

TOWNSHIP OF DENVILLE
MUNICIPAL COUNCIL
WORKSHOP MEETING

JANUARY 11, 2011

The Meeting was called to order at 7:30 p.m. by President Kuser.

President Kuser announced that there will be an amendment to the agenda. He advised that the discussion on proposed adult oriented business ordinances is being removed and will be addressed at the February 8th workshop meeting.

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 all present that this is a non-smoking facility and anyone wishing to smoke must leave the grounds.

She also requested that cell phones be turned off or muted.

The Deputy Clerk advised President Kuser that Councilman Andes and Councilwoman Smith are both ill and will not be in attendance this evening.

ROLL CALL: GOLINSKI, SHAW, STECKY, FITZPATRICK, KUSER

ABSENT: ANDES, SMITH

ALSO IN ATTENDANCE: MAYOR HUSSA, ADMINISTRATOR WARD, CFO GOBLE
AND AUDITOR SARINELLI

Attorney Semrau arrived a short time later.

OPEN PUBLIC PORTION: No one wished to be heard.

CLOSE PUBLIC PORTION.

R-11-11 ESTABLISHING BUDGET WORKSHOP DATES FOR THE YEAR 2011.

Councilman Fitzpatrick advised that he may not be able to attend the February 10th budget meeting. He asked if the topic of discussion for that meeting has been decided. Administrator Ward replied that he does not know. He said that, except for the January meeting which will cover road re-surfacing and will be attended by the Engineer, no other topics have been scheduled. Mr. Ward noted that the reason for that is that the budget revenue figures will not be available in January so they won't be able to provide a projected budget to the Council for consideration. He said that a schedule will be formed after that meeting.

The Administrator commented that, since the 10th is the last meeting, it may or may not be necessary and he will leave it to the Council's discretion as to whether or not they want to leave it off.

President Kuser asked if Mr. Fitzpatrick is speaking of February 10th. Mr. Fitzpatrick replied that he is speaking of February 10th. Mr. Ward apologized for the confusion and stated that he has not scheduled any departments for any budget meetings beyond January 22nd and will leave that to the discretion of the Council.

President Kuser asked if there are any other conflicts with the dates.

Mr. Fitzpatrick noted that, if everyone else can make the February 10th meeting he is fine with it. He said that he will catch up either ahead of time or afterwards.

Mr. Kuser commented that, since no topic is scheduled for February 10th, we can work around it. Mr. Ward noted that the week of February 10th is a very busy one since there

is a meeting on the Tuesday before and the Saturday after, so he will leave it to the discretion of the Council if they wish to cancel that meeting.

Mr. Kuser suggested that it be left on for the time being and try to work around it because everyone should be present, if possible.

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

AYES: GOLINSKI, STECKY, SHAW, FITZPATRICK, KUSER

ABSENT: ANDES, SMITH

President Kuser advised that the next item for discussion is the Morris County Improvement Authority Arbitrage. He said that CFO Goble and Auditor Ray Sarinelli will explain this issue.

CFO Goble noted that she met with President Kuser, Administrator Ward and Mayor Husa, as well as Mr. Sarinelli, regarding this matter.

She explained that when the Township borrowed the money five years ago, from the Morris County Improvement Authority, they followed what they felt was the most prudent course of action. She said that they invested the money at the best rate of interest available. Mrs. Goble advised that she and Mr. Sarinelli were notified at the end of December by the County Treasurer that the firm that was hired to calculate the arbitrage advised the Treasurer that Denville had made too much money. She explained that arbitrage is the amount earned in interest versus the amount paid out on debt interest. Mrs. Goble noted that they were not able to give us the arbitrage figure at that time but advised us that we would be owing the IRS some money. She said that we finally received that figure today and it was determined that we must pay the IRS \$92,000. Mrs. Goble added that we made \$550,000 in interest, so it is not as if we were not doing anything with the money. She said that we could have "played safe" and put it in something with the same interest rate as we were going to be paying out. Mrs. Goble stated that, due to many factors such as the building taking longer to be completed, we were spending money faster than the project was being completed. She noted that she did what any good CFO would do - put the money where it would make the best interest. CFO Goble advised that we must now pay the arbitrage figure to the IRS. She said that this should have been calculated in May but, the company that the County hired just got this work done. Mrs. Goble advised that the County, since they were the lead on this, is going to pay any interest that may be due, which will amount to about \$1,200 and there will be no penalties involved.

Mrs. Goble noted that, having looked at all of our cash fund balances with Mr. Sarinelli, they have come up with the following schedule:

\$10,600 still in the ordinance for which the original loan was taken.

\$15,000 from reserve to pay debt service which is in our capital budget at the present time.

\$15,000 from Water capital

\$15,000 from Sewer capital, since both utilities paid for part of the bond

\$50,000 from our current fund.

Mrs. Goble stated that, in order to do this and have the funding in place, she is presenting two resolutions to the Council tonight.

1. Resolution authorizing the amendment of the Temporary Budget for Water and Sewer.

2. Transfer Resolution to transfer funds into the current fund budget.

She explained that this will allow the funds to be in place and the line items set when they make the payment next week.

President Kuser asked if there were any questions from the Council.

Councilman Golinski asked if he understands that there are no penalties and the County will pick up the interest. Mrs. Goble replied that is correct and noted that the Township came out on the plus side no matter how you look at it.

Mr. Golinski asked if the Township will incur any black mark because of this. Mr. Sarinelli said it is just a matter of how things come together and is not considered a black mark. He explained that the Township was earning interest to the tune of \$550,000 and, during the early stages of the phasing of the debt service, that money helped the Township to absorb that debt service cost in those budget years. He further explained that the arbitrage could have been avoided by certain exclusions, but the length of the project did not allow for that, so the arbitrage must be paid. He said that what is needed tonight is the authority to get a mechanism into place to spend the money because we are still in the temporary budget. Mr. Sarinelli stated that we need a temporary budget authorization and transfer resolution, so that all of the different pockets of money that are available are authorized to be spent.

Administrator Ward interjected that the place where the funding is coming from out of the current fund is from the 2010 Appropriation Reserves, so it will have no impact on the 2011 budget. He asked Mrs. Goble to touch on that.

Mrs. Goble explained that this obligation was incurred in the year 2010 and, had we known, we could have put it on the transfer resolution that was presented to the Council in December. She added that, since it was incurred in 2010, you will see on the transfer resolution that it is being transferred from the 2010 budget and it will not have a negative impact going forward.

President Kuser noted that the Water and Sewer Departments, each of which will provide \$15,000 towards the arbitrage, were a part of the bonding as well - it was not just for the building. Mrs. Goble replied that they pay a portion of that debt service every year. She added that there is an additional item in the transfer to cover the snow removal from the last snow storm.

President Kuser asked about the Social Security item in the transfer resolution.

Mrs. Goble explained that it is what is left in the 2010 budget because it was not spent.

Mr. Kuser questioned the figures for the temporary budget amendment under R-11-12 and Mrs. Goble explained that it is \$15,000 from Water and \$15,000 from Sewer for a total of \$30,000 on this resolution.

R-11-12 RESOLUTION AUTHORIZING AMENDMENT TO THE 2011 TOWNSHIP
OF DENVILLE TEMPORARY BUDGET
MOTION TO APPROVE R-11-12: MOVED BY MEMBER SHAW, SECONDED BY
MEMBER GOLINSKI
AYES: SHAW, GOLINSKI, STECKY, FITZPATRICK, KUSER
ABSENT: ANDES, SMITH

R-11-13 RESOLUTION AUTHORIZING THE TRANSFER OF CALENDAR YEAR
2010 BUDGET APPROPRIATION RESERVES
MOTION TO APPROVE R-11-13: MOVED BY MEMBER SHAW, SECONDED BY
MEMBER FITZPATRICK
AYES: SHAW, FITZPATRICK, GOLINSKI, STECKY, KUSER
ABSENT: ANDES, SMITH

President Kuser introduced Liisi Lescaro to present a re-cap of the Denville Farmers' Market and Kristen Pamprin, Denville Chamber of Commerce.

Ms. Pamprin advised that she is the President of the Denville Chamber of Commerce and that she would like to thank the Council for their assistance in establishing the Farmers' Market. Ms. Pamprin spoke about the advantages that the Farmers' Market have brought to the businesses in the downtown area and to the town in general.

Ms. Lescaro also thanked the Council and then gave a power-point presentation, a copy of which is attached to these minutes.

Some of the major points of her presentation included:

- The building of a regular customer base.

- All vendors experienced better sales than expected.

For 2011:

- Vendors would like to keep same market hours.

- Start one week earlier, making dates of market from 6-19-11 through 11-20-11 for a total of 23 weeks.

- Vendors want to attend Rotary Street Festival and occupy their own corner.

- Market wants to organize more food tasting events involving local restaurants and include weekly live music.

- Vendors are interested in a winter market indoors.

Ms. Lescaro requested the following changes to the current Farmers' Market ordinance:

- Permission to have alpaca farm sell yarns, knitted items and hold an alpaca petting zoo.

- Current ordinance limits sales to local and regional farm grown produce and baked goods. A change is requested to include, with limited exceptions, nursery products, flowers, hand-made soaps, candles, body care products and non-food animal products.

- Permanent signage is requested for the site.

President Kuser asked if there were any questions.

Councilman Fitzpatrick thanked the ladies for the fine work with the Farmers' Market. Mr. Fitzpatrick asked the attorney to clarify if any of the changes that are being requested actually require a change in the ordinance. He also mentioned the use of electricity at the site and how it might be charged to the vendors.

Administrator Ward advised that a permanent electric service was installed by J C P & L at the end of the Market season. He said that he spoke with Ms. Lescaro before her presentation and explained that something will have to be worked out next year, since we have no base to determine what the Farmers' Market use will be, over and above what the DPW use is.

Mr. Fitzpatrick noted that he thinks the addition of live music is great but also questions whether an ordinance change or some kind of permit is needed. He said that he would like to see a better system for covering and filming live events in town. Mr. Fitzpatrick noted that he supports all of the suggestions but would like feedback from the attorney and would like to have a discussion on them at a workshop.

Councilman Stecky advised that he and his wife attended the market often and were very pleased with it and will be glad to have it back. He said that, looking at the enhancements that are being proposed, in his opinion, it appears to be a change to a street festival rather than a farmer's market. Mr. Stecky stated that, although that may not be a bad thing, we need to discuss it at a workshop. He said that he approves of the alpaca petting zoo as well.

Ms. Pamprin interjected that, from the Chamber's standpoint, as long as the products are not second-hand items, they would be acceptable. She noted that if products such as honey or hand-made soap that are produced on the farm are being sold, it is still very much the market mentality.

Ms. Lescaro added that the bottom line for the Farmers' Market is that the products must be produced by the farmers.

Councilman Shaw stated that he likes the concept and thought it was good right from the start. He said that keeping it a Farmers' Market is very important because it could turn into a Flea Market if care is not taken.

Councilman Golinski thanked the ladies and noted that what particularly excites him about the market is the participation of so many Denville businesses.

Mr. Golinski asked for clarification on which items that have been recommended need an ordinance change. He cited the following recommendations:

1. Electricity - no ordinance change needed.
2. Change of starting date - no ordinance change needed.
3. Language change to allow farm-based products like alpaca yarn - ordinance change is needed.

Mr. Golinski stated that they did a great job with vendor selection and management.

Mr. Kuser gave kudos to the ladies for the organization and running of the market. He said that it will be tentatively scheduled for the February 8th workshop meeting for discussion on the ordinance changes. Mr. Kuser commented that, hopefully, we will have a full Council at that time. He invited Ms. Lescaro to attend the workshop for her

input.

President Kuser reiterated that the Adult-oriented Businesses discussion will not take place this evening. He said that it has been re-scheduled for the February 8th workshop. President Kuser noted that the next agenda item is a request by Councilman Stecky to discuss referendum items.

Councilman Stecky stated that even before he became a member of Council he was concerned about big ticket items. He said that when he was campaigning, many people complained to him that they felt that they were not fully part of the process. Mr. Stecky noted that people wanted to have a say in the spending on large ticket items. He said that he asked the Council what could be done on items that had a cost of, noting that this is a flexible number, \$1 million dollars as capital budget items. Mr. Stecky advised that he asked Attorney Semrau if there is a way to have a binding referendum for the taxpayer to weigh in on large ticket items. He turned to Attorney Semrau to give a synopsis of what his response is to that question.

Attorney Semrau noted that he had looked at this in 2009 and sent a memo to the Governing Body. He said that he took it a step further and checked to see if there could be an ordinance that required a referendum for an expenditure over \$1 million that would be a binding type of referendum. Mr. Semrau explained that the law only provides for a binding referendum under certain circumstances and it must be initiated by members of the public. He said that the Governing Body can ask for a non-binding referendum to hear what the public has to say about any type of issue or expenditure. Mr. Semrau repeated that it would be non-binding and, under certain circumstances, would be a special election with a cost attached to it. He advised that, to have an ordinance that would say that there must first be a referendum before any expenditure over \$1 million, would not necessarily be permitted by law. Attorney Semrau added that a non-binding referendum may be permitted but that would mean that you would be asking the public for input and then come back and make a decision.

Mr. Semrau, referring to items that would generate public interest, explained the process for passing a bond ordinance. He noted that there is a first reading, followed by a public hearing before it is voted on; it is also advertised in the newspaper prior to the public hearing. Mr. Semrau advised that it is one way that the public can participate. The Attorney further explained that if the bond ordinance is over \$1 million, it would require a super majority vote of the Governing Body. He said that is another way to insure that there is a very determined policy to expend those funds.

Mr. Semrau advised that, after a bond ordinance is adopted, there is a period of 20 days during which time the public can file a petition with the Clerk containing a requisite number of signatures, that can contest the bond ordinance and have a special petition-type of election to overturn it. He said that it is a straight-forward process.

Mr. Semrau commented that this is another way in which the public can participate and participate in a way that would effectuate a change or a disagreement of the policy. He said that there are mechanisms that are available, such as the Governing Body

having two public hearings or asking the Clerk to advertise in such a way that it would gain additional public interest.

Attorney Semrau recalled that in 2008 the Mayor called his own special meeting regarding the sewer extension and, later on called a special meeting regarding the Highlands. He said that the Mayor was seeking feedback and that it is perfectly permitted to encourage the public's participation in the process.

Attorney Semrau noted that, relative to a non-binding referendum which on paper sounds like a very helpful suggestion, from a practical standpoint could create a problem if it were an ordinance. He said that he is saying this from the stand point of the Township conducting its business based on what its needs are.

Mr. Semrau gave an example of having an ordinance establishing a non-binding referendum anytime \$1 million is to be spent, noting that legally you could not have a binding referendum, stating that it would cause a practical complication. He said that there is a timing issue, financially, for going forward with these types of ordinances.

Mr. Semrau noted that it must be kept in mind that the Courts have said that with binding referendums, when it comes to budgetary issues, residents really do not have the right for an initiative and referendum. He said that when it comes to a policy decision of some sort, such as Police Departments, shared services and structures of Government entities, there have been a number of referendums. Mr. Semrau added that, when it comes to the expenditure of funds, the Courts and Constitution say that you are elected to make these decisions. He said that the Governing Body can certainly encourage the public's participation, which is a very good perspective to all of this. Mr. Semrau added that to bind themselves, based on the public's referendum, would not be acceptable under the Constitution because it is a budgetary issue and the "buck stops here".

He said that there are a number of ways that the public can be involved: special meetings, encouraging public participation and the public may participate, even after the vote, by way of a challenge to repeal the bond ordinance.

Attorney Semrau stated that the Council President can take questions at this time but, from a practical standpoint, he believes that the discussion should be about a non-binding referendum. He said that, in the event that the Council were to all agree that relative to a certain project, they would like to have a non-binding referendum, how would that impact the administration of government.

President Kuser agreed since, in Mr. Semrau's opinion, a binding referendum is impossible. He noted that it is starting to snow and our CFO has a long trip home, so he would like to hear from her and from Mr. Sarinelli on this issue.

CFO Goble advised that she has discussed with Mr. Sarinelli and Mr. Ward what the impact would be on all of us. Mrs. Goble noted, as an example, that if there was a road project to be done and we had to wait for a non-binding referendum to go on the November ballot, and wait the 74 days prior to that, any emergency that arose during that 74 day period, the project would have to be delayed or stopped altogether. She said that this is opposed to being able to expedite the need, as Mr. Semrau stated, with

all the ways available for the public to be involved. CFO Goble commented that there is so much financial information that you need to have before these decisions for major projects can be made; she noted that there is no way that the average resident would be able to know all of the intricate financial details just by putting a question on a piece of paper that asks if you approve or disapprove. Mrs. Goble stated that her feeling is that the best way to do this is to have enough public hearings. She said that we now have a sign board to advertise hearings on, we have our web site and we have newspapers to alert the public of hearings, if that is the concern and why we are looking into this. Mrs. Goble added that we can let the public know what we are planning to do and open the floor to their questions and let the discussions happen. She said that she believes that the average citizen would not know what questions to ask regarding any issue that is put on a referendum ballot.

Mr. Semrau interjected that it is a very good point. He said that a governing body may say that it would be guided by whatever the outcome is of this a non-binding referendum and then have a group of individuals who want that funding skew the election so that you are bound by it. Mr. Semrau commented that the governing body would no longer be addressing all of the members of the public, if they are coming in on one question, it may be just the group that is polarized one way or the other that is suddenly making the decisions.

Mr. Sarinelli added that the process of passing a bond ordinance requiring a two-thirds vote, a public hearing with a 20 day period before it can be implemented, creating an opportunity to have it repealed, has been around for a very long time. He said that, from his view, it has met the public's needs. Mr. Sarinelli advised that he and Marie have spoken briefly about this and his view of the Council is that they must look at the whole picture of where they are financially, what your current debt burden is, what your future debt burden is going to be, what other capital needs you have and make an assessment relative to all of the input that you have received. He said that if they put one item, or a combination of items out to the voters, they will be looking at one piece of the picture rather than the whole picture and it may win on a popularity contest or it may win, or lose, because it is in a certain section of town, or there might be an interest group that is highly motivated that can have it approved or disapproved. Mr. Sarinelli stated that there has been a tried and true practice in place for the 35 years that he has been in his profession. He said that, aside from isolated incidents where the public feels they did not have enough input, it has been a fairly successful process. Mr. Sarinelli commented that, given all of the things that have been in place for that period of time, and the fact that the Council has a more global view than the public might have relative to that one specific topic, he is comfortable with the process that exists.

Mrs. Goble noted that she is aware of two towns that had bond issues repealed: one was a garbage issue and one was to buy a piece of property. She said that there are mechanisms out there and that there must be a reason that the law is on the books that causes us to do things the way we do.

Mr. Semrau advised that he was involved in one of those incidents and it occurred after

the fact. He reiterated that additional public hearings can always be held. Mr. Semrau added that a referendum takes a lot of the decision-making process away from the Governing Body and the resources and advice that you have and may put it out of your reach and put it in the hands of a few, as opposed to everyone.

Administrator Ward commented that the only thing he would add is to re-emphasize the concern he would have as to the time-lag and delays that could be caused, depending upon the nature of a project. He said that it could be very important, for instance in the case of the purchase of open space, negotiations or road improvements. Mr. Ward noted that his concern would be getting the job done if it is of a critical nature and the delay that a referendum might cause.

Mayor Husa advised that he has spoken to Mr. Stecky and also spoke with County Clerk Joan Bramhall a couple of times about this when it first came up. He said that it is everything that Attorney Semrau has said and is non-binding, at best. Mr. Husa stated that the public can put a referendum on there just like anyone else, they just have to do it by August in order for it to be on the November ballot. He said that it is his opinion that this is what the Council is elected to do; to hold public hearings to inform the public but, ultimately, it is their decision to do these things.

Councilman Shaw stated that he has one comment. He said that the sewer project was very unpopular and where are the Council people now, who pushed that through. Mr. Shaw noted that they are not up here anymore and that is what happened to those people who made that decision. He said that the project was very unpopular, the Council did not listen and where are they.

Councilman Golinski asked if, when the sewer bond ordinance was passed, could the residents have taken advantage of the 20-day period to contest the ordinance. Mrs. Goble and Attorney Semrau replied that they could have. Mr. Golinski said that they chose not to. Mr. Stecky said that wasn't the case.

President Kuser commented, for clarification, that under referendum rights to contest the ordinance, it is 10% in the amount of the assessed valuation of such municipality. Mr. Kuser asked what the cost of the sewer project amounted to. Mayor Husa was not sure but thought it to be about \$5 million. Mrs. Goble interjected that it was \$5 million. Mr. Kuser said that it would be the people that were directly affected by the ordinance. Mr. Semrau replied that is correct, in that case it would come out of that ward. Mr. Kuser noted that 10% of the people in that area would have to come out and there is a process for them to do that. Mayor Husa asked if there is a formal County petition that they have to get. Mr. Semrau replied that, that has to do with one particular area of the Township so it would be based on the total population in that one Ward. The Mayor said that it would be any sewer people, because there were some in Ward 4 and Ward 1 as well. Mr. Semrau replied that it is the most limited number when you challenge a bond ordinance.

Mr. Golinski asked for clarification as to whether or not they could have used the 20-day period to challenge the bond ordinance. Mr. Semrau replied that they could have.

Mr. Stecky stated that he was in the thick of that and his group was not aware of what

Mr. Semrau has just explained. He said that they would have used it and would probably have had enough participation to pull it off. Mr. Stecky noted that his anti-sewer group circulated an "unofficial referendum" among the residents in the sewer area and had about an 80% vote for the referendum. Mr. Stecky related his group's attempts to sway the Council with petitions and added that they had no advisor to guide them through the legalities. Mr. Stecky advised that he was the one to ask for the matter to be put to a referendum and his group would agree to the outcome. He said that Gene Feyl claimed that the majority of the people were for the sewer project and Mr. Stecky insisted that the clear majority was against it.

President Kuser asked Mr. Stecky to refrain from speaking about specific individuals. Mr. Stecky stated that the Council paid no attention to his group's petitions.

Mr. Golinski commented that he has heard one instance where it could have been used and has heard several reasons from Mr. Semrau and Mrs. Goble as to why it might not be a good idea. He asked Mr. Stecky if he had any thoughts on what benefits it may be, or how it might be used in the future.

Mr. Stecky responded by speaking at length about the School Board and how it handles its problems, and about the referendum that defeated the proposal to build a new school.

Mr. Golinski commented that he is trying to make a list of the pros and cons, in his mind. He said that he has heard, on the con side, of the urgency of some projects and he heard about the sewer project and how the referendum could have been used. Mr. Golinski stated that he is trying to hear some of the benefits in our realm, which is different from the school situation.

Councilman Shaw commented that we may not know what those situations are going to be until they come up.

Mayor Husa stated that he is not spending any million dollars.

Mr. Shaw said that we would have to deal with it when it comes up.

Mr. Stecky noted, with regard to interfering with, or delaying, a project, that the reality is that a multi-million dollar project will arise only once every few years. He said it is not something that will come up several times a year; it will occur perhaps once in five or ten years.

Mr. Stecky stated that he knows there is a process in place with the public hearings and the ordinance process which has multiple stages. He said that the thing that annoys him is that he did go to public sessions about the sewer and was blown off. Mr. Stecky commented that is the concern that he, and the taxpayers that he is close to, have.

Mr. Stecky stated that the budget for the new Municipal Building "blew up"; he said that the original cost was approved at around \$4 million or \$5 million. Mrs. Goble interjected that the cost was never projected to be \$4 million, that was a rumor. She said that she was involved with the bonding and the building and she believes that \$7 million was the lowest that was ever anticipated.

Mr. Golinski asked how much a referendum would cost.

Mr. Stecky said that there would be no cost because it would be incorporated into the

General Election.

Mr. Kuser stated that it would definitely cost money. Mr. Golinski said that it would then have to wait for a year.

Mr. Stecky noted that the time-line on the project that he has in mind, is going to have a multi-year time-line.

Mayor Husa related an incident in North Brunswick, concerning a capital project, that was challenged by the public and was repealed. He said that he will research it and share the details with the Council.

Mr. Kuser advised that it is a tool that has always been there. He asked Mr. Stecky if he had anything further on this subject.

Mr. Stecky thanked the Mayor for bringing up that issue. He said that the point is that, at some point along the way, the taxpayers need to know and understand that they have the ability to do this. Mr. Stecky stated that he, and the other sewer people, hired a lawyer and he would never use him again.

Mr. Kuser suggested that Mr. Stecky go after him to get his money back.

Mr. Stecky added that the lawyer did not advise his group of this process.

Councilman Fitzpatrick stated that he didn't like a lot of things that were done when he wasn't on the Council but that the Council has to step up and do their job now. He said that he believes that it is his job to tell the public what is going on. Mr. Fitzpatrick noted that, if he is not doing his job, the people will vote him out. He said that he was never opposed to referendum but, looking at it more closely, it can inhibit a lot of the governing that has to go on.

President Kuser stated that he knows that there is an added expense involved in putting a referendum on the ballot. CFO Goble noted that the question of cost could be best answered by the Clerk's Office, since elections are handled out of that office.

Mr. Kuser requested that Township Clerk Donna Costello be asked to e-mail the Council regarding the expenses involved in a referendum election.

Mr. Kuser asked Attorney Semrau if any other towns that operate under the Faulkner Act type of government do this. Mr. Semrau replied that he has not seen it happen.

President Kuser noted that we spend millions of dollars on Open Space and a ladder truck could cost three-quarters of a million dollars. He said that Mr. Stecky did not nail down an amount. Mr. Kuser asked Mr. Stecky, if the information regarding a public referendum is put on the web site to educate the residents of this avenue, would he feel better. He said that what Mr. Stecky is proposing is a non-binding referendum, that would cost the town money, that the Council can then just ignore.

Mr. Kuser stated that we could educate the public and, perhaps, print the right to appeal in the newspaper. Mrs. Goble interjected that we do print that now. Mr. Kuser said that he means the right to appeal.

Both Mr. Sarinelli and Mrs. Goble advised that, when a bond ordinance is printed, it includes the information that the public has the right to appeal within 20 days. Mr.

Semrau commented that, along those lines, it could state that the information on appeal is on file in the Clerk's Office.

Mr. Kuser said that, if there is a petition to appeal an ordinance, the Clerk should know how to file the public appeal. He stated that the Council wants to be on the up-and-up with the citizens of Denville and asked Mr. Stecky if that would be o.k.

Mr. Stecky replied that it would.

Mr. Kuser asked what the next step would be if 10% of the citizens signed a petition and brought it to the Clerk.

Attorney Semrau replied that it then goes to a vote. He said that the petition has to be filed in a certain manner and within a short period of time. Mr. Semrau advised that there would then be a special election to repeal the ordinance. Mrs. Goble added that, once the ordinance is repealed in the special election, the Council would have to start over again.

Councilman Shaw commented that one of problems is that all of the signatures on a petition have to be verified by the Clerk. He said that is a lot of work for her and her assistant.

Mr. Stecky said that is part of governance and it is their job. Mr. Stecky reiterated that he does not envision this happening every year, or even every two years, it would be a single, long-term event.

Attorney Semrau advised that he could confer with the Clerk and Administration and, at a future meeting he would present a provision to be printed with a bond ordinance regarding the tools available to the public.

Mr. Kuser asked if the matter would then go to a binding election that would be town-wide and require a simple majority.

Attorney Semrau commented that at least, under those circumstances, there would be an actual ordinance that people can understand and look at, as opposed to a question in the abstract.

Mr. Stecky noted that it is not exactly what he was looking for, but it is close and provides a pathway for the public.

Mr. Kuser said that he thinks it is better.

Mr. Fitzpatrick agreed with Mr. Kuser and added that he would like to see the cost involved and would like the public to know the cost.

Mrs. Goble interjected that the last special election, that was held a couple of years ago, cost the town about \$7,000, and that was for one Ward. She added that, if you are talking a town-wide election, it would be a greater cost.

Mr. Shaw said that's why it is important to get it on early so that it can be included in the General Election.

CFO Goble replied that may not be possible. She said that if we were notified, by the State, that we had to do major work on the Cook's Pond dam and it was a \$2 million improvement, we would not be able to delay it, our hands would be tied. Mrs. Goble noted that what she is hearing, especially from Mr. Stecky and Mr. Shaw, is that there was not enough information given to the public. She said that if that is the issue here, then it

is up to the Council to make sure that the public is informed in every way possible.

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Mr. Kuser asked if anyone had any further questions or comments. No one responded.

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

AYES: SHAW, FITZPATRICK, GOLINSKI, STECKY, KUSER

ABSENT: ANDES, SMITH

MEETING ADJOURNED AT 8:46 P.M.

Respectfully submitted,

Kathleen A. Costello
Deputy Township Clerk