

TOWNSHIP OF DENVILLE
MUNICIPAL COUNCIL
REGULAR MEETING

MARCH 16, 2010

The Meeting was opened at 6:33 p.m. by President Andes. The Salute to the Flag was recited, followed by an Invocation given by Councilman Golinski. The Open Public Meetings Act Statement was read by Township Clerk Donna Costello.

ROLL CALL: FITZPATRICK, GOLINSKI, KUSER, SHAW, SMITH, STECKY, ANDES ALSO IN ATTENDANCE, MAYOR HUSSA, ADMINISTRATOR GOBLE.

President Andes noted that Township Attorney Semrau is expected at about 7:30 p.m. when the regular meeting begins. He explained that there will be a Closed Session before starting the regular meeting.

Mr. Andes called the Council's attention to a resolution that was given to them this evening that urges the Legislation to reform the Police and Firefighters binding arbitration process. He noted that he thinks it is something that the Council will want to pass and that the Clerk's advised him that the resolution can be done at the end of tonight's meeting.

President Andes asked Clerk Costello, for the benefit of the new members and reminder to veteran members, what can and cannot be said after a Closed Session; when it becomes public information and the penalties for breaching the confidentiality of a Closed Session.

Mrs. Costello stated that the "do's and don't's and the can's and can't's" are that you are never allowed to refer to an employee by name or by position, unless that person has been "Riced". She explained that a Rice letter advises the employee that they will be discussed by the Council and that they have the right to choose to have the discussion held in an Open Session. Mrs. Costello noted that, when we say "Closed Session" that is exactly what it means; what is discussed in here, stays in here until such time as the minutes are typed and approved. She said that there are minutes that may never be approved due to the continuing nature of the topic and, therefore, they would never be released. Mrs. Costello advised that the penalty for breaching the confidentiality of a Closed Session can be a public censure or a public fine, which the offending member must pay out of pocket. Mr. Andes asked when the minutes would be approved. Mrs. Costello replied that it would be when the topic is totally completed, start to finish.

R-10-71 RESOLUTION AUTHORIZING CLOSED SESSION:

MOVED BY MEMBER KUSER, SECONDED BY MEMBER STECKY

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

Council went into Closed Session at 6:39 p.m.

Council came out of Closed Session at 7:33 p.m.

After a brief recess, the Meeting resumed at 7:40 p.m.

President Andes advised that the opening of the meeting was held at 6:30 p.m. and the Council immediately went into Closed Session to discuss contract negotiations.

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LIAISON REPORTS:

Councilman Shaw reported that the Senior Citizens greatly enjoyed a spaghetti dinner that was provided by the Rotary Club.

President Andes noted that the next Senior Social is on Sunday afternoon from 1 p.m. to 4 p.m.

Councilman Stecky advised that the planters that are in the hall outside the Council Chambers are samples of the work of the Morris County School of Technology. He said that Mr. Fuertges brought them last week to show the Council what the Beautification Committee will be putting in the downtown area.

Mr. Stecky noted that the Sustainable Green Committee has chosen April 22nd, which is the 40th Anniversary of Earth Day, to hold their Earth Day Celebration. He said that the program is primarily focused on recyclables, there will be guest speakers and the program will run from 6:30 p.m. to approximately 8:00 p.m. Mr. Stecky added that there are brochures in the hall outside of the Chambers.

Councilman Stecky commended the emergency crews for doing a great job during the flood on Sunday.

Councilman Golinski reported that the Fire Department fought a building fire in Rockaway on Saturday and, on Sunday, Monday and today, were busy with pumping duties due to the flood. He said that all the ambulances and many of the trucks, including five men with personal pick-up trucks, were on the road during the emergency. Mr. Golinski advised that the MAC string ensemble will begin on Monday.

Councilwoman Smith had no report.

Councilman Kuser reported that the Planning Board gave its approval to the Farmers Market. He said that he spoke with the Planning Board about them working on new regulations for planning and zoning to meet the Highlands requirements.

Councilman Fitzpatrick reported that the PRIDE dinner was held on Friday and the Council members attended. He said that Bob Ranft, the Girl Scouts and Vito Bianco were honored.

Mr. Fitzpatrick advised that the Board of Education will have a meeting on Monday, hope to hear from the State during the week and will then have another public meeting on Friday of next week, when they will unveil the final budget.

Mr. Fitzpatrick echoed the praise for the emergency workers during the flood and noted that the Chief of Police went into water that was almost neck high, to extract someone from a car.

President Andes noted that we tend to take what the Fire Department does, for granted. He advised that his own children who serve on the Fire Department didn't get home until 11:00 p.m. each night of the emergency. Mr. Andes said that one boy, who is on spring break, was pumping out basements all day today. He said that they do a great job and added that pumping out basements is really not even a part of the job.

President Andes reported that the continuation of the matter before the Board of Adjustment concerning the Shoppes at Union Hill and 5 Guys Hamburger & Fries will be held tomorrow night at 7:00 p.m.

MAYOR'S REPORT:

Mayor Husa noted that, in addition to the Police and Fire Departments, the full CERT team was active in monitoring traffic downtown during the flood.

The Mayor distributed a flyer concerning Muriel Hepner Park and Hollstein Park. He said that the Beautification, Open Space, Environmental, Green Sustainable and Recreation Committees will be involved. He said that he expects a good turn-out and that he and Mary Ann Cuneo are finalizing a detailed plan for the day. A copy of the Mayor's flyer is attached to these minutes.

The Mayor advised that all flyers will be available on the web site.

ADMINISTRATOR'S REPORT:

Mrs. Goble commended the Police Department, the Fire Department and Road Department for what they did during the storm and what the Fire Department is still doing. She expanded on Mr. Fitzpatrick's comment regarding the Police Chief, stating that Chief Wagner saw a woman's car actually being lifted up as she tried to go through the water. Mrs. Goble noted that he waded through almost chest-deep water to help her out of her car. The Administrator advised that OEM and the CERT team did a wonderful job and, very considerately, let her do everything from home, by phone. She added that they did the same for Gracie Predmore. Mrs. Goble said that you can't imagine what this kind of emergency is like when you participate by phone; it is not until you come into town and actually see the flooding, roadblocks and damage caused by the water and the amount of work that these emergency people do.

The Administrator reported that, because the Governor has declared a state of emergency, the Township will be able to apply for FEMA funding. She noted that the OEM Coordinator has advised the residents that they may also apply for FEMA assistance.

Administrator Goble advised that the Board of Education will be presenting its budget to the Council at the April 6th meeting.

The formal Administrator's Report is attached to these minutes.

During Mrs. Goble's report she noted that a meeting was held with the Hillcrest Dr. residents since the Township must do something with regard to supplying summer water to those residents. She said that some steps have been taken to make it more cost-effective for the Township this year. President Andes explained that Hillcrest Road is served by well water and, for probably forty or fifty years, the residents have had supplemental summer water available to them through above-ground piping. He said that it is only supplied during the summer months and the system is deteriorating. Mr. Andes explained how the piping runs, at some points through people's houses, and said that the meeting was very positive. Mrs. Goble noted that the residents recognized that the Township cannot bear the cost indefinitely. She said that letters will be sent out tomorrow advising the residents of a surcharge for the water. The Administrator thanked President Andes for taking part in the organization of the meeting and his help during the meeting.

PUBLIC PORTION:

Gerry Idec, 1 East Longview Trail, asked if the facilities planned for Cook's Pond will be accessible to the general public.

President Andes replied that they will have access except when there is a picnic going on with residents who have obtained a permit to hold a private event. Mrs. Goble interjected that there is a membership to Cook's Pond. Mr. Andes noted that the membership is for swimming and fishing, not for the Park area. Mr. Andes clarified that a badge is required to fish or to go into the water but residents will be allowed to enter the Park area to have a picnic.

CLOSE PUBLIC PORTION.

CORRESPONDENCE: All copied to Council.

MATTERS OF OLD AND/OR NEW BUSINESS:

Councilwoman Smith had a question regarding the letter that the Council received from the MUA concerning our return on recyclables. She noted that there are two types of recyclables - commingled and mixed. Mrs. Smith said that in 2009 we were penalized on our commingled but in 2008 we received a small amount back. She explained that commingled is bottles, cans and plastic and we may encourage recycling by not having to separate those items. Mrs. Smith stated that, if we are going to be penalized for commingling, then we might be better off not picking it up.

Mrs. Goble explained that the market was very bad this year. She said that, since we are encouraging recycling in order to reduce tipping fees, she does not think it would be wise to decrease our pick-up policy.

Mrs. Smith asked how the mixed paper gets commingled when paper and cardboard are put out separately. Mrs. Goble advised that she cannot answer Mrs. Smith's recycling questions. She said that if she knew that Mrs. Smith would be questioning the recycling policy she would have gotten answers for her.

Mrs. Goble advised that there is now a recycling coordinator and she will meet with him to obtain answers for Mrs. Smith.

Councilman Kuser advised that he has received complaints from residents regarding homes in disrepair. He said that he would like to look into a property maintenance ordinance. Mr. Kuser noted that there are boarded up homes in town, particularly on Franklin Road. He said that there is a home that has been boarded up for a couple of years and the Health Inspector had to go out to inspect it because some windows had been broken. Mr. Kuser advised that he went to look at another one in Indian Lake and a lot of people are concerned about the situation.

President Andes replied that he will ask Planner Bill Denzler to come to a meeting to discuss it. He said that there is a grey area with property maintenance where it becomes a matter of interpretation. Mr. Andes noted that he does feel that the subject warrants investigation. Administrator Goble agreed, noting that there was a situation with squatters in a boarded up home recently. Mr. Kuser added that there are

unregistered and broken down vehicles around town as well.

President Andes noted that he will ask Mr. Denzler to come to either the April or the May workshop, whichever one at which signs will be discussed.

Mrs. Goble asked Attorney Semrau what other towns do when houses are abandoned and what is our recourse.

Attorney Semrau replied that the Township codes, alternatives and property maintenance codes need to be examined. He said that there is a very fine balance that needs to be established because, as has been mentioned, a maintenance code can become very difficult for some residents but, on the other hand, it may be necessary.

Mr. Semrau noted that the "squatter issue", through the efforts of many people, was resolved in short order. He said that some of the other cases are more complicated and more difficult to resolve.

Councilman Stecky asked if there are check valves to prevent back-ups into the sanitary sewer system in case of flooding.

Mrs. Goble asked Mr. Stecky to e-mail her his question tomorrow and she will investigate the situation. President Andes interjected that there were three pump stations that were flooded.

President Andes advised, for the public's information, that there will be a budget workshop on Tuesday, March 23rd at 6:30 p.m., at which time the Council is hoping to wrap up the 2010 budget.

ORDINANCE(S) FOR ADOPTION:

#3-10 AUTHORIZES ACQUISITION OF DUDZINSKI & MOSCARITOLO
PROPERTY - TULIP LANE "A" - OPEN SPACE

BE IT RESOLVED THAT AN ORDINANCE ENTITLED:

AN ORDINANCE OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS, AND
STATE OF NEW JERSEY AUTHORIZING THE ACQUISITION OF BLOCK 10901, LOT
13.01

BE READ BY TITLE ON SECOND READING AND A HEARING HELD THEREON
MOTION TO READ BY TITLE: MOVED BY MEMBER SMITH, SECONDED BY
MEMBER SHAW

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

OPEN PUBLIC HEARING: No one wished to be heard.

CLOSE PUBLIC HEARING.

BE IT RESOLVED THAT AN ORDINANCE ENTITLED:

AN ORDINANCE OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS, AND
STATE OF NEW JERSEY AUTHORIZING THE ACQUISITION OF BLOCK 10901, LOT
13.01

BE PASSED ON FINAL READING AND THAT A NOTICE OF FINAL PASSAGE BE
PUBLISHED IN THE 3-24-10 ISSUE OF THE CITIZEN.

MOTION TO ADOPT: MOVED BY MEMBER SMITH, SECONDED BY MEMBER

SHAW

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

#4-10 AUTHORIZES ACQUISITION OF PUDDINGSTONE DEVELOPERS, LLC
PROPERTY - TULIP LANE "B" - OPEN SPACE

BE IT RESOLVED THAT AN ORDINANCE ENTITLED:

AN ORDINANCE OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS, AND
STATE OF NEW JERSEY AUTHORIZING THE ACQUISITION OF BLOCK 10901, LOT
14.01

BE READ BY TITLE ON SECOND READING AND A HEARING HELD THEREON:

MOTION TO READ BY TITLE: MOVED BY MEMBER SMITH, SECONDED BY
MEMBER SHAW

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

OPEN PUBLIC HEARING: No one wished to be heard.

CLOSE PUBLIC HEARING.

BE IT RESOLVED THAT AN ORDINANCE ENTITLED:

AN ORDINANCE OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS, AND
STATE OF NEW JERSEY AUTHORIZING THE ACQUISITION OF BLOCK 10901, LOT
14.01

BE PASSED ON FINAL READING AND THAT A NOTICE OF FINAL PASSAGE BE
PUBLISHED IN THE 3-24-10 ISSUE OF THE CITIZEN.

MOTION TO ADOPT: MOVED BY MEMBER SMITH, SECONDED BY MEMBER
STECKY

Councilwoman Smith commented that the properties being acquired by Ordinances #3
and #4 are made up of about 5 acres of land that is being paid for out of our Open
Space Trust Fund. She said that, for the Denville portion of this purchase, the amount
required was \$100,000 for five acres.

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

#6-10 RAISES GARBAGE COLLECTION FEE TO \$80.00 PER QUARTER

BE IT RESOLVED THAT AN ORDINANCE ENTITLED:

AN ORDINANCE TO AMEND CHAPTER 3-13, REMOVAL OF SOLID WASTE, OF THE
"GENERAL ORDINANCES OF DENVILLE TOWNSHIP", MORRIS COUNTY, NEW
JERSEY

BE READ BY TITLE ON SECOND READING AND A HEARING HELD THEREON

MOTION TO READ BY TITLE: MOVED BY MEMBER SHAW, SECONDED BY
MEMBER GOLINSKI

President Andes asked the Mayor if he wished to speak about this ordinance.

Mayor Husa stated that every year, around this time, he promotes recycling. He said
that two years ago they held a Mayor's recycling contest, which will be awarded this
August.

The Mayor noted that he had put forth the idea that if everyone recycled 15% more, it will reduce the garbage tonnage by 100 tons per month, which translates into a saving of \$165,000 per year.

Mayor Husa explained that the increase in the garbage fees is a result of the hauling and tipping fees escalating and not being covered by the current garbage fee.

The Mayor noted that Councilman Golinski suggested that we go to one pick-up per week. He said that, up until now, the public has not wanted that change. Mr. Husa stated that there are new council members with new ideas and this will come up again and we will discuss it as a community. He advised that other towns are realizing a saving by going to a once a week pick-up and maybe our residents are ready for a once a week pick-up.

The Mayor then issued a town-wide recycling challenge. He said that, in 2008, we were at an all-time recycling high and had recycled more than the previous year. Mayor Husa advised that last year we had a program to separate our aluminum and that has netted us some decent money.

Mr. Husa said that there are flyers available this evening that explain the benefits of recycling and encourages everyone to do more.

Mayor Husa exhibited a plastic bag filled with 15 pounds of various recyclable materials. He said that if each household in Denville increased their recycling by this much, we could decrease our tonnage and renegotiate our garbage fees and reduce them again.

The Mayor advised that the DPW newsletter that specifies items that can be recycled. Mayor Husa gave the following suggestions for unusual recycling ideas:

1. Recyclable electronics - there are individuals who will take these items and repair them, sometimes free of charge.
2. Clothing - Local Assistance Office in Municipal Bldg. or Salvation Army.
3. Book/videos - Friends of the Library.
4. Metals - there are locations that will pay for metal.
5. Tires - two per week can be brought to Denville Recycling Center.
6. Compost materials - used in gardens.
7. Appliances - 90% of most washing machines that are put on the curb need pumps or belts.
8. Auto parts - paint you muffler with Rustoleum to extend the life of the muffler five to ten years.

The Mayor encouraged people to bring things to various charities to recycle.

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

OPEN PUBLIC HEARING:

Councilman Fitzpatrick noted that he thinks the Mayor's press release is very good. He asked if it can be sent to the Daily Record and Citizen as well as having gone to the Neighbor News. The Mayor replied that he would do that. Mr. Fitzpatrick asked how we are getting the word out on the Recycling Challenge. The Mayor said that it has been

put on the web site, has been distributed to Council, will be available in the Mayor's office and will be distributed at the Earth Day event.

Mr. Fitzpatrick asked when the DPW newsletter comes out. Mrs. Goble replied that it comes out twice a year, in the spring and in the fall.

The Mayor added that he will see that the flyer is included in the newsletter.

Councilman Fitzpatrick commented that he believes that for about \$2,500 we could probably get a postcard out to all of the residents.

Mrs. Goble responded that she feels that \$2,500 is a lot of money just to send a postcard. She said that she thinks that we just need to do more PR on this. The Administrator stated that we need to remind everyone that this is not just about solid waste, that it also incorporates all of the recycling costs, white goods, computers and everything else that people put out.

Councilman Fitzpatrick suggested that, instead of the Council having styrofoam cups on the dais every week, they each bring their own mug.

President Andes asked the Clerk to arrange to have paper cups put out instead of styrofoam cups.

CLOSE PUBLIC HEARING.

BE IT RESOLVED THAT AN ORDINANCE ENTITLED:
AN ORDINANCE TO AMEND CHAPTER 3-13, REMOVAL OF SOLID WASTE, OF THE
"GENERAL ORDINANCES OF DENVILLE TOWNSHIP", MORRIS COUNTY, NEW
JERSEY

BE PASSED ON FINAL READING AND THAT A NOTICE OF FINAL PASSAGE BE
PUBLISHED IN THE 3-24-10 ISSUE OF THE CITIZEN

MOTION TO ADOPT: MOVED BY MEMBER SHAW, SECONDED BY MEMBER
STECKY

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

President Andes advised that the following resolution will be added to the Consent
Agenda:

R-10-79A RESOLUTION URGING THE ENACTMENT OF LEGISLATION TO
REFORM THE POLICE AND FIREFIGHTERS BINDING ARBITRATION
PROCESS

President Andes explained that the Police Department has binding arbitration rights and
we are looking to have that reformed since it will help us with leverage in negotiations.

President Andes asked if anyone from the Council or the public would like to have
anything removed from the Consent Agenda.

CONSENT AGENDA:

R-10-73 RESOLUTION AUTHORIZING RAFFLE LICENSES IN THE TOWNSHIP
OF DENVILLE

- R-10-74 RESOLUTION AUTHORIZING ISSUANCE OF SPECIAL ONE DAY ABC LIQUOR LICENSE FOR FIRE DEPARTMENT CARNIVAL
- R-10-75 RESOLUTION AUTHORIZING ADVERTISING FOR BIDS FOR FIELD MAINTENANCE
- R-10-76 RESOLUTION AUTHORIZING THE REFUND OF MONEY DUE TO THE REDEMPTION OF A TAX SALE CERTIFICATE - \$759.34
- R-10-77 RESOLUTION AUTHORIZING THE REFUND OF MONEY DUE TO THE REDEMPTION OF A TAX SALE CERTIFICATE - \$925.96
- R-10-78 RESOLUTION AUTHORIZING THE REFUND OF MONEY DUE TO THE REDEMPTION OF A TAX SALE CERTIFICATE - \$1,615.51
- R-10-79 RESOLUTION AUTHORIZING THE REFUND OF MONEY DUE TO THE REDEMPTION OF A TAX SALE CERTIFICATE - \$1,641.22
- R-10-79A RESOLUTION URGING THE ENACTMENT OF LEGISLATION TO REFORM THE POLICE AND FIREFIGHTERS BINDING ARBITRATION PROCESS

MOTION TO APPROVE CONSENT AGENDA: MOVED BY MEMBER KUSER, SECONDED BY MEMBER STECKY
AYES: KUSER, STECKY, FITZPATRICK, SMITH, SHAW, GOLINSKI, ANDES

NON-CONSENT AGENDA:

- R-10-80 RESOLUTION OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS, AUTHORIZING THE EXECUTION OF THE TILCON LITIGATION JOINT DEFENSE AGREEMENT DATED NOVEMBER 16, 2009 IN CONNECTION WITH THE CASE ENTITLED TILCON NEW YORK, INC., ET AL. V. MORRIS COUNTY COOPERATIVE PRICING COUNCIL, ET AL., DOCKET NO. MRS-L-659-09

MOTION TO APPROVE R-10-80: MOVED BY MEMBER GOLINSKI, SECONDED BY MEMBER STECKY
AYES: GOLINSKI, STECKY, FITZPATRICK, KUSER, SMITH, SHAW, ANDES

- R-10-81 RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT TO ACQUIRE REAL PROPERTY KNOWN AS BLOCK 10901, LOT 13.01 FROM MARIO DUDZINSKI AND ANTHONY MOSCARITOLO - TULIP LANE "A"

MOTION TO APPROVE R-10-81: MOVED BY MEMBER SMITH, SECONDED BY MEMBER KUSER

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

R-10-82 RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT TO
ACQUIRE REAL PROPERTY KNOWN AS BLOCK 10901, LOT 14.01
FROM PUDDINGSTONE DEVELOPERS, INC. - TULIP LANE "B"

MOTION TO APPROVE R-10-82: MOVED BY MEMBER SMITH, SECONDED BY
MEMBER STECKY

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

R-10-83 RESOLUTION AUTHORIZING BUDGET TRANSFER

MOTION TO APPROVE R-10-83: MOVED BY MEMBER SMITH, SECONDED BY
MEMBER KUSER

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

MOTION TO ADOPT MINUTES OF 2-9-10, 2-16-10 AND 2-20-10: MOVED BY
MEMBER SMITH SECONDED BY MEMBER FITZPATRICK

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

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

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

MEETING ADJOURNED AT 8:36 P.M.

Respectfully submitted by:

Kathleen A. Costello
Deputy Township Clerk