

MINUTES

REGULAR MEETING, THURSDAY, JANUARY 15, 2009 AT 7:00 P.M. OR AS SOON THEREAFTER AT BOROUGH HALL

OPEN PUBLIC MEETINGS ACT.

BOROUGH CLERK: this meeting is being held in accordance with the rules and regulations of the Open Public Meetings Act of the State of New Jersey. Adequate notice of this meeting was provided by forwarding a Sunshine notice which included the time, date and location of this public meeting of the Mayor and Council.

ROLL CALL:

COUNCIL MEMBERS: Councilman Bianchi, Councilman DiBlasi, Councilman Hughes, Councilman Tanelli and Councilman Yampaglia

ABSENT: Councilman Granell

ALSO PRESENT: Mayor Peter C. Massa, Acting Borough Clerk, Terence M. Wall, Borough Attorney, Anthony V. D'Elia

PLEDGE OF ALLEGIANCE

PUBLIC COMMENTS:

ANNE MCCLURE- 10 Bayliss St: We have a few people in town that are moaning and groaning about the night our police officers were out on Ridge Road, pulling over people to make sure they weren't drinking and driving. Insane people ought to be out there shaking the officer's hands and thanking them. Nobody knows what its like until they lose a precious young lady, 20 years of age, like my niece that was killed by a drunken driver. If anybody has any friends, relatives, those cops are out there saving everyone's life that night and they should be commended for it. Also, on New Year's Day, I was overcome by carbon monoxide at my house. The cops in this town and the firemen were unbelievable, especially the fire department. They were there within seconds. And I think the fellows name is Mark, he's a tall fellow with a mustache. If it weren't for him, I wouldn't be standing here talking to you guys tonight. They rushed me over to the hospital because I had a load of carbon monoxide in my blood. And that you can't smell, you don't get headaches from it, or nothing. It just kills you like that. So I thank the police department, fire department, emergency squad and paramedics, they were all there. And I'll say it right here, they saved my life that day and I want to thank each and every one of them and I will be giving a nice donation to the police department and to the fire department for the service that I got that day. Okay? So I really think they should be commended because they were out there, hook line and sinker. They never stopped until I was ok. So I want to thank each and every one of them from the bottom of my heart. And last but not least, I'm going to say to the people who like it and don't like it, I think you're doing a hell of a job.

MAYOR MASSA: Well thank you very much. We appreciate your support. Anyone else wish to be heard? At this time I'll entertain a motion to close hearing of citizens.

RESIDENT: [Inaudible]

MAYOR MASSA: Suspend motion to close.

BOB NORCIA- 108 Sunset Ave: Counselor, I have a complaint going back to 2007 and I wrote and then I wind up writing a letter what my complaint was about. I wind up having a lawyer so were limited to time. I'm going to give you all the paperwork involved with this and I'll explain quickly. I have a problem that involved a fence being built that was illegal and I made a complaint definitely against the building department. I wrote the original letter to Rick Fernandez. He didn't reply. I come up and saw him. He said "I didn't get back to you, I told Robert about it". I said what's going on? It's Roberts

responsibility. He was there when it started. I saw Robert and he said, "Bob, come back tomorrow, I'm busy." ok. I gave him two days and came back the third day. "Robert what's going on with this thing?". Because I don't want this, the time element. I don't want this to go out of a yearly thing. He said, "give me a couple of days". Come back the end of the week. I'm busy, can you come next week. I came back the fourth week. She's putting in, now this is after a months passed, she's putting in, what do you call it, before the zoning board, a variance. I said okay fine, but why you taken so long to tell me? Now this is May to June. I got to the mayor; I knew it was getting out of hand. Nothing going on, nothing happening, nobody responding, I'm getting the runaround without a doubt because this has happened before. It happened before when you were on the committee, mayor, and you know it yourself. It was in the paper three months in a row. As to violation, board of health violation, Robert Kairys was once again involved in it; went down and said there's no violation which I have the paperwork here. You sent him down to the board of health and the board of health found 3 violations. Now since then, all holy hell broke loose. They don't want to be, she's being vindictive, she's carrying on a vendetta. And I'm just tired of being accused of things the police should have me locked up for ten years. Can't prove it because it was never done. So we go to this and I tell you about it again, once and again and made a pest out of myself to get you. And I said to you, "what's going to happen with this thing, nobody's doing nothing?" It's just at a standstill; its six months, May to June. I'm being given the runaround and I don't know what's happening with it. Its in the lawyers hands or something. So now what was allowed was until the time they put, [inaudible]. They allowed a violation to be camouflaged, whereas, three people right here on your board know that it was 6 foot 5. I verified it, I measured it. We looked it over. Nick Antonicello there the beginning in November and said "this is wrong, this has got to come down". I said if they talked, compromised, see what we could do. They wind up leaving a fence inside another fence which is another violation that homeowners have to maintain; it's a code that we put. Not that we put that we have for everybody, all the citizens. Why do we have the codes and violations, and other things that we're supposed to do as taxpayers and some people abide by them and some don't? Now they're telling me your putting this, discrimination and double standard. I have to but they don't. This has been going on for too many years. I have to, they don't. And it's in there in black and white. So now we leave it, we go to the zoning board, and before I went up I asked a few people here what's going on. I got to bring records here for Tony. Oh no, none of that stuff what happened between you people for twenty years. We only talk about the variance. Fine, we go there...

TONY DELIA: The variance for what?

BOB NORCIA: For a fence being...

TONY DELIA: The height of a fence.

BOB NORCIA: It's all explained. Like I said I only want to take the [inaudible]. So I go, I said do we need any other paperwork. So I go with one piece of paper that says you're supposed to have a 6ft fence and that's it. They opened up; forty minutes. I have the tape. Mr. Wall was good enough to give me the disc of the tape, forty minutes of defamation of character, slander, all things the police would have me locked up for ten years. Well, one on each one, whatever you want to call it. But it's ridiculous; it just got completely out of hand. Nobody wants to say this party is wrong. Now they're getting special treatment, there's favoritism, let alone with discrimination and double standard because the rules apply to me only. I'm a taxpayer and I deserve the right of any other taxpayer, to be treated equal. And this isn't happening and you know it yourself, mayor, because you said "I wish there was a way to resolve this". Did you not say...

MAYOR MASSA: Between both of the parties.

BOB NORCIA: Okay, right. So I said look lets go up before you three people, let her say what she wants, I say what I want. I'm tired of this baloney. I'm being charged of all stuff she can't prove. And naturally nobody else came in the neighborhood when they sent the letters out. You sent three bodies, her girlfriends, they had that little clique. Fine, they're okay. I mean eight other houses on the street helping other people in their homes. How

could I feed that kind of a person with this, I'm really ticked off. I'm ticked off because she's not a male that's what I'm ticked off about. It's very frustrating Mr. Delia.

TONY DELIA: Finish up your comment but hang around after the public session so I could sit and talk to you personally, so I'll give you, your five minutes is up but don't leave.

BOB NORCIA: I just got one minute, it's very important. It's very important because I got into it; I spoke to Mr. Wall, as I spoke to them, Nick Antonicello was here. He went down, we went down together. He said, "What's the matter?" I said, "Nick, it's just not right. You told me we have to come down, you got a fence inside a fence, where there were ordinances; I have them written down that they have to maintain their property. Who's going to take care of their property? Me? I'm not going to do that because they don't cooperate. Twenty years I'm having a headache. So I go to the meeting. They allow her to talk for forty minutes. So I go to talk up and their ready to leave, "I'm here to talk, what are you doing? I got things to say on this." So they cut me short. I see Mr. Antonicello and I tell him about it. "You're the enemy, you were talking down with Jimmy what do you call it." I went from like pansies, she told me to stop in have a free cup of coffee to now I'm the enemy because I stop to talk to somebody. Is that what we have in the town, politics that you're the enemy? You're either democrat or republican and if your not democrat, you're the enemy? That's exactly what he said to me so...

MAYOR MASSA: That's not the case. I don't know the context in which he said it.

BOB NORCIA: I'm just letting you know that it's something tacky like that.

TONY DELIA: Alright, you're going to have to finish up. But don't leave. Stay till later so we can talk.

BOB NORCIA: I'm sorry. I really wanted to end this and there's no way to do it when you have a woman.

MAYOR MASSA: From what I understand about this issue is that the variance... alright the borough attorney will handle this.

TONY DELIA: Anybody else wants to speak.

COUNCILMAN DIBLASI: There's a lady that wants to speak.

CONSTANCE FENIELLO- 14 Albert St: [Inaudible]. I live on Albert Street and there's a lot of issues with Albert Street with parking. And I think the first, the one that has me up here today is because of the metered ticket that my son received at 8 o'clock in the morning on December 23rd. I find it offensive because we have parking issues and the meters aren't supposed to be given tickets I think until 9 when I checked the ordinance online; from 9 in the morning until 9 at night certain days. We have issues with the parking; we have Thursday and Fri...uh uh,, Ridge Road is Tuesday and Thursday and Albert street is Wednesday. We all can tend with being considerate of our neighbors on where to park and what to do. But when you're receiving meter tickets and paying taxes when we're residents on the street, you have residents, you have the commercial properties the people come up the block because they changed the direction of the block a few years ago if you remember because Washington School is the drop-off for the kids, so they had to change our direction of the block to come up instead of down so they could bring the kids which we all contended with, it has changed a lot of things on our block. When you can't park, you have the customers that park on our block and there's really nothing we can do about it, legally. Their parking is legal parking there. We don't have permit parking; I asked many years ago for permit parking and they absolutely said no. the other thing is also, we have the fire trucks that come down our block and they can't make the turn by Locust, which is a real dangerous situation because at one time, the trees took all the plastic, all the lights off the truck and everything spilled all over our houses. I don't know what they're doing about it now but it's a dangerous situation. We have the doctor on our block who does not decide to pull out of his parking lot; he decides to just drive right over the curb. In two instances, myself and my neighbor's

mom, now we put a flower pot there so he can't do that. There are many issues that are dangerous and aren't fair to us as residents and taxpayers; parking tickets, sweeper tickets, we have three days to worry about sweeper tickets, now meters. Other towns during Christmas season put red bags on the meters and say park for nothing. You're going to say pay to... you put meters back on Ridge Road, what about the students, the students of North Arlington are going to pay for those meters during the day in front of the cemetery where all those new meters came up. These are things that I think the citizens should have been considerate on those blocks that we have to contend with. Thank you.

MAYOR MASSA: Thank you. Anyone else?

MOTION TO CLOSE PUBLIC COMMENTS

INTRODUCED BY: Councilman Tanelli

SECONDED BY: Councilman Hughes

ROLL CALL: All Council present vote in the affirmative

ABSENT: Councilman Granell

COUNCILMAN TANELLI: Point of order, your honor.

MAYOR MASSA: Councilman Tanelli, you're recognized.

COUNCILMAN TANELLI: I would just like to address some of the parking issues. Because we have been, as a council, collectively trying to find, there are so many streets in the borough that are having issues with parking. We have met Albert Street, we actually put an ordinance in that has passed; it was passed in December that the Police are supposed to check during the day. It's not supposed to be used for commercial parking. So what they're supposed to do, actually they spent the week prior to passing that, checking all the license plates periodically throughout the day to make sure they were residents of that street. So that was our first step. Our second step is to try to find, I've had many conversations with the mayor, we're trying to get the police chief and Sergeant Wherle to come up with a plan on permit parking on, in certain situations. For example, if you're son had to park on ridge road, where there would be a resident sticker or a resident, we had spoken about that. That is up right now for discussion with the mayor and council and we're trying to work with the police department with what type of traffic impacts or what there, you know, we always think everything's a good idea and they'll come back with ideas why it wont work and come up with other suggestions. So that's the stage of where were at right now; we didn't forget about it. We, I think, we've addressed in the last 5 months we've addressed 7 streets in town with permit parking, trying to stop the commuters coming from out of town and parking on our side streets and then taking the busses into Manhattan. So we are conscience of the parking, I just wanted to let you know. It hasn't gone unnoticed and we're working to try and come up with a solution for everyone. Because you make Albert Street permit parking only, they go to Crystal Street. So pretty much that entire length of Ridge road almost has to be permit parking and that's something that we're trying to gage with the help of the residents in that area, as well as, the police chief, we're trying to work together, to see if we're shifting traffic and making hardship on other blocks so that we could adjust it accordingly. But we are working on something, I mean we have spoken about that, mayor, about coming up with some identification, windshield identification, to let the street sweeper person know that this person is a resident, they shouldn't be ticketed. So, thank you.

MAYOR MASSA: Thank you, councilman. These issues many times are complicated and on occasion we do have to, before we take any action, we have to get the okay from the State Department of Transportation. We're always opened to the concerns of the citizens especially the residents who live in such close proximity to ridge road. The issues that you've raised are being addressed by the council and the police department and if you need to be updated as to what progress is being made, please be free to call the police department to talk to the traffic officer, sergeant Wherle, who's responsible for the day to day contact with the various administrative agencies and then contact with the mayor and

council to address these type of problems. The permit problems, issues probably the best way to go, making it convenient for our residents. Councilman Bianchi?

COUNCILMAN BIANCHI: Yeah, I'd like to say something about it too. I've been getting a lot of complaints from people during the daytime. You know for many years in the town of North Arlington we didn't have street cleaning during the winter so people that have been living here for many years are just used to not having street cleaners, so what's happening a lot of people are getting tickets because I don't think we as a mayor and council really informed the people properly that there's going to be street cleaning all winter long. So people are a little uptight to be getting some \$30 tickets and I personally think that it's really not fair. You know we really didn't reach out to these people, send them a letter, you know, in the mail, not in the Leader newspaper per se, but a letter stating there's going to be street cleaning and you have to abide by the law. At least I don't think we sent one out, I could be wrong.

MAYOR MASSA: I don't think we did either, councilman, but I did have a discussion when I received some complaints myself from some residents about having a notification put on the borough website and also doing a press release so the residents have an idea were going to do this all year long.

TERENCE: That's complete.

MAYOR MASSA: Part of the problem we had in the past is when we suspended the street cleaning for the winter time, many times when we had mild days of course it was possible to put the equipment out and do the cleaning; people complain the streets are getting dirty. So we have people complaining about the streets being dirty and then we have people complaining that we're enforcing the law. We have to try to strike a reasonable balance. The only way to do that as you say and I agree with you completely is to make the public aware of what the enforcement policy is and that there is going to be uniformed policy. And that's what I instructed the administrator to do. I think several weeks ago we had this conversation in respect to this issue.

TERENCE: Yes.

MAYOR MASSA: And if we're going to issue warnings for a few weeks, we will issue warnings to everyone. If we're going to issue summonses, then we'll issue summonses to everybody. We're not going to issue a couple of warnings in one part of town and a couple summonses somewhere else; that would be unfair and it would be deferential treatment. So we want to have a uniform policy in place and that's what the objective is now; to get the public in tune with the fact that we will be enforcing the law right through the year.

COUNCILMAN BIANCHI: We also spoke about the parking from Aster Avenue down to the entrance of the cemetery. It's starting to look like a parking lot now. You know, people park their cars and they go to work in New York City, we've spoken about this for almost one year, at least every month in private session and we've really haven't done anything about it. Now I...what part of Albert Street do you live on?

CONSTANCE FENIELLO: Right at the top.

COUNCILMAN BIANCHI: Right at the top. So you live near Ridge Road?

CONSTANCE FENIELLO: Yes

COUNCILMAN BIANCHI: So when you can't park on your street, you park up on Ridge Road?

CONSTANCE FENIELLO: The problem is when its snow covered, you can't park on Ridge Road. You have no parking there so now you're in Mike Garano's lot, which is not good because then you can be ticketed there. I mean my husband rents a spot from the gas station because his work van is over the sidewalk just a little bit and I won't have him park in the driveway...

TERENCE: We're not able to get that on the minutes. She's hard to hear on the minutes.

CONSTANCE FENIELLO: ... So I rent a spot in the gas station for \$100 a month just so I'm not on the street. You know, you're considering we get no front parking because we take up too many spots. We have a new tenant somewhere on the block who has left 3 notes on my daughter's car, approached her and she was scared. Why is this person yelling at me when my car, "you don't know where somebody parks". When you park your car and that person doesn't park correctly and you park behind them that constitutes where you park.

TERENCE: I'm sorry; we don't have a microphone by you so the tape won't be able to pick you up but if you, I'm just saying if you wanted the comments on the record...

COUNCILMAN BIANCHI: No, don't, really.

TERENCE: Okay.

COUNCILMAN BIANCHI: It is an issue that we really have to sit down and talk about, you know, about helping these people on Albert or Biltmore Street. I don't think Crystal and Eagle and Stover, I don't think they have the problem like they have it on Albert and Biltmore. Those two streets and maybe we can sit down and thrash out something. Maybe permit parking; we can give them permit parking, so that even if they can't park on Albert Street, they can park up on Ridge Road without getting a ticket.

MAYOR MASSA: I think permit parking probably is one of the issues we will have to take up. Councilman Hughes.

COUNCILMAN HUGHES: One of the things I had talked with Councilman Bianchi about was maybe on the eastern side of Ridge Road between the cemetery entrance and Aster Avenue putting in some. We have some people in town that park there to catch the bus to New York, only because they live on River Road, they live on Schuyler Avenue and the only bus runs down Ridge Road. Why don't we look into putting some long term parking meters on the one side of the street where a resident or anybody can utilize parking meter and utilize that space for long term parking for people who do need to catch the bus into New York?

MAYOR MASSA: One of the things I think we have to do in light of the complex issues we're looking at to have that effect on taxpayers is appointing a committee with Councilman Bianchi and Hughes; would you be interested, Councilman?

COUNCILMAN TANELLI: I'd also like to be in on that.

MAYOR MASSA: The three of you would want to sit down and take a look at these issues. Perhaps it might be a good idea; we could talk to some of the residents. I know Joe you've been a business man on Ridge Road for longer than I could remember since we were both youngsters. And hopefully we can come up with some sort of workable solution to this problem that is imitable to everyone involved all the people affected by it.

TONY DELIA: If I could add. Terence, our municipal planner that we hired, they have traffic engineer, right, in their office?

TERENCE: Yes.

TONY DELIA: I would suggest that you ask the traffic engineer [inaudible] and I guarantee you that in one meeting he'll come up with a thousand ideas that you never thought of.

TERENCE: Just to be clear, is this one of the existing subcommittees, mayor, or is this a...

MAYOR MASSA: No, this will be a new committee.

TERENCE: A new committee. Okay, so just to be clear who be...

COUNCILMAN BIANCHI: But it is a serious issue, we got to work on this.

TERENCE: Who would be...?

TONY DELIA & COUNCILMAN BIANCHI: Traffic Engineer.

TERENCE: Okay. And who would be on this?

MAYOR MASSA: That would be Councilman Bianchi, Hughes, and Tanelli.

TONY DELIA: In their office they have a traffic engineer that does basically plans for traffic issues.

TERENCE: Councilman Bianchi is on this committee, Councilman Tanelli, and Councilman Hughes.

COUNCILMAN BIANCHI: How those meters transpired from the entrance of the cemetery up to the high school was because the businesses on the west side of the street, there was no parking and I'll give you a for instance. When we were in high school, two or three guys had cars. Now every kid in their junior year or senior year has a car, girls and guys. The kids come and park their cars; they start from the cafeteria and park it all the way down to the entrance. They're there until three o'clock in the afternoon or until two thirty. Then you got the people waiting to catch the decamp bus to go into Manhattan to go to work, they were parking there. Now they were parking on both sides of the street and the businesses were suffering. So we thought about putting signs up for two hour parking but I thought that it was illegal, I heard that was illegal, but meters weren't illegal. So they put the meters. And that deterred the kids so instead of parking on Ridge Road, they were parking on Arlington Blvd, Front St. which is having a big problem now and especially with the new building that's going to go up, so that's how that meter thing started in that section of town. A lot people who are just regular people of the town say what do they need meters in front of the cemetery for, that's how those meters transpired. So people could park the car, go into Ridge Lumber at the time, buy monuments, buy whatever, buy a newspaper, get a haircut, whatever, but we needed that parking and that's how those meters transpired. And that's where we are today but now the problem has gone from the entrance of the cemetery north to Aster Avenue and its starting to affect the people on Albert Street and Biltmore Street. And when they build the new building it's going to affect the people on Front Street. So we do have a problem there and it's really a nasty problem, people are really furious about it. So we really have to concentrate on it.

MAYOR MASSA: Thank you counselor. I appreciate all of the ideas and your concerns for the residents of the community. These are sometimes very complicated problems we get that we have to address and I'm sure that we can come up with a number of different ideas between the councilman and the municipal planner to take care of these things.

COUNCILMAN HUGHES: Why don't we include the topical sub-committee also?

MAYOR MASSA: Okay, I think we could, we don't have to have them as a...

TONY DELIA: You could call whoever you want. You could do whatever you want. You're the committee; you could do whatever you want.

MAYOR MASSA: You can call them as a witness. (laughter) [inaudible]. Rich, I don't think you need to be a member of the committee because he's not an elected official, he's an employee. I mean if anybody, if you want to question our interview, anybody involved in law enforcement, as councilman you certainly have that authority to do so.

COUNCILMAN BIANCHI: On the matter of parking, I've got something else too. I know we passed a resolution on Union Avenue for permit parking. How far did we get with that?

MAYOR MASSA: What's the status on that Mr. Wall?

TERENCE: I believe we, I believe that was passed.

MAYOR MASSA: Is that presently being enforced by the police department?

COUNCILMAN BIANCHI: No, it was passed but I think that it just got lost in the shuffle.

TERENCE: I can check with the P.D. regarding implementation.

COUNCILMAN BIANCHI: Yeah. People don't know what to do; they don't know how to implement.

MAYOR MASSA: I recall that resolution but there's an ordinance amended as I understand it, it was passed and we would have to check with...

COUNCILMAN TANELLI: Point of order, your honor. Three streets that I know of that comes to mind right away is Union Place, Union avenue, and Albert street. Were the three last, three streets that we added to that ordinance. I know that we already had the hearing of citizens closed but I see Mrs. McClure has a question so I'm going to make an exception at this point to see if she wants to make a comment on this issue.

ANNE MCCLURE- 10 Bayliss St.: Mr. Mayor I forgot to say something very important. You know where Meineke is on the corner of River Rd. and Bayliss?

MAYOR MASSA: Yes.

ANNE MCCLURE: It's not the Bayliss entrance; it's the Crystal St. entrance. He's having his customers parking in my driveway at night.

MAYOR MASSA: Well call the police and have them towed out.

ANNE MCCLURE: People can't park and they got to park two blocks away.

MAYOR MASSA: Let them walk. Everybody could use some exercise.

ANN MCCLURE: I went over there and I told them.

MAYOR MASSA: Call the police if they're parking in your driveway. Let the police know and they'll issue summonses and they'll tow them out.

ANNE MCCLURE: Oh okay, okay. Good enough.

MAYOR MASSA: That's never a problem. Parking on private property, that's a violation. Okay, with respect to the comments of Mr. Norcia, I think that the municipal administrator is advising me, and I do recall that there was a denial of that variance that was applied for so essentially you won your point with that. The zoning board is in the process of memorializing that resolution so that there can be proper enforcement taken. With respect to other issues that go on over and above the variance, these are issues that unfortunately go on that either have to be resolved by the neighbor personally interpersonally if at all possible and if that can't happen then it's a matter for the neighborhood resolution board or the municipal court, whatever because, unfortunately, I say unfortunately or fortunately, the mayor and council are not the arbitrator of neighborhood disputes. While we are willing to listen to complaints and we always do, our authority rests only with two things: making sure that the specific complaint gets referred to the public official that's responsible for addressing that complaint and making sure that when it is referred to that public official, that some kind of action is taken to resolve the complaint. Now many times in a two party situation as my attorney knows very well, one party wins and one party loses. So some people are happy and some people are not happy but we will always ensure that our enforcement personnel address

these issues as they're supposed to be addressed. That's all I have, anyone else want to make any comment? Councilman Tanelli.

COUNCILMAN TANELLI: I just want to welcome Mrs. McClure back and let her know that we've missed her presence at our council meetings.

MAYOR MASSA: It's certainly nice to see you again Mrs. McClure. Certainly nice to see you again at a council meeting and I appreciate the commendations that you've given to the police department and the fire department. You've always been very kind in saying that and especially and I just want to make one comment. If anyone's upset that the police department engages in DWI enforcement then they're not going to get any sympathy from the mayor and council of this community.

RESIDENT: Say that again.

MAYOR MASSA: I said if anyone is upset that the police department is enforcing the DWI law, then they're not going to get any sympathy from us. We encourage the police department to take whatever enforcement action and on occasion there are specialized operations with task forces, especially around the holidays, DWI's and people driving under the influence of drugs and people driving carelessly, and so forth.

ANNE MCCLURE: Well when they came to my house, they should be commended because if it weren't for that one tall fellow, I wouldn't be here tonight.

MAYOR MASSA: Well we want to see you here so were glad he took good care of you.

ANNE MCCLURE: Now I got color.

MAYOR MASSA: Okay [laughs], thank you very much. Any other members of the council? Any comments? At this time, motion to, well we've had a motion to close public hearing of citizens. Resolutions on consent agenda.

RESOLUTIONS ON CONSENT AGENDA

R-16-09 RESO RE: AUTHORIZATION TO PAY CLAIMS

R-17-09 RESO RE: BOROUGH OF NORTH ARLINGTON, NEW JERSEY
TEMPORARY APPROPRIATION FOR OPERATING PURPOSES

R-18-09 RESO RE: REFUND OF MONIES DUE TO COUNTY BOARD JUDGMENT

R-19-09 RESO RE: REFUND OF MONIES DUE TO COUNTY BOARD JUDGMENT

R-20-09 RESO RE: REFUND OF MONIES DUE TO COUNTY BOARD JUDGMENT

R-21-09 RESO RE: RESIGNATION OF PER DIEM DISPATCHER

R-22-09 RESO RE: APPOINTMENT TO BOARD OF HEALTH

R-23-09 RESO RE: APPOINTMENT OF RECYCLING COORDINATOR

R-24-09 RESO RE: GRANT AGREEMENT WITH THE COUNTY OF BERGEN

R-25-09 RESO RE: OFF PREMISE RAFFLE QUEEN OF PEACE CHURCH

R-26-09 RESO RE: CHAPTER 231, LAWS OF 1975 KNOWN AS THE 'OPEN
PUBLIC MEETINGS ACT GIVING NOTICE OF THE MEETING OF PUBLIC
BODIES WHEREIN FORMAL ACTION, DECISIONS OR DISCUSSIONS
RELATING TO THE PUBLIC BUSINESS WILL TAKE PLACE

R-27-09 RESO RE: AUTHORIZING BOROUGH ADMINISTRATOR TO PAY BILLS BETWEEN MEETINGS

R-28-09 RESO RE: APPOINTMENT TO BOARD OF HEALTH

INTRODUCED BY: Councilman Tanelli
SECONDED BY: Councilman DiBlasi
ROLL CALL: Councilman, Bianchi, Councilman DiBlasi, Councilman Hughes
reclused himself from R-16-09 that has to do with payment of fire
department bills, Councilman Tanelli, Councilman Yampaglia
ABSENT: Councilman Granell

ORDINANCES

FIRST READING OF ORDINANCE #2006

BOROUGH OF NORTH ARLINGTON COUNTY OF BERGEN, NEW JERSEY
AN ORDINANCE TO ADD SECTION 5. 50A-23.C(i)(g) OF THE RIDGE ROAD
REDEVELOPMENT ORDINANCE

INTRODUCED BY: Councilman Tanelli
SECONDED BY: Councilman Yampaglia
ROLL CALL: All council present vote in the affirmative
ABSENT: Councilman Granell

ADMINISTRATOR'S REPORT

TERENCE: A few brief items mayor and council. One, were drafting the budget for 2009 currently and additionally we've also internalized the cleaning service; we're saving \$30,000 approximately for the tax payers. And Daniel Moore, a DPW employee, is doing an exemplary job in that regard. I also want to follow up with you on the Belleville and Schuyler intersection issue that has been going on for approximately a decade. The, previously the engineer solicited quotations on behalf of the borough to finalize the outstanding punch list items from the state. One bid was Tiffany Electric of \$18,000, the other one was \$30,000 from company by the name of, bear with me a moment, well an additional quote of \$30,000 from HBC company, Inc. We advised the state that (A) we didn't have funding in the budget for this issue because the second related legal issue that should be addressed by the borough attorney at the appropriate time would regard who should pay for this. The status from the state is for approximately \$15,000, \$3,000 lower than the lowest bid. The state would perform with their contractors the work, all the punch list items, complete the job in its entirety, to their satisfaction. So you can have confidence that at that figure, which is lower than the two proposals, the job would be complete, the project would be finished and the lighting would be signed over to the state. The operative question would be moving at forward after this meeting and address perhaps at the February meeting, who should pay for it, how it's funded, and executing preps of contract with the state to get that work complete. And that is the update on that matter.

COUNCILMAN HUGHES: Mr. Mayor, I believe I have talked to SUB some several months ago as to why North Arlington should be responsible for paying for this. I believe our attorney was going to look into it with Nick and ask him why we are still responsible after ten years after the job, we're still responsible for fixing something that was completed. The corner of *** and Schuyler avenue.

TONY DELIA: From what I, I thought we talked about this already. We reported back to mayor and council, Nick correct me if I'm wrong, this was a plan that went back into the late 90's. There was a plan drafted by the borough/engineer was sent down to the state which approved the plan. According to Nick, the plan complied with the code at the time it was set back properly from the curb barely by a few inches. Everything else was done properly according to code. So it was constructed according to plan, the Borough of North Arlington took responsibility to do the work. And they did it in anticipation of

some further development going towards Jersey City on the back roads there which never came to fruition. So therefore the states position is, I think, that you took responsibility for it, you did it according to code, you still have problems with trucks turning the corner and it's not our problem. Am I summarizing it accurately?

COUNCILMEN: [Inaudible].

COUNCILMAN HUGHES: Where the code changed after the fact and now they want ours to retro fit it.

TONY DELIA: Is that right?

ENGINEER: That's correct. So many items that were presented from the state were sort of after the fact. They accepted the project, they signed off on the project, but it was never really accepted by the DOT. So some of the items when they came in afterwards were sort of changes in the code, originally when the plan was built was approved and was in conformance but afterwards it became, as the laws changed, the regulation changed, it became a violation. And also...

TONY DELIA: And why the delay? In other words they approved plans, why wasn't the work done before the codes changed?

ENGINEER: It was but it took a while for the, in other words, once we had it constructed and as built as presented and so forth, it was almost a two year lapse and that's when the DOT came back with these changes.

TONY DELIA: With the changes in the two year interim?

ENGINEER: Yes.

COUNCILMAN HUGHES: But my understanding that even though there's a building code, when you start a project with a building code and the building code changes, you're still only obligated to build to the previous building code standards, is that correct?

EVERYONE: Correct.

COUNCILMAN HUGHES: So why are we now being held to a higher standard?

COUNCILMAN DIBLASI: And if the change is made, if they changed the codes, then the state should pick up the changes. We'll do it according to the new changes but let them pay for the changes.

TERENCE: 15 is the states quote. So it's 15.

TONY DELIA: What I'll do with Nick is we'll try to contact the state again, I mean for \$18,000 you don't want to get in [inaudible].

COUNCILMAN HUGHES: No that's true.

TONY DELIA: But I'll contact the state again and we'll see if we can get some contribution from them and we'll report back to you.

COUNCILMAN HUGHES: We need a \$15,000 grant to fix it.

TONY DELIA: Maybe a \$19,000 grant. We'll give it another shot. You don't want to spend your money on me to chase \$18,000.

TERENCE: Will the council like me to ask Mr. Lucky if he'll split the cost with us for some derivative, some other type of, so you want to give some, just reach out to them and see if they're willing to fund in it's entirety or come back with some type of ...?

TONY DELIA: Have you spoken to somebody there?

TERENCE: The numbers are from Kent Lucky from the state.

TONY DELIA: Have you asked him if they would fund any of it?

TERENCE: Several times.

TONY DELIA: And?

TERENCE: I'm still asking.

TONY DELIA: He's going to call Corzine.

TERENCE: I'm still asking but I do believe that they do want to close out this projects. There's motivation on both sides.

TONY DELIA: I'll call Terence tomorrow and you and I will get on the phone with Kent Lucky together and see if we can get something to happen. Alright?

ENGINEER: Just a recommendation, Mr. Mayor.

MAYOR MASSA: We're always opened to suggestions, Mr. Engineer.

ENGINEER: Were going into another phase of this project with the, starting to see about the backup that has been caused by the intersection. Maybe we can present to them, maybe we can incorporate this into the next phase. I don't know, maybe that's something we can ask Mr. Lucky about and see if he's considered that in other words these are some of the changes that we have to do, however, there's going to be other changes and maybe we can incorporate them into one new project.

COUNCILMAN TANELLI: Point of order. I'm okay with that as long as they close this project. I don't want it to be contingent on phase 2 because who knows how long phase 2 is going to take.

TERENCE: My understanding is they want this closed out before they look at anything else.

COUNCILMAN HUGHES: They won't even talk to us about the traffic backed up in toll booths; it's a project that's completed in their eyes.

TERENCE: Mr. Delia will contact me tomorrow. If that's alright with the mayor and council, we'll take it from there. He'll contact me at his convenience and we'll take care of it at that point. Okay.

MAYOR MASSA: Anything further?

TERENCE: Nothing further, mayor.

MAYOR MASSA: Engineer's report, while you're here.

ENGINEERS REPORT

ENGINEER NICK: And I hope I'm not out of line, Mr. Delia, but we do have a traffic department that can help you with any of the concerns that you have.

TONY DELIA: That's right; you have Antadola and Bill Stambone.

ENGINEER NICK: So I offer them to you in case you want to...

MAYOR MASSA: Are we in agreement that we'll have the borough engineer take a look at these parking issues. We want these things examined but we want them resolved. We

want solid suggestions as to what we can do to resolve these problems to make it as convenient as we can for the people that live here.

ENGINEER NICK: I'll get Mr. Antadola involved and uh...

MAYOR MASSA: Alright, please continue Nick.

ENGINEER: Mayor, the Ridge Road streetscape project is complete with the exception of the street furniture. That's going to be um, its on its way but it hasn't been delivered yet and I've talked to the contractor for when we can anticipate it and he tells me within the next week. So hopefully once the benches and the wastebaskets arrive, I'll allocate a time to put them in right away so that would complete the end of the project. We've given Mr. Furta who is the representative of HUD an update on the project so he is aware of what's going on and what we are. Schuyler Avenue we already talked about. Drainage to the Holy Cross Cemetery, I've contacted the US Radar, they are ready to come back and for the next week they will mobilize, we should think about a two day to do the actual scanning and then at that point we can decide, you know, if there's any remains in the way and if there are then we would have to address them, however, if there's not, we can proceed with the project. One of the things I was thinking about and perhaps we could incorporate this project into, as you look further down into the report, there is an application that we want to make on your behalf. Its for the 2009 economic recovery program. This is a, its money that's going to be allocated to the state, or states, for projects that are already on the books and relating to infrastructure; stormwater, sanitary sewers, and water. The thought is perhaps rather than using your own money for this, you can make this application into a project that's ready to go and you can utilize this zero percent interest. You will have to pay obviously the principal back but it's a zero percent interest assuming you get the project accepted by July 1. So its certainly something that's going to be put towards this project. I also took the liberty of adding some other projects and we would like to meet the DEP on the 27th of January. Michael Berliner from my office is going to be meeting with the DEP to present different projects that the various municipalities would represent, I would like to undertake. I attached to the report, there is a letter, its addressed to Mr. Wall and you all have a copy of it and the three projects that come to mind is, there is the High School Field that needs to be restored along the Passaic River; that's one of the possible projects that can be considered. The second one would be, I talked to Jim McCabe and if theres some storm sewer problems as he's having on Exton, and again the Holy Cross Cemetery. And lastly theres a thought about the pump stations, the Truman and the Geraldine, and we could do sort of a bypass with those stations where we could divert the flow down to Porete Avenue and possibly send the flow down to the Narda pump station; that's the one that's shared between North Arlington and Kearny. With that we would have to upgrade that station because obviously were going to be adding the flow that's presently within those stations added to the Narda station. So that's something that we would have to look at but these are some of the projects that come to mind. If you have anything that you have or you know your problems areas and so forth, you can let us know, we'll put some cost estimates together and we'll present them to the DEP. What we would need from you is a letter of commitment; this doesn't bind you up in any manner but it does say, you know, it presents to the state that your interested in doing these projects, you have until July to get them on the books, to get them on the books and get them ready to go. If you go passed that deadline than there is, the state contributes less. In other words they'll reimburse you 80% and there will be a half percent charge and the longer you wait, the interest rate goes up to 1% I believe is the highest. So these are projects that you want to, you know, you're ready to go, you want to get them, you know, [inaudible], generate work basically. Canterbury Phase 1, that's the one that was, has been completed. We've taken four samples and so forth but the only thing remaining is there's a couple punch list items. We went back and looked at the surface, the pavement surface, and we noticed some cracks so what we've done is we've put the contractor on notice; we will be meeting him within the next couple of weeks just to see what can be done about it so we haven't closed the projects out but we want to meet with him to see what can be done to rectify this problem. Phase 2 has been completed. There's only a couple minor punch list items. I believe we're waiting for your approval on the course, if you could grant us then we could get that done, once we get that back we will present it to the DOT and you could get the rest of the money reimbursed to you. Hedden Terrace, that project is complete, I

believe you all the closing documents were forwarded to you and that should be done at that point. Morgan Place resurfacing, that's also has been completed; there are some minor punch list items and we will get the contractor hopefully as soon as the weather warms up, we'll get them back to finish that up. Firehouse improvements, that is out for bids. We are expecting, we will be receiving bids on the 21st of January next week, so we will present those to you once they're collected. With the tax map revisions, the only remaining item as I discussed at the last meeting is the, there are some areas that have to be clarified. That work was outside of our scope of work but what I suggested after what Mr. Wall suggested that we meet with your tax assessor, discuss what can be done either by our office or he could do and then we will determine if you want us to continue with that. We did prepare proposals about an \$8000 add on to get these comments finished but however most of them have been addressed and the state is satisfied, so far with the exception of that one comment that they had. And basically what that pertains is the land line parcels, there's a discrepancy in the ownership and I think that's something that Mr. Maguire can do for you, however, we are involved and will certainly step in. The 2009 municipal, the 2009 DOT municipal program you received the grant for \$200,000 if you'd like I'll prepare your proposal for you and we could get that on the books and get that started for you. And lastly is the Geraldine, Truman, and Narda pump station maintenance. Presently your on a month to month with the existing contract, he comes in couple times a month, monitors the station, any emergencies he's paid us the emergency repairs. What we want to do is we want to get quotes back so we could get, you know, get that redone, and sort of reinstate this contract. Again, I don't like this month to month, I want to have a permanent contract, so we'll get that for you within the next [inaudible]. And that's all I have.

COUNCILMAN BIANCHI: Nick, just two quick questions. On the Ridge Road streetscape, Passaic Valley had repaired some pipeline there and was that sidewalk ever repaired? Remember there was a problem with the way the sidewalk was fixed?

ENGINEER NICK: We called over and made them aware of it, it has to be...

COUNCILMAN BIANCHI: And they have never did anything?

ENGINEER NICK: I don't think it has been done.

COUNCILMAN BIANCHI: There a tough company to do business with. Boy I'll tell you that; their tough. In other words, they don't do anything.

ENGINEER NICK: And in fact we put in my notice, its here, if you remember on Canterbury the same thing happened and I passed by there and still hasn't been blended in to the pavement. So what I'll do is I'll follow up, give them another letter just to remind them that it has to be done.

COUNCILMAN BIANCHI: I don't think, Mr. Mayor, to be honest with you, I don't think a letter's going to work. You see you have to get forceful with these guys. They don't do it, they just don't do it.

ENGINEER NICK: Get Mr. Delia involved? You see what they do is for instance on Canterbury they give you, there's an emergency repair and they left pretty much a patch in the brand new pavement. So I wrote them a letter saying we can't have this, we want an infrared paving, we want to put back they way it would be. They did the same thing on Ridge Road. They had an emergency water main break and they just kind of left it somewhat unfinished. I mean we have a brand new streetscape and the pavement and the concrete was torn up.

COUNCILMAN BIANCHI: You know what else, Nick, we have too? We got some water in the breaks in the town on concrete streets and they patch it with tar instead of concrete. It looks real bad. On Riverview Avenue which is a nice street, on this section of town, you drive down that street it looks like a minefield. It looks like a war zone. You got a concrete...

MAYOR MASSA: Mr. Bianchi's comments are well taken here. And I think it's important that we as a governing body now start to show some resolve with this entity to get things...

TONY DELIA: Something else to talk about. My inclination would be to try to get them to straighten it out. If not, we pay for it ourselves, we turn around and we chase them down for it.

COUNCILMAN BIANCHI: And we deduct it off the money we owe them for something. We have to owe them money for something in the town.

TONY DELIA: You can't deduct.

MAYOR MASSA: You may have to engage in litigation but I think if that's going to be the case, I would like that litigation to be widely publicized so people know what we're doing. We want the people of this community to understand that we're trying to protect their interest and unfortunately sometimes these utilities, whether its water or gas or electric utility, have a tendency to run a rough shod because they feel that they are untouchable bureaucracies. But that's not going to be the case here.

COUNCILMAN BIANCHI: And also too, they promised Richie and myself that they were going to repair that football field for us before because you had brought it up that McCabe and you were talking about putting dirt on that football field to build it up a little bit but you cant do that until you do the river bank, you know, and they promised us that they were going to do it in November, 'definitely done in November' with those big rocks, what they call them, rapole?

TERENCE: Some clarification, it may be in the Passaic Valley Sewerage. Just to clarify.

COUNCILMAN BIANCHI: To me, it's the same guy I talk to all the time. It looks like the same guy. But anyway, you know, I'm having a problem with this I don't know about you Richie, but...

COUNCILMAN DIBLASI: I think we have to take a stronger stand on this Mr. Mayor.

COUNCILMAN TANELLI: Point of order, you honor. Through the many meetings that we've all had independently and collectively with Passaic Valley, there's been a lot of discussions on whether they need to obtain permits to do work in town, not obtain permits. Mr. Delia was present at one of the meetings that I sat through and they said that they don't normally apply for permits. We have rules on the books that protect the borough and to keep the integrity of the streets that they're supposed to, all utilities are supposed to leave the streets in the condition that they find them in when they begin their work. My opinion is we've been way too lax and have held them, we've taken them for their word which is amounting to nothing at the moment. So as far as I'm concerned, I'm in favor of starting to force them until they start showing a little bit sign of respect to the borough of north Arlington; I'm in favor of hitting them with permits and fees like everyone else until they start showing signs that they're going to put things back they way they find them because I'll tell you what, Stover avenue is a perfect example when I was walking the community that we just paved the street and there must be a 6ft gap of the street, one of the residents brought me out to the middle of the street, there was a hole you could see down 4ft. it was obviously a water leak and that's another brand new street. I like councilman Diblasi's recommendation from now on when we start doing the streets that we get all the utilities out there ahead of time and do a quick survey of the street to see what the condition is there before we even decide to pave them; this is terrible.

COUNCILMAN DIBLASI: Permits, fees, and also let them post a bond. \$20000, whatever, \$10000 bond and they only get that money back when the repairs are done properly and we'll hold that money and get somebody else to repair it the right way.

COUNCILMAN HUGHES: [Inaudible].

COUNCILMAN DIBLASI: You could do that. Jersey City does it all over, they do it that way; Permit fees and they got to post a bond, \$10000 bond, [inaudible]. Or whatever it is.

MAYOR MASSA: Okay...

COUNCILMAN BIANCHI: Point of order.

MAYOR MASSA: ... Counselor, who would be the enforcement entity on these issues?

TERENCE: Pursuant to the direction of the mayor and the council, excuse me, at a prior meeting, we are collecting the relevant data that shows failure to apply for and pay for as other entities do, like PSE&G, for permits and we're collecting that data and intend to summons accordingly. That is in process pursuant to former direction and we are additionally also continuing to review the low water pressure issue and examining the complaints in that regard. That is an active issue that we are looking for answers too.

COUNCILMAN TANELLI: We did have a conference call with a few of their field workers...

TERENCE: Correct.

COUNCILMAN TANELLI: ...Supervisors, Mr. Wall, and myself. My particular section of town, the pressure was down by less than 1/2 of what we're had before Lyndhurst was turned on, so they're still exploring possible shutoff valves that are still shut off and different lines that weren't being utilized that are currently being utilized. The pressure did go back up for a few days and then it crashed for probably the last three or four days.

COUNCILMAN BIANCHI: Steve, not to jump into the conversation, but Steve they dug up Union avenue and they gave the water into Lyndhurst they had to put the pipe there for Lyndhurst. They inconvenienced the people in North Arlington dramatically, Lyndhurst has got the water now, okay fine, and they still didn't apply for a permit and they were working down there for the longest time. So Lyndhurst comes out a hero again and North Arlington gets it.

COUNCILMAN DIBLASI: Like we're second hand citizens. That's got to stop.

ENGINEER: [Inaudible].

TERENCE: Correct. And we also set up an escrow account. That's also an issue to simply just draw down because on an emergency basis you would need to cut through the red tape, so to speak, and allow the work to commence at the same time if you have an escrow account set up you can simply draw down the permit fees from that escrow account; it could be set up on an annual basis.

COUNCILMAN HUGHES: Have we been documenting all of the bad repairs that they've done around town, listing them all, collecting that information?

TERENCE: The construction office is in that process.

COUNCILMAN HUGHES: Because I mean, I've had separate repairs on my street. Two passes were done very nicely, very smooth. [Inaudible]. Two others, I come out of my driveway I have to drive over a mountain, they have a, its just they cut about 8 inches.

TERENCE: I also can copy to the mayor and council I did ask for and received belatedly the files from the Passaic Valley Water Commission on service requests and work orders for 07 and 08, so we have the hard data. There's one item that not many folks are aware of is that the board of public utilities in Trenton does not control this organization; they are controlled by Clifton, Passaic, and Paterson. So the BPU is not an area currently where you can address concerns so we have to you know work closely with the residents to ensure potable water and the right pressures and proper repairs.

COUNCILMAN BIANCHI: Terence, next meeting, see you just requested that paperwork from them.

TERENCE: I received it.

COUNCILMAN BIANCHI: Oh you did receive it. I was going to say alloy for next week to see if you received it.

TERENCE: I've received it and I'll copy it out to you, mayor and council.

COUNCILMAN TANELLI: I think our only recourse, mayor, is to start holding their feet to the fire, the same with all the other utilities and...

MAYOR MASSA: You know I seem some, whatever appropriate enforcement action we have to take, lets take it. And I think once that's done, they hopefully will get the message.

COUNCILMAN BIANCHI: I think an escrow account's perfect.

TERENCE: They'll be receiving a summons and a court date.

COUNCILMAN DIBLASI: An escrow account or like I said before, Terence, let them post a bond. Me as a contractor when I go into any community before I open up a street I got to post a bond with the town and if I don't go a good job they keep that money. That would be the best thing.

ENGINEER: Mayor if I may. What we have been doing is we sent plans to the utilities prior to beginning the project, we begin the process and we'll take a more active role in doing that so that we make sure that they're, it's all documented. But we talked about it the last meeting is that you should have in case of emergency have them fax something to the borough or if they call for police, you know, to monitor, to help them with the traffic, have them report to the construction department so your aware of the different excavations and emergencies that are happening so you could sort of go back and keep an eye on was it put back, was it compacted properly, so you don't have the mounds that Councilman Hughes is referring to. Really the borough or engineer or whoever has to take sort of a more active role and try to monitor what's going on. And also the maintenance bond, that's a perfect suggestion, where you have to post a bond and every time you come in you have to withdraw off of it in case they don't do it properly.

MAYOR MASSA: So you're suggesting having the police department report to the borough administrator when these projects are undertaken...

ENGINEER: What typically they called out...

MAYOR MASSA: I recall at one point, councilman Hughes, some months back, said this was a public safety issue also and I have to agree with him; I think we'd all agree that we don't want to have a fire engine driving down the street and all of sudden its blocked off and he cant get through. Fire department, police department got to know in advance when these projects are taken place and are going to be disruptive of the street and I just want to make sure that that's being done.

TERENCE: They do have a distribution list, in fairness to them, they do. The question is to what extent is it adhered to on a regular and consistent basis and that's where the breakdown is because I have seen digs and I would ask if they had a permit and I would be told yes and I would call up and would check with the police department and ask the EMS and fire were you called, were you notified about this particular dig and the answer would be no. In other circumstances the answer would be yes. So it's a consistency issue as well as a process issue.

ENGINEER: For instance in Kearny, we have them fax us a notice. In other words you have an emergency at this intersection, they'll fax us a notice say we're going to be working on so and so and that can be distributed to the different departments; the fire's

aware, the police, and so forth, so someone either has to put a letter to them and say this is the way we do it here in North Arlington, either you adhere to it or next time call us for police maintenance...

TERENCE: To your point, they have been sent by certified the ordinance and a letter that indicated that they must adhere to the ordinance. I was subsequently called and was asked was this a draft resolution, was this going to be considered by the governing body. I advised them that this is the law that has been in place for quite some time. So there's clearly a disconnect...

COUNCILMAN DIBLASI: And if it has to go up to the governing body, we'll pass it through the governing body, you tell them that too. Very simple.

TERENCE: So we'll continue the enforcement direction from the prior governing body meeting and advise you accordingly.

MAYOR MASSA: Please, thank you.

ENGINEER: Mayor, that's all I have, not to be a (1:03:48) about it, but the only thing I would request is if you have any projects that you would want to see and to get them done right away, I would suggest you get us the information we'll put cost assessment together but most important if you could give us a letter of commitment. Like I said were going to be meeting with the DEP on the 27th; we would like to present some of these projects to them and then you have a few months to really get it all together and ready for you know construction.

COUNCILMAN HUGHES: Mr. Mayor, one question, one more question. On the second [inaudible] we covered program that your going to be presenting to Trenton. And I know this isn't out direct responsibility but were going to end up paying for it anyway is the joint sewer pump station is one of the projects that's...?

ENGINEER: Well the joint sewers already its basically the same as what we already applied for you for the joint sewer.

COUNCILMAN HUGHES: So that's going to be applied for [inaudible] program or something?

ENGINEER: Well, you're already in the works with that. Actually the only thing were waiting is the approval of the proposal so we can actually get the plan started and getting one drafted, you know, and designed.

COUNCILMAN HUGHES: No, I'm talking about funding for it.

ENGINEER: Yes, you're already in the funding process...

COUNCILMAN HUGHES: Were already in the funding process.

ENGINEER: However, you haven't approved proposals so everything is sort of on hold until that gets done.

COUNCILMAN HUGHES: Okay.

ENGINEER: You can't generate plans unless you tell us to do the plans and your already in the works with the DEP so we're sort of running out of time because our deadline I believe is April 1st.

COUNCILMAN HUGHES: Is that our responsibility to approve these plans or the joint sewer commission committee?

ENGINEER: The joint sewerage commission has to approve our proposal so we can do the design and present the design to the DEP by April 1st.

COUNCILMAN HUGHES: That's been approved or no?

ENGINEER: That's something we'll talk about at the next meeting.

COUNCILMAN TANELLI: No actually we spoke about it a week ago. We're waiting for a meeting to be called. I'll make sure that we...

ENGINEER: That's something that will be on their agenda.

COUNCILMAN HUGHES: Yeah because the deadline on the 31st is a month. Thank you.

TERENCE: Council reports.

MAYOR MASSA: Council reports.

COUNCIL REPORTS

COUNCILMAN BIANCHI: My bus is running; that's it. That's all I have.

MAYOR MASSA: Okay, Councilman Diblasi.

COUNCILMAN DI BLASI: The department of public works, just a few things Mr. Mayor. Repairs were made to the youth center equipment. They started removal of the old hockey rink at Fisher Park. They've been replacing some missing street signs. They've made a list of potholes for repairs; we go back with the potholes. And they started removing tree stumps and that's basically it Mayor.

MAYOR MASSA: Councilman Hughes.

COUNCILMAN GRANELL:

COUNCILMAN HUGHES: For the Health Department, so far the health officer's reporting that so far this year they've administered 374 flu shots to residence of the community and they've started off their year with their first program that's going to be scheduled for January 21st; it's going to be a healthy choices/healthy lifestyles program in conjunction with Clara Mass Medical Center. It's going to feature some expert medical staff and dietary teams and discuss how to make healthier choices for your life including diet, exercise, and preventative medicine and as usual they usually serve a light meal.

MAYOR MASSA: Councilman Tanelli.

COUNCILMAN TANELLI: Thank you mayor. In recreation there were 21 winners of our 2008 holiday home decorating awards this year. The list of all the homes that were winners will be posted on the borough website. Recreation is Broadway bound running a trip on February 12th to see Mary Poppins and Billy Elliot. Check out the borough website, mayor, our webmaster did a great job advertising these, this event. It's going to be on February 12th. Our bowling went off last Saturday, so far so good. We missed having the bowling program last year, there was a little bit of a problem, communication problem between the league and the rec commission. That's all been straightened out so we're happy to have them back. It's a very nice program; very well attended. Upcoming events, just to try to think a little warmer with the weather outside: Opening day for the little league will be April 11th and girls softball will be April 18th. That's it, thank you mayor.

MAYOR MASSA: Councilman Yampaglia.

COUNCILMAN YAMPAGLIA: Thank you Mr. Mayor. I'm just excited to be back again and I look forward to working with this mayor and council and look forward to working with the public safety and recreation and I think 2009 looks very bright. That's all I have.

MAYOR MASSA: Thank you.

MAYOR MASSA: Well for myself, I just want to wish everybody a happy and healthy new year. I'm glad that some of you were able to make our reorganization meeting last week. And of course, as you've seen tonight, and I want to thank you for attending these meetings very importantly. There are a lot of issues that we have to address from time to time that are citizens concerns and sometimes there not really that easy. They can be a little complicated but that's what were here for. And I just want to reiterate we still work for you and we will work for you as long as you hold office and we encourage you to participate at these meetings and bring us your concerns so we can address them. I'm sure what you've seen here tonight between the administrators report and the engineer's report that a lot goes on in North Arlington and even though it's a small community there is a lot that goes on; there are a number of different issues that we have to deal with on a daily basis. It was very nice to see Mrs. McClure get here tonight, I hope you're feeling better and its always nice to hear your compliments to our public safety agencies for the jobs that their doing. And I want to thank the councilman, everyone of you, for the job that you do and your concerns and I know that in the real world we all work full time jobs; there's a lot we have going on in our lives, personal, professional responsibilities but I have to commend everyone on this council for taking the time out of their schedules to be councilman, to be representatives of you the people. Its an important part of local government and important part of community interests that we have and I'm very glad to see the job you're doing on it. I want to thank also the borough administrator/borough clerk, acting clerk, Mr. Wall who was on the phone with me continually when there are problems and when there are nice things to report. I want to commend him for the great job he is doing and his dedication to this community.

TERENCE: Thank you.

MAYOR MASSA: I also want to thank [inaudible] this year. Mr Delia is our borough attorney. He has quite a bit of work to do for us this coming year, we're looking forward to hopefully resolution of the encap litigation in the beginning of March and hopefully the next few months we'll have some positive news to report with respect to that part of our lives. So that we can put that behind us and go forward with responsible redevelopment on the Porete Avenue section in town. That's pretty much all I have Mr. Administrator.

TONY DELIA: Just for the public and mayor and council, let me update you on Encap. Basically, as you know, two different agreements; the first one which I call phase 1 is Lyndhurst, Rutherford, and the Meadowlands Commission which had an agreement with Encap Golf Holdings. Encap Golf Holdings is that company that's in bankruptcy right now. And then we have our separate agreement with three other entities that related to Encap Golf and that's on litigation which is scheduled for trial on March 17th. Let me just update everybody on the litigation itself. My trial brief which is a detailed legal memorandum, evidence, witnesses, list of exhibits, etc. is due on Tuesday. I've been working on that most of this week. I expect us to go to trial on the 17th. I have not heard any proposals from council for our adversaries to try to resolve this but as always I will talk to them if they come up with any ideas, alright. So that's what's happening with our litigation. As you know, they're still trying to force us to condemn the properties on Porete Avenue, blaming that we are required to do that in the contract. In the alternative, they are claiming they're entitled to millions and millions of dollars in damages because we did not condemn the properties and we did not move forward. From our standpoint I'm basically arguing that they're full of hot air, we are not required to condemn the properties as per the terms of the agreement, and moreover, the real problem with this whole contract is that they ran out of money, they don't have money. Its called inadequate assurance and performance under contract law. If I could prove that they don't have the money to proceed with this contract and I'm telling you I've done it already in discovery. I'm very confident about that then the judge should decide that they breached the contract. The only caveat with that is they're making the argument that our politicians ran on the promise of getting Encap, the Encap agreement voided. They're trying to say that because of that for a very brief window in late 2006, they had this expectation that we were going to break the agreement. I don't think that argument is a strong one, they're entitled to make it, and Judge Harris will decide if were right or they're right. Now with regard to bankruptcy which is a little more important at this point in time. As you know

we got \$800,000 promised to us by the meadowlands commission. They will pay us monthly from that money (a) the money that were now losing because the baler has stop operating and (b) our extra expense to take our garbage and dump it someplace else so we're being made whole, were not losing anything now because of the promise of the \$800,000. Mr. Wall has all the paperwork. Yes submit them to Mr. Sebarios so we can get refunded for the first month of January. The judge ordered, the bankruptcy judge ordered Encap Golf to make a decision on January 27th whether they want it to live up to the agreement regarding the baler that they have with the Meadowlands Commission. If they do that they have to come up with approximately 4 million dollars, or 3 or 4 million dollars and then agree to be committed to the contract that they previously signed with the Meadowlands Commission, I don't think they wanted to do that so we'll see what happens on the 27th. I want to tell you that last week they filed papers meaning Encap Golf with the bankruptcy judge say we don't want to decide if we will commit to the project on the 27th. But maybe we'll give the meadowlands commission 2.5 million dollars if we could talk to them about trying to work out a global settlement meaning a settlement with us, settlement with Lyndhurst, settlement with Rutherford, etc. Now our bankruptcy attorney is going to oppose that argument, that's scheduled for January 27th with the bankruptcy judge. I spoke to Mr. Sebario today. Apparently Cherokee Encap Golf is saying 'just give us a little more time'. Now I tell you this, since we're getting the \$800,000 from the meadowlands commission, it really doesn't matter to us if they get another 30 days after the 27th of January, or 45 days. Because we have our money covered. So lets hear what the judge decides on the 27th. In addition on Tuesday, a very interesting argument to be made to the bankruptcy judge, Wachovia bank who is owed 155 million dollars by Encap Golf right now out of the Lyndhurst/Rutherford/Meadowlands Commission project has filed papers with the judge saying 'pull the plug on all of this' its own chapter 11 bankruptcy. The reorganization plans that were submitted by Donald Trump, the reorganization plans that were submitted by Encap Golf are worthless, there's no money involved, it's a dead end, Judge pull the plug. What did I say at the last meeting? Kill the birds? Stick the knife in the bird or something like that. So that argument, we put a fork in it, Wachovia is making to the judge on Tuesday, will be argued on Tuesday. That will be interesting. Let's see what the judge does with that one because I think they're right on substance, I just don't know if the judge is ready to pull the plug just yet. She may give them a little more time. The other interesting development is that the attorney for Donald Trump withdrew from the case. Just submitted papers saying we're no longer Mr. Trump's attorney in the bankruptcy battle. There's no new attorney for Mr. Trump which would indicate to me from my experience, that he's done, he's walking. So on January 20th we had that Wachovia motion with the bankruptcy judge, on January 27th we have a couple of different arguments that are being made in front of the bankruptcy judge including this whole question about the baler but the bottom line is we're getting refunded the money. Oh and the other thing is I did speak to Mr. Sebario. There are a number of companies according to him who would be willing to take their garbage here again to the Baler in North Arlington. He has spoken to those companies already and asked them in the contract to guarantee the same amount of money to us we were getting from waste management. He is also thinking of some other ideas with Hudson County with New York City with regard to garbage and he's moving so that if that baler freeze up, he's got people out there that bring garbage to North Arlington to the baler again. I did speak to him about the Keegan landfill, the baler is not available. The meadowlands commission would be willing to shift our garbage over there at no cost. They have talked about it already and they'll get back to us depending on what happens with this motion on the 27th, alright?

COUNCILMAN TANELLI: Just one quick second mayor. I'd like to follow up with your words on Mr. Delia. There's so many complicated legal matters that face this community and we speak on a regular basis. I'm very comfortable with the way Mr. Delia is handling, he's on top of pretty much every single issue, speaking to the right people, setting up the ground works of how were going to be covered in 6 months. And I want to thank him for his hard work.

TONY DELIA: And unfortunately February of 2007, I predicted that they would be filing bankruptcy, remember that?

MAYOR MASSA: Yes you did Counselor. I recall that distinctly. I want to thank the borough attorney for the very comprehensive report he just gave us. I would also want to thank him and his numbers of his [inaudible]. Great job that they are doing to protect the interest of this community. Several years ago, myself as a councilman and councilman Tanelli, started to see a couple of flags with this problem; we tried to bring it to the attention of the former mayor who just didn't want to hear anything and as a result of his taken the advice of the then borough attorney, we wound up along with other communities in this debacle known as Encap to everybody in the South Bergen area. We stood tall with this issue, we challenged it, we reorganized under this new administration and I want to thank the members of this council, everyone one of them, for their resolve in supporting this action that were taken to get us out of this as satisfactory as we can and hopefully going forward this year toward new developments.

TONY DELIA: Oh, one other thing I forgot to mention, maybe the public should know, I know we probably know. Encap paid their property taxes for the property that they owned, the BCUA property in North Arlington, all of 2007. Then when they filed bankruptcy in the early 2008, they stopped paying property taxes asserting that the Federal Bankruptcy law put a freeze or a stay on the tax appeals that they had previously filed. I filed motions with the bankruptcy judge about a month and a half ago, Terence? She granted our motion, lifted the stay, Encap Golf is now paying property taxes to North Arlington.

COUNCILMAN DIBLASI: For 2008?

TONY DELIA: For 2008. And are current on the property taxes. So that's good news for our tax pocket I guess is what you would want to call it.

MAYOR MASSA: Our municipal treasury coffers. Thank you.

R-29-09 RESO RE: EXECUTIVE SESSION

INTRODUCED BY: Councilman Tanelli
SECOND BY: Councilman Yampaglia
ROLL CALL: All council present vote in the affirmative
ABSENT: Councilman Granell

MOTION TO RETURN TO REGULAR BUSINESS

INTRODUCED BY: Councilman Bianchi
SECONDED BY: Councilman DiBlasi
ROLL CALL: All council present vote in the affirmative
ABSENT: Councilman Granell

ADJOURNMENT:

MOTION TO ADJOURN

INTRODUCED BY: Councilman Tanelli
SECONDED BY: Councilman Hughes
ROLL CALL: All council present vote in the affirmative
ABSENT: Councilman Granell

(*AGENDA IS SUBJECT TO CHANGE AS A RESULT OF THE MATTERS NOT KNOWN AT THE TIME OF PRINTING