TOWNSHIP OF DENVILLE
MUNICIPAL COUNCIL
REGULAR MEETING
March 19, 2019

The Meeting was called to order at 7:30 P.M. by Council President Gabel. The Salute to the Flag was recited, followed by an Invocation by Councilman Murphy. Municipal Clerk Kathryn Bowditch-Leon read the Notice of Compliance with the Open Public Meetings Act and noted that this is a non-smoking facility. The Clerk requested that all electronics be silenced at this time.

ROLL CALL:
Present: Murphy, Buie, Witte, Bergen, Borowiec, President Gabel
Absent: Lyden

ALSO IN ATTENDANCE:
Thomas Andes, Mayor; Steven Ward, Administrator; John Jansen, Township Attorney; Frank Perna, Police Chief; Jeffrey Tucker, Police Captain

PRESENTATIONS/CEREMONIAL MATTERS:
Interview of Candidates for Zoning Board of Adjustment Vacancy
President Gabel advised that one candidate, Christopher Titze, has volunteered to fill the vacancy on the Board of Adjustment and thanked Mr. Titze for volunteering.

President Gabel posed the following questions to Mr. Titze:
1. Why do you feel you are the best candidate for this position?
2. What do you see as your role as a member of the Board of Adjustment?
3. What special qualifications and skills would you bring to this position?
   a. Do you understand that the Board of Adjustment meets on the first and third Wednesdays of each month and that your attendance is necessary to insure a full complement for voting purposes?
   b. Are you also aware that as part of your duties, you will be expected to do site inspections of the matters before the Board and will be required to attend land-use oriented classes?
4. Can you meet all of these requirements?
5. Is there anything else you would like to add?

Mr. Titze explained he is a licensed professional planner and does work for the State of New Jersey (NJDOT and NJ Transit) as well as for municipalities in New York State. He stated that he has been a resident of Denville for the past 12 years and would like the opportunity to give back to the community. He stated that he believes his role on the Board is to review individual applications to determine if there is justification for a variance to be granted and explained his belief that his job as a professional planner would be beneficial to the Board. When asked if he would be able meet all the requirements of this position, Mr. Titze responded in the affirmative. He then thanked the Township Council for the opportunity.

Councilman Murphy asked Mr. Titze how he feels about granting exceptions to the ordinances, to which Mr. Titze responded that he would review each application individually and as part of the whole picture to make the best decision. He explained that he would provide his opinion to the other Board members, but understood that the Board as a whole would make the decision.

Councilman Buie asked if Mr. Titze would likely find himself representing an applicant, as a professional planner, in Denville, to which Mr. Titze stated no.

Councilman Bergen asked for confirmation that Mr. Titze is a resident of Denville, to which Mr. Titze explained that a small part of his property is in Mountain Lakes and he has a mailing address of Mountain Lakes, but he pays taxes to and sends his kids to school in Denville.
R-19-63: Resolution Appointing a Board of Adjustment Member for the Township of Denville Effective March 20, 2019

MOTION TO APPROVE R-19-63:
MOVED BY MEMBER WITTE, SECONDED BY MEMBER BUIE
AYES: WITTE, BUIE, MURPHY, BOROWIEC, PRESIDENT GABEL
NAYS: BERGEN
ABSENT: LYDEN

LIAISON REPORTS:
Councilman Murphy had nothing to report.
Councilman Buie reported that the Toll Bros. application was approved at the last Planning Board meeting. He stated that the Beautification Committee is hard at work and looking for volunteers. He then advised that the Green Sustainability Committee will be sponsoring 3 seminars in March as well as hosting Committee’s Day on March 30th between 10 A.M. and 3 P.M. in the Community Room for those people who would like to volunteer or get involved with the Township.
Councilwoman Witte reported that the Rivers and Streams Committee has scheduled the Rockaway River Clean-up for May 11th. She stated that she will be attending the Morris Hills Regional District Board of Education meeting next week as well as the Senior Citizens General meeting on April 8th.
Councilman Bergen had nothing to report.
Councilman Borowiec advised that the upcoming Recreation Committee Spring events include the Senior Social on March 31st, the kick-off for the Vamp Up Vets Field project at the end of the month and the bridge dedication on April 13th.
President Gabel reported that as part of an Eagle Scout project, the remaining bricks from Gardner Field playground will be repurposed as a pathway at the Denville Historical Society. He added that another Eagle Scout project will begin soon at the Openaki Road Schoolhouse.

MAYOR’S REPORT:
Mayor Andes reported that the Township has received a verbal commitment that the NJDOT will be approving the lowest responsive bidder for the First Avenue Streetscape project and that he is hopeful to have a resolution awarding the contract at the April 2nd Council meeting agenda.

ADMINISTRATOR’S REPORT:
Administrator Ward reported that the new Dial-A-Ride senior bus is now in service. He then advised that Joe Giordano, Fire Official, will be retiring on April 30th and that Danielle Lewis, Deputy Municipal Clerk, will be leaving the Township on April 8th.

CORRESPONDENCE:
All correspondence has been copied and distributed to Council.

OPEN PUBLIC PORTION
Iris Drey, 3 Farmstead Road, voiced her concerns about the State Bill which would legalize recreational marijuana and asked the Township to adopt an ordinance to ban the cultivating, processing and selling of recreational marijuana in Denville.
Mayor Andes stated that the Township will be adopting such an ordinance when, but not until, the bill is signed into law. He then explained that due to the everchanging nature of the bill, the Township has been advised by Counsel to wait and adopt an ordinance at the proper time.
Tomi Prvulovic, 3 Farmstead Road, read a letter from his 13-year-old son asking that the Township adopt an ordinance prohibiting marijuana in the Township and expressed his concern about an increase in crime if the Township allowed recreational marijuana to be sold in town.
President Gabel asked how the Township can opt-out once the bill is passed. Mr. Ward read portions of the most current version of the bill, advising on the procedure to be followed should a municipality choose to opt-out. Mr. Jansen reiterated that ordinances may be enacted after the bill is adopted and that any ordinances adopted prior to the bill being adopted will have to be readopted. He emphasized that the language in the bill is still changing.

Ed Simmonetty, 9 Pleasant Valley Road, stated that, as a mortgage banker, he believes that property values and tax revenue will be adversely affected due to the sale of Hamilton Farms in Boonton Township to a medical marijuana company. He also voiced his concerns about the affect cultivating and processing of marijuana will have on the wildlife and area crime.

President Gabel explained that Boonton Township has jurisdiction over this property and then described the procedure which will be followed by Boonton Township on this application.

Mr. Jansen explained that NETA has been granted a conditional license by the State for cultivation and processing of medical marijuana as part of the Compassionate Use Act. He advised that he is the Township Attorney for both Boonton Township and Denville and at this time he is simply informing the public that the concerns about lighting, wildlife, etc. will be addressed at the Boonton Township Land Use Board meetings. He stated that farming is a permitted use in residential zones in Boonton Township and that the State Agriculture Development Committee has determined that cultivation of medical marijuana is considered a farming activity.

Mayor Andes stated that because Mr. Jansen anticipates having a conflict, the Township has asked Ed Buzak, Township Planning Board Attorney, to review this issue. Mayor Andes advised that he has been in contact with the Mayor of Boonton Township, who also stated their intention is to pass an ordinance to ban retail sales of marijuana. Mayor Andes then asked if the Boonton Township Land Use Board would be willing to include as a condition of approval that there will be no retail sales of marijuana on this property.

Joel Gottlieb, 10 Pleasant Valley Road, echoed the concerns of the others.

Patricia Johnson, 43 Copeland Road, is a psychotherapist and explained the detrimental effects of marijuana. David Nixon, 6 Sue Court, voiced his concern that this would lead to retail sales of marijuana and asked that the Township pass an ordinance to ban retail sales.

Mathew Abraham, 85 Old Boonton Road, added his concerns about the possibility of additional traffic on Old Boonton Road as well as the security of his family and property. He stated that the Federal government still considers marijuana illegal and asked if there were legal grounds which the Township could take to stop the sale and/or use of the Hamilton Farms property.

At this time, Mr. Jansen recused himself stating that it now clearly appears that the interests of Denville Township and Boonton Township are not the same and when there is or may be a conflict of interest in a particular situation the same attorney or his associates or partners may not undertake to represent two public bodies. He stated that even the appearance of a conflict of interest must be avoided if public confidence is to be maintained, as the public perception might well be that he could not bring the same objectivity to the problem, or that he would be less vigorous in advocating the respective positions of the municipalities. He further explained that unlike private clients, public entities cannot give consent to cure a conflict and that as a municipal attorney, he is bound by the oaths of office that he took, by the Rules of Professional Conduct, and by the various opinions of the Advisory Committee on Professional Ethics to: 1) disclose the potential conflict of interest; 2) withdraw completely from representing both municipalities with regard to this matter; and 3) recommend that each municipality retain independent counsel for this issue, which he is now doing. He then stepped off the dais.

President Gabel stated that the public’s concerns should also be addressed to the Morris County Board of Freeholders, to Senator Bucco, Assemblymen Bucco and Carroll and to Governor Murphy.

Jason Schneidkraut, 3 Pond Hill Road, Boonton Township, appealed to the Township and the residents to come to the Boonton Township meetings and voice displeasure at this situation.
BJ Kisch, 15 Holly Drive, stated that the process of obtaining a license to cultivate medical marijuana is very in depth and asked that the Township proceed forward with all the facts.
Mayor Andes stated that the bill in its current form, states that there will be one retail facility per county.
Dawn Mahone, 87 Old Boonton Road, asked the Council to adopt an ordinance banning retail sales as soon as it can be done.
Hank Tomlinson, 6 Farmstead Road, stated his concerns about increased traffic on the roadways and the smell associated with the processing of the marijuana. He implored the Council to adopt an ordinance when possible.
Peter Fox, 43 Indian Spring Trail, encouraged people to attend the Morris County Freeholders meeting on March 27th.
Donna Tomlinson, 6 Farmstead Road, asked if there is farmland available in Denville. Mayor Andes stated that the last large parcel of farmland is currently under contract to be sold to the Township as open space. He stated that the Ayres Knuth (Union Hill) Farm is owned by the Township already.
Kathleen Sheridan, 14 Woodland Road, and Tom Biancardi, 1 Roleson Way, asked about the legal recourse available to the Township. Mayor Andes stated that the Township will be waiting for advice from Mr. Buzak before proceeding further.
Kevin Boland, 2 Leo Terrace, stated his belief that the Township should go forward and not be concerned about the cost.
CLOSE PUBLIC PORTION

Attorney Jansen returned to the dais.

MATTERS OF OLD AND/OR NEW BUSINESS:

Massage, Bodywork and Somatic Therapy Establishments Ordinance
Chief Perna and Captain Tucker were present to discuss the necessity of having massage, bodywork and somatic therapy establishments provide, at the time of renewal, a copy of the licenses instead of just a roster. Captain Tucker explained the reasons why it is beneficial to have available a photocopy of the actual license of the licensed parties showing their name and license number for cross checking in the State’s databases.

ORDINANCES FOR ADOPTION:
NONE

ORDINANCES FOR INTRODUCTION:

Ordinance No. 06-19
BE IT RESOLVED that an Ordinance entitled:

An Ordinance of the Township of Denville, in the County of Morris and State of New Jersey, to Amend and Renumber Various Subsections of Chapter IV, General Licensing, Section 4-13, Massage, Bodywork and Somatic Therapy Establishments, of the Township’s Revised Ordinances

Be Introduced and Read by Title on First Reading:
MOTION TO READ BY TITLE:
MOVED BY MEMBER BUIE, SECONDED BY MEMBER WITTE
AYES: BUIE, WITTE, MURPHY, BERGEN, BOROWIEC, PRESIDENT GABEL
NAYS: NONE
ABSENT: LYDEN

BE IT RESOLVED that an Ordinance entitled:
An Ordinance of the Township of Denville, in the County of Morris and State of New Jersey, to Amend and Renumber Various Subsections of Chapter IV, General Licensing, Section 4-13, Massage, Bodywork and Somatic Therapy Establishments, of the Township’s Revised Ordinances

Be Passed on First Reading

BE IT FURTHER RESOLVED that said ordinance shall be considered for final passage at a meeting of the Municipal Council of the Township of Denville on 04-16-2019 at 7:30 p.m. in the evening, prevailing time, at the municipal building in said Township of Denville at which time and place all persons interested shall be given an opportunity to be heard concerning said ordinance.

BE IT FURTHER RESOLVED that the Municipal Clerk be authorized and directed to advertise this ordinance in The Citizen newspaper according to law.

MOTION TO PASS ON FIRST READING:
MOVED BY MEMBER WITTE, SECONDED BY MEMBER BUIE
AYES: WITTE, BUIE, MURPHY, BERGEN, BOROWIEC, PRESIDENT GABEL
NAYS: NONE
ABSENT: LYDEN

ITEMS FOR DISCUSSION AND/OR ACTION:
NONE

CONSENT AGENDA:
R-19-64: Resolution Authorizing Raffle Licenses in the Township of Denville
R-19-65: Resolution Authorizing Reinstatement of the Original Sewer Assessment Installment Plan for Certain Properties in the Township of Denville
R-19-66: Resolution Refunding 2019 Utility Overpayment
R-19-67: Resolution Authorizing the Refund of Money Due to the Redemption of a Tax Sale Certificate
R-19-68: Resolution Authorizing a Refund of a COAH Development Fee
R-19-69: Resolution Authorizing a Refund of a Building Permit Fee

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

MOTION TO APPROVE CONSENT AGENDA:
MOVED BY MEMBER WITTE, SECONDED BY MEMBER BERGEN
AYES: WITTE, BERGEN, MURPHY, BUIE, BOROWIEC, PRESIDENT GABEL
NAYS: NONE
ABSENT: LYDEN

NON-CONSENT AGENDA:
R-19-70: Resolution Authorizing a Shared Services Agreement Between the Township of Denville and the Board of Education of the Morris Hills Regional District to Provide a School Resource Officer for Morris Knolls High School

MOTION TO APPROVE R-19-70
MOVED BY MEMBER MURPHY, SECONDED BY MEMBER BUIE
AYES: MURPHY, BUIE, WITTE, BERGEN, BOROWIEC, PRESIDENT GABEL
NAYS: NONE
ABSENT: LYDEN
R-19-71: Resolution Extending Advice and Consent of the Township of Denville Municipal Council to a Street Naming List

MOTION TO APPROVE R-19-71:
MOVED BY MEMBER BERGEN, SECONDED BY MEMBER WITTE
AYES: BERGEN, WITTE, MURPHY, BUIE, BOROWIEC, PRESIDENT GABEL
NAYS: NONE
ABSENT: LYDEN


MOTION TO APPROVE R-19-72:
MOVED BY MEMBER WITTE, SECONDED BY MEMBER BERGEN
AYES: WITTE, BERGEN, MURPHY, BUIE, BOROWIEC, PRESIDENT GABEL
NAYS: NONE
ABSENT: LYDEN

MINUTES FOR ADOPTION:
March 5, 2019
MOVED BY MEMBER BERGEN, SECONDED BY MEMBER WITTE
AYES: BERGEN, WITTE, MURPHY, BUIE, BOROWIEC, PRESIDENT GABEL
NAYS: NONE
ABSENT: LYDEN

MOTION TO ADJOURN:
MOVED BY MEMBER WITTE, SECONDED BY MEMBER BERGEN
AYES: UNANIMOUS

The Meeting adjourned at 9:12 P.M.

Kathryn Bowditch-Leon, RMC
Municipal Clerk