TOWNHIP OF DENVILLE
MUNICIPAL COUNCIL
REGULAR MEETING

September 19, 2017

The Meeting was called to order at 7:31 P.M. by Council President Golinski. The Salute to the Flag was recited, followed by an Invocation by Councilman Fitzpatrick. 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: Gabel, Witte, Kuser, Lyden, Fitzpatrick, Murphy, President Golinski
Absent: None

ALSO IN ATTENDANCE: Thomas W. Andes, Mayor; Steven Ward, Administrator; John Jansen, Township Attorney

PRESENTATIONS/CEREMONIAL MATTERS
Interview of Candidates for Zoning Board of Adjustment Vacancy

President Golinski advised that two (2) candidates have volunteered to fill the vacancy. He thanked them for offering to become a member of the Board of Adjustment. He encouraged whoever is not chosen tonight not to be discouraged and to try again when another vacancy becomes available.

President Golinski posed the following questions to each candidate:
Do you wish to make a brief statement explaining the reasons you are applying for this position?

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. Timothy Wagner was the first candidate to be interviewed. He gave a brief opening statement stating he believed this opportunity was a unique way to serve the Township. He then gave a brief history of his skills and experience, including his academic background in business and accounting as well as his current job as a Police Captain in another municipality, which has required him to make tough decisions as well as know how to balance the needs of the citizens with the needs of the government. When asked if he would be able meet all the requirements of this position, Mr. Wagner responded in the affirmative. He then thanked the Township Council for the opportunity.

Councilman Gabel asked Mr. Wagner how he would handle controversial issues that sometimes come up. Mr. Wagner responded that he believes it is important to gather all the facts and explain your opinion, while also listening to the opposing positions in order to make the best decision on the issue.

Councilman Murphy stated that part of the Board of Adjustment’s role is to grant an exception from the Land Use laws to one party and asked Mr. Wagner how he would handle that situation.
Mr. Wagner stated he believes the system was put into place in order to address those issues which do not fit into one category or another. He explained that he would listen to all the testimony and would try to find the spirit of the law.

Mr. Murphy then asked what Mr. Wagner would do if his decision was in the minority, to which Mr. Wagner responded he would ensure that he voiced his opinion so that both sides would be able to make the most informed decision.

Mr. Anil Patel was the next candidate to be interviewed. He gave a brief opening statement stating he would like to be able to use his technical and project management skills to give back to the Township. He then explained he has been in project management positions with different companies and believes that he is able to assess and analyze different situations in order to come to the best decision. When asked if he would be able meet all the requirements of this position, Mr. Patel responded in the affirmative. He then thanked the Township Council for the opportunity.

Councilman Gabel asked Mr. Patel how he would handle controversial issues that sometimes come up.

Mr. Patel explained he would listen to the case and then work with his fellow Board members to reach a decision.

Councilman Murphy stated that the Board of Adjustment’s role is to grant an exception from the Land Use laws to one party and asked Mr. Patel how he would handle that situation.

Mr. Patel explained he would view each application individually as well as part of the whole to make the best decision.

Mr. Murphy then asked if a consensus could not be obtained, how would Mr. Patel handle that, to which Mr. Patel explained that he would express his reasons as well as listen to all the other Board members reasons in order to make the best decision.

President Golinski thanked both candidates and once again encouraged the candidate not chosen tonight not to give up as other opportunities will arise.

MOTION TO PLACE TIMOTHY WAGNER’S NAME INTO RESOLUTION R-17-209

MOVED BY MEMBER FITZPATRICK AND SECONDED BY MEMBER GABEL

AYES: FITZPATRICK, GABEL, WITTE, KUSER, LYDEN, PRESIDENT GOLINSKI

NAYES: MURPHY

R-17-209: Resolution Appointing Board of Adjustment Members for the Township of Denville Effective September 20, 2017

MOTION TO APPROVE R-17-209

MOVED BY MEMBER GABEL, SECONDED BY MEMBER FITZPATRICK

AYES: GABEL, FITZPATRICK, WITTE, KUSER, LYDEN, PRESIDENT GOLINSKI

NAYES: MURPHY

LIAISON REPORTS

Councilman Murphy shared that the Business Improvement District (BID) Restaurant Week event will be held from September 24th through September 30th and there is a plan to give away a $150 gift certificate during that week. He then announced that the Green Fair will be held on Sunday, September 24th in conjunction with the Denville Farmer’s Market and 22 vendors will be in attendance. He then stated that the Green Sustainability Committee has resubmitted the Sustainable Jersey Silver Certification application.

Councilman Fitzpatrick had nothing to report.

Councilwoman Lyden advised that the Trails Committee met prior to the Council meeting and discussed the Trails Master Plan with the new consultants. She then stated that the Senior Social was held last week and the
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Family Food Truck Festival will be held on October 1st at Gardner Field. She also stated that the new Recreation Director, Nick Panetta, was introduced at the last Recreation Committee meeting.
Councilman Gabel stated that he attended the Beautification Committee meeting and updated the members on the details of the upcoming Muriel Hepner Park Bridge Replacement.
Councilwoman Witte had nothing to report.
Councilman Kuser stated he attended the Denville Historical Society’s yard sale.
President Golinski had nothing to report.

MAYOR’S REPORT
Mayor Andes announced that the Township’s bond rating from Moody’s was upgraded from AA2 to AA1.

ADMINISTRATOR’S REPORT
Administrator Ward shared that Nick Panetta will be starting as the new Recreation Director on Monday, September 25th and will be invited to an upcoming Council meeting to be introduced to the Council and public. He stated that the Township’s Bond Sale will be held tomorrow and the AA1 rating will be a big help in securing the best rates. He then stated that McDermott Pass, Landing Trail and West Glen Road will be milled on Wednesday and Broad Street and Cedar Lake West will be milled on Thursday with the paving of these roads to occur early next week. He further explained that South Wynde Drive will be paved in the spring of 2018 due to the need for adequate settling after the gas line repair work.
Mr. Ward explained that the NJ Department of Transportation (NJDOT) 2017-2018 road resurfacing grant application is being prepared and that two (2) roadways in Denville are viable candidates – Franklin Avenue, from the bridge to the Rockaway Borough border and Casterline Road, from Mabra Drive to the Parsippany border. He further explained that Franklin Avenue is rated 79, is adjacent to a school, is a continuation of a previous project and has high traffic. He said that Casterline Road is rated 74, is also a continuation of previous projects, and has medium to high traffic. He stated that only one application may be submitted, so the Township will have to determine which roadway should be submitted this year. He suggested a discussion be held at the next Council meeting after everyone has time to review the roads, so that a resolution will be able to be adopted. Mr. Ward confirmed that Franklin Avenue has slightly less surface to pave and would be approximately $40,000 to $50,000 cheaper to do.
Mr. Kuser asked if there was an update on the paving of Route 53, to which Mr. Ward replied that NJDOT has not advised when the paving will occur.

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

OPEN PUBLIC PORTION
Mallary Steinfeld (147 Casterline Road) distributed a copy of an article from the September 15, 2017 edition of the Star Ledger, a copy of which is attached to the end of these minutes. Ms. Steinfeld stated that the article claims the population in New Jersey is declining. She asked if the population is declining, then why would a town change its zoning to allow for new construction. She further stated that if it is because affordable housing needs to be built, then why not wait until the actual number of units is determined for each municipality.
Ms. Steinfeld suggested that the Council and Administration form a housing committee to research possible options other than new construction or commission a demographic study to determine the best way to address the affordable housing obligation. She pointed out that the article notes that the trend is to live in a downtown area, close to transit locations, restaurants, and services.
Ms. Steinfeld expressed her opinion that the property on Casterline Road is the wrong area to build housing units and suggested that the Township extend an invitation to State leaders to attend a Council meeting so that they can hear the concerns of the public.
President Golinski explained that many of the elected officials have spoken with the State leaders, including Senator Bucco, who has advised that the legislation is being blocked by the Speaker of the House. Mr. Golinski stated that Administration is looking at a variety of solutions to address this issue.

Councilman Murphy stated that he liked Ms. Steinfeld’s points but that at the September 12th meeting, he specifically asked Ed Buzak, Esq. if the Township could wait until the obligation is determined, to which Mr. Buzak responded that the Court would not look favorably on that approach. Mr. Murphy also stated that while he agrees it would be ideal to construct housing downtown, Denville’s downtown is located within a flood zone and has seen devastating impacts from hurricanes and storms.

Councilman Fitzpatrick expressed that he also likes Ms. Steinfeld’s comments and would prefer not to have to build anything either, but the Court does not appear to care. He then addressed the suggestion of a demographic study, stating that the Township believed they were done with affordable housing and that we had addressed our obligation. He encouraged everyone to write letters to the Assembly Speaker asking that the legislation be brought to the floor.

Ms. Steinfeld then produced an article published on August 10, 2017 in The Record, which is attached at the end of this minutes. She explained that the article states that Park Ridge and Hillsdale will have non-binding referendums on the November ballot in an effort to force action at the state level with regard to affordable housing rules.

Philip Ted Hussa (20 Hewetson Road) made a comment about the Eagle Scout projects which have been altered or moved by the Township without first notifying the Eagle Scouts.

Mr. Hussa suggested that the Township Council pass a resolution stating that they are against the affordable housing mandates, which can then be sent to the State Assembly. Mr. Hussa explained that some towns are forming housing commissions or advisory boards to research affordable housing and some are inviting developers to build 100% affordable housing on lots which have been set aside by the municipality.

CLOSE PUBLIC PORTION

MATTERS OF OLD AND/OR NEW BUSINESS
None

ORDINANCES FOR ADOPTION
None

ORDINANCES FOR INTRODUCTION
16-17
BE IT RESOLVED that an Ordinance entitled:

An Ordinance Appropriating an Additional $105,000 for Renovations to the Denville Municipal Building with Said Funding Being Provided by the Denville Township Board of Education

Be Introduced and Read by Title on First Reading:
MOTION TO INTRODUCE:
MOVED BY MEMBER WITTE, SECONDED BY MEMBER KUSER
DISCUSSION:
Mrs. Lyden asked why the Township is doing the ordinance and not the Board of Education, to which Mr. Ward explained that the Board of Education will be paying for the renovations, but the Township will be the contracting agent for the renovations.
Resolution Authorizing Raffle Licenses in the Township of Denville
Resolution Authorizing Reinstatement of the Original Sewer Assessment Installment Plan for Certain Properties in the Township of Denville

CONSENT AGENDA

ITEMS FOR DISCUSSION AND/OR ACTION

Mr. Fitzpatrick asked about the non-binding referendum referenced in the article distributed by Ms. Steinfeld and advice on a Council adopting a resolution.

Mr. Jansen opined it was his experience that state representative would rather hear from their constituents than receive a resolution from a governing body. He then explained that zoning ordinances are not subject to referendum, but that non-binding referenda on zoning issues is allowed but the governing body is not bound by the vote.

Mr. Murphy asked whether any Township owned properties are dedicated for affordable housing development, to which Mr. Ward stated there is the Lake Lenore property, which is included in the declaratory judgment action, and a property on Vanderhoof Avenue, which the Township owns, that is not included in the Township housing plan.

Mayor Andes asked if the Council would be in favor of dedicating the plaza in front of the municipal building along Savage Road to former Mayor Jack O’Keeffe, prior to the end of the year. He explained the Mayor O’Keeffe was the only mayor to serve in Denville under both forms of government and he was instrumental in purchasing the properties where both the municipal building and the library are currently located. All Council Members were in favor. Mr. Jansen suggested that this be done by ordinance.

Mr. Fitzpatrick stated the Foundation for Denville will be having a golf outing and dinner this upcoming weekend.

MOTION TO PASS ON FIRST READING:

MOVED BY MEMBER KUSER, SECONDED BY MEMBER LYDEN
AYES: KUSER, LYDEN, GABEL, WITTE, FITZPATRICK, MURPHY, PRESIDENT GOLINSKI
NAYS: NONE

An Ordinance Appropriating an Additional $105,000 for Renovations to the Denville Municipal Building with Said Funding Being Provided by the Denville Township Board of Education

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 10-17-2017 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 KUSER, SECONDED BY MEMBER LYDEN
AYES: KUSER, LYDEN, GABEL, WITTE, FITZPATRICK, MURPHY, PRESIDENT GOLINSKI
NAYS: NONE

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CONSENT AGENDA

R-17-210: Resolution Authorizing Raffle Licenses in the Township of Denville
R-17-211: Resolution Authorizing Reinstatement of the Original Sewer Assessment Installment Plan for Certain Properties in the Township of Denville
R-17-212: Resolution of the Township of Denville Correcting Schedule A of Resolution R-17-202 Which Authorizes the Sale Through GovDeals of Various Items of Municipal Property No Longer Needed for Public Use

R-17-213: Resolution Authorizing the Release of a Performance Guarantee Ensuring a Deed of Easement on the Property Located at 3 Tulip Lane

President Golinski 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 GABEL, SECONDED BY MEMBER WITTE
AYES: GABEL, WITTE, KUSER, LYDEN, FITZPATRICK, MURPHY, PRESIDENT GOLINSKI
NAYS: NONE

NON-CONSENT AGENDA
R-17-214: Resolution to Approve Execution of an Agreement with Nissan World of Denville for Sanitary Sewer Extension

MOTION TO APPROVE R-17-214:
MOVED BY MEMBER LYDEN, SECONDED BY MEMBER KUSER
AYES: LYDEN, KUSER, GABEL, WITTE, FITZPATRICK, MURPHY, PRESIDENT GOLINSKI
NAYS: NONE

R-17-215: Resolution Authorizing Acceptance of Funds and the Execution of a State of New Jersey Highlands Water Protection and Planning Council Amended Grant Agreement #09-033-011-1408

MOTION TO APPROVE R-17-215:
MOVED BY MEMBER GABEL, SECONDED BY MEMBER WITTE
AYES: GABEL, WITTE, KUSER, LYDEN, FITZPATRICK, MURPHY, PRESIDENT GOLINSKI
NAYS: NONE

R-17-216: Resolution Requesting Approval of Items of Revenue and Appropriation Pursuant to N.J.S.A. 40A:4-87 for the State of New Jersey Highlands Water Protection and Planning Council Amended Grant Agreement #09-033-011-1408

MOTION TO APPROVE R-17-216:
MOVED BY MEMBER KUSER, SECONDED BY MEMBER FITZPATRICK
AYES: KUSER, FITZPATRICK, GABEL, WITTE, LYDEN, MURPHY, PRESIDENT GOLINSKI
NAYS: NONE

R-17-217: Resolution Authorizing Amendment to Shared Services Agreement for Public Health Services with the County of Morris

MOTION TO APPROVE R-17-217:
MOVED BY MEMBER WITTE, SECONDED BY MEMBER LYDEN

Discussion:
Mr. Fitzpatrick asked why this Agreement is being amended.
Mr. Ward explained that Peggy Grossman, Public Health Nurse Supervisor, will be retiring before the end of this year. He stated the Township will be contracting for these services with the County and then hiring a part-time employee to do the other duties that Ms. Grossman handles in the Health Department. He confirmed that Public Health Nurse Supervisor Cindy Bella will be assigned to the Township and will be at Town Hall a minimum of two (2) hours per week.
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AYES:                    WITTE, LYDEN, GABEL, KUSER, FITZPATRICK, MURPHY, PRESIDENT GOLINSKI
NAYS:                    NONE

R-17-218: Resolution Refunding the Overpayment of 2017 Taxes
MOTION TO APPROVE R-17-218:
MOVED BY MEMBER FITZPATRICK, SECONDED BY MEMBER GABEL
AYES:                    FITZPATRICK, GABEL, WITTE, KUSER, LYDEN, MURPHY, PRESIDENT GOLINSKI
NAYS:                    NONE

MINUTES FOR ADOPTION
August 8, 2017
MOVED BY MEMBER FITZPATRICK, SECONDED BY MEMBER WITTE
AYES:                    FITZPATRICK, WITTE, GABEL, KUSER, LYDEN, MURPHY, PRESIDENT GOLINSKI
NAYS:                    NONE

MOTION TO ADJOURN
MOVED BY MEMBER WITTE, SECONDED BY MEMBER KUSER
AYES:                    UNANIMOUS
NAYS:                    NONE

The Meeting adjourned at 8:45 P.M.

Kathryn Bowditch-Leon
Municipal Clerk
Public Policy at Rutgers University.

"If you don't have that, you're certainly going to have limited economic growth."

New Jersey is being outpaced by most states, which could jeopardize its congressional representation (which in the House is apportioned by population) when redistricting occurs in a few years.

The state currently has 12 members in the House of Representatives.

Analysis by NJ Advance Media shows about 226,000 people moved out of the Garden State between 2015 and 2016.

With a historically low birth rate, New Jersey's growth has hinged upon immigration for several years.

But the number of people leaving keeps growing, keeping the state's total population relatively stagnant.

"My gut says that much of the stagnation we continue to see is driven by a combination of factors," said Jon Whiten, vice president of New Jersey Policy Perspective.

"Among them would certainly be the broad trend away from sprawl and unchecked suburban development, which was New Jersey's stock in trade for some time," he said.

Whiten noted since the recession, counties on the outskirts of the New York metropolitan area have struggled mightily to retain tax ratables and residents while those with access to public transit have thrived.

Data shows that trend continued in 2016, while Atlantic County and rural counties in South Jersey also struggled with population retention.

"For a long time, we had a lot of automobile-centric growth. Rail now determines economic opportunity. That's a fundamental change."
The referendums are the latest effort by state Assemblywoman Holly Schepisi, R-River Vale, to change the way state-mandated affordable-housing obligations are presently dealt with in municipalities across New Jersey.

Park Ridge and Hillsdale this week approved the non-binding questions, which will be on the November ballot. They are believed to be the first in the state to do so.

In an effort to force action on the state level, two Pascack Valley towns will ask voters if they should block the development of large-scale housing projects until statewide affordable-housing rules are established.

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The referendums are the latest effort by state Assemblywoman Holly Schepisi, R-River Vale, to change the way state-mandated affordable-housing obligations are presently dealt with in municipalities across New Jersey.
But Fair Share Housing spokesman Anthony Campisi said Schepisi is running a campaign to exclude minority and working families from Bergen County communities. "I'm not against affordable housing, but I am against destroying every last place of open space to build thousand-unit complexes," said Scheplsi, who drafted the ballot question and distributed copies to more than 60 municipalities.

LETTER: Affordable-housing mandate causes problems

SCHEPISI: How we fix affordable housing in New Jersey

NAACP: Assemblywoman’s inflammatory language

In 2015, the state Supreme Court ruled that municipalities should bypass the Council on Affordable Housing and go directly to trial court judges to determine their affordable-housing obligations. Since then, many towns throughout the state have been embroiled in litigation involving the Fair Share Housing Center, an affordable-housing advocacy group, to determine how many units of low- to moderate-income housing they must constitutionally provide.

The ‘state Legislature’s failure to address the issue has led to court-mandated high-density affordable housing that violates the Legislature’s intent,” state the resolutions adopted by Hillsdale and Park Ridge on Tuesday.

The November vote is meant to be a statement coming from as many communities as possible, asking the Legislature to step up and “do its job,” Schepisi said.

The ballot questions will ask residents if the towns should “stop issuing building and zoning permits, which may be court mandated, until the state Legislature establishes statewide rules determining a reasonable need for towns to construct affordable housing.”

Such an action by the towns would rely on a state statute that gives municipalities permission to halt development “that does not promote the public health, safety, morals and general welfare of the voters of the borough,” according to the resolutions.

PARK RIDGE: Borough considers hiring full-time administrator

FIRE: Family escapes Park Ridge blaze

HILLSDALE: Demarest Farms OK’d to use commuter lot

Schepisi said the number of affordable units being proposed by Fair Share Housing in towns across New Jersey is "outrageous" and could over-stress municipal, county, regional and state infrastructure and public services.

"I'm not against affordable housing, but I am against destroying every last place of open space to build thousand-unit complexes," said Schepisi.

But Fair Share Housing spokesman Anthony Campisi said Schepisi is running a campaign to exclude minority and working families from Bergen County communities.
"It's disappointing that the assemblywoman would seek to drive a stake through the heart of New Jersey's economy and its recovery as part of her ideological quest to exclude working families and minority families from suburban municipalities," Campisi said.

Campisi said rather than working to protect residents who have been waiting decades to live in safe, affordable towns, Schepisi is creating a "xenophobic tide" throughout the state, "whipping up people into a frenzy trying to derail the process."

The process, Campisi said, is one that focuses on redevelopment of vacant properties, such as strip malls and industrial parks, bringing them back onto the tax roll. He said more than 130 towns throughout New Jersey have reached settlement agreements with Fair Share Housing, including at least 10 in Bergen County.

Park Ridge and Hillsdale are currently involved in litigation over their affordable-housing obligations.

Park Ridge Mayor Keith Misciagna said a referendum will give the public a voice and could send a strong message to the state Legislature.

Hillsdale Council President John Ruocco agreed.

"It grows out of a sense of frustration that our Legislature in Trenton hasn't taken over the process," Ruocco said. "It's a process we feel should be guided by elected officials and not the courts."

Misciagna said his problem with the numbers of required affordable-housing units being proposed is density, which he said could change the character of towns in the area.

"Affordable housing is a good idea and was developed with good intentions, but I don't think everything that starts with good intentions ends up being good," the mayor said.

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Staff Writer Catherine Carrera contributed to this article.