

TOWNSHIP OF DENVILLE  
MUNICIPAL COUNCIL  
REGULAR MEETING

NOVEMBER 23, 2010

The Meeting was called to order at 7:31 p.m. by President Andes. The Salute to the Flag was recited, followed by an Invocation given by Councilman Fitzpatrick. The Open Public Meetings Act Statement was read by Township Clerk Donna Costello.

Clerk Costello reminded everyone that this is a non-smoking facility and requested that all cell phones be either turned off or muted.

ROLL CALL: FITZPATRICK, GOLINSKI, KUSER, SHAW, SMITH, STECKY, ANDES  
ALSO IN ATTENDANCE: MAYOR HUSSA, ADMINISTRATOR WARD, TOWNSHIP  
ENGINEER ROSANIA AND TOWNSHIP ATTORNEY SEMRAU

President Andes noted that Attorney Semrau will be a few minutes late and the presentation that is scheduled will be held off until Mr. Semrau's arrival.

LIAISON REPORTS:

Councilman Shaw reported that the Senior Social that was held on Sunday was a very successful event. He commended the people who worked on putting the event together, noting that it takes a lot of work to do so. Mr. Shaw said that he was reminded that many of the Township employees and Council members donated food for the Social. President Andes added special kudos to Marie Goble and Mark Venis. He said that ten turkeys were served and thanked everyone who donated food. Mr. Andes stated that it was really a very fine time for everyone.

Councilwoman Smith interjected that 70 meals were served and approximately 80 meals were taken home, some to people who were unable to attend.

It was noted that the Senior Citizen Holiday Party is on December 3<sup>rd</sup> at 11:15 a.m. at Zeris in Mt. Lakes.

Councilman Stecky reported that he was one of the individuals who brought a carved turkey to the Social. Mr. Stecky advised that the Beautification Committee was out planting tulips and pansies in the downtown planters for the Spring.

Councilman Golinski noted that he also brought a carved turkey to the Social, as per the instructions he was given.

Mr. Golinski reported that he attended a workshop at the League of Municipalities Convention on bills S-818 and A-2095. He said these bills are proposing changes to the EMS and ambulance regulations. Mr. Golinski advised that he met with the Fire Department last night to review those regulations. He said that the Fire Department showed him a letter regarding the regulations and he asked Clerk Costello to forward it to Council. Mr. Golinski added that the Fire Department is opposed to the changes that are proposed in these bills and he also is opposed to them. He said that the changes add an additional layer of bureaucracy and unfunded mandates. Mr. Golinski praised the work of our volunteer Fire Dept. and noted that they even provide mutual aid to neighboring towns that have paid Fire Departments. He said that response time will be longer because one of the changes requires two EMT's per ambulance. Mr. Golinski stated that there is a very efficient system in place in town right now and the thirty-five

additional pages of changes that are proposed will only damage that system and add costs to the Fire Department's operation. Councilman Golinski asked that the Council join him in supporting our Fire Department by passing a resolution in opposition to these bills.

President Andes stated that, if there is no objection from the Council, he will ask the Attorney to draft such a resolution to be included on the next meeting agenda.

Councilwoman Smith commented that the next meeting is not until December 7<sup>th</sup>. She asked if the resolution could be drawn up, sent to the legislators, after review by the Administrator and Council President, and then approved at the 12-7 meeting.

Clerk Costello replied that it could not be done that way.

President Andes stated that we will do it the right way.

Councilwoman Smith reported that the Local Assistance Board met and she gave statistics regarding the number of families being helped by the Township and County. She noted that there is a continuing need for donations to the food pantry and that the pantry is being heavily utilized. Mrs. Smith advised that Anthony's Bakery has been donating fresh baked goods. She said that she suggested to Director Grace Predmore that the local Farmers' Market be contacted to find out if any vendors would be interested in donating their surplus at the end of the market day.

Mrs. Smith noted that many organizations in town donated to the back-to-school program to provide school supplies for our students. Mrs. Smith added that these organizations are a great help to the Local Assistance Board.

Councilwoman Smith spoke about a group in Sparta that collects unwanted store and manufacturer coupons. She said that volunteers go out and shop with the coupons and donate the items to the local food pantry. Mrs. Smith noted that many necessities that are not covered by food stamps are covered by these coupon donations.

She suggested that a drop-off box be set up for coupons at the Municipal Building. The Mayor advised that such a box exists but we can make it more formal.

Mrs. Smith noted that the Thanksgiving food drive was held and that currently there is an "adopt-a-family" program going on.

Councilwoman Smith reported that there has been an increase in traffic into Mrs. Predmore's office, as well as an increase in phone calls.

Mrs. Smith requested of the Mayor that, during the deer hunt, the deer meat that is donated to the needy be packaged in vacuum sealed packaging.

The Mayor said that he will look into that.

Councilman Kuser reported that he brought a turkey to the social but his wife would not permit him to carve it. He said that it was in good hands with President Andes doing the carving.

Mr. Kuser advised that the Open Space Committee just met and discussed the accomplishments of this year and compiled a list of properties for next year.

Councilman Fitzpatrick noted that he brought mac and cheese that his wife made. He said that he has no report this evening.

President Andes reminded everyone that Friday night is the Open House for the

Chamber of Commerce, Saturday is Santa Land's 50<sup>th</sup> Anniversary and tree lighting at 7:00 p.m. and Sunday, beginning at 2:00 p.m. the Chamber of Commerce Parade will be held. Mr. Andes commented that he is proud to report that there will be a new Menorah lit on December 7<sup>th</sup> and it was done as an Eagle Scout Project by one of Mr. Andes' scouts.

**MAYOR'S REPORT:**

The Mayor reported that there will be a female cancer screening for Denville residents on November 30<sup>th</sup> and Township Nurse Peggy Grossman can be reached at extension #264 for more information.

Mayor Husa announced several upcoming events:

Santa Calls by the Recreation Department will be made on December 3<sup>rd</sup> and anyone who would like to volunteer to make calls should contact the Recreation Dept.

Chamber Open House and Children's Shopping Night on Friday, November 26<sup>th</sup> from 5:00 p.m. to 8:00 p.m.

Tree Lighting on November 27<sup>th</sup> at 7:00 p.m. at Santa Land.

Senior Citizen Holiday Party on December 3<sup>rd</sup> at Zeris

Cook's Pond Party was held today and was a very nice event.

Mayor Husa reported that a second grant application is being submitted for the Muriel Hepner Park. He noted that the spillway bridge has been completed. The Mayor advised that the entire \$25,000 grant was used for this park. He said that the second grant will be used for different parks, doing a little bit in each one.

The Mayor stated that the three resolutions that the Council will pass tonight will give the Township Green Certification and he is grateful for that.

Mayor Husa advised that Mr. Golinski had given a report on his participation in the League of Municipalities Convention and that it is appreciated. He said that in his next written report he will provide the Council with the benefit of his experience in Atlantic City. The Mayor commented that he feels that everyone who went to the convention should share what they took away from the trip with the other members.

Mayor Husa reported that the CRS interview process is going very well. He said that Denean Probasco is working very conscientiously on this project. The Mayor explained what the CRS interview process is and how it is conducted.

**ADMINISTRATOR'S REPORT:**

Administrator Ward reported that, on October 6<sup>th</sup>, the sub-committee that was appointed by the Governing Body to examine the Property Maintenance Ordinance met and reviewed drafts of the ordinance.

He said that recommendations were made to the Township Planner to make amendments and some changes to focus on the big problems at hand. Mr. Ward advised that the Planner provided him with revised drafts that are broken down into three ordinances, focusing on:

1. The most egregious offenders
2. Un-licensed vehicles; cars and boats

3. Renters protections for lack of heat, etc. and filling loopholes in the current Health Code.

Mr. Ward proposed a meeting of the sub-committee before the December 7<sup>th</sup> meeting, beginning at 6:15 p.m. He asked that the members of that committee contact him via e-mail and let him know if they are available.

Administrator Ward noted that he and the Mayor have been meeting with neighboring municipalities concerning shared services. He said that he is pleased to announce that an agreement has been reached with Morris Plains on Animal Control Services. He said that this agreement has been a work in progress for almost a year and he will be bringing a resolution for Inter-local Animal Control Services to the Council at the next meeting. Mr. Ward reported that it will not impact the fine services now provided to Denville due to the low call volume of Morris Plains. He added that it will provide a nice financial benefit for Denville and provide good service to Morris Plains. Mr. Ward extended thanks to Marie Goble, who initiated the process many months ago and to the Police Department for insuring that we can maintain the high quality of services that the residents of Denville have come to expect.

#### PUBLIC PORTION:

Gerry Idec, 1 East Longview Trail, said that his question concerns the “exorbitant” number of cars that are taken home by the employees of Denville. He asked the Mayor if there is any criteria for employees taking motor vehicles home.

The Mayor replied that the criteria was established a long time ago and five of the thirteen are emergency vehicles. He said that the rest are contractual dating back many years and we are trying to reduce that number. Mr. Idec asked what the criteria is for taking home vehicles.

The Mayor replied that it had to do with specific positions and was more liberal in the past than it has become. He said that it is geared to emergency situations and the job; the Mayor gave the example of the DPW Superintendent being called out at night and the feeling that he should have a vehicle at home for such occasions. Mr. Idec asked if other DPW workers are permitted to take vehicles home. The Mayor replied that they are only emergency situations and that the ones being negotiated now are not necessarily emergencies.

Administrator Ward noted that there are five collective bargaining contracts and there are titles listed in the contracts that are permitted to take vehicles home. He said that these five will be reviewed during negotiations.

Mr. Idec asked how the public can follow up on that, in order to know if steps have actually been taken on this issue.

President Andes commented that these titles are included in collective bargaining, not individual contracts, with the exception of one. He explained that during the 2010 budget hearings, in January and February, the Council brought up the subject of town vehicles with the intention of working on the matter after the budget process was completed. Mr. Andes noted that the Administrator resigned and the Township was

without an Administrator for a period of time. He said that, after a period of adjusting to the new position, Mr. Ward was advised of the vehicle issue and is addressing it. Mr. Andes noted that he suspects that, by the time we have a new collective bargaining agreement, at least part of the matter will be resolved.

Mr. Idec asked how he can obtain a list of vehicles, by department, that are taken home each day. Mr. Andes replied that he believes that Mr. Ward can supply that. Mr. Ward said that he would supply the list.

Mr. Andes assured Mr. Idec that it is being addressed.

Ed Banagan, 38 Old Mill Drive, asked if the collective bargaining unit is going to be settled before or after the budget is established. Mr. Ward replied that it is impossible to answer that one way or the other. He explained that the contracts expire at the end of 2009 so it is impossible to say because both sides must come to an agreement. Mr. Banagan stated that it seems that when the budget is established, if the contracts are not settled, the same money for those cars will have to be included in the budget. Mr. Ward replied that will have to be a consideration.

Mr. Banagan stated that he has many years of experience as a manager in large corporations and understands budgets very well. He said that a car for the Police Chief and four cars for the Fire Department make sense but anyone other than that, except someone on call-out duty, the cars should remain here. Mr. Banagan noted that the newspaper article stated that there are ten cars that are being taken home. He asked who is paying for the gas, servicing and insurance for these cars. Mr. Andes replied "you are". Mr. Banagan asked if the use of the car is reported on the employee's W-2 form at the end of the year. Mr. Ward replied that it is.

The Mayor reiterated that the cars that are not emergency situations were contractual and the re-negotiation of those contracts is being addressed. He said that, since the newspaper article was published, the number of cars being taken home is now thirteen. Mr. Banagan then noted that he assumes that the Council reviews the budget that the Mayor and Administrator present to them and can vote yes or no on items in the budget. He asked if the public has access to that information. Mr. Andes replied that all of the budget meetings are public meetings and usually begin in January and run through March. Mr. Banagan asked if the Council people in every town have the right to have health benefits from the State. The Mayor replied that, by law, they do. Mr. Andes commented that it depends upon which health plan the town subscribes to.

President Andes further explained that Denville belongs to the State Health Plan and that plan requires that public officials be offered health benefits, even though they are part-time employees. Mr. Banagan asked if everyone on the Council takes health benefits. Mr. Andes replied that no one on the Council takes health benefits.

Councilman Fitzpatrick noted that this has been brought up before and we can't even do anything about it. Mrs. Smith interjected that she has heard that the Governor is looking into it. Mr. Fitzpatrick said that he does not believe that we, as a municipality, can create an ordinance that would override the State Plan.

Councilman Stecky noted that the Council has the right to refuse coverage if they wish.

He commented that he is a self-employed consultant and is covered by his wife's insurance but, if he were not covered, he would definitely take advantage of the Township coverage.

Mr. Fitzpatrick advised Mr. Banagan that the exact costs for health benefits will also be in the budget.

Mr. Banagan spoke about a Mr. Tim Smith who, according to the newspaper, held a meeting on October 21 and spoke about the Government Efficiency Movement. He said that the meeting was attended by Council members and Administrators and a survey was taken which resulted in a headline in the newspaper stating that "Cutting Top Cops Could Save Morris County \$40 Million". Mr. Banagan advised that their theme is to cut 50% of the Captains and Lieutenants in the municipalities in Morris County and save that \$40 million. He said that their study indicates that we should have Police precincts, in order to cut down on the number of Chiefs that are needed.

Mr. Banagan noted that this group also recommended cutting municipal employees in the County by 30% through shared services.

The Mayor stated that Denville is active in that program. He said that the GEM program connects people who want to share similar types of services.

Mr. Fitzpatrick interjected that he has spoken with Mr. Smith on several occasions. Attorney Semrau commented that it should be kept in mind, with respect to GEM, that it is different than the shared services as indicated. He said that the Township actually participates in the shared services but GEM is a discussion. Mr. Semrau pointed out that the GEM program is the one that recommended that the Tax Assessor and Tax Collector services be taken from the municipalities and put in the County. He said that there are essential services and concerns that many people have expressed about that. Mr. Semrau noted that it is one thing to consolidate services but another thing to have people come to inquire about their tax records and be told that they must go to Morristown to do so and they must deal with a Tax Assessor who is not familiar with the neighborhoods in their particular town. He said that the same applies to the Tax Collector.

President Andes commented that Denville has been doing shared services with other communities for about thirty years and the times are demanding that the practice be accelerated.

Mrs. Smith agreed with Mr. Banagan's comments and noted that the Township also works with the schools, internally. She said that shared services has become a focus because of the governor's cap and she also believes that there may have to be merging of municipalities. Mrs. Smith noted that shared services agreements are not an overnight process; it takes negotiating between the two parties to reach a mutually beneficial contract.

Mr. Banagan noted that some of the new Council members, when running for office, pledged to lower taxes.

Councilwoman Smith replied that new or old Council, we are all committed to at least maintain the tax level and it is a very difficult goal. She invited Mr. Banagan to come to

the budget sessions and see how the process works and the decisions that the Council faces.

Councilman Shaw interjected that some services may not be wanted. He said that Denville has very high standards and we would not want to bring something in just to tear it down.

Erwin and Tanya D'Souza, 8 Parks Rd., came forward and Mr. D'Souza read a prepared statement. A copy of that statement is attached to these minutes.

The D'Souza's complaint concerned sight distance and a neighbor's application for a variance to keep a boat in their driveway, further impeding a safe sight distance when coming onto the roadway from their own driveway. Mr. D'Souza asked why this variance is being considered when there is an ordinance in place to prohibit that which the applicant is requesting.

President Andes replied that, if there is an ordinance in place and Mr. D'Souza feels that his neighbor is in violation of the ordinance, Mr. D'Souza should go to the Administrator, who will have the proper official go and inspect the alleged violation. He said that the official will then issue a summons, if that is appropriate.

Mr. Andes explained that the Council passes the ordinances but, if someone seeks a variance from a land use ordinance, they don't come to the Council, they go to the Zoning Board of Adjustment. Mr. Andes noted that, that Board will make the determination as to whether or not the variance should be granted. President Andes advised that the decision is completely up to the Zoning Board of Adjustment and, by law, the Council may not interfere or influence that decision in any way. He explained a bit about how the Board makes its decisions and the fact that the D'Souzas would be notified of a public hearing and would have the opportunity to attend the meeting and state their objections to the variance application.

Mrs. D'Souza added that the problem is not just the boat but the three cars that the neighbors also have in the driveway that block the D'Souzas' vision when exiting their driveway. She complained that there are no speed signs or speed bumps to slow drivers down as they come down the hill.

Administrator Ward noted that the matter has been looked into and it is a very difficult situation. He said that he feels for the D'Souzas but, where the neighbor's park their vehicles on their property is not in violation of the zoning ordinance. Mr. Ward added that the Police have spoken with the neighbors in an effort to gain some voluntary compliance.

President Andes asked Administrator Ward if the Police can be requested to look into the speed and traffic situation in that neighborhood.

Councilman Fitzpatrick asked Administrator Ward if the parking of the boat is in violation of a zoning ordinance. Mr. Ward replied that, that is the issue before the Board. Mr. Fitzpatrick asked if speed counters could be used in that neighborhood.

Mr. Ward agreed that it would be a good idea.

Councilwoman Smith recommended that, when the D'Souzas go to the Board meeting, they bring visual displays, such as enlarged photos, to demonstrate the hampering of

their line of sight so the Board can make an educated decision.

Councilman Kuser commented that he had sent a letter to the D'Souzas suggesting that all of the neighbors go together to the Board meeting on the variance. Mrs. D'Souza stated that none of the other neighbors are effected because of where the D'Souzas are located on the street.

President Andes asked Administrator Ward to send the police out tomorrow to investigate the situation. He then asked Mr. D'Souza for a copy of his statement for the minutes.

CLOSE PUBLIC PORTION.

#### PRESENTATION BY W & L ASSOCIATES

RONALD S. HEYMANN, ESQ.

#### REQUEST FOR VACATION OF PUBLIC RIGHT OF WAY PORTION OF BROAD STREET

Councilwoman Smith stated that she will recuse herself from this portion of the meeting, since her husband is one of the presenters.

Councilman Fitzpatrick suggested to Mr. Ward that the Township's Twitter account be either up-dated or removed from the web site because it contains only old information. Mr. Ward advised that they are working on that.

President Andes then gave the floor to Mr. Heymann.

Mr. Ronald S. Heymann, Esq. advised that he is with a law firm in Randolph and noted Mr. Andrew Talbot, who is one of the owners of the subject property and Stephen Smith of Jaman Engineering, are sitting behind him. He said that there are plans before the Board of Adjustment, which have not yet been heard. Mr Heymann described the property as 423 Main Street, recognizable as Ritchie's Music Store with a Diver's School in the back of the building. He noted that the proposal is to create an additional 10,231 square feet of retail space which will be additional ratables for the Township. Mr. Heymann advised that, in order to accomplish this goal, they need a piece of Broad Street vacated and dedicated to the property for parking. He said that he had a meeting with the Mayor and Administrator and, at that time, some open space property was under negotiation and has since been acquired. Mr. Heymann noted that there are driveway accesses to Broad Street in the back which residents use as a means to access Route 46. He said that they propose to close those driveways so that they cannot be used for that purpose, put some buffering and landscaping in the back and create seven to ten parking spaces parallel to the rear of the property.

Attorney Semrau noted that it should be kept in mind that this is an application that is before the Zoning Board of Adjustment. He said that we are not here to comment tonight or render any opinion as to the application. Mr. Semrau noted that it is strictly from the standpoint of a request that is being made to the Township relative to the right-of-way. He said that we need to focus on that because, ultimately, we can agree or

disagree or defer right now but the application in itself is solely within the discretion of the Zoning Board of Adjustment.

Councilman Golinski asked if Mr. Semrau is indicating that any comments about ratables and other types of improvements are irrelevant. Mr. Semrau replied that there is good background and facts but, as far as what is being proposed to be done and any comments about that is not within the Council's venue.

Mr. Golinski said that the details of the improvements are irrelevant but the fact that they want to do something is not. Mr. Semrau replied that is correct.

Mr. Smith of Jaman Engineering displayed a map highlighting the area that they are requesting to have vacated. He noted that rights-of-way are generally in the 50 foot wide range and they are requesting that the Township vacate a 25 foot portion of the right-of-way. He said that would drop the right-of-way down to 75 ft. and line up with the right-of-way that is on the adjacent Lot 4. Mr. Smith noted that this will allow the following options:

1. Close the existing driveways.
2. Remove the existing masonry building at the rear of the site.
3. Add an additional 10,000 square feet of ratable space for the Township.
4. Put approximately 7,000 square feet back on the tax rolls.

Mr. Smith added that the vacation of that 25 foot strip is 6,983 square feet that is now really just laying unused within a right-of-way that is twice the width of what is normal in the area. He noted that, presently, the existing paved area is approximately 38 feet off the right-of-way line and, if the Council decides to vacate the requested portion, the existing pavement will still be 12 feet off the right-of-way line.

Councilman Kuser asked if Mr. Smith is proposing to build up the steep slope of the driveway going down to Broad Street.

Mr. Smith, referring to the hand-out that was provided to Council, noted that they propose to extend the curb line, move the curb in a northerly direction and the rear portion will then be landscaped. He explained that the landscape plan proposes a combination of two types of trees to be planted between the proposed parking area and the right-of-way.

Mr. Kuser asked if a retaining wall is planned. Mr. Smith replied that will not be necessary.

Councilman Golinski asked why the right-of-way was put there originally.

Councilman Shaw explained that Broad Street is where the trolley tracks used to be. He said that when the trolley company was dissolved the area became the property of the municipality.

Attorney Semrau asked either Engineer Rosania or Mr. Smith if they can see any other use for this right-of-way that would be beneficial to the Township.

Mr. Rosania noted that there is an excessive amount of right-of-way here and the roadway will not change as a result of this project. He said, in reply to Mr. Semrau's question, there is no other real use that we have for the excessive right-of-way.

Mr. Semrau asked Mr. Heymann if it is correct that, if the Township were to vacate the

right-of-way, it appears that the client is indicating that they would offer public parking to access some of the land acquisitions for public purposes in the vicinity.

Mr. Heymann replied that they have measured off 7 to 10 parking spaces that would run parallel to the back of their property. Mr. Semrau asked how we would memorialize that. Mr. Andes noted that they would be on-street parking spaces. Mr. Smith said that is correct.

Councilman Shaw commented that, having lived in that area, he disagrees with Mr. Rosania. He said that the property that we are in the process of acquiring for open space will need that right-of-way to get through there. Mr. Shaw stated that there is no reason to give this land up and he feels it is a very bad idea.

Mr. Smith responded that vacating this portion of the right-of-way does not and will not impact access on Broad Street. He said that the adjacent property is already at the width that they are looking to have the road vacated down to, so the possibility of widening Broad St. doesn't exist. Mr. Smith added that it is already a 35 foot pavement there, which is an acceptable width. He said, lastly, that by permitting them to vacate their two driveways, it allows for parking back there, which the town would not be able to have without those driveways being accessed. Mr. Smith stated that he truly believes that it is a plus for the Township.

Mr. Rosania interjected that this is only a strip in front of their property and does not effect the rest of the right-of-way or roadway in any way.

Councilman Stecky commented that he thinks this is beginning to sound like a Zoning Board discussion. He asked if we are on the edge of an improper discussion here.

Attorney Semrau replied that we are sticking to the issue of the right-of-way so that the Council understands what is being proposed.

Mr. Stecky stated that, in that case, he would like to suggest an alternate solution that does not use the right-of-way.

Mr. Heymann explained that they need the square footage as part of their application, which is why they are here. He said that, if they don't do this, those open ingresses and egresses will remain and it is truly a safety issue. Mr. Heymann noted that people will use the passive recreation area and will cut through his client's property to access Route 46.

Mr. Shaw suggested that they could close those driveways to prevent people cutting through.

President Andes asked the Mayor what type of recreation is planned for the parcels that the Township is acquiring there. The Mayor replied that it is passive. Mr. Andes noted that, since it is passive, there will be no ball fields or anything like that in the area and, as a result there will not be an abundance of cars in the area at one time.

The Mayor responded that, that is not necessarily true. He said that there is a wide flat area as you walk into the property that could be used for volleyball and a small area that could be used for more active recreation. Mayor Hussa added that we are not bound to just passive recreation there.

President Andes commented that he knows that cutting through the property is an

issue. He noted that one of his children works at Kim Swim and he has seen it first hand, when picking his son up from work. Mr. Andes said that he suspects that the neighbors enjoy that cut through because it is difficult to get out of all of the streets in that area during rush hour.

Councilman Golinski reiterated that the neighbors are grateful for the cut-through. He said that, if the driveways were closed and the cut-through no longer available to the neighbors, he would be reluctant to give up that space unless there was an alternate way to improve traffic flow.

Mr. Rosania noted that a lot of the right-of-way is encumbered by the existing curb line in that project now. He suggested that perhaps a middle ground could be reached with a lesser vacation than 25 feet, build a retaining wall, which would leave plenty of room off the retaining wall, in the street, for whatever parking is needed for open space.

Mr. Rosania pointed to his display of the area and noted that there is less driveway afterwards than there is now. He explained that he has highlighted the areas between the proposed and existing right-of-way and noted that, in that area, there are a lot of curb returns and driveways that exist now. Mr. Rosania then indicated that there is less intrusion into the right-of-way in the proposed plan than in the existing. He repeated his suggestion of vacating less of the right-of-way, building a retaining wall and leaving the remainder for the Township to use as it sees fit for parking for the open space project.

Mr. Rosania stated that he feels it is a good overall plan for the Township.

Councilman Fitzpatrick asked if the access roads are Township roads.

Mr. Rosania replied that they are just driveways to private property.

Mr. Fitzpatrick noted that the property owner could then close them off if he wished to do so. Attorney Semrau said that he could but would then not have access to the right-of-way area.

Mr. Rosania commented that all of the traffic issues would be addressed at the Zoning Board.

Mr. Heymann advised that there will be a total redevelopment of this area.

Councilman Kuser noted that, from the Broad Street side, the slope is so steep that a retaining wall would have to be erected in order for there to be safe parking.

Councilman Shaw commented that, by giving up this land, we are forgetting about the future, which is the development of the land over there for passive recreation. He said that once it is given up, it is gone and he does not think it is appropriate at this time.

Mr. Golinski asked if there could be an alternative plan that would give up part of the right-of-way and still allow an alternate route to access Route 46.

Mr. Rosania noted that several years ago an attempt was made to have the State make changes in that area by widening and re-aligning the roads. He said that, unfortunately, the project never came to fruition. Mr. Rosania advised that it is something that would have to be resurrected with the State, if the Council wished to pursue it. He again repeated his suggestion of the vacation of a lesser amount of right-of-way, a retaining wall and curb-side parking.

President Andes asked Mr. Heymann if he would consider Mr. Rosania's suggestion.

Mr. Heymann replied that they would have to think about the retaining wall and look into the cost of that suggestion. He said that would eliminate the landscaping because there would be no room. Mr. Heymann advised that they would consider the suggestion but would need to know if that is the direction that the Council wishes to take. Mr. Smith added that it would be the type of parking that would eliminate the landscaping - if it went from parallel to angular.

Mr. Rosania commented that he would rather see parking than some trees or shrubs. Mr. Smith noted that angular parking would result in the elimination of all landscaping. President Andes asked if the Council has any interest in the modified plan.

Mr. Golinski said that he does not feel comfortable making a decision tonight without looking at what would have to be done to help the residents with the traffic situation.

Mr. Rosania noted that it would take a long time to resurrect the State plan because they had put a good deal of time into the study, just to have it pulled back at the last minute, due to a small, dissenting faction in the area. He suggested that the applicant come back to the Council with modifications to the project that the Council may look upon more favorably.

Mr. Shaw gave a brief re-cap of what happened to the State's plan.

Mr. Fitzpatrick stated that he is not prepared to give an opinion tonight. He said that he does not think that the Council should be concerned with the access roads because the property owner could close them off at any time. Mr. Fitzpatrick noted that his first inclination is that this is a good plan and he is going to go and look at it but he is still interested in the alternative.

Mr. Heymann stated that he appreciates those comments and is not looking for a vote tonight because he can see the indecision on the part of the Council. He said that he does need some direction from the Council in order to go forward and develop an acceptable plan.

President Andes said that he will poll the Council on who would be interested in hearing more.

Golinski	Yes	Stecky	Yes	Shaw	Yes
Kuser	Yes	Fitzpatrick	Yes	Andes	Yes
Smith	Recuse				

Mr. Heymann noted that he will have to meet with his client and see what the expenses are and will come back with another presentation to the Council. He said that he hopes that it will be sooner rather than later.

CORRESPONDENCE: All copied to Council.

MATTERS OF OLD AND/OR NEW BUSINESS:

ESTABLISHING TOWNSHIP POLICY REGARDING CHARITABLE CLOTHING BINS ON PUBLIC PROPERTY.

Township Clerk Costello advised that there is an ordinance in place regarding the placement of clothing bins in the municipality. She said that the Zoning Officer has brought it to her attention that there has been a request for additional clothing bins at

the DPW yard. Mrs. Costello advised that there are numerous existing bins for two organizations and the opinion from the DPW Superintendent is that he would prefer seeing 1 bin for each organization. She noted that we have two organizations that want to put additional bins and the Zoning Officer advised that if it goes on Township property, according to the current ordinance, the Council must decide if they will allow it. Mrs. Costello advised that she supplied correspondence to that effect to the Council in October.

Mr. Andes noted that the bins have their own space allocated at DPW in a corner of the yard. Mrs. Costello said that is correct.

President Andes asked for a proposal to endorse Mr. Egbert's plan to have one bin for each organization, up to six bins. Mr. Andes asked how it could be decided who would get the other two bins, since there are only four organizations who currently have bins. Mrs. Costello replied that we wait for requests from two other organizations, as suggested by Superintendent Egbert on a first come, first served basis.

**MOTION TO LIMIT CLOTHING BINS TO ONE PER ORGANIZATION WITH A LIMIT OF SIX BINS, ON A FIRST COME, FIRST SERVED BASIS: MOVED BY MEMBER FITZPATRICK, SECONDED BY MEMBER KUSER**

Mrs. Costello explained that this motion covers bins on Township-owned property ONLY. She further explained that bins on private property are administered by the Zoning Department and require a permit from them.

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

President Andes noted that, as is traditionally done each year, the December 14<sup>th</sup> workshop meeting is being cancelled.

#### **ORDINANCE(S) FOR ADOPTION**

**#28-10 AMENDS SPEED LIMITS ON MORRIS AVENUE**

President Andes noted that, on the advice of Counsel, he must recuse himself since he lives on Morris Avenue. He then left the dais and sat in the audience with the public.

**BE IT RESOLVED THAT AN ORDINANCE ENTITLED**

**AN ORDINANCE OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 7, TRAFFIC, SCHEDULE XVI, SPEED LIMITS, OF THE REVISED GENERAL ORDINANCES BE READ BY TITLE ON SECOND READING AND A HEARING HELD THEREON**

**MOTION TO READ BY TITLE: MOVED BY MEMBER STECKY, SECONDED BY MEMBER SMITH**

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

**RECUSE: ANDES**

**OPEN PUBLIC HEARING:**

Township Clerk Costello asked if any member of Council or of the public would like to speak on this ordinance.

Thomas Andes, 168 Morris Avenue, said that he would like to thank Administrator Ward

for thinking outside the box on this. He said that the residents of Morris Avenue have been requesting a reduction in the speed limit for many years. He said that he has tried three times to accomplish this and it was denied twice by the State and once by Chief Wagner. Mr. Andes noted that Mr. Ward suggested an independent study of the area and Mr. Andes thanked Chief Wagner for being very open-minded to the results of the study. He added that the Council President will be getting many calls when the residents see the speed limit signs changed and again expressed his thanks.

CLOSE PUBLIC HEARING.

BE IT RESOLVED THAT AN ORDINANCE ENTITLED  
AN ORDINANCE OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS, STATE  
OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 7, TRAFFIC,  
SCHEDULE XVI, SPEED LIMITS, OF THE REVISED GENERAL ORDINANCES  
BE PASSED ON FINAL READING AND THAT A NOTICE OF FINAL PASSAGE BE  
PUBLISHED IN THE 12-1-10 ISSUE OF THE CITIZEN  
MOTION TO ADOPT: MOVED BY MEMBER FITZPATRICK, SECONDED BY  
MEMBER Stecky  
AYES: FITZPATRICK, STECKY, KUSER, SMITH, SHAW, GOLINSKI  
RECUSE: ANDES

President Andes returned to the dais and asked if anyone from the public or the Council wished to have anything removed from the Consent Agenda. No one responded.

CONSENT AGENDA:

- R-10-231 RESOLUTION AUTHORIZING REINSTATEMENT OF THE ORIGINAL SEWER ASSESSMENT INSTALLMENT PLAN FOR CERTAIN PROPERTIES IN THE TOWNSHIP OF DENVILLE
  - R-10-232 RESOLUTION AUTHORIZING RAFFLE LICENSES IN THE TOWNSHIP OF DENVILLE
  - R-10-233 RESOLUTION AUTHORIZING ISSUANCE OF SPECIAL ONE DAY ABC LIQUOR LICENSE FOR ST. MARY'S HOME AND SCHOOL ASSOCIATION
  - R-10-234 RESOLUTION AUTHORIZING ACCEPTANCE OF FUNDS FOR CHILD PASSENGER SAFETY 2010 GRANT IN THE AMOUNT OF \$500.00
  - R-10-235 RESOLUTION AUTHORIZING ACCEPTANCE OF FUNDS FOR "OVER THE LIMIT UNDER ARREST" 2010 YEAR END CRACKDOWN GRANT IN THE AMOUNT OF \$5,000.00
  - R-10-236 RESOLUTION AUTHORIZING AN AGREEMENT FOR 2011 COMMUNITY HEALTH SERVICES WITH ST. CLARE'S HOSPITAL
- MOTION TO APPROVE CONSENT AGENDA: MOVED BY MEMBER KUSER, SECONDED BY MEMBER FITZPATRICK  
AYES: KUSER, FITZPATRICK, SMITH, SHAW, STECKY, GOLINSKI, ANDES

NON-CONSENT RESOLUTIONS:

R-10-237 RESOLUTION AUTHORIZING THE REFUND OF MONEY DUE TO THE REDEMPTION OF A TAX SALE CERTIFICATE IN THE AMOUNT OF \$16,419.80

MOTION TO APPROVE R-10-237: MOVED BY MEMBER STECKY, SECONDED BY MEMBER SMITH

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

R-10-238 RESOLUTION REFUNDING THE PAYMENT OF TAXES OVERPAID FOR CALENDAR YEAR 2010 IN THE AMOUNT OF \$3,057.92

MOTION TO APPROVE R-10-238: MOVED BY MEMBER KUSER, SECONDED BY MEMBER SMITH

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

R-10-239 RESOLUTION OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS AND STATE OF NEW JERSEY SUPPORTING A "COMPLETE STREETS POLICY" FOR THE TOWNSHIP OF DENVILLE

MOTION TO APPROVE R-10-239: MOVED BY MEMBER STECKY, SECONDED BY MEMBER SHAW

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

R-10-240 RESOLUTION OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS AND STATE OF NEW JERSEY SUPPORTING THE "SUSTAINABLE LAND USE PLEDGE"

MOTION TO APPROVE R-10-240: MOVED BY MEMBER STECKY, SECONDED BY MEMBER KUSER

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

R-10-241 RESOLUTION OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS AND STATE OF NEW JERSEY SUPPORTING THE ADOPTION OF "IDLE FREE ZONES"

MOTION TO APPROVE R-10-241: MOVED BY MEMBER STECKY, SECONDED BY MEMBER GOLINSKI

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

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

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

MEETING ADJOURNED AT 9:18 P.M.

Respectfully submitted,

Kathleen A. Costello  
Deputy Township Clerk

