Trawinski, Consent Agenda #21-99 containing the following items were unanimously adopted.

- a. Resol. #329-99 Approval of Minutes: Special Meeting 8/5/99
Special Meeting 9/21/99
Work Session 10/5/99
Closed Session 10/5/99
Regular Meeting 10/12/99
- b. Resol. #330-99 Refund of Overpayment of Taxes
- c. Resol. #331-99 Approval of Raffles & Bingo
Fair Lawn High School PTA off-premise 50/50
John A. Forrest School on-premise mdse.
John A. Forrest School on-premise 50/50
- d. Resol. #332-99 Transfer of Funds
- e. Resol. #333-99 Confirmation of Treasurer's Purchases
- f. Resol. #334-99 Award of Bid: Storm & Sanitary Sewer Cleaning & TV Inspection
- g. Resol. #335-99 Award of Bid: Electrical Repair, Time & Material Basis

MISCELLANEOUS PUBLIC COMMENTS

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

Lisa Yourman, 317 Plaza Road North, stated she was the Chairperson of the ADA Committee read a letter addressed to the Mayor and Council as follows:

Dear Mayor Ganz and Members of the Fair Lawn Council:

We are writing this letter to advise you of our concerns about the future of Fair Lawn's American's With Disabilities Committee and the impact of complying with the American With Disabilities Act of 1992.

In May, we sent a letter discussing the seriousness of ADA accessibility at two voting locations. We have not received any correspondence. We are disappointed in the non-involvement of the Borough Council in that Deputy Mayor Ahearn has not participated in our scheduled monthly meetings since March. We also feel that there should be additional involvement from the School District, Engineering Department, Health and Human Resource Department, Recreation Department and Construction Department as stated in the initial Resolution No. 134-96 dated April 23, 1996. We are also concerned that many appointed members have failed to participate in our scheduled monthly meetings. We have neither seen the Borough's Transition Plan currently in place nor the forms necessary for completing a request for accommodation.

We need to readdress what the Borough Council's goals are for the ADA Committee. Perhaps a meeting with the Council in the near future is necessary. Anyway that you can make our committee more effective would be greatly appreciated. Please advise us to how we should move forward.

Please call Lisa Yourman, Chair at 796-8091 to advise. Thank you in advance for your time and consideration. Sincerely yours, Lisa Yourman, Chair; Sueann Aitchison and Bettina Kaplan.

A heated exchange ensued between Lisa Yourman and Deputy Mayor Ahearn resulting in her resignation as Chairperson of the ADA Committee.

Ms. Yourman also requested that a sewerage problem on Nottingham Road be put on record and hopes that it will be addressed and taken care of.

Leon Wender, 7-22 Manor Road, spoke about several different topics such as luminescent lines that should be painted on the streets so that the Senior Citizens can see where they have to cross, enforcement of the jay-walking laws and if not enforced the ordinance should be expunged from the record, the amount of money spent on the Roller Hockey Rink at Memorial, the loose pavers on River Road, and utilizing the Sheriff's Inmate program to have them clean up areas around town. He stated the Borough should scrutinize the residency of the people dumping at the Recycling Center.

Lisa Yourman, 317 Plaza Road North, stated that she was extremely upset with Deputy Mayor Ahearn. She insisted there was no Transition Plan and that Deputy Mayor Ahearn never gave her any documents. Deputy Mayor Ahearn took exception to her remarks and then apologized for losing his temper.

Councilmember Tedeschi pointed out that in 1996 an ADA Committee was formed and was formed after years of people not wanting to do it. He urged the new Councilmembers and the Council to take a look at the ADA Committee, restructure it, redefine it but continue it on the purposes for which it was intended.

Deputy Mayor Ahearn stated he wanted to affirm his apology to everyone for losing his temper. It is a very important committee and he had put a lot of work into it and does not like seeing what has and has not happened. The future Council had better get serious about these things because they do have some open areas and are subject to problems. He hoped it could remain out of political arena. It has been a very frustrating experience to try to accomplish something on the Council this year with everything that was going on politically.

Councilmember Trawinski stated he echoed Councilmember Tedeschi's comments. He felt that if any good could come out of it, it is the need for the Council to go forward to revitalize the Committee. He said there was a boiler plate transition plan which needed to be worked on and implemented. He felt the problem they faced was maintaining an interest level on the part of the Committee members. He said he is not sure the right way to go forward with the Transition Plan is to go to a Committee. He suggested getting the Borough Attorney involved so that the law is followed.

Mayor Ganz stated he will ask the Municipal Clerk to go through the files to retrieve a letter from Mr. Hirshfeld that he recalled reading which had the Transition Plan attached to it. He asked that the letter and the plan be re-circulated to the Councilmembers.

Councilmember Trawinski stated to Deputy Mayor Ahearn that he felt the ADA Committee was never a political issue and did not recall that being raised in the course of the last campaign. Deputy Mayor Ahearn replied that it was brought up at the debate and at other times. Councilmember Trawinski again stated it was not a political issue it was just a matter of doing what is right for Fair Lawn. He also said keeping good people involved on the committees is a difficult task and one that will require constant attention by the Council.

Leon Wender, 7-22 Manor Road, stated he was a member of the ADA Committee and found that it was political and one sided. He felt that he could do something but saw this committee was just a joke. Members of the Committee never showed up. He feels it was political and that politics have no place in it.

Deputy Mayor Ahearn, stated he stayed out of it because of that. He wanted to let the person running against him do their job. He just wanted to point out that he was not aware of any other political issues with any other members on the

committee.

Mr. Wender said he was not trying to implicate anyone, he was just stating a fact. There was no cohesiveness. He said that he had called Bruce Watson's office about a problem at Radburn School and never got a response from him. He said he expected a legitimate answer and now wants an explanation as to why no answer was given to the ADA Committee about Radburn School.

Mayor Ganz stated he could not speak for the Board of Education. If any of these issues impact on anything that the Council has the ability to regulate, he encouraged him to drop a note off to either Manager Sacks or himself to get him an answer.

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

Manager Sacks announced that tomorrow at 11:00 a.m. Route 208 will be named the World War II Veteran's Memorial Highway.

Councilmember Trawinski asked if the letter the Mayor received from the River Road Corporation regarding facades would be put on the Work Session Agenda. Mayor Ganz stated he gave it to the Borough Manager to place on the next Work Session Agenda with recommendations.

Councilmember Tedeschi asked that some research be done going back to about 1966 when the Empress Diner was rebuilt the last time concerning commitments and caveats.

ADJOURNMENT

Upon motion by Councilmember Trawinski and seconded by Councilmember Dobrow it was unanimously agreed to adjourn at 8:50 p.m.

Respectfully submitted,

Marilyn B. Dugan, RMC
Assistant Municipal Clerk

WORK SESSION OF NOVEMBER 23, 1999

Mayor Ganz called the meeting to order at 6:00 p.m. Municipal Clerk Kwasniewski read the statement of compliance with the Open Public Meetings Act.

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

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

Review of Tentative Agenda 11/23/99 - Mayor Ganz wanted to be sure that the minutes of August 5, 1999 was the transcript. Municipal Clerk Kwasniewski advised that it was.

Mayor Ganz announced that a report on the special police investigation was made on November 15, 1999 because of an emergent situation.

Shop Rite - Manager Sacks indicated that the sidewalk is in, the planting strip is being developed and the retaining wall was lowered. Attorney Lustgarten asked for definitive time lines. Mayor Ganz advised that everything has been extended until November 30, but the Council does not meet until December 3. Manager Sacks noted that many of the punchlist items have been taken care of either by the posting of a bond or by completion.

The consensus was to have Manager Sacks convey to the Construction Official that the Council recommends that if the sidewalk and the safety problems have been resolved the TCO be extended through December 23 to give the Council time to address any problems.

Y2K and Beyond - Manager Sacks advised that volunteers will be testing systems on December 31. She wanted to serve refreshments at three different sites. She estimated a cost of between \$1400 and \$1500 for the food. Fire House 4 will be open, the Rescue Squad, the Ambulance Corps., some Department Heads and some sewer and water people will be coming in.

Councilmember Trawinski arrived at 6:20 p.m.

Consensus was to approve the request with Councilmember Trawinski abstaining.

Court Fines - Manager Sacks sent a memo in October with the Court Administrator recommendation to change the fines. Manager Sacks suggested that at the same time the Council consider changing the parking fines so that people do not have to go to court. They could mail in their payment if it is on the ticket. The Court Administrator is changing the fees to cover the increase that has to be given to the State.

The consensus was to fix the ordinance. Attorney Lustgarten asked Manager Sacks to get him the list of fines and he will do the ordinance.

Mayor Ganz asked Municipal Clerk Kwasniewski to check during the review of the Borough ordinances if there are any indeterminate fines that would lend themselves to a set fine, i.e parking fines.

Request Order Control Center Businesses - Manager Sacks asked if the Council wants to require for any addition or new business that there be order control devices in place. Councilmember Trawinski noted that the issue was raised by the Environmental Commission earlier in the year. The Health Officer mentioned the impact of nail salons on food establishments. Attorney Lustgarten pointed out that Borough does not have the measuring devices. Manager Sacks will ascertain the standards and measuring devices. She will also find out if there is a model ordinance and circulate it.

Rescheduling Meeting for Evaluation of Borough Manager - Councilmember Tedeschi still wanted to get the evaluation done. Attorney Lustgarten advised that they have scheduled several dates but have not been able to meet yet.

Deputy Mayor Ahearn arrived at 6:40 p.m.

Councilmember Tedeschi, Deputy Mayor Ahearn and Manager Sacks will give three dates to Attorney Lustgarten.

Transition - Municipal Clerk Kwasniewski will give the Councilmembers-elect the manuscript of the Municipal Ordinances and agendas of the last three reorganization meetings. Attorney Lustgarten announced that he and Municipal Clerk Kwasniewski have reviewed 50 out of 70 sections of the code.

The reorganization meeting will be on January 2 at noon. Appointments will be discussed at December 7 meeting.

Mayor Ganz suggested that Manager Sacks work out an appropriate vehicle for the Councilmembers-elect to meet the employees.

Draft Ordinance re Landlord Registration - Attorney Lustgarten drafted the ordinance. He sent a letter to Department of Community Affairs to see if the State regulations are deemed to preempt any local ordinances. This item was deferred to December 21 work session.

Sidewalk Ordinance - Mayor Ganz thought they still need a general report. Attorney Lustgarten felt doing the ordinance independent of the budget impact is inappropriate. The Supreme Court has indicated a change in the law regarding sidewalk liability. There are many sidewalks that have raised slabs. Right now there are only two or three cases in which the Borough is a codefendant. They have received only one notice since the case came down. Mayor Ganz thought it was appropriate for Manager Sacks to develop a plan.

Attorney Lustgarten felt the plan needs to be based on the reasonable allocation of resources. The Council will have to decide on what basis it is going to make repairs. He thought it was going to be very expensive to make repairs. They need to know the cost of a linear foot and the Engineer's estimate of how many feet need to be repaired. Councilmember Tedeschi suggested a survey similar to the one Engineering does for road resurfacing. He also suggested deciding how many feet could be done each year.

Manager Sacks thought the Council needs to decide if they want to assess the owners for the repairs. She recommended the Borough repair the sidewalk and assess the owner for the repair over five years. The Borough will have to establish a fund the first year. The assessments will replenish the fund.

Mayor Ganz asked for real numbers, real roads and real sidewalks. He also suggested that they ask the State for some relief and to ascertain if there are any grant funds available.

Councilmember Trawinski pointed out that the DPW has a list of sidewalks that the Borough trees were uplifting. He did not think they could ignore that situation. The Council needs to address these issues.

Mayor Ganz asked Attorney Lustgarten to research the type of notice that constitutes notice. He thought there might be standards to follow. Attorney Lustgarten there is a distinction between notice and what is a dangerous condition. Councilmember Trawinski thought there were some areas where the sidewalks are so badly deteriorated that they almost do not exist. He wondered if there was anything in the court decision that addresses those situations. Mayor Ganz also noted that there are several areas where the Borough has allowed the homeowners to use the Borough right-of-way. Attorney Lustgarten thought the court should have said that the sidewalk contiguous to a property is the responsibility of the property owner.

Mayor Ganz wanted to know if the Council had the ability to enforce the maintenance of the sidewalks. Attorney Lustgarten advised that the general ordinance would allow for enforcement. Manager Sacks advised that they would have to bid a contract with a mason to do the repair work.

The consensus was to have the specifications prepared.

Councilmember Trawinski suggested that they try to obtain a legislative remedy.

The consensus was to ask the legislators to remedy this situation. A resolution should be adopted after they have the financial impact.

Comments from Planning Board re CCO Ordinance - Attorney Lustgarten noted there is a relationship to the sidewalks because the Planning Board disapproves the ordinance as drafted because they want to exclude private sidewalks, walkways, driveway and items that can be enforced under the Property Maintenance Code and they feel the general section is too vague. He was not sure what they had in mind when they referred to private sidewalks. Attorney Lustgarten will check with Attorney Kantowitz so that the Council can understand the Boards' recommendations.

Councilmember Trawinski pointed out that this ordinance started out under John Keith and Mary Burdick. It has taken the Council four years to get an ordinance that has gone through the Planning Board approval process. He thought they should make a decision whether to adopt this ordinance now or wait. He thought Fair Lawn was about the only municipality that does not require a CCO on resale.

The consensus was to adopt the ordinance as drafted at a Special Meeting on December 21.

Council Liaison to Broadway Advisory Committee - Mayor Ganz announced that it was his intention to make Sheri Adler the liaison to this Committee in January. She is already on the Committee.

Councilmember Tedeschi thought the Mayoral Committee became the Council Committee. Mayor Ganz advised that they are coterminus committees with identical members. One reports to the Planning Board and one reports to the Council.

The consensus was that Councilmember Dobrow would serve as the liaison until the end of the year.

Request by M. Hirshklau to Purchase Borough Owned Property (Blk 3517, Lot 21) - Councilmember Trawinski recused himself. Attorney Lustgarten advised that he still does not have the name of another appraiser to give the appraisal. This item was deferred to December 7, 1999.

Health Officer's Interlocal Agreement with Ridgewood - Councilmember Trawinski expressed concern that the agreement still has not been signed. Mayor Ganz indicated that he signed it yesterday. Municipal Clerk Kwasniewski indicated that she has not yet received.

Manager Sacks noted that there was a disagreement between Ridgewood and the Borough over whose attorney was supposed to be doing the agreement. Attorney Lustgarten respectfully disagreed, indicating that he and Sid Stoldt had agreed on what was to be in the agreement in March or April. Manager Sacks agreed but indicated that they were supposed to be changing the language. The Borough ended up making the changes.

Possible Violation of Sunshine Law - Councilmember Trawinski expressed concern that the Council held a defacto meeting at the Special Meeting for a topic that was not advertised. The Council took an action and he thought they should ratify that action this evening. Attorney Lustgarten noted that it was a status report which could have been done in writing. He did not think there was any effective action taken. He was only authorized to report to the Council and to use his discretion on the timing and what to bring back to the Council. He did not think it was a meeting. Assuming that he was wrong, he was not sure what remedial action the Council should take.

The consensus was to ratify that the Council received a status report and delegated to the Borough Counsel to use his discretion.

Tax Collector Management Study - Manager Sacks announced that there will be retirement in the Tax Collector's Office. Before filling that position she would like to have an outside consultant evaluate the Department. They are working with a structure that was more appropriate before computers. She has seen more efficient offices. She estimated that it would only take a few days and would not cost more than \$1,200. She has asked for proposals.

The consensus was to authorize the Manager Sacks to solicit proposals with Councilmember Trawinski dissenting.

Closed Session Resolution - Upon motion by Councilmember Trawinski and a second by Deputy Mayor Ahearn, the following closed session resolution was unanimously adopted at 7:30 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 labor negotiations and personnel; 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 four weeks relating to labor negotiations and perhaps no disclosure on personnel since it impacts on right of privacy;

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.

ADJOURNMENT - Upon motion of Deputy Mayor Ahearn and a second by Councilmember Dobrow the meeting was adjourned at 8:10 p.m.

Respectfully submitted,

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