TOWNSHIP OF DENVILLE
MUNICIPAL COUNCIL
REGULAR MEETING

October 16, 2018

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 Council President Gabel. 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. Clerk Bowditch-Leon requested that all electronics be silenced at this time.

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

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

PRESENTATIONS/CEREMONIAL MATTERS
NONE

LIAISON REPORTS
Councilwoman Lyden had nothing to report.
Councilman Bergen had nothing to report.
Councilman Murphy reported that the BID will be sponsoring Pink Witches Night on October 18th and the money raised will be donated to breast cancer awareness. He announced that Green Sustainability will be having a meeting on Friday where Ed Russick from Morris County will speak on recycling. He stated that he attended the North Jersey Transportation Planning Authority meeting held in Dover where they discussed the Dover Rockaway Rail Realignment Program, which is designed to minimize traffic due to freight trains running through downtown Rockaway and Dover, but which should not have a significant impact on the Township.
Councilman Buie reported that the Beautification Committee members have volunteered 493 hours this year and that they are getting ready for fall. He then asked if the bases of the light pole stanchions just outside the entrance to Town Hall could be improved. He then stated that the Deer Management Committee reported that 7 deer have been harvested this year and that the yearly report will be sent out shortly.
Councilwoman Witte stated that she attended the dedication of Jack O’Keeffe Plaza. She reported that the Morris Hills Regional District Board of Education (MHRDBOE) has reached a tentative agreement with the teacher’s association. She stated that the MHRDBOE presented their PARCC scores and approved a resolution authorizing the shared service agreement referenced in Township Resolution R-18-207. Ms. Witte announced that the Rockaway River Watershed Committee will meet on Wednesday.
President Gabel reported that the Rivers & Streams Committee discussed fall activities. He stated that the Denville Historical Society is following up on some repairs and has updated their website and Facebook pages. He then stated that the Denville Fire Department is moving closer to establishing a Boy Scout Explorer Post.

MAYOR’S REPORT
Mayor Andes thanked the Beautification Committee for making the Jack O’Keeffe Plaza beautiful for the dedication ceremony. He stated that the “Vamp Up Vets Field” Food Truck Festival raised nearly $40,000. He stated that he attended the Morris County Park Alliance award ceremony where Denville residents or organizations received three awards – Bob Ranft for outstanding volunteer, Denville P.A.L. for outstanding
support organization and Denville Triathlon for outstanding program. He announced that after 125 years in business, Denville FoodTown closed its doors for the last time yesterday. He stated that there was a gathering of several hundred people from the community to say good-bye.

Mayor Andes then reported that the rubber base at Gardner Field playground will be installed tomorrow and that the ribbon cutting date is still pending. He then stated that the Peggy Gray Pedestrian Bridge at Muriel Hepner Park is making progress.

ADMINISTRATOR’S REPORT
Administrator Ward reported that the Township has hired three new DPW employees to replace Brian Flynn, who retired in August, Bob Lakatos, who retired September 30th and Joe Croneberg, who will retire November 1st.

Mr. Ward announced that OEM Coordinator Wesley Sharples received approval for reimbursement of $37,000 for equipment and supplies for the winter storms that were declared “States of Emergency” and is waiting to hear about reimbursement for personnel costs for those storms. He then reported that Wesley Sharples has recently been certified as a NJ OEM Manager.

Mr. Ward explained that the scheduled Executive Session will not be needed this evening because the mediation session with the Special Master set for earlier this week was cancelled.

CORRESPONDENCE
All correspondence has been copied and distributed to Council.

OPEN PUBLIC PORTION
Robert Belz (7 Memory Lane) reviewed the history of train horn noise in Denville and then described his recent visit to Montclair to see their railroad crossings and quiet zones. He asked if the train noise situation could be mediated with NJ Transit and a discussion held about the possibilities of having a quiet zone in Denville as well as some consistency in the blowing of the train horns.

Mayor Andes explained that the Township is waiting for a report from NJ DOT about a quiet zone at Station Rd. He then explained that the quiet zone is tied in with the proposed NJ DOT closing of the Lackawanna Ave railroad crossing, which the Township adamantly opposes.

Mr. Ward further explained that the Township has been told that either both railroad crossings would have to be quiet zones or one railroad crossing (Station Road) could be a quiet zone but the other railroad crossing (Lackawanna Ave) would have to be closed.

Councilman Murphy stated that the Morris County Freeholders adopted a resolution opposing the closure of the Lackawanna Ave railroad crossing. He agreed with Mr. Belz about the train horn noise. He then mentioned to Administration two people who may be able to help the Township – Todd Hirt from NJ DOT and Jerry Russler from Morris County.

Janet Ciavatta (15 Buckingham Dr., Madison, NJ) read a statement requesting that the Township evaluate the safety of the section of Pocono Road between the Rockaway River Country Club and the bridge, including the possible reduction of the speed limit and the extension of the guard rail. She explained her daughter lives at 35 Pocono Road and that there have been 8 reported accidents as well as property damage in and around that location over the last 10 years.

President Gabel asked that the Police Chief be made aware of these concerns.

CLOSED PUBLIC PORTION

MATTERS OF OLD AND/OR NEW BUSINESS
NONE

ORDINANCES FOR PUBLIC HEARING - ADOPTION
Ordinance No. 24-18
BE IT RESOLVED that an Ordinance entitled:
An Ordinance of the Township of Denville, County of Morris, State of New Jersey, to Amend and Supplement Chapter 19, Land Use, Subsection 19-1.2, Definitions and Subsection 19-5.1401, Primary Intended Use, of the Revised General Ordinances to Update and Clarify Various Requirements

Be Read by Title on Second Reading and a Hearing Held Thereon:

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

OPEN PUBLIC HEARING
No one wished to be heard.
CLOSED PUBLIC HEARING

Attorney Jansen stated that the Township had received some calls and comments regarding Ordinance 24-18. He explained that one of the comments regarded Section 2a.3, which allows for “Retail Services” to be located on the first or ground floor, but excludes health clubs and facilities, educational facilities, recreational facilities and social services. He then explained that it had been noted that in Section 2b.5 “All Retail Services” are permitted on the second floor but the ordinance does not specifically mention health clubs and facilities, educational facilities, recreational facilities and social services. He stated that the Township has been asked to amend Section 2b.5 to specifically mention those four types of facilities.

Mr. Jansen advised that he discussed this comment with Mr. Ward and Township Planner Jason Kasler and it was their opinion that the Municipal Council’s intent is clear that by specifically allowing “Retail Services” except health clubs and facilities, educational facilities, recreational facilities and social services on the ground floor, the businesses mentioned are recognized as “Retail Services” and are allowed on the second floor or higher.

Mr. Jansen asked if any Council Member disagreed with this determination. No one did. He asked that the record reflect this as an expression of legislative intent and that it be noted in the minutes.

Mr. Jansen then addressed another comment which requested that “physical therapists” and similar positions be included in the definition of “Professional or Service Office”. He stated that the definition as written includes phrases like “such as” or “can include”.

Mr. Jansen again advised that he discussed this comment with Mr. Ward and Mr. Kasler and it was their opinion that the Municipal Council’s intent was clear that the listed positions are examples and not limitations. He stated it was his belief that it would be nearly impossible to list each and every permitted occupation. He further explained that the test as to what would be considered a “Professional or Service Office” is whether “special training in the arts or sciences” is required and physical therapists, who have to do 3 years of training post college, clearly meet that criteria.

Mr. Jansen asked if any Council Member disagreed with this determination. No one did. He again asked that the record reflect this as an expression of legislative intent and that it be noted in the minutes.

BE IT RESOLVED that an Ordinance entitled:

An Ordinance of the Township of Denville, County of Morris, State of New Jersey, to Amend and Supplement Chapter 19, Land Use, Subsection 19-1.2, Definitions and Subsection 19-5.1401, Primary Intended Use, of the Revised General Ordinances to Update and Clarify Various Requirements

Be passed on Final Reading and that a Notice of Final Passage be published in the 10/24/2018 edition of The Citizen newspaper.
MOTION TO ADOPT:
MOVED BY MEMBER MURPHY, SECONDED BY MEMBER LYDEN
AYES: MURPHY, LYDEN, BUIE, WITTE, BERGEN, PRESIDENT GABEL
NAYS: NONE
ABSENT: BOROWIEC

Ordinance No. 25-18
BE IT RESOLVED that an Ordinance entitled:

An Ordinance of the Township of Denville, County of Morris, State of New Jersey, to Amend and Supplement Chapter 2A, Fees, Rates and Charges, and Chapter 19, Land Use, Section 19-1.406, Miscellaneous Fees, of the Revised General Ordinances

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

OPEN PUBLIC HEARING
No one wished to be heard.
CLOSED PUBLIC HEARING

BE IT RESOLVED that an Ordinance entitled:

An Ordinance of the Township of Denville, County of Morris, State of New Jersey, to Amend and Supplement Chapter 2A, Fees, Rates and Charges, and Chapter 19, Land Use, Section 19-1.406, Miscellaneous Fees, of the Revised General Ordinances

Be passed on Final Reading and that a Notice of Final Passage be published in the 10/24/2018 edition of The Citizen newspaper.

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

ORDINANCES FOR INTRODUCTION

Ordinance No. 29-18
BE IT RESOLVED that an Ordinance entitled:

An Ordinance of the Township of Denville, County of Morris, and State of New Jersey, to Amend Chapter 7, Traffic, to Update Regulations for Certain Locations

Be Introduced and Read by Title on First Reading:
MOTION TO READ BY TITLE:
MOVED BY MEMBER MURPHY, SECONDED BY MEMBER WITTE
AYES: MURPHY, WITTE, BUIE, BERGEN, LYDEN, PRESIDENT GABEL
NAYS: NONE
Township Council  
10-16-2018

ABSENT: BOROWIEC

BE IT RESOLVED that an Ordinance entitled

An Ordinance of the Township of Denville, County of Morris, and State of New Jersey, to Amend Chapter 7, Traffic, to Update Regulations for Certain Locations Be Passed on First Reading

BE IT FURTHER RESOLVED that said ordinance shall be considered for final passage at the meeting of the Municipal Council of the Township of Denville on 11-20-2018 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 LYDEN, SECONDED BY MEMBER WITTE
AYES: LYDEN, WITTE, MURPHY, BUJE, BERGEN, PRESIDENT GABEL
NAYS: NONE
ABSENT: BOROWIEC

ITEMS FOR DISCUSSION AND/OR ACTION
NONE

CONSENT AGENDA
R-18-201: Resolution Authorizing Refund of Recreation Department Fee
R-18-202: Resolution Authorizing Raffle Licenses in the Township of Denville
R-18-203: Resolution Refunding 2018 Utility Overpayment
R-18-204: Resolution Authorizing Reinstatement of the Original Sewer Assessment Installment Plan for Certain Properties in the Township of Denville
R-18-205: Resolution Authorizing Refund of Birth Certificate Fee
R-18-206: Resolution Authorizing a Refund of a COAH Development 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 THE CONSENT AGENDA:
MOVED BY MEMBER WITTE, SECONDED BY MEMBER BERGEN
AYES: WITTE, BERGEN, MURPHY, BUJE, LYDEN, PRESIDENT GABEL
NAYS: NONE
ABSENT: BOROWIEC

NON-CONSENT AGENDA
R-18-207: Resolution Authorizing a Shared Services Agreement Between the Township of Denville and the Board of Education of the Morris Hills Regional District Regarding a Police Security Officer for Morris Knolls High School

Administrator Ward commented that the Township’s Labor Attorney recommended changing the language in the agreement regarding the hours to be worked to read “hours are not to exceed 7 ½ hours per day”. The Council had no objection. He then advised that the previously approved Shared Services Agreements will have to be amended.

MOTION TO APPROVE R-18-207:
MOVED BY MEMBER WITTE, SECONDED BY MEMBER LYDEN
AYES: WITTE, LYDEN, MURPHY, BUIE, BERGEN, PRESIDENT GABEL
NAYS: NONE
ABSENT: BOROWIEC

R-18-208: Resolution Authorizing the Refund of Money Due to the Redemption of a Tax Sale Certificate
MOTION TO APPROVE R-18-208
MOVED BY MEMBER LYDEN, SECONDED BY MEMBER BERGEN
AYES: LYDEN, BERGEN, MURPHY, BUIE, WITTE, PRESIDENT GABEL
NAYS: NONE
ABSENT: BOROWIEC

R-18-209: Resolution Authorizing the Transfer of Funds from the Affordable Housing Trust Fund to the
Denville Township General Trust Fund for Affordable Housing Related Administrative Costs
MOTION TO APPROVE R-18-209:
MOVED BY MEMBER BUIE, SECONDED BY MEMBER MURPHY
AYES: BUIE, MURPHY, WITTE, BERGEN, LYDEN, PRESIDENT GABEL
NAYS: NONE
ABSENT: BOROWIEC

R-18-210: Resolution of the Township of Denville, County of Morris and State of New Jersey Authorizing
the Execution of a Quitclaim Deed for Block 60207, Lot 324
MOTION TO APPROVE R-18-210:
MOVED BY MEMBER WITTE, SECONDED BY MEMBER LYDEN
AYES: WITTE, LYDEN, MURPHY, BUIE, BERGEN, PRESIDENT GABEL
NAYS: NONE
ABSENT: BOROWIEC

R-18-211: Resolution Supporting the Proposed Operational Improvements by the New Jersey
Department of Transportation in the Area of Route 46 Eastbound, I-80 Westbound and Route
53 Southbound
MOTION TO APPROVE R-18-211:
MOVED BY MEMBER MURPHY, SECONDED BY MEMBER LYDEN
Discussion: Councilwoman Witte asked if the plans include access to the Den Brook, to which President
Gabel advised that it was discussed at the Rivers & Streams Committee meeting and Mr. Strother is in
contact with NJDOT.
AYES: MURPHY, LYDEN, BUIE, WITTE, BERGEN, PRESIDENT GABEL
NAYS: NONE
ABSENT: BOROWIEC

R-18-212: Resolution Authorizing the Refund of Money Due to the Redemption of Tax Sale Certificates
from Tax Sale Held on October 10, 2018
MOTION TO APPROVE R-18-212:
MOVED BY MEMBER LYDEN, SECONDED BY MEMBER WITTE
AYES: LYDEN, WITTE, MURPHY, BUIE, BERGEN, PRESIDENT GABEL
NAYS: NONE
ABSENT: BOROWIEC

MINUTES FOR ADOPTION:
October 2, 2018
October 9, 2018 (Workshop meeting only)

MOVED BY MEMBER WITTE, SECONDED BY MEMBER BUIE
AYES: WITTE, BERGEN, MURPHY (Abstain for 10/9/2018), BUIE, LYDEN (Abstain for
10/2/2018), PRESIDENT GABEL
Township Council
10-16-2018

NAYS: NONE
ABSENT: BOROWIEC

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

The Meeting adjourned at 8:18 P.M.

Kathryn Bowditch-Leon, RMC
Municipal Clerk