The Meeting was called to order by President Kuser at 7:30 p.m. The Salute to the Flag was recited, followed by an Invocation given by Councilman Fitzpatrick. The Open Public Meetings Act Statement was read by Township Clerk Donna Costello.

ROLL CALL: FITZPATRICK, GABEL. Clerk Costello indicated that Mr. Golinski will be late and Mrs. Lyden will not be in attendance. SCOLLANS, SMITH, KUSER ABSENT: LYDEN

ALSO IN ATTENDANCE, MAYOR ANDES, ADMINISTRATOR WARD, TOWNSHIP ATTORNEY JANSEN, POLICE CHIEF WAGNER AND A CONTINGENT OF “DENVILLE’S FINEST”

Clerk Costello announced that this is a non-smoking facility and anyone wishing to smoke must leave the property. She also requested that all cell phones be silenced. Councilman Golinski arrived after the Roll Call.

SWEARING-IN CEREMONY OF SERGEANT SCOTT WELSCH

Mayor Andes noted that there was a lengthy interview process, in which he took part, and he is very pleased that Scott Welsch has been chosen for the Sergeant’s position.

Chief Wagner then took the floor and stated that it is always with a feeling of great pride that he participates in the promotion of another member of the Police force to a ranking position. He noted that there were a total of thirteen officers vying for this position and the competition was keen. The Chief noted that the choice is always difficult because each member of the force holds himself to a very high standard and he thanked each of them for that dedication.

Chief Wagner gave a brief history of Scott’s background. A copy is attached hereto. The Chief called Scott Welsch and his family forward and Township Clerk Costello administered the Oath of Office.

LIAISON REPORTS:

Councilman Scollans reported that he has attended all four of the meetings of the Senior Citizen Groups. He said that the meetings are interesting and enjoyable and the members are very happy when their questions and concerns are heard and attended to.

Mr. Scollans thanked Administrator Ward and Clerk Costello for responding to any Senior concerns that he brings to them.

Mr. Scollans noted that the Green Sustainability Committee had its second meeting last night. He said the team is terrific and the Committee is moving forward at a very fast pace. Mr. Scollans stated that he believes they will have about 20 vendors and about 200 people attending Earth Day. He said that the team is willing to work hard to make the day a big success. Mr. Scollans praised former Councilman Nick Stecky for his work with the Committee last year in acquiring the Bronze Award for Denville.

Councilman Golinski reported that the Valley View Firehouse Committee meeting has
Councilwoman Smith reported that the CERT (Community Emergency Response Team) is working on recruiting new members in order to build up its membership. She stated that, if anyone is interested in becoming a part of the team, they may call her and she will forward their information to the proper person.

Councilman Fitzpatrick noted that he is liaison to the newly formed Mayor's Advisory Committee on Rivers and Streams. He advised that a meeting was held at which an Engineer, with expertise in flooding issues, spoke to the Committee. Mr. Fitzpatrick said that one of the things that came up was a Hazard Mitigation Grant that may be available. He added that the Engineer offered to help the Township to fill out the appropriate paper work, free of charge. Mr. Fitzpatrick advised that members from the Green Sustainability Committee and the Environmental Commission also attended that meeting. He reported that the next meeting will be held on March 14th and Township Engineer John Ruschke will speak at that meeting.

Councilman Gabel read a prepared report, a copy of which is attached hereto.

President Kuser had no report.

MAYOR'S REPORT:
Mayor Andes reported that several of the Fire Dept. personnel who were to attend the Valley View Firehouse Committee meeting had conflicts so the meeting will be rescheduled.

The Mayor noted that the Administrator, Engineer and himself met with Senator Bucco last week. He said that they impressed on the Senator the importance of including the recreational lakes in the Regional Dam Release legislation that the Senator is proposing. Mayor Andes advised that the Senator was very open-minded and said that he will amend his bill to add recreational lakes.

Mayor Andes stated that he met with the Director of the Department of Environmental Protection on Friday and escorted her on a tour of the community. He said that she was very interested in looking into helping us with the Firehouse and other flooding issues. The Mayor requested that the Council give Advice and Consent to the appointments that he has submitted to them tonight. Clerk Costello distributed a copy to each member.

MOTION TO GIVE ADVICE AND CONSENT TO THE MAYOR’S APPOINTMENTS:
MOVED BY MEMBER GOLINSKI, SECONDED BY MEMBER SMITH
AYES: GOLINSKI, SMITH, GABEL, FITZPATRICK, SCOLLANS, KUSER
ABSENT: LYDEN

ADMINISTRATOR’S REPORT:
Administrator Ward reported that the Governor presented his budget today. He said that both he and Mr. Guarino looked on the State web site for the actual State Aid figures but they are not yet posted. Mr. Ward advised that he will forward that
Mr. Ward noted that he has spoken to Mr. Fitzpatrick with regard to the grant that the Mayor’s Advisory Committee on Rivers and Streams will be seeking. He said that our Engineer has been put in touch with the Engineer who is writing the grant in order that everyone will be on the same page throughout the process.

OPEN PUBLIC PORTION:
Gerry Idec, 1 East Longview Trail, asked for clarification of Ordinance #3-12 which concerns rates and fees for recreational bathing.
President Kuser replied that ordinance is aimed at public bathing, not at homeowners. He said that it regulates public facilities that have a hot tub, such as a spa or a pool. Mr. Kuser gave the Hampton Inn as an example because they have a year-round indoor pool. Mr. Ward added that this is a requirement of the State and we are not just adopting a fee schedule, the entire ordinance is a requirement. He said that it does not apply to a swimming pool or jacuzzi in a home. Mr. Ward explained that it is only for commercial establishments or areas where it is for other than individual use. He noted that lake associations and pools, such as the one at the Hampton Inn, come under this ordinance and must be inspected.
Albert Szollosi, 43 Crystal Dr., congratulated Mayor Andes on his election and commended him for the work he does for Denville. Mr. Szollosi read a prepared statement, a copy of which is attached hereto.
Mayor Andes asked Attorney Jansen to answer Mr. Szollosi’s questions.
Mr. Jansen commented that Mr. Szollosi’s premise that Mary Avenue is a public road is incorrect. He said that, quite clearly, the traveled roadway known as Mary Avenue is neither a dedicated nor an accepted public roadway. Attorney Jansen added that it is his understanding that the Township acquired some of the lots, which the traveled way traverses by way of Open Space acquisitions over the past couple of years. He said that he is sure that it was understood by Green Acres, at the time of acquisition, that there was a private, traveled roadway that crosses those lots. Mr. Jansen noted that he does not know if we are in a position to improve that private road without going to Green Acres for approval. He said that he cannot answer that question but his personal feeling is that a minor modification might be possible.
Mr. Szollosi asked who would be liable if an accident occurs on that road and, if it is not public, what is it. He also asked how the Township could erect a building on a non-existing road.
Attorney Jansen replied that the Township has the discretion to build on a private road, just as it has the discretion to grant permits to others to build on a road that is not improved to Township standards. Mr. Jansen cited the litigation that sought to declare Mary Avenue a public roadway and noted that the Worts’ litigation failed and the Courts declared that the traveled way known as Mary Ave. is not a public roadway. He said that the Township has done some minor maintenance on the roadway but it has never been dedicated to, nor accepted by, the Township. Mr. Jansen stated that he would be Township Council
happy to sit down with the Mayor, Administrator Ward and Mr. Szollosi and go over this in a lot more detail.

Mr. Szollosi continued to argue his point about Mary Avenue.

Mr. Jansen explained in detail that the Township has no responsibility to improve or maintain a private roadway. He added that the Township is prohibited from spending public money on a private roadway unless the Council determines that the roadway is sufficiently traveled to warrant such expenditure, and passes an ordinance to that effect. He said that no such ordinance has ever been adopted.

President Kuser suggested that Mr. Szollosi meet with Administrator Ward and Attorney Jansen.

Mayor Andes suggested that the meeting with Attorney Jansen, Administrator Ward and Engineer John Ruschke, and himself, be scheduled for Tuesday and they will all discuss this with Mr. Szollosi. The Mayor said that they will try to find some way to help out. Mr. Jansen noted that the fact that the Township now owns some of those lots, may allow the Township to be more helpful.

Due to vacation schedules, it was decided that Mayor Andes will set up a date that will be mutually convenient for all parties.

George Strother, 91 Cedar Lake East, stated that he is a member of the new Mayor’s Advisory Committee on Rivers and Streams. He said that one of the initiatives of the Committee is to remove the various trees that are in the river. Mr. Strother stated that his purpose tonight is to ask the Council, Administrator and anyone else who may have any suggestions about resources to help with this initiative.

Administrator Ward noted that during Mr. Gabel’s liaison report, he mentioned that the Township is applying for an $80,000.00 Community Development Grant. He said that the purpose was 100% “de-snagging” of the Rockaway River for the very purpose that Mr. Strother has mentioned. Mr. Ward noted that the hearing with regard to that application is on March 5th and 6th and is ultimately submitted to the Freeholders for their approval. He said that a letter from the citizens to the Freeholders asking for strong consideration of the application may be helpful.

Mr. Strother noted that it is a great start but still asked for leads on other resources, such a machinery and other groups or individuals who may help.

There was a discussion concerning what organizations may lend a hand and how the project can be accomplished. It was noted that there are many points where the river can be accessed through Township-owned land.

Mr. Fitzpatrick asked what kind of authority the Committee would need to go into the river if they were able to amass a semi-professional work group to remove trees. Liability issues and the possible need for DEP permits were discussed.

Administrator Ward replied that he will look into that aspect.

Mr. Kuser suggested, since it is the Mayor’s Advisory Committee, that they discuss it at their meeting and bring some thoughts to the Mayor, who can then approach the Council.

CLOSE PUBLIC PORTION.
MATTERS OF OLD AND/OR NEW BUSINESS:
Mayor Andes noted that the good news is that our downtown has been very prosperous lately. He said that the bad news is that it is a little rough getting a parking space and, with our new restaurant in town, it has become obvious that one-hour parking is not sufficient. Mayor Andes asked the Council to give Administration the latitude, with regard to the Bloomfield Avenue parking lot, to convert some of the permit parking spaces, which are not being used, into a free parking zone. He said that it would be for a period of 90 days. The Mayor stated that it would be a short-term opportunity to re-evaluate the parking situation.
Clerk Costello asked if the Mayor is suggesting that the Council give latitude to changing the regulation across the Route 46 back lot, where we would normally plow snow. She added that, currently, that area prohibits parking from November through April and it could easily free up twenty spaces.
The Mayor said that the reason they are not suggesting specific zones is that they can be added to or subtracted from as needed. He said that the Police Chief has suggested that area near Route 46 as a possibility. Clerk Costello asked what is going to be done about the people who have already purchased permits. The Mayor replied that they are just expanding the metered parking areas.
President Kuser suggested that, for the people who have already purchased permits, they should be able to retain their "sweet spots" up front.
The Mayor agreed and said that the additional, free parking will be way in the back of the lot. He said that we have to do something to alleviate it now, while we are developing a plan.
Councilwoman Smith asked if the Mayor has considered having 1 ½ hour parking between 11:00 a.m. and 2:00 p.m.
Mr. Andes noted that it would work fine for the restaurants but not for the in-and-out shops.
Mr. Fitzpatrick told the Mayor to come back to the Council immediately for anything he needs. He said that he completely agrees with the Mayor.
The Mayor stated that we need to have regulations and we need to enforce them or they mean nothing.
Mr. Scollans agreed and said that the Council should move on it as quickly as possible.
Mayor Andes asked for a period of 90 days.
MOTION TO RELAX PARKING REGULATIONS IN BLOOMFIELD AVE. LOT FOR 90 DAYS: MOVED BY MEMBER GOLINSKI, SECONDED BY MEMBER SMITH
Mr. Fitzpatrick recommended a press release. Mayor Andes replied that the Chief will be issuing one tomorrow.
AYES: GOLINSKI, SMITH, GABEL, FITZPATRICK, SCOLLANS, KUSER
ABSENT: LYDEN
Councilman Gabel asked Mr. Ward if he has an update on the road evaluation system that Mr. Ruschke is using for the road paving. Mr. Ward replied that he and the Mayor spoke with Engineer Ruschke today and the evaluation is completed. He noted that Mr. Ruschke is just finalizing the ranking and ratings of the roads that were presented at the budget hearing. Mr. Ward advised that it will probably be available by then end of next week.

ORDINANCE(S) FOR INTRODUCTION
#3-12 RECREATIONAL BATHING CODE

BE IT RESOLVED THAT AN ORDINANCE ENTITLED:
AN ORDINANCE OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS, STATE OF NEW JERSEY TO ADOPT THE PUBLIC RECREATIONAL BATHING CODE AND TO AMEND CHAPTER II-A, FEES, RATES AND CHARGES OF THE GENERAL ORDINANCES OF THE TOWNSHIP OF DENVILLE
BE INTRODUCED AND READ BY TITLE ON FIRST READING:
MOTION TO INTRODUCE: MOVED BY MEMBER GOLINSKI, SECONDED BY MEMBER SMITH
DISCUSSION: Mr. Golinski noted that he sent a draft of this ordinance to the Trustees of Indian Lake and they don’t see any problems with it. President Kuser noted that the fees are a lot lower than the County recommended. Administrator Ward advised that the State Department of Health came in last Fall and performed an audit of our operations and recommended that we implement this. He said that our new RHS, Laura Decker, inspected all of the lakes, pools and spas last year. Mr. Ward noted that all are in compliance and this ordinance should not be an overwhelming hurdle for any of them.
ROLL CALL: GOLINSKI, SMITH, GABEL, FITZPATRICK, SCOLLANS, KUSER ABSENT: LYDEN

BE IT RESOLVED THAT AN ORDINANCE ENTITLED:
AN ORDINANCE OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS, STATE OF NEW JERSEY TO ADOPT THE PUBLIC RECREATIONAL BATHING CODE AND TO AMEND CHAPTER II-A, FEES, RATES AND CHARGES OF THE GENERAL ORDINANCES OF THE TOWNSHIP OF DENVILLE
BE PASSED ON FIRST READING
AND 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 3-20-12 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 ACCORDING TO LAW.

MOTION TO PASS ON FIRST READING: MOVED BY MEMBER SCOLLANS, SECONDED BY MEMBER FITZPATRICK
AYES: SCOLLANS, FITZPATRICK, GABEL, SMITH GOLINSKI, KUSER
ABSENT: LYDEN

ITEMS FOR DISCUSSION AND/OR ACTION: None scheduled.

President Kuser asked if anyone from the Council or from the public wished to have anything removed from the Consent Agenda.
Clerk Costello advised that some typos have been corrected and some non-substantive changes have been made by the Attorney. She said that they have been corrected on the master copy and will be put in the minutes correctly, even though the changes have not been made on the Council’s copies.
Administrator Ward requested that #12-50 be pulled from the Consent Agenda. He advised that there is a minor modification to it.

CONSENT AGENDA:
R-12-49 RESOLUTION AUTHORIZING PARTICIPATION IN THE YEAR 2012 (MCARP) MORRIS COUNTY ADAPTIVE RECREATION PROGRAM
R-12-51 RESOLUTION AUTHORIZING THE REFUND OF MONEY DUE TO THE REDEMPTION OF A TAX SALE CERTIFICATE IN THE AMOUNT OF $1,057.80.
R-12-52 RESOLUTION AUTHORIZING RAFFLE LICENSES IN THE TOWNSHIP OF DENVILLE

MOTION TO APPROVE CONSENT AGENDA: MOVED BY MEMBER SCOLLANS, SECONDED BY MEMBER GOLINSKI
AYES: SCOLLANS, GOLINSKI, GABEL, FITZPATRICK, SMITH, KUSER
ABSENT: LYDEN

R-12-50 RESOLUTION AUTHORIZING EXECUTION OF A MEMORANDUM OF AGREEMENT BETWEEN THE TOWNSHIP OF DENVILLE AND PBA LOCAL #142

MOTION TO APPROVE R-12-50: MOVED BY MEMBER GOLINSKI, SECONDED BY MEMBER SCOLLANS
DISCUSSION: Administrator Ward advised that the PBA has requested that the memorandum of agreement expire on 12-31-12 and Administration has no objection to that.
AYES: GOLINSKI, SCOLLANS, GABEL, FITZPATRICK,
Councilwoman Smith asked for an explanation as to why they want it to end this year.
Mr. Ward replied that part of it has to do with the new interest arbitration reforms. He
said that the permanent policies could impact them in interest arbitration in 2014. Mr. Ward noted that this is a one-time fix for a hire that we were looking to do this Spring, so the Township had not objection to this expiring on 12-31-12 and not being a permanent addendum to the contract. Mrs. Smith noted that the contract runs through 2013.

CONTINUATION OF ROLL CALL: SMITH, KUSER

ABSENT: LYDEN

R-12-53       RESOLUTION AUTHORIZING THE TRANSFER OF CALENDAR YEAR 2011 BUDGET APPROPRIATIONS

MOTION TO APPROVE R-12-53: MOVED BY MEMBER FITZPATRICK, SECONDED BY MEMBER SCOLLANS

Councilwoman Smith commented that she does not think the fuel budget should be cut, nor does she think there is enough money allocated to gasoline.

AYES: FITZPATRICK, SCOLLANS, GABEL, SMITH, GOLINSKI, KUSER

ABSENT: LYDEN

R-12-54       RESOLUTION AUTHORIZING PROFESSIONAL SERVICES AGREEMENT WITH WILLIAM C. DENZLER, PLANNER

MOTION TO APPROVE R-12-54: MOVED BY MEMBER SCOLLANS, SECONDED BY MEMBER SMITH

AYES: SCOLLANS, SMITH, GABEL, FITZPATRICK, GOLINSKI, KUSER

ABSENT: LYDEN

R-12-55       RESOLUTION OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS AND STATE OF NEW JERSEY CONFIRMING THE SALE OF VARIOUS ITEMS OF MUNICIPAL PROPERTY NO LONGER NEEDED FOR PUBLIC USE

President Kuser noted that all members received a copy of the schedule tonight. Mr. Golinski asked what the five columns to the right represent. Township Clerk Costello replied that we do not have the answer to that because the schedule was only received at 3:50 p.m. this afternoon. Mr. Kuser asked the Administrator if he could shed any light on this. Mr. Ward replied that he was in a meeting with the Mayor when Darlene brought this to his office. Mrs. Costello noted that the column at the far right is the amount that we generated for the “junk” that is no longer needed. She advised that it is over $20,000.00 and, she believes that the column with amounts of $10 and $20 represent the buyer's fee. Mrs. Costello added that she does not know what the other columns are because this is exactly how she got it. Mr. Ward apologized and said that he is very embarrassed at the way this is presented.

MOTION TO APPROVE R-12-55: MOVED BY MEMBER GOLINSKI, SECONDED BY MEMBER SCOLLANS
AYES: GOLINSKI, SCOLLANS, GABEL, FITZPATRICK, SMITH, KUSER
ABSENT: LYDEN

R-12-56 RESOLUTION REFUNDING THE PAYMENT OF TAXES OVERPAID FOR CALENDAR YEAR 2012 - $2,963.49
MOTION TO APPROVE R-12-56: MOVED BY MEMBER SCOLLANS, SECONDED BY MEMBER FITZPATRICK
AYES: SCOLLANS, FITZPATRICK, GABEL, SMITH, GOLINSKI, KUSER
ABSENT: LYDEN

R-12-57 RESOLUTION AUTHORIZING AGREEMENT WITH SPECTROTEL, INC. FOR LOCAL AND LONG DISTANCE TELEPHONE SERVICE
MOTION TO APPROVE R-12-57: MOVED BY MEMBER GABEL, SECONDED BY MEMBER SMITH
Councilwoman Smith commented that she assumes this move was analyzed and asked how it is benefitting the town.
Administrator Ward replied that, based upon what we are currently paying and the quotes that were received from other companies, several thousand dollars a year can be saved by making the switch.
AYES: GABEL, SMITH, FITZPATRICK, GOLINSKI, SCOLLANS, KUSER
ABSENT: LYDEN

R-12-58 RESOLUTION AUTHORIZING ISSUANCE OF SPECIAL ONE DAY ABC LIQUOR LICENSE
MOTION TO APPROVE R-12-58: MOVED BY MEMBER SMITH, SECONDED BY MEMBER FITZPATRICK
AYES: SMITH, FITZPATRICK, GABEL, GOLINSKI, SCOLLANS, KUSER
ABSENT: LYDEN

R-12-59 STATE OF NEW JERSEY, DEPARTMENT OF ENVIRONMENTAL PROTECTION GREEN ACRES ENABLING RESOLUTION
MOTION TO APPROVE R-12-59: MOVED BY MEMBER SCOLLANS, SECONDED BY MEMBER FITZPATRICK
AYES: SCOLLANS, FITZPATRICK, GABEL, SMITH, GOLINSKI, KUSER
ABSENT: LYDEN

MOTION TO APPROVE MINUTES OF 1-31-12, 2-7-12 AND 2-11-12: MOVED BY MEMBER SMITH, SECONDED BY MEMBER GOLINSKI
AYES: SMITH, GOLINSKI, GABEL, FITZPATRICK, SCOLLANS, KUSER
ABSENT: LYDEN

R-12-60 RESOLUTION AUTHORIZING CLOSED SESSION FOR PENDING
LITIGATION - ALLAMAN FORECLOSURE.
President Kuser advised that action will be taken after the Closed Session.
MOTION TO APPROVE R-12-60: MOVED BY MEMBER SMITH, SECONDED BY MEMBER SCOLLANS
AYES: SMITH, SCOLLANS, GABEL, FITZPATRICK, GOLINSKI, KUSER
ABSENT: LYDEN

President Kuser thanked the public for their attendance and reiterated that action will be taken when Council comes out of Closed Session.

The Council went into Closed Session at 8:45 p.m.
The Council came out of Closed Session at 8:58 p.m.

R-12-61 RESOLUTION OF THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF DENVILLE, IN THE COUNTY OF MORRIS AND STATE OF NEW JERSEY, AUTHORIZING THE ADJUSTMENT OF ACCRUED INTEREST AND PENALTIES ASSESSED AGAINST BLOCK 41102, LOT 91, ALSO KNOWN AS 8 TOMAHAWK TRAIL

Clerk Costello then read the complete resolution into the record. A copy is attached hereto.
It was determined that the correct Lot number which will be corrected is in question. It shows as both 91 and 911 on different documents. The correct number will be confirmed.
MOTION TO APPROVE R-12-61: MOVED BY MEMBER SCOLLANS, SECONDED BY MEMBER FITZPATRICK
AYES: SCOLLANS, FITZPATRICK, GABEL, SMITH, GOLINSKI, KUSER
ABSENT: LYDEN

MOTION TO ADJOURN: MOVED BY MEMBER GOLINSKI, SECONDED BY MEMBER FITZPATRICK
AYES: UNANIMOUS
ABSENT: LYDEN

MEETING ADJOURNED AT 9:06 P.M.

Respectfully submitted by:

Kathleen A. Costello
Deputy Township Clerk