

TOWNSHIP OF DENVILLE  
MUNICIPAL COUNCIL  
REGULAR MEETING

APRIL 5, 2011

The Meeting was called to order by President Kuser at 7:30 p. m. 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 Costello. Mrs. Costello requested that all cell phones be either muted or turned off and reminded everyone that this is a non-smoking facility. She said that anyone wishing to smoke must leave the grounds.

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

President Kuser noted that the workshop meeting on 4-12-11 will begin with a Closed Session at 7:00 p.m. He advised that Health Officer Norgalis and Facilities Manager Ciardi are also in attendance tonight.

President Kuser commented that R-11-75, 75A and 75B will be discussed under Matters of Old and/or New Business.

President Kuser stated that there will be a power point presentation by the Indian Lake Community Club regarding North Shore Road.

John Fisher, President of the Indian Lake Community Club came forward to make the presentation. He distributed a handout to the Council, a copy of which is available in the Clerk's Office.

Mr. Fisher explained that the presentation concerns the North Shore Road retaining wall. He said that the wall is in disrepair and he would like to give a brief history of the wall and ask the Township to assist Indian Lake in remedying the situation. Mr. Fisher noted that they consider the wall to be unsafe. Some of the highlights of Mr. Fisher's presentation were:

1. Deed, dedicating North Shore Road to Township.
2. Old dirt road and Indian Lake earthen dam.
3. Screw device on top of spillway, used to control water
4. Shows the change in the height of the road due to paving, etc.
5. Original wall and fencepost.
6. Indicates that road is higher than the wall and wall is collapsing.
7. Indicates paving done over sidewalk, causing drainage problems.
8. Road raised about two feet when new bridge was built.
9. Article from Daily Record indicating the Township would take over all roads in Indian Lake. The article was dated 9-8-60.
10. Letter dated 9-2-60 from then-Mayor Robert Cronk advising the, at the completion of the sewer project, the roads would be repaired and the Township would take over maintenance of the Indian Lake roads, without State aid.
11. Letter from Eric J. Ditchey, P. E. attesting to the poor condition of the wall and its

use as a support of the road, utility poles and sidewalk.

12. Letter from Bertin Engineering Assoc., Inc. 8-19-10 recommending replacement of North Shore Road wall, regular maintenance for East Shore Road wall.

Mr. Fisher noted that he is here to ask the Township to see if we can get the retaining wall fixed to satisfy the safety issues of North Shore Road.

President Kuser asked that Mayor for his comments.

Mayor Husa noted that this whole issue started before his time. He cited a 2006 letter from then-Mayor Gene Feyl indicating that part of the problem with the wall falling down was a maintenance issue. He advised that, between 2007 and 2009, there was \$5,000 in the budget for the wall. The Mayor stated that they met several times with the ILCC and, having that \$5,000, talked about various options but nothing was mutually agreeable.

He commented that, in 2009, he proposed a three-way partnership with the County, Denville Township and the ILCC and that was not acceptable to the ILCC. Mayor Husa advised that in 2010 the Township raised the amount in the budget to \$9,000 but our hunch was proven to be true that the wall is actually not on Township property. He said that has been an overriding factor for the Township because we really can't go onto private property to fix walls and things. The Mayor noted that he previously proposed that the wall, in a joint effort, be repaired. He said that at least two other engineering reports have indicated that sumac and trees have not been removed from the wall, causing more damage. Mayor Husa advised that the ILCC has been admonished to maintain the wall and, to this day, there is still sumac growing in the wall. The Mayor stated that when it is clearly perceived that a maintenance issue is our responsibility, we are right on it. He said that with East Shore Road, as soon as it was determined that it was in the Township's right-of-way, we went right out and spent \$11,700 and fixed it. The Mayor noted that the Township would like to help with North Shore but, quite frankly, what the town has put on the table the ILCC has not accepted.

He said that the Township wants to have this repair done and they are ready to go another round. Mayor Husa advised that he had a meeting on Monday, and on Tuesday was out at the site with a bona fide mason.

The Mayor noted that it is his understanding that the ILCC's position is that they do not claim any responsibility for the wall because they contend that it is merely there to hold up the road. He said that they indicate no willingness to partner with the Township in this project. The Mayor noted that it makes our position easier and clearer that we will now fix the wall. He said that is his position at this time, but it won't be completely refurbished because, if they do that on ILCC's property, all the other lake communities will be lining up for some kind of assistance. Mayor Husa added that the Township Attorney's opinion is that the Township is not obligated to fix that wall. He advised that, after hearing ILCC's position on Monday, he has obtained an estimate from a local mason and would like to discuss it with the ILCC. The Mayor noted that he was on site with the mason at 8:30 this morning, the mason inspected the wall and said he will guarantee the repair for five to ten years.

Mr. Fisher replied that the road is higher than the wall and asked if that will be addressed so that the water drains away from the wall. Mr. Fisher added that their engineering study specifically states that the salt and the water from the drainage system is a major contributing factor. He said that he thinks if the water is directed away from the wall it would be plausible for any lake community. The Mayor replied that the mason would install "weep drains" which would take care of any drainage.

He said that he and Mr. Ward have discussed this and agree that there should also be some capping of the sidewalk area. Mr. Fisher said that sounds great.

Mayor Husa commented that we have had this on the table before and, hopefully, this time it will work. Mr. Ward advised that the Township will need an access agreement from ILCC in order for the mason to work on the wall.

Councilman Golinski expressed his appreciation for the work that the town did on the East Shore Road wall. He then asked for clarification of the Attorney's memo regarding responsibility for the wall. Attorney DiYanni replied that he cannot speak for Attorney Semrau since he does not know what information Mr. Semrau had when he rendered the opinion.

Mr. Golinski asked for Mr. DiYanni's opinion as to whether, having erected pylons or a retaining wall to hold up a road above private property, it would be customary for a town to maintain those things to hold up the roadway or would they expect the homeowner to do it.

Mr. DiYanni replied that he does not think it happens very often in a municipality and he sees two conflicting engineering reports so he can't weigh the credibility as to exactly what the facts are. He said that the truth probably lies somewhere between the two reports. Mr. DiYanni noted that if the road was damaged so that it became a dangerous condition, and the Township is now aware of that possibility, it could become an issue down the road. He said that it is too much of a grey area to speculate on the Township's responsibility.

Mr. Golinski noted that this Council and previous Councils believed that there was at least some responsibility on the part of the town to help get this wall fixed.

Mr. Fisher asked if by "two conflicting engineering reports" Mr. DiYanni is referring to the one that the ILCC obtained versus the one that the town obtained. Mr. DiYanni replied that he is talking about what the Mayor just mentioned, that in the past the vegetation was part of the reason that the collapse is occurring.

Councilman Stecky suggested that, at a future workshop, the Council consider a maintenance ordinance for something like this in order to be able to assign responsibility.

Councilman Shaw mentioned that last summer he went to Johnstown, PA. where they had a dirt dam and, after three weeks of rain, the dam gave way. He said that the town was wiped out and thousands were killed, so it can happen. Mr. Shaw stated that he thinks everyone involved has a responsibility to get something done quickly.

Councilman Fitzpatrick thanked Mr. Fisher for the fine presentation he gave and also the Mayor and Administrator for the plan to go forward. Mr. Fitzpatrick commented that

he thinks there should be three next steps:

1. The Council needs a current legal opinion.
2. A written proposal to the Council and ILCC detailing what will be done. The Mayor replied that there will be such a proposal and added that it is the same one as was offered in 2008,09 and 10. He said that in 2010 the offer was raised to \$9,000.
3. Going forward, it needs to be clearly determined exactly where these boundaries are who is responsible for what.

Mr. Fitzpatrick noted that he has always been of the opinion that the wall is supporting our road and is something that the town has to have responsibility for.

The Mayor stated that his goal is to have this work begun in May.

Councilman Andes remarked that if anything happened to that bridge, one whole side of Indian Lake would be without protection from fires because the fire trucks would have to take a huge detour. Mr. Andes asked if the town has funding for this.

Mr. Ward replied that funds have been appropriated in the 2011 budget.

Mr. Andes asked Mr. Fisher about changes in the shore line.

Mr. Fisher referred to one of the slides and noted that the shore line has moved eight to ten feet to the left and the wall is a cement poured wall all along the dam, which was originally not there. Mr. Andes noted, from the second slide, that the road appears to be a great deal wider and asked if anyone knew who put the wall in when the road was widened. Mr. Fisher replied that he does not have any information on that. Mr. Andes said that it would be a key piece of information.

Mr. Ward explained that an extensive search revealed no clear records old enough to be of any help.

Mr. Andes asked if the repair that the Mayor is talking about is the same kind of simple repair that we did on the east side. Mr. Ward responded that it is not. He said that on the east side a wall was constructed in front of the existing wall. Mr. Ward explained how the repair would be done by filling in the gaps and noted that the sidewalk would be capped as well.

Mr. Fisher said that one of the things that the engineering study addressed was the wall's life expectancy. He noted that, as long as the town is happy with the engineering report that the wall is structurally sound to hold up the road, the ILCC is fine with it. Mr. Fisher added that, if the not, then they have to make a decision as to whether they are happy with the integrity of that wall. He said that if it's not sound enough to hold up the road then it doesn't make sense to do it.

Mr. Ward advised that the Township will have our Engineer take a look at it and the mason indicated that he will give a written guarantee for a three to five year period, but feels that the wall will last about ten years, or longer.

Mr. Andes asked if the picture showing a pipe coming out of the wall is a storm drain.

Mr. Fisher replied that he thinks that it was an attempt at a weep hole but it is on the top of the wall and should be at the bottom.

Mr. Andes stated that he doesn't believe in throwing good money after bad and thinks

that we should do the job right.

Councilwoman Smith commented that this problem has been around for a long time and we have not reached an agreement in the past. She said that it almost feels like we are putting a band-aid on, saying it's guaranteed for three years or it'll be good for five years or ten years. Mrs. Smith asked what happens then in five to ten years from now. She said that her concern is:

1. We need to address a dangerous situation.
2. Although we are in the showery month of April, she does not think we need to wait until May.
3. What are the next steps.

Mrs. Smith noted that she is not comfortable with the 5 -10 year span because it will then come back to a Council that does not have the history of it that this Council does. She asked if Administration sends ILCC a proposal do they then have to provide easements. Mr. Ward replied that they would have to provide access.

Mrs. Smith asked if ILCC would provide access if the solution is acceptable to them. Mr. Fisher said that is correct. Mrs. Smith noted that she is concerned about the solution and the cost.

Mr. Ward replied that, in meeting with the mason this morning, he was advised that the wall is near the end of its life expectancy. He added that in 15 to 20 years a new wall will have to be constructed. Mr. Ward noted that if a wall, similar to what has been done on East Shore is done in the future, it will have to be shored up at some point anyway. Mrs. Smith asked if the mason looked inside the wall with lights and a camera or did he just rely on an external visual. She asked what the cost is for what is proposed now and the cost for a longer lasting solution.

Mr. Ward replied that a repair of the existing wall would cost \$4,500; the actual replacement of the wall, using a similar material as was used on East Shore, would be in the \$30,000 range.

Mrs. Smith noted that the \$4,500 job would last three years. The Mayor and Administrator interjected that the guarantee is 3 -5 years. Mr. Ward added that the mason's expectation, through his experience, is that it would be more like ten years. He further explained that the mason did not want to give a longer guarantee because of the work that the Township will be doing on the sidewalk.

Councilwoman Smith asked Mr. Fisher if, should the town opt for a more substantial solution, would Indian Lake contribute and can we go for that more substantial solution.

Mrs. Smith said that she does not need an answer now, but it is something that needs to be considered. She suggested that making it a capital item of \$30,000, with Indian Lake helping to pay the bond over a period of time, may be the solution.

Councilman Shaw commented that he disagrees with Mr. Andes about the west side of the Indian Lake community being in danger if the road collapsed. He asked, rhetorically, what they did when the dam was being built. Mr. Shaw noted that fire apparatus just followed pre-determined detour routes. He said that he does not think anyone's safety is  
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at risk.

Councilman Stecky noted that there is both a short and a long-term problem here. He said that Mrs. Smith is talking about the long term and we are aware that there is that type of problem with the entire wall. Mr. Stecky said that, in the meantime, we have the road in danger of collapsing because of the wall and if we do this relatively simple, inexpensive repair, it buys us three to five years. He said that it gives us time to determine the engineering solution and figure out the funding. Mr. Stecky added that we then come back to the problem of using taxpayer money to fix something that may, or may not, be on private property. He said that his recommendation is to come up with a near-term solution that everyone is happy with, through negotiation, and then work on the longer term solution.

President Kuser stated that, in his opinion, the wall is not safe and is starting to bow out. He said that he knows that the wall is on Indian Lake property. Mr. Kuser asked Attorney DiYanni if it is incumbent upon a property owner to hold back that wall which holds up the town's road.

Mr. DiYanni replied that it comes back to the chicken or the egg; if the road collapses, is it due solely to the retaining wall's lack of maintenance or was it due to other factors. He said that it would all depend on what would happen to our road and why that condition would occur.

President Kuser commented that, on Palmer Road where the Berkshire Hills condominiums were built, block retaining walls were put up and the road was widened. He said that Engineer Nick Rosania informed him that those walls are the Township's responsibility and they are also deteriorating and falling down. Mr. Kuser stated that he can't see how Indian Lake can be responsible to hold up our road. He said that we paved it higher, the water is pitched into it, going behind the wall and pushing it out. Mr. Kuser added that the trees may actually be holding the wall back with their roots. He said that the water is getting behind the wall, freezing and pushing the wall out and repointing the wall will not keep it from happening again. He went on to say that this is a major project and it has to be taken care of. Mr. Kuser noted that there was \$15,000 in an account and we spent that on the East Shore wall. He said that it seems, all of a sudden, that the East Shore wall is our responsibility, but the North Shore is not, and we set a precedent by going on the East Shore property. The Mayor interjected and told Mr. Kuser that the East Shore wall was clearly in the Township right-of-way. He said that they are two totally different situations, since the North Shore wall is clearly not on our property.

Mr. Kuser spoke about the road being higher than the wall, causing the water to run off the road and behind the wall, thereby, undermining the wall. He said that he feels that the town has some responsibility and that is for Administration to work out. Mr. Kuser further stated that, as a Council person, he feels it is a safety hazard and it is absurd that it has gone on for this long. He said that when the Mayor was running for office, he said that he would address the issue and nothing has happened. Mr. Kuser commented that he thinks that the wall that was built on East Shore is the answer. He said that it Township Council

could be built and last hundreds of years.

The Mayor responded that, on Monday, Mr. Fisher stated that he did not want a wall extruding out from the current wall. Mr. Fisher explained that he does not want a wall that will interfere with the landing that is there and is used by boaters and Indian Lake members. He said that he would like to see whatever the solution is, be built as close to that wall as possible. The Mayor noted that Mr. Fisher had said that he didn't want a new wall sticking out. Mr. Fisher said that, basically, they have to live with what is being offered. He said that the East Shore wall extended about 30 inches into the ILCC property and they would be able to live with anything less than that for North Shore. Mr. Kuser asked the Mayor if the wall could be built on Township property. The Mayor replied that we could get a ball park figure on that from Mr. Ruschke.

Mr. Kuser stated that we need to do something because it is a safety issue. He said that he would like to poll the Council regarding what remedy should be taken. Mr. Kuser noted that Mrs. Smith had said that the \$4,500 remedy is no more than a band aid and he thinks it is a waste of money.

The Mayor commented that President Kuser is taking the same position that the Indian Lake Board took last year and the year before. He said that they are willing to accept whatever the town will do because they have washed their hands of it.

Mr. Fisher stated that he wants the safety issue addressed and the water issue resolved. He noted that, if the water keeps running behind the wall, the same problem will arise again.

The Mayor replied that the Township has put the offer to repair the wall on the table for three straight years.

Councilwoman Smith asked Mr. Fisher if Indian Lake is willing to help support the financing of this, in any way, shape or size.

Mr. Fisher replied that he will have to check with the Board but is inclined to think that they will not be willing to do that because the purpose of the wall is to hold up the road. Mrs. Smith retorted that the purpose of the road is to provide access to Indian Lake. She noted that there is a lot of grey area here. Mrs. Smith stated that any good faith assistance from the Indian Lake Community would go a long way towards working with Administration to find a remedy.

Councilman Stecky stated that he is almost at the point where he can't listen to this anymore. He said that, if there is such a safety issue, then something should be done asap and, it could be done in a month. Mr. Stecky noted that the consensus seems to be to hold off and do it the right way, which will not be completed until next year. He gave a detailed account of the process that would be required and asked where the money will come from for all the expenses that would involve. Mr. Stecky noted that, while all of that is in progress, our attorney will have to determine whether or not taxpayer money can be used on this project. He said that we will also have to find out where the funds will come from for the project, or if we will have to go out to bond for it. Mr. Stecky advised that he is an engineer and thinks it is a bad idea to hold off on it. Mr. Fisher said that he agrees that safety issues are the most important.

Mr. Kuser disagreed and said that the East Shore wall was done quickly and was a great job. He gave kudos to Mr. Ward for that project, but added that we spent the money on East Shore that was meant for North Shore.

Mayor Husa retorted that it was not meant for North Shore because that is not on Township property; he added that the East Shore wall was determined to clearly be in the Township right-of-way and the Township jumped right on it and resolved it. He said that Mr. Kuser does not seem to understand that these are two different issues; one involves private property, which involves legal issues and the other was on Township property.

There ensued a discussion regarding the portion of the North Shore wall that is on Township property and is caving in.

The Mayor advised that he has made his proposal, as he has done for the last three years, and it has not been accepted. He said that the Township has done its due diligence to get this resolved.

Councilman Shaw suggested that I-beams could be installed over there and they could be reinforced to accommodate any type of wall that would be desired. He said that they need something there that will ensure that the wall will remain erect and safe.

Councilman Golinski asked if there are not times when the Township does work on private property. He said, as an example, after the sewer project was completed and private property was damaged, didn't the town spend money to repair it.

Attorney DiYanni replied that he believes that, in those instances, easements were granted, so it was really Township property.

Mr. Golinski asked if Indian Lake could grant the Township an easement for the purpose of, and the benefit of, holding up that roadway.

Mr. DiYanni replied that they could, but that would then put the entire responsibility for the wall on the Township.

Mr. Golinski stated that he doesn't know if the Indian Lake Association would have a say in the matter or if they would have to choose to accept it, or the town would just mandate it. Mr. Fisher commented that the Lake Association would be inclined to do that.

President Kuser asked Attorney DiYanni if the ILCC does nothing and the wall is breached what would happen.

Attorney DiYanni replied that, if property gets damaged because of the road, or portion of the road, collapsing, there is no question that there would be litigation. He said that the question before a court or jury would be whether or not the road collapsing was strictly due to the lack of maintenance of the retaining wall, which is on private property. Mr. DiYanni said that the same question would arise as to who is responsible to maintain it, even though it is on private property.

President Kuser said that he is just giving his own opinion, and he does not live in Indian Lake, but he feels it is a safety issue.

Mr. Kuser then stated that he would like to poll the Council.

Mr. Andes asked how many sections there are to the wall.

Mr. Fisher replied that there are two major sections, consisting of about twenty feet.

Mr. Andes asked if they are east of the bridge or west of it.

Mr. Fisher replied that they are west of the bridge; he added that the wall east of the bridge is beginning to erode as well. He noted that the structural engineering report said that it is years away from collapsing but is eroding the same way from the water.

President Kuser asked the Administrator if the Council may have the new data from our engineer and a copy of the new survey and then sit down and discuss this with our attorney in Closed Session. The Mayor said that he is not sure that would be a subject for Closed Session, since there is no land acquisition or litigation involved. Mr. Kuser noted that there could be litigation and it is his decision to call for a Closed Session. Attorney DiYanni interjected that it would be his opinion that it could be potential litigation, if there is an issue with the roadway.

President Kuser noted that he would like to poll the Council as to whether or not they are interested in the \$4,500 fix. He added that this is not an engineering report but a mason's estimate. Mr. Kuser further stated that we need to have an engineer look at the situation and evaluate the safety factor.

President Kuser advised that there will be a Closed Session on April 12<sup>th</sup> and the meeting will begin with that session at 6:30 p.m. Since not all members can be present, Mr. Kuser advised that the meeting will begin at 7:00 p.m. and the Indian Lake wall will be discussed in Closed Session.

Councilman Stecky asked if there will be an engineering report available for that session. Mr. Ward replied that he will speak with Mr. Rosania and see if he can get that for the Council

Mr. Kuser suggested that Mr. Rosania be present at the meeting for the discussion.

Mr. Golinski asked if the legal opinion can be revisited at that meeting as well. Mr. Kuser replied in the affirmative and asked Mr. Fisher if he would send his power point presentation to Mr. Kuser for the Council.

#### LIAISON REPORTS:

Councilman Golinski reported that he attended the Municipal Alliance Committee meeting in March and plans were formulated for the Spring Java Jam. Mr. Golinski remembered Mr. Picciano, who passed away this week, as a great volunteer in the town both on the Planning Board and the Municipal Alliance Committee and noted that he was also a Principal in our school system.

Councilman Stecky reported that the Beautification Committee was working on planters for the downtown area. He noted that there will be a clean-up at Muriel Hepner Park on April 9<sup>th</sup> beginning at 9:00 a.m.

Mr. Stecky advised that there will be an Earth Day event, presented jointly by the Sustainable Committee and the Environmental Commission. He said that it will run from 3:00 p.m. to 6:00 p.m. on April 29<sup>th</sup>.

Mr. Stecky advised that Denville is now one of seventy-four municipalities that have achieved certification from Sustainable N.J. He said that he would like to have the Sustainable Committee come to a meeting and do a power point presentation on what

they do.

Councilman Shaw stated that he felt as though he had awakened after a forty year nap when he attended the Community Development meeting. He said that the main topic on the agenda was parking and nothing has changed with parking downtown in forty years. Mr. Shaw noted that people are still wiping the chalk off their tires and jockeying the cars around. He said that there will be a war between the businesses down there because of parking. Mr. Shaw advised that in the rear of one building the owner places cones in the parking stalls and inquires as to where someone is going if they park in one of the spots. He said that, if the person is not heading for a business in that building, they are chased out of the parking area. Mr. Shaw commented that one of the merchants at the meeting said that part of the problem is lack of parking enforcement. He said that parking downtown is critical and the merchants are aware of that, but their employees still park on the street. Mr. Shaw stated that something must be done about that.

Councilman Shaw noted that he once suggested to the Council, several years ago, that progressive fines for parking be instituted in an effort to cut down on street parking by employees.

Mr. Shaw reported that "Green Zones" were also discussed. He said that he had recommended that about four years ago. Mr. Shaw explained that they are parking stalls that are painted green and are located in front of "in and out" types of businesses, such as newspaper stores or pharmacies. He said that it would require firm support from the local merchants and consistent enforcement from the parking officer. Mr. Shaw recommended that the idea be brought to the Chamber of Commerce.

Councilman Shaw advised that the possibility of a jitney bus to shuttle people from the parking lots to businesses was also raised. He said that a route that would go down to the Foodtown was suggested. Mr. Shaw stated that the time allowed for parking downtown needs to be changed to accommodate restaurant patrons.

President Kuser noted that the Chamber of Commerce will be present at next week's meeting and parking will be discussed. He said that he would like to form a sub-committee and would like Mr. Shaw to be a part of that committee because he has some valuable knowledge of the town. He noted that, of course, he would like the Administrator and Mayor on the committee as well.

Councilwoman Smith reported that the Senior Social events will begin again on April 10<sup>th</sup> at the Church of the Saviour. Mrs. Smith also noted that Cook's Pond memberships are now available.

Councilman Fitzpatrick noted that Mr. Picciano was also on the Library Board and it was a passion of his and his passing is a great loss.

Mr. Fitzpatrick advised that the MK5K Race/Walk will be held this Saturday for the benefit of the Morris Knolls baseball program.

Councilman Andes reported that Rid Litter Day will be on April 9<sup>th</sup>, the PRIDE Blood Drive will be held on April 16<sup>th</sup> as well as the Little League Opening Day Parade. Mr. Andes advised that the Chamber of Commerce Annual Award Dinner will be held on May 7<sup>th</sup>; the recipients are as follows: the Theresa Beisley Award goes to the Birth Township

Boutique and Volunteer of the Year goes to Faith and Hope Zimmerman.  
Councilman Shaw interjected that the Ladies Auxiliary of the Fire Department is holding a pancake breakfast from 8:00 a.m. to 12:00 p.m. on April 10<sup>th</sup>.

**ADMINISTRATOR'S REPORT:**

Administrator Ward reported that he has provided the Council members with a copy of the discretionary aid application that has been submitted to the State. He explained that, since the 2010 application for a grant to pave Palmer Road and Broadway was rejected, it was suggested by our Legislative Representatives that we submit a discretionary aid application. Mr. Ward noted that he also brought this up in order to ask that letters of support from the Council and the public be sent to the N. J. Department of Transportation. He advised that there is a template, which he included in the Council's packet, that is available in his office for members of the public who wish to help with this effort.

**OPEN PUBLIC PORTION:**

Gerry Idec, 1 East Longview Trail, asked if R-11-78 will be open for public discussion. Attorney DiYanni advised Mr. Idec that now would be the time to ask his questions. Mr. Idec complained that the resolutions are not made available to the public at the meetings. He said that, in his opinion, there should be copies of all of the ordinances provided to the public at each meeting that explain exactly what these resolutions are. Mr. Idec asked if someone would explain to him what R-11-78 is about. The Mayor stated that it is very routine. He explained that on ever piece of Open Space that we acquire, we must have an environmental analysis. Mr. Idec asked what an environmental analysis means. The Mayor replied that the soil is tested for contamination and an overall environmental impact of the purchase of it as Open Space. Mr. Idec commented that the Township will then not buy the property until this report is received. The Mayor said that is absolutely correct.

Charlie Weldon, Lenape Island, Indian Lake, commented that he understands that the Council is planning to discuss the Indian Lake wall and the "band aid approach", as Mrs. Smith called it, at a workshop meeting. He said that solution is not going to work. Mr. Weldon suggested that the Council go and look at the wall which is about 160' in all. He said that the majority of the stones have loosened over time from various impacts on the wall. Mr. Weldon asked the Council to look at it before making a decision.

Frantz Fuertges, 109 Ford Road, asked the Council where they stand on what the Beautification Committee is doing and if the Committee has the Council's support and cooperation. He said that he has asked the question before and received no response. Mr. Fuertges stated that he would like to start with Mr. Andes and ask each Council person individually if they support what the Committee has done and plans to do.

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

Mr. Fuertges noted that, with regard to the Indian Lake wall issue, he feels we are dancing without the stars. He said that the first thing that needs to be established is ownership and liability.

Mr. Fuertges then gave the following report on the Beautification committee:

Containers are being tiled with the American flag and Denville logo.

Discussions with teachers at Morris County Vo-Tech resulted in obtaining information about superimposing pictures on the tiles.

Historical Society will provide pictures to go on the tiles, creating a monument to the history of Denville throughout the town.

Mr. Fuertges noted that, to accomplish these goals, more money is needed than has been provided in the budget. He said that he is not asking for money but rather, that the Council members will encourage their contacts to make donations for this project.

Councilwoman Smith asked the Administrator if a fund-raising effort could be done through our web-site. Mr. Ward replied that something could certainly be put on the web site about the project and an address where donations can be sent could be included.

Jeff Biggs, County Engineer, commented that the Indian Lake issue is probably one of the most difficult things that the Council has to resolve. He said that the "band aid" approach will not work and the problem needs to be addressed. Mr. Biggs noted that, as a member of Indian Lake, he is willing to pay his share of doing it the right way.

Mr. Biggs then said that he is here primarily about R-11-75 A & B. He asked if a financial study has been presented to the Council regarding a consultant versus a full-time engineer. Mr. Ward replied that it was discussed at a previous meeting.

Mr. Golinski asked if that was the comparison that Mr. Ward gave the Council. He said that he wasn't aware that it was a thorough study. Mr. Ward replied that it was a study of our current engineering costs as compared with other towns of similar size who have consulting engineers.

Mr. Biggs responded that he assumes that the total costs for the current Engineer, including salary and benefits, is what was used by Mr. Ward. Mr. Ward replied that is correct. Mr. Biggs asked if the person that was laid off was taken into account as well.

Mr. Ward said he was not, the reason being, that his salary came from various other departments and fees.

Mr. Biggs concluded that the Mayor is proposing the hiring of a consulting engineer and asked if it has been advertised in an open and fair manner for competition for this position. Mr. Ward replied that he will let Attorney DiYanni speak to the process. He explained that there are two options in appointing professionals. Mr. Ward advised that they had interviewed eight different engineering firms, narrowed it down to three, had a sub-committee consisting of Council members and the Chairs of the Planning Board and Zoning Board and introduced the candidates to them. He said that it wasn't done in an open solicitation, as Mr. Biggs proposed, but it was done pursuant to the Open Public Contracts Law. Mr. Biggs asked why it was not done in an open and fair manner.

The Mayor replied that it was done open and fair since anyone could have applied.

The Mayor said that they chose the ones that they thought would be able to contribute.

Mr. Biggs stated that he is trying to find out how they arrived at the recommendation he is coming to. He asked if it is not correct that we are here to save money. The Mayor said that the idea is to find the best consulting engineer to replace the retiring Nick Rosania. The Mayor noted that, in this case, we have the best of both worlds; he said that this is a real opportunity for Denville, at this time, with the two nominees that we have. Mr. Biggs asked if there is a scope of work for the position and, is it based on lump sum or an hourly rate. Mr. Ward replied that it is an hourly fee. Mr. Biggs asked if there is an upset fee and explained that he means a maximum amount allocated by budget or otherwise to the Township Engineer's position. Mr. Ward explained the structure of the proposal for the Consulting Engineer. Mr. Biggs asked if the proposal is public at this time.

Attorney DiYanni replied that it would not be public until it is formalized.

Mr. Biggs then asked if the Township is aware of the range and diversity of price for professional engineering services right now. Mr. Ward advised that there were considerable differences and that was one of the considerations in choosing the final three. Mr. Biggs asked if the proposal for the consulting engineer contains a certain number of days per week or month. Mr. Ward replied that they chose not to specify a minimum number of hours per week and decided to establish office hours based on need. In response to Mr. Biggs's inquiry, Mr. Ward advised that the public will be able to come in at certain times or can make an appointment with the secretary.

Mr. Biggs then questioned R-11-75B as to the scope of work and what the project is for. The Mayor replied that he sat down with the two candidates and, after analyzing the various things that Nick Rosania does and everything that was in his job description, there are some specific issues regarding flooding and drainage and Dewberry has a fine reputation in that area. He said that those specific projects that have to do with storm water and drainage will be farmed out to Dewberry. The Mayor advised that the proposed use of Dewberry in those instances was discussed with the other candidate, whose scope of work was the more routine engineering work that Nick Rosania has done. He said that we are poised to take advantage of Dewberry's experience in this area.

Mr. Biggs asked if this, also, is an hourly based rate. Mr. Ward replied that it will project based with a not-to-exceed limit. Mr. Biggs asked if the Mayor just chose between the two candidates without any competition.

The Mayor replied that there were eight candidates that were interviewed, other resumes that were examined, referrals were taken and we narrowed it down to three. He noted that the sub-committee interviewed the three finalists, asked a lot of questions and had extensive discussions. The Mayor advised that, after that entire process, two additional Council people wanted to go through the process as well and that was done. He said that the two Council people confirmed the candidate that was recommended and the Mayor said that he stands behind that and thinks the two that have been chosen are outstanding and will serve Denville well.

President Kuser advised Mr. Biggs that his allotted time has elapsed.

Mr. Biggs's final statement was that he does not think that the appropriate process was followed to come up with professional services on behalf of the Township of Denville and get the best proposals.

President Kuser stated that he wants it made clear that the sub-committee never gave an opinion. He said that they met with the candidates but were never asked for an opinion.

The Mayor replied that the fact that there was a sub-committee was a courtesy and the fact that the committee did not give an opinion is not Administration's fault. He said that they were waiting for the committee to give them an opinion, except for what was expressed during and after the interviews, one on one.

Fred Lash, 14 Mirador Ct., stated that he has a couple of questions on the same subject, adding that he met with the Mayor and Administrator about six weeks ago to discuss it. He asked if sharing engineering services with other townships was considered and, if so, which townships and why was it not pursued.

Mayor Husa replied that discussions were held with Rockaway Borough, Rockaway Township and Parsippany. Mr. Ward noted that the most extensive conversation that they had was with Parsippany but they did not feel that they could provide us with the services that we would need. Mr. Ward further explained that Rockaway Borough has a consulting engineer and Rockaway Township also felt that they could not provide the services that we required. He added that the most extensive discussions were with Parsippany because of the size of their Engineering Department, but in the end it was determined not to be feasible.

Mr. Lash asked if logic does not suggest that if you teamed up with their staff, that you would partially or substantially pay for providing more resources for them and reduce costs for us. The Mayor replied that, that would be if we went with a full-time engineer.

Mr. Lash said it would be part-time in Denville. Mayor Husa stated that, going with a consulting engineer, it is still a billable amount to either town, so you can't really share a consulting engineer. He said that, as an example, Rockaway Borough just hired one that we had interviewed and they felt that it is an asset that they did not feel they could share with us.

Mr. Lash commented that his understanding regarding the impact on the individual taxpayer in Denville is that, if there is an informal schedule or plan, that winds up before the Board of Adjustment and the Planning Board, the engineering review will now be done by the consultant. He said that the resident will now have to post escrow funds.

Mr. Ward replied that is as it has been done all along and those fees are used to offset the Engineer's salary. Mr. Ward advised, although quoting from memory, that in 2007 the escrow fees from the two boards that were used to offset the salary amounted to \$80,000. He said that it then took a precipitous drop to \$40,000 and last year to only \$10,000 or \$12,000.

Mr. Lash stated that he thinks that it will cost the residents more because a consulting engineer will command a higher hourly rate than an in-house engineer.

Mr. Ward replied that the hourly rate is not significantly different, being in the \$90 to

\$100 range, as he provided in the financial analysis, including vacation and benefits. Mr. Ward noted that he does not have the figures in front of him but, although it will be a bit higher, they still feel there will be substantial savings appreciated by going this route. Mr. Lash commented that he finds that difficult to believe and that he thinks it will prove out to be a substantially higher cost. He said that the Township will undoubtedly be hearing from any resident who finds his application fees rise significantly. Mr. Ward responded that the escrow fees will not change at all. Mr. Lash stated that he feels that the costs will rise due to the cost of the consultant and the lack of familiarity of the consulting engineer with the town. He said that he shared his opinion privately with the Mayor and Administrator and feels that the town should go with a part-time engineer or shared services.

Charles Fisher, 12 Orange Trail, said that he has a couple of comments.

1. He commended the Beautification Committee for the fine job they are doing.
2. He noted that we still have a lot of "dead gas stations" around.
3. Mr. Fisher stated that the Township needs to get off "dead center" on the Indian Lake wall issue. He said that the situation is getting dangerous and someone needs to make a decision.
4. Mr. Fisher advised that, several months ago, he presented the Council with pictures of deteriorating houses. He said that some small progress has been made, but this issue also needs to be addressed. Mr. Fisher asked what progress has been made on the property maintenance ordinance. He said that the ordinance needs to be enforced and property maintenance addressed.

Mike Turner, 177 Franklin Road, asked if Franklin Road, from the railroad trestle down to Route 46, on the paving list. Mr. Ward replied that it is not but, there will be significant patching done and it is one of the top two candidates for our D.O.T. grant application for this year. He said that the application will be made in June or July for paving in 2012. Mr. Turner related his experiences with the patching that has been repeatedly done in his immediate area and the fact that it deteriorates right after it's put down.

Mr. Ward explained that, in the winter, DPW uses cold patch which is a temporary fix. He said that last Wednesday they picked up hot patch and will be systematically going around town to repair the roads as needed.

Paul Rankin, 14 West Shore Rd., noted that he has been involved with the Indian Lake dam and wall for some time. He advised that the Indian Lake Community Club's budget is under \$300,000 and they pay \$45,000 a year in taxes. Mr. Rankin added that every homeowner is assessed an additional fee on property that the ILCC pays taxes on and manages. Mr. Rankin stated that the offers that were proposed by the Mayor, to share in the cost of repairing the wall, are not within the ILCC's ability to pay. He said that, should it be determined that the whole corner needs to be replaced, it would be a \$400,000 number. Mr. Rankin commented that, that is 80% plus of their budget for a year. He said that they cannot enter an agreement that they can't honor. Mr. Rankin noted that ILCC has an incredible volunteer system that they depend on. He said that they have been told that this wall is not a job for non-professionals, it is a weight-bearing

wall. Mr. Rankin added that they have not addressed it for that reason and also, by addressing it they would be accepting it as their problem. Mr. Rankin stated that the road is not what was deeded. He said that it is a huge road in a little space and is putting pressure on everything.

Kari Gribbon, 7 Seminole Trail, asked if it is possible to have a yellow line painted down the middle of East Shore Road because people seem to forget that it is a two-lane road, not a one-lane road. Mr. Ward assured Ms. Gribbon that it will be investigated.

Councilman Andes noted that there are yellow lines on several streets in town and it is something that was discussed with the Chief of Police. He said that it does work with regard to getting cars to stay on their side of the road. Mr. Andes commented that he thinks it is something that can be done in-house. Mr. Ward added that, if it is possible, we will have it done.

CLOSE PUBLIC PORTION.

#### MAYOR'S REPORT:

The Mayor noted that the Hub Times is on the web site and \$42,000 has been saved, over three years, by not mailing it. He named specific areas where paper copies can be obtained.

Mayor Husa displayed a certificate from the Highlands Commission, approving Denville Township's petition for plan conformance for the Preservation Area.

The Mayor reported that he has contacted Senator Bucco and asked for a feasibility study for a traffic light at Broad Street to control the anticipated traffic problem.

Mayor Husa noted that, with regard to the Engineer, an extensive financial analysis as well as many hours of interviewing went into the selection of the final candidates. He said that it was not an easy task to make a final choice. The Mayor recommended John Ruschke for the position of Consulting Engineer and Dewberry for flood and drainage-related projects. He said that both firms are world renown, have excellent reputations and have presented excellent credentials. The Mayor asked the Council for their Advice and Consent for the appointment of John Ruschke and Dewberry.

Mayor Husa advised that the Township needs a Board of Assessment for the sewer extension project and asked that the Council support R-11-75 which authorizes the appointment of members to this Board.

Mayor Husa noted that the Planning Board workload is very light and almost every other meeting has been canceled. He said that, since the Master Plan Revision is due next year, the Planning Board Chairperson Sue Filauro has opted to begin the Master Plan review at the Planning Board level now.

The Mayor advised, with regard to the Rockaway property, that anyone who questions the purchase of that property should read the resolution and the comments from the MUA. He said that the MUA noted the critical nature and scenic character of the property and the protection it will afford.

The Mayor then mentioned several scheduled events that were previously reported by the Council.

CORRESPONDENCE: All copied to Council.

MATTERS OF OLD AND/OR NEW BUSINESS: None.

President Kuser called for a brief recess at 9:38 p.m.

The Meeting resumed at 9:45 p.m.

R-11-75      RESOLUTION AUTHORIZING ADVICE AND CONSENT TO THE  
                 APPOINTMENTS MADE BY MAYOR HUSSA TO THE BOARD OF  
                 ASSESSMENTS FOR THE SEWER EXTENSION PROJECT  
MOTION TO APPROVE R-11-75: MOVED BY MEMBER SMITH, SECONDED BY  
MEMBER SHAW  
AYES: SMITH, SHAW, GOLINSKI, FITZPATRICK ANDES, KUSER  
ABSENT: Mr. Stecky was not in the room at roll call for this resolution.

Attorney DiYanni advised that R-11-75A should only read "ADVISE AND CONSENT OF GENERAL TOWNSHIP ENGINEER". He explained that the Council is not authorized to appoint the Planning Board and/or Zoning Board Engineer. Mr. DiYanni further explained that they are an autonomous body, under the Land Use law and those Boards have the power to appoint their own professionals, including Attorney and Planner and/or Engineer.

President Kuser noted that the Council will be giving Advice and Consent on R-11-75A and R-11-75B, not approving the contracts, because they received the contracts just before this meeting and no one has had a chance to look at them. He asked Attorney DiYanni's advice on how to proceed.

Mr. DiYanni recommended that Mr. Kuser ask for consent, subject to the ratification of a professional services agreement for these two professionals, after the Council has had an opportunity to review the contracts.

R-11-75A      CONSENT SUBJECT TO RATIFICATION OF PROFESSIONAL  
                 SERVICES AGREEMENT FOR GENERAL TOWNSHIP ENGINEER AT  
                 NEXT COUNCIL MEETING.

MOTION TO APPROVE R-11-75A: MOVED BY MEMBER SHAW, SECONDED BY  
MEMBER STECKY

DISCUSSION: Councilwoman Smith stated that, before giving advice and consent, there are questions regarding the hourly rate and office hours on 75A and, on 75B we do have the scope of work but she questions the hourly rate.

Mr. Ward replied that on 75A, the hourly rate is \$125 for the principal engineer and there will be a schedule on file in Administration and the Clerk's office with all the other fees.

He said that there are also provisions, such as no charge for mileage for the Engineer's travel to and from the office. Mrs. Smith asked about office hours. Mr. Ward replied that there will be office hours that will be adjusted according to need, but the hours have not yet been set.

Mrs. Smith noted that, due to the economic times, she had asked Administration to investigate the advisability of hiring a full-time or part-time engineer and examine the economics of that. The Mayor replied that they looked into that but the candidates that they had, Hatch Mott and Dewberry, still seemed more feasible.

Mrs. Smith said that is not the question she asked. She again posed the question: Given the current economic climate, there are many qualified engineers out there that might be available. Mrs. Smith stated that it might be more economical and more advisable to have someone on salary, employed by us, maybe part-time to avoid benefits. She said that they had discussed having someone for \$30,000 or for thirty hours a week, working for the municipality. Mrs. Smith noted that she had not gotten a response on that.

Mr. Ward replied that they feel that this is the most cost effective and efficient manner to administer engineering services for the municipality. He advised that there were two medium/large firms and one small firm interviewed. Mr. Ward explained that one of the advantages of the large firm was the fact that there is depth of resources. He noted that along with the principal engineer, you have the resources of a traffic engineers, structural engineers and so on in that office. Mr. Ward commented that they felt that, besides the cost benefit, there was the benefit of having more than one type of engineer at our disposal. Mr. Ward further explained that, with the smallest firm, everyone was impressed with his qualifications, but he thinks the reason he was nominated is the depth of services from his office.

Mrs. Smith asked if Administration is committed to providing the Council with an accounting hourly, either on a weekly or semi-monthly basis. She said that this is a step that is being taken and is experimental in nature. Mr. Ward noted that the appointment is only until December 31<sup>st</sup> and if the Council wishes a periodic..... Mrs. Smith interrupted saying that she is requesting it now. Mr. Ward responded that, if that is the consensus of the Council, it will be provided to them.

Councilman Fitzpatrick commented that he has nothing of R-11-75A at all. President Kuser said that is correct, the paperwork was only provided by e-mail at 3:30 this afternoon and the Council was copied on it.

Mr. Fitzpatrick said that he did get an e-mail on Thursday that this would be the recommendation. He noted that he was not on the sub-committee and he would like to have more information.

Mr. Ward advised that he has a prospectus for Mr. Fitzpatrick if he would like to see that. Mr. Fitzpatrick said that would be great.

Councilman Golinski asked how many hours per month is anticipated for this scope of work. Mr. Ward explained that a set number per month cannot be determined because, as an example, in the summer months when road paving is under way and people are

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doing projects that require plan reviews and construction picks up more, hours may be required. He said that they will set the number of actual office hours in order that other professionals and department heads will have the opportunity to meet with the Engineer. Mr. Golinski asked how the cost effectiveness can be determined because if Firm A charges \$100 per hour but takes 3 hours to do the job and Firm B charges \$125 per but only takes 2 hours to do the job, Firm B would be less expensive. Mr. Ward replied that part of it is relying on past experiences and references. He said that there were comments from some of the Committee members that Hatch Mott could do the job more efficiently than some of the others. Mr. Ward added that the \$125 hourly rate was comparable across the board. He clarified the range of rates among all of the firms that were interviewed.

Mr. Golinski commented that he believes they received proposals from eight firms. Mr. Ward noted that he and the Mayor interviewed eight firms and narrowed the field to three finalists and the Council's sub-committee met with those finalists. He added that the Chairmen of the Planning Board and Board of Adjustment met with them as well. Councilman Golinski asked Mr. Ward what analysis was done to determine that eight was a good representation of the climate and the competitiveness of the engineering field right now, versus doing the open and fair process for professional services. The Mayor replied that the reason they came down to the three finalists was strictly reputation. He said that we know Hatch Mott and they know us and both Hatch Mott and Dewberry have impeccable reputations. Mayor Husa stated that he wanted the best for Denville and that is what we got.

Mr. Golinski noted that we do not have a set number of hours, but we have an hourly rate of \$125; he asked if we are writing a blank check for the amount of the contract. The Mayor replied that, through Mr. Ward's financial analysis of other towns that have contract engineers, they felt that the budget that the Council approved will encompass the scope of work we will require of the engineer.

Mr. Golinski attempted to pin down the number of hours that will be needed and asked how many would be required for six months. Mr. Ward explained that he based it upon eight hours per week of office hours plus an additional four hours of miscellaneous activity for the principal engineer. He said that the funds would come from various places such as, the current fund budget and water and sewer budgets. The Administrator noted that he is very comfortable with the number and added that he will be monitoring it very closely to see that we stay within budget.

Mr. Golinski asked if he understands correctly that we will be going from 35 hours a week to 12 hours for the consulting engineer. Mr. Ward responded that, although that is correct, it should be kept in mind that plan reviews for Planning and Zoning will be done by the Engineer as well and will be paid for out of the escrow funds of those Boards. Councilman Stecky asked Mr. Ward if he has worked with consultants in this fashion before. Mr. Ward replied that he has; he said that, in his previous municipality, they utilized consulting engineers. Mr. Ward added that, in the interest of full disclosure, the engineer that we are appointing is one with whom Mr. Ward worked in one of the Township Council

municipalities. He said that one of the reasons that he has a comfort level with Mr. Ruschke is that, from past experience, he knows that Mr. Ruschke usually comes in under budget on most projects.

Mr. Stecky spoke about the need for a full-time engineer to utilize outside engineers when work that is outside of his expertise needs to be addressed. He noted that the retiring engineer had been using outside consultants quite often to supplement his skills. Mr. Stecky stated that he feels that there is a strong case for using a group, with varied skills, versus an individual. Mr. Stecky noted that he is familiar with professional services and opting for the low bidder in this situation is not the way to go. He said that engineers are fairly well in demand and he feels that a great deal of the unemployed are people with less marketable skills. Councilman Stecky commented that, if we hire a full-time engineer and he doesn't work out, we still own him. He said that if a consultant doesn't work out, we can go to another engineer. Mr. Stecky stated that he feels that the answer with the most options and the potential of lower cost and higher performance, comes from the consultant and that is the way he will vote.

Councilman Stecky advised that he and Councilman Shaw interviewed that candidates yesterday and received outstanding responses. He said that he was particularly impressed by Mr. Ruschke when, without prompting, he went right to the low cost analysis and seems to be the type of engineer who is not into over-billing or over-designing.

Councilman Shaw stated that, unbeknownst to the two candidates, he did his own background check with people who utilized their services and both received a thumbs up from Mr. Shaw's contacts. He said that he was impressed by Mr. Ruschke when he admitted that he was a day late getting to the VFW problem on Ford Road or he could have solved it. Mr. Shaw noted that Mr. Ruschke told him that the VFW was right and Mr. Shaw was impressed by Mr. Ruschke's integrity. He then spoke highly of Peter Black and said that he has it all put together when it comes to floods. Mr. Shaw said that he is sure that they are both well qualified.

Councilman Andes noted that, originally, he was reluctant to go with the consulting engineer. He said that the economy has greatly changed the way we pay for our engineer, which was clearly explained by Mr. Ward. He said that his biggest concern is the office hours and how the public will be treated. Mr. Andes noted that he believes that we need to have set hours in order for people to know when they can contact the engineer. He said that there is obviously a decrease in services here because we had a 35 hour a week engineer and now we will have an 8 to 12 hour one. Mr. Andes suggested that perhaps there should be a half day of office hours and the rest by appointment. He commented that people appearing before the Board of Adjustment for the first time may be nervous, and being able to have the engineer briefly go over the project with them ahead of time, makes the process a lot easier. Mr. Andes stated that he hopes that level of service will continue and that he thinks this eight month period is a good trial. He mentioned that there are benefits to having an engineer in-house but this is the ideal time to try this out. Mr. Andes noted that Mr. Ward will provide a detailed Township Council

analysis that will give the Council the information it will need to decide if this should be permanent. He said that he is not comfortable with voting yes on a professional service without having a contract in his hand. Mr. Andes said, however, that if this can be done with the caveat that, if the Council is not satisfied with the contract, at the next meeting all bets will be off, he will be satisfied.

President Kuser replied that it will be subject to approval of the contract. He asked Mr. Ruschke if he will be paid \$125 per hour, and will he be Denville's principal engineer, since he is a partner, whose fees are much higher.

Mr. Ruschke replied that he will be assigned as Denville's Municipal Engineer and will be the prime contact, at \$125 per hour for his services.

President Kuser commented that, having interviewed all three candidates, he feels that Mr. Ruschke is a good choice and that he has continuity with the Township. He said that he thinks Dewberry has expertise in the field of drainage.

President Kuser asked why we are giving Advice and Consent on Dewberry when they will be used on a per project basis. Mr. Ward replied that proposals were received from them on a per-project basis. Mr. Kuser asked for further explanation.

The Mayor replied that Administration would like to use them and it is obvious that Denville still has a lot of drainage problems.

Mr. Kuser presented a scenario whereby, if a resident calls in a sewer problem, the engineer would be contacted and would steer the problem towards the DPW and he felt there would be extra strain on the Department of Public Works.

Mayor Hussa replied that certainly Mr. Ruschke is well qualified to deal with the issues raised by Mr. Kuser, but Dewberry has the reputation around the area that is conducive to having them on special projects. He said that we would like to develop a relationship with them so that they know we are going to put them to work on things that are important. Mr. Kuser stated that he still does not understand the reasoning behind hiring Dewberry. Mr. Ward explained that general drainage complaints are in Mr. Ruschke's routine and he would follow up with residents and work with the DPW. He said that larger projects, like the CRS, are the type of thing that Dewberry would be called in to handle. President Kuser asked if there is money in the budget for that. Mr. Ward noted that it would be on a per-proposal basis, so they would submit a proposal and we would encumber the funds, based upon availability.

Mr. Kuser asked what projects, that Mr. Rosania was working on, are still in progress.

The Mayor replied that there are various mitigation projects that remain in the Morris County Mitigation Plan.

President Kuser asked Mr. Andes and Mrs. Smith if it is normal to do something like this.

Mrs. Smith replied that she has a couple of questions which pertain to 75B:

The contract says that anything over \$3,000 requires a proposal but, at \$148 per hour, you can do 20 hours of work without getting a proposal or bringing it to the Council. Mrs. Smith said that she is a little nervous about that. She said that when we had an engineer on staff, unless it had to go outside for expertise, the in-house engineer did it.

Councilwoman Smith noted that her concern is going up to just below \$3,000 and Township Council

the \$148 an hour, versus Mr. Ruschke, who is a partner who is doing municipal engineering at \$125, so how did we end up with \$148 as a negotiated price. She commented that there are some things in the contract, when we get to it, that she wants to have amended, noting that she has spoken with Mr. DiYanni about it. Mrs. Smith stated, in answer to Mr. Kuser's question, that we are treading on new territory here.

**R-11-75A MOTION FOR CONSENT FOR THE APPOINTMENT OF JOHN RUSCHKE AS GENERAL TOWNSHIP ENGINEER, PENDING CONTRACT APPROVAL BY THE COUNCIL**

Mr. Golinski asked if maintaining the paving list, evaluating our roads and developing a master plan for the maintenance of our roadways was in the scope of work for R-11-75A. Mr. Ward replied that it was something that was previously done by the Township Engineer. Mr. Golinski asked for a copy of the scope of work and Mr. Ward said that he will provide it.

**MOTION TO APPROVE R-11-75A: MOVED BY MEMBER SHAW, SECONDED BY MEMBER STECKY**

**AYES: SHAW, STECKY, ANDES, KUSER**

**NAY: GOLINSKI, FITZPATRICK**

**ABSTAIN: SMITH**

President Kuser stated that they have already discussed R-11-75B and asked if there were any further comments. No one responded.

Attorney Di Yanni noted that this motion will also be for consent, subject to Council's approval of the contract.

**R-11-75B MOTION FOR CONSENT FOR THE APPOINTMENT OF SPECIAL ENGINEER FOR FLOOD MANAGEMENT AND DRAINAGE RELATED PROJECTS - PETER BLACK SUBJECT TO THE COUNCIL'S APPROVAL OF THE CONTRACT.**

**MOTION TO APPROVE R-11-75B: MOVED BY MEMBER SHAW, SECONDED BY MEMBER STECKY**

**DISCUSSION:** Mrs. Smith commented that the title is "Advice and Consent" and yet, we have a resolution here with the same number, which is a contract. Clerk Costello explained that it is a professional service that will not be taken care of tonight. She said that the Council is giving consent to the appointment of Mr. Dewberry's firm, with the proviso that the professional service will be handled at the next meeting.

Mrs. Smith stated that her concerns then, which relate to the Advice and Consent, are the hourly rate, which she feels is high. Mr. Kuser interjected that he doesn't think there is any urgency to do R-11-75B tonight. He said that consent to appoint the general engineer is very important but this is something that could wait.

There was a brief discussion regarding the cooperation of all the candidates to work for

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a smooth transition. Mrs. Smith asked if the reason that Advice and Consent is being requested tonight because Mr. Black would then work, free of charge, with Mr. Rosania in this role.

The Mayor replied that Mr. Black did not say he would do it at no charge but, part of the idea of doing this now is to have a transition period. Mrs. Smith commented that, if he hasn't agreed to it, then it would appear that he will charge us, while Mr. Ruschke will not.

President Kuser suggested that the resolution be withdrawn tonight. He said that the Mayor is right, the flooding issue is an important matter, and we will have to make a decision if it does cost more. Mr. Kuser further suggested that we get a scope of work and an idea of exactly what they will be expected to do.

Mrs. Smith said that she would give her copy of the professional services agreement to Mr. DiYanni so he can address the questions.

Mrs. Smith withdrew her second to the motion. Mr. Shaw declined to withdraw his motion. Mr. Stecky seconded the motion.

AYES: SHAW, STECKY

NAYS: GOLINSKI, SMITH, FITZPATRICK, ANDES, KUSER

Mr. Golinski stated that his vote only reflects the lack of information given to the Council and, in no way, is meant to demean either candidate. Mrs. Smith, Mr. Fitzpatrick and Mr. Andes all stated that their no vote is for the same reason given by Mr. Golinski.

**ORDINANCE(S) FOR ADOPTION:**

**#3-11 RENTAL/LEASED DWELLING MAINTENANCE**

**BE IT RESOLVED THAT AN ORDINANCE ENTITLED:**

**AN ORDINANCE OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CERTAIN PORTIONS OF CHAPTER 19, LAND USE REGULATIONS, 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 SMITH, SECONDED BY MEMBER FITZPATRICK**

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

**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, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CERTAIN PORTIONS OF CHAPTER 19, LAND USE REGULATIONS, OF THE REVISED GENERAL ORDINANCES**

**BE PASSED ON FINAL READING AND THAT A NOTICE OF FINAL PASSAGE BE**

PUBLISHED IN THE 4-13-11 ISSUE OF THE CITIZEN.  
MOTION TO ADOPT: MOVED BY MEMBER SMITH, SECONDED BY MEMBER  
STECKY  
AYES: SMITH, STECKY, GOLINSKI, SHAW, FITZPATRICK, ANDES, KUSER

#4-11           SEXUALLY ORIENTED BUSINESS REGULATIONS

BE IT RESOLVED THAT AN ORDINANCE ENTITLED:  
AN ORDINANCE OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS, STATE  
OF NEW JERSEY AMENDING AND SUPPLEMENTING THE TOWNSHIP CODE WITH  
THE ADDITION OF CHAPTER 39 ENTITLED, "SEXUALLY ORIENTED BUSINESSES"  
BE READ BY TITLE ON SECOND READING AND A HEARING HELD THEREON:  
MOTION TO READ BY TITLE: MOVED BY MEMBER FITZPATRICK, SECONDED BY  
MEMBER STECKY  
AYES: FITZPATRICK, STECKY, GOLINSKI, SHAW, SMITH, ANDES, KUSER

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, STATE  
OF NEW JERSEY AMENDING AND SUPPLEMENTING THE TOWNSHIP CODE WITH  
THE ADDITION OF CHAPTER 39 ENTITLED, "SEXUALLY ORIENTED BUSINESSES"  
BE PASSED ON FINAL READING AND THAT A NOTICE OF FINAL PASSAGE BE  
PUBLISHED IN THE 4-13-11 ISSUE OF THE CITIZEN.  
MOTION TO ADOPT: MOVED BY MEMBER SHAW, SECONDED BY MEMBER  
GOLINSKI  
AYES: SHAW, GOLINSKI, STECKY, SMITH, FITZPATRICK, ANDES, KUSER

#5-11           REGULATIONS REGARDING WALLS AND FENCES

BE IT RESOLVED THAT AN ORDINANCE ENTITLED:  
AN ORDINANCE OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS, STATE  
OF NEW JERSEY AMENDING AND SUPPLEMENTING CERTAIN PORTIONS OF  
CHAPTER 19, LAND USE REGULATIONS, OF THE REVISED GENERAL  
ORDINANCES REGARDING WALLS & FENCES  
BE READ BY TITLE ON SECOND READING AND A HEARING HELD THEREON:  
MOTION TO READ BY TITLE: MOVED BY MEMBER SMITH, SECONDED BY MEMBER  
ANDES  
AYES: SMITH, ANDES, GOLINSKI, STECKY, SHAW, FITZPATRICK, KUSER

OPEN THE 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, STATE  
OF NEW JERSEY AMENDING AND SUPPLEMENTING CERTAIN PORTIONS OF  
CHAPTER 19, LAND USE REGULATIONS, OF THE REVISED GENERAL  
ORDINANCES REGARDING WALLS & FENCES  
BE PASSED ON FINAL READING AND THAT A NOTICE OF FINAL PASSAGE BE  
PUBLISHED IN THE 4-13-11 ISSUE OF THE CITIZEN.  
MOTION TO ADOPT: MOVED BY MEMBER SMITH, SECONDED BY MEMBER SHAW  
AYES: SMITH, SHAW, GOLINSKI, STECKY, FITZPATRICK, ANDES, KUSER

President Kuser asked if anyone would like to have anything removed from the Consent Agenda. Councilwoman Smith asked to have R-11-78 removed. Councilman Golinski asked, with respect to R-11-79, if it is the most efficient way to refund an amount of \$20.00 and, is it required. Attorney DiYanni replied that it is required. Clerk Costello added that checks cannot be written without the Council's approval of the disbursement of funds. Councilwoman Smith asked, with regard to R-11-94, what the rate is. Clerk Costello replied that the contract shall not exceed \$4,875.00. Mrs. Smith noted that she thinks that is a little high, based on her experience. Administrator Ward advised that they received two proposals and that was the most competitive proposal. Mrs. Smith asked if we have worked with that company before. Mr. Ward responded that the proposals came from the engineer and he, personally, is not aware of whether or not we have dealt with Behre Assoc. before.

CONSENT AGENDA:

- R-11-76 RESOLUTION AUTHORIZING APPLICATION FOR FUNDS FOR THE SEATBELT ENFORCEMENT CAMPAIGN "CLICK IT OR TICKET"
- R-11-77 RESOLUTION OF THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF DENVILLE AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH SPYLEN OF DENVILLE, INC. T/A WENDY'S OLD FASHIONED HAMBURGERS, FOR THE USE OF ITS PROPERTY FOR RECREATIONAL PURPOSES
- R-11-79 RESOLUTION AUTHORIZING A REFUND OF A COAH DEVELOPMENT FEE IN THE AMOUNT OF \$20.00
- R-11-80 RESOLUTION AUTHORIZING THE DENVILLE ROTARY STREET FESTIVAL ON JUNE 5, 2011
- R-11-81 RESOLUTION AUTHORIZING ISSUANCE OF SPECIAL ONE DAY ABC LIQUOR LICENSES
- R-11-82 RESOLUTION AUTHORIZING RAFFLE LICENSES IN THE TOWNSHIP OF DENVILLE
- R-11-83 RESOLUTION AUTHORIZING THE REFUND OF MONEY DUE TO THE REDEMPTION OF A TAX SALE CERTIFICATE IN THE AMOUNT OF \$581.76
- R-11-84 RESOLUTION AUTHORIZING THE REFUND OF MONEY DUE TO THE

- REDEMPTION OF A TAX SALE CERTIFICATE IN THE AMOUNT OF \$1,244.73.
- R-11-85 RESOLUTION AUTHORIZING THE REFUND OF MONEY DUE TO THE REDEMPTION OF A TAX SALE CERTIFICATE IN THE AMOUNT OF \$1,080.13
- R-11-86 RESOLUTION AUTHORIZING THE REFUND OF MONEY DUE TO THE REDEMPTION OF A TAX SALE CERTIFICATE IN THE AMOUNT OF \$2,791.61
- R-11-87 RESOLUTION AUTHORIZING THE REFUND OF MONEY DUE TO THE REDEMPTION OF A TAX SALE CERTIFICATE IN THE AMOUNT OF \$2,893.67
- R-11-88 RESOLUTION AUTHORIZING THE REFUND OF MONEY DUE TO THE REDEMPTION OF A TAX SALE CERTIFICATE IN THE AMOUNT OF \$46,670.06
- R-11-89 RESOLUTION AUTHORIZING GREEN ACRES ENABLING RESOLUTION
- R-11-90 RESOLUTION AUTHORIZING EXECUTION OF A SITE ACCESS AGREEMENT WITH EXXON MOBIL CORPORATION FOR ACCESS TO A CERTAIN PORTION OF PROPERTY LOCATED AT 390 FRANKLIN ROAD
- R-11-91 RESOLUTION AUTHORIZING RENEWAL AGREEMENT WITH ATLANTIC AMBULANCE CORP. FOR 911 EMERGENCY MEDICAL TELEPHONE CALL SCREENING SERVICES
- R-11-92 RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT TO ACQUIRE REAL PROPERTY KNOWN AS BLOCK 21, LOT 4, LOCATED IN THE BOROUGH OF ROCKAWAY AND KNOWN AS 79 BROAD STREET, ROCKAWAY, NJ FROM ANNEX BUILDERS, LLC
- R-11-93 RESOLUTION AWARDED PROFESSIONAL SERVICES CONTRACT TO PK ENVIRONMENTAL FOR PHASE 1 ENVIRONMENTAL ANALYSIS ON PROPERTY KNOWN AS BLOCK 41301, LOT 8, 26 BROAD STREET, DENVILLE, NJ KNOWN AS THE "FELS" PROPERTY
- R-11-94 RESOLUTION AWARDED PROFESSIONAL SERVICES CONTRACT TO BEHRE ASSOCIATES, P.C. FOR SURVEY WORK RELATING TO THE ACQUISITION OF BLOCK 41201, LOT 8, 26 BROAD STREET, DENVILLE, NJ KNOWN AS THE "FELS" PROPERTY
- R-11-95 RESOLUTION AUTHORIZING THE AWARD OF THE FIELD AND LAWN MAINTENANCE CONTRACT TO NORTH JERSEY LAND CARE SERVICES IN THE AMOUNT OF \$52,205.00

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

- R-11-78 RESOLUTION AWARDED PROFESSIONAL SERVICES CONTRACT TO PK ENVIRONMENTAL FOR PHASE 1 ENVIRONMENTAL ANALYSIS ON

PROPERTY KNOWN AS BLOCK 21, LOT 4, 79 BROAD STREET,  
ROCKAWAY BOROUGH, NJ KNOWN AS THE "ROCKAWAY"  
PROPERTY.

MOTION TO APPROVE R-11-78: MOVED BY MEMBER SHAW, SECONDED BY  
MEMBER GOLINSKI

Discussion: Councilwoman Smith asked if this is part of the soft costs. Mr. Ward replied that it is. Mrs. Smith asked what the approximate total for soft costs is at this time. The Mayor replied that he will have to get that figure from Mary Ann Cuneo and will provide it to Mrs. Smith.

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

President Kuser advised that R-11-97 has been removed and assigned to a new resolution.

R-11-96 RESOLUTION AUTHORIZING THE WAIVER OF POLICE SERVICE FEES  
FOR THE ANNUAL LITTLE LEAGUE PARADE

President Kuser noted a typographical error in the second WHEREAS of the resolution. The motion was on the corrected wording.

MOTION TO APPROVE R-11-96: MOVED BY MEMBER SMITH, SECONDED BY  
MEMBER SHAW

Councilman Golinski asked for an explanation of the resolution. Clerk Costello explained that the resolution waives the fees for Police services for the Little League Parade.

President Kuser noted that the resolution was not received by the Council until tonight.

Councilman Andes advised Administration that this is the first time the Council has voted on something like this, in regard to an event, and asked what the policy is going to be.

The Mayor replied that the policy is in our ordinance and states that there shall be an escrow fee established for all events, which can be waived by a vote of the Council. He said that it has been overlooked in this town, however, that is our ordinance. The Mayor stated that, in light of what happened last October with \$7,000 being spent with no escrow, he thinks that the public needs to have the assurance that this is being analyzed properly.

Councilman Andes replied that he is asking the question because there have been two events since the Fall Festival and this is the first time that this is being brought to the Council. He asked if the Council can be assured that all non-Township programs and activities will be brought to them. The Mayor responded that the ordinance states that any time there is an activity that is a private fund-raiser there has to be an escrow posted, or the escrow has to be worked out with the Police. He added that it can be waived by a vote of the Council. The Mayor noted that it is getting late and he is saying things a little bit wrong. He advised that the escrow fee, established between the organization and the Police, can be waived by a vote of the Council.

Mr. Andes commented that he is aware of that but, he wants to be sure that every non-Township event is treated the same.

Councilwoman Smith asked how we are publicizing this so that people will know that they

have to do this and get it before the Council before their event.

The Mayor replied that they have to ask permission of the Mayor and Administrator to hold the event. He said that, when they ask permission, they expect a letter back and, in the case of the MK5K, he sent a letter back that stated, chapter and verse, from the ordinance and they complied.

President Kuser noted that he sent a copy of the ordinance to all Council members and hopes that they read it. He said that he does not feel that it is 100% applicable to this. Mr. Kuser advised that he spoke with our Township Attorney about it and he had an opinion on it. President Kuser said that he really thinks it needs to be discussed. and have a standard operating procedure. He commented that we are already not following the procedure because the Little League, due to being unaware of the process, has not yet submitted a request. Mr. Kuser noted that we also know that the Morris Knolls 5K Run was an urgent request because they submitted a request to the Mayor's office in a letter dated November 30<sup>th</sup>. He said that they were not told about the escrow account until March 15<sup>th</sup> or 17<sup>th</sup>. The Mayor interjected that they still have plenty of time to comply right now, so just vote on it.

Mr. Kuser replied that there wasn't plenty of time because they had to rush to get this done. He commented that he thinks that we need to look at this ordinance and discuss it and perhaps have another ordinance that is a little bit different.

The Mayor responded that he would just like to go with the ordinance that is on the books and administer it the proper way. He asked Mr. DiYanni for a legal opinion.

Attorney DiYanni noted that Township Attorney Semrau sent a confidential memo to the Mayor, Administrator and Council, dated March 31, 2011, rendering his legal opinion regarding this issue. He said that, if the Council read the memo, they would know what Mr. Semrau's opinion and recommendations are.

Councilman Golinski stated that he did read the memo and, had he known this issue would be on the agenda tonight, he would have brought the memo with him. He said that he feels that this is just being dropped on them at the last minute because they received it today at 12:49 p.m. Mr. Golinski noted that he really wants to make decisions for the benefit of the community but doesn't feel he has had the time to prepare or investigate.

Mayor Hussa interjected that he doesn't see what is so hard about this, either the Council grants the waiver or they don't.

There was a brief exchange between the Mayor and Mr. Golinski regarding the wording of the ordinance.

President Kuser asked the Mayor for the specific section in the ordinance that states that the Council can waive the fees.

The Mayor was unable to provide that specific information.

Councilman Shaw asked that the Mayor provide the Council with that information in the future.

President Kuser quoted from the General Ordinance 2A-13b.2, "after the employment has been approved, the person or entity shall complete a service agreement before the work is started". He said that his question is: has Morris Knolls 5K Run done this and has the Little League done it. Mr. Kuser further inquired as to whether either one has

completed this agreement. He asked if the Little League even knows about this. Mr. Ward replied that the Little League has been notified of the ordinance and the requirements to submit a request, but no agreements have been signed. He said that, prior to MK5K entering into an agreement, the Council has the ability to waive the fees, thus negating the need for an agreement.

Councilman Shaw interjected that these things often go to the Police Department and they notify Administration that they have received a request for personnel.

Mr. Kuser again noted that the Morris Knolls request was dated November 30<sup>th</sup>. The Mayor reiterated his statement that there is still plenty of time and, if the Council does not approve the waiver, Morris Knolls will have to put up the money.

Councilman Fitzpatrick stated that, that is so unfair to the Council. He said that the Mayor is saying it is a simple request but, for the Council not to have the information and just make a decision is not fair. Mr. Fitzpatrick added that the poor volunteers who do the event are stuck in the middle. The Mayor asked what information the Council is missing. Mr. Fitzpatrick stated that Mr. Golinski said that he did not even know this was to be on tonight's agenda and has not had a chance to review the ordinance and do his due diligence on it. The Mayor noted that he forwarded it to the Clerk's office and doesn't understand what the Council needs. Township Clerk Costello interjected that the resolutions were received at 3:30 in the afternoon.

Councilwoman Smith commented that this is getting a bit far afield and there are other issues to discuss. She noted that she recognizes that the Council needs to be informed but, when she was Council President, nothing other than emergent matters went into the Council's mail boxes after Friday afternoon. Mrs. Smith stated that, that was Council policy.

The Mayor stated that he was unaware that the Council did not get this until today. He said that Mr. Semrau is aware that everything must be given to the Clerk by Friday. President Kuser advised that he will establish a policy. He added that this issue was not an emergency but was made an emergency. President Kuser stated that anything that is not given to the Clerk by close of business on Friday will not appear on the agenda for Tuesday, unless it is an emergency that he has been notified of, and emergencies do happen.

Councilman Fitzpatrick asked if it is the recommendation of Administration to waive the fees.

The Mayor asked which one they are talking about. Mr. Fitzpatrick said he is referring to both of them.

The Mayor replied that he told the MK5K just to make a reasonable donation. He said that they do recommend that the fees be waived in this particular case. Mayor Hussa noted that it is a High School thing and is an annual event that is not extremely costly, but they have expressed to the organizers that a reasonable donation would be appreciated, although it is not mandatory.

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

R-11-97 RESOLUTION AUTHORIZING THE WAIVER OF POLICE SERVICE FEES  
FOR THE ANNUAL MORRIS KNOLLS 5 K EVENT  
MOTION TO APPROVE R-11-97: MOVED BY MEMBER SMITH, SECONDED BY  
MEMBER SHAW  
AYES: SMITH, SHAW, STECKY, FITZPATRICK, ANDES, KUSER  
ABSTAIN: GOLINSKI

President Kuser advised that an e-mail has been received from administration regarding the road paving. He said that the recommendation is to basically keep everything the same. Mr. Kuser asked if Administration has added Palmer Road and Broadway. Administrator Ward replied that Palmer Road and Broadway have been added and additional funds have been appropriated in the 2011 capital budget, in the event that our discretionary aid application is denied. He added that there are funds available to resurface all of the roads, some of which will be done through grants. Councilman Andes asked if, in the event that we do not receive the grant funding, it will be the Council's decision whether or not to go forward at that time. The Administrator replied that it will be listed in the bond ordinance and certainly can be discussed at that time.

Mr. Golinski asked if the Council may have the long range paving plan that was proposed. Mr. Kuser advised that it was something that was proposed by Councilman Andes. Mr. Golinski stated that he would like to follow up on that. He said that it was mentioned in the scope of work for the new engineer and Mr. Andes had mentioned it before that. Mr. Golinski noted that he would like to see what plan is existing and what is planned for the long-term.

Mr. Ward informed him that the long range plan will be developed. Mr. Golinski said that he would also like to discuss the process for identifying roads in need of attention. The Mayor noted that Mr. Ruschke has some new ideas about road paving that he thinks the Council will find to be very effective.

Councilman Fitzpatrick asked how small areas, such as Diamond Spring Road just before Café Metro, are addressed.

Mr. Ward explained that it is actually a County road and an application has been made to the County to fix it. He said that, in the meantime, we have used hot patch on it. Mr. Fitzpatrick asked how we budget for the many roads that need patching, but are not severe enough to make the paving list. Mr. Ward explained that DPW is utilized as well as any funds that may be left in the paving bond.

MOTION TO ADOPT MINUTES OF 2-12-11 AND 2-15-11: MOVED BY MEMBER SHAW,  
SECONDED BY MEMBER GOLINSKI  
AYES: SHAW, GOLINSKI, STECKY, SMITH for 2-12-11, FITZPATRICK, ANDES,  
KUSER  
ABSTAIN: SMITH for 2-15-11

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MOTION TO ADJOURN: MOVED BY MEMBER STECKY, SECONDED BY MEMBER SHAW  
AYES: UNANIMOUS

MEETING ADJOURNED AT 10:54 P.M.

Respectfully submitted:

Kathleen A. Costello  
Deputy Township Clerk