

TOWNSHIP OF DENVILLE
MUNICIPAL COUNCIL
REGULAR MEETING

SEPTEMBER 7, 2010

The Meeting was called to order at 7:30 p.m. by Council President Andes. The Salute to the Flag was recited, followed by an Invocation given by Councilman Fitzpatrick. The Open Public Meetings Act Statement was read by Township Clerk Donna Costello. Mrs. Costello asked that all cell phones be either muted or turned off and reminded everyone that this is a non-smoking facility.

ROLL CALL: SHAW (via telephone), GOLINSKI, FITZPATRICK, KUSER, SMITH, STECKY, ANDES

ALSO IN ATTENDANCE: MAYOR HUSSA, ADMINISTRATOR WARD, CHIEF WAGNER, CFO GOBLE, TOWNSHIP ATTORNEY SEMRAU AND COAH ADMINISTRATOR KATHY BOWDITCH.

President Andes noted that he is going to alter the agenda, in deference to Councilman Shaw since he is on a trip and attending via telephone. He said that the first item will be the Ordinance for Introduction:

#26-10 BOND ORDINANCE FOR POLICE DEPARTMENT RENOVATIONS

Township Clerk Costello advised that, pursuant to law, the supplemental debt statement for Bond Ordinance #26-10 has been received and is on file in the Office of the Municipal Clerk.

BE IT RESOLVED THAT AN ORDINANCE ENTITLED:

BOND ORDINANCE PROVIDING FOR RENOVATIONS OF THE POLICE DEPARTMENT IN AND BY THE TOWNSHIP OF DENVILLE, IN THE COUNTY OF MORRIS, NEW JERSEY, APPROPRIATING \$850,000 THEREFORE AND AUTHORIZING THE ISSUANCE OF \$807,500 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COST THEREOF

BE INTRODUCED AND READ BY TITLE ON FIRST READING:

MOTION TO INTRODUCE: MOVED BY MEMBER FITZPATRICK, SECONDED BY MEMBER GOLINSKI

DISCUSSION: None.

AYES: FITZPATRICK, GOLINSKI, KUSER, SHAW, ANDES

NAYS: SMITH, STECKY

BE IT RESOLVED THAT AN ORDINANCE ENTITLED:

BOND ORDINANCE PROVIDING FOR RENOVATIONS OF THE POLICE DEPARTMENT IN AND BY THE TOWNSHIP OF DENVILLE, IN THE COUNTY OF MORRIS, NEW JERSEY, APPROPRIATING \$850,000 THEREFORE AND AUTHORIZING THE ISSUANCE OF \$807,500 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COST THEREOF

BE PASSED ON FIRST READING

AND BE IT FURTHER RESOLVED THAT SAID ORDINANCE SHALL BE

CONSIDERED FOR FINAL PASSAGE AT THE MEETING OF THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF DENVILLE ON 10-5-10 AT 7:30 P.M. IN THE EVENING PREVAILING TIME, AT THE MUNICIPAL BUILDING IN SAID TOWNSHIP OF DENVILLE AT WHICH TIME AND PLACE ALL PERSONS INTERESTED SHALL BE GIVEN AN OPPORTUNITY TO BE HEARD CONCERNING SAID ORDINANCE. BE IT FURTHER RESOLVED THAT THE MUNICIPAL CLERK BE AUTHORIZED AND DIRECTED TO ADVERTISE THIS ORDINANCE IN THE CITIZEN ACCORDING TO LAW

MOTION TO PASS ON FIRST READING: MOVED BY MEMBER GOLINSKI, SECONDED BY MEMBER FITZPATRICK

AYES: GOLINSKI, FITZPATRICK, SHAW, KUSER, ANDES

NAYS: SMITH, STECKY

President Andes wished Mr. Shaw a good trip and the telephone connection was ended.

President Andes noted that the next item on the Agenda is a ceremonial matter. PUBLIC HEARING OF MORRIS COUNTY 2010 GRANT APPLICATION FOR OPEN SPACE LAND PARCELS:

FELS - 26 BROAD STREET

ROCKAWAY - 79 BROAD STREET

RE-ISSUED FROM 8-17-10 MEETING

Clerk Costello explained the reason for the re-issuing of this matter. She advised that there is a window for advertising of ten days between the printing and the Public Hearing. Mrs. Costello added that, that ten-day window was not met because The Citizen only prints once a week providing us with seven days instead of ten. She said that the matter must be re-heard, but nothing else regarding the matter needs to be re-done.

Attorney Semrau interjected that the Council may incorporate the minutes from the 8-17-10 meeting, dealing with this matter, in this meeting and just ask if anyone from the Public wishes to be heard. He said that would suffice since they already had a Public Hearing.

At this juncture, President Andes asked for a motion on the minutes of 8-17-10, MOTION TO APPROVE THE MINUTES OF 8-17-10: MOVED BY MEMBER KUSER, SECONDED BY MEMBER STECKY

Attorney Semrau suggested that, as part of this motion, the aspect of the meeting that related to the Open Space Hearing would also be incorporated as part of the minutes of this meeting for September 7th. President Andes agreed with the suggestion.

President Andes stated that, before we proceed, we need to straighten out the microphone problem once and for all. He advised Mr. Idec that he cannot yell out in the middle of the meeting if he can't hear someone, but he can raise his hand. Mr. Andes addressed the Council, Mayor, Administrator and guests and told them that they MUST

Township Council
9-7-10
Page 3

use the microphones.

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

ABSENT: SHAW

Mayor Husa noted that Clerk Costello has explained why we are having a second Public Hearing and advised that he has copies of the now-passed minutes relating to the Open Space Hearing on 8-17-10.

OPEN PUBLIC HEARING ON OPEN SPACE GRANT APPLICATION:

Kathy Hakem, Rockaway Borough, expressed her appreciation for the Township's efforts with Open Space within Denville as well as the piece that is being considered in Rockaway Borough. She said that there are a considerable number of residents in the Borough who are interested in seeing this property preserved and not developed. Ms. Hakem noted that she is in favor of the acquisition of the property by Denville.

Joyce Triarmuth, Rockaway Borough, extended her thanks to Mayor Husa, the Environmental Committee and everyone who is supporting this application. She said that she does not understand why the Rockaway Council did not give Mayor Husa the letter of support that he requested. Ms. Triarmuth spoke about the flooding issue and noted that there are many residents who would be most grateful if Denville acquired the property.

Robert Belz, 7 Memory Lane, stated that, after the Mayor's presentation last week, he found out where the property is located and walked the entire property. He said that it is a beautiful piece of land and he would be very pleased if Denville could acquire it for Open Space.

CLOSE PUBLIC HEARING.

Councilwoman Smith asked if the Township has received an appraisal on the Rockaway property as yet.

The Mayor replied that we have.

Attorney Semrau interjected that he does not think it would be wise to discuss appraisal values at this juncture because, if we were to go forward, we would negotiate with the property owner.

Mrs. Smith asked for the status with regard to receiving a resolution of support from Rockaway Borough.

The Mayor replied that the Borough has sent a letter to Frank Pinto at the County, requesting additional time to consider.

Mrs. Smith asked if that time is running out. The Mayor responded that it is not running out yet; he advised that the Public Hearing at the County will be on September 25th, and he is certain that we will have a yes or no answer by then.

President Andes noted that the Attorney has advised him that there is no need for a vote on this. Mr. Semrau added that there already was a resolution that was adopted and this is just the formality of making sure that the Public Hearing takes place within

the prescribed time-frame.

LIAISON REPORTS:

Councilman Golinski had no report.
Councilman Stecky had no report.
Councilwoman Smith had no report.
Councilman Kuser had no report.
Councilman Fitzpatrick had no report.
President Andes had no report.

MAYOR'S REPORT:

Mayor Husa gave a report covering July and August. He read the report into the record and provided a copy to each Council member. A copy of that report is attached to these minutes.

ADMINISTRATOR'S REPORT:

Administrator Ward advised that the suggestion to put pending ordinances on the web-site has already been implemented and is up and running. He said that once an ordinance is introduced, it is forwarded from the Clerk's office to John Ciardi and is posted on the web site immediately.

Mr. Ward reported that the Township has received notification from the State Health Benefits Fund that our health insurance premiums are slated to increase by 11.7% in 2011. He said that, based upon the census of employees that we currently have, it would translate into a \$240,000 increase for the year. The Administrator advised that, in order to secure better rates and more stability in our health insurance rates, he and Marie Goble have been meeting with two health insurance risk managers and have decided to take a two-path approach. Mr. Ward noted that one of the managers is exploring the private markets and the other is looking into health insurance funds, which are similar to our Joint Insurance Fund. He said that he hopes to have some concrete information within the next month or so, keeping in mind that we will have to have matching coverage to meet our contractual obligations.

Administrator Ward reported that the RVRSA has notified the Township that they will be replacing a sewer interceptor on Diamond Spring Road. He said that there will be a pre-construction meeting on September 14th, which he and Sgt. Partin will attend. Mr. Ward stated that they will gather information as to a time-frame for the work and what type of construction will be going on. He said that he will provide the Council with more information at the next meeting. The Administrator reported that they are planning this work for the fall and construction will probably begin at the end of this month or the beginning of the next.

Administrator Ward commented that he would like to make two recognitions:

On Friday, Deputy Clerk Kathy Costello reached twenty-five years of service with the Township. Mr. Ward said that she should be applauded and noted that she does a

great job.

Mr. Ward noted that on the Thursday following the last meeting, there was a major water main break on Route 53 South. He said that the DPW and Police Department mobilized, tackled the problem and within twenty-four hours it was re-paired and re-opened. Mr. Ward described the difficulty of the site and the depth that the workers had to deal with. He reported that a State Inspector, whose job it is to monitor this type of calamity, remarked to Mr. Ward that the efficiency of the DPW and Police Department in handling this emergency is the best, by far, that he has seen in any municipality that he has worked in.

Administrator Ward noted that his last item is kind of a last minute one. He said that he spoke about it briefly with President Andes before the meeting. Mr. Ward reported that there has been a request for an independent traffic engineering study for the speed limit on Morris Avenue. He advised that he has contacted a traffic engineer and obtained a proposal from him to examine the data for the speed limit on Morris Ave. Mr. Ward noted that this engineer will review the accident history on that road for the last three years, will review the site distances and horizontal curvature of the roadway and prepare a written recommendation with regard to speed limits for that section of Morris Ave. He said that the fee will be an amount not to exceed \$680 and he has verified that a certification of funds for that amount can be issued by the CFO. Administrator Ward advised that he will ask that this be formally included in a future agenda, but he will leave it up to the Council President to decide if it is possible to get a consensus of the Governing Body on the issue.

President Andes noted that it is within the purview of the Administrator to bring this to the Council, but as past practice and protocol dictate, we will take a consensus this evening.

President Andes asked the Council for a consensus for an independent study of the speed limits on Morris Avenue in an amount not to exceed \$680. He noted that there have been numerous complaints, with increasing frequency regarding the speed limits on Morris Avenue.

Golinski Yes Stecky Yes Smith Yes Kuser, stated that he would like to hear from the Police Chief

Chief Wagner advised that this has been an on-going dispute on Morris Avenue. He said that there are some residents in town who have voiced concerns about the speed limit on Morris Avenue. The Chief noted that there are three different speed zones in three sections of that roadway. He identified the sections as: near the Hampton Inn, at the DPW and at St. Clare's Mental Health Center. Chief Wagner stated that, in speaking with Mr. Ward, and because there are diverging positions on it, he agrees that hiring an independent traffic engineer to look at the situation and present his opinion would be worthwhile. He said that the Township would then follow his advice as a totally independent analysis of the situation. The Chief added that he thinks it is a good way for everyone to sit down and collectively look at it and he is fine with the proposal.

Kuser Yes Andes Yes Shaw Absent
Fitzpatrick Yes Andes Yes Shaw Absent

President Andes commented that it is not surprising that the DPW and Police Dept. were complimented on their work during the water main emergency. He said that we are accustomed to hearing that about them.

Councilman Fitzpatrick added that everyone on the Council was notified within hours of the occurrence, the press was notified and the story was updated throughout the day on the Daily Record's web site.

OPEN PUBLIC PORTION.

Gerald Idec, 1 Longview Trail East.

President Andes advised Mr. Idec that he needs to speak into the microphone in order to be heard.

Mr. Idec retorted that he would if the cord was a little longer. Mr. Andes said that is what we have to deal with, so perhaps he would like to try the one on the other table.

Mr. Idec replied that this is what has been provided and he can't get any closer. He

said that his complaint is about the audio system in this room because it does not work.

Mr. Idec went on to complain that the microphones are no good and the Township should have goose-neck microphones in order to show more concern for the Senior Citizens in Denville.

President Andes replied that Mr. Idec has been a frequent visitor to the Council meetings and has heard Mr. Andes ask people to speak into the microphones. He said that this is the system that we have now, but the Clerk is making arrangements, in next year's budget, to change to goose-neck microphones. Mr. Andes informed Mr. Idec that when this building was constructed, this was the system that was recommended and installed and we are living with what we have.

Mr. Idec then stated that his other issue is that, before Mr. Kuser was elected, he was at some of the Council meetings in the back of the room and he quoted Mr. Kuser as saying, "the first thing I am going to do when I become a Councilman is to take care of the audio system. I'm going to find out what's wrong with it". Mr. Idec said that it is time and any questions that he has about the system he is going to direct them to Mr. Kuser. Mr. Kuser replied o k.

President Andes advised that Mr. Idec must direct all of his questions to the chair because that is the protocol here, not to Councilman Kuser. Mr. Andes noted that he could then ask Mr. Kuser to answer, but all questions must be directed to the chair.

Mr. Idec asked if Mr. Kuser can answer the question as to whether or not he made those comments.

Councilman Kuser replied that he did learn how to use the system and was advised not to adjust the microphones anymore. Mr. Kuser asked Clerk Costello what the cost is for a goose-neck microphone. Mrs. Costello replied that the cost is between \$600 and \$1,000 per microphone. Mrs. Costello added that she invited Mr. Idec to come before the meeting tonight and she adjusted the microphones. She said that she

demonstrated to him that, if people speak into the microphones and enunciate you can hear them. She noted that it is a sealed system that requires a key to unlock and we have been told not to touch it. Mrs. Costello told Mr. Idec that if he has difficulty hearing a specific Councilperson, she can ask Mr. Ciardi to adjust that particular microphone, but we cannot just jack up the entire system because there will be intolerable feedback. Mr. Idec responded that, in other words, the system doesn't work. Mrs. Costello replied that the system does work and asked Mr. Idec if he can hear her; she said that she is speaking into the microphone and enunciating clearly.

President Andes interjected that what it comes down to is that anyone who speaks at the meetings must speak into the microphone and have it close enough to them to be heard clearly. He told Mr. Idec that he has made that request of everyone, this is the system we have and he cannot replace the microphones tonight.

Mr. Idec informed Mr. Andes that if he, Mr. Idec, cannot hear some of the people on the Council, it is Mr. Andes's responsibility to see that Mr. Idec can hear them.

Mr. Idec then suggested that an audio technician be brought in to check the equipment and see if it can be fixed. He said that he wants a vote taken tonight on doing that because he doesn't think it can cost too much money.

President Andes asked for guidance from Administration and noted that perhaps it can be done without cost.

Administrator Ward replied that he will coordinate with Clerk Costello. He said that he is not aware of what she has done so far and does not know, at this time, what is available. Mr. Ward added that he does not think a vote is necessary; he said that the Council is simply directing him to look into this a little further.

Bob Belz, 7 Memory Lane, reiterated Mr. Idec's complaints and also suggested goose-neck microphones. Mr. Belz commented that he disagrees with Mr. Andes' comment that we have to live with the system. He said that an emergency appropriation must be made to fix it.

Mr. Andes replied that he stated that we have to live with it until budget time.

Mayor Husa stated that he thinks that "just about everybody in here can hear me".

President Andes interjected that "we cannot hear you right now".

The Mayor said that, if there are perpetual complainers when we are speaking into the microphones, he does think that we should ask them if they can have their hearing checked.

Councilman Kuser stated that he does not agree with that. He said that there is a fundamental problem with the system. Mr. Kuser commented that he knows that from sitting in the audience and not being able to hear what people are saying, and it has to be fixed. He said that we have to get it in the budget and will get it fixed.

Mr. Idec had additional heated comments to make but was speaking from his seat in the audience and was no where near a microphone in order to be heard.

Councilwoman Smith noted that she lives with a hearing-impaired person and, regardless of whether someone is hearing-impaired or not, she does not believe that there is an inherent problem with the sound system. She said that she feels that every

single person should take the time to enunciate clearly and speak loudly. Mrs. Smith added that she knows that she speaks loudly and her voice carries to the back of the room, even without a microphone, so she thinks that the onus is on us and not on the residents to try to hear us because we don't speak properly. Mrs. Smith asked if there is anyone in the room who can't hear her. No one replied. She said that she is not in favor of spending \$600 to \$1,000 to replace microphones in a system that works. Mrs. Smith noted that she sent an e-mail, and will repeat here, that she cannot see spending taxpayers' money when the problem is with the speaker and not the microphone. Mr. Idec continued to speak out vehemently from the audience.

President Andes reminded Mr. Idec that he has had his turn during the Public Portion. Mr. Andes asked Mr. Ward to look into what can be done about the situation. He said that we should get Mr. Ciardi working on getting a microphone for the Mayor on the occasions that he wants to stand up and make a presentation. He asked the Council to cooperate by speaking into the microphones so that he does not have to ask again. Mike Dzurney, 99 Woodstone Road, stated that his issue is open burning and smoke pollution which he claims has been a chronic problem for years at Hollstein Lake and Woodstone Road. He stated that the smoke blows into his house and makes him sick as well as causing a lingering smoke odor on his clothing and on all materials in his home. Mr. Dzurney commented that he has witnessed the burning of pressure-treated lumber which contains arsenic.

Mr. Dzurney read a letter that he e-mailed to Mayor Husa on 5-20-08 into the record. A copy of the letter was provided to the Council and a copy is attached to these minutes.

Mr. Dzurney then advised that, while working in his home office last night, his house started to fill with smoke. He said that he walked outside to investigate and witnessed a bonfire in progress. Mr. Dzurney noted that when he notified the Police Department he was informed that a legal permit had been issued for the bonfire. He said that he later learned that it was issued by the State of New Jersey. Mr. Dzurney claimed that, regardless of the permit, the bonfire is an environmental violation. He said that a local ordinance against open burning supercedes the State permit and the permit is invalid. Mr. Dzurney commented that no one in this town has stood up against air pollution. He said that the Hollsteins, and others, are permitted to burn and pollute the air without being regulated. Mr. Dzurney stated that we need an ordinance against burning now. He urged the Council to pass an ordinance to put a stop to this public health issue that is polluting the air and making people sick.

Mr. Dzurney asked Mayor Husa if he smelled smoke in Mr. Dzurney's house last night. The Mayor's response was inaudible. Mr. Dzurney stated that the Mayor told him last night that he would support an ordinance prohibiting open burning in Denville. He asked the Mayor if he made that statement.

The Mayor's response was inaudible and President Andes asked him to use the microphone. The Mayor then stated that he will look into it. He said that was the commitment - that he will investigate it and speak to the professionals about it. The

Mayor noted that the Township Attorney will have to be involved with regard to the legalities and Mr. Dzurney's claim will be very seriously investigated.

Mr. Dzurney responded that this is not a question of what is legal, it is a question of environmental responsibility and this town has that responsibility. He said that the Township has the power, by virtue of an ordinance prohibiting burning, to prevent this whether they have a State permit or not.

Mr. Dzurney advised that there are other municipalities that have ordinances prohibiting burning and the average distance required from a public recreational facility is 450 ft.

Attorney Semrau noted that he has spoken with Administrator Ward and was provided with a copy of the permit that was issued by the State. He said that he does not like to say anything in a public meeting specifically about any resident or any type of activity.

Mr. Semrau advised that, as the Mayor stated, it is something that we can look into and perhaps discuss with the Governing Body at a work session, with respect to some options and this area of the law. He said that he has taken notes with regard to what the resident is saying and he thinks that the best thing to do is to take that under advisement and bring it back to the Governing Body at a future date.

Mr. Dzurney's last comment was that the Council has the power to protect the air in the Township of Denville.

Gus Hollstein, 106 Woodstone Road, stated that he is Mr. Dzurney's neighbor and did have a fire last night. He said that he had a permit that was issued by the Forestry Service. Mr. Hollstein noted that he is obligated to notify the Police Department prior to the fire and he did that. He said that with any open burning there is a small amount of smoke when you are starting the fire. Mr. Hollstein declared that there was no construction debris in this fire at all; he said that in past fires, when Mr. Dzurney had photographed fires, there had been construction debris on top of the fire but it was removed before the fire got to it. Mr. Hollstein stated that there have never been any asphalt shingles or any of the other items that Mr. Dzurney claimed were burned. He noted that at the fire last night, Mayor Hussa stopped by and former Mayor Carol Spencer was present for the entire event. He said that as soon as the fire starts it is clean, there is no more smoke. Mr. Hollstein stated that these are recreational fires and likened them to Chimineas or wood-burning stoves in the home which do not require permits. Mr. Hollstein commented that he was trying to abide by the law and get a recreational fire permit and that's what he did.

Ed Banagan, 38 Old Mill Rd., stated that with all the do-gooder environmentalists around, he is surprised that they allow people to burn wood in their fireplace. He noted that when smoke from fireplaces blows into his home, due to his year-round allergies, it effects him medically.

Mr. Banagan said that on August 19th he had a very good discussion with the Construction Official Walter Stefanacci. He said that Mr. Stefanacci was a gentleman but that his assistant was not. Mr. Banagan explained that his complaint was the auto repair shop next to the adult bookstore on Route 10. He said that he doesn't know why a citizen has to come to the Council with this, when Mr. Kuser, the 4th Ward

representative passes it every day. Mr. Banagan advised that he was told that Sal Poli went out to check it but was on vacation and Mr. Banagan should come back the next week. Mr. Banagan went on to describe the number and condition of un-licensed and un-inspected cars on the lot.

Councilman Kuser replied that the property maintenance ordinance that he requested will address that situation.

Mr. Banagan asked Mr. Andes why this situation has been allowed to go on for over three years. He said that Mr. Stefanacci told him that the Township allows up to six cars to be parked on an auto repair lot.

Mr. Andes asked Administrator Ward to investigate and report back to the Council on this situation.

Mr. Banagan commented that Sal told them they had ten days to clean it up and we are now going into the fifth week. He wanted to know why he has to bring photos to the Council to prove the situation that exists.

President Andes replied that the Council legislates the ordinances and the Administration runs the town on a day to day basis. He said that he has asked Administrator Ward for a report and he is sure that Mr. Ward will provide a detailed report on what is happening over there. Mr. Ward confirmed that he will take up the investigation immediately. Mr. Andes asked Mr. Banagan to give his name, address and phone number to the Administrator.

Attorney Semrau added that Mr. Banagan has brought this forward but the proper protocol and the responsible action of the Governing Body is to ask the Administration to look into it so that they can come back to the Council with the entire story. Mr. Semrau noted that we do not know the entire story so he thinks it is a bit premature for Mr. Banagan to cast any aspersions on anyone. Mr. Banagan asked who the Building Inspector reported to. He was told it is Administration.

Mr. Semrau noted that this Governing Body, earlier this year, asked for a property maintenance code to be drafted and adopted. He said that they specifically asked for it to be fast-tracked. Mr. Semrau advised that the ordinance has already been introduced so it is not like anyone here has not brought it up.

Mr. Banagan provided Clerk Costello with his phone number.

Franz Fuertges, 109 Ford Road, said that he would like to persuade the Council to take part in the beautification of Denville. He commented that he hopes everyone has noticed the changes that have been made in the downtown area and said that a few people have done a pretty good job. Mr. Fuertges noted that he has not yet achieved his goal of installing new planters in all of the downtown area, but he has not given up. Mr. Fuertges passed out photos of the progress in town, and noted that some merchants have not cooperated with the watering of the planters. He asked the Council to each use any influence they have with any local organizations to obtain volunteers to help water, weed and mulch various sites around town.

Mr. Fuertges noted that, initially, the Vo-Tech School was assisting with the decoration of the planters but he said that they were taking entirely too long to complete each

planter and the quality of the work did not meet his standards. He was critical of the teachers saying that it does not bode well for the future if they permit that quality of work to be done. Mr. Fuertges advised that he and Mr. Lowell had provided materials and a person with expertise in the process but that person was rejected by the instructor. He said that he has some other plans that he would like to see implemented.

Carol Spencer, 86 Woodstone Road, noted that she was, in fact, at Mr. Hollstein's home last night and would like to make a few observations. Ms. Spencer advised that she walked to the Hollstein house, passing Mr. Dzurney's house on the way, and Mr. Dzurney's windows were all closed. She agreed that when you light a fire it lets off smoke, but the majority of the time, because of the wind direction the smoke was blowing across the lake not in the other direction, although it went in that direction initially. Ms. Spencer advised that she has photographs on her phone to back up that statement. She commented that Jennifer Hollstein was there with a hose on the trees the majority of the time that the fire was burning. Ms. Spencer noted that she has a picture of the permit on her phone and at the three hour mark (the length of time allowed by the permit) Gus Hollstein put the fire out by drenching it and when she left the fire was completely out. She added that it was a legal fire.

Ms. Spencer noted that she has been attending Council meetings, pretty consistently, since 1986 and this is the first time that she has heard the issue of open burning raised. She said that the Council needs to give thought to it before legislating a neighborhood dispute. Ms. Spencer commented that people using Chimineas on their porches and patios will become lawbreakers because that is an open fire. She cited several other types of open fire pits that are used in backyards and patios and asked if these people will also be made lawbreakers.

Ms. Spencer commented that Mr. Dzurney has been before this Council many times over the past several years complaining about the path being blocked so that he could not get his boat trailer into the woods. She said that it was subsequently proven to be an illegal use under ordinances that already exist in the Township, prohibiting motorized vehicles on the path. Ms. Spencer recited a list of complaints that Mr. Dzurney has brought before the Council over a period of years. She stated that this is a personal vendetta and urged the Council to be very cautious about considering any legislation to solve a major neighborhood dispute between two people.

Renee Monico, 39 Thurmont Rd., said that she heard a rumor about the Township possibly acquiring the Young property, using Open Space funds. She advised that last week she dropped off a copy of a petition that she had started to the Mayor, regarding a possible zoning change that would allow for a transit village to be built on that property. She stated that she is here tonight to drop off the original to the Council and Mayor. Clerk Costello advised that the Mayor brought it right to her office after Ms. Monico dropped it off last week and it was date-stamped and distributed to the Council that day. Ms. Monico handed the original petition to Clerk Costello.

President Andes asked the Mayor to up-date the public on the Young property.

Mayor Husa explained that the Young property was one of the high priorities of the

Open Space Committee but, unfortunately, the owner having stated that he would sell for the appraised value, backed out when the appraised value did not meet his expectations. The Mayor noted that the building of townhouses would require a zone change and, in 2006, the Council decided that they did not want townhouses on that property and did not vote for a zone change. He said that he does not think that there is any more consensus to do it now than there was then. The Mayor advised that the owner of the property told him that Hovnanian had cooled somewhat in their desire to construct townhouses on that site. Mayor Hussa noted that he does not think that the residents have anything to fear but that the Township is grateful for the input of residents who would be greatly impacted by that type of project.

Councilwoman Smith commented that she and Mr. Andes were on the Council that viewed the presentation for the transit village and they were not interested in seeing that project go forward at that time. Mrs. Smith asked Mrs. Monico where she is hearing about pressure to develop this property. Mrs. Monico replied that it was just a rumor that she heard. Mrs. Smith noted that the Council has done a lot of things to protect that property from development due to steep slopes. She added that it is not a rumor that she had heard.

President Andes commented that he would like to clear up the fine details regarding this issue. He said that he was Council President in 2006 when the developer requested that he be allowed to make a presentation before the Council, which is not at all an unusual request. Mr. Andes noted that no vote was taken at that meeting. He said that at the end of the meeting he thanked the developer for the presentation and that was the end of it. Mr. Andes stated that it has never been discussed, with more than a conversation such as this one tonight, since then. President Andes advised that he has no desire to see a transit village there and, because of that, he would not put it on an agenda if a request was made by the developer. He told Mrs. Monico that she can rest assured that there is no burning desire on the part of the Council or the Mayor for a transit village.

Russell La Torre, 90 Woodstone Road, noted that he has been a resident of that neighborhood for fifteen years. He said that he agrees with Ms. Spencer that the issue is a personal vendetta and that the Council is wasting their time with the issue of open burning. Mr. La Torre stated that the majority of his neighbors has either a Chiminea or an open fire pit; he said that it is a source of enjoyment for him because the neighbors all get together around these pits or Chimineas and enjoy each other's company.
CLOSE PUBLIC PORTION.

CORRESPONDENCE: All copied to Council.

MATTERS OF OLD AND/OR NEW BUSINESS.

Councilwoman Smith asked the Mayor and Administrator about a new building on Route 10 East, West of Franklin Road. She said that she would like to see an audit of applications, wetlands delineation and would like to know how that building got there. Mrs. Smith noted that it is a one-story, grey building and she would like a detailed,

written report explaining how that building was able to be constructed there. She said that she had raised the issue with the prior Administrator and that she knows Mr. Ward does a great job and is handing this over to him.

Councilman Kuser spoke about an article that was on the Star-Ledger web site concerning Westfield. He said that the article reported that Westfield had its bond rating lowered because it raided its surplus, or cash fund. Mr. Kuser noted that Mrs. Goble is not present right now, but he would like to give kudos to her for sticking to her guns and refusing to use any more of our surplus/cash fund. He commented that a wealthy town like Westfield having their bond rate decreased points out the danger of raiding that fund.

Mr. Kuser advised that he comes to the building on Saturday or Sunday to pick up his mail and it is freezing in here. He said it is no wonder that our electric bills are through the roof if the air conditioning runs 24/7. Mr. Kuser noted that he has asked before why we do not have turn-back thermostats and have the air conditioning programmed so that it turns off after business hours. He said that anyone working after hours would be able to turn it back on with a timer for an hour or two. Mr. Kuser stated that he really feels it would have an impact in lowering our electric bill immensely.

President Andes asked if anyone from the public or the Council would like to have anything removed from the Consent Agenda. No one responded.

CONSENT AGENDA:

- R-10-184 RESOLUTION FOR RENEWAL OF MEMBERSHIP IN THE MORRIS COUNTY MUNICIPAL JOINT INSURANCE FUND
- R-10-185 RESOLUTION RECOMMENDING THE ENDORSEMENT OF A WETLANDS/FLOOD PLAIN-WAIVER/MAPPING REVISION FOR 3170 RT. 10, LLC-BLOCK 20801, LOT 42
- R-10-186 RESOLUTION RECOMMENDING THE ENDORSEMENT OF A WETLANDS/FLOOD PLAIN-WAIVER/MAPPING REVISION FOR BRAUER FAMILY LLC #2-BLOCK 20801, LOTS 35 & 44
- R-10-187 RESOLUTION REFUNDING THE PAYMENT OF TAXES OVERPAID FOR CALENDAR YEAR 2010 - \$917.23
- R-10-188 RESOLUTION AUTHORIZING REINSTATEMENT OF THE ORIGINAL SEWER ASSESSMENT INSTALLMENT PLAN FOR CERTAIN PROPERTIES IN THE TOWNSHIP OF DENVILLE
- R-10-189 RESOLUTION AUTHORIZING APPLICATION FOR FUNDS FOR DRUNK DRIVING ENFORCEMENT PROGRAM GRANT PURSUANT TO N.J.S.A. 39:4-50/N.J.A.C. 13:86 IN THE AMOUNT OF \$11,941.21
- R-10-190 RESOLUTION AUTHORIZING REFUND OF RECREATION DEPARTMENT FEES IN THE AMOUNT OF \$52.00
- R-10-191 RESOLUTION AUTHORIZING RAFFLE LICENSES IN THE TOWNSHIP OF DENVILLE

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

R-10-192 RESOLUTION AUTHORIZING APPROPRIATION FROM THE
TOWNSHIP OF DENVILLE AFFORDABLE HOUSING TRUST FUND
FOR THE REHABILITATION OF A CERTAIN PROPERTY AS SET
FORTH IN THE RECOMMENDATION OF THE DENVILLE HOUSING
OFFICER IN AN AMOUNT NOT TO EXCEED \$17,650.00

MOTION TO APPROVE R-10-192: MOVED BY MEMBER SMITH, SECONDED BY
MEMBER GOLINSKI
AYES: SMITH, GOLINSKI, FITZPATRICK, KUSER, STECKY, ANDES
ABSENT: SHAW

R-10-193 RESOLUTION AUTHORIZING THE REFUND OF MONEY DUE TO THE
REDEMPTION OF A TAX SALE CERTIFICATE IN THE AMOUNT OF
\$41,596.94

MOTION TO APPROVE R-10-193: MOVED BY MEMBER KUSER, SECONDED BY
MEMBER STECKY
AYES: KUSER, STECKY, FITZPATRICK, SMITH, GOLINSKI, ANDES
ABSENT: SHAW

R-10-194 RESOLUTION REFUNDING THE PAYMENT OF TAXES OVERPAID
FOR CALENDAR YEAR 2010 IN THE AMOUNT OF \$2,895.88.

MOTION TO APPROVE R-10-194: MOVED BY MEMBER SMITH, SECONDED BY
MEMBER STECKY
AYES: SMITH, STECKY, FITZPATRICK, KUSER, GOLINSKI, ANDES
ABSENT: SHAW

R-10-195 RESOLUTION AUTHORIZING THE PURCHASE OF NINE (9) CF-19
PANASONIC TOUGHBOOK COMPUTER NOTEBOOKS AND
SOFTWARE FOR THE DENVILLE POLICE DEPARTMENT

MOTION TO APPROVE R-10-195: MOVED BY MEMBER KUSER, SECONDED BY
MEMBER GOLINSKI

Councilwoman Smith asked if these computer notebooks were in our budget. She was
advised that they were in the Capital Budget.

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

R-10-196 RESOLUTION AWARDED PROFESSIONAL SERVICES CONTRACT
TO HATCH MOTT MACDONALD FOR ENGINEERING SERVICES

Township Council
9-7-10
Page 15

RELATED TO THE COMBINED WATERMAIN PROJECT FOR THE
FORD ROAD BRIDGE CROSSING AND THE FREEMAN LANE, FORD
ROAD AND BEAVERBROOK WATERMAIN REPLACEMENT IN AN
AMOUNT NOT TO EXCEED \$19,700.00

MOTION TO APPROVE R-10-196: MOVED BY MEMBER GOLINSKI, SECONDED BY
MEMBER FITZPATRICK

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

ABSENT: SHAW

R-10-197 RESOLUTION AUTHORIZING CLOSED SESSION - ACTION MAY OR
MAY NOT BE TAKEN UPON COMING OUT OF CLOSED SESSION

MOTION TO APPROVE R-10-197: MOVED BY MEMBER SMITH, SECONDED BY
MEMBER KUSER

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

ABSENT: SHAW

Council went into Closed Session at 9:00 p.m.

Council came out of Closed Session at 9:41 p.m.

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

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

ABSENT: SHAW

MEETING ADJOURNED AT 9:42 P.M.

Respectfully submitted:

Kathleen A. Costello
Deputy Township Clerk