

Regular Meeting - February 9, 1999

Mayor Ganz opened the meeting at 7:35 p.m. and 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: "READ ACROSS AMERICA DAY"

Municipal Clerk Kwasniewski read the proclamation declaring March 2, 1999 as Read Across America Day within the Borough.

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. 1749-99

AN ORDINANCE TO AMEND ORDINANCE NO. 1687-97 ENTITLED "AN ORDINANCE CREATING THE RIVER ROAD SPECIAL IMPROVEMENT DISTRICT WITHIN THE BOROUGH OF FAIR LAWN AND DESIGNATING A DISTRICT MANAGEMENT CORPORATION", AMENDING SCHEDULE A

Upon motion by Councilmember Trawinski and a second by Councilmember Dobrow, Resolution No. 57-99 was unanimously adopted.

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

Ordinance No. 1750-99

AN ORDINANCE TO AMEND CHAPTER VII, ENTITLED "TRAFFIC", OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FAIR LAWN, MORE SPECIFICALLY SECTION 7-4 ENTITLED "TRUCK ROUTES"

Upon motion by Councilmember Trawinski and a second by Councilmember Tedeschi, Resolution No. 58-99 was considered.

Councilmember Trawinski stated he supports this change and in fact had suggested it after the situation in December occurred. In the future he hopes that the Manager would take the initiative and make these kinds of recommendations to the Council. In addition he wanted to clarify his understanding this ordinance would not cover a Municipal vehicle or a Municipal contracted vehicle. The situation that Mr. Brenneisen brought to their attention two weeks ago when he indicated that the Manella trucks were using Ellington Road as a cut through, not collecting garbage but ignoring the truck routes would not result in an exclusion under this Ordinance.

Attorney Lustgarten stated he could not comment on Mr. Brenneisen's facts because he does not know if they were accurate. He said the essence of Councilmember Trawinski statement that this would not exclude vehicles even if they are an exempt vehicle is correct. If they are not filling their municipal purpose this ordinance would not allow them to just pass through prohibited streets.

Manager Sacks stated for the record that the day that this happened she was in conversation with the Borough Attorney about changing the ordinance. It did emanate from the Borough Manager's office and the Borough Attorney looked at the language and both agreed that it be changed.

Councilmember Trawinski stated that if that took place it was the best kept secret from this Council. He was the one that contacted the League of Municipalities to ask what exemptions existed. The matter was never placed on the Agenda until he put it on the Agenda. He stated that the Borough Manager's discussion with the Borough Attorney did not get it before the Council and did not ultimately get it enacted in to law.

Deputy Mayor Ahearn stated he thinks it is great to see whomever gets it listed on the Agenda first getting the credit.

Councilmember Trawinski stated that his point was not the fact that he got it on the Agenda first, his point was that when they hired this Borough Manager she said would be pro-active and would be addressing situations that come to her attention and not waiting for Councilmembers to have to place it on the Agenda.

Attorney Lustgarten stated that he did not want to get between Councilmembers and the Borough Manager but he wanted to confirm that Manager Sacks did have a discussion with him the day of the incident. They looked at the ordinance and he was concerned with the use of the word "all" because it said all trucks and that was the problem with the ordinance at that time. They did not formalize anything but had agreed that an amendment would have to occur either now or with the re-codification.

Hearing no further comment Resolution No.58-99 was unanimously adopted.

ORDINANCES: SECOND READING

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

Ordinance No. 1748-99

AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FAIR LAWN, 1981, BY AMENDING AND SUPPLEMENTING CHAPTER VII, "TRAFFIC", SUBSECTION 7-3.3, SCHEDULE 1(A), "NO PARKING"

Mayor Ganz stated that this is an Ordinance that will change the parking on the east and west side of George Street. Between the northerly curb line of Fair Lawn Avenue and a point 100' east thereof and on the southern side 100' feet easternly thereof. The Borough Manager expressed some concern, in a pro-active way, that perhaps this would be an impediment to emergency vehicles turning but she checked with both Emergency Services and the Borough Engineer who indicated it would not be a problem. It will also add some very needed parking spaces.

Mr. Coviello, 5-07 5th Street, a member of the Fair Lawn Homeowner's Association, asked how the residents felt about this change and if they were aware of it. Mayor Ganz responded that he is certain they are aware of it since it has been published. Councilmember Trawinski stated that he believes it does not impact any residents. Manager Sacks replied that it is near the stores on Fair Lawn Avenue. Mayor Ganz stated this adds parking spaces and does not take away any.

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

Upon motion by Councilmember Trawinski and a second by Councilmember Dobrow, Resolution No. 59-99 adopting Ordinance No. 1748-99 was unanimously passed.

LEAF COMPOSTING

Mayor Ganz opened the time for discussion of the leaf composting in the DPW site in the Northeast corner of Fair Lawn. He stated that approximately 17,000 cubic yards of leaves have been ground down to about 10,000 cubic yards of leaves which are presently at the site pursuant to a five year contract that was signed and put into effect in 1997, a year before he was elected to the Council, by then Mayor Trawinski, acting on behalf of a unanimous five person Council which is to say that even though one side had the majority, it was handled in a bi-partisan manner. He would hope that this evening and afterwards the Council would also act in a bi-partisan way that is both fiscally responsible and responsive to our Borough's residents. He thought it was fair to say that collectively as a Council there is consensus that there is a problem at the site, mainly an objectionable odor from time to time and that it comes from the composting of leaves and not any other source. They do not have scientific evidence but have reached this conclusion using their common sense and they are going to try to use that same common sense to try and resolve this issue satisfactorily this evening. It seems clear enough that from a review of the State environmental guidelines and the composting guidelines that are available for review, a large part of the problem has to do with the tub grinding which accelerates the decomposition process. Millbrook decided to tub grind the leaves this past fall. Coupling that with an unusually warm weather in December resulted in objectionable odors which had a very serious effect on the surrounding communities and the Department of Public Works site. Composting has gone on at that site since at least 1983. He had asked the Municipal Clerk to pull all comments that were made from the official Council minutes so that he could review them. There are a number of incidents going back to Mayor Burdick which was brought to the attention of the Council by the local residents. The Council, at that time, took a band aid approach that was aimed at saving taxpayers the cost of carting leaves to another site which the DPW estimated at \$80,000 today. Even the present site with 10,000 cubic yards would cost about \$45,000 to remove. He stated that he would like to propose a solid resolution to the problem. The Borough Manager, at the Council's request, prepared a report detailing the options with several different solutions.

In the ordinary course of events the compost that is at the DPW site will be gone in another three or four months, by May or June. It will be all gone, spread out as mulch by landscapers, home gardeners from within our community and the mulch will be spread out in our area. Strictly as an interim measure they are going to direct the site user to use a new lime cover, then turn the leaves once then use the lime cover then again to remove the odors caused by acidity. They are confident that the practical affect of this would be to minimize virtually all of the odors found to be objectionable in the past and they propose to do that immediately. He stated that he is prepared to do a lot more than that, however, and that is what he wants to talk to the residents about.

He has requested that the Borough Attorney thoroughly research the possibility of terminating the contract with Millbrook on whatever reasonable grounds he is able to find. He has directed the Borough Manager as well to speak to Millbrook's owner to ascertain whether he is willing to terminate the contract voluntarily or with a cash payment made on the part of the Borough. All of this will be happening over the next several weeks while lime is still being put down and the leaves are turned. He cannot promise, and it would be foolish for anyone else to do so, that the contract can be broken without substantial cost. If the contract is broken with substantial cost, there will be an annual cost of \$80,000 over four years, \$320,000 to truck the leaves out of the Borough. If the Borough Attorney makes a final recommendation to them that the contract previously approved by another council is rock solid then he is prepared to pledge to them tonight that if there is a repetition of the complaint of the odors that is measurable by any objective criteria, he will ask the Council to approve having the Borough Attorney immediately go to Court and seek injunctive relief and termination of the compost pile on the basis of a public nuisance. If necessary he will use his power as Mayor to declare it a public nuisance and to proceed in the same manner. He recognizes that many of the residents are seeking immediate action but contracts and legal actions are not designed to give immediate gratification or instant response. They are talking about a reasonable approach with the knowledge that in 120 - 140 days from now the compost pile will be clear and with the knowledge that legal relief would not be obtained before that time and even if they did have a trial the Borough would never be certain that they would have complete success. They do not want to find themselves in a situation of prematurely seeking a remedy only to have a Court tell them that they can have no relief and then find themselves at the short end of the five year contract made by another administration at another time. He reserves his right to extend and revise his remarks and will now hear from other Councilmembers and then entertain a motion to open up the floor for public comment.

Councilmember Tedeschi stated that he does not care who gets the credit for taking action as long as it gets done. He stated that at last month's meeting he was a little disappointed to hear about the River causing the odors. It was a waste of time. A situation occurred in November and December and the Council had no direct knowledge of it. The Borough ordinance states that the Borough Manager is to keep the Council apprised of any situation that arises. He apologized for not knowing. He said the tub grinding has been going on for the last ten years. The contract that was negotiated was renewed upon recommendation by the Borough Manager. He stated that he was happy to hear that it was done, he was glad they all agreed it is the leaves. He referred to last month's meeting as a dog and pony show.

Mayor Ganz stated that Councilmember Tedeschi's last remark are to be stricken from the record as being derogatory, defamatory and disparaging. Councilmember Tedeschi asked what part of his remark and Mayor Ganz stated just the dog and pony show. Councilmember Tedeschi stated dog and pony show was not derogatory and that he did not have a right to strike that record. Mayor Ganz stated that he indeed had that right and said that Councilmember Tedeschi had a right to challenge his ruling. Councilmember Tedeschi said he just did. Mayor Ganz told him to make a motion to challenge it. A motion was made to challenge the Mayor's ruling which motion failed (Councilmember Dobrow did not vote).

Councilmember Tedeschi stated that he would like to reserve the right to extend his comments. Mayor Ganz stated the motion is granted.

Deputy Mayor Ahearn stated that Councilmember Tedeschi sited municipal improvements and asked if that definition was applicable here or does that apply to sewer and roadways.

Councilmember Tedeschi replied that he did not understand the question. He said it comes right out of our ordinance the responsibilities of the Borough Manager. At this time he read the section of the ordinance applying to the Borough Manager. Deputy Mayor Ahearn stated that his question was whether or not the composting of leaves was an improvement in that context. Attorney Lustgarten stated that it was his understanding the word improvement means structures or facilities. The word improvement is a technical term and he thought if the word improvement relates to the leaf composting, it has to deal with improving a piece of property in the traditional land use sense which means placing a structure or building on it. Obviously the Council wants to improve the DPW site.

Councilmember Trawinski stated that while he disagreed with Attorney Lustgarten's opinion, he does not feel that they have to reach it to resolve this particular issue. As he indicated in the Work Session, as he thinks Deputy Mayor Ahearn also indicated he would like to go further in the resolution of this circumstance. He found the split among the Councilmembers somewhat curious but they have been able to forge a settlement. He stated that he would like to see the Borough Attorney explore an amicable termination of the contract. He would like to explore the feasibility with Millbrook of moving out what is there.

Mayor Ganz stated that in all fairness, at the Work Session they discussed all of the options. His prepared remarks made clear that they are asking the Borough Attorney to discuss with Millbrook the possibility of an early resolution and if Millbrook is willing to move the compost it is so much the better for everyone. He stated that there are five people on this Council and that they all want to see this no longer be a problem for the residents.

Councilmember Trawinski stated that he thought they had an understanding that whatever the number was it was to be added into this year's budget. He enthusiastically supports where they are headed and he is pleased to see that they were able to do it in a unanimous bi-partisan fashion. His concerns dovetail Councilmember Tedeschi's concerns and he too would like to apologize to the residents for not knowing because this appeared during his last tenure as Mayor. He received one phone call from Mrs. Gittelman, he had no other indication that there were problems there through the Manager's office and he too, was extremely surprised to see the voluminous record of correspondence and complaints. He sensed there was a strong commitment on the part of this governing body to resolve this issue.

Borough Manager Sacks stated that she too did not realize the extent of this situation. She received one complaint, the others went directly to the Recycling Center, the DPW and the Health Department. The complaints were not going through her office.

Mayor Ganz concluded that the Council is prepared to take affirmative action.

Hearing no further comments from the Council, a motion to suspend the rules by Councilmember Trawinski and a second by Councilmember Tedeschi, the motion was unanimously approved.

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

Miriam Levin, 42-39 Herold Drive, stated that she wanted to thank the Council and that the residents appreciate their support and are looking forward to a speedy resolution to this issue. She said the residents wanted to know since the last meeting if there was any effort on the Borough's part to contact Millbrook or to have the Borough Attorney research this to see if the contract can be defaulted upon. Mayor Ganz stated he was not certain if the Borough Attorney was prepared to comment on that. He stated yes as to the process being started but no response with respect to any conclusions of the research. Ms. Levin stated that the residents would appreciate a restatement of the Council's commitment from this time forward not to cart any leaves to the Recycling Center. Mayor Ganz stated that they have heard from every one on the Council that this is their intent. The Borough has to negotiate with Millbrook meanwhile they will lime the site and do whatever they can. Mayor Ganz asked Manager Sacks if Mr. Bleeker, from Millbrook, has been contacted. Manager Sacks replied that through the DPW director Mr. Bleeker has been contacted to see if he could take everything out immediately. She was told that Mr. Bleeker does not have another site to bring the leaves to. Councilmember Tedeschi asked who would pay for the leaves to be moved. Manager Sacks responded that she would ask the Council to authorize her to have it moved.

Ms. Levin asked when can we expect to get an answer on this issue. Mayor Ganz replied that with the assumption that Mr. Bleeker does nothing, in the course of events, the composting will be done and out of there by May or June. If the Borough Attorney concludes that the contract is not capable of being done and they come back in the fall, as Mayor he has certain powers to declare an emergency and a nuisance and at that point he would ask the Borough Attorney to proceed with a lawsuit terminating it on the basis of a public nuisance.

Ms. Levin stated that she noted in one of the reports that if the permit for that site was changed, that leaves could no longer be placed there and asked if that was something in the Council's ability to do.

Attorney Lustgarten responded that the reference in the Millbrook contract to the site permit really was a catchall so if the DEP or some other agency of higher authority indicated that the Borough could not leaf compost there, the Borough would be able to get out of the contract.

Ms. Levin also mentioned another clause about not correcting something within thirty days. They have past practice since they have contacted Mr. Bleeker directly and given him thirty days to correct it. Mayor Ganz stated that it was not the residents making the complaint, it is the Borough doing it. He has been notified and has corrected the condition, the proof of which is that it does not smell today.

Ms. Levin stated that the residents would be happy to supply the Borough with data on an on-going basis.

Edith Gittelman, 42-21 DeBruin Drive, stated that she would like to correct a few things. That odor has been going on for ten to eleven years. The site was not there when the houses were built. In 1986 or 1987 they started putting the leaves over there and the odor started. No matter if they tub grind or not, the odor is still there. The odor starts around 7 p.m. to 2 a.m. then by 8:30 a.m. the smell is gone. She has contacted the Bergen County Health Department to check on the smell. She was told the Borough has a permit to compost leaves at that site but she stated the Borough does not have a permit to have the odor invade the residents' homes. May through December she cannot open her windows. It is not just DeBruin Drive; the smell goes to Saddle River Road.

Charles Coviello, 5-07 5th Street and a member of the Fair Lawn Homeowner's Association, stated he was embarrassed by the behavior of the Council tonight. He questioned the tonnage being reduced from 17,000 to 10,000 cubic yards. Mayor Ganz replied that it was due to the tub grinding. It was not a reduction of weight, the volume was different. Mr. Coviello asked who gave Millbrook permission to use the tub grinder. Manager Sacks explained the difference in the tonnage of leaves. She believed Millbrook does not need the Borough's permission to use the tub grinder.

Attorney Lustgarten indicated that there was no directive to not allow Mr. Bleeker to use the tub grinder. He believes the discussion with Mr. Bleeker years ago was that if the leaves were not tub ground the process of changing them into compost would be longer and that the leaves would have to stay on site longer. There was never a directive by the Borough to say that tub grinding could not occur.

Mr. Coviello asked if any of the Borough employees operated the tub grinder. Superintendent Davidson replied that Millbrook uses all of his own personnel on their own equipment. The Borough employees deliver the leaves to the site.

Mr. Coviello stated that he has heard Millbrook's contract being renewed twice. He thought it was at the Council's pleasure to terminate the contract if there were any offensive odors at the site. Mayor Ganz stated he does not know where Mr. Coviello got this information, the contract was signed before he was on the Council.

Councilmember Tedeschi asked Councilmember Dobrow and Attorney Lustgarten if they recollected what took place years ago in reference to the Millbrook contract. Councilmember Dobrow said she could not recollect what took place. Attorney Lustgarten stated that his records went back to 1992-1993, 1994-1996, 1997-2002 and they all have the same escape clause.

Mr. Coviello asked Mayor Ganz if the Borough would have to buy this person out. Mayor Ganz stated that he was not going to discuss it at this time.

Councilmember Trawinski stated that Mr. Coviello's recollection is in part correct because in 1997 when former Manager Kendall presented the Council with a five year contract they were told there is an escape clause in the contract. He stated it was in the July 15, 1997 minutes. There was a concern because the Borough was going from a one or two year contract to a five year contract.

Robert Waxman, 42-29 DeBruin Drive, asked the Borough Attorney if he was correct to assume the contract has a clause in it which requires that Millbrook abide by all State laws and regulations. Mayor Ganz stated that he should read the contract and he will not allow the Borough Attorney to make any comments as to what his legal opinion is.

Mr. Waxman stated that under the assumption that the State has regulations regarding the omission of noxious odors, if that is correct, the issue of noxious odors would be the basis for terminating the contract without cost to the Borough.

Joan Busacco, 42-24 DeBruin Drive, asked if the residents had to wait four more years before the leaves are taken away. Mayor Ganz stated the Borough will do everything it can at the conclusion of this composting season to see to it that the leaves not return for the next composting season. Ms. Busacco asked if they had to wait for the Borough's answer until October and smell that smell. Mayor Ganz responded that even if a lawsuit was started now it would be sometime in July or August before they would have a judicial resolution. Ms. Busacco asked how do the residents live with the smell. Mayor Ganz stated there are several things the Borough will be doing. The Borough will be putting lime down to minimize the smell. The Borough Attorney is researching the possibility of terminating the contract. The Borough is approaching Millbrook and asking if they are willing to voluntarily terminate the contract or to voluntarily remove the compost. He said the Borough is taking those steps as quickly and as rationally as possible but it is a contract that was approved by the Council.

Anna Piro, 42-17 DeBruin Drive, thanked the Mayor and all of the Councilmembers for putting their words into motion. The residents are looking forward to speedy action against Millbrook to resolve the turmoil. She feels like the residents have come along way since the last meeting. She remarked about Councilmember Tedeschi's comment about the Recycling and she felt that he was the one who felt for them. She did not understand why his remarks have to be stricken from the record. Mayor Ganz replied that the Chair will not allow disparaging remarks to be made against Borough employees without the opportunity to defend themselves. Ms. Piro said she thought it was just a general comment about the leaves.

Councilmember Tedeschi stated he was not disparaging Borough employees. He was talking about was the process that took place last month where representatives of the Borough were put up unprepared and made comments that were absolutely incorrect. The phrase dog and pony show may be offensive to some but he feels it realistically described what happened last month. His intent was to characterize the disingenuous process that they were forced to sit here and were told that the smell was coming from the river.

Mayor Ganz stated that his only concern is that there be no personal attacks on Borough employees or anyone else. No one should question a Councilmember for their enthusiasm they may have on a particular cause or for the giving of relief to the

homeowners of this municipality.

Edith Gittelman, asked who she should call when she smells the odor and should she report it every time she smells it. She will make up a list. Attorney Lustgarten responded that she should keep a list. Mayor Ganz suggested creating a log sheet to record the situation on a daily basis and then dropping it off at Borough Hall once a week.

Manager Sacks stated that she believed there was a smell over the years. There were no complaints logged and without complaints the Borough has no way of knowing a problem exists.

Councilmember Trawinski commented that it appeared to him from a letter that the Borough Health Officer did exactly what she was supposed to do in coordination with Mr. Lottermann. He noted that the letter he was referring to had phone numbers of who to call and should be circulated out to the residents.

Manager Sacks stated that procedure had already been developed several months ago. She stated that the Borough will make sure the other residents are aware of these phone numbers and urged that the residents keep a log.

Miriam Levin asked if the Council would let the residents know if Millbrook does agree to getting out the contract. Mayor Ganz suggested the residents sign a sheet with their names and addresses.

Hearing no further comment, upon motion by Councilmember Trawinski and a second by Councilmember Tedeschi, it was unanimously agreed to close the time for public comment in regard to the leaf composting.

RESOLUTIONS BY CONSENT #4-99

Upon motion by Councilmember Trawinski and a second by Councilmember Tedeschi, Consent Agenda #4-99 containing the following items was unanimously adopted.

a. Resol. #60-99 Approval of Minutes:

Special Meeting 12/23/98

Reorganization Meeting 1/1/99

b. Resol. #61-99 Award of Bid Municipal Building Security System

a. Resol. #62-99 Approval of Bingo & Raffles:

b. Persuasion Parents Association on-premise 50/50

Persuasion Parents Association on-premise mdse

Persuasion Parents Association off-premise 50/50

c. Resol. #63-99 Change Order E-2051 Roadway Improvements 1998

f. Resol. #64-99 Professional Services Riggs Associates

g. Resol. #65-99 Professional Services Paul Cowie & Associates

h. Resol. #66-99 Professional Services Burton Agency

i. Resol. #67-99 Removed

1. Resol. #68-99 Supporting Assembly bills A-2608 and A-2634

1. Resol. #69-99 Authorizing Execution of Fireworks Contract

2. Resol. #70-99 Approval of Knights of Pythias Circus and Hand of Friendship Day

3. Resol. #71-99 Use of the Arts Center by Hadassah

4. Resol. #72-99 Appointments to Cable Television Board

5. Resol. #73-99 Appointments to Youth Advisory Committee

6. Resol. #74-99 Appointments to Fair Lawn 75th/2000 Anniversary Committee

7. Resol. #75-99 Appointments to Property Maintenance/Face Lift Committee

8. Resol. #76-99 Authorizing the Execution of Contract with Supervisor's Union

RESOLUTION #67-99- Authorizing the use of Credit Cards for payment of Municipal Court fines

Upon motion by Councilmember Tedeschi and a second by Trawinski, Resolution No. 67-99 was considered.

Councilmember Tedeschi stated this resolution was pulled from the Consent Agenda because it should be treated as a separate item. He also stated that the Chief Financial Officer had questions in regard to this and that he never saw it.

Manager Sacks stated that she completely agrees and that she spoke to the Chief Financial Officer before it came up and it was the first he heard about it and that was why she requested it be taken off at the last meeting. She felt she wanted to give the Chief Financial Officer the chance to review it and to advise everyone if it was a good idea.

Mayor Ganz stated that he understands he is comfortable with it. He said this came as a recommendation from Judge LaHiff and is in accordance with the provisions that are now allowed by law to permit certain fines and other payments to be made by credit card in the Municipal Court.

Councilmember Trawinski complimented Councilmember Tedeschi that this originated three years ago when the Council learned that the Borough could not accept payments in Municipal Court and he pushed him into speaking to Assemblyman Felice in trying to get legislative change so that Municipalities could do this throughout the state.

Mayor Ganz congratulated Councilmembers Tedeschi and Trawinski, Assembly Felice and Judge LaHiff on advancing this.

Hearing no further comment, Resolution No. 67-99 was unanimously approved.

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.

Ronald MacPhee, 12-10 Burbank Street, spoke about the Tax Assessor and that he has a tax refund coming back to him. He questioned the voucher system. Manager Sacks explained the voucher system and how every single penny is accounted for. Mayor Ganz suggested that he come in tomorrow and talk to Tom McCullum.

Joseph Thiel, 16-09 Split Rock Road, stated he is a resident at that address for over thirty years. The property behind his is Borough park property which he has maintained for the last thirty years. He recently was informed by his neighbor, Mr. Wu, that he purchased the property. Mr. Thiel investigated and found out the property was sold at public auction in December. Mr. Wu was the only one that attended that auction and he bid \$35,000 to buy this property. He asked what caused the Borough to sell this property. None of the other contiguous owners were aware of the sale. He checked with his attorney and was informed he should have been informed for a right of first refusal on a public sale of property. Also the property that was offered for sale was part of lot 1.01, block 2705, so it required a minor subdivision.

Attorney Lustgarten replied that the piece of property in question was not less than a buildable lot so the notice under the statute referring to contiguous owners was not followed. It was put out to Public Auction, notices were put in the paper twice. The Borough established a minimum price at \$35,000 which was Mr. Wu's bid. It is subject to sub division and there is a restriction in the deed which indicates the property cannot be subdivided into more than two lots.

Mr. Thiel stated it appears that Mr. Wu purchased it and how could he purchase it if it is not a lot. Attorney Lustgarten stated that it was a lot. There have been two years of discussion in regard to this property that was not needed for public purposes and the Council made a determination to sell it and it was put out for public auction. Mr. Thiel stated that if the Borough offered to sell a piece of land it must be already subdivided in order to write the deed on it. Attorney Lustgarten stated he did not believe that was correct. Mr. Thiel also stated that it was indicated as a park on a filed map. Attorney Lustgarten asked Mr. Thiel to have his attorney contact him. Mr. Thiel asked if the Borough did not feel any obligation to look at the property and to see that others were using it, maintaining it. He had a copy of a letter from 1946, from the then Borough Attorney, that read "as far as the municipality is concerned the abutting property owners may make use of that area as they see fit". Ultimately, he would like to see if there is anything they could do to reverse the sale and if there is any way that these residents could meet with the Mayor and Council to discuss the possibility of dividing the property into equal parts so that all of the adjoining property holders can bid on it. Attorney Lustgarten stated that Mr. Thiel would have to bring Mr. Wu to the table because the deed has already been executed and advised him to move rapidly on this.

Robert Muller, 16-13 Split Rock Road, stated he has been a resident since 1962. There is a pie shaped piece of property in the rear of his yard. He contacted the Borough about someone wanting to build on it and was told that the property was not buildable and would not be sold. When he saw the surveyors he called the Building Department and was told it was just a general survey. He has tried for several years to purchase this property. Mr. Muller stated that he was told very clearly that all property owners near land that would be sold would be notified and would be given the opportunity to buy it. He only heard about this when Mr. Thiel notified him. He did not see the notices in the paper. He is asking for fair treatment by the Council and by the laws of this Borough and this State. They all have interest in the property and how it would affect their land and their land values. By that land being taken from the rear of his yard, it is very seriously going to affect the value of his home. He feels that not only is it unfair and

possibly illegal.

Attorney Lustgarten advised that the statute sets up two possibilities for the sale of public property. The first is if it is less than a buildable lot it has to be offered to contiguous property owners. He was advised that this was a buildable lot so that it could not be offered to contiguous property owners but had to be sold at auction. He suggested that these residents contact Mr. Wu and bring him into this process quickly because there may be time constraints.

Mr. Muller stated that it is only buildable if he adds his piece to it. This property has literally no road frontage. He asked the Council to look into this matter. Mayor Ganz asked the Municipal Clerk Kwasniewski to put this on the first available Work Session Agenda.

Dottie Fredricks, 16-11 Split Rock Road, stated that her father was the original owner of this property and had tried in the past to purchase the property in question and was told he had to have the consent of all of the contiguous property owners. He was also told he could not purchase it because it was a park. She asked that the Council look into this because after forty nine years it suddenly came up for sale.

Tom Metzler, 1-27 Hartley Place, stated he supports Creative Cable. He spoke as a taxpayer and as the Emergency Management Coordinator. He now has a computer link to broadcast emergency alert warnings and public service messages to the community. He feels that it is imperative that if there is an emergency it can be activated immediately. He urged the Council to push for twenty four hour cable access. Mayor Ganz replied that a letter has been sent to Cablevision to prompt them in this regard. Councilmember Trawinski stated that Mr. Metzler should give any dates and times to the Borough Attorney he is unable to get something on the air Mr. Metzler stated he does have some documentation and will forward what he has to the Borough Attorney. He encouraged the Council support Creative Cable wholeheartedly. He anticipates during 1999 there will be significant issues pertaining to emergency management. They could use their equipment to get messages out in regard to issues such as the Y2K. There is a committee to answer their fears and they have plans to put the public at ease yet prepare for any interruptions. He feels through good public awareness and legitimate information, the public will come to welcome the fact that we have this early warning system done through quality programming.

Art Murray, 7 Ramsey Terrace, stated that he wanted to address his name coming up at a Work Session with a negative spin to it. He said he misstated a fact in regard to the last campaign, it was non partisan. He feels that Fair Lawn Creative Cable is very important to this town. It is a form of service to the town serving as a conduit of information to the residents. He urged having the Council meetings televised. He feels that they should be broadcasting twenty four hours a day. He understands the issue of funding and feels there are ways they can do that.

Councilmember Trawinski stated that with some trepidation, he raised it because he is a friend, however there was no spin put on it. He had a concern about the League of Women Voters debate program by the presentation that took place before it. It was a request for funding and a request for the kind of training the presenter receives on the air. He felt there was inappropriate snickering by his counterpart on the air. The raised eyebrows and other subtle things that took place expressing their point of view per inappropriate. When the Council considered funding for Creative Cable it was understood that they were to be non partisan. If the meetings are broadcast they are not to be used as a political forum. His issue is that they were being asked for more funding and he was concerned the obligations were not understood.

Mr. Murray responded that Councilmember Trawinski had his facts wrong. He did contact the candidates before election. As to the broadcast it was human not political. They created a broadcast and talked about it. They took no position on it. He has never supported a candidate on this Council.

Councilmember Tedeschi stated that he feels that he may be protesting a bit too much. He felt this was some skewering of the interviews. The issue is that if Mr. Murray is representing Creative Cable he had an obligation to be as non-partisan, as un-biased and as perfunct and professional as you can be.

Mr. Murray stated that Councilmember Tedeschi is the one with the political perspective that is skewered not his. Mayor Ganz stated he would not allow those personal attacks of a Councilmember. Councilmember Tedeschi stated he had a short answer which was that he was a registered Republican, he had Republican views and ideas, his observation of Mr. Murray, shared by Democrats, is not universal to being a Republican. He said that of course he was biased but that is why he is called a politician and Mr. Murray was a commentator. Mr. Murray responded that he did not think he was biased. Mayor Ganz drew a close to this discussion.

Dana Rubin, 29-11 Southern Drive, spoke about Creative Cable and does not want it to appear that Creative Cable has any political bent. He feels that it does provide value. Along with the Fair Lawn Website and the Internet, public access television also plays a tremendous value in transmission of community events. 1999 is Fair Lawn's 75th Anniversary and they would be able to portray on various broadcasts the history of the Borough. He also feels there is a value in Creative Cable pertaining to the public school system.

Councilmember Trawinski thanked Mr. Rubin for what he did for Creative Cable. One of the reasons that the Council unanimously supported funding a part time position for Ms. Vivino was because they felt there was a definite value in Creative Cable.

Councilmember Tedeschi stated he has been a big supporter of cable television which has a place in Fair Lawn when it is used on a local level by an organization such as Creative Cable. No one on this Council meant to infer that there is an on going political bias but what it did was identify some blips on the screen.

Harold Schutzman, 16-10 Lucena Drive, spoke in support of Fair Lawn Creative Cable and funding for Candace Vivino's position. Manager Sacks stated she spoke to Ms. Vivino who stated if she was not in the temporary budget she would be leaving the end of December. Mr. Schutzman stated he may have misunderstood her. He said they need an increase in the funding as Ms. Covino is spending her own expense money.

Stewart Pace, 348 Plaza Road, stated he also wanted to voice his support for Fair Lawn Creative Cable. He is a new member and he hears there are a lot of exciting programming ideas coming. He hopes they have the Council's support in the future.

Anna Piro, 42-17 DeBruin Drive, stated that she wanted to thank the Mayor and Council again for taking the baby steps to dissolve the Millbrook contract. She stated the residents have another concern which may take its place at the Recycling Center which is the installation of an antennae transmitting radio active waves. Attorney Lustgarten explained that a contract was entered in to with Omnipoint Communications for the DPW site which is one of the permitted uses allowed under the land use law. It is for cellular phones and he believes they are coming before the Planning Board in March. Ms. Piro asked if it was going to be an antennae to transmit cellular reception only in Fair Lawn. Attorney Lustgarten said it was to fill a gap in Fair Lawn. Mayor Ganz explained there is a gap in Fair Lawn where there are certain spots that service is lost.

Rae Muller, 16-13 Split Rock Road, stated she is concerned about the sale of that vacant property. She has been here twice before in thirty seven years to get variances which required her to notify her neighbors. It only seems fair that if the town is going to do something with that property they should have notified all of them and given them a chance to purchase the property.

Mr. Thiel, 16-09 Split Rock Road, stated he had two additional items that he would like to speak to the Attorney about which he addressed through the Chair. As far as the statute is concerned with minimum size lot the frontage on the lot is only thirteen feet on Well Drive. Also when he went to the Borough Engineer's office to seek a copy of a map mentioned in the newspaper advertisement it was the tax map. Attorney Lustgarten stated he knew there was another map because it was submitted to the Council in regard to putting this out to bid.

Charles Coviello, 5-07 5th Street, said that as a matter of fact he thought that contiguous owners had to be notified as a courtesy. Mayor Ganz stated as a matter of policy the Borough should do what the Zoning Board does. It is good common sense and is good neighbor policy and at an appropriate time he will ask the Borough Attorney to draft and Ordinance or a Resolution. Councilmember Dobrow stated that as much as she remembers it has always been the Borough's policy.

Mr. Coviello asked about the tower being built at the DPW site. He spoke in regard to an article in The Shopper about comments made by the Borough Manager in regard to the Budget. Mayor Ganz stated it was the Manager's budget presented to the Council. Mr. Coviello asked why the Borough is purchasing an additional police car and Mayor Ganz stated because there is a need for one. Councilmember Tedeschi stated that they have not even discussed this yet.

Mr. Coviello spoke about the Police grievance and asked if this is the first since the Director left. He also questioned why the Shade Tree employees were helping the Water Department. Manager Sacks asked Superintendent Bill Davidson to explain. He explained the cross training these employees were getting. He said there has been a rash of water main breaks and he had to utilize the cross trained personnel.

Mr. Coviello also spoke about the figures on the Manager's Report. Mayor Ganz told him to go over it with Chief Financial Officer.

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.

Adjournment:

Upon motion by Councilmember Trawinski and a second by Deputy Mayor Ahearn, it was unanimously agreed to adjourn to work session at 10:10 p.m.

Respectfully submitted,

Marilyn B. Dugan, RMC

Assistant Municipal Clerk

