TOWNSHIP OF DENVILLE MUNICIPAL COUNCIL
REGULAR MEETING
7:30 P.M. DATE: SEPTEMBER 17, 2013

PUBLIC COMMENTS:
COUNCIL REQUESTS THAT PUBLIC COMMENTS BE LIMITED TO (3)
THREE MINUTES PER PERSON

PRESENTATIONS:
COUNCIL REQUESTS THAT PRESENTATIONS BE LIMITED TO (30)
MINUTES OR LESS AND MUST BE PRE-ARRANGED WITH THE MUNICIPAL CLERK

SALUTE TO THE FLAG
INVOCATION
NOTICE OF PUBLIC MEETING
ROLL CALL

KUSER  GABEL  GOLINSKI  LYDEN
SCOLLANS  SMITH  PRESIDENT FITZPATRICK

MEETING OPENED: ______________________________
MEETING CLOSED: ______________________________

IN ATTENDANCE
MAYOR  ANDES  ADMINISTRATOR WARD

TOWNSHIP ATTORNEY  ______________________________

OTHERS:  ______________________________

CEREMONIAL MATTERS AND/OR PRESENTATIONS

Council Liaison/Committee Reports

Mayor’s Report

Administrator’s Report
PUBLIC PORTION

CORRESPONDENCE

MATTERS OF OLD AND/OR NEW BUSINESS

ORDINANCE(S) FOR ADOPTION

NONE

ORDINANCE(S) FOR INTRODUCTION

#20-13
AN ORDINANCE OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS, STATE OF NEW JERSEY TO AMEND CHAPTER 19, LAND USE, TO PERMIT FARMER’S MARKETS ALL YEAR

ITEMS FOR DISCUSSION AND/OR ACTION

NONE SCHEDULED

RESOLUTIONS

# CONSENT AGENDA ITEMS

R-13-195A#RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT WITH THE CEDAR LAKE PROPERTY OWNERS, INC.

R-13-196# RESOLUTION AUTHORIZING REFUND OF A PORTION OF THE CONSTRUCTION PERMIT FEE RELATED TO DAMAGE CAUSED BY TROPICAL STORM IRENE

R-13-197# RESOLUTION AUTHORIZING CHANGE ORDER #3 FOR RIEFOLO CONSTRUCTION COMPANY RELATIVE TO THE ADDITION AND ALTERATIONS TO THE VALLEY VIEW FIRE COMPANY NO. 3
NON-CONSENT RESOLUTIONS

R-13-198 RESOLUTION OF APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT CONTRACT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR THE BLOOMFIELD AVENUE TRANSIT ENHANCEMENT PROJECT

R-13-199 RESOLUTION OF APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT CONTRACT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR THE BROADWAY STREETSCAPE PHASE II PROJECT

R-13-200 RESOLUTION OF APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT CONTRACT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR THE DIAMOND SPRING ROAD PAVING PROJECT

R-13-201 RESOLUTION AUTHORIZING THE REFUND OF MONEY DUE TO THE REDEMPTION OF A TAX SALE CERTIFICATE

R-13-202 RESOLUTION AUTHORIZING PURCHASE OF A 2013 HINO 268, 26,000 LB. DUMP TRUCK FROM H. K. TRUCK SERVICES, INC. THROUGH STATE CONTRACT NO. A83010

MINUTES FOR ADOPTION 9-3-13

MOTION TO ADJOURN
ORDINANCE # 20-13

BE IT RESOLVED THAT AN ORDINANCE ENTITLED:
AN ORDINANCE OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS, STATE OF NEW JERSEY TO AMEND CHAPTER 19, LAND USE, TO PERMIT FARMER'S MARKETS ALL YEAR

BE INTRODUCED AND READ BY TITLE ON FIRST READING:

COUNCIL PRESIDENT: MOTION TO INTRODUCE
DISCUSSION ON ORDINANCE
ROLL CALL ON INTRODUCTION

BE IT RESOLVED THAT AN ORDINANCE ENTITLED
AN ORDINANCE OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS, STATE OF NEW JERSEY TO AMEND CHAPTER 19, LAND USE, TO PERMIT FARMER'S MARKETS ALL YEAR

BE PASSED ON FIRST READING

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 10-15-13 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.

COUNCIL PRESIDENT: MOTION TO PASS ON FIRST READING ROLL CALL
AN ORDINANCE OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS, STATE OF NEW JERSEY TO AMEND CHAPTER 19, LAND USE, TO PERMIT FARMER’S MARKETS ALL YEAR

BE IT ORDAINED, by the Municipal Council of the Township of Denville, in the County of Morris and State of New Jersey, as follows:

SECTION 1. Chapter 19, Land Use, Article 5, Zone Regulations, Section 19-5.7, General Provisions, subsection 19-5.714A, Seasonal Farmer’s Market Sales, is hereby amended to read as follows:

“§19-5.714A Farmer’s Market Sales.

a. Purpose. The purpose of this Section is to permit and regulate the outdoor display and sale of merchandise within the Township of Denville in such a manner as to protect the public’s health and safety and to ensure the integrity of the Township’s land use plan and zoning regulations.

b. Designated Zones. Farmer’s markets shall be permitted on Lots 14 and 22, Block 50202 within the B-1 and B-2 Zone Districts and such other locations in the B-1 and B-2 Zone Districts as may be designated by the appropriate municipal official provided that at least ten (10) days written notice is given to the sponsor of the farmer’s market to relocate the farmer’s market for a given weekend.

c. Permit Required.

1. Zoning Permit.

(a) No property shall be utilized for a farmer’s market as defined herein without the issuance of a farmer’s market permit to the sponsor of the market from the Township’s Zoning Officer in accordance with the provisions of this Chapter.

(b) No person, persons, firm or corporation shall participate as a vendor in a farmer’s market without first obtaining a permit from the Township’s Zoning Officer.

(c) The fee for the farmer’s market sponsor permit shall be $50.00. The fee for the farmer’s market vendor permit shall be $50.00.


(a) No person, persons, firm or corporation shall operate a farmer’s market without first obtaining a farmer’s market blanket license from the Township’s Health Department.

(b) No person, persons, firm or corporation shall serve or offer food at a farmer’s market without having obtained a farmer’s market vendor’s license from the Township Health Department. A farmer’s market vendor’s license shall be required for each stand, kiosk or similar appurtenance from which food is served regardless of whether there is a charge to the public.
(c) Fees for health licenses are set forth in Chapter II-A.

3. Each permit and license shall expire on December 31 of the calendar year in which it is issued.

4. The sponsor of the farmer's market shall be responsible to secure the farmer's market permit and license required pursuant to c.1(a) and c.2(a) above and to verify that permits and licenses required pursuant to c.1(b) and c.2(b) have been obtained by all vendors participating in the event.

5. Farmer's market uses shall be limited to the following vendor categories:

   Farmer: a person who raises produce, plants, botanicals or animals on the land such person owns, leases or rents. Also includes a person who processes produce, fruit, berries, botanicals, meats, eggs, dairy, honey etc. which is grown, raised or harvested on property that such person owns, leases or rents, and then turned into value added products(s) such as jam, cider, maple syrup, cheese, baked goods, essential oils, etc.

   Processor: a person who sells foods that such person has personally prepared or processed on property that such person owns, leases or rents. Processors are persons offering fresh food products that have added value to their products through "hand on" processing.

   Prepared Food: Prepared food vendors offer freshly made foods available for sale and immediate consumption on-site. All food is prepared on property owned, leased or rented by the vendor. Prepared food vendors using local ingredients are preferred.

   Non-food grower and processor: A person who prepares natural products, such as essential oils, cosmetics, pet foods, soaps etc., that they have personally prepared or processed to support a healthy lifestyle on property that they own, lease or rent.

   All vendors are prohibited from reselling products that are not produced, prepared or processed on property that they own, rent or lease.

   All vendors and their products must be approved by the sponsor before a vendor permit may issue.

   In addition to licensed vendors, one (1) restaurant shall be permitted each week to provide menu samples and sales and one (1) nonprofit organization having I.R.C. Section 501(c)(3) tax-exempt status shall be permitted each week to distribute information to the public regarding the organization and to solicit members and, if desired, to obtain signatures for petitions. The vendor permit fee required under paragraph c.1.(b) above shall not apply to the restaurant and nonprofit organization selling items one (1) time per calendar year as provided in this section. However, all required Health Department license fees shall continue to be paid by each respective vendor.

   d. Submission Requirements.

   1. The sponsor of the farmer's market shall be required to submit a map order and/or diagram indicating the location of the proposed vendor display stands.

   2. A certificate of insurance indicating that the sponsor of the farmer's market and each vendor has public liability insurance in the amount of at least $1,000,000 and naming the Township as an additional insured shall be provided for the sponsor and for each vendor at least ten (10) days prior to the date of the market in which the vendor is
participating. A new certificate of insurance for the market sponsor and each vendor shall be submitted prior to the expiration date of the liability policy indicating renewal of the policy. A vendor who does not provide a current certificate of insurance may not participate in a farmer's market.

3. Site plan approval is not required for farmer's market uses as defined herein.

e. Days and Hours of Operation. Functions authorized by the farmer's market permit shall be limited to Sundays only and to the hours between 7:00 a.m. and 4:00 p.m. inclusive of set-up and breakdown time.

f. Standards. Farmer's market activity shall adhere to the following standards:

1. Sponsor shall abide by any and all provisions of this ordinance as well as conditions that may be attached to the permit by the Police, Health and Planning Departments to ensure the public's health, safety and welfare.

2. No structures, tables, stalls or other appurtenances shall obstruct a sidewalk or emergency access lane.

3. Solid Waste Removal. It shall be the responsibility of each vendor and the sponsor to arrange for the removal of any solid waste generated.

4. Temporary signage shall be subject to subsection 19-5.909 of this Chapter.

5. The sponsor shall contact the Township Police Department for a determination as to whether inclement weather conditions exist that require cancellation of the market and shall abide by the decision of the Police Department.

g. A farmer's market sponsor or vendor permit or license shall not be construed to permit Peddling and/or Soliciting as regulated under Chapter 4, Section 4-7.

h. Exemptions. Farmer's market use as described herein shall be exempted from the provisions of Section 19-5.714 Outdoor Storage.

i. Appeals. Where there is a dispute regarding a decision by the Township's Administrative Officer or Zoning Officer as to whether an activity qualifies for a permit under this section, the matter shall be referred to the Denville Township Zoning Board of Adjustment for a determination pursuant to N.J.S.A. 40:55D-70a."

SECTION 2. All Ordinances of the Township of Denville that are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3. If any section, subsection, sentence, clause of phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

SECTION 4. The provisions of this ordinance may be renumbered for purposes of codification.
SECTION 5. This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

ATTEST:

Donna I. Costello, RMC/CMC
Municipal Clerk

Thomas Andes, Mayor
Township of Denville
RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT
WITH THE CEDAR LAKE PROPERTY OWNERS, INC.

WHEREAS, the Cedar Lake Property Owners, Inc. ("CLPO") maintains portions of a spillway and dam structure ("dam structure") over which the roadway known as Cedar Lake East is located; and

WHEREAS, Cedar Lake East is a dedicated and accepted public roadway of the Township; and

WHEREAS, the CLPO is planning to make improvements and perform certain maintenance to the dam structure; and

WHEREAS, the CLPO has obtained various engineering proposals and opinions relating to the maintenance and improvements to the dam structure among which include elevation of the public roadway that was constructed above the dam structure; and

WHEREAS, Cedar Lake East is in need of resurfacing of the roadway and the Township is willing to coordinate the resurfacing of said roadway including the portion that is constructed above the dam structure with the CLPO; and

WHEREAS, the parties desire to enter into an agreement with regard to the coordination of the dam structure improvements and maintenance and the resurfacing of Cedar Lake East.

NOW, THEREFORE, BE IT RESOLVED by the Municipal Council of the Township of Denville, County of Morris, and State of New Jersey, as follows:

1. The Municipal Council hereby authorizes the Mayor and the Township Clerk to execute an Agreement with the Cedar Lake Property Owners, Inc.

2. This Resolution shall take effect immediately.
BY ORDER OF THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF DENVILLE


CERTIFICATION DATED: DONNA I. COSTELLO, RMC/CMC, MUNICIPAL CLERK
AGREEMENT

THIS AGREEMENT, made this ___ day of ___, 2013, by and between:

CEDAR LAKE PROPERTY OWNERS, INC.

Denville, NJ 07834,

(Hereinafter the “CLPO”)

and:

TOWNSHIP OF DENVILLE, a municipal corporation of the State of New Jersey, with offices at the Municipal Building, 1 St. Mary’s Place, Denville, NJ 07834,

(Hereinafter the “Township”)

WITNESSETH:

WHEREAS, the CLPO maintains portions of a spillway and dam structure ("dam structure") over which the roadway known as Cedar Lake East is located; and

WHEREAS, Cedar Lake East is a dedicated and accepted public roadway of the Township; and

WHEREAS, the CLPO is planning to make improvements and perform certain maintenance to the dam structure; and

WHEREAS, the CLPO has obtained various engineering proposals and opinions relating to the maintenance and improvements to the dam structure among which include elevation of the public roadway that was constructed above the dam structure; and

WHEREAS, Cedar Lake East is in need of resurfacing and the Township is willing to coordinate the resurfacing of said roadway including the portion that is constructed above the dam structure with the CLPO; and

WHEREAS, the parties desire to enter into an agreement with regard to the coordination of the dam structure improvements and maintenance and the resurfacing of Cedar Lake East.

NOW, THEREFORE, IN CONSIDERATION OF the sum of ONE ($1.00) DOLLAR, and the mutual undertakings herein, the parties agree as follows:

1. The Township agrees to coordinate the resurfacing of Cedar Lake East with the improvements/repairs to the dam structure maintained by the CLPO. The Township's responsibility with regard to the resurfacing of the roadway of Cedar Lake East shall be limited to the paved portion of the roadway.

2. The CLPO agrees to be responsible for the engineering costs, guard rails, fence and landscaping. The CLPO represents that by agreeing to take responsibility for these items, it is not assuming any responsibility the Township may have for the road maintenance.

3. The Township represents that by agreeing to resurface the paved portion of Cedar Lake East in coordination with the improvements and maintenance by the CLPO to its dam structure, the Township is not assuming any responsibility whatsoever for the maintenance of the dam or asserting or claiming any ownership interest in the dam.

4. The Township agrees that the Township Engineer will coordinate the activities of the Township for paving with the maintenance and improvements to the dam structure to be undertaken by the CLPO, and will provide on-site review services, including the submittal of the construction status reports and final “as built” drawings provided by the CLPO, as required by the New Jersey Department of Environmental Protection.

5. The Township hereby agrees to save the CLPO harmless, defend and indemnify the CLPO from and against any acts and omissions of the Township or any acts or omissions of the Township's agents, servants, representatives or employees, from and against any loss, injury, damage or liability of any nature arising out of the performance of the things to
be performed by the Township under the terms of this Agreement and from and against any suit or action brought against the CLPO by anyone therefor.

6. The CLPO hereby agrees to save the Township harmless, defend and indemnify the Township from and against any acts and omissions of the CLPO or any acts or omissions of the CLPO's agents, servants, representatives or employees, from and against any loss, injury, damage or liability of any nature arising out of the performance of the things to be performed by the CLPO under the terms of this Agreement and from and against any suit or action brought against the Township by anyone therefor.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals or caused their proper corporate officers and their proper corporate seals to be affixed hereto the day and year as indicated on the attached acknowledgments.

ATTEST:

CEDAR LAKE PROPERTY OWNERS, INC.

By: Steven Kovacs

President

ATTEST:

TOWNSHIP OF DENVILLE

By: Thomas W. Andes

Mayor

Donna I. Costello, RMC/CMC, Clerk
STATE OF NEW JERSEY, COUNTY OF MORRIS: SS:

I CERTIFY that on 9-6, 2013, Steven Kovacs personally came before me and acknowledged under oath, to my satisfaction, that:

(a) this person is the President of Cedar Lake Property Owners, Inc. the corporation named in the attached document; (b) this person is the attesting witness to the signing of this document by the proper corporate officer who is Steven Kovacs, the President of the corporation; (c) this document was signed and delivered by the corporation as its voluntary act duly authorized by a proper resolution of its Board of Director; (d) this person knows the proper seal of the corporation which was affixed to this document; and (e) this person signed this proof to attest to the truth of these facts.

Sworn and subscribed to before me this 6th day of September, 2013.

Kathleen A. Costello
(Notary sign, seal stamp)

STATE OF NEW JERSEY, COUNTY OF MORRIS: SS:

I CERTIFY that on , 2013, DONNA I. COSTELLO personally came before me and this person acknowledged under oath, to my satisfaction, that: (a) this person is the Clerk of the TOWNSHIP OF DENVILLE, the municipal corporation named in the attached document; (b) this person is the attesting witness to the signing of this document by the proper municipal officer who is THOMAS W. ANDES, the Mayor of the municipal corporation; (c) this document was signed and delivered by the municipal corporation as its voluntary act duly authorized by a proper resolution of the Committee; (d) this person knows the proper seal of the municipal corporation which was affixed to this document; and (e) this person signed this proof to attest to the truth of these facts.

Sworn and Subscribed to before me this day of , 2013.

Donna I. Costello, Clerk

(Notary sign, seal, stamp)
WHEREAS, Tropical Storm Irene caused substantial damage in the Township of Denville and placed significant costs and expenses on both residential and business property owners; and

WHEREAS, the Township supported and continues to support those property owners and encourages redevelopment of the areas of the municipality harmed by such acts of nature; and

WHEREAS, N.J.S.A. 5:27D-126b permits municipalities to waive fees for construction permits; and

WHEREAS, the Township Council previously authorized a waiver of construction permit fees associated with repairs to damage caused by Tropical Storm Irene on September 13, 2011 as detailed in Resolution #R-II-204; and

WHEREAS, the aforementioned resolution expired on January 28, 2012; and

WHEREAS, due to various unforeseen factors, certain property owners were unable to commence repairs related to damage caused by Tropical Storm Irene until after the expiration of the aforementioned construction fee waiver resolution; and

WHEREAS, the Township of Denville desires to demonstrate its support of property owners by refunding fees associated with construction permits where the property owner has demonstrated extenuating circumstances which led to the delay in applying for the requisite construction permits.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Denville, in the County of Morris and State of New Jersey that a portion of the construction permit fees related to damage caused by Tropical Storm Irene shall be refunded to the following property owner as detailed:

1. Block 50407, Lot 57 – Refund: $ 815.00

This resolution shall take effect immediately.


CERTIFICATION DATED: DONNA I. COSTELLO, RMC/CMC MUNICIPAL CLERK
RESOLUTION

WHEREAS, the Township of Denville and Riefolo Construction Company entered into a contract dated March 22, 2013 for Addition and Alterations to the Valley View Fire Company No. 3; and

WHEREAS, the Business Administrator has recommended that a change order be authorized to extend the time for completion; and

WHEREAS, the Township is agreeable to granting the requested changes as reflected in Change Order #3.

NOW, THEREFORE, BE IT RESOLVED, by the Municipal Council of the Township of Denville, in the County of Morris, and State of New Jersey, that the contract between the Township and Riefolo Construction Company dated March 22, 2013, shall be amended as described in the attached Change Order #3 and that the Mayor and Township Clerk be authorized and directed to execute said Change Order #3 on behalf of the Township.

BY ORDER OF THE MUNICIPAL COUNCIL
OF THE TOWNSHIP OF DENVILLE

I, DONNA I. COSTELLO, MUNICIPAL CLERK OF THE TOWNSHIP OF DENVILLE, DO HEREBY CERTIFY THE ABOVE TO BE A TRUE AND EXACT COPY OF A RESOLUTION APPROVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF DENVILLE AT THEIR MEETING HELD ON 9-17-2013

CERTIFICATION DATED: DONNA I. COSTELLO, RMC/CMC
MUNICIPAL CLERK
Change Order No. 3
IN CONNECTION WITH THE VALLEY VIEW FIREHOUSE CO#3 PROJECT

CONTRACTOR
Riefolo Construction Corporation
12 Railroad Place
Belleville, NJ 07109

PROJECT:
Additions and Alterations to
Valley View Firehouse Co #3

OWNER:
Township of Denville,
a Municipal Corporation of the
State of New Jersey
1 St. Mary's Place
Denville, New Jersey 07834

The Agreement between the Owner and Contractor for the Project, dated March 22, 2013 (hereinafter, "Agreement"), is hereby amended to reflect the following changes:

1. The time for completion of the project is hereby extended from July 20, 2013, to October 23, 2013.

All other terms and conditions set forth in the Agreement shall remain in full force and effect.

Approved by Owner
TOWNSHIP OF DENVILLE

Thomas W. Andes, Mayor

Donna I. Costello, Clerk

Dated:

Approved by Contractor
RIEFOLO CONSTRUCTION ORPORATION

Dated:
RESOLUTION AUTHORIZING THE APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT CONTRACT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR THE BLOOMFIELD AVENUE TRANSIT ENHANCEMENT PROJECT

NOW, THEREFORE, BE IT RESOLVED that the Municipal Council of the Township of Denville formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as SST-2014 - Denville Township - 00058 to the New Jersey Department of Transportation on behalf of the Township of Denville.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Township of Denville and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

Certified as a true copy of the Resolution adopted by the Municipal Council
On this ___ day of __________, 2013

______________________________
Clerk

My signature and the Clerk's seal serve to acknowledge the above resolution and constitute acceptance of the terms and conditions of the grant agreement and approve the execution of the grant agreement as authorized by the resolution above.

ATTEST and AFFIX SEAL______________________________  ______________________
(Clerk)  (Mayor)
Grant Application for State Aid to Counties and Municipalities Safe Streets to Transit 2014
SST-2014-Denville Township-00058 Pedestrian_Safety

Project Name

Note: If you have multiple locations for the same type of improvement and scope of work, you may enter “various” for the project limits, download an excel spreadsheet, fill it out and attach it below.

Project Title: Bloomfield Avenue Transit Enhancement Project

From: Main Street

To: Broadway

Project Distance (Miles): 0.15
Grant Application for State Aid to Counties and Municipalities
Safe Streets to Transit 2014
SST-2014-Denville Township-00058
Pedestrian Safety

Total Estimated Cost of Improvement

Construction Cost: $364,970.00

Please attach a Detailed Construction Cost Estimate: (Word, Excel, or PDF format please) 696210-ConstructionCostEst.xls

Design Engineering: $0
(List only if eligible for Urban Aid or as a Depressed Rural Center)

Right-of-Way: $0
(List only if eligible for Urban Aid or as a Depressed Rural Center)

Construction Inspection and Material Testing if requesting: $54,745.00
(15% of the final allowable construction cost maximum)

Total Estimated Cost: $419,715.00

Total Requested Amount: $340,000.00
RESOLUTION AUTHORIZING THE APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT CONTRACT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR THE BROADWAY STREETSCAPE PHASE II PROJECT

NOW, THEREFORE, BE IT RESOLVED that the Municipal Council of the Township of Denville formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as MA-2014 - Denville Township - 00344 to the New Jersey Department of Transportation on behalf of the Township of Denville.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Township of Denville and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

Certified as a true copy of the Resolution adopted by the Municipal Council
On this ___ day of ________, 2013

__________________________
Clerk

My signature and the Clerk's seal serve to acknowledge the above resolution and constitute acceptance of the terms and conditions of the grant agreement and approve the execution of the grant agreement as authorized by the resolution above.

ATTEST and AFFIX SEAL__________________________
(Clerk) (Mayor)
Grant Application for State Aid to
Counties and Municipalities
Municipal Aid 2014
MA-2014-Denville Township-00344
Quality_of_Life

Project Name

Note: If you have multiple locations for the same type of improvement and scope of work, you may enter “various” for the project limits, download an excel spreadsheet, fill it out and attach it below.

Project Title: Broadway Streetscape Phase II

From: First Avenue

To: Bloomfield Avenue

Project Distance (Miles): 0.16
Grant Application for State Aid to
Counties and Municipalities
Municipal Aid 2014
MA-2014-Denville Township-00344
Quality_of_Life

TOTAL ESTIMATED COST OF IMPROVEMENT

Construction Cost: $358,993.50

Please attach a Detailed Construction Cost Estimate 695349-ConstCostEst09.2013.xls (Word, Excel, or PDF format please)

Design Engineering: $0
(List only if eligible for Urban Aid or as a Depressed Rural Center)

Right-Of-Way: $0
(List only if eligible for Urban Aid or as a Depressed Rural Center)

Construction Inspection and Material Testing if requesting: $53,849.02
(15% of the final allowable construction cost maximum)

Total Estimated Cost: $412,842.52

Total Requested Amount: $330,000.00

If you have submitted or plan to submit other applications, please prioritize your applications by assigning them a priority rating. Use number 1 for the highest priority. If you only plan to submit this application, please enter 1 as the priority rating:
RESOLUTION AUTHORIZING THE APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT CONTRACT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR THE DIAMOND SPRING ROAD PAVING PROJECT

NOW, THEREFORE, BE IT RESOLVED that the Municipal Council of the Township of Denville formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as MA-2014 - Denville Township - 00284 to the New Jersey Department of Transportation on behalf of the Township of Denville.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Township of Denville and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

Certified as a true copy of the Resolution adopted by the Municipal Council
On this ___ day of ________, 2013

________________________
Clerk

My signature and the Clerk’s seal serve to acknowledge the above resolution and constitute acceptance of the terms and conditions of the grant agreement and approve the execution of the grant agreement as authorized by the resolution above.

ATTEST and AFFIX SEAL________________________  __________________________
(Clerk)  (Mayor)
Grant Application for State Aid to
Counties and Municipalities
Municipal Aid 2014
MA-2014-Denville Township-00284
Roadway_Preservation

Project Name

Note: If you have multiple locations for the same type of improvement and scope of work, you may enter “various” for the project limits, download an excel spreadsheet, fill it out and attach it below.
691160-Scopeofwork.doc

Project Title: Diamond Spring Road Paving Project

From: River Road

To: Whaleback Waddy

Project Distance (Miles): 1.03
Grant Application for State Aid to
Counties and Municipalities
Municipal Aid 2014
MA-2014-Denville Township-00284
Roadway_Preservation

TOTAL ESTIMATED COST OF IMPROVEMENT

Construction Cost: $259,400.00

Please attach a Detailed Construction Cost Estimate 691229-ConstCostEst2012.xls (Word, Excel, or PDF format please)

Design Engineering: $0
(List only if eligible for Urban Aid or as a Depressed Rural Center)

Right-Of-Way: $0
(List only if eligible for Urban Aid or as a Depressed Rural Center)

Construction Inspection and Material Testing if requesting: $38,910.00
(15% of the final allowable construction cost maximum)

Total Estimated Cost: $298,310.00

Total Requested Amount: $238,648.00

If you have submitted or plan to submit other applications, 1
Please prioritize your applications by assigning them a priority rating. Use number 1 for the highest priority. If you only plan to submit this application, please enter 1 as the priority rating:
RESOLUTION AUTHORIZING THE REFUND
OF MONEY DUE TO THE REDEMPTION
OF A TAX SALE CERTIFICATE.

WHEREAS, the Township of Denville held a Tax Lien Sale on 12/2/2011 for Delinquent 2010 Calendar Year Water & Sewer, and a Tax Sale Certificate was purchased by Virgo Municipal Finance Fund LP on Block 40610 Lot 690; and

WHEREAS the owner of said property has paid to the Tax Collector all moneys due for the Redemption of said Tax Sale Certificate.

NOW, THEREFORE, BE IT RESOLVED, by the Municipal Council of the Township of Denville, in the County of Morris and State of New Jersey, that the Tax Collector is hereby authorized and directed to prepare a voucher to refund the amount shown below to the named lien holder; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer is hereby authorized and directed to forward the check to the Tax Collector to be delivered to said person after proper notation has been made on the Tax Records.

<table>
<thead>
<tr>
<th>BLOCK / LOT</th>
<th>PURCHASER OF LIEN</th>
<th>REFUND</th>
</tr>
</thead>
<tbody>
<tr>
<td>40610 690</td>
<td>Virgo Municipal Finance Fund LP</td>
<td>$2,741.35</td>
</tr>
<tr>
<td></td>
<td>PO Box 1227</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Hoboken, NJ 07030</td>
<td></td>
</tr>
</tbody>
</table>

Certificate # 2011-017

Premium Returned $100.00

I, DONNA I. COSTELLO, MUNICIPAL CLERK
OF THE TOWNSHIP OF DENVILLE, DO HEREBY
CERTIFY THE ABOVE TO BE A TRUE AND EXACT
COPY OF RESOLUTION ADOPTED BY THE MUNICIPAL
COUNCIL OF THE TOWNSHIP OF DENVILLE AT THEIR
MEETING HELD ON 9-17-13.

CERTIFICATION DATED: DONNA I COSTELLO, RMC/CMC
MUNICIPAL CLERK
RESOLUTION NO.

WHEREAS, The Township of Denville wishes to purchase a 2013 Hino 268, 26,000 lb dump truck demo for the Public Works Department; and

WHEREAS, said equipment can be purchased from H.K Truck Services Incorporated, 2624-A Hamilton Boulevard, South Plainfield, New Jersey, 07080, through State Contract No. A83010; and

WHEREAS, the maximum amount of the contract is $98,806.52 in accordance with the attached quotation; and

WHEREAS, public bids are not required when the purchase is made through a state contract in accordance with N.J.S.A. 40A:11-12 of the Local Public Contracts Law.

WHEREAS, the Chief Financial Officer of the Township of Denville has certified that funds are available for this purpose.

NOW, THEREFORE, BE IT RESOLVED, by the Municipal Council of the Township of Denville, in the County of Morris, and State of New Jersey, that a contract for the purchase of a 2013 Hino 268, 26,000 lb. dump truck demo is hereby awarded to H.K. Truck Services, Incorporated, in accordance with the terms and conditions contained in State Contract No. A83010, and the Mayor and Township Clerk are hereby authorized to execute same.


Certification Dated: ____________________________  
Donna I. Costello, RMC/CMC  
Municipal Clerk
TO: Steve Ward  
    Michael Guarino  
FROM: John J. Egbert  
DATE: August 6, 2013  
RE: New Jersey state contract A83010 Purchase of Dump Truck in 2013 Budget

I am requesting permission to purchase a 2013 Hino 258 ALP demo dump truck with 9,337 miles. If approved it is available for immediate delivery. Cost $98,806.52.

The same truck under New Jersey state contract ordered will take 190 working days for delivery with a cost of $114,247.52.

The savings is $15,441.00 with the demo purchase.
The Meeting was called to order at 7:30 p.m. by President Fitzpatrick. The Salute to the Flag was recited, followed by an invocation given by Councilman Scollans. The Open Public Meetings Act Statement was read by Township Clerk Donna Costello. ROLL CALL: KUSER, GABEL, GOLINSKI, LYDEN, SCOLLANS, FITZPATRICK ABSENT: SMITH ALSO IN ATTENDANCE: ADMINISTRATOR WARD, TOWNSHIP ATTORNEY JANSEN AND TOWNSHIP PLANNER KASLER President Fitzpatrick advised that Mayor Andes will try to make it to the meeting but it is unlikely that he will be here. He explained that the Mayor's mother underwent surgery today and he is with her this evening.

LIAISON REPORTS:
Councilman Gabel reported that the search for a new Superintendent of Schools for the Denville schools continues. He added that a new architect and a new attorney have been hired by the School Board. Mr. Gabel noted that the schools are ready to open for the new year, with just a few small items to be completed for the first year of full-day Kindergarten.

Mr. Gabel advised that, earlier this year, the Community Development Committee applied for grant money to install a generator and do some improvements in our community center. He noted that the Centennial Picnic, planned by the Events and Celebrations Committee, is coming up on September 22nd from noon to 5 p.m. at Gardner Field. Mr. Gabel said that work on the centennial yearbook is progressing.

Councilman Kuser reported that the Recreation Committee canceled its August meeting and the September meeting will be held tomorrow night.

Councilwoman Lyden advised that teen volunteers are needed at the Library. She said that anyone wishing to volunteer may call Mary Ellen at the Library. Mrs. Lyden noted that an adult I-Pad user group will meet tomorrow at 7:00 p.m. and there will be a meeting of the Adult Book Club on Wednesday, September 18th at 7:00 p.m.

Councilman Golinski had no report.

Councilman Scollans reported that he attended the Men's Senior Group meeting and he thanked Mr. Ward for his attention to all of the issues voiced by this group.

Mr. Scollans noted that the Rockaway River meeting will take place on September 11th at the Municipal Building.

Mr. Scollans advised that the next Senior Social will be held in September and the dates of all of these events will be posted in the Neighbor News.

Councilman Scollans said that the Green Sustainability Committee will be meeting on the 4th Thursday of September. He noted that he was able to get the re-certification deadline changed from this year to June of 2014. Mr. Scollans advised that he will be meeting with Mark London to discuss what needs to be done to achieve re-certification. Mr. Scollans reported that the Historical Society will be meeting on the second
Wednesday in September.
President Fitzpatrick advised that next week, September 10th, at the workshop meeting there will be a presentation by the Green Sustainability Committee of some of their plans. He said that they will provide the Council with an update and present some of the ideas that they are working on. Mr. Fitzpatrick said that, of course, if there is any change to that schedule he will notify the Council.
President Fitzpatrick noted that, although the big river clean-up has been completed, there are small groups, under the guidance of George Strother, who are periodically doing smaller clean-ups. He said that anyone who is interested, at any time, in volunteering may call Administration or himself.
President Fitzpatrick added a few comments on the Centennial Picnic; the picnic is free so anyone can come and bring their food or buy food that will be for sale. He said that there will be entertainment and activities for the children, an old time baseball game, the opening of the previous time capsule and a town-wide group photo.

ADMINISTRATOR’S REPORT:
Administrator Ward reported that the annual Senior Citizens Picnic was held at Gardner Field last Thursday. He said that it was well attended, a beautiful day and was enjoyed by all.
Mr. Ward advised that the Township has closed on ten of the eleven FEMA buyout houses and the closing for the eleventh house will be this Friday. He said that five of the first houses that were acquired have been demolished. Mr. Ward added the contractor received the permits for the demolition of the next five houses and plans to have those demolitions completed by the end of September.
Administrator Ward reported that the road paving went very well this year. He said that it culminated in the repaving of Franklin Road, which was funded by a DOT grant. Mr. Ward advised that funds had been set aside for the paving of Lakewood, Cherokee and Sioux but the gas company has advised the Township that they plan to upgrade the gas main service some time in the coming months. He explained that the money will be reserved until the gas company completes its work and the roads have settled. Mr. Ward said that the affected roads will be paved later this year or, more likely, next spring.
Administrator Ward reported that, due to some unforeseen delays, the contractor anticipates the completion of the Valley View Firehouse in mid to late October 2013.

President Fitzpatrick stated that he will open the Public Portion but reminded everyone that there will be a separate Public Hearing for the Estling Lake ordinance.

OPEN PUBLIC PORTION:
Gerry Idec, 1 E. Longview Trl., asked if the dog park will be worked on at the same time as the ball fields.
Administrator Ward explained that the schedule is being worked out but, at some point,
the dog park will be relocated to avoid any interruption of dog park service. He said that it will be moved to Cook's Pond. Mr. Ward added that the goal is to finish the new dog park before the bidding on the new fields. Mr. Idec asked for a time of completion. Mr. Ward replied that they do not have a date because it has not even gone out to bid yet but a rough estimate would be mid-summer of 2014 for everything to be completed. Mr. Idec asked if the dog park will be out of service while the fields are being built. Mr. Ward replied that there may be a brief closing, perhaps a week or two, but there will be an alternative location if the park has to be closed.
Mr. Idec asked if lights will be installed at the dog park. Mr. Ward replied that it is undecided at this point.

CLOSE PUBLIC PORTION.

CORRESPONDENCE: All copied to Council.

MATTERS OF OLD AND/OR NEW BUSINESS: None.

President Fitzpatrick read the following statement concerning ordinance #17-13:
"THE PUBLIC HEARING ON ORDINANCE #17-13 WAS OPENED AT THE 8-13-13 MUNICIPAL COUNCIL MEETING. THE PUBLIC HEARING WAS CONTINUED TO THE SEPTEMBER 3, 2013 MEETING."

Attorney John Jansen advised that he had received a call from Mr. Mike DeAngelis of the Estling Lake Property Owners who advised that there is some confusion regarding this ordinance. Attorney Jansen explained that the ordinance is directed at Block 30601, Lot 6, also known at 30 Estling Lake Road. He said that it is an industrial zoned piece of property that formerly housed a box factory that went by the name of Dorwood Industries, also known as Elm Manufacturing. Attorney Jansen added that the ordinance does not, in any way, concern the zoning around Estling Lake or the seasonal homes that are located there.

Administrator Ward read a statement from Mayor Andes into the record. A copy of that statement is attached to these minutes.

President Fitzpatrick, before opening the Public Hearing, asked that each member of the public limit their comments to three minutes in order for everyone to be heard.

CONTINUE PUBLIC HEARING ON ORDINANCE #17-13:

During the Public Hearing, the following residents expressed concerns and raised issues regarding Ordinance #17-13:
The preponderance of negative comments concerned issues such as: a second access road, improvements to Thurmont Rd. and the streets off Thurmont Rd, traffic at the foot of Thurmont Rd. for drop-off and pick-up at the train, crossing closures due to train breakdowns, parking at the development, contamination clean-up, taxes, number of bedrooms in each new unit, number of children in the new apartments and the safety of children who have to cross the tracks to board the school bus. It was suggested that an industrial use be solicited for the site such as, a storage facility or Fed Ex facility. All concerns were addressed and explained by President Fitzpatrick, Administrator Ward, Planner Kasler and Attorney Jansen. It was explained that contamination issues are the purview of the N J Dept. of Environmental Protection and that the site is on the DEP's list of "Known Contaminated Sites". One resident, who advised that he lives directly across from the site in question, stated that he feels that the current situation is not only unsightly, but dangerous to him and his family. He noted that a residential facility would be much preferred to the current conditions.

CLOSE PUBLIC HEARING ON ORDINANCE #17-13

President Fitzpatrick opened the floor to the Council for questions and/or comments. Councilman Scollans stated that the property does need to be re-developed, but in a way that is good for Denville and for the surrounding community. Mr. Scollans listed the following issues that he has with the project:

1. A turn-around is needed and it is unsatisfactory to him that it has not provided for.
2. The Rehabilitation Ordinance can supersede the Master Plan and he does not feel that any ordinance should bypass either the Planning Board or Board of Adjustment.
3. Great effort has been made to find a solution for an additional access road but, as the ordinance is right now, he cannot support it.

Councilman Golinski thanked everyone for coming out this evening. He spoke about the great effort that the Township has made to solve various problems and noted how frustrating it is that the problem of traffic and illegal parking at the train station has not been successfully addressed. Mr. Golinski asked Administration to request that the
police renew their efforts to solve this ongoing problem. Mr. Golinski commented that whatever goes on on that site, it has a legal right to generate traffic. With regard to a single point of access, Mr. Golinski said that he lives on such a street and bought his house knowing that condition existed. He noted that there are many other places in town with one point of access, although they may not have railroad tracks to cross. Mr. Golinski commented that he feels that working with this developer is our best shot at getting another access road. Concerning the contamination issue, Mr. Golinski stated that, again, he feels taking advantage of the developer’s obligation to clean the site to residential standards is a benefit to the Township. Councilman Golinski noted that he knows of some people who would like to give up their house and live in an apartment. He said that they want to live in Denville, but there are no apartments available. Mr. Golinski stated that he feels that this project fulfills a need in Denville. He also noted the change in demographics whereby people want to get off the crowded roadways and commute by train. Mr. Golinski said that he feels there are many benefits to the proposed project.

Councilwoman Lyden noted that she sees a lot of benefits to the proposed project as well. She said that this developer has a proven track record and has been doing this a long time. Mrs. Lyden commented that his projects in other towns are beautiful and well maintained. She said that she understands the traffic issue but, after doing some research, she believes that it will be basically commuter transit residents who will walk to the train station. Mrs. Lyden advised that she has spoken to the Mayor about an access road and she feels that they have done their due diligence and will proceed with whatever can be done to address that issue. Mrs. Lyden stated that she understands all of the residents’ concerns but after all the information she has reviewed and all the research she has done, she believes that this will have a positive impact on Denville overall.

Councilman Kuser stated that he would like to go through the questions that he raised and the answers that he received.

1. Mr. Kuser asked about where Denville is with regard to our COAH obligation since some of these units will be affordable housing units. He said that he feels these affordable units will do well because of the nearby transit availability.

2. Mr. Kuser asked about the projected rents for these units. He noted that the rents are expected to be $2,100 per month for a one bedroom apartment, $2,350 per month for a two bedroom and $1,100 for an affordable housing unit. Mr. Kuser noted that there will be amenities within the complex such as a gym and community room. He said that this will be the kind of facility that will be well maintained so that there will be no concern about the owner paying his taxes.

3. Councilman Kuser questioned what kind of use could go onto this site. He said that it could be considered a prime location for an industrial use, in part due to its proximity to the railroad and major highways. Mr. Kuser cited several industrial uses that fit the current zoning of this site that could operate 24 hours a day and be much less desirable to the neighborhood than the proposed residential
project.

4. Mr. Kuser stated that the number of children that will be residing in these apartments is estimated to be 6 to 7 children. He said that this is obviously an educated guess based upon similar, existing facilities owned by this developer.

5. Councilman Kuser noted that he, too wanted a "kiss and ride" turnaround and feels that it is still on the table. He said that he thinks we should pressure N. J. Transit, especially if a facility like this is approved.

6. Mr. Kuser suggested that the new parking enforcement officer be assigned to the train station during commuting hours and issue summonses to violators.

Councilman Kuser addressed some of the suggestions that were brought up this evening for uses on this site. He noted that former Mayor Hussa suggested Trader Joe's which is a retail use, not allowed in this zone, and would generate infinitely more congestion than a residential building. Mr. Kuser stated that he feels that this project is a responsible facility for this site.

Councilman Kuser addressed the issue of an access road and said that the issue is still being pursued. He noted that, after speaking to members of the Fire Dept., he discovered that in the past when the tracks were closed for repair the Fire Dept. parked a truck on the Estling Lake side of the tracks in order to be able to respond to an emergency during the time the crossing was closed. Mr. Ward added that the police also keep a car there and assist residents in getting to their homes.

Councilman Kuser stated that it is a tough decision but he has faith in the builder and the project and feels it will bring value to the town. He said that he supports the ordinance.

Councilman Gabel stated that he has listened to the plans as they have been presented as well as the concerns expressed by the residents. He said that what it comes down to, for him, is that he must put himself into their community. Mr. Gabel noted that he has to take the facts that have been presented, which are not necessarily 100% answers to the issues that we are attempting to address, and make his decision on those facts. Councilman Gabel posed the question, "Would I want to live in a community with an abandoned factory that I have to look at every day, that has contamination and graffiti?" He said that his answer to that question would have to be no. Mr. Gabel noted that there is a real chance to provide sewers to a good number of homes in the area. The issue of the number of school children cannot factually be determined, but the school enrollment is in a decline. Mr. Gabel assured everyone that all permits and standards that any builder would be required to have will be required for this project.

Mr. Gabel advised that Administration has been, and will remain, vigilant with regard to finding a way to solve the problem of an additional access road. He said that he will support this ordinance because he feels that it will be a benefit to Denville.

President Fitzpatrick stated that, in his opinion, this abandoned property is completely unacceptable. He said that, looking at other options, this one is the most benign and the most beneficial to the Township. Mr. Fitzpatrick noted that everyone is committed
to finding a solution for the access road issue and this opportunity gets us closer than anything else does.

President Fitzpatrick noted that he has made every effort tonight to let everyone be heard, this is not an easy decision and the Council, Mayor and Administrator have worked diligently to research every aspect of this ordinance. He said that he feels that this is the right thing to do and he has to follow what's in his gut.

Mayor Andes arrived at 8:55 p.m.

Mayor Andes apologized for being late and said that he appreciated having his comments read into the record.

The Mayor noted that, when he took office, he had no thought of doing anything with this area, as far as seeing an apartment complex built. He said that it surfaced and every developer of virgin land that came to him with plans for 300 or 400, or more, apartments was given a big no. Mayor Andes commented that this is not about virgin property, it is about doing the best that we can to fix a bad situation.

The Mayor said that if we do nothing, it will deteriorate further. He noted that he has made a commitment to try and find a way to build an emergency access road. Mayor Andes commented that this is the best avenue for it. He advised that the PILOT program gives us some money and the developer's contribution gives us some money. The Mayor commented that the developer will be bringing some big equipment in there and we are going to try to work with him and try to get as much of an emergency access road in there as we possibly can.

Mayor Andes said that in his statement he noted that if there was an easy solution it would have been done already. He commented that twenty-two mayors have sat where he is sitting and have done nothing on this. The Mayor added that they may have tried but it was never completed and that, frankly, he doesn't know if he will succeed but he will try. Mayor Andes explained that there are two plans being considered right now. He said that asking the Council to pass a bond ordinance for $1 million is not an easy thing, asking them to pass a bond ordinance for $500,000 is a little easier.

The Mayor stated that he thinks this is the best scenario for this parcel of land. He said that he believes it is the right thing to do and only time will tell.

The Mayor asked Planner Kasler to respond to the statement that Estling Lake Road is merely a traveled way like Mary Avenue.

Mr. Kasler advised that the developer will have to improve Estling Lake Road to residential site improvement standards and it will become not only a traveled way, but a road. He gave the residential site improvement standards definition of a street.

Mr. Kasler noted that the developer has indicated the willingness to upgrade Estling Lake Road to meet the residential site improvement standards.

Attorney Jansen interjected that, with Mary Avenue, it was a question of whether the road had ever been dedicated to and accepted by the Township. He said there it was clear that some of the property owners took the position that there had been no
dedication of the road across their property. Mr. Jansen continued that here, the road had been dedicated to the Township and, although there may not have been a formal acceptance, certainly by plowing and maintaining the road and all of the other things the town has done, it has accepted it dedication of the road across their property. Mr. Jansen continued that here, the road had been dedicated to the Township and, although there may not have been a formal acceptance, certainly by plowing and maintaining the road and all of the other things the town has done, it generally constitutes an acceptance and, therefore, the road is both dedicated and accepted.

Before moving on to Ordinances for Adoption, Attorney Jansen said that he would like to address a couple of issues that were raised. Attorney Jansen said that, with respect to notice, there may be some confusion as to what kind of notice was required. He explained that one letter that was received indicated that no notice was provided for the introduction of the ordinance. Mr. Jansen noted that no notice is required prior to the introduction of an ordinance. He explained that the process is that an ordinance is introduced and is published in the newspaper, and where there is a statutory requirement that the residents receive individualized notices of the public hearing. The notice is provided by certified and regular mail. Mr. Jansen advised that the hearing was held last month and the hearing was continued to this meeting. He added that no further notice was required for the continuation of the hearing.

It was noted that several courtesy notices were sent out for workshop meetings as well. Attorney Jansen also clarified that the Planning Board was considering whether or not this property was in need of rehabilitation and no individualized notice was required for that either. He emphasized that all required notices have been sent.

Attorney Jansen commented, with regard to the objection to the Council bypassing the Board of Adjustment and Planning Board, as previously indicated, this project will have to go to the Planning Board for site plan approval. He added that there is a strong legislative policy favoring land use planning by ordinance rather than by variance, so the granting of a “D” variance will always be the exception rather than the rule. Attorney Jansen advised that, several years ago the N. J. Supreme Court revisited the issue and made it clear that municipalities should make zoning decisions by ordinance rather than variance. He added that the mandate is always to avoid variances to the greatest extent and proceed by ordinance.

Attorney Jansen explained that the resolution he is about to read into the record (a copy is attached to these minutes) is intended to do two things. One, this re-zoning is inconsistent with the Land Us element of the Master Plan because the Land Use element of the Master Plan calls for the property to be zoned industrial. He said that governing bodies are allowed to deviate from the Master Plan, provided they state their reasons on the record and the ordinance must be adopted by a majority of the full membership of the governing body. Attorney Jansen noted that the other thing that
this resolution will do is address the concerns that the Planning Board raised when the ordinance came to the Planning Board for its review between introduction and final adoption.

ORDINANCE(S) FOR ADOPTION:

#17-13 AN ORDINANCE OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS AND STATE OF NEW JERSEY TO AMEND CHAPTER 19, LAND USE TO IMPLEMENT THE ESTLING LAKE REHABILITATION PLAN

Attorney Jansen then read the resolution described in the preceding paragraph into the record. The resolution ended with the following statement:

For all of the foregoing reasons, BE IT RESOLVED, by the Municipal Council of the Township of Denville that an ordinance entitled, "AN ORDINANCE OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS AND STATE OF NEW JERSEY TO AMEND CHAPTER 19 LAND USE, TO IMPLEMENT THE ESTLING LAKE REHABILITATION PLAN" be passed on final reading and that a notice of the final passage be published in the 9-11-13 issue of the Citizen.

MOTION TO ADOPT: MOVED BY MEMBER GOLINSKI, SECONDED BY MEMBER GABEL

AYES: GOLINSKI, GABEL, KUSER, LYDEN, FITZPATRICK

NAY: SCOLLANS

ABSENT: SMITH

Attorney Jansen noted that the ordinance passed by a vote of 5 to 1.

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

CONSENT AGENDA:

R-13-185 RESOLUTION AUTHORIZING THE REFUND OF MONEY DUE TO THE REDEMPTION OF A TAX SALE CERTIFICATE - $480.70

R-13-186 RESOLUTION REFUNDING THE PAYMENT OF TAXES OVERPAID FOR CALENDAR YEAR 2013 IN THE AMOUNT OF $1,845.73

R-13-187 RESOLUTION AUTHORIZING ACCEPTANCE OF FUNDS FOR CLICK IT OR TICKET 2013 HIGHWAY SAFETY GRANT IN THE AMOUNT OF $4,000.00

R-13-188 RESOLUTION AUTHORIZING REINSTATEMENT OF THE ORIGINAL SEWER ASSESSMENT INSTALLMENT PLAN FOR CERTAIN PROPERTIES IN THE TOWNSHIP OF DENVILLE

R-13-189 RESOLUTION AUTHORIZING RAFFLE LICENSES IN THE TOWNSHIP OF DENVILLE

MOTION TO APPROVE CONSENT AGENDA: MOVED BY MEMBER GOLINSKI,
Township Council
9-3-13
Page 10

SECONDED BY MEMBER LYDEN
AYES: GOLINSKI, LYDEN, GABEL, KUSER, SCOLLANS, FITZPATRICK
ABSENT: SMITH

NON-CONSENT RESOLUTIONS:
R-13-190 RESOLUTION REFUNDING THE PAYMENT OF OVERPAID TAXES FOR 2013 TOTALING $5,347.13
MOTION TO APPROVE R-13-190: MOVED BY MEMBER SCOLLANS, SECONDED BY MEMBER GOLINSKI
AYES: SCOLLANS, GOLINSKI, GABEL, KUSER, LYDEN, FITZPATRICK
ABSENT: SMITH

R-13-191 RESOLUTION AUTHORIZING SETTLEMENT OF CERTAIN TAX APPEALS
MOTION TO APPROVE R-13-191: MOVED BY MEMBER SCOLLANS, SECONDED BY MEMBER GOLINSKI
AYES: SCOLLANS, GOLINSKI, GABEL, KUSER, LYDEN, FITZPATRICK
ABSENT: SMITH

R-13-192 RESOLUTION AUTHORIZING THE REFUND OF MONEY DUE TO THE REDEMPTION OF A TAX SALE CERTIFICATE - $17,047.23
MOTION TO APPROVE R-13-192: MOVED BY MEMBER GABEL, SECONDED BY MEMBER LYDEN
AYES: GABEL, LYDEN, KUSER, GOLINSKI, SCOLLANS, FITZPATRICK
ABSENT: SMITH

R-13-193 RESOLUTION AUTHORIZING AN APPROPRIATION IN AN AMOUNT NOT TO EXCEED $50,000.00 FROM THE TOWNSHIP OF DENVILLE AFFORDABLE HOUSING TRUST FUND FOR UPGRADING AND REHABILITATION OF THE EMERGENCY LIGHTING SYSTEM AT COOK'S POND SENIOR HOUSING, 455 DIAMOND SPRING ROAD, DENVILLE, NJ
MOTION TO APPROVE R-13-193: MOVED BY MEMBER LYDEN, SECONDED BY MEMBER GOLINSKI
AYES: LYDEN, GOLINSKI, GABEL, KUSER, SCOLLANS, FITZPATRICK
ABSENT: SMITH

R-13-194 RESOLUTION AUTHORIZING APPLICATION FOR FUNDS FOR DRUNK DRIVING ENFORCEMENT PROGRAM GRANT PURSUANT TO N.J.S.A. 39:4-50.8/N.J.A.C. 13:86
MOTION TO APPROVE R-13-194: MOVED BY MEMBER SCOLLANS, SECONDED BY MEMBER LYDEN
AYES: SCOLLANS, LYDEN, GABEL, KUSER, GOLINSKI, FITZPATRICK
ABSENT: SMITH

MOTION TO APPROVE MINUTES OF 8-13-13: MOVED BY MEMBER SCOLLANS,
SECONDED BY MEMBER LYDEN
AYES: SCOLLANS, LYDEN, GABEL, FITZPATRICK
ABSTAIN: KUSER, GOLINSKI
ABSENT: SMITH

MOTION TO ADJOURN: MOVED BY MEMBER GOLINSKI, SECONDED BY MEMBER
LYDEN
AYES: UNANIMOUS
ABSENT: SMITH

MEETING ADJOURNED AT 10:57 P.M.

Respectfully submitted by,

[Signature]

Kathleen A. Costello
Deputy Township Clerk