The Meeting was called to order by President Andes at 7:30 p.m. The Salute to the Flag was recited, followed by the reading of the Open Public Meetings Act Statement by Deputy Clerk Kathy Costello. Mrs. Costello reminded everyone that this is a non-smoking facility and anyone wishing to smoke must leave the premises. She asked that cell phones be muted or turned off.

Mrs. Costello advised President Andes that Councilman Stecky will not be in attendance as he is attending a business meeting.

ROLL CALL: FITZPATRICK, GOLINSKI, KUSER, SHAW, SMITH, ANDES
ABSENT: STECKY
ALSO IN ATTENDANCE: MAYOR HUSSA, ADMINISTRATOR WARD, TOWNSHIP ATTORNEY DI YANNI, TOWNSHIP PLANNER DENZLER AND HEALTH OFFICER NORGALIS.

President Andes noted that the gooseneck microphones from the old building were located and installed in our system and that everyone should be able to hear just fine. He said that if anyone can’t hear, they should raise their hand and he will try not to be the “speaker police”, as he was referred to in the newspaper.

Mr. Andes advised, with regard to the agenda, that Chief Wagner could not be here so we will not be having his presentation tonight.

President Andes then presented a resolution recognizing Deputy Township Clerk Kathy Costello for her twenty-five years of service with the Township. A Copy of that resolution is attached to these minutes. Mrs. Costello was also presented with a flower arrangement from the Township Clerk and Council. Taken completely by surprise, Mrs. Costello managed to stutter out a thank-you to all.

MOTION TO APPROVE R-10-198: MOVED BY MEMBER SMITH, SECONDED BY MEMBER GOLINSKI
AYES: SMITH, GOLINSKI, FITZPATRICK, KUSER, SHAW, ANDES
ABSENT: STECKY

President Andes thanked the public for bearing with the Council. He said that Kathy does so much for us and keeps us all in line, as well as providing us with all the information that we need.

OPEN PUBLIC PORTION:
Gerald Idec, 1 East Longview Trail, thanked the Administrator, Mayor, Council and whoever else is responsible for taking care of the microphone system in such a speedy manner.

Councilman Kuser thanked Mr. Idec for bringing it to the Council’s attention.

Carol Spencer, 86 Woodstone Road, congratulated Mrs. Costello on achieving twenty-five years with the Township.

Ms. Spencer stated that she will not be able to attend next week’s Council meeting at
which the property maintenance ordinance is scheduled to be adopted. Ms. Spencer said that she would like to put a couple of comments on the record. She said that she has read the ordinance and finds the intrusion of government to be excessive. Ms. Spencer read item D-3 from the ordinance concerning right of entry and noted that it applies to every provision of this ordinance. She said that this authorizes the zoning official to enter a person’s property to determine if there is a leak on the premises. Ms. Spencer noted that she has discussed a list of things in the ordinance with several Council members and they know that her position is that it is excessive. She suggested that the Council make a list of 10 or 12 abandoned homes, find a commonality of two or three issues in these houses and legislate on those issues. Ms. Spencer stated that this ordinance will pit neighbor against neighbor and people will use the ordinance to harass their neighbors. She noted several common situations around a property that would be considered violations under this ordinance, including tree stumps, one of which she had in her front yard for eight years.

Ms. Spencer noted that the next item she wishes to comment on is the ordinance that is being considered next week concerning construction vehicles on private property. She said that it allows for parking construction vehicles for a certain amount of time, for on-site repairs. Ms. Spencer based her objection on the premise that, if her neighbor asks to park construction equipment in her driveway because it allows him easier access to his yard, it is not her on-site project but she would be considered in violation of this ordinance. She asked the Council to consider the “law of unintended consequences”; start with less and address the basic issues and legislate those.

Ed Banagan, 38 Old Mill Dr., thanked Mr. Andes for Hearing him out last week on the issue of the car repair shop on Route 10 and asking the Township officials to take a look at it. He noted that he was also contacted by Councilman Kuser, as well as Mr. Ward, and was brought up to date on the matter.

Mr. Banagan noted that in a letter he received today, it states that Asst. Zoning Officer Sal Poli issued a notice of violation on July 1, 2010. Mr. Banagan said that he made his complaint some time in August at which time, Walter Stefanacci advised Mr. Banagan that a repair shop may have four to six vehicles on the lot pending repair. He noted, however, that the letter he received today states that they may have as many cars as they wish as long as the lot is lined and the cars are parked in an orderly manner. Mr. Banagan advised that this is not the situation at that shop; he said that there are seven cars parked in the middle of the lot and there are cars with For Sale signs on them. He said that he cannot understand how, ten weeks after the violation was issued, this company has still not cleaned up its act. Mr. Banagan noted that Mr. Ward will be speaking to Mr. Stefanacci tomorrow to clear up the confusion between how many cars Mr. Stefanacci says are allowed and how many Mr. Poli says are allowed. He cited another site that has multiple cars on the lot, but the cars are licensed and stored in a clean and orderly manner.

Planner Denzler replied that there is no standard for the maximum number of cars. He said that all of the vehicles must be on the paved surface, not on grass or in the woods.
Mr. Banagan noted that, according to the letter, the attorney is concerned about unregistered vehicles and those without license plates since they may violate a State statute.

Mr. Ward replied that it was he who brought up that subject to the attorney. He said that he asked the attorney to review that and they are currently in discussion to come up with a definitive answer. Mr. Ward noted that it is not as black and white as it would be on a residential property. He reiterated that he brought it to the attorney, not the other way around. Mr. Banagan replied that he appreciates Mr. Ward’s efforts but feels that, after ten weeks, the owner of the property is showing no interest in complying with the Township’s notice.

Mr. Ward advised that he did visit the property and the owner has complied, or attempted to comply, with the notice of violation. He said that, at this point, he is in compliance.

Mr. Banagan asked if the July 1 violation required that white lines to be painted and that the cars be parked within those lines.

Mr. Ward replied that he does not believe that was the case; he said that he thinks it just required a neat and orderly fashion.

Councilwoman Smith interjected that the letter does indicate marked spaces.

Mr. Denzler noted that he has not seen the letter. Mr. Banagan stated that, when he went by the site this evening, there are cars parked all over the lot and there is no fencing or screening.

Councilman Kuser commented that he went and looked at the site and he thinks it is a junk-yard. He said that he thinks he is storing cars there for parts and has a boat there as well. Mr. Kuser asked Mr. Denzler if there are un-licensed or disabled vehicles there, would that be covered under the property maintenance ordinance.

Mr. Denzler replied that it would be. He said that the original complaint with this property was the number of vehicles on the property and the fact that they were parking on the grass. Mr. Denzler noted that our current ordinance considers it a pre-existing, non-conforming site so we cannot force them to put up screening, fencing or marked spaces.

Charles J. Fisher, 12 Orange Trail, spoke about the property maintenance ordinance and said it was long overdue and he hopes that it has some bite to it. He addressed neglected properties that are getting away with leaving their properties in that condition.

Mr. Fisher passed out photographs of several sites that are in deplorable condition, citing one on West Shore Road that has been that way for 30 or 40 years and it should have been condemned long ago. He described several others in detail and noted that something needs to be done about it. Mr. Fisher stated that he is in favor of the ordinance and that it should have some bite in it.

Mr. Fisher advised that another issue that concerns him is “dead” gas stations. He said that he realizes it is not easy to get rid of them and that it takes a long time, but some of them have been there for a very long time. Mr. Fisher stated that we need to do something to about them.
Mr. Fisher noted that his third issue is the renovation of the Police Station. He said that it is about time that something is done and does not know why it wasn’t attached to this building. Mr. Fisher suggested that, if the Township is going to spend over $800,000 to upgrade, they should go all the way and get it done.

Councilman Shaw commented that he is aware of the house that Mr. Fisher spoke about and advised that the owner lives in Madison. He said that she was notified and that the property is partially cleaned up.

Lane Peer, 16 Crestview Road, stated that she is here as a member of the Real Estate community and several of her associates are also present. Ms. Peer noted that she has several concerns about the sign ordinance that is up for adoption at next week’s meeting. She said that the major ones are:

1. Having them 10 feet from the curb, which would, at times, put them out of sight.
2. The directional signs for Open Houses. She said that perhaps the Real Estate Agents could be more responsible with the way they handle the signs but, she thinks this ordinance is a little radical.

President Andes replied that her concern has been addressed among the Council members and Mr. Golinski has proposed some revised language regarding those signs. He said that he intends to ask the Council to pass the ordinance next week and then introduce a second ordinance that will allow those signs. Mr. Andes noted that they will be discussing the sign ordinance in detail later on tonight.

Mr. Kuser interjected that the ordinance states “a minimum of 10 ft. from the curb”, and he interprets that to mean that it could go right up to the curb line.

Mr. Andes asked Mr. Denzler for his comments on this.

Mr. Denzler advised that the signs must be at least 10 ft. from the curb. Ms. Peer replied that it could then be worded “not in the right-of-way”, it would not have to be worded this particular way.

Brian Walsh, 380 Franklin Road, spoke about the house next door to him and reported that he has caught kids in there, the house is boarded up to keep animals out and the house, purchased on speculation, is now on sale for $1.2 million. He stated that something needs to be done because this is a real eyesore.

President Andes replied that it is being addressed and the Council is trying to find the right balance.

Andrew Wilkow, 8 East Shore Road, stated that local government is charged with keeping the public safe by providing a good Police Department and tending to the town roads. He said that sometimes, when we see a problem, the tendency is for government to ignore the fact that future governments may abuse powers that are created today. Mr. Wilkow commented that he agrees with the concept of the property maintenance ordinance and noted that the Constitution of the United States is mentioned in the body of the ordinance and cited that sections give limited powers to various parts of the government as well as individuals. He said that in Section 2 of the proposed ordinance, under “Intent and Purpose”, it says “to provide the right of access
to property and premises”. Mr. Wilkow noted that the ordinance further allows for a right of government to access, without limits. He said that if the government has unlimited right to access, that eliminates the concept of privacy and private property. Mr. Wilkow commented that under the heading “Extermination”, it specifies the elimination of insects, rats and other pests. He stated that almost any wild animal that decides to take up residence on your property may be considered a pest, including chipmunks and squirrels. Mr. Wilkow again stated that he agrees with the concept of the proposed ordinance but feels that the sections giving the government unlimited controls ensnares everyone as a lawbreaker. He said that it also leaves the door open for future governments to abuse the rights of the residents. Mr. Wilkow asked that the lines giving unlimited power and right to access, based on the existence of pests, be given more thought.

CLOSE PUBLIC PORTION.

CORRESPONDENCE:
President Andes note that the first topic for discussion is correspondence received from James Rodimer, Chairman of the Board of Adjustment. He said that it is a request for re-classification of the term “fast food” in the Township ordinance and Master Plan. Mr. Denzler noted that he had issued a memo to the Council on 8-11-10 which was handed to the Council at their 8-17-10 meeting. He explained that the request came after an application came to the Board of Adjustment from the Five Guys restaurant. Mr. Denzler advised that the applicant initially contended that they did not meet the definition of fast-food but, ultimately, they realized that they did. He said that, as part of that application, the real issue became, not a matter of whether it was fast food but, was it appropriately located.

Mr. Denzler advised that, in his letter, he provided the definition of fast food, went through the various planning documents as well as the definitions of some surrounding municipalities. He noted that, next year, the Planning Board will be re-examining the Master Plan and that would be the proper time to look at the definition and location for fast food establishments. Mr. Denzler commented that, right now, the ordinance only allows them in the downtown area. He said that it is his recommendation that our definition be consistent with other towns but perhaps the Planning Board should look at the location for fast food establishments.
Councilwoman Smith asked if there is an example of a fast food definition from another town that would have encompassed this application. She noted that fast food restaurants are currently banned from the Route 10 corridor. Mrs. Smith advised that she had stopped in a 5 Guys restaurant one time and it is fast food. She asked what we can do to re-define fast food that would assist us if an application like this came up in the future.

Mr. Denzler reiterated that it was not the town, but the applicant, who said that they did not meet the definition of fast food. He explained that, during that process, he went line by line and they had to admit that they do meet the definition. Mr. Denzler repeated
that it is not the definition but the location that was in question. President Andes noted that the term “fast food” has changed in our lifetime and will probably change some more. He said that it is something that the Council will be looking for advice on. Councilman Fitzpatrick suggested that, when looking at this, there seem to be some other matters that were uncovered, in terms of zoning, that we should look into. Mr. Andes asked Mr. Denzler if that will be done next year during the re-examination of the Master Plan. Mr. Denzler replied in the affirmative.

STEEP SLOPES
President Andes advised that, when the Council was deciding whether or not to join the Highlands, Mr. Denzler was asked to see if there is anything we can do to tighten up our ordinances with regard to steep slopes and our waterway. He asked Mr. Denzler for an update. Mr. Denzler reported that he looked at our regulations, compared to the extensive DEP regulations, with regard to steep slopes and we are quite consistent with that. He said that the only other language that we should address would be regarding steep slopes within riparian buffers. Mr. Denzler noted that both the Highlands and the DEP are more stringent regarding areas that can be disturbed. He said that he is currently working with the Environmental Commission on the ANJEC grant to address water issues such as: well head protection through preservation and intensive development, such as building coverage and lot improvement coverage on residential properties. President Andes asked if Mr. Denzler can put together a steep slopes ordinance. Mr. Denzler replied that he can add to our current steep slope ordinance. Mr. Andes asked if it would be ready before the end of the year. Mr. Denzler replied that it will be ready. Mr. Andes asked about the water and what the time-line is with the grant. Mr. Denzler responded that they had a kick-off meeting and the deadline is August 2011 but, if it is finished sooner, they will bring it to the Council. He explained that the process, per the grant, was that ordinance will be prepared through the Environmental Commission, there will be public comment through the Planning Board and then there will be something that they can present to the Council. Mr. Andes requested that the steep slope ordinance be ready for the next work shop meeting.

President Andes noted that there is a reason that the ordinance #22-10, Property Maintenance Ordinance is on the agenda for tonight. He said that the Council wants to make sure that they get it right. Mr. Andes advised that this subject came up during the last campaign and questions concerning the issue were asked by many constituents. Mr. Andes stated that the original intent was to handle the abandoned house issues. He said that, although he, himself, thought that some of the items were a little too much, it was recommended by our professionals as being what we needed in order to give them the tools that they needed to handle theses situations.
President Andes noted that it was introduced last week and the Planning Board had some concerns and recommendations, as did our Construction Official. He asked Administrator Ward to bring the Council up to date on his meetings regarding this matter. Mr. Ward noted that he had met with Mr. Denzler, Construction Official Stefanacci and Attorney DiYanni; he said that the principal item of discussion was the law reference in the ordinance. Mr. Ward explained that the ordinance references the International Construction Code (ICC), which is followed by most state in the U.S., but that New Jersey has adopted the Uniform Construction Code to be followed by all Construction Officials in New Jersey. He said that the attorney determined that certain items did not require a substantial enough change to warrant an amendment to the ordinance; the amendment could be included in the adoption process. Administrator Ward advised that there were discussions about the policy end of the ordinance, but he will leave that to Mr. Denzler and the Health Officer for their comments.

Mr. Denzler stated that, during their meetings, the Planning Board comments regarding redundancies and inconsistencies were also discussed. He said that it was determined that many of the concerns can be addressed during the public hearing at the second reading of the ordinance. Mr. Denzler noted that with certain items, such as abandoned vehicles, other sections are referenced since we have some standards already in place. He advised that the Planning Board Attorney, Mr. Buzak, had concerns that, although abandoned vehicles are addressed, unregistered vehicles are not.

Mr. Denzler spoke to the matter of right of entry; he noted that the last section states that if entry is refused, the Township official must go through the lawful channels to gain entry. He said that it will be no different than it is now, if entry is refused the official must seek support to enter from the Courts. President Andes asked what the procedure is now if an official, such as Health Officer Norgalis, is refused entry when investigating a complaint. Mr. Norgalis responded that, under current State statutes, the Health Department has the right to enter upon any ground or premise, front yard or back yard, without any notification or permission of the owner, in the investigation of a Public Health nuisance. He said to gain access to a house, there must be someone there to answer the door. Mr. Norgalis advised that virtually every complaint that he has involves a tenant opening the door because it is a tenant/landlord dispute. He said that they are generally issues concerning plumbing, heating, lighting or ventilation. Mr. Norgalis explained that, if the landlord answers the door and refuses him entry, he must then go to the court and swear out a search warrant, get a police officer and serve the warrant to the landlord. He said that there is legal recourse and review and it does not give Township officials “storm trooper” authority to enter a home.

President Andes asked if the right of access in the proposed ordinance is exactly the same as it is under current ordinances. Mr. Norgalis replied that is correct. Attorney DiYanni commented that Mr. Norgalis’s comments are exactly right and he reiterated the process for obtaining a warrant to gain access.
Councilman Golinski commented that people seem to be concerned about this right of entry issue but he is not able to find that language in the ordinance. He was advised that it is in Section D-3 on Page 4. Mr. Golinski asked if it is necessary to have that stipulation in the ordinance if it is the same as what is currently on the books.

Mr. Norgalis replied that his field of expertise is Public Health which differs from Zoning and Construction. He said that the Public Health Nuisance Code was written in 1953 and times have changed. Mr. Norgalis stated that modernizing the code and bringing it into one, standard code that can be applied by three different officials would be a good thing. He said that it may duplicate some State statutes but it would also allow him to bring in the Zoning or Building Official if he sees a violation that requires their attention when he is responding to a complaint that comes under his auspices.

Mr. Denzler added that the section in question falls under what he calls “the legaleze section”. He said that it spells out the procedures of what he has to do and methods of appeal by residents. Mr. Denzler noted that it is a good thing to have in there.

Mr. Denzler advised that the Planning Board pointed out some minor typos in some references to various sections. He said that another issue raised by the Planning Board was in the Violations Section, noting that the wording “misdemeanor” should be deleted because that type of violation would be issued by the Municipal Court.

Mr. Denzler added that the ordinance covers both occupied and unoccupied structures and he would welcome any thoughts or comments on that.

Councilwoman Smith commented that the intent of the ordinance was to go in and rectify certain situations in the Township. She said that it has, however, taken on a new life. Mrs. Smith commented on the specifics of grass height, etc., noting that it could be a hardship for someone and would not be fair to fine someone under those conditions.

Mrs. Smith noted that a number of suggestions have been made that this should be specifically about abandoned property. She said that she feels that the Council is over-stepping its bounds and the ordinance, although up for adoption next week, should be scaled back. Councilwoman Smith suggested that the ordinance be pulled back and re-worked at the October workshop. She spoke about residents who don’t maintain their property and it becomes a blight on the neighborhood. Mrs. Smith asked to be provided with the definition of an abandoned home. She said that if we re-work the ordinance, we need to do so in light of the proper definition and apply it where needed, not using a broad stroke to apply it to the entire community.

Health Officer Norgalis replied that he understands the concerns of Mrs. Smith and of the residents. He said that he has his own concerns, as the Public Health Officer in Denville, as to what this will do to his work-load. Mr. Norgalis noted that Public Health nuisances arise just as easily in occupied homes as abandoned ones. He defined vermin, stating he will not use the term “pest” because he does not think that chipmunks are vermin, as animals or insects that have a chance or risk of transmitting disease to human beings. Mr. Norgalis gave examples of mosquitoes, roaches, fleas and rats and said that they have a greater chance of being found in an occupied structure because they will have the three things that they need: shelter, food
and water.

Mrs. Smith noted that Mr. Norgalis currently has the ability to address those issues under both State and municipal codes. Mr. Norgalis replied that is correct. Mrs. Smith commented that Mr. Norgalis already has the ability to address those issues and that there is no need for this ordinance to duplicate it.

President Andes asked Mr. Norgalis to explain the difference between taking the issue of high grass to court now, as opposed to what the proposed ordinance would allow him to do.

Mr. Norgalis referred to Section I, of the Public Health Nuisance Code which is adopted under Chapter 24 of the Municipal Ordinances by reference. He said that it talks about “depositing, accumulating or maintaining any matter or thing that serves as food for insects or rodents and to which they may have access or may constitute a breeding place or harborage for insects or rodents in or upon any land, premise, building or other place”. Mr. Norgalis advised that is what we currently have on the books. He stated that what he, as Public Health Official, is looking for is not high grass but evidence that vermin are harbored in high, overgrown grass and he cites the owner on that. Mr. Norgalis advised that he has been successful many times when bringing this before Judge Miniman. He said that the proposed ordinance provides a uniform, objective standard of one foot in height for grass, noting that it is an easy measurement to give to the Judge.

Councilwoman Smith asked if Mr. Norgalis has been successful in Court with the powers that he has under the existing regulations. He replied that he has been. Mrs. Smith commented that he really doesn’t need this ordinance to accomplish the goal. Councilman Fitzpatrick noted that, under the current regulations, he feels that there is more of a chance for neighborhood confrontation than there would be with a specific, objective standard.

Mrs. Smith opined that she feels just the opposite on that point, that the neighbor will wait until the resident next door’s grass reaches that 12 inches and will call the Health Officer.

Councilman Kuser commented that, if the grass reaches a height of 12 inches, the resident is growing hay.

Mr. Norgalis advised that there is one section of the proposed ordinance that differs from the Public Health Code in an affirmative way. He said that it has to do specifically with the heating of an occupied building.

Mr. Norgalis explained that the current Public Health Code requires landlords to provide heat in excess of 68 degrees between the hours of seven a.m. and ten p.m., during the months of October through May, during the daylight hours. He said that at night they can let the temperature go down to whatever they wish, but it only applies to buildings that house more than two families. Mr. Norgalis noted that he has no power to force a landlord of a single family home, that is being rented, to provide heat.

Mrs. Smith commented that a situation like that should be brought to the State to be addressed.
Councilman Shaw asked if it is not true that most situations are handled at the lowest level possible, with the Health Officer. Mr. Norgalis replied that he would say that is so. Mr. Shaw stated that most are resolved quickly and without a summons being issued. Councilman Golinski noted that there are some nagging problems that have not been resolved. He asked Mr. Norgalis if this ordinance will help the town resolve those issues quickly. Mr. Norgalis responded that the Franklin Road issue, from a Public Health standpoint has been resolved, although not aesthetically pleasing.

Mr. Golinski said that this ordinance would not change anything in that situation. Mr. Norgalis said it would not. Mr. Denzler interjected that, from a Zoning and Construction point of view, this ordinance would apply and help resolve it. He said that it would be done at the Department level and only taken further if the owner refuses to cooperate. Mr. Golinski stated that his understanding of the purpose of this ordinance is to protect the health, welfare and safety of the residents by establishing minimum standards governing things like property maintenance. He said that he agrees that something must be done about the nuisance properties but he is concerned that this goes above and beyond the minimum standards. Mr. Golinski stated that he would like to start with the least amount of legislation and amend it as tougher measures become necessary.

Mr. Kuser commented that the initial intent was to take care of abandoned homes and homes in disrepair. He said that it has escalated from there. Mr. Kuser spoke about many of the situations that Mr. Norgalis brought to the Council’s attention concerning renters. Mr. Kuser commented that there should be rights for renters and he would like to discuss that, and other concerns in the ordinance, tonight. He said that he doesn’t think we have to postpone it, we should go through the ordinance right now and see if it can be fixed. Mr. Kuser noted that the only change regarding commercial vehicles is the addition of “construction equipment” in the proposed ordinance.

Mr. Denzler said that is correct; the only addition was “construction equipment” because the portion of the ordinance dealing with commercial vehicles has been on the books since 1977.

Ms. Spencer had several comments which were inaudible since she was speaking from her seat in the back of the room.

President Andes stated that he is fully prepared to go over the ordinance line by line but does not think this is the proper time to do that.

Mr. Kuser replied that he would like to do it now, get it back up on the web site and people could digest it.

Attorney DiYanni interjected that, depending on how lengthy the discussion gets and how detailed the changes are, we may come to a point where he would have to suggest re-introducing the ordinance.

Mr. Andes asked Mr. Ward if it is not so that we are close to that point already.

Mr. Ward replied that the issues brought up by the Planning Board Attorney, if they were to be incorporated, would potentially be substantive enough to require the ordinance to be re-introduced.

Councilwoman Smith commented that she does not think that the Council came
prepared to re-do the entire ordinance. She said that, based on all of this evening’s comments, she would suggest that we send this back to the Planner and try to come up with something that deals with specific issues that we are facing. Mrs. Smith stated that she thinks we need to defeat this ordinance and work on it either at the next workshop or begin next week’s meeting earlier to work on it. She was opposed to staying tonight to go over it in detail.

Mr. Kuser said that we can’t just send it back to Mr. Denzler without giving him specific information on what needs to be changed.

Mr. Fitzpatrick agreed and said that this is the number two complaint that he has gotten from residents. He suggested that we go back over the ordinance and highlight anything that we think needs to be changed. Mr. Fitzpatrick added that it should then be sent to Mr. Denzler to work on and then the Council can meet on it again.

Mr. Golinski commented that the Council did have the opportunity to go over this ordinance but, he wants to challenge the professionals to come up with something that is going to work for everyone.

Mr. Kuser reiterated that he thinks we need to go through this tonight. He said that he took the time to go through the ordinance and he is prepared to give Mr. Denzler some ideas on things that he thinks are too restrictive. Mr. Kuser listed the following items that he feels have to be addressed.

- D-3 Right of Entry
- E-2 Prosecution of Violations
- 5 General Definitions Extermination - change wording from pest to vermin
- J Exterior Property Areas #3 Sidewalks and driveways, remove driveways
- #4 Landscape and weeds, tighten up
- L Exterior structure - protective treatment, which is basically paint. Mr. Kuser noted that not everyone paints their house regularly. Mrs. Smith added that it requires people to paint and re-finish decks, etc. in a bad economy. Mr. Kuser noted that Mrs. Smith appears to be saying that Sec. L, #2 should be deleted.
- #8 Motor Vehicles. It says “except as provided in other sections” Mr. Kuser suggested “not garaged vehicles” Painting of vehicles prohibited except in an approved spray booth. Mr. Kuser asked for more specific wording, to allow for spraying a dent in the bumper.
- L Exterior structure - protective treatment, which is basically paint. Mr. Kuser noted that not everyone paints their house regularly. Mrs. Smith added that it requires people to paint and re-finish decks, etc. in a bad economy. Mr. Kuser noted that Mrs. Smith appears to be saying that Sec. L, #2 should be deleted.
- #11 Handrails/guards. Mr. Kuser stated that people do have loose handrails on their homes and he thinks that falls under the Building Code. Plumbing and water systems. Mr. Kuser said that some people think it is an intrusion into their homes. He asked if it could be specified that it
appllies to renters.

Mrs. Smith commented that it would come under a renter’s ordinance. President Andes made the suggestion that perhaps we would be better off with two ordinances instead of a property maintenance ordinance; one for abandoned homes and one for rentals.

Mr. Denzler commented that, if we are making these substantive changes, that could be the way to go.

Mr. Andes suggested that, if the Council defeats this ordinance at the next meeting, he will ask for the changes in writing. He said that he would then request that Administration put together a committee consisting of the Administrator, Mayor, President Andes, legal staff and professionals to come up with something to present to the Council at a workshop. Mr. Andes admonished the Council not to vote no unless they have ideas to improve the ordinance because it was just last week that they all voted in favor of it.

The consensus of Council, Mayor and Administrator was to proceed with President Andes’ suggestion.

President Andes commented that the Council will then vote no on the ordinance next week but with direction, in writing, since that will be essential to the no vote.

Councilman Fitzpatrick noted that Mr. Kuser has covered most of his concerns but he would like to add stumps to the things to be revised.

Mr. Andes commented that some of the areas in town are wooded properties and grass is not cut. He said that, even with the best intentions, if the regulations are not properly put in writing, future officials may interpret it differently. Mr. Andes stated that he feels that it is important that we do it right - once.

Mr. Kuser asked that we move with speed on the abandoned home part of this ordinance.

Mr. Andes replied that it is his intention to have this at the next workshop and have it completed by the end of the year.

Councilman Shaw noted that, in previous years, the town took care of that problem by sending out DPW workers to board up the house or, on the recommendation of the department head, tear it down.

The Mayor stated that there was one abandoned home and some neighbors were very adamant that it should addressed by the town. He said that he had taken the liberty of contacting Carolyn McGuire, who was employed by Dorsey & Semrau at the time, and she was able to attract the attention of the homeowner. Mr. Hussa noted that the owner still lives in Denville, at another location, and some inroads were made. He said that he made several, unsuccessful attempts himself to contact the owner. The Mayor suggested that if a proactive stance is taken by the town to reach out to the owners, we may have some success.

Mr. Norgalis interjected that he has one final comment regarding the abatement of these abandoned homes. He said that Public Health issues, not exterior appearances, can be addressed by issuing a Summary Abatement Order. Mr. Norgalis noted that it is
not done often because it is not cheap. He said that last year, at his direction, the Township expended $2,500 to hire a contractor to cut the grass and weeds, seal up the windows and doors, get rid of the bottles that were inside, etc. Mr. Norgalis added that the Township then went through the, not insubstantial, process of seeking redress from the owner to recoup those funds. He said that it is a long process and the taxpayers may not wish to go that far when they are putting up the funds and have to wait at least six months to recoup that money. Mr. Norgalis stated that, anything we can do to apply leverage to building owners to get them to act before we get to that standpoint, is a good plan.

SIGN ORDINANCE
President Andes advised that he was prepared to ask tonight that some of the wording be changed. He said, however, that he spoke with Mr. Ward earlier and he suggested that next week, if we are still in favor of it, we pass the sign ordinance and then introduce wording for the changes.

Mr. Ward stated that his recommendation is to expedite the process and to save the substantial cost of re-noticing the entire ordinance by adopting the ordinance as introduced and concurrently, another ordinance will be on the agenda with the amended language which has been distributed to the governing Body. He said that the wording concerns Open House real estate signs and added that there will be about a three week lag time between adoption of the original ordinance and adoption of the amended ordinance. Mr. Ward noted that he feels it is the most cost-effective way to do it and direction can be given to the zoning officials, for enforcement purposes, that the other ordinance, with the amendments, is in the pipeline.

Mr. Andes advised, for the benefit of the Realtors in the audience, that the highlights of the ordinance change would be:

- Size of the signs: 24 inches and height from the ground, 3 ft.
- No more than 2 signs per property advertising sale, lease or rent shall be posted in the public right-of-way.
- Signs shall be posted on stakes in the ground supported by A-frame of sufficient height.
- Signs shall only be on display during Open House on Saturday or Sunday or on Federal or State holidays, not earlier than Noon on the day of the Open House and shall be removed no later than six p.m. the same day.

President Andes then opened the floor to Realtors only to express their concerns with the ordinance.

Peggy Lefsky, 99 Lakewood Drive, noted that Open Houses are typically from 1 to 4 p.m. on a Sunday. She stated that it is safer for the Realtors to put the signs out at 9:00 a.m. before there is any traffic, and pick them up the same day. President Andes asked if 9:00 a.m. is sufficient. Mrs. Lefsky said that 9:00 a.m. is sufficient.

Councilman Golinski interjected that he got that recommendation from the N. J. Association of Realtors on the internet. He said that he agrees that earlier is better.
Councilwoman Smith noted that the information that Mr. Golinski obtained said noon to six and most signs for Open Houses, that she has seen, say 1:00 p.m. to 5:00 p.m. Mrs. Smith suggested the compromise of 1:00 p.m. to 6:00 p.m.

Mr. Andes noted that the recommendation is for only two signs.

Mrs. Lefsky replied that two signs are not sufficient to draw clients in areas like Rock Ridge Lake and Lake Arrowhead because those areas are small, with winding roads. She said that people need the directional signs to follow.

Mr. Golinski noted that he thinks this is the time to address this.

Mr. Andes commented that, in this age of GPS’s, is it really that big of a deal.

Mrs. Lefsky replied that not everyone has a GPS.

Mr. Golinski advised that there are a lot of people in the community who are frustrated with sign pollution and we are trying to reach a balance here. He said that we may have to come to some compromise to protect everyone’s interests. Mr. Golinski stated that we need to come up with some guidelines that everyone can live with.

Mr. Andes noted that one of the problems is with the arrow signs that are left up for many days after the event. Mrs. Lefsky replied that those people should be penalized, not the whole community.

Councilwoman Smith asked how many signs are typically put up for an Open House. Mrs. Lefsky replied that it is six signs.

Mr. Andes asked Mrs. Lefsky if she puts signs up on the way to the Open House when it is in Cedar Lake or Rock Ridge. She replied that she goes out early and puts them up. Mrs. Smith advised that she has gone out to get her morning paper at 8 or 9 o’clock in the morning and run into real estate people putting up signs.

Mr. Andes said that the signs are a “pain in the neck” to people who live on corner lots or main roads. He noted that he has seen signs chained to the street sign.

President Andes stated that the Council is not trying to interfere with local commerce but they are trying to find the right balance.

Mr. Denzler commented that, speaking of the number of signs and the time, in his experience, he has noted that these issues vary from town to town. Mr. Denzler said that his recommendation would be, based on what he has heard tonight, the number of signs could be four (4) and the time to put up the signs perhaps ten a.m.

Mr. Andes said that he does not have a problem with 8:00 a.m. as long as they come down the same day.

Councilwoman Smith added that one of the problems she sees is that the Open House is on Sunday and the signs are put up on Saturday.

Some other members of the public wished to speak and Mr. Andes advised that this is an unusual situation and, in an effort to be fair to everyone, he has allowed Mrs. Lefsky to come forward and represent the Real Estate group. He noted that everyone had a chance to speak during the meeting’s Public Portion.

Mrs. Smith added that there will be a Public Hearing on the adoption of the ordinance next week, as well as an opportunity to speak in the Public Portion regarding the changes that are being proposed.
Mrs. Lefsky stated that the 10 feet rule is not adequate. She said that she can think of a dozen homes where, if you put the sign ten feet from the curb, it would be in the kitchen.

Mr. Denzler advised that, based on the amendment that is being considered, the 10 ft. regulation is being removed.

President Andes stated that, next week, we will have a Public Portion on any topic at the beginning of the meeting. He said that, if the public wants to speak about the specifics of what we are discussing right now, that would be the time to do it. Mr. Andes advised that the next item of business would be to read the ordinance for adoption and it should pass. He said that, following that vote, an ordinance allowing four signs to be put up at 9:00 a.m. and removing the stipulation of 10 ft. from the roadway would be introduced. Mr. Andes noted that, with the consensus of the Mayor and Administrator, he will notify the code officials not to enforce the ordinance for 20 days. He said that the Council is trying to work with the community by delaying the enforcement until the amendments are made.

President Andes asked for a consensus from the Council for the amendment to four (4) signs to be allowed from 9:00 a.m. to 6:00 p.m. on the day of the Open House:

- Golinski: Yes
- Shaw: No, wants 3 signs.
- Smith: Yes, with the stipulation that whatever enforcement instructions are given to the Code Officials does not extend to an inordinate amount of signs such as 10 or more.
- Kuser: Yes
- Fitzpatrick: Yes, but is open to arguments.
- Andes: Yes

Mr. Andes asked Mr. Denzler to have that ready for the next meeting.

Mr. Denzler replied that he will do it immediately.

INDIAN LAKE - EAST SHORE WALL

President Andes asked Administrator Ward for an update on this subject. Administrator Ward advised that the property owner was sent a letter in mid-August, requesting permission for the municipality and its contractor to access the area on East Shore Road. He said that at the last meeting the Governing Body re-allocated funds to make repairs to the wall that is located right on the edge of the right-of-way. Mr. Ward noted that he subsequently sent a letter to the attorney who has been corresponding between the municipality and the Association requesting written permission. He said that the Township has a contractor lined up and are waiting for that permission in order to give him the go-ahead. Mr. Ward advised that we need their permission to enter their property and do the construction.
Mr. Golinski advised that the Association Board met monthly during the summer and probably did not receive Mr. Ward’s first letter. He said that there may be some bureaucratic steps that have to be taken. Mr. Golinski stated that he will call the President of the Board and see if he can get things moving.

Mr. Fitzpatrick thanked Mr. Ward for his assistance with this on-going matter. Mr. Kuser asked if quotes had been obtained and is that information available to the Council.

Mr. Ward advised that the Engineer had met with three contractors and received quotes. He said that the most responsible proposal was under the bid threshold. Mr. Ward noted that it is a pre-fabricated block wall of stackable blocks. He said that they will remove the part of the wall that has collapsed in that area only and back-fill the area along the shoulder of the road. Mr. Ward advised that the quote was $7,300.

Mr. Kuser noted that we will only be repairing the defective area.

Mr. Ward replied that is correct. He added that from his visits to the site, it does not look as though the rest of the wall is in jeopardy of collapse. Mr. Ward further commented that this particular area is a low point where the drainage from the road, from both directions, flows over the wall. He noted that, as part of the project, a drain will be installed to forestall this type of damage in the future.

Mr. Kuser asked Mr. Ward if the town is responsible should the wall continue to deteriorate in other areas. Mr. Ward replied that it depends. He said that there is one area on North Shore Road, outside of the public right-of-way which, after researching the history of the Lake walls, appears to be a matter of lack of maintenance by the Association.

Mr. Kuser said that he is concerned about that section as well.

Mr. Ward replied that the area being addressed right now appears to him to be the most important one to address. He noted that continued deterioration in that area could lead to damage to the actual roadway.

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

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

MEETING ADJOURNED AT 9:32 P.M.

Respectfully submitted:

Kathleen A. Costello
Deputy Township Clerk