

TOWNSHIP OF DENVILLE
MUNICIPAL COUNCIL
WORKSHOP MEETING

FEBRUARY 8, 2011

The Meeting was called to order at 7:31 p.m. by President Kuser. The Salute to the Flag was recited, followed by the reading of the Open Public Meetings Act Statement by Deputy Clerk Kathy Costello. Mrs. Costello reminded everyone present that this is a non-smoking facility and they must leave the grounds to smoke; she also requested that all cell phones be muted or turned off.

ROLL CALL: STECKY, SMITH, FITZPATRICK, ANDES, KUSER

ABSENT: GOLINSKI, SHAW

ALSO IN ATTENDANCE: MAYOR HUSSA, ADMINISTRATOR WARD, HEALTH OFFICER NORGALIS AND TOWNSHIP PLANNER DENZLER

President Kuser announced that there is an opening on the Board of Adjustment and if anyone is interested in filling that spot, resumes should be sent to the Township Clerk.

OPEN PUBLIC PORTION:

Tom Ellison, 1 Henning Terrace, said that he is here in support of the sexually oriented businesses ordinance that is on tonight's agenda. He praised the Township and said that he, and his wife, look forward to seeing this ordinance passed in order to curtail some things that aren't consistent with the overall spirit and community of Denville.

Peter Furkey, 1111 Peer Place, noted that he is here to speak about the same ordinance. He said that he lives quite near to the business on Route 10 that will be affected by this ordinance and, in all the years he has lived in the area, he has never seen that business be the cause of any problems nor has it caused any mischief. Mr. Furkey went on to complain about a car dealer who has 18-wheelers sitting on the shoulder of Route 10 when unloading cars and he does not see anything being done about that. He said that there is a car repair facility just down the street from Cupid's Treasure that is always a mess and no one does anything about that. Mr. Furkey noted that Cupid's Treasure is always neat and clean, he has never seen anything advertised and he doesn't see what the problem is. He said that they are completely self-contained, adults only, there are no children in the area, so what is the problem?

CLOSE PUBLIC PORTION.

R-11-46 RESOLUTION AUTHORIZING EXECUTION OF A DOCUMENT ENTITLED
"FEDERAL FISCAL YEAR 2011 CERTIFICATIONS AND ASSURANCES
FOR FEDERAL TRANSIT ADMINISTRATION ASSISTANCE
PROGRAMS"

MOTION TO APPROVE R-11-46: MOVED BY MEMBER SMITH, SECONDED BY
MEMBER ANDES

AYES: SMITH, ANDES, STECKY, FITZPATRICK, KUSER, GOLINSKI

It was noted that Councilman Golinski arrived at 7:33 p.m.

ABSENT: SHAW

President Kuser announced that the first item for discussion this evening is Walls and Fences.

Councilwoman Smith suggested that the discussion of sexually-oriented businesses be moved up in the agenda, since that seems to be what the majority of the audience is here for.

President Kuser replied that it would be alright with him but he feels that the Walls and Fences discussion will go fairly quickly and that our Health Officer is here for the next discussion on Rental/Leased Dwellings. He said that he thinks the agenda should remain as it is.

President Kuser advised that the sub-committee that has been studying the proposed ordinances has agreed to the ordinance as written, with the following exception:

Eliminate existing provisions for side-yard fences.

He added that the committee did not have strong feelings about chain link fences in the front yard but he will accept any comments from the Council on that subject.

Discussion:

Councilman Golinski asked if “additional regulations to consider” is being discussed tonight.

Mr. Kuser clarified that an addition will be made to the ordinance stating that, “In all zones, any fence facing on a public street or property line shall have the front (finished) surface exposed to said street or property line.” He said that is not currently in our ordinance and the committee considered it a flaw and thought it should be fixed.

President Kuser noted that the Township Planner suggested that the provisions on minimum lot size (15,000 s.f. and 30' between fence and dwelling to have fences more than 10% solid) and 6' in height along side yards be eliminated because of the volume of applications to the Board of Adjustment that it causes.

Planner Denzler added that the provisions that he recommended to be removed included eliminating the 15,000 sq. ft. lot provisions for side yards. He said that will permit 6' fences in side yards on less than 15,000 sq. ft. lots. Mr. Denzler noted that the other item was where the ordinance calls for 30' between the side yard and the dwelling; due to our zoning, most side yard setbacks are less than 30'.

Councilman Andes noted that Mr. Denzler brought this up at a sub-committee meeting and stated that it weighs down the Board of Adjustment and almost always receives approval. Mr. Denzler interjected that it has always been approved.

Councilwoman Smith asked for a definition of “finished” with regard to the fences. She gave a log fence as an example. Mr. Denzler replied that it would not apply to that type of fence. Mrs. Smith asked if we should have a definition added to the ordinance. Mr. Denzler said that it can be added but, based on fence types, it is pretty self-evident which side is the “finished” side. Mr. Andes noted that Mrs. Smith’s concerns can be

addressed by Mr. Denzler before the ordinance is introduced.

Mrs. Smith asked if the proposal is to eliminate the provision for 6' high fences in side yards, on small lots.

Mr. Denzler explained that right now, if you have a lot that is 15,000 sq. ft., you cannot have a 6' high fence in your side yard. Mrs. Smith asked for clarification of "side yard".

Mr. Denzler noted that it would be from the front facade of the house back. Mrs. Smith said that she assumes it is a privacy issue.

Mr. Denzler explained that privacy is part of it but when the ordinance was written, there was a limited number of fence types. He said that now you can go to Home Depot and there is an unlimited number of fence types and fence style is no longer an issue.

Mrs. Smith asked if it would apply to smaller lots as well. Mr. Denzler replied that as of now, it says you cannot have a 6' high fence if you have 15,000 ft. or less, unless you applied for a variance. Mrs. Smith commented that she is visualizing a neighborhood of small houses on small lots with 6 ft. fences sprouting up between them. Mr. Denzler responded that it is only the side yard and the front 4 ft. height limit is still in effect so it would not have that kind of visual impact. He said that whether it is four feet or six feet between the house and vegetation, other than aesthetics, he does not see any planning concerns.

Mrs. Smith asked if, concerning the wire link fence in the front yard, the ordinance is eliminating or requiring it.

President Kuser asked Mr. Denzler to explain that 50% of the towns he represents have it and 50% don't.

Mr. Denzler said that is correct; half of the towns have standards for what type of fences are permitted in residential zones. He said that, at this point, it comes down to what the town would like to see, in terms of aesthetics.

Mrs. Smith noted that the town has prohibited wire link fences in the front.

Mr. Denzler replied that right now our ordinance states the fence must be 10% open so, if you want to go by the law, that would be a post and rail fence and, even a chain link is more than 10% solid.

Mrs. Smith said that a wire fence is then prohibited. Mr. Denzler agreed but added that the 10% open rule has not been followed by the various Zoning Officers over time.

Councilwoman Smith asked Mr. Denzler if he is recommending that this specific type of fence not be permitted. Mr. Denzler replied that getting rid of chain link in the front is more of a town policy, there is no planning rationale for it.

President Kuser noted that he is not in favor of chain link in front yards but the committee was split on the issue and that's why it is before the Council.

Councilman Golinski commented that he does not see the need to prohibit chain link fences. He said that he has seen many that look fine and are used to keep children or pets in the yard and sees no need to prohibit them. Mr. Golinski asked if this would apply only to fences that will be erected in the future and existing fences would be grandfathered. Mr. Denzler replied that is correct and existing fences could also be replaced in kind, as long as they were not expanded.

Councilman Stecky stated that he agrees somewhat with Mr. Golinski but worries that, at some point, the Township will be dictating to the residents. He said that he believes there is a grey area where the town doesn't belong and an area where there are things that are important for the town. Mr. Stecky noted that he feels that the chain link issue falls in that grey area. He said that he worries about too much government and too much of the town telling him what to do as a homeowner.

Councilman Fitzpatrick said that he is not ready to prohibit the chain link fence just yet. Mrs. Smith noted that it is prohibited in the current ordinance but is not enforced. Mr. Fitzpatrick and Mr. Golinski both asked why it is being brought up. Mrs. Smith replied that the decision is whether or not to eliminate that prohibition in the current ordinance.

Health Officer Norgalis advised that the State regulation for a dangerous dog is chain link fencing around the entire property. He said that he does not know if that would cause a conflict with the Zoning Board.

Mrs. Smith asked Attorney Semrau if the State law overrides a local ordinance. Mr. Semrau replied that it does and it is not an issue.

Mr. Kuser advised that the committee felt they could go either way on it, so they wanted to get the feel of the Council.

Mr. Golinski asked, if it is already on the books, why we have to consider it. He added that if it is not on there, he doesn't want to add it.

Mr. Denzler explained that the way it is now worded is that a fence must be 10% solid and, technically, the only type of fence that works is a post and rail.

Mr. Stecky, for clarification, asked if he would be prohibited from erecting a chain link fence under the current ordinance. Mr. Denzler replied, technically, yes but the rule has not been followed by previous Zoning Officers. Mr. Golinski asked why we need to do this. Mr. Stecky replied that it would give enforcement to the current prohibition.

Councilman Andes stated that he is not in favor of chain link in the front but, thinking of what Mr. Golinski said about pets and children, in a lot of Denville homes the only flat portion of the parcel is the front yard. He added that, if the resident lives on a busy street, a chain link fence may be imperative for the safety of the children. Mr. Andes asked if, in such a situation, could the resident get approval for a chain link fence. Mr. Denzler replied that they could but they would have to go to the Board of Adjustment. Mr. Andes stated that we want to protect Denville's rural character and he thinks this is the best way to do it. He said that there is an avenue for exceptions through the Board of Adjustment and they look kindly on this type of application. Mr. Andes noted that he is in favor of not having chain link fence in the front yard.

Mr. Kuser asked Mr. Denzler if he, as Zoning Officer, would deny an application for a chain link fence in the front yard. Mr. Denzler replied that he would probably approve it but not until he had examined the property. He added that if he felt it would have a detrimental impact he would send it to the Board.

Mr. Kuser asked for a consensus of the Council on accepting the ordinance as written but add the elimination of the provisions on minimum lot size and not add any verbiage

on wire fences. Mrs. Smith interjected that there should be a definition added for "finished surface".

All were in favor. Mr. Shaw was absent.

RENTAL PROPERTIES

President Kuser explained that State law covers housing of rental properties for three (3) or more units under State statutes. He said that anything less, such as a single family or duplex, that is for rent does not fall under any regulations. Mr. Kuser further explained that if Health Officer Norgalis is called out on a heat complaint, for any housing under three units, he has no statute giving him the authority to intervene with the landlord. He added that if other issues, such as plumbing or sewer or any other problem with the rental come up, his hands are tied and he has asked the Council for their help. Mr. Kuser noted that this is very important because we don't want slum lords.

Mr. Norgalis added that it is critical to maintain the quality of life for all of the residents, both the ones who directly pay the property taxes and the ones that indirectly pay through renting. He noted that owners have a fiduciary duty, if they rent out their property, to maintain the home in a safe and healthful manner.

Mr. Kuser advised that the definition of a rental property will be added to the ordinance. Councilman Stecky had a question regarding section H. on Page 2 - Heating. He asked why the requirement to maintain a temperature of 68 degrees or above between the hours of 6:00 a.m. and 10:00 p.m. is restricted to those hours. Mr. Norgalis responded that this language mirrors the Public Nuisance Code, which is already on the books and allows him to enforce it in houses where there are three or more living units. He said that all this is doing is giving equal protection to all renters, whether they live in a single family, duplex or multi-family dwelling. Mr. Stecky said that it makes no sense to him because it allows for anything to happen outside of those hours. Mr. Norgalis replied that is correct; he added that the Public Nuisance Code has been in existence for 60 years and this portion of it has never been challenged. He said that he felt it was important to maintain the same language, rather than open ourselves up to a challenge. Mr. Stecky commented that, if it hasn't been challenged, why change it. Mr. Norgalis responded that it is not so much that it has not been challenged but that the majority of people live in single family or duplex dwellings and he cannot protect them under the current statute, which is for multi-family dwellings.

Mr. Stecky stated that he feels there is a big gap and it should be set at 68 degrees for 24 hours and leave it to the occupant to set it lower if they wish. Mr. Norgalis repeated that it was designed to mirror the State Public Health Nuisance language.

President Kuser commented that Mr. Norgalis is not going to burst into a house in the middle of the night with a temperature gauge; he said that it is only to help Mr. Norgalis if he gets complaints.

Councilwoman Smith noted that her main concern is with Section D, #2 - Plumbing system hazards. She cited the last portion of that paragraph which states, "the

municipal enforcement official shall require the defects to be corrected by the owner or the owner's designee". She said that it is the only place in the ordinance where she found anything about correcting, or who is going to correct and there is no time line for any of the other defects that might occur. Mrs. Smith asked what happens if the owner does not respond to the notification, in whatever form, and does not rectify the problem. She asked if there are existing fines. Mr. Norgalis replied that they are already on the books and is part of the State statute, known as summary abatement. He explained that if a property owner fails to correct a public nuisance problem within 5 days of notification, the Health Officer may hire a contractor and bill the property owner, by tax lien, for the repairs plus court costs. He said that, additionally, the property owner can be taken to Court to explain why he did not obey a lawful order to abate the problem and can be fined anywhere from \$25 to \$1,0000 per day as well.

Mrs. Smith asked why, if there are already fines and penalties, it is only under plumbing. Administrator Ward directed the Council to Page 1, General Requirements and noted that it does put the responsibility on the property owner, or designee, for all of the provisions in the ordinance and is probably redundant in the section on plumbing.

Mrs. Smith stated that her point is that there is nothing that says that the Health Officer shall contact them for all of these items, it only refers to it under the plumbing section. She noted that there is no blanket statement for all violations.

Mr. Norgalis interjected that it already exists under the Public Health Nuisance Code. Mr. Ward said that he will take a look at the rest of #19.5 and if it doesn't specifically reference the Public Health Officer as the individual to enforce the ordinance, a sub-section can be added as suggested by Attorney DiYanni.

Councilman Fitzpatrick had no questions and stated that he thinks it is good.

Councilman Andes said that it is worth noting that this ordinance came off the property maintenance ordinance that the Council drafted. He noted that the ordinance went back to the sub-committee and this ordinance was a result of that.

President Kuser asked if the Mayor had any comments.

Mayor Husa noted that, with regard to the other ordinance, he agrees that chain link fences should not be restricted. He said that they are very functional for a lot of people. The Mayor stated that he agrees with all that the Council has decided upon, especially the heating issue, since it gives Mr. Norgalis something to work with and he supports all of it.

President Kuser asked for a consensus on the draft ordinance for rental/leased residential dwellings. All were in favor; Mr. Shaw was absent.

SEXUALLY-ORIENTED BUSINESSES

President Kuser stated that, before there is any discussion on this draft ordinance, he will ask Attorney DiYanni to give an overview.

Administrator Ward asked President Kuser if the Council is looking at February 15th or March 1st for a potential introduction date for these draft ordinances. President Kuser
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replied, after conferring with Attorney DiYanni, that they would be on the March 1st agenda in order to give the attorneys time to prepare the ordinances for introduction. Attorney DiYanni stated that he will try to make the draft ordinance concerning sexually oriented businesses as easy and understandable as possible. He noted that it is a regulatory type of ordinance and everyone needs to understand the intent behind it. Mr. DiYanni explained that the intent is to protect the health, safety and welfare of the residents and surrounding businesses. He said that many studies have been done around the country on the adverse secondary effects of this type of business. Attorney DiYanni advised that the studies are cited in the ordinance, along with various cities in which they were conducted and the results of the studies. He said that some of the effects that are listed are: unlawful sexual activities, sexually transmitted diseases, deleterious effect on surrounding businesses, declining property values, etc. Mr. DiYanni advised that it is not inferred that any business currently, or in the future, would have any or all of those effects, but those are effects that have been found in these studies. He added that they are known to exist in many cities in the United States.

Attorney DiYanni noted that many cities have attempted to regulate these businesses and have tested it in the courts. With First Amendment rights in mind, Mr. DiYanni said that the courts found that municipalities can regulate this type of business to protect the health, welfare and safety of its citizens. He said that care must be taken not to infringe on their First Amendment rights. Mr. DiYanni listed the following areas where the courts allowed the ordinances to apply:

- Pre-existing businesses and future businesses, as long as pre-existing businesses are given time to conform to the regulations in the ordinance.

- Prohibit "peep-booths" as they may presently exist and may restrict the internal configuration or construction of the booths.

- Regulate the exterior appearance and signage.

- Establish minimum lighting requirements.

- Establish time, place and manner restrictions on hours of operation, provided that the hours of operation are adequate.

Attorney DiYanni advised that, in keeping with the committee's goal and guided by current statutes and research, he has come up with a draft for the Council to consider. He said that he is going to by-pass the definition portion because it is consistent with numerous other ordinances that have been drafted, adopted, challenged and successfully kept on the books. Mr. DiYanni stated that they are boiler-plate definitions. He said that the next section gives the required location of sexually-oriented businesses and mirrors the State statute that was passed in 1995. Mr. DiYanni advised that this section prohibits the operation of a sexually-oriented business within 1,000 feet of a church, school, bus stop, within 1,000 of any other sexually-oriented business, any residential use or zone, public park or playground. He added that this would not be applicable to a pre-existing business.

Attorney DiYanni noted that the next section of the ordinance would apply to pre-Township Council

existing business as well as future businesses: buffer requirements and signage. He referred the Council to section D-2. He pointed out that it currently allows no more than two (2) exterior signs and that is being changed to three (3) and consisting of one (1) sign giving notice that the premises are off-limits to minors. Mr. DiYanni stated that, in the last sentence, forty (40) square feet will be changed to thirty (30) square feet in size. He said this change is to keep it consistent with our current sign requirements, of which he was not aware until Mr. Denzler brought it to his attention. Mr. DiYanni cited Section 3 which deals with peep booths.

(A copy of the three (3) draft ordinances under discussion this evening is attached to these minutes.)

Mr. DiYanni explained the changes in the ordinance as it applies to the peep booths. He noted that Section #7 deals with hours of operation which the ordinance will restrict to 10:00 a.m. until 10:00 p.m. Mr. DiYanni stated that the committee felt that twelve (12) hours is adequate operating time. He added that the administration and enforcement of this ordinance will be the responsibility of the following:

- Zoning Official
- Police Department
- Health Officer
- Engineer

Attorney DiYanni noted that this ordinance provides the authority for the enforcing agency to enter and inspect any business regulated by this ordinance at a reasonable and necessary time. He then went over the sections dealing with:

- Inspections.
- Retail display of obscene material.
- Violations and penalties.

Attorney DiYanni stated that he thinks that the draft ordinance is consistent with other laws that the Courts have found to be reasonable and that have withstood First Amendment constitutional attacks. He said that he believes that the regulations are reasonable and fair and that they give the Township the opportunity to enforce it and make sure that the intent of the ordinance, to protect the health, welfare and safety of our residents, is fulfilled.

President Kuser advised that these three (3) ordinances will be up on our web site - in draft form - in order that residents may familiarize themselves with them. He emphasized that they are in draft forms and changes could be made before introduction. Mr. Kuser explained that anyone may go onto our web site and click on "New Ordinances" to view them.

Administrator Ward stated that they will go up as soon as the modifications are received.

Mr. Kuser asked that the changes be made and the ordinances be posted right away because they will be on the agenda for introduction on March 1st and he wants the public to have access to them well before that.

Councilwoman Smith asked if all the other provisions in this ordinance, except the

location distance, apply to existing businesses.

Mr. DiYanni replied that is correct but, he said that the buffer regulation in the State statute also would not apply to existing businesses.

Mrs. Smith asked if the Township is liable to be sued by an existing business because they have to spend money to comply with the new regulations.

Mr. DiYanni replied that the restrictions that he has included in this draft have survived attack. Mrs. Smith made additional comments regarding a possible law suit and asked Mr. DiYanni what the legal cost would be to defend this. Mr. DiYanni estimated the cost to be about \$5,000. Mrs. Smith added that it is not that she is opposed to the regulations, she just wants everyone to be aware of what we may be open to.

Mr. Andes noted that Mrs. Smith's comments are fair but, from Mr. DiYanni's research and experience, these regulations are defensible and we should come out ahead if challenged. Mr. DiYanni agreed but noted that there is always a chance that a judge could rule against the regulations.

Councilman Fitzpatrick asked the Administrator if there have been any complaints to the Police regarding current businesses of this nature.

Administrator Ward replied that the ordinance addresses pre-existing as well as future businesses of this kind. He said that the committee, depending upon how the Council goes with this, wants to request a letter from the Chief of Police documenting that there is a history of complaints with regard to the pre-existing nature of the businesses that may be affected by this ordinance.

Mr. Fitzpatrick commented that we have a right to preserve a bit of the character of our town and cited the recent stir caused by a fast food business opening on Route 10. He said that he thinks this is a good ordinance.

Mr. Golinski questioned the section on the display of retail material. Mr. Norgalis replied that he believes the intent of that section is to prevent people from observing inside displays from outside the building. There was a brief discussion concerning this regulation, and its wording, and Mr. DiYanni stated that he will do further research on it. Councilman Stecky stated that he thinks we have to preserve what we have and that he will follow Mr. DiYanni's recommendations.

Mayor Husa noted that these ordinances did not come about casually. He said that this is the third draft of this ordinance and that it was gone over very carefully with the Planner, Attorney and members of Council, as well as himself and Administrator Ward. The Mayor advised that he feels that it gives us substantial tools to deal with an ongoing problem that has been reported by many members of the public. He said that he supports this ordinance.

Councilwoman Smith suggested that it would be appropriate to have a letter from the Chief of Police for our files before the ordinance is introduced. Mr. Norgalis interjected that he can also provide a letter since he has received many complaints during his time as Health Officer.

President Kuser stated that the public can read this on line and he re-capped the changes that are being proposed. He said that there is nothing in here that will cause a

huge financial burden for the facility.

President Kuser asked for a consensus of the Council. All were in favor; Councilman Shaw was absent.

Mr. Kuser asked that this ordinance also be on the agenda for the March 1st meeting.

Councilwoman Smith asked if the Mayor is prepared to ask for Advice and Consent for the appointment of the Township Planner, before Mr. Denzler leaves.

The Mayor replied that it could be done but he has not prepared the full list of the second round of Advice and Consent appointments. He said that if the Council wants to do it separately, he has no problem with that.

Mrs. Smith noted that Mr. Denzler has been working as a hold-over and she wondered if the Mayor would like to make that recommendation.

The Mayor replied that he does make that recommendation.

Mayor Husa said that he makes the recommendation that Mr. Denzler be appointed to the position of Town Planner.

MOTION TO GIVE ADVICE AND CONSENT TO THE MAYOR'S APPOINTMENT OF WILLIAM DENZLER TO THE POSITION OF TOWN PLANNER: MOVED BY MEMBER SMITH, SECONDED BY MEMBER ANDES

AYES: SMITH, ANDES, GOLINSKI, STECKY, FITZPATRICK, KUSER

ABSENT: SHAW

Mr. Stecky at first voted "no" but, after an explanation from the Mayor, changed his vote to "yes".

President Kuser noted that a gentleman commented on a problem with other businesses involving cars and advised that the Council is still working on other ordinances and that issue is on the list. He advised that, with regard to car carriers, the Zoning Department would be the place to ask questions and asked Mr. Denzler for his comments.

Mr. Denzler stated that an application had been received from the Infinity dealership and it was noted that a carrier was off-loading in the right-of-way on Route 10 and it was determined that it is permitted by the State, both on Route 10 and on the side streets. Peter Furkey, 1111 Peer Place explained that, when he comes out of Peer Place onto Route 10, the road narrows from three lanes to two lanes. He noted that whether the eighteen-wheelers park to the east or to the west of Peer Place, it makes it very difficult to exit Peer Place onto Route 10 safely.

There was a brief discussion as to what remedies might be taken to solve this issue. Mr. Kuser suggested that Mr. Furkey contact the auto dealer.

Administrator Ward advised that he will speak to the Police Chief and find out what enforcing ability we have. He noted that Sgt. Partin is very good at resolving parking issues and perhaps he can help.

R-11-47 RESOLUTION AUTHORIZING CLOSED SESSION - UPDATE ON
CONTRACT NEGOTIATIONS

MOTION TO APPROVE R-11-47: MOVED BY MEMBER FITZPATRICK, SECONDED
BY MEMBER SMITH

AYES: FITZPATRICK, SMITH, GOLINSKI, STECKY, ANDES, KUSER

ABSENT: SHAW

President Kuser called for a brief recess at 8:37 p.m., before going into Closed Session. Mr. Ward advised that we will have to await the arrival of Attorney Giacobbe before we can begin the Closed Session.

Council came out of Closed Session at 10:20 p.m.

R-11-37 TABLED FROM 2-03-11 MEETING
AUTHORIZING PROFESSIONAL SERVICES AGREEMENT WITH

MATTHEW GIACOBBE, ESQ., FOR SPECIAL LEGAL COUNSEL

MOTION TO APPROVE R-11-37: MOVED BY MEMBER GOLINSKI, SECONDED BY
MEMBER STECKY

DISCUSSION: Councilwoman Smith noted that a number of years ago, Mr. Giacobbe was hired by the Township under a different administration and she believes that was short-termed. Mr. Giacobbe explained that he wasn't actually hired. He noted that Ellen Sandman had recommended that Mr. Giacobbe's former partner, Rich Salzberg, be hired. Mr. Giacobbe added that he was not doing the negotiations and, in September of 2005, Mr. Salzberg developed a brain tumor. He said that he came in and subbed at a few meetings for Mr. Salzberg and, unfortunately Mr. Salzberg passed away. Mr. Giacobbe related that he came in and met with the then-Mayor Feyl and Mr. Feyl indicated to him that he was more comfortable with Mr. Salzberg and Mr. Giacobbe understood that. He said that it was five and a half years ago and, during that time he has developed one of the most active negotiating practices in the State. Mr. Giacobbe stated that he understood Mayor Feyl's position and his own plate was pretty full at the time with his own cases as well as Mr. Salzberg's.

Mrs. Smith said that she had just wanted to get a little better understanding of the situation and thanked Mr. Giacobbe for the explanation.

AYES: GOLINSKI, STECKY, SMITH, FITZPATRICK, ANDES, KUSER

ABSENT: SHAW

MOTION TO ADJOURN: MOVED BY MEMBER GOLINSKI, SECONDED BY MEMBER
SMITH

AYES: GOLINSKI, SMITH, STECKY, FITZPATRICK, ANDES, KUSER

ABSENT: SHAW

MEETING ADJOURNED AT 10:24 P.M.

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Respectfully submitted,

Kathleen A. Costello
Deputy Township Clerk