MARK WALKER, P.E. (Project Engineer, Dykstra Walker Design Group, Lake Hopatcong, NJ) referred to a concept plan that was displayed for public viewing and commented that the property is in close proximity to the train station and adjacent to a parking lot. He stated that the property is approximately 2.4 acres and reiterated that the proposal is to construct a 3-story luxury apartment building containing 59 total units, 9 of which will be affordable housing units. He added that because the affordable units will be rentals, the Township would receive double the amount of credits for these units. He also noted that the affordable housing units would be integrated with the market rate units.

Mr. Donnelly shared that there is an agreement to purchase the String Band property so as to provide access to and from Station Road, which he believes will reduce certain traffic issues in the area. He said that they intend to renovate the building where the String Band is currently located and the Band will remain as a tenant in that building. He noted that the traffic study conducted for Donnelly Construction had been reviewed and found acceptable by the Township Engineer.

Rod Donnelly (CEO of Donnelly Industries, Wayne, NJ) explained that the property was purchased approximately 4 years ago and it took about a year to clean up the site. He stated that they are proposing 59 rental apartments of which 60-percent will be 1-bedroom units and 40-percent will be 2-bedroom units, with 15-percent of the proposed units (9 units) being affordable housing units. He stated that it is their hope to have residents in the proposed development by the end of 2019.

Mr. Donnelly shared that there is an agreement to purchase the String Band property so as to provide access to and from Station Road, which he believes will reduce certain traffic issues in the area. He said that they intend to renovate the building where the String Band is currently located and the Band will remain as a tenant in that building. He noted that the traffic study conducted for Donnelly Construction had been reviewed and found acceptable by the Township Engineer.

Mark Walker, P.E. (Project Engineer, Dykstra Walker Design Group, Lake Hopatcong, NJ) referred to a concept plan that was displayed for public viewing and commented that the property is in close proximity to the train station and adjacent to a parking lot. He stated that the property is approximately 2.4 acres and reiterated that the proposal is to construct a 3-story luxury apartment building containing 59 total units, 9 of which will be affordable housing units. He added that because the affordable units will be rentals, the Township would receive double the amount of credits for these units. He also noted that the affordable housing units would be integrated with the market rate units.
Mr. Walker stated that they received preliminary approval from New Jersey Transit (NJT) to allow access from the proposed development to the train station via a staircase to the parking lot. He explained that the proposed density has been reduced from what was originally proposed, 72 units, to what is now being proposed, 59 units. He also shared that, through negotiations with the Township, Donnelly Industries has agreed to plant a hedge row of tall evergreen trees along the back of the property between the train station and the proposed building.

President Golinski advised that he will open the public portion for those people who wish to speak on the Station Village at Denville, LLC presentation only at this time.

OPEN PUBLIC PORTION

Peter Maguire (20 Old Mill Drive) expressed his confusion with the term “apartment” and wanted to clarify that the proposal is for apartments and not condominiums. He asked if a superintendent would be on site at the proposed complex and Mr. Donnelly responded that the superintendent would live on the premises.

John Ogilby (28 Joanne Drive) shared that his major concern is the mitigation of train noise and explained that trains blow their horns four times as they pass through each intersection, which occurs multiple times throughout the day and night. He stated that only two trains with service to New York City leave the Mount Tabor train station during rush hour and added that this is the fourth least-used NJT train station with only 34 commuters using this station. He stated that for comparison, the Denville Train Station has frequent midtown direct service and the Bloomfield Avenue parking lot has Lakeland bus service to New York City. He then expressed his opinion that more people would opt to travel from these other two locations. He explained that he learned that NJT promised Andover Township, Blairstown Township, Stanhope and Green Township quiet zones and then communicated his belief that if Denville is not granted a quiet zone by NJT, then the proposed rental units will likely fall below market rate.

Jason Rittie, Esq. conveyed that there have been ongoing discussions between NJT and the Township Administration regarding the establishment of a quiet zone. Mr. Donnelly noted that the plans are to design the proposed building with sound-deadening windows and thicker walls with more insulation to reduce noise.

Bob Belz (7 Memory Lane) expressed his belief that sound-deadening windows and thicker walls are not going to help with the noise when trains blow their horns four times each time they pass and that the only way to address the noise concerns would be to establish a quiet zone. Mr. Belz mentioned that hazardous materials are being transported on the trains and tank cars are being stored on the trestle over Route 53, which may present a very dangerous situation to the proposed development.

Don Sommer (24 Station Road) agreed with both Mr. Ogilby's and Mr. Belz's comments regarding the train station negatively impacting the value of the proposed housing units. He asserted that the intersection of Station Road, Parks Road, and Lackawanna Avenue is already very dangerous and he cannot see how additional traffic from a new development could be alleviated.

Jason Rittie, Esq. explained that, based on the traffic study which was conducted for Donnelly Construction, there would be little traffic impact on that intersection.

Matt Morgan (5 Holly Drive) stated that the traffic on Parks Road through the Beacon Hill neighborhood is already dangerous and asked how Donnelly Construction plans to control the traffic and ensure the safety of the kids in the neighborhood, as there are no existing sidewalks along the streets.
Mr. Donnelly said that their traffic study was approved by the Township Engineer. He noted that the property was previously an industrial use and that there were approximately 100-150 employees working 3 different shifts, so cars were in and out of the property throughout the day and night.

President Golinski asked if the traffic created by an apartment complex would be comparable to the traffic create by an industrial complex. Mr. Donnelly stated that the traffic from the proposed apartment complex should be less than if the property were to be used for an industrial use again.

Deb Emmons (124 Florence Avenue) told the Council that Denville does not need any more traffic. She expressed her opinion that the traffic from the proposed development would not be able to easily integrate with the traffic already present on Route 53. She also voiced her belief that more children would put a strain on the schools and that more residents will require more police officers and that Denville would be ruined by the creation of a new development.

AnnMarie Corbitt (11 Holly Drive) asked if the developer would receive a tax abatement for this property to which President Golinski responded that he was not aware of any such proposal and Mr. Donnelly said that there are no set plans. Discussion ensued about tax abatements and payment-in-lieu-of-taxes (PILOT programs). She said her biggest concern is that this property would be eligible for tax abatement.

Ed Banagan (38 Old Mill Drive) advised that he heard that Morristown Erie Railway is going to lose their contract with NJT and that CSX will take over, which may change the amount and type of train traffic coming through Denville.

Andrea Bias (44 Parks Road) expressed concern about the traffic on Parks Road from Route 53 towards Route 10 and asked if a senior citizen complex has been considered for this site. Mr. Donnelly answered that they have not considered the possibility of a senior citizen complex for this site but that does not mean that they would not consider it. Discussion then ensued about the possibility of installing sidewalks.

Councilman Murphy arrived at 8:08 P.M.

Administrator Ward explained that the process for putting sidewalks in the Beacon Hill neighborhood, stating that the residents benefiting from those sidewalks would have to contribute toward the cost of the improvement, likely in the form of a special assessment.

Laura Russell (18 Richwood Place) confirmed that the proposal is for 60-percent of the units to be 1-bedroom, to which Mr. Donnelly stated yes.

Anna Nowacki (37 Memory Lane) asked if the potential impact on the schools has been looked at. Mr. Donnelly said a fiscal analysis was done by their professional planner but that this evening’s presentation merely is a general overview of the proposed development.

Administrator Ward commented that by utilizing the analysis provided by the Denville Board of Education’s demographer as well as that of another study performed by Rutgers, the impact on school systems from 1- and 2-bedroom residential developments that are transit-oriented is very minimal. Mr. Ward additionally stated that having a higher percentage of 1-bedroom units, as proposed by Donnelly Construction, has a zero student impact, while the 2-bedroom units have a projected .1 student impact.

Ms. Nowacki asked if the proposed affordable housing units would 1 or 2-bedroom units. President Golinski said that the number of bedrooms required for affordable housing units is regulated by State guidelines. Jason Rittie, Esq. said that he does not remember the regulations specifically but there has been discussion about
trying to make all of the affordable units 1-bedroom units or an even split of 1 and 2-bedroom units. Administrator Ward pointed out that a waiver may have to be obtained from the State in order to reduce the number of required 2-bedroom units.

Ms. Nowacki advised that there is heavy traffic from Parks Road towards Route 53, particularly during peak travel times, and then expressed her belief that the proposed turn coming out of the development would be difficult to make.

Rich Gawel (5 Hilltop Trail) asked what environmental mitigation has been done, if any, and whether any environmental studies have been done for this property. Mr. Donnelly stated that the entire site has been cleaned up and they have received a “No Further Action” letter from the New Jersey Department of Environmental Protection (NJDEP).

Joe Filicetti (18 Claude Avenue) asked when the traffic study for Donnelly Construction was conducted. Mr. Donnelly stated that the traffic study was done sometime within the last twelve months. Mr. Filicetti stated that within the last six months, the Lackawanna crossing to the Mount Tabor station was temporarily closed and that caused a negative impact on traffic. Mr. Filicetti also asked if there was a possibility of having to build another school in Denville.

President Golinski stated that the predicted number of new students from the proposed development is 10. He then stated that over the past ten years the schools have seen a decrease of 338 students.

Mr. Filicetti then asked about water and sewer capacity, to which President Golinski said there is adequate sewer and water supply for the proposed Station Village development and that this will be part of the Planning Board review process.

Mr. Filicetti asked if the traffic study was available for the public to review, to which President Golinski confirmed that it is on the Township’s website. Mr. Donnelly explained that the traffic study was done on February 2, 2017 and was reviewed and found acceptable by the Township Engineer on August 29, 2017.

Councilman Fitzpatrick explained that he is on the subcommittee for this proposed project along with Councilman Kuser and Councilman Murphy and that traffic was one of their biggest concerns. He explained that the Township Engineer’s review of the traffic study in August of 2017 also included a recalculation of the traffic counts that were performed in February of 2017. Administrator Ward confirmed that a new traffic study was not done by the Township Engineer.

Councilman Fitzpatrick discussed the other options that were presented for the Redmond Press site, such as a large sports complex, which he felt would generate more traffic than the proposed residential complex.

Bob Belz (7 Memory Lane) asked if parking for the proposed development would be outside, how many parking spots would be created, if there will be an elevator in the proposed complex, and where the dumpsters would be located. Mr. Walker said that there will be 111 outdoor parking spots and an elevator in the building. President Golinski pointed out that some of these questions would be discussed further during the Planning Board’s review. He explained that this presentation was only intended to be preliminary and informative and not as detailed as a future presentation to the Planning Board.

Cassie Krulik (10 Holly Drive) said that if the Lackawanna Avenue crossing is permanently closed, she believes it will increase traffic at Station Road and asked if this has been taken into consideration. Administrator Ward expressed that the Township has opposed the closing of the Lackawanna Avenue crossing and has filed two
Mayor Andes affirmed that Administration is adamantly against the closing of any crossings in the Township.

He advised that the Township Master Plan states that improvements should be done on the Route 53 corridor.

Administrator Ward expounded on the statements made about quiet zones, stating that the Township has met with NJT, NJDOT, and the Federal Railroad Administration (FRA) and that representatives from Donnelly Industries were invited to the meeting with FRA. He conveyed that a quiet zone is an alternative that can be considered but would likely be an expensive alternative due to the necessary hardware, equipment and modifications. He stated that the Township is waiting on the recommendation from NJDOT regarding the proposed closing of the Lackawanna Avenue crossing. He also explained the definition of a quiet zone and stated that a train would still have to blow its horn in a quiet zone.

Councilman Murphy commented that the Township is looking at options that would cause the least impact and encouraged comments and suggestions. Mr. Fitzpatrick requested additional information from Administration on the possibility of a quiet zone.

Councilman Kuser said he has been against this proposed development from the beginning and is concerned with the proposed ingress and egress. He agreed that noise from the train is a big problem and said he does not believe people will use the Mount Tabor station frequently, but will commute from other locations. Mr. Kuser stated that the traffic study was reviewed by the Township Engineer, who also found that the proposed development should not have a major traffic impact. Mr. Kuser opined that Station Road towards Route 53 needs to be widened and that needs to be made a part of the plan for this project.

Councilman Murphy stated he also has concerns about this project, but some of them, including the aesthetics of a three-story building, have been addressed by developer.

Councilman Fitzpatrick commented that the Township is looking at options that would cause the least impact and encouraged comments and suggestions. Mr. Fitzpatrick requested additional information from Administration on the possibility of a quiet zone.

Administrator Ward expounded on the statements made about quiet zones, stating that the Township has met with NJT, NJDOT, and the Federal Railroad Administration (FRA) and that representatives from Donnelly Industries were invited to the meeting with FRA. He conveyed that a quiet zone is an alternative that can be considered but would likely be an expensive alternative due to the necessary hardware, equipment and modifications. He stated that the Township is waiting on the recommendation from NJDOT regarding the proposed closing of the Lackawanna Avenue crossing. He also explained the definition of a quiet zone and stated that a train would still have to blow its horn in a quiet zone.

Mayor Andes affirmed that Administration is adamantly against the closing of any crossings in the Township. He advised that the Township Master Plan states that improvements should be done on the Route 53 corridor.
He said Donnelly Construction has been very flexible and willing to work with the Township on their proposed plan for this property and emphasized that the Township does have an affordable housing obligation.

Councilman Kuser noted that Estling Village is a much larger complex than what is being proposed for this property. He stated that Estling Village has 40 1-bedroom units and 60 2-bedroom units, for a total of 100 units, and only added nine new students to the Denville school system.

LIAISON REPORTS
Councilman Murphy reported that the Thanksgiving weekend was very successful for the Business Improvement District (BID) with the Holiday Open House on Friday night, Small Business Saturday and the Holiday Parade on Sunday. He said the Green Sustainability Committee was awarded the Silver Certification at the recent New Jersey League of Municipalities (NJLM) conference.
Councilman Fitzpatrick had nothing to report.
Councilwoman Lyden shared that Trails Committee met with its consultant last night to map out the existing trails in Denville and explore new trails that they are looking to connect. She announced that the next Trails Committee meeting will be held in January.
Councilman Gabel reported that he attended the Environmental Commission meeting last week and that there are Planning Board and Beautification Committee meetings scheduled next week.
Councilwoman Witte thanked everyone for a great Holiday Parade this year and said that Deer Management will meet next Monday at 7:00 P.M. She said that Rockaway River Watershed met last week and that they are planning to hire a web consultant to create a website.
Councilman Kuser mentioned that the opening of Santa Land this year was spectacular.
President Golinski had nothing to report.

MAYOR’S REPORT
Mayor Andes reminded everyone of the significant damage caused by a fire at Santa Land in May 2017 and said the community came together and worked with the Rotary Club to make Santa Land bigger and better than ever.
Mayor Andes then read a statement for the record regarding the resolutions to approve the two settlement agreements which are on tonight’s agenda. His statement is included at the end of these minutes.

ADMINISTRATOR’S REPORT
Administrator Ward stated said the 2017 edition of the Hub Times with the recycling calendar will go to the printers this week and it is hoped that it will reach resident mailboxes within the next ten days or so. He announced that the Holiday Employee Recognition Ceremony will be held on December 19th at noon in Town Hall and invited any Council Members who are available to stop by.

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

OPEN PUBLIC PORTION
Dino Capello (7 Edgewood Road) President of the Denville Board of Education read a statement into the record. The statement is attached to the end of these minutes.

Councilman Kuser stated that there has been a reduction in the number of students over the past ten years. Mr. Capello explained that trailers have been used over that time period for classrooms and that those trailers have a limited lifespan and now pose security concerns. He further explained that space in the schools is being used much differently than it was 10 years ago as there are more requirements for small-group settings for special education and resource rooms, which brings the schools to capacity.
Darryl DiGiovanna (80 East Glen Road) opined that the Denville schools are at capacity and questioned whether the Township has performed a cost-benefit analysis relative to the cost of building a new school. She asked whether the Township has calculated whether a builder's remedy lawsuit would cost the municipality more or less than the construction of a new school. She expressed her opinion that there seems to be a lot more that the Township could be doing to satisfy its affordable housing obligation than agreeing to allow these developments to be built and asked what the Township has already done to meet its obligation.

Mr. Gawel asked if the Township is purchasing vacant land, to which President Golinski answered that the Township has a robust Open Space program and has already acquired a lot of vacant land. Councilman Kuser mentioned that he is on the Open Space Committee and that the Township is always looking to purchase land. Mayor Andes added that over the last twenty years, the Township has acquired over 1,000 acres of land.

Rich Gawel (5 Hilltop Trail) inquired about the impact on the environment and tree cutting from the other proposed developments. Township Planner Kasler said that in the proposed ordinance there would be a maximum 25-percent limitation on building coverage and a 65-percent limit on impervious coverage, which includes roadways and parking. He said the ordinance limits the allowable disturbed area on the properties but some flexibility may be needed regarding retaining walls.

Mr. Vitale asked what the Township's legal strategy would be going forward. Councilman Kuser said that the Township’s position is that its obligation is 112 units through 2025 and that he is comfortable with the Township presenting a plan to the Court for that number.

Mike Vitale (2 Arlington Drive) questioned the number of credits that the Township has from recent housing projects to apply towards its obligation number. Administrator Ward explained that the Township’s Housing Plan submitted to the Court lists the credits the Township has and how the Township plans to satisfy its remaining obligation. Discussion ensued on the Township's obligation and the different developments that are being proposed to fulfill that obligation.

Mr. Hussa asked if Administration has reached out to Morris County Housing Authority, Habitat for Humanity, or any other non-profits. Mayor Andes said that Administration has reached out to Habitat and hopes to work with them to fulfill a portion of any remaining obligation, should the Court determine that Denville’s obligation is higher than 112 units. Administrator Ward then said the Township is working with another non-profit organization to develop the Lake Lenore property for a group home.

Mr. Hussa asked if the Township has considered the Vanderhoof property for development. Mayor Andes explicated that they are not going to discuss other properties or the Township's strategy this evening, as the Township has a declaratory judgment action pending in the Court. Mr. Hussa then asked if there are any other projects that the Township is currently pursuing and President Golinski said not at this time.

Township Attorney Jansen explained the builder’s remedy lawsuit concept and what the repercussions would be if such a lawsuit was successfully brought against the Township.

Philip Ted Hussa (20 Heweton Road) wanted to know who was proposing to “do nothing” as referenced in the Mayor’s statement. President Golinski said he believes that the Mayor meant if the Township were to say “no” to the developers, then the Township would likely lose its immunity.

Councilman Kuser asked how many classrooms have been taken up due to the schools recent offering of full-day kindergarten. Mr. Capello said that kindergarten expanded from two to four classrooms at Riverview and from three to six classrooms at Lakeview.
Councilwoman Witte noted that Denville has always been proactive in providing affordable housing and explained that these affordable housing units can be found throughout the entire Township. She stated that the Township has met all the previous obligations over the years.

Councilman Kuser said that he understands Ms. DiGiovanna’s frustration, having been involved in the school system. He explained that this new round of obligations began in 2015, at which time a number of intervenors then came to discuss with the Township on how they could help fulfill its obligation. He then explained that during this time, the Mayor and Administration has negotiated with some developers and rejected other developers based on the Housing Element of the Master Plan. He stated that the Township cannot continue to just say no to all development.

Ms. DiGiovanna reiterated her belief that the Township knew that this obligation was coming and should have done something about it.

Mayor Andes said that the affordable housing constitutional obligation started in 1975, with obligations being updated every 6 to 10 years. He said there will be a new obligation again in 2025. He went on to explain some of the proposed projects that have been brought forward by developers, both good and bad. He then stated that the Township has maximized out its credits for group homes.

President Golinski explained that news and outreach regarding affordable housing in Denville has been posted on Facebook, on the Township website, in the newspaper, and still there had been meetings with very low attendance.

Ms. DiGiovanna asked again what alternatives the Township explored to these proposed developments. Mayor Andes responded that they have tried to minimize the number of units and bedrooms as much as possible, explaining that one developer originally proposed 400 units. Ms. DiGiovanna then asked what the Township will do to prepare for 2025.

Councilman Fitzpatrick explained that the Township does not know what its obligation number will be in 2025 and stated that the Township believed it had satisfied its current obligation until the Court told them that they need to look harder in 2015. Mr. Fitzpatrick noted that one group has told the Court that Denville should be able to provide over 1,500 units of affordable housing, which does not include market rate units.

Administrator Ward advised that the Township entered this current affordable housing round with a surplus of 61 credits from the first two rounds.

Councilman Kuser stated that the number of houses in Denville has increased over the years and will continue to grow, however, the student population has actually decreased. He stated that he understands why the schools are currently at capacity based on the explanations from the Denville Board of Education. Mr. Kuser also stated that the developers own the properties in question and they are permitted to build on their properties.

Special Counsel Edward Buzak commented that Denville satisfied its constitutional affordable housing obligation through 1999, and then explained that from 1999 through 2004, no regulations were in place. He stated that after 2004, a growth-share model to determine constitutional obligations was implemented, which meant that the Township would provide affordable housing in a ratio to its growth as a Township. Mr. Buzak then provided an overview of the Council on Affordable Housing’s (COAH) regulations over the years and how they were revised, challenged, and ultimately invalidated twice between 2004 and 2011. He advised that Denville submitted numerous plans over the years in order to satisfy what was then known to be its obligation, but we now find that the Township has had to start all over after the Supreme Court took the authority away
from COAH and assigned jurisdiction to the courts in 2014. He explained that the Township has allowed
developers to propose plans that possibly would be included in the housing plan submitted to the Court and
noted that the numbers which have been suggested to be Denville’s obligation have ranged from 67 units to
1700 units. He further explained that the developments that have been brought forth would satisfy what the
Township believes is its obligation.

Mr. Buzak expounded that there are limits on what municipalities may receive as credits towards affordable
housing obligations and that the maximum credits the Township may receive for group homes, age-restricted
housing and senior housing have been reached. He said the Township has utilized every legally available
mechanism to minimize the impact on the municipality. Mr. Buzak pointed out that Glenmont Commons
originally proposed a development of over 230 units and, through negotiations, has lowered their proposal to
65 units.

Mr. Buzak stated that the Township has been working proactively to meet its obligation while minimizing the
impact on the community. He explained that the issue has been that the methodologies implemented were
repeatedly invalidated by the Court.

Mike Belen (4 Manchester Drive) opined that the Denville schools have been maxed out and that a new school
would cost $50-70 million to construct. He expressed his belief that better business practices should be
researched and that more options should be explored so the Township can do the right thing.

Mayor Andes stated that, at the last meeting, the public was advised that the Township would notify the
leaders of the public group if any settlement agreements were going to be on the agenda, which was done.

Councilman Kuser pointed out that if the schools are already at capacity, then a new school would have to be
constructed soon. He also understands why it is no longer safe to have classes in trailers and applauded the
Board of Education for their efforts.

Mr. Belen asked if Glenmont Commons would be able to come back after the settlement agreement is
executed and propose more units. He was advised that this could not happen. Mr. Belen asked what the
proposed developments would look like, to which Mr. Kuser stated that both Glenmont Commons and Toll
Brothers made presentations to the Council at previous meetings and that there were subcommittees for both
of these developments to ensure that they will fit in with what the Township requires.

President Golinski reiterated that if the Township does not enter into settlement agreements with these
developers, then the door to a builder’s remedy lawsuit would be opened and the proposed number of units
would greatly increase.

Alan Porto (3 Dorchester Drive) complimented the Council for their work on this complex matter and asked if
there are other properties in the Township owned by Mr. Edward Mosberg (Glenmont Commons). Administrator Ward said he was not aware of any other property owned by Mr. Mosberg but said he could
confirm that. Mr. Porto stated that he believes the Township should ask the developer to build 9 affordable
housing units and nothing else.

President Golinski deferred to Special Counsel Buzak to describe what could occur if the Township were to ask
Glenmont Commons to only build 9 affordable housing units.

Mr. Buzak asserted that the developer is not going to agree to construct 9 affordable housing units, explaining
that the property is already zoned for four single-family homes. He further explained that the developer
realized that they could construct more than four single-family homes if they agree to set aside a portion for affordable housing.

Township Attorney Jansen clarified that if the Township denies their proposed development, the developers would be able to go to the Court stating that they are willing and able to build a development and the Court would then order the Township to change its zoning for the property to allow for much higher density than is currently being proposed.

Discussion ensued about the number of units that are proposed for the Glenmont Commons property.

Mayor Andes stated that it is his opinion that this is the right thing to do to protect the Township against massive developments.

Barbara DeLuna (396 Diamond Spring Road) read a letter from Carol Spencer aloud for the record, which stated that Carol Spencer was the Council President during the 1990s, when Glenmont Commons presented a proposal for development of a property in Parsippany and Denville and that Ms. Spencer believes the Township negotiated that the property in question be reserved for Open Space. Ms. DeLuna stated that in the letter, Ms. Spencer expressed her belief that there was an executed agreement stating this.

President Golinski asked if the Township knew of any such agreement that was executed in 1994. Administrator Ward responded, stating that a few months ago, an exhaustive search was made for relevant documents; however, they did not locate any document which showed that the Township’s property associated with the Parsippany project was preserved as Open Space. He added that the property has always been privately-owned and confirmed that it is not listed in the Township’s Recreational and Open Space Inventory (ROSI). Mr. Ward commented that the letter from Ms. Spencer states that Denville officials intervened to have the number of units in the Parsippany development reduced in 1994. He advised that through negotiations this year, Denville officials had the number of units proposed by Glenmont Commons reduced; with additional negotiations being conducted which lowered the number of proposed 3-bedroom units. Mr. Ward confirmed that no agreements were found which dedicated the property as open space. Councilman Kuser also mentioned that the property is not deed-restricted.

Jane Nix (176 Casterline Road) asked if the exhaustive search for records included Parsippany’s records. Administrator Ward said they did contact Parsippany and Parsippany also did not locate any relevant records. Ms. Nix asked why Glenmont Commons walked away from the proposed project in 1994, to which an answer was not known.

Ms. Nix questioned if there are wetlands on the Glenmont Commons property to which Mr. Kasler explained there are, but the developer would be obligated to avoid them.

Ms. Nix then asked where the proposed entrance would be, to which the response was on Casterline Road. Ms. Nix then expressed the safety concerns she has with traffic along Casterline Road and stated she does not understand how the traffic study was approved. Township Planner Kasler advised that a traffic study has not yet been conducted for this location.

Nathan Gould (87 Woodstone Road) thanked Administrator Ward for his follow-up on the Sunoco station on Route 46, sharing that the proper permits were obtained. He asked for an update on Cook’s Pond, expressing his concerns that the booms from the oil spill were still there a few weeks ago. Mr. Gould also asked if the Township could ask Glenmont Commons to increase the number of affordable units.
President Golinski and Councilman Kuser both said that if the developer were to increase the number of affordable units, then they would also increase the number of market-rate units. Mr. Buzak further explained that the purpose of integrating the units is so that the market-rate units would subsidize the affordable units.

Mr. Gould expressed his concern with the sight distance for the property owned by RAM Associates/Toll Brothers on Franklin Avenue. Mr. Kasler stated that the development would have to meet the sight distance requirements set forth in the Township ordinance and explained this would be taken into account at the Planning Board.

Peter Agostini (28 Cambridge Avenue) expressed his idea that instead of making the Glenmont Commons property a T-5 zone, it could be zoned for 4 group homes.

Councilman Kuser stated that if a legal document is found confirming that Glenmont Commons is unable to build on their property, then the settlement agreement would be null and void. Mr. Buzak confirmed this statement is true.

Mr. Agostini read a statement where he expressed his opinion that the Township has a defeatist mantra towards these developers and that the Township has not explored enough alternatives. He asked that the Township not create a T-5 zone but rather recommended they rezone to allow for group homes which would better preserve the quiet, residential setting of the neighborhood.

Councilman Kuser reiterated that the Township has maximized their credits for group homes, but asked Mr. Buzak and Mr. Jansen if it can be added to the settlement resolution that the developer has the option of using the property for group homes.

Mr. Buzak explained that by State statute group homes are allowed to be constructed in any residential zone and therefore the property is already zoned to allow for group homes. He added that simply rezoning the property for group homes would not be sustainable in court.

Mallary Steinfeld (147 Casterline Road) informed the Council that she and other residents have a pending Open Public Records Act (OPRA) request with Parsippany relating to Glenmont Commons. She then read a statement by Irving Cohen aloud for the record, which is attached to these minutes.

Mr. Buzak confirmed that the Township is following proper procedure and that these settlement agreements are the first in a series of steps that need to be taken. He pointed out that the Council is neither adopting an ordinance nor amending the Master Plan tonight.

Discussion ensued about what the developers and Judge could do if the Council does not vote in favor of the settlement agreements this evening.

Ms. Steinfeld then read her own statement aloud for the record, which can also be found at the end of these minutes.

Councilwoman Lyden asked if the Township could check with the County to confirm whether a restriction on the property was recorded and Mr. Buzak replied that it is his understanding that this was done and that no restriction was located.

President Golinski asked how difficult it would be for the Township to earn its immunity back if it were to lose it, to which Mr. Buzak responded that the Township is trying to satisfy its constitutional obligation to provide the opportunity for the construction of its realistic share of the region’s affordable housing units. He further
Mr. Buzak explained that the proposed zoning ordinance, which is not being introduced or adopted at this meeting, is not consistent with the current Master Plan. He further explained that before this ordinance is adopted, the Master Plan will either have to be amended or the ordinance that is introduced must provide reasons why, even though it is inconsistent with the Master Plan, it should be adopted to allow the Township to satisfy its constitutional obligation to provide its share of affordable housing.

There was a question regarding the number of bedrooms and whether a den could be changed to a bedroom. Discussion ensued as to the difference between a den and a bedroom. Mr. Kasler said that a bedroom is not defined in the Municipal land Use Law and explained that if a den is illegally converted into a bedroom, that would be an enforcement issue.

Township Planner Kasler commented that language in the proposed T-5 zoning ordinance was changed to include the definitions for vertical flats and interlocking dwellings.

Township Planning Board Attorney Buzak advised that the zoning ordinance referenced in the settlement agreements is a generic zoning ordinance and does not reference specific blocks and lots. He stated that the settlement agreements are where the specific blocks and lots are found. He then commented that if the settlement agreements are adopted, then the Township would be obligated to rezone the blocks and lots referenced in each specific settlement agreement.

Township Attorney Jansen emphasized that the zoning ordinance is not being introduced at this time and that the resolutions authorizing the execution of the settlement agreements and the agreements themselves are specific as to which lots are included.

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Township Planner Kasler commented that language in the proposed T-5 zoning ordinance was changed to include the definitions for vertical flats and interlocking dwellings.

There was a question regarding the number of bedrooms and whether a den could be changed to a bedroom. Discussion ensued as to the difference between a den and a bedroom. Mr. Kasler said that a bedroom is not defined in the Municipal land Use Law and explained that if a den is illegally converted into a bedroom, that would be an enforcement issue.

Mr. Buzak explained that the proposed zoning ordinance, which is not being introduced or adopted at this meeting, is not consistent with the current Master Plan. He further explained that before this ordinance is adopted, the Master Plan will either have to be amended or the ordinance that is introduced must provide reasons why, even though it is inconsistent with the Master Plan, it should be adopted to allow the Township to satisfy its constitutional obligation to provide its share of affordable housing.
Councilman Gabel said he has tried to listen and understand the public's comments on this very difficult topic and that he appreciates the residents who have come out to the Council meetings and have voiced their concerns and opinions. He stated that Township will continue to look to acquire open space property. He explained that the Township will continue to require inclusionary developments for affordable housing. He mentioned that the legislature has failed to act, but that it is not a reason for the Township not to act. Mr. Gabel assured the public that the Township will continue to negotiate in good faith. He stated that he believes the Council has been as transparent as possible on this topic and that he will continue to answer the public's questions or concerns.

AYES: WITTE, KUSER, GABEL, LYDEN, MURPHY, PRESIDENT GOLINSKI
NAYS: NONE
ABSTAIN: FITZPATRICK
Township Council
12-05-2017

R-17-263: Resolution Authorizing the Execution of a Settlement Agreement with RAM Associates, LLC (Toll Bros)
MOTION TO APPROVE R-17-263:
MOVED BY MEMBER MURPHY, SECONDED BY MEMBER WITTE
Discussion: Councilman Kuser commented that traffic will be horrible on Route 46 and Franklin Road due to commuters and Morris Knolls High School.
AYES: MURPHY, WITTE, GABEL, KUSER, LYDEN, PRESIDENT GOLINSKI
NAYS: NONE
ABSTAIN: FITZPATRICK

MATTERS OF OLD AND/OR NEW BUSINESS
None

ORDINANCES FOR ADOPTION
None

ORDINANCES FOR INTRODUCTION
None

ITEMS FOR DISCUSSION AND/OR ACTION
None

CONSENT AGENDA
R-17-251: Resolution Authorizing Raffle Licenses in the Township of Denville
R-17-252: Resolution Establishing the Reorganization Meeting of the Municipal Council of the Township of Denville for 2018
R-17-253: Resolution Granting Permission to Receive Bids for a 5-Year License to Conduct Agricultural Activity at Knuth Farm
R-17-254: Resolution Authorizing the Execution of an Amendment to the Access Agreement Between the Township and Hawthorne Commercial Properties, LLC
R-17-255: Resolution Authorizing Acceptance of Funds for Drive Sober or Get Pulled Over 2017 Year End Holiday Crackdown Grant From 12-08-2017 to 01-01-2018
R-17-256: Resolution Requesting Approval of Items of Revenue and Appropriation Pursuant to N.J.S.A. 40A:4-87 for the Drive Sober or Get Pulled Over Holiday Crackdown Grant

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

MOTION TO APPROVE CONSENT AGENDA:
MOVED BY MEMBER FITZPATRICK, SECONDED BY MEMBER GABEL
AYES: FITZPATRICK, GABEL, WITTE, KUSER, LYDEN, MURPHY, PRESIDENT GOLINSKI
NAYS: NONE

NON-CONSENT AGENDA
R-17-257: Resolution Authorizing the Refund of Money Due to the Redemption of Tax Sale Certificates Totaling $29,610.09 Plus Premiums.
MOTION TO APPROVE R-17-257:
MOVED BY MEMBER FITZPATRICK, SECONDED BY MEMBER LYDEN
AYES: FITZPATRICK, LYDEN, GABEL, WITTE, KUSER, MURPHY, PRESIDENT GOLINSKI
NAYS: NONE
RD-17-260: Resolution Authorizing the Award of Contract for the Purchase of Four Generators and Five Transfer Switches for Township Wells and a Sewer Station in Accordance with State Contract 85477

MOTION TO APPROVE R-17-260:
MOVED BY MEMBER GABEL, SECONDED BY MEMBER WITTE
AYES: GABEL, WITTE, KUSER, LYDEN, FITZPATRICK, MURPHY, PRESIDENT GOLINSKI
NAYS: NONE

R-17-261: Resolution Authorizing Engineering Services in Connection with the First Avenue Streetscape Improvements Project

MOTION TO APPROVE R-17-261:
MOVED BY MEMBER MURPHY, SECONDED BY MEMBER KUSER
AYES: MURPHY, KUSER, GABEL, WITTE, LYDEN, FITZPATRICK, PRESIDENT GOLINSKI
NAYS: NONE

MINUTES FOR ADOPTION
None

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

The Meeting adjourned at 12:00 A.M.

Kathryn Bowditch-Leon
Municipal Clerk
On this evening’s agenda, there are two resolutions before the Township Council for consideration to approve settlement agreements with two developers. The first is for a 65 unit Glenmont Common Development on Casterline Road and the second is for 114 unit Toll Brothers development on Franklin Avenue.

Before commenting on the specifics of the settlement agreements pending before the Township Council this evening, I would like to comment on the current state of affordable housing in the State of New Jersey.

In a phrase, “the system is broken.”

Due to the State of New Jersey’s inability or perhaps even unwillingness to develop an acceptable formula to assign municipalities their affordable housing obligation, the courts have had to take over what should have been an administrative process. Our affordable housing obligation is now being determined as part of a legal process in the courts. And, to say the deck is stacked against municipalities in the process, is an enormous understatement.

I’ve been asked dozens of times by residents during the past several months, including at Council Meetings, “if we don’t know what our affordable housing number is, then why are we entertaining and negotiating with developers?” It really is a great question and I wholeheartedly agree that on a logical basis it makes absolutely no sense to attempt to satisfy a speculative affordable
housing obligation. Let me repeat, I agree with you that it makes absolutely no sense. In fact, it throws all smart growth municipal planning principals out the window and will undoubtedly have a significant impact on our community and communities around the State of New Jersey.

So, why then? The answer is as simple as it is absurd, to protect our community from the greater evil. What is that greater evil? It is the builder’s remedy lawsuit.

As stated by various members of the Township Council at previous meetings, digging our heals in and saying “no” to new development or simply not participating in the court process at all is not an option. As Township Attorney John Jansen so eloquently stated at the last public meeting, “we have immunity [from the builder’s remedy lawsuit]; however, that immunity is very fragile.”

Therefore, none of the Council Members nor I are happy about the position we’ve been put in. However, as we’ve stated, our obligation is to protect the municipality as a whole.

If we simply say “no” to Toll Brothers or Glenmont Commons, it will most likely result in the Township losing its immunity and being immediately subject to builder’s remedy lawsuits. To magnify the issue, our immunity would not only be lost for the project we say “no” to but for any developer who wants to build in Denville. There are several interveners in the Declaratory Judgment Action that we have and continue to say “no” to because their development projects are ill-advised and would detrimentally impact the fragile environmental protections that we have worked so long and hard for. These interveners, who we intend to continue to oppose for the public good of the community as a whole, will also be able to file builder’s remedy lawsuits against the Township. If we lose our immunity, it would be open season on Denville by all of these developers and Denville would lose control over its own destiny.

In the research we have done and reviewing what has occurred in other municipalities, including right here in Morris County, the consequences would be devastating for our community. In a builder’s remedy lawsuit, densities would be higher and the Township would lose virtually all input and control into the planning process.
I have used the analogy this broken system has placed us into a position where we are attempting to responsibly plan for the future of our community while having a loaded gun pointed at our head.

With that as our backdrop, it is true that we have been working with some of the developers, including Station Village, who presented here this evening, as well as Glenmont Commons and Toll Brothers. Our aim has always been to minimize the impact on our community, our school system and our infrastructure while recognizing our constitutional obligation. We have effectively negotiated with all three developers to bring densities lower, we have negotiated to ensure a maximum number of 1 and 2 bedroom units and a minimum of 3 bedroom units in order to reduce the impact on our school system and we have worked collectively with the developers to ensure the products being presented are architecturally attractive.

If we say “no” or do nothing and lose our immunity, all of these projects will certainly be larger and have a greater distribution of 3- and 4-bedroom. Along with the greater density, we are not guaranteed that the buffers or environmental protections we have worked on so diligently with these specific developers to secure will be provided. As an example, Glenmont Commons has submitted two site plans to the court, including a monstrous 230 unit apartment complex which I am sure would be more profitable for the developer to construct but I think we can all agree would be devastating to our community and our community’s infrastructure.

Sure, we could fight every single development proposal, but history in other municipalities has demonstrated that we would then not be able to obtain the concessions that we have obtained nor the level of quality of the development that we have been able to negotiate. And when I refer to other municipalities, I am referring to municipality’s right here in Morris County who has been or are currently in the midst of builder’s remedy lawsuits. The densities sought by developers in these builders remedy lawsuits are 2 to 3 times greater than the densities we have negotiated.

Furthermore, as I stated, if immunity is lost, it is lost for the entire community. The other developers who we have opposed in court will also be able to file builder’s remedy lawsuits against the Township. Again, we would have little ability to effectively defend ourselves. This is the point that weighs heavy
upon my mind and I can only assume that of the members of the Township Council. If we say 'no' to these relatively modest developments, we expose the entire Township to a much greater development.

One final point I would like to touch upon is the inclusionary issue that has been discussed and debated at length. I am a strong proponent of inclusionary developments in which the affordable and the market units and intermingled not only with the same development but among the various buildings within a development. Having a 100% affordable development often lends itself to stereotyping and unequal treatment. I never want any resident of our community to be singled out and identified as economically disadvantaged simply by stating where they live.

We've been effective and even proactive in achieving our affordable housing obligations thru inclusionary developments and even enter the current cycle with a small surplus in affordable housing credits. Even a developer of million dollar plus homes was required to build inclusionary affordable housing on site. This is something I am proud of and something we should be proud of as a community.

I sincerely appreciate the members of the public who have come out to the meetings and offered their input and suggestions. If there was a magic bullet to address this situation we would certainly employ it. We have historically and will continue to maximize our use of credits for group homes, maximize our credits for age-restricted affordable housing for seniors and maximize our credits for rehabilitating existing homes of income qualified individuals. We will also continue to purchase additional open space in Denville in order to maintain the character of our community and the active and passive recreational opportunities that our great Township offers to all residents.

In closing, I support the settlement agreements on the agenda this evening and encourage the members of the Township Council to approve these agreements as I believe the best protect the specific neighborhoods where they are located as well as the community as a whole for even larger and more consequential development.

Thank you.
Remarks by Dino Cappello, President DBOE

First off let me thank you for giving me the opportunity to address you on behalf of the Denville Board of Education. The board recognizes the hard work and difficult decisions each of you have to make for the overall good of Denville and we want thank you for your service. We also want to wish those of you leaving the council in a few weeks luck in your future endeavors.

Board members have asked me to relate to you that we were pleased and encouraged to see a reduction in the number of 3 bedroom units in this new settlement agreement for the Glenmont Commons development when we reviewed it. As we have stated previously in presentation to the council and individually to you, 2 and 3 bedroom units are of great concern for the district as they generate a much higher # of school age children then similar 1 bedroom units. We want to thank you for taking our concerns into account here.

On the other hand, the board was disappointed with the lack of any reductions in the Toll Bros/Ram Associates settlement agreement. As this is a much larger development, the balance of 3 bedroom units is even more critical from our point of view.

For context, I would like to remind you that our current K-8 enrollment is currently 1,650 children. The expected new enrollments from these two developments alone add more than 10% to those #'s.

The board has asked me to express our concern that these developments on their own and as examples of future developments to come, represent a significant challenge to our ability to accommodate and properly educate our children without major building additions, and or possibly new facilities and the supporting costs that would incur.

We sincerely hope you continue to have frank and open discussions with developers looking to build in Denville regarding the limitations our schools are under and the position of the board that further developments in Denville especially those compromising multi-bedroom units will put escalating financial burdens on the district and hamper our ability to educate our children at the high level our constituents expect.

Thank you for your time.
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Thank you for your time.
Calculating Student Yields

Existing Residential Units:

Projecting student yields from full occupied units, especially those which have been in existence for more than 10 years (multi-family, townhouses, condominiums, or apartments cannot be based upon a defined student yield number. Once a complex matures then numerous factors complicate the development of a yield factor (students per unit). This is because there is no way to predict turnover, individual who remain after they no longer have children in the system, long term renters, and so forth). The cohort survival method of projections takes into account, based upon the history of enrollment in a school District and accounts for all reasons why students entered or left the school District. In New Jersey the cohort survival method is based upon six years of enrollment history which accounts for all reasons students enter or leave. What the cohort survival method does not account for are projections due to future residential housing. For that reason a yield factor must be developed (the number of students that can be reasonably estimated from different types of residential units). But any yield factor developed could not be applied to existing units because we cannot predict with any degree of accuracy how many units will become available within the period of time that is being projected. For example, if there is a 200 unit development in a town that is 20 years old, how can we reasonably predict when units will be available. So, applying a student yield factor to an older unit would not provide any projection that would be useful for future school planning. For example, if a yield factor that states for every unit type we can project .58 students. If the building exists with 200 units the projection would be 116 students--but there is no way to know when these units would become available. By the same token we cannot use older and fully occupied units to develop a yield factor simply because we don't know the occupants of those units (we may know students in those units because we can track them through school records), but we don't know about other residents in that development.

Projecting Students from New Residential Developments

In order to project the number of student a student yield factor needs to be applied to different types of residential units. For many years school demographers in New Jersey relied on the Listokin Study, "Who Lives in New Jersey" often referred to as the Rutgers study. This study was released in 2006 and became the "bible" for demographers (including me) for projecting new housing both for market rate and affordable units. This report followed on the heels of the Mount Laurel Decision regarding affordable housing. The problem is that the report was released in 2006 based upon data researched over a period of time prior to its release. As a result, this report is now approaching 12 years old and has lived through the housing crisis of 2008, changing home buying patterns and changes in affordable housing issues. I began to notice about five years ago
that using the Rutgers Study was producing lower projections. This was confirmed by reviewing projects that I had done where the numbers of students coming into the districts from new developments was higher than I would have expected. Recognizing that this was happening I wanted to find a more District oriented student yield factor. The way I did it was to find similar types of units within the individual town and/or comparable communities. As I stated in the first section of this writing is that using older developments would not be of great help so my comps were units that had been completed within five years of the historical development and occupied in that time frame. This would give me a better handle on actual impact of a new development on the schools. The communities I did this assessment on were Monroe Township (Middlesex County); Piscataway Township, Madison Boro; Woodbridge Township; Old Bridge Township. In doing this research I did not consider age-restricted developments or Transit Village (those developments not considered child friendly. The average yield factor that I developed for multi-family units was .63 for market rate units divided as: .015 for 1 bedroom; 0.78 for two bedrooms; and 1.1 for 3 bedroom units. For affordable units my average was .84 divided up as .025 for one bedroom; 0.78 for 2 bedrooms; 1.26 for three bedrooms. For Denville I used these factors as follows:

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<tr>
<th>Table 1</th>
<th>Type</th>
<th>Market Rate</th>
<th>Affordable</th>
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<tr>
<td></td>
<td>Units</td>
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<tr>
<td>Redmond Press*</td>
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<tr>
<td>Total</td>
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</table>

* Redmond Press apartments is designated as a transit village. It is unlikely to yield many students to the District in that transit villages, being located near train stations, are usually not built with accommodations for children such as open areas and playgrounds.

These development listed above indicate a total of 280 units producing 130 students. That would be an average student yield (for all units) of .46. That is the average, I applied the yield factors based upon the number of bedrooms per unit. This methodology has resulted in a three year margin of error of just over 1% and a four year margin of error at 1.5%.

It is not unreasonable to estimate students coming in from units not considered either age restricted or Transit Villages at a .46 yield for a District such as Denville (for multi-family units--single family homes are calculated differently). This can be further broken down by individual units by applying the specific yield factor to the bedroom count.
My name is Irving Cohen, 19 Copeland Road Denville and I am sorry that I am not here for this very important meeting for the Township of Denville and for all its citizens. As I have said in the past, there is no easy solution to a complex problem. You are being pushed by legal challenges, greedy developers and a constituency that wants to have affordable housing but not the kind that is being forced down ours and your throats.

We know that you must react to the settlements needs, the court’s demands and are attempting to act in the best interests of Denville. Not being disrespectful but are you really doing that by voting tonight. Why do I say that? You know that I have no underlying political motives. I have made that clear to all of you. So why am I saying this?

Because you are trying to fit a watermelon through a keyhole. Yes you are pushing ahead on voting to settle with the intervenors before doing what is responsible on your part—that is adhering to the Master Plan of Denville. You are assuming that you can settle without the zoning in place. Your own Master Plan requires Denville to have a public hearing on this zoning change before it is a “fait du complit”. You are doing this backwards and forcing the process to pass the zoning without due process. I am asking you not to do this. Please put off this vote until you have followed proper procedures in the order that it is meant to be.

Again, I ask you to listen, not just hear. The time is now to do what is correct and proper, in the order that it was meant to be.

With due respect, I remain,

Irving Cohen
Mallary Steinfeld
147 Casterline Road
I start with a football analogy:
Lately, Giants' fans have been ashamed and embarrassed by Ben McAdoo and the Giants' team management.
The people in charge of the Giants failed in their loyalty to Eli Manning and failed in their loyalty to the fans.
Eli showed up for every game and made himself part of a team, yet Ben McAdoo destroyed Eli's perfect record and undermined the spirit and the integrity of the team. Nothing that the Mara family does now can restore Eli's perfect record.
The actions already taken by the Giants' management are like a bell that cannot be "unrung".
The Giants' Management did not look for solutions by thinking outside the box.
The result, among other things, is destruction of a perfect record and a fan base that is boycotting games, at a possible financial loss for the Giants' franchise.
I offer this football analogy to suggest that the Denville Town Council has the opportunity now to VOTE NO to the Casterline settlement, resulting in a Zoning change, or at least to decide not to vote tonight, at all.
By voting NO to the settlement, the Council can avoid being known as the Ben McAdoo of our Denville team.
We are the fans and we are your teammates, and WE deserve the loyalty of the Council. Not Ed Mosberg.
Please do the right thing.
Think outside the box for solutions.
Vote NO, while you still can, or at least, choose not to vote tonight, at all.
Because once you vote otherwise, that bell cannot be "unrung" and IF it turns out that any of your children and your grandchildren stay in Denville, they will have to live with the burdens of overdevelopment, overcrowding, increased taxes and traffic, and the eroded quality of a quiet and peaceful life, resulting from your bad decisions today.
Please vote NO.