The Meeting was called to order at 7:30 p.m. by President Fitzpatrick. The Salute to the Flag was recited, followed by the reading of the Open Public Meetings Act Statement by Deputy Clerk Kathy Costello. Mrs. Costello reminded all present that this is a non-smoking facility and requested that cell phones be muted or turned off.

**ROLL CALL:** KUSER, GABEL, GOLINSKI, LYDEN, SCOLLANS, SMITH, FITZPATRICK
ALSO IN ATTENDANCE: MAYOR ANDES, ADMINISTRATOR WARD, ATTORNEY PAULA DE BONA AND CONSTRUCTION OFFICIAL SAL POLI.

President Fitzpatrick welcomed the members of VFW Post 2519 who are in attendance tonight.

**CEREMONIAL MATTERS AND/OR PRESENTATIONS**

President Fitzpatrick turned the meeting over to Councilman Golinski and Mayor Andes. Councilman Golinski commented that the sign that is being presented to VFW Post 2519 for their athletic field does not come close to conveying the appreciation that these men and women deserve for their service to our Country and our community. He said that it is very fitting that the field across from the Post be named “Veterans of Foreign Wars - Post 2519 Field”. The Mayor, Councilman Golinski and President Fitzpatrick assembled with representatives of the Post, in front of the dais for the presentation of the sign.

Pictures were taken with everyone gathered around the sign.

Mayor Andes made some brief remarks, thanking Mr. Golinski for bringing the idea of the sign to the Council’s attention and he thanked the veterans as well. The Mayor presented 100th Anniversary pins to the member of the VFW Post 2519.

A representative of the Post thanked the Council and all involved for recognizing the Post with this sign.

Councilman Golinski thanked Administration for recently hiring a Marine veteran. He said that he would like to encourage the Township and all of the local employers to go out of their way to recruit and hire veterans, wherever possible.

Administrator Ward, following up on Mr. Golinski’s comments, noted that the most recent hire at the Department of Public Works is a Marine veteran who grew up in Denville whose name is Eric Gore. He said that Mr. Gore is only in his second week of employment but has already proven his skills and is going to be a great addition to our DPW. Mr. Ward added that Mr. Gore’s service to our Country was a large consideration in his being selected for the vacancy. He said that the leadership skills that he learned in the military set him head and shoulders above the other applicants.

A member of the VFW asked that everyone keep Sgt. Matt Novellino in their prayers. He explained that Matt is with Special Forces in Afghanistan and is the son of former Township Council
Denville police officer, Tony Novellino and his wife Anna.

OPEN PUBLIC PORTION:
Charlie Weldon, 40 Lenape Island, thanked the Township and commended them on the work that was done on the North Shore wall. He said that, as one of the Trustees of the Community Club, he wanted express their appreciation.
Mr. Weldon then spoke of the wall that was erected at the ramp from Rte. 46 to Rte. 53. He said that he does not understand why it was taken down.
Mr. Ward explained that it was built by well-intentioned volunteers from the Beautification Committee but that that piece of property is owned and maintained by the State Department of Transportation. He further explained that a DOT inspector came out to look at the wall and expressed concerns that the work was performed without permits and that it did not meet DOT guidelines for safety. Mr. Ward noted that the regional office mandated that the wall be taken down in order to avoid a daily fine. He said that, currently, an application for permits has been made and the wall may be rebuilt with the required type of brick, which will be pinned.
Mr. Weldon asked for a status report on the situation that arose with our upstream neighbors during the flooding.
Mr. Ward replied that it is a matter of pending litigation and, as such, he is unable to comment.
Franz Fuertges, 109 Ford Road, stated that members of the Beautification Committee have expressed interest in having their own T-shirts. He said they would like to have them say “Grow with Us - Grow with Denville”. Mr. Fuertges noted that the members would like to wear these shirts instead of safety gear.
Mr. Fuertges asked if the use of the old Morris Canal is being considered to avoid flooding.
President Fitzpatrick replied that he will defer to Administration with regard to the T-shirts from a safety standpoint.
Mayor Andes interjected that Mr. Fuertges received the “Living Treasure” award this afternoon and, today we are celebrating “Franz Fuertges Day”. The Mayor added that the Beautification Committee has a budget, similar to the Recreation Committee, and T-shirts can certainly come out of that budget. He suggested that Mr. Bogardus be consulted about the type of shirt that would meet the safety standards and promote the Beautification Committee. The Mayor said that he will ask that Mr. Ward speak with Mr. Bogardus and they will then have Irene Stefanacci get back to Mr. Fuertges.
President Fitzpatrick noted that, with regard to the Canal being used for flood mitigation, the Engineer and the Mayor, with a group of residents, have been out to look at it.
Mayor Andes explained that it is a very costly undertaking to go that route. He advised that Engineer Ruschke is working on finding a plan that is most likely to work but is not nearly as costly. The Mayor added that we will continue to apply for grant money to be used for flood mitigation.

Township Council
CLOSE PUBLIC PORTION.

PROPERTY MAINTENANCE DISCUSSION

President Fitzpatrick noted that property maintenance has been a big issue for the Council for several years. He said that the Council, by means of two sub-committees, tried to craft their own ordinance but found it to be a difficult and complicated task. President Fitzpatrick advised that the most recent sub-committee focused on the International Property Maintenance Code and they feel that they have come up with a reasonable and workable ordinance for Denville.

Mayor Andes spoke about the difficulties involved in trying to develop a good ordinance and said that there are many issues out there to address. He said that our professionals need the tools to address extreme cases and be able to enforce them.

Administrator Ward noted that, after discussion with the Construction Code Official, it was time to look at a code that has been adopted and is being used internationally and is the current standard in the United States. He added that, out of 39 municipalities in Morris County, Denville is one of five that does not have a property maintenance code and there are many who use the International Property Maintenance Code, including many of our neighboring towns.

The Administrator advised that during the six to ten sub committee meetings, to avoid any ambiguity as to our intent, a preamble was crafted which is listed in the first paragraph of the proposed ordinance. He said that it clearly spells out the Council’s intent and how the Code will be applied. Mr. Ward explained that legislative intent is something that is taken into consideration in a Court proceeding, should it come to a point where a violation is issued and appealed.

President Fitzpatrick read the preamble into the record. (A copy is attached to these minutes.)

President Fitzpatrick asked Councilman Kuser for his comments, since he was an integral part of the sub-committee last year.

Councilman Kuser noted that an important point about this ordinance is that it effects both commercial and residential properties. He said that we need this kind of tool to make sure we protect the home owners of Denville. Mr. Kuser commented that it follows the IPMC code, is a proven document that works and holds up in Court. Mr. Kuser said that it will help with many of the issues that his constituents bring to him. He added that there is a plan to brief the Council on COAH funds that are available to the needy and elderly residents for rehabilitation purposes.

Councilwoman Smith, having been on two sub-committees, commented that the real key is that we need to provide the tools needed by our officials to address unsafe conditions. She said that there are structures that are unfit and dangerous and we need to provide the means for our officials to address these issues. Mrs. Smith stated that the proposed ordinance is the enabler to get rid of the egregious situations that Township Council
exist and she supports this proposed ordinance. Councilwoman Lyden commented that she is also very much in favor of the proposed ordinance and feels that it is important to have something like this in place. She asked for some clarification on enforcement. Administrator Ward replied that we would seek compliance by notification, then a notice of violation and finally a summons. He said that working with the residents is the best way to achieve compliance.

There was a brief discussion regarding the inability of the Code Official to gain access to a home without the homeowner’s consent. Construction Official Poli advised that, if there is a dangerous condition or children are involved, he would apply to the Court for a warrant. He said that 75% of the IPMC code book addresses the exterior of the building. President Fitzpatrick asked for a clarification as to why certain sections were amended, such as 4-d. and e. Mr. Ward explained that it was to customize it to Township departments. Attorney DeBona further explained that the parts of this ordinance that dealt with motor vehicles was intentionally deleted because the Township has already addressed that issue in an existing ordinance.

Councilwoman Lyden commented that there are people who have dilapidated homes and refuse to accept help, even though it is available to them. Mr. Poli replied that, if it gets that bad, he will take them to Court and the Judge will force them to get help. Mayor Andes interjected that he feels that it is very important that Court be the last resort. He said that the Construction Official will lose his power to negotiate if the first step is to take a homeowner to Court.

It was noted that the fine is up to $2,000 per day, per violation, at the discretion of the Judge. Mr. Poli added that most people do not want to go to Court. Councilman Scollans stated that the IPMC is a good start and definitely a step in the right direction. He said that he would support it. Mr. Scollans noted that he feels that we need a system that has teeth and will work for us and there is not a lot of teeth in the IPMC code. He asked if the IPMC code can be amended to make it a little tougher. Mr. Scollans cited a particular property, noting that this condition should not be permitted to continue.

President Fitzpatrick cautioned the Council that they can obviously not craft an ordinance that is specific to a certain property. He said that he agrees that we need something with a backbone and there may be areas where we can go further; but he still would not want to lose this step forward.

Mr. Scollans said that he agrees but asked if we get this proposed ordinance in place, will it help with issues like Franklin Road. He asked for Attorney DeBona’s advice regarding amendments to the IPMC. Attorney DeBona replied that they have already made amendments to it and additional amendments can be made as time goes on. She said that the Council needs to give it a chance to see how it will work. Mr. Poli agreed that the proposed ordinance should be given a chance to see how it
works. He said that we have a good start here that should help with the property that is being cited by giving him the tools to bring the property closer to compliance. Administrator Ward noted that everyone should be very cautious about referencing any specific property. He strongly urged that the discussion be kept to generalities. Mayor Andes asked Mr. Poli to explain the process he would follow for a house that was in total disrepair. Mr. Poli listed the steps he would take to achieve compliance.

Mrs. Smith said that her question is, “will this work for the situations that we have?” and the answer is yes. She also noted that, for the comfort of the public, there is an appeals process included in the ordinance. Councilman Gabel said that he has gone over this book for the past six months and finds it to be universal and comprehensive. He said that he believes it gives the Construction Official the authorization needed to address a number of properties that need attention and significant latitude to deal with situations that come to his office. Mr. Gabel commented that the definition section is vital since it gives everyone involved a clear understanding of the terms. He noted that the appeals process is fair and balanced. Mr. Gabel had a question regarding the dates in Section 602.3 and 602.4 that deal with heat. He suggested moving the dates, when heat is required to be provided, from October 15th through April 15th to September and May. Mr. Gabel stated that, other than that suggestion, he fully supports the proposed ordinance.

Administrator Ward explained that those dates were selected a couple of years ago in an effort to protect the renters in town. He said that they were adopted as a health standard in the Renters’ Protection Ordinance. Mr. Ward noted that the dates in this ordinance were chosen in order to remain consistent with the existing Renters’ Protection Ordinance. He said that we can look at the dates, with an eye to amending them, but we will then have to look at the other ordinance as well, for consistency’s sake.

Attorney DeBona noted that Section 305, dealing with the interior of a structure, has been eliminated. Mr. Ward asked if the eliminated section was strictly for owner occupied structures. Mrs. DeBona replied that it is only for owner-occupied structures. Councilman Golinski requested that the code be made available on our Township website so that the public may easily retrieve it, since it is a complex ordinance. Mr. Golinski commented that there are significant exemptions for owner-occupied homes in this code.

The Section covering heating of owner-occupied homes was touched on briefly. There was an extensive discussion concerning “occupiable work space” and the heating of such areas. Mr. Golinski was firmly in favor of eliminating that section from the code. Mr. Poli suggested that the ordinance be used as is until we see how it works. President Fitzpatrick asked the Council members for a consensus as to whether the section should be kept, omitted or if they have an alternate suggestion.
Councilman Gabel stated that he will support the ordinance with or without the section in question, but suggested that either “reasonable” or “appropriate” replace a specific temperature. He said that he would like to see the section remain in the ordinance and be adapted, as needed.

Councilman Kuser said that he is voting to support this ordinance and would like to retain the section in question. He commented that he would like to see the ordinance remain as whole as possible.

Councilwoman Smith stated that she would like to see it kept in the ordinance but would still support the ordinance if it is removed.

Councilwoman Lyden commented that she would like to keep the section in and move forward. She said that the IPMC seems to be pretty tried and true and has been working in neighboring towns.

Councilman Golinski suggested that we check with the other towns in Morris County who have adopted the code, to see if they are enforcing that section. He restated his opinion that the section should be omitted.

Councilman Scollans said that he firmly recommends that we go with the recommendation of our Code Official and accept the code as it is.

President Fitzpatrick stated that he strongly recommends that we keep the proposed ordinance as is. He said that he believes that if this section remaining in is a deal-breaker for Mr. Golinski, most of the Council would agree to remove it, but he strongly suggests that it be kept in, go forward and see how it works.

President Fitzpatrick asked Attorney DeBona for any comments or advice she may have regarding the proposed ordinance.

Attorney DeBona noted that, as Administrator Ward pointed out, most municipalities in Morris County have a property maintenance code that works and has been useful in addressing issues that arise. She said that it can be tweaked from time to time in order to have the ordinance work the way the Council intends. Mrs. DeBona advised that she does have a copy of Rockaway Township’s code with her and they did not delete that section.

Councilman Gabel said that he would be interested in Attorney DeBona’s opinion regarding the change that he suggested to “reasonable” or “appropriate”.

Mrs. DeBona replied that it is too vague a term and would be difficult to defend in Court and impossible to enforce.

OPEN PUBLIC PORTION:

Gerry Idec, 1 East Longview Trail, asked what department would enforce the property maintenance ordinance.

President Fitzpatrick replied that it would be the Construction Department.

Mr. Idec asked, if a property is deemed improperly maintained, will some kind of sticker be put on the property.

Construction Official Poli replied that a note would be left for the homeowner. He said that, before writing a violation, he would contact the owner in some fashion.
Mr. Idec inquired as to whether a homeowner could go to the Township and ask for a reduction in taxes because a next door neighbor’s house is in disrepair and it is affecting the property values of the homes around it. Attorney DeBona replied that anyone can file a tax appeal but it is up to the Judge to decide the end result. President Fitzpatrick further explained that the person can make any argument they wish to have their taxes reduced, but ultimately must convince the Judge of the validity of the argument.

Franz Fuertges, 109 Ford Road, stated that he understands Mr. Golinski’s argument regarding the temperature requirements for “occupiable work space”. He spoke of the different temperatures required in greenhouses and sheds that hold chemical and fertilizer. He agreed that the section should be eliminated.

Mr. Fuertges commented that he believes that often people do not improve their property because of the cost of the permits that are required. He suggested that the fee structure should be addressed.

Brian Walsh, 380 Franklin Road, stated that he is holding a notice of unsafe structure date 12/9/10 which states that there will be a $2,000 fine if action to remediate the condition is not taken by 12/25/10. He said that nothing was ever done. Mr. Walsh noted that, within two days of taking his car out of the garage and putting a new battery in it, he received a notice of violation for unregistered vehicle. He asked if this property maintenance code will have “selective enforcement”.

Mr. Walsh noted that there is no definition of “blighting” in the definition section of the code and suggested that the definition should be added.

Mr. Walsh asked if Mr. Poli went out to check the roof on the house next door to him because when the wind is strong, the shingles blow off that house and on to his property.

President Fitzpatrick asked what Mr. Walsh’s specific question is regarding the violation notice that he cited. Mr. Walsh replied that the neighbor was cited under a State statute.

Councilman Kuser replied that he believes that violation was for the garage, which was ultimately torn down. Mr. Walsh stated that it says “garage walls and roof”.

Mr. Poli agreed and said that they were both torn down.

Mr. Ward asked Mrs. DeBona if it is appropriate to be discussing a specific property. Attorney DeBona replied that she is not comfortable with discussing a specific property. President Fitzpatrick stated that we do not want to specifically target a property but Mr. Walsh can speak to Council members outside of this public meeting venue.

Mr. Walsh expressed his displeasure with the code due to the lack of certain definitions, such as “blighting”. He said that the State has a definition of it but this code does not. Attorney DeBona commented that she feels that the code is designed to address situations that would be unsafe, unhealthy or unsanitary, whether it uses the word “blight” or not.

Councilman Kuser interjected that, in the Miriam Webster Dictionary, one of the
definitions of “urban blight” is, “a deteriorating condition”.
It was agreed that “word-smithing” the document is not productive and the lack of a
definition for a few specific words does not change the effectiveness of the proposed
ordinance. It was also noted that a property maintenance ordinance has been a long
time coming and to delay it now would be a disservice to the community.
President Fitzpatrick provided a link on the internet to the International Property
Maintenance Code and it was posted to our web site today.
Administrator Ward interjected that five (5) copies of the code have been ordered and
will be available in the Clerk’s Office for anyone who wishes to look at it.
Attorney DeBona advised that, according to statute, we must have twenty (20) copies
on hand.
Mr. Ward replied that he will then order twenty (20) copies.
President Fitzpatrick suggested that copies could be made off the web site.
Mr. Ward replied that there are copyright issues that preclude that possibility.
Mr. Walsh asked for an update on the roof inspection that was done at the property next
door to him.
Mr. Ward replied that he and Mr. Poli will meet with Mr. Walsh after the meeting to give
him an update on that specific property.
Councilwoman Smith noted that there will be a public hearing on the proposed
ordinance at its adoption. She advised that, if the ordinance is introduced at the May
21st meeting, it will be slated for adoption at the June 25th meeting at which time a public
hearing will be held. Mrs. Smith added that the public hearing will be advertised before
that meeting.

CLOSE PUBLIC HEARING.

President Fitzpatrick made some brief remarks about the validity of the ordinance, the
need to have such an ordinance and the fair process for imposing violations. He asked
the Council to support the ordinance as is and reminded the members that amendments
can be made if it becomes necessary.
Mayor Andes commented that he has been an advocate for this type of ordinance from
the beginning and is at peace with it as it is. He made some suggestions for changes or
additions to the section to which Mr. Golinski objects regarding the use of a specific
temperature.
Attorney DeBona noted that the Mayor has made a good point. She said that the
exception could be expanded to include areas that should not be restricted by a
specific, required temperature.
Attorney DeBona stated that the ordinance can be amended but, in order to get the
ordinance introduced, we should go with it as it is and work on the language to make
that section more palatable.
President Fitzpatrick asked if an amendment could be made immediately upon
introducing the ordinance.
Attorney DeBona replied that a new amendment could be introduced right after adoption. She said that it could be at the same meeting at which the ordinance was adopted.
President Fitzpatrick suggested that the Council go forward with what they have and if, at any point, there is any Council member that would not support the ordinance, with this section included, an amendment to omit it would be introduced.
Councilman Scollans commented that he feels we are going down a dark road if every time one person opposes something in an ordinance, the Council immediately introduces an amendment to the ordinance.
President Fitzpatrick replied that he absolutely would not support that practice.
Councilman Golinski commented that changes cost money and we should get it right now. He said that he thinks the code is good but he still objects to that section on “occupiable work space”.
It was decided that the ordinance, as is, will be on the agenda for introduction at next week’s Council meeting.

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

MEETING ADJOURNED AT 9:27 P.M.

Respectfully submitted by:

Kathleen A. Costello
Deputy Municipal Clerk