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

ROLL CALL: FITZPATRICK, GOLINSKI, KUSER, SHAW, SMITH, STECKY, ANDES
ALSO IN ATTENDANCE: MAYOR HUSSA, ATTORNEY SEMRAU, ENGINEER ROSANIA, PLANNER DENZLER, HEALTH OFFICIAL NORGALIS, COAH LIAISON BOWDITCH AND ENVIRONMENTAL COMMISSION CHAIRMAN ATKINSON.

Administrator Goble was not in attendance.

OPEN PUBLIC PORTION: No one wished to be heard.
CLOSE PUBLIC PORTION.

President Andes introduced Mr. James Jencarelli, Superintendent of the Morris Hills Regional School District, to present the Regional District Budget.

Mr. Jencarelli stated that he will be very brief and thanked the Mayor and Council for the opportunity to address them.

Mr. Jencarelli introduced Board President Steve Kovacs and members Tom Gruelich and Debbie Erwine.

Mr. Jencarelli went over the loss in State Aid, the steps that have been taken to offset that loss, the items that the budget still supports and what the results would be if the budget is defeated and the four sending districts recommend additional budget cuts. Details of these items as well as the proposed budget figures are attached to these minutes.

Mr. Jencarelli then took questions from the Council members.

Councilwoman Smith asked if the increase in student population was expected due to the economy; that perhaps more people are sending their children to public rather than private schools.

Mr. Jencarelli replied that it seems that the enrollment in all of the sending districts has stabilized, but at the High School, it has increased. He said that the enrollment has increased approximately 28% over the last 9 years but he does not know if it is tied to the economy.

Councilman Kuser asked what athletics are being cut.

Mr. Jencarelli replied that they are not cutting any athletic programs at this time. He said that they are taking the funding out of certain supplies and certain equipment issues because they feel that they have enough equipment for the students.

Councilman Stecky thanked Mr. Jencarelli for the offer of shared services which, he noted, Denville has begun with the Mt. Lakes Court. He said he would like to see that line of communication opened.
Councilman Shaw asked if the teachers gave anything back. Mr. Jencarelli responded that, as yet, they have not but they are in negotiations right now. Mr. Shaw noted that, in Denville, the teachers have to give back and pay some of their health insurance. He said that, in the athletic programs, if the kids want to participate, the Board will pay \( \frac{1}{2} \) and the parents will pay \( \frac{1}{2} \). He suggested that the Regional Board take a stern approach to the budget.

President Andes thanked Mr. Jencarelli for coming and wished him luck with his budget. President Andes advised that the next order of business will be an update on changes to the Highlands and COAH regulations since the last presentation. He said that the presentation will be made by Planner Bill Denzler and Eileen Swan of the Highlands. Mr. Andes asked Ms. Swan to speak first and advised her that he has allocated until 8:15 for this portion of the meeting.

Ms. Swan introduced herself as Executive Director of the Highlands Council and also introduced Tom Borden, Chief Counsel and Deputy Executive Director. Ms. Swan gave a Power Point presentation, a copy of which is attached to these minutes.

She advised that only seven acres of Denville is in the Preservation Area and conformance to the Regional Master Plan is mandatory in the Preservation Area. She added that, if Denville chooses to conform to the Preservation Area, it will be easy because they will not put Denville through all the ordinances for seven acres. Ms. Swan pointed out the Highlands mapping that was done to capture existing conditions. She noted that Planning versus Preservation Areas was a legislative mandate and Highlands has no power or authority to change Planning or Preservation lines. Ms. Swan stated that Denville has used Plan Conformance Grants to study the implications of the Regional Master Plan for Denville should it choose to conform. She said that they worked with Planner Denzler and the maps will be updated with the information that was gathered and any corrections that were necessary. Ms. Swan spoke about water preservation, open space and the aquifer. She showed the progress of development over many years.

Ms. Swan brought up the subject of recreation fields, particularly Veteran’s Park. She said that if the Council approved a resolution preserving this land for future active recreation and put in a conforming petition to the Highlands Council, they could simply tell the Highlands Council that they have already approved this and it would be recognized as such.

Councilman Golinski asked if we went into the Highlands and tried to do that in two or three years, would it be just as simple. Ms. Swan replied that the simpler route would be to put it in now because it is easier to go the other way. She said that if he is asking if it wasn’t done now and they came in could they get ball fields, the answer is potentially yes, but it would certainly be easier to do it in advance. Ms. Swan noted that they would just have to notify the Highlands that they have reserved this for active
Ms. Swan then went over the grants that Denville has used for plan assessment and other grants that are available. She also spoke about potential development through map adjustment.

Ms. Swan cited the Module 3 figures which indicated both COAH and Highlands build-out numbers and the 2018 projections for COAH.

Ms. Swan listed the benefits for conforming municipalities as follows:

1. Legal Shield
2. State Plan Endorsement
3. Transfer of Development rights, Impact fees and Enhanced Planning Grants
4. Priority Open Space Acquisition Funding
5. Tax Stabilization Funding

Ms. Swan explained the following Highlands Act Equity Provisions that the Legislature has included to address equity concerns.

1. 17 Exemptions including those for single family homes on a lot existing before August 10, 2004, or expansion of a single family dwelling in existence on that date.
2. Waivers from NJDEP permits to allow certain re-development.
3. The Dual Appraisal Method
4. Transfer of Development Rights Program requiring that development credits utilize pre-Highlands Act value.

Ms. Swan commented that her presentation is finished but she would like to answer any questions that the Council may have.

President Andes asked what changes have occurred in Trenton, since Governor Christie took office, that affect the Highlands. Ms. Swan replied that their main concern was having the continued ability to provide funding to municipalities, given the state of New Jersey’s budget. She said that in the proposed budget by the Governor, the operational budget is such that the staff is maintained and the $4.4 million is also in the budget for the Council for grants to municipalities. Ms. Swan commented that, for a Planning Area municipality, if the grants are not available they can just stop the work.

Mr. Andes next question concerned people who own property of substantial acreage and are not approved for a sub-division. He said that these people are concerned about the de-valuation of their land and would like to know how they would be reimbursed.

Mr. Borden replied that several mechanisms were built into the Act regarding equity. He said that land preservation and Green Acres are two of them. Mr. Borden noted that the Highlands Council requires that a dual-appraisal mechanism be done to appraise the value of that land pre-Highlands Act. He said that mechanism has expired and an amendment has been introduced to put that back into place. Mr. Borden advised that the Transfer of Development Rights (TDR) mechanism was also built into the Act for pre-Highlands Act value. He said that those are the two key mechanisms for land preservation. Mr. Borden noted that the property would have to be evaluated to find out its value pre-Highlands Act.
if it would qualify under one of the exemptions which often addresses the equity of a
vacant parcel where a single family house can still be built. Ms. Swan added that grant
money could be used for some of the analysis.
President Andes commented that Ms. Swan has made the Veteran’s Field situation
quite clear but he asked if, down the road there are others we want to build, is Ms.
Swan suggesting that we have to put them on the table right up front as active
recreation. He asked if we need to do an inventory of what we may want to do twenty
or more years from now.
Mr. Borden replied that, if the Township has already identified a parcel as a target for
additional recreational facilities, it would be best to identify them now. He said that one
of the tasks that would occur through conformance is doing an open space and
recreational plan which would be funded through grants.
Mr. Andes asked if the schools would have any problem if they wanted to build a field
on their property. Mr. Borden responded that they would come under the school
exemption.
Councilman Stecky commented on the map that was shown depicting the growth of
impervious cover. He noted that recently Denville has suffered severe flooding
problems from the Rockaway River and spoke about the effects of the rising and
lowering of the river. Mr. Stecky stated that we know that most of the mandatory
conformance with the Master Plan occurs in the Preservation Area. He said that he
would like to know what the impact would be on the regional water quality in the event
that a large proportion of Planning Areas do not voluntarily conform. Mr. Borden replied
that the more towns that conform to the Planning Area, the better water quality
protection you will have over time. He said that one of the incentives is the grants that
are available for stream restoration to insure that water quality and quantity is managed
more properly.
Mr. Stecky asked if there is a way that the Township can measure the positives and
negatives. Mr. Borden replied that the DEP has been monitoring water quality for years,
in terms of the surface water quality standards. He said that more impervious surface
means more run-off which means more pollutants that will go into that stream. He
noted that there are ways to remedy future development and also restore prior
development to provide better water quality. Ms. Swan spoke about the statistics
concerning towns that are joining the Highlands.
Mr. Stecky noted that Denville has the option to conform or not. He added that several
surrounding towns have decided to voluntarily conform and asked what the impact will
be on Denville, should Denville decide not to conform. Mr. Borden replied that the
impact would be that Denville will have less of a comprehensive plan and a more piece
meal, scattered approach to planning.
Ms. Swan noted that they are suggesting that a very close look be taken at the capacity
for future development. She said that they have found that several towns were relying
on the same infrastructure on a first come, first served basis. Ms. Swan commented
that, in making its decision, Denville has to determine where the best place for the
Township Council
future of the municipality is and where they will get the best aid. She noted that the
Township has to have a COAH plan submitted by June 8th.
President Andes thanked Ms. Swan and asked Mr. Denzler for his comments.

Township Planner Bill Denzler stated that he would like to follow up on some of the
questions. Mr. Denzler asked Ms. Swan about the exemptions. He said that they have
the Highlands build-out number of 50, but the Township has well over 600 vacant lots
with sewer and water connections. Mr. Denzler asked how that number will be affected
when it goes to the COAH plan because there is a lot more development potential than
the build-out indicates. He said that we could have a lot more growth than is on the
surface of the Highlands Plan. Mr. Borden replied that the COAH process addresses
a growth share approach so the obligation is only incurred when a certificate of
occupancy is issued. He said that they did not want to speculate on what may or may
not happen with vacant lands that could be developed or used for open space.
Mr. Denzler questioned the economics of the Plan, noting that it was one of the
concerns that he expressed to the Council. He asked if there is funding for the tax
stabilization. Mr. Borden replied that it is a ten-year expiring fund and there has been
full funding for the first five years of the Act. He said that they anticipate that the
Governor will re-establish the fund for vacant land only.

Mr. Denzler then addressed two issues concerning COAH; S-1 which is in its third
proposal and has been carried to May and is basically a bill to abolish COAH and come
up with new standards to address affordable housing. He noted that the Governor also
created a task force to look at COAH and their report is due on March 19th. Mr. Denzler
advised that the Governor is reviewing it now and it was also intended to abolish COAH
and come up with new standards and start from scratch, while still considering the
principles of Mt. Laurel I and II. Mr. Denzler noted that he provided a hand-out, a copy
of which is attached to these minutes. He said that he had hoped to have a
determination by the task force by this evening but it should be available by the end of
the month. Mr. Denzler noted that the Township has two numbers to shoot for: 100 vs.
289. He said that the 289 number was adjusted to 164 because of the County build-out
based on the capacity of the waste water facilities remaining.

President Andes commented that COAH will have to be on an agenda some time in
May. Mr. Denzler replied that the Planning Board would adopt it in May and it could go
on an agenda in the end of May or the first meeting in June, which would be June 1st.
Mr. Andes said that we will plan for June 1st.

Councilman Golinski had a question concerning the dual appraisal. He asked how a
landowner would be compensated if no one wanted to buy the land but the value was
dramatically decreased by the regulations.
Ms. Swan replied that there is the Green Acres mechanism and they would also have to
look at the exemption analysis and see if an exemption would apply. She said that they
would also have to look at what realistically could occur on the land, absent the
Highlands. Ms. Swan added that there is an exemption for every vacant lot available to
Township Council
have a single family house built.
Mr. Golinski stated that, if there was a real possibility to build ten houses on a vacant property, and the Township passed ordinances that took that possibility down to one house, the only method he has heard is the possibility of the dual appraisal method if someone like Green Acres would like to purchase that land. Ms. Swan replied that a TDR bill that was passed by both the Assembly and the Senate is sitting on the Governor’s desk right now. She said that would give them a lot of sending areas from the Highlands to get a real market base and, if the Governor signs that bill, they will have the potential for a robust TDR program. Mr. Golinski asked if that program will compensate the landowners. Ms. Swan said that it will and on May 6th the Highlands Development Credit Bank is meeting and they will be doing the first TDR purchases. She added that it will take time to get a TDR market base. Mr. Borden noted that the development rights are purchased but the landowner retains ownership of the land. Councilman Kuser noted that everyone says that Denville is built-out. He asked what then is the advantage of the Highlands to Denville.
Ms. Swan replied that it would be planning grants and legal protection. Mr. Kuser asked what Ms. Swan feels that the future of COAH is. Ms. Swan responded that there will always be some obligation but she thinks that there will be some relief in the numbers. Mr. Kuser asked about the future of the Highlands. Ms. Swan replied that it is looking good. She said that they are legislatively mandated and have the support in the Senate and the Assembly for the continuation of the Highlands. Ms. Swan noted that the Governor spoke about the importance of getting new members onto the Highlands Council.
President Andes thanked Ms. Swan and Mr. Borden for coming this evening.

ROAD OPENING
President Andes asked Engineer Rosania to give a state of where we are today, and then have Mrs. Smith present any concerns or questions she may have. Mr. Rosania noted that the question came up a while back and he replied in an e-mail to Mrs. Goble. He provided a packet containing the memo, a copy of the road opening procedure, the street excavation ordinance, a copy of the application for opening permit and the rules and regulations governing road openings. A packet is attached to these minutes. Mr. Rosania advised that the procedure has been essentially the same since 1984 and has served us well. He stated that most road openings come from large utility companies such as NJ Natural Gas and Verizon and there are very few private opening requests. He said that, over the years, whenever there was a complaint from a resident or Council person, there has always been a quick response to correct the issue. Mr. Rosania noted that there is a $5 application fee for a road opening permit and the permit remains open for a year in order to insure that the restoration of the road is done properly. He said that the road opening ordinance is paraphrased on the back of the Township Council
application and it also states what is expected of the applicant. Attorney Semrau interjected that the permit would be issued if they meet all the criteria and it is approved. Mr. Rosania said that is correct. Councilwoman Smith commented that she sees the problem in the situations where a road is opened on a recently paved road, or a road that is due to be paved, the opening is done and closed up and a short time later the road collapses. She said that it is a major cost to the taxpayers. Mrs. Smith suggested that a long-term bond be required so that the funds will be there to repair the road, should it collapse after being closed up. She said that they should be held to a higher standard because, many times, the road may seem to be closed properly but, after a bad winter, it needs to be re-paved. Mrs. Smith asked Attorney Semrau if other municipalities have ordinances that require people who open the roads to maintain them. Attorney Semrau replied that he knows that there are instances where you can require higher standards for roads that have been newly paved or up-graded. Mr. Rosania replied that he does not share the concern that we have to go back and revisit trenches where people have not met our desires. He said that all of the significant trenches are dug by the gas company or Verizon and if he calls them because he has had a call from Mrs. Smith, they will come out and repair it whether it has been one year or three years. Mr. Rosania stated that in 24 years there have only been four or five cases where he has had to call and report a problem with a trench. He said in every instance it has been ameliorated and there have only been a couple of openings for residential needs. Mr. Rosania commented that he does not share the same concern that we need to extend the guarantee period because these big companies are at our beck and call. Councilwoman Smith suggested that Mr. Rosania go and look at Shongum Road where they opened up the road right after it had been paved and it has not been taken care of. Mr. Rosania replied that, just like a pot hole, if someone notifies his office of the condition, they take care of it. Mrs. Smith asked who takes care of it. Mr. Rosania responded that it would be the gas company, phone company or whoever is involved. Mrs. Smith noted that she and Mr. Stecky rode around town and saw many streets with unresolved trench issues. Councilman Stecky said that he had some notes on that. He noted that he was speaking about this to a Civil Engineer that he works with and the individual was supposed to supply Mr. Stecky with a sample specification for road repair. Mr. Stecky advised that the specification is designed specifically for trench work. He asked Mr. Rosania what the current spec is for repairing trenches. Mr. Rosania gave him the specs and said it is an even greater standard than that which is used to pave the street. He said that, if there is a list, show it to him and he’ll have it taken care of. Mr. Stecky replied that the right material can be used, but if the job is not done well it’s still a bad job. Mr. Rosania commented that he can use whatever material he is instructed to use but the current specs are fairly good and the track record is fairly good. Councilman Kuser interjected that Birch Run and Redwood had FIOS installed and that area is targeted for re-paving.
Councilwoman Smith stated that she feels we need more stringent requirements and a longer time limit. She suggested that she and Mr. Rosania take a ride through town and she will point out to him the roads that she feels need trench repair.

Mr. Kuser commented that it would be good if Mr. Stecky can acquire the specs from his friend so that the Engineer and the Council can go over them.

Attorney Semrau asked Mr. Rosania if he has had to go after anyone because of a guarantee that was not fulfilled. Mr. Rosania replied that he has never had to use a guarantee, anyone he has ever required action from has complied.

President Andes asked Mr. Stecky to pass the information on to Mr. Rosania, through Clerk Costello, and when he has reviewed it, we will put it on another agenda. Mr. Semrau requested that he be copied as well.

PROPOSED LIGHTING ORDINANCE.

President Andes introduced Mr. Al Atkinson, Chairman of the Environmental Commission, to address the lighting issue.

Mr. Atkinson said that, for some time, the Commission has been interested in doing something about the lighting in town. He noted that the complaints are frequent but will decrease as the trees bloom and filter the lighting and will then pick up again in the fall. Mr. Atkinson advised that the lighting in the Route 10 area, as well as the flow of light from residences, are a major part of the lighting issue. He said that there are times when the Planning Board receives a site plan and the lighting is not taken into consideration. Mr. Atkinson commented that lighting along Route 10 seems to go up at the whim of the business owner and even residential lighting goes up to shield the owner from any glare, but not the neighbors. He said that light pollution even prevents one from being able to see the stars on a clear night. Mr. Atkinson stated that lighting needs to be addressed with a concern for the residents around the lighting. He said that the Commission has been looking at it for several years and he understands that the Council is looking at a number of ordinances that they would like to put through with grants and he thinks this should be a significant one.

President Andes noted that Mr. Atkinson has provided the Council with a sample ordinance which was passed on to Mr. Denzler. He asked Mr. Denzler to give the Council his comments on that ordinance.

Mr. Denzler replied that he gave the Council a copy of that ordinance as well as another that addresses the same issues. He said that he would like the Council to advise him as to how they wish to address lighting in town. Mr. Denzler noted that the Eatontown ordinance exempts single and two-family houses, so it basically addressed multi-family and commercial sites. He advised that there is nothing currently on the books under design standards for lighting; it is on a site by site basis by the Planning Board or Board of Adjustment.

Attorney Semrau commented that the sample ordinance was put together in a very thoughtful manner but he said that it says, “to be added to Site Plan Improvement
Requirements”. He noted that, if he wanted to construct a single home which does not need a site plan, the way this ordinance is proposed, it would not apply to him. Mr. Denzler replied that single family residences are specifically exempt from the ordinance. He said that it can be incorporated so that it is addressed whenever a building permit application is submitted for a single or two family house. Mr. Semrau interjected that, right now if a sub-division came in, this would apply. Mr. Denzler said that is correct. President Andes asked if there have been complaints about single-family homes. Mr. Denzler replied that he has had complaints but there is nothing in our ordinances, except for a nuisance ordinance to address it. He said that typically, the home owner will take care of the problem when requested to do so. Mr. Denzler advised that he has not had to take anyone to Municipal Court.

Attorney Semrau asked if Mr. Denzler has any recommendation. Mr. Atkinson interjected that he believes that regulations make good neighbors. He said that there should be some guidelines for lighting but they should not be made extremely restrictive. Mr. Atkinson suggested that if someone comes in for a building permit that they be given the lighting requirements.

Mr. Denzler noted that commercial should be regulated and it is done on a piece meal basis at this time. He said that any type of commercial site plan should be regulated. Mr. Atkinson suggested that the requirements should also be sent to JCP & L, for the lights that they erect at the request of a particular owner. He said that he has been assured many times, by the electric company, that they would install shields on lighting that causes glare. Mr. Atkinson noted that, unless there is an ordinance with consequences for non-compliance, it will not happen. Mr. Semrau said that is the good thing about a site plan, without fulfilling the requirements they can’t even get started.

Engineer Rosania commented that what Mr. Denzler has put together is a good start. He said that 80% of the problems are with commercial sites. Mr. Rosania stated that one of the chief violators is the JCP & L “order by phone” spot lights. He said that he doesn’t see anything addressing that in this ordinance. Mr. Denzler replied that it would have to be addressed by adding it to an ordinance.

Councilwoman Smith commented that she thinks that what Mr. Denzler wants to know from the Council is if they want to go forward with something on a residential level. She said that she is concerned with regulating residential sites because she is afraid it will escalate to the point where it will restrict painting your house the color of your choice. Mrs. Smith added that restricting the illumination of a neighbor’s property is about as far as she is willing to go on residential regulations. She said that we need to be good neighbors but we should approach restrictions on residential property very cautiously.

Mr. Semrau noted that, with a new sub-division, they would have some flexibility during the approval and design phase of their application. He said that the consensus seems to be that the Council does not want to go much beyond that because it would be difficult to enforce. Mr. Semrau noted that he would not recommend that the ordinance be applied to a single-family home or a re-construction. Mr. Atkinson commented that if they have that, JCP & L lighting it might be an exception. Mr. Semrau replied that he
thinks that would have to be a separate issue that would have to be dealt with because it wouldn’t have anything to do with a plan of lighting for a home. Mr. Denzler noted that it can be addressed separately within the ordinance. He said that the standard entry lighting and accent lighting around the house we may want to exempt, but the large floodlight type we should regulate.

Mr. Kuser asked for a clarification of “order by phone” lighting. Mr. Rosania explained that anyone can call and buy one of the large flood lights and have it mounted on their pole or buy it with a pole for their property. He said that there is one right outside the Municipal Building because we had a lighting problem. Mr. Kuser asked who pays for it if it is on the street. He was informed that they are used only for residential purposes. Mr. Stecky asked if anyone is bothered by the mix of yellow and white lighting in town and if anyone thinks there should be a standard.

Mr. Rosania replied that it has been discussed at many Planning Board meetings. He said that they have generally taken the position that the softer lighting is better in order to avoid glare. Mr. Rosania added that the shopping malls have made a good argument that, for security, shopping carts, etc., they could have the brighter type light and use shielding. He said that, in his opinion, the Planning Board needs to continue to make those decisions on a case by case basis.

The Mayor stated that he has not seen any complaints at all about lighting. He said that there have been a lot about I-zones. The Mayor noted that he thinks the ordinance is a good thing and agrees with Mrs. Smith about not doing much with the residential complaints. He said that he does not agree with Mr. Rosania when he says no one notices the lights around town. Mr. Hussa advised that professional people have commented to him on the non-standardization of the lights in the downtown area. President Andes commented that he thinks that the biggest complaint about our downtown lighting is the non-conformity of our street lamps.

Mr. Stecky said that he is talking about illumination, not ornamentation. Mayor Hussa suggested that it would be good to get a professional opinion regarding the illumination in the downtown area.

Councilwoman Smith agreed with the Mayor and thinks it is disharmonious. She asked however, how the Township could regulate what type of bulb can be used. The Mayor replied that he was aiming more toward controlling the wattage rather than the color. He said that he feels the Council should look very seriously at this ordinance. President Andes stated that he would like to take a consensus on this because he would like to get the ordinance on the agenda as soon as possible. He said that he would like to know if the Council is in favor of an ordinance that would exclude single-family homes but would regulate sub-divisions and commercial properties, with a recommendation for standardized light, while leaving room for an amendment concerning the regulation of JCP & L floodlights. He asked if all are in favor. Mrs. Smith suggested clarifying multi-family by saying three or more.

Mr. Golinski stated that he is not necessarily in favor of standardized lighting but is in
favor of an ordinance.
Mr. Semrau said that he thinks the standardized lighting definition is more like what is in this draft ordinance. Mr. Kuser asked where the ordinance will go now. He said that Mr. Atkinson also asked for specific penalties. Mr. Denzler noted that, if this goes into the Zoning Code, it will be done through the Zoning violations in Municipal Court.
Mr. Semrau commented that a lot of this will be done by site plan and if someone deviates from the site plan that, in itself, would be a violation in addition to whatever is put in this ordinance.
Mr. Andes asked if there is a benefit to putting the penalties in this ordinance if they are already in the General Ordinances. Mr. Semrau replied that we can do that as well. Mr. Semrau asked if Mr. Andes wants it to come back to the Council for one final review first, or would he rather it go to the Environmental Commission and the Planning Board first to get some additional feedback. Mr. Andes said that is what he would suggest. Mr. Semrau advised that he will circulate a draft and get more comments and then bring it back to the Council. Mr. Andes noted that he would like to have it done before the end of June. Mr. Denzler noted that this is one of the items included in the Anjac Grant and they will not hear anything about that until the end of May, so June may be too early for the ordinance, but it can be done this year.
President Andes asked for a consensus to go forward with the draft ordinance and the consensus was a unanimous affirmative vote.

PROPOSED PROPERTY MAINTENANCE CODE.
Mr. Denzler provided a handout of a sample property maintenance code from Rockaway Borough. He noted that this is a "middle-of-the-road" ordinance, as compared to several others that were either too strong or too weak. He asked the Council if there are any specific issues that the Council would like to have addressed. Mr. Denzler said that he knows that the Health Department handles such things as infestations and rodents and that unsafe houses are addressed by the Building Department, but nothing deals with nuisances or overall appearance of property. He noted that, as Zoning Officer, he has no ordinance to back him up in dealing with accumulated rubbish on the property.
President Andes asked what we have so far, dealing with property maintenance, that is already covered under other ordinances. Mr. Denzler replied that it what he just said, infestation under the Health Department and unsafe houses under the Building Department.
Health Officer Norgalis advised that the Health Department is working under the Public Health Nuisance Code of 1953 which lists a number of conditions which would declare a property to be a public health nuisance, which is different than a nuisance. Mr. Norgalis noted some of these conditions:
- Pollution from fireplaces or chimneys.
- Standing water.
- Brush piles near garbage cans and unsecured garbage cans.
Requirements for buildings that may be rented or occupied, if it is a multi-family structure; the rules do not apply to a single-family dwelling that is being rented.

With regard to heat: multi-family (3 or more families) housing is mandated to have heat and the Health Officer may enforce that. For a one-family rental the Health Officer has no authority to enter the home, even if the furnace is broken and the landlord refuses to repair it.

Mr. Norgalis explained that abandoned houses are a very difficult problem to resolve. He noted that, with one house in particular, the Township had to hire a contractor to abate the problem of overgrown grass surrounding the house and then put a lien on the house. Mr. Norgalis commented that these are all time-consuming issues. He advised that there is some overlap between property maintenance and public health nuisance.

Mr. Norgalis asked what hazards to the Township the Council is trying to target. He asked if they are most concerned about abandoned houses, because there are more of those now due to the down-turn in the housing market and increase in foreclosures.

President Andes said that he would like to poll the Council and hear what their main concerns are in this regard.

Councilman Kuser commented that he brought up this subject because he has had complaints from constituents about abandoned homes in disrepair, with abandoned swimming pools and garbage on the lot, that affect the value of their neighbors’ homes. Mr. Kuser also mentioned abandoned vehicles and asked if they are covered by property maintenance or Zoning. Mr. Denzler replied that, if they are on private property it would be Zoning and on the street or in a right-of-way it would be the Police Department. Mr. Kuser suggested that one branch be empowered to enforce these rules. President Andes replied that he does not think that is a possibility.

Attorney Semrau advised that, with a property maintenance ordinance, the Construction Official is usually selected to enforce it. He said that there can be an occasional overlap where the Construction Official will call in the Health Officer. Mr. Norgalis interjected that it is common practice and occurs frequently here in Denville. Mr. Kuser stated that he just does not want to have a resident call and have to be switched from one department to another before he gets an answer to his complaint. He said that he does not want to get so strict that we have people complaining that their neighbor’s grass is one inch longer than is allowed. Mr. Kuser stated that unsafe conditions should be addressed in the ordinance in such a manner that the our employees are armed with the authority to go in and rectify the problem. Mr. Norgalis explained that, on occasion, the difficulty is that the owner abandons the property and let’s the bank take it over. He said that when he receives a complaint, he contacts the owner to have it remedied; in the case of a bank-owned property, the bank is often headquartered in a distant state. Mr. Norgalis noted that it is a long and torturous process to try and contact someone in the corporate office to arrange for someone to come out and do the work. He said that a helpful tool, from his perspective, would be to allow the municipal official to hold the bank that takes over the property, responsible for its upkeep. Mr. Norgalis noted that if it comes to sending a summons to the bank, so be it. Mr. Kuser interjected that we
could also place a lien on the property. Mr. Norgalis replied that we can do that, but it is
time consuming and costly. He said that the town incurs legal costs for the lien and it
doesn’t necessarily mean the problem will be fixed. Mr. Norgalis noted that, if there is a
penalty such as the public penalty which can be accruable per day, it would get their
attention. He said that $50 doesn’t sound like much, but $50 per day over a month can
add up quickly. Mr. Norgalis commented that that kind of penalty would likely get the
bank or owner to abate the problem. He said that he believes the problems could be
abated more quickly if we had that kind of power to exert pressure on them.
Mr. Norgalis gave a list of abandoned homes that have been a problems in town during
the last year.
Councilman Golinski suggested that we get a recommendation from the Health Officer
on what the Council can do to give the him the muscle that he needs to quickly resolve
the things that are already defined as public nuisances. Mr. Golinski said that his own
personal priority list would be: abandoned houses, mosquitoes, abandoned or
unregistered vehicles in disrepair and garbage.
Councilman Kuser commented that the ordinance from Rockaway Borough is pretty
thick and the Council should all go through it for any helpful information it may offer.
Mr. Norgalis stated that there are some tools to get things done but, getting them done
quickly is another matter. He said that the public’s perception of fast and that of the
government do not always coincide.
President Andes noted that the Council will examine the Rockaway ordinance but, at
this time, he would like to have input from the Council.
Councilwoman Smith asked if there is anything on the books now, if something is a site
hazard that, it must be removed.
Mr. Denzler replied that there is a public safety provision that is pretty encompassing
that states that if it looks like a hazard, we can claim that it is one. He advised that it is
handled through Zoning.
Mrs. Smith noted that, while not getting too restrictive, there are places where the grass
grows so high that it can become rodent infested.
Mr. Norgalis advised that his rule of thumb when investigating high grass complaints is
that, if it is shin high it is too long. He said that is the standard that he has always used.
Mrs. Smith noted that her concerns are from a breeding ground standpoint with
overgrown areas and from a safety stand point with abandoned cars. She said that she
believes abandoned, unregistered vehicles are a Police Dept. matter. Mr. Denzler
advised that it is a Zoning issue. Mrs. Smith replied that she knows there are some
ordinances on the books but that we need to put some teeth into them, such as stiffer
penalties. She said that she sees that notices coming from the Clerk’s office is
mentioned and she thinks that they come from a different office.
Councilman Stecky commented that he knows we are on solid ground when we talk
about protecting the public safety, health and welfare. He said that it is when we get
into aesthetics that we get into swampy ground. Mr. Stecky stated that there is a gray
area and we have to be careful not to go too far with any ordinance we may adopt.
Mr. Norgalis advised that he would appreciate it if the Council gave him additional tools to be able to find the responsible party when a property is abandoned. Attorney Semrau advised that there is only so much that Mr. Norgalis can do with his license that falls under Public Health and there is not much more the Council can give him. He said that Mr. Golinski’s list has items that Mr. Norgalis cannot address because they don’t fall under Public Health; if they are under property maintenance, they are things that the Construction Official or Zoning Officer can reach. Mr. Semrau noted that he finds Mr. Golinski’s list to be very helpful in trying to put together an ordinance. Mr. Norgalis advised that garbage cans left at the curb 24/7/365 are a source of complaint. He said if something were codified regarding that, he could enforce it. Councilman Fitzpatrick suggested that we not over-think this. He said that we have experts hear and we should listen to them and let them bring their recommendations back to us.

Mr. Semrau stated that that is a good suggestion and we don’t have to bring back an ordinance, we could bring back an overview to an ordinance and work from that. Mayor Hussa noted that there is a house that has been abandoned for some time and he has spoken with Mr. Semrau’s office about it but the legal approach did not solve the problem. He advised that we didn’t have the tools to resolve it. Mr. Semrau interjected that there was nothing in the Township ordinances at the time but he thinks that this is an opportune time to come up with suggestions. Mr. Kuser asked if the definition of an abandoned house is one on which the taxes are no longer being paid. It was explained that, in some cases, the owner continues to pay the taxes but moves out and does not maintain the property, or the bank or lien holder has not moved on foreclosure. Mr. Norgalis stated that his definition of an abandoned home would be one that is neglected and that he has no one to go to and tell to fix it. President Andes commented that he feels they are on target going after the bigger problems and asked that the Council collectively work on the things that have been discussed, get their ideas to Mrs. Costello to pass on to the professionals. He said that he would like to have something introduced before the summer. Mr. Andes advised that the May workshop is already booked, so perhaps it can be done in June.

SIGN REGULATIONS.
Mr. Denzler provided the Council with a copy of the Township’s current sign regulations. He said that one of the issues to be discussed is the abundance of temporary signs that are seen around town. Mr. Denzler noted that, last year the Zoning Department collected over 450 of these small signs, some of which were on residential property but the majority of which were on commercial property. He advised that the current regulation requires that permission be granted by the Zoning Dept. for a temporary sign for a period of five days. Mr. Denzler said that he would like to know how much temporary signage the Council would like to permit and how the Council would like to address signage associated with local businesses. He said that, right now, businesses
are permitted up to three signs, dependent upon how far the building is set back. Mr. Denzler asked for direction from the Council on these matters. Councilwoman Smith asked if Mr. Denzler thinks we should follow Mt. Lakes’ example. Mr. Denzler replied that Mt. Lakes permits no signs but they also do not have the commercial corridor that Denville has. He said that their residential area is also different than that of Denville. Mr. Denzler advised that Denville only allows signs of up to 4 sq. ft. for home offices. Mrs. Smith said that she finds the signs that advertise jobs, like filling out envelopes at home, to be the most annoying. Mr. Denzler noted that those types of signs are illegal and, if made aware of them, the Zoning Department goes after them. Mrs. Smith cited real estate signs and political signs as prime offenders as well. The Mayor commented that he has read the code and knows what kind of signs they go after. He said that Sal Poli takes down hundreds of these illegal signs. Mrs. Smith asked where we want to go with this ordinance. President Andes commented that we have this ordinance and he would like the Council to express their opinions. He said that they will then ask Mr. Denzler to come back with some recommendations. Councilman Shaw stated that recently he has seen a lot of business signs popping up, such as mulch for sale, home repair and signs of that nature. He said that he has no problem with signs that are put up by the Girl or Boy Scouts or a church group for events that are coming up, but the commercial signs are the ones that bother him. Mr. Shaw advised of a sign that is nailed to a telephone pole about twelve feet above the ground. Mr. Denzler noted that he has had the DPW come and remove a sign that was chained to a pole and they had to cut the chain. Mr. Shaw suggested coming up with an ordinance that is more restrictive of business signs. Mrs. Smith commented that there needs to be some teeth in the ordinance imposing a fine. She said that, if there is a phone number or web address, we need to go after them and fine them. Mrs. Smith noted that, if we use a DPW worker to come and cut a chain, there is a cost to the taxpayer and the offending party should be fined to offset that cost. Councilman Kuser said that he feels that the small, portable signs are the worst. He suggested that, instead of picking up the signs, someone call the number on the sign and advise the party that it is a Township official calling and they must remove it within 24 hours or be fined $50 per sign. Mr. Kuser noted that signs on private property, such as roofing or siding signs, would be more difficult to regulate. He asked if a permit is needed for those types of sign. Mr. Denzler replied that typically there will be an open building permit associated with that type of sign. He said that something could be put in there that limits the time that a sign can remain after the work is completed. Councilman Kuser noted that, in the winter, there was a sign for the sale of firewood and now, the same contractor and phone number are on the sign for spring clean-up. He said that he is sure that in a couple of weeks it will be for lawn maintenance. Mr. Kuser noted that it is a cheap way of advertising. Township Council
President Andes commented that we want people like roofers to be able to put up their signs while the job is being done because it generates more business for the contractor. He said that he agrees with the proposal for a penalty.

Mr. Kuser stated that he thinks we need to put some bite into the ordinance for temporary or portable signs. He noted that he also receives a lot of constituent complaints regarding large, banner-type signs along the Route 10 corridor.

Mr. Denzler asked the Council for their opinions on signs for non-profit organizations. He said that we have had an unwritten law that, as long as we are informed of the location and the signs are reasonable in size and duration, we have allowed them. Mr. Denzler noted that, at one time, there was a church flower sale sign and a commercial sign displayed in the same area and the commercial one had to be removed but the flower sign could stay.

Councilman Kuser replied that it has to be stipulated that non-profit organizations are exempt. He said that we all take part in these organizations, or volunteer for them to help them out. Mr. Kuser said that these organizations work for the betterment of Denville and it would not be appropriate to advertise a business right next to them.

Mr. Norgalis interjected that the signs advertising church dinners of any sort are an alert to the Health Department to check and see that they have the appropriate cleaning materials.

Mr. Andes commented that the political signs are a necessary evil. Mr. Semrau said that they can't really be regulated. Mr. Andes noted that the key is having them removed. He suggested that a reasonable time-limit be included in the ordinance for removal of political signs.

Councilman Golinski asked if members of the Council had violated this current ordinance by placing signs in non-residential zones without posting a bond. Mr. Denzler replied that technically they had, but there are some State laws on political signs that supercede the ordinance. Mr. Semrau said that is correct.

President Andes requested that our ordinance be drafted to match the State on that. Mr. Golinski asked if the illegal signs can be removed by any citizen and thrown away. Mr. Denzler replied that the Police Department has actually arrested citizens who have taken the law into their own hands by taking down the signs. He said that the proper procedure is to call the Zoning Dept. and either he or Sal Poli will go out and remove them. Mr. Kuser asked if there can be an area on our web-site for resident complaints regarding signs. Mr. Denzler replied that the Zoning Office has been sent on wild-goose chases due to anonymous tips and, if we start getting e-mails about signs or anything else we may wind up chasing false leads. He said that it is sometimes a matter of perception rather than following the law.

Councilman Fitzpatrick stated that he is concerned about the manpower to do all of this with the signs. Mr. Denzler explained that when he, Mr. Poli or Mr. Stefanacci are on the way to an inspection and they spot an illegal sign, they stop and pick it up. He said that they don't designate a day as "go out and pick up signs day". The Mayor commented that a lot of the issues are covered but, if the Council wants to
put teeth into it, that would be good. He said that Sal Poli is overwhelmed with sign removal. Mr. Hussa noted that it is being enforced but if the Council wants to strengthen it, that's fine with him.

Mr. Kuser again commented that he thinks instead of removing signs, a phone call with the threat of a fine, should be made to the offending party.

Mr. Denzler replied that the only problem with that is that he needs an address to which the official letter and fine can be sent, if they don't respond to the phone call. He said that he would need something substantial to take to the Judge, not just a call.

Mr. Andes interjected that the Police Dept. could probably provide an address if he gives them the phone number. Mr. Denzler stated that it would then involve a phone call and a letter and more time would be expended.

Councilman Stecky asked Mr. Semrau if, should there be an e-mail address on a sign, and Mr. Denzler e-mailed the warning, it would constitute legal notice. Mr. Semrau replied that it would not.

President Andes noted that Route 10 is really bad with signs, but we want to be business-friendly. He said that if a business wants to put up a special sign or banner, for a special event we want to be sure we remain business-friendly. Mr. Andes stated that, while he is in favor of realtor signs, there is no need for the signs with arrows that point to a specific house and remain there for a long period of time.

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

MEETING ADJOURNED AT 9:49 P.M.

Respectfully submitted by,

Kathleen A. Costello
Deputy Township Clerk