

TOWNSHIP OF HAMILTON
6101 THIRTEENTH STREET
MAYS LANDING, NJ
JULY 6, 2009

The regular meeting of the Township Committee of the Township of Hamilton, Atlantic County, New Jersey was held on the above date with Deputy Roger Silva presiding. Members present were Amy Gatto, Thomas Palmentieri and Charles Pritchard. Mayor Gaskill was absent due to being ill. Also present were Edward M. Sasdelli, Township Administrator, Joan I. Anderson, Township Clerk, Randolph Lafferty, Township Solicitor and Daniel DePasquale, Township Engineer.

The meeting opened with the Township Clerk certifying compliance with the New Jersey Open Meetings Act by posting a notice on the bulletin board in the municipal building and by faxing or e-mailing a copy of the notice along with the agenda of this meeting to the Atlantic City Press, Atlantic County Record, Record Journal and Current newspapers stating this meeting would take place at 6:30 P.M. on Monday, July 6, 2009 in the municipal building, Mays Landing, New Jersey.

A moment of silence for private reflection was observed. Deputy Mayor Silva reported the death of Dave Woolbert who was a former Board of Adjustment Member and long time County Employee. He also reported the Mayor was in the hospital and asked that the public keep them in their prayers.

Wellness Campaign Fitness Challenge Winners

Deputy Mayor Silva explained 39 employees went on a 12-week fitness challenge starting in March and ending June 24th with a goal to encourage each other to get healthy and fit. He said they formed teams and lost a total of 728 pounds. The Deputy Mayor called the 3 individuals that lost the most weight forward to be recognized: Kristy Weller (37 pounds) Larry Washington (62 pounds) and Robert Pinizzotto (70 pounds). He said 19 participants lost between 10 and 29 pounds, 6 lost over 30 pounds and 2 lost over 40 pounds.

Presentations to the Fallen Soldier Monument Project donors

Veterans' Advisory Board Chairman Robert Campbell Sr. introduced Board members Lou Green, Michael Callahan, George Ausby, Allen Rhodes, Frank Williams and former member Bill Mangels. He explained over \$7,500.00 was raised for the Fallen Soldier Monument Project in 6 or 7 weeks from over 40 donors and the awards being presented were for those who supported it. Mr. Campbell said the monument was unveiled on Memorial Day and will be a formally dedicated soon. He said the monument is in honor of all the men and women who shed their blood and lives in the Desert Storm, Iraqi and Afghanistan wars.

Ms. Gatto, Liaison to the VAB, presented the Outstanding Donor award to American Salvage President Joseph Silipena who personally raised about half of the money needed for the monument and thanked him for his continued dedication to the Township. Ms. Gatto presented the second award to Rich DeFeo and commended him on his efforts to get the necessary money in so the monument unveiling could take place on Memorial Day. She said Mr. DeFeo's continuous efforts in the Township are greatly appreciated. Mr. DeFeo said this started as a dream of Frank Williams and finally came together with donations. He thanked the VAB Board for the award. Mr. Campbell said he was able to pick the monument up in Baltimore thanks to Mr. Silipena and Mr. DeFeo. Ms. Gatto presented the third award to Frank Williams for his leadership in this and thanked him for serving his country.

Mr. Williams, who is now retired from the Air Force, explained he got the idea when he attended memorial services for 3 air men who were killed in Iraq. Mr. Williams said it has today's weapons but it represents every American who gave his life for this country in all prior wars and will unfortunately represent future wars as well. He said the monument speaks for itself and was something he thought should be here. Mr. Williams thanked the VAB Board for the award.

Mr. Campbell said letters of thanks will be sent to every person who helped. He said a granite monument base has been purchased and is being worked on at Petersons in Egg Harbor. Mr. Williams said the footing for the base is already in place in front of the fountain in Memorial Park and it will be ready about July 21st and then a dedication date has to be worked on. Mr. Williams expressed his appreciation for what the citizens did, to Mr. Silipena for putting the fund raising over the top and the Township Committee for allowing the VAB to do this. Mr. Campbell thanked the Committee for allowing the VAB to collect money for this memorial. He asked every veteran and VAB Member present to stand and salute the governing body.

Ms. Gatto thanked the VAB Members for their efforts and Mr. Campbell for his leadership.

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Ms. Gatto moved, seconded by Mr. Palmentieri, that the following resolution be and is hereby adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that the following items be added to the agenda for consideration and action to be taken thereon tonight:

6.A Insert names of Businesses to be licensed:

1. Quality Modular Homes LLC 0 modular home sales office on Route 50
2. Deane N Diane's Cash & Coins - buying/selling coins, silver, gold, diamonds, jewelry, paintings & objects of art at Hamilton Mall
3. New Petro Stop Inc. - gas station/food etc. store at Route 50 & Third Street
4. Remember When - collectibles store on Main Street

RESOLUTION ADOPTED WITH ALL MEMBERS PRESENT VOTING "AYE", NO "NAY", NO "ABSTAIN", ONE MEMBER ABSENT.

There were no executive session confirmations to be made.

There were no requests to make early public comment on agenda items excluding those listed for public hearings.

2010 budget Report

Ms. Gatto explained the Finance Committee has been meeting regularly to talk about 2010 well in advance not only to figure out what the Committee is going to do to fill the budget gap but to see where the Township is in 2009. She commented on the audit report given at the last meeting and said it was stellar. Ms. Gatto explained the mid-year budget review being given tonight was something the Committee asked the Finance Professionals for at the beginning of the year. She said Mr. Sasdelli would talk about what 2010 looks like; that it will be gone into in more depth at the next meeting; and that there will be budget discussions at every meeting throughout the summer. Mr. Palmentieri said Ms. Gatto gave a good introduction and Mr. Sasdelli would fill in the details. He said the Committee Members could make a few comments after Mr. Sasdelli gives them the specifics.

Mr. Sasdelli gave a slide presentation of the packet he prepared on the 2010 budget and copies were distributed to members of the audience. A copy is on file and available for public review in the Township Clerk's Office and will also be put on the Township website. Mr. Sasdelli said it was a 2009 mid-year budget review and little preview for 2010. He explained the first slide was the same one he showed in December of 2008. He commented on apologizing to the department heads and telling them that no one was going to get what they wanted in 2009. Mr. Sasdelli said that the Administrator didn't get what he wanted, the residents didn't get the programs and services they wanted; the employees didn't get what they wanted; and the Township Committee didn't get what they wanted. Mr. Sasdelli commented private organizations struggling to raise funds since the economic down turn and said all government, not just this Township, started to cut wants in order to fund needs. He said the result is that the community groups are asking local government for money or resources and requests from the Rotary, the Merchants' Association, 4-H, the Recreation Association, Boy Scouts and individuals who want donations for their group have increased much more than in the past. He explained a user fee is when someone chooses to use a government service and pays a fee that off-sets the cost of that service so it doesn't affect the general tax rate. Mr. Sasdelli cited zoning fees, a developer escrow fees, street vacation fees, and building permit fees as examples. He explained that when a street is vacated the property owner benefits from it because they get the property from the center line of the street back and they pay for it so that every other taxpayer isn't charged for it. He explained general taxation is called the ad velorum tax; is based on the value of real estate; and it is used to fund government functions that all residents benefit from whether they choose to use it or not. He cited police, fire, rescue, roads, land use, solid waste and storm water drainage as examples of services funded by that tax. Mr. Sasdelli explained user fees are intended to be used solely for the activity the participant chooses to use. He cited dog licenses as an example of a user fee and explained all money from that fee goes into a trust fund that is used to pay for the licenses, tags, the rabies clinic, etc. Mr. Sasdelli explained the State dictates that public money has to be used for a public benefit or government purpose and said that causes confusion about what a government purpose and what a public benefit is. He said some well-intentioned elected officials find themselves in violation of that Statute. He said that is official misconduct and cited the case of the 33-year Carteret Police Chief who was a member of the Knights of Columbus which had a meeting room that was used by a lot of community groups and a police officer who had a carpentry business as a side job. He said the Chief had an agreement with the Knights that if they bought all the materials the officer would go over during the day and do the renovations to the building and all the groups could use it. Mr. Sasdelli said the Chief and the Police Officer were both found guilty of official misconduct because the officer was on township time, not his own. The second example he cites was the Hunterdon County Road Department Officials

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who used County equipment to cut trees, spread mulch and plow driveways for churches and non-profit groups and were all found guilty of official misconduct because a court case established a constitutional prohibition against devoting public money or assets to private persons or purposes. Mr. Sasdelli quoted the following from a 2002 letter from a Monmouth County Prosecutor: "free municipal services to private civic, religious groups or charitable organizations is not permitted unless there is a reimbursement mechanism established with consent of the governing body (and) regardless of the spirit or motivation of the elected or public official such giving of public assets is illegal". He explained that no matter how well intentioned it is, the Township Committee doesn't have the option to donate public monies to non-government entities. Mr. Sasdelli said the 2009 budget was adopted in April; the capital budget was done in May; the expenses were decreased; the structural deficit was decreased; and the 2010 budget was being talked about now when most governments don't yet have a 2009 budget. He said that the Township would still be operating on a temporary budget based on the 2008 budget if the 2009 budget hadn't been adopted on time. Mr. Sasdelli explained that was important because there wouldn't have been \$400,000.00 savings from personnel reductions from people that were laid off and positions that weren't filled if the Township was still operating on the temporary budget. He explained the road program was started; a ladder truck was purchased; and a \$6.8 million bond sale is being held on Thursday. He said none of that could be done if the 2009 budget wasn't adopted on time. Mr. Sasdelli said he is proud and thought it was a good thing that the budget was done on time because it enables the Township to move forward. Mr. Sasdelli said the Township is spending less this year than last year which is unheard of in government. He explained he included the garbage district in all of the figures that in order to compare apples to apples. He said the 2009 expenses are expected to be \$700,000.00 less than in 2008; there are no over expenditures or emergencies at this time; all department expenses are where they should be at this time and they will continue to be tracked; and the township automated budget system won't allow anybody to spend more than what is in a line item. He explained the bond sale was authorized to take all existing debt and go out for one fixed-rate bond to stabilize future debt service payments and lock in an interest rate for the next 15 years. Mr. Sasdelli said it is a complicated process that involved himself, bond counsel, the auditor and Mr. Tuthill. He explained a lot of prep work, documentation and interviews go into establishing the bond rating and the town's bond rating is critical to getting a good interest rate. Mr. Sasdelli said the township was rated by Standard & Poor for this bond sale. He said that it involved a conference call interview that lasted more than two hours and included going into detail of people that were laid off, surplus, and deferred school taxes. He said the prior rating by Moody was A2 and the current rating by Standard & Poor is AA-. Mr. Sasdelli said he got the full report today and it is a public document. He said comments in the report complimented the township for its low debt burden; they consider the township financial position strong; they singled out the conservative budget processes which were, not filling vacant positions, cutting out programs, reduction in number of employees, making employees pay for health insurance; and doing a lot of things that aren't ground breaking in the private sector but they are in the public sector. Mr. Sasdelli said the report concluded "*Our outlook reflects that the township's relatively stable local economy and a strong financial position*". He said that is a huge compliment to the Township Committee and the tough decisions they had to make with this budget that he thinks are having a positive effect. Mr. Sasdelli said the Township still has a structural deficit and the Committee knows they won't solve it in one year but it is getting smaller. He showed a slide of what was spent, what was brought in and how much the shortage was. Mr. Sasdelli said it showed that the gap was closed substantially in 2009 and it is projected to be reduced further in 2009 but a substantial structural deficit is still being carried. He said revenue went up and expenses went down which is what the Township wants. Mr. Sasdelli said he has been in government for 24 years and never heard anybody talk about structural deficit until recently because there was always an infinite supply of money and government plugged in all the expenses they wanted to and raised taxes to cover whatever they were short but they are no longer permitted to do that because the new 4% CAP. Mr. Sasdelli said many other municipalities have deferred all of their school taxes and all of their pension payments; used all of their surplus and their MUA surplus; gone to the Local Finance Board for waivers; and they still don't have the revenue to pay their expenses. He said this Township has done some of those things minutely but hasn't relied on them as a budget mechanism and most of those things are still intact if there was a real emergency. Mr. Sasdelli said the shortfall can't be talked about without talking about surplus. He explained the Township used \$11.2 million in surplus over the past 4 years but only generated \$9.6 million and said that those two numbers should be closer together. He said the \$2.9 million difference includes \$1.2 million from the garbage district, \$258,000.00 from the MUA and \$379,000.00 from the school deferral. Mr. Sasdelli commented on people wanting their road paved, their pothole filled, their recreation activities, but they don't say "take this away" or "stop doing this". Mr. Sasdelli commented on 2009 being very painful with positions not being filled; 9 employees laid off; 4 employees work schedules reduced; people taking unpaid furloughs; popular programs and services were eliminated; constituents were upset; relationships amongst Committee Members and amongst the Members and their constituents were damaged; and the reward for all that is that the Committee gets to do it all over again in 2010. He said it was a little early for a revenue review but the tax collection rate and Court revenue up

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to the end of June were right on pace with last year; construction revenue is a little behind; and the scheduled state aid hasn't been received yet. He said he would have more to report after tax bills go out. Mr. Sasdelli said one of the things the whole Committee and especially the finance committee were big on was alternate sources of revenue. He said some of those things have been done already and others have been scheduled. Mr. Sasdelli said 3 cell tower auctions were approved, one is completed and two are pending. He said based on the first one which was \$2,000.00 per month, the Township could get \$60,000.00 a year when they are completely operational. Mr. Sasdelli said the Township made \$54,000.00 by selling unneeded items on Gov-Deals and contiguous owner land sales brought in \$20,000.00 so far this year; and the Mizpah Village and Sunshine Park land sales are scheduled for the end of July. He said that if the increases in construction, zoning and fire fees that are on the agenda tonight are approved it will bring in another \$40,000-\$50,000. Mr. Sasdelli explained those are user fees that haven't been updated since 2003 and the township thinks the cost of the service is now outweighing the cost of the permit. Mr. Sasdelli said the finance committee is working on more accurate 2010 budget projections and hopes to present them at a future meeting. He said the \$2.9 million shortfall for 2010 he projected the last time he gave a presentation is still pretty accurate. Mr. Sasdelli said it includes all current programs, all personnel, all services and all labor agreements and he wouldn't take it upon himself to add or cut anything. He explained that when you plug in the \$400,000.00 from the layoffs done on April 6th it brings the \$2.9 down to \$2.5 million. He said he is assuming that in 2010 the Committee will do the 4% tax levy; the MUA will make the same contribution as they did in 2009; about the same amount of school deferral as 2009 will be done; and if his assumptions are correct the shortfall will be \$992,000.00. Mr. Sasdelli said the next thing that will be tackled at future finance committee meetings is what the options for the \$992,000.00 are. Mr. Sasdelli said that the Township business is serving people and they do that with people so 60% of the budget goes for employees and employee related costs; 12% is for debt service; and there is also trash collection, recycling and reserve for uncollected taxes. He explained debt service isn't going to change and he didn't think the Committee was going to turn off street and traffic lights or stop picking up trash. Mr. Sasdelli said the Township can't change the reserve for uncollected taxes and the expenses in all other department are 7%. Mr. Sasdelli said he doesn't like to say it but the bottom line is that the employees have to get less money or there has to be less of them but that is where the Township is. He closed his presentation with a quote from Franklin Roosevelt: *"Any government like any family can for a year or two spend a little more than it earns but you and I know that a continuation of that habit means the poor house"*. Mr. Sasdelli said Township doesn't want end up there and steps have been taken to put it in the right direction and hopefully can keep moving that way.

Ms. Gatto said Ingrid Perez took a lot of time looking into the fees the Township charges. She said Ingrid did a tremendous job in reviewing the fee schedule; who is charged and why; if it is an extraneous service; and whether or not it is a service all the tax payers use. She said that is important in terms of decisions the Committee will make. Mr. Sasdelli said the Township wants the fees to be equal to surrounding municipalities and didn't want to be the highest or lowest on fees. Ms. Gatto said ideas were taken from the staff and other Township Committee Members. She said advice will also be taken from the public on alternate sources of revenue. Ms. Gatto said the Finance Committee will meet again tomorrow to get the next presentation ready for the next meeting.

Mr. Palmentieri said he thought Ms. Gatto's summary was a good and that he didn't know how much more the Finance Committee wanted to add at this point. He said Mr. Sasdelli, Mr. Tuthill and the whole staff are doing a great job in capturing everything that is important to making sure the Township stays within the budget this year. He said that he thought it was great that the Committee is getting this far out ahead for next year's budget. He said he thought Mr. Sasdelli focused on something the Committee has to change their thinking about which is assigning a larger portion of the cost for various services to the people using them rather than having everybody pick up the cost as was done in the past. He said he thought the Committee was going to be doing that a little more and will have the people who use specific services pay more, if not entirely, for them so the rest of the people can have the barest minimum of taxes possible and still have the Township they deserve.

Ms. Gatto said the new Standard and Poor rating change is huge and it is a testament to not only to this Township Committee but also to Mr. Sasdelli, Mr. Tuthill, the Finance Department and all of the employees. She said it will pay off in the long run.

Mr. Silva thanked Mr. Sasdelli for his presentation and said he thinks a lot of the public understands it better when they are given hard copies. He thanked Ms. Gatto and Mr. Palmentieri for their work on the finance committee and said he thought it was significant and would have a tremendous impact how the Township Committee goes forward. He said the complexity and pain the Committee went through with this year's budget won't go totally away but putting it out early so everybody understands what the Committee is looking at and doing it on a recurring basis probably needed to be done long before this Committee started it. Mr. Silva said

that addressing those issues now allows the Committee to bring it up front and deal with it as a unit. He said a lot of thanks go to the Committee Members involved in it but also to Mr. Sasdelli's team in administration and everyone who has contributed to the well-being of the community. Mr. Sasdelli said he appreciated that. He said one of the things the Committee said during the painful budget discussions was that the budget will drive every decision they make and they are in that time now. Mr. Sasdelli said hopefully they will get out of it into a better economic time but right now the budget will drive every decision that is made.

Mr. Palmentieri said he wanted to reiterate what Mr. Sasdelli said earlier that a lot of towns don't have their 2009 budgets completed let alone adopted yet and one of the reasons for that is that they used a lot of deferrals over the past several years in order to artificially have a slightly lower tax rate and now they don't have the capacity to balance their budget with the 4% CAP without laying off major portions of their staff which would eliminate them as a township in terms of providing police and other administrative services. Mr. Palmentieri said that for as many years back as he is aware of whoever sat on the dais always avoided gimmicks like deferring school taxes and pension payments to try to get a little lower tax rate. He said that is one of the reasons why the Township bond rating is improving in these difficult times when other towns can't even adopt a budget. He said he thinks all of the people who sat on Committee for 20-some years deserved thanks for putting out honest budgets and sometimes taking criticism but still having honestly balanced budgets.

Ordinance amendments to Chapter 144-Construction Code Fees, Chapter 170-Fire Prevention/Inspection Fees and Chapter 167 - Land Use & Development Fees

Mr. Sasdelli said this is what he referred to in the presentation as some of the strategies that came out of the Finance Committee meetings. He explained they if the Committee agrees to them they will be referred to the Solicitor for preparation of ordinance amendments. Mr. Sasdelli explained the basic Construction Code Fee was last updated in 2004 and the change increases that fee that from \$46.00 to \$60.00. He said the Fire Prevention Inspection Fee increases the fire inspection \$15.00. Mr. Sasdelli explained that if they fail inspection the inspectors have to go back and re-inspect but some people don't correct the problem and the inspectors have to have to go back 3, 4 or 5 times. Mr. Sasdelli explained the first re-inspection will still be free but with there will be a charge if the inspectors have to go back repeatedly. Mr. Sasdelli said the only change in the Land Use and Development Ordinance is adding a \$25.00 fee for a zoning permit. He said that there is currently no fee for a zoning permit and in every municipality he has ever worked there was a charge for that. Mr. Sasdelli said the actual ordinances and a synopsis were in the Members' packet. He said Ingrid did a bar chart showing what the Township collected, what would have been collected if the proposed fees were in effect now, and it is projected to be in excess of \$50,000.00. Mr. Sasdelli said the people using those services will be paying for them rather than the Township subsidizing them through ad-velorum taxes.

Ms. Gatto thanked Ingrid for the tremendous amount of work she did in researching not only what the Township charges now but also what neighboring town's fees were. She said the Township wants to be reasonable but also competitive.

There being no objections from any Committee Members, Mr. Sasdelli said the recommendations will be forwarded to the Solicitor for preparation of Ordinance amendments to be introduced at a future meeting.

Mayors' Wellness Campaign

Ms. Gatto said she requested this be on the agenda in conjunction with the Employees Fitness Challenge. She said the employees are going to continue it with a maintenance program through the summer and a fitness campaign again in the fall. Ms. Gatto said the Township can have more productive employees and reduce injuries if it has healthy employees. She commented on obesity being a known health problem. Ms. Gatto recommended adoption of the resolution in support of the employee's initiative to lose weight and hopefully to inspire some members of the community to get up, get moving and get fit. Ms. Gatto said there is no cost or onus on the employees but there are benefits from being on the list for grant money and other opportunities that are out there. She said Lisa Hedrick took the lead in setting up the fitness challenge and maintenance program. Ms. Gatto said if any community groups or individuals were interested in doing it under the guise of the Mayor's Wellness Campaign she was sure the Township would consider it. She said Absecon, Buena Township, Mullica, Northfield, Pleasantville and Weymouth are participating and Hamilton will be the first growth community to do it. Mr. Pritchard said he supported it and it could be an impetus for community involvement.

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Ms. Gatto moved, seconded by Mr. Pritchard, that the following resolution is hereby adopted.

A RESOLUTION SUPPORTING THE MAYORS' WELLNESS CAMPAIGN

WHEREAS, across New Jersey, communities are facing a rise in health care costs; and

WHEREAS, physical activity levels have been decreasing and obesity rates increasing; and

WHEREAS, local leaders are looking for ways to promote active living, healthy eating and overall wellness in their communities; and

WHEREAS the Mayors' Wellness Campaign works with Mayors and key leaders to shape healthier lifestyles for the men, women and children in their communities; and

WHEREAS communities can work towards the goal of healthier citizens and lower health care costs by championing practices and programs that promote active living; and

WHEREAS, the Mayors' Wellness Campaign will work to implement a comprehensive program of outreach, education and technical assistance activities to combat obesity and inactivity issues for the Township of Hamilton,

NOW, THEREFORE, BE IT RESOLVED that the Township Committee of the Township of Hamilton, Atlantic County, New Jersey, ask all residents of this community to join it in supporting the Mayors' Wellness Campaign; and

BE IT FURTHER RESOLVED that the Township Committee of the Township of Hamilton encourages the residents to participate in the Mayors' Wellness Campaign activities to promote exercise, eating properly and living healthier and better lives.

RESOLUTION ADOPTED WITH ALL MEMBERS PRESENT VOTING "AYE", NO "NAY", NO "ABSTAIN", ONE MEMBER ABSENT.

Introduction Ordinance #1653-2009

Ms. Gatto moved, seconded by Mr. Pritchard, that the following resolution is hereby adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that Ordinance #1653-2009 be and is hereby introduced and passed on first reading and the Township Clerk is authorized to advertise same in the July 8, 2009 issue of the Atlantic County Record for a public hearing to be held in the municipal building, Mays Landing, NJ at 6:30 P.M. on July 20, 2009.

RESOLUTION ADOPTED WITH ALL MEMBERS PRESENT VOTING "AYE", NO "NAY", NO "ABSTAIN", ONE MEMBER ABSENT.

TOWNSHIP OF HAMILTON
ORDINANCE NO. 1653-2009

AN ORDINANCE AUTHORIZING THE SALE OF BLOCK 666, LOT 23 AND BLOCK 534, LOT 12.02, AS SHOWN ON THE TAX MAP OF THE TOWNSHIP OF HAMILTON, AND GRANTING TO THE OWNER OR OWNERS OF SAID REAL PROPERTY CONTIGUOUS TO SAME THE RIGHT TO PRIOR REFUSAL TO PURCHASE SUCH LAND IN THE TOWNSHIP OF HAMILTON, COUNTY OF ATLANTIC AND STATE OF NEW JERSEY.

BE IT ORDAINED by the Township Committee of the Township of Hamilton, County of Atlantic and State of New Jersey, that:

SECTION 1. The following described lots and block numbers on the Hamilton Township Tax Map are hereby determined to be less than the minimum size required for development in said Township under the existing Developmental Ordinance and further without any capital improvements thereon.

SECTION 2. Upon final adoption of this Ordinance, owners of real property contiguous to the subject lot may thereafter submit an offer to the Township Clerk, as designee of this Governing Body, in writing and on forms prepared by the Township for a period of twenty (20) days following advertisement of the finally adopted Ordinance pursuant to N.J.S.A. 40A:12-13. All offers shall be made in a sealed envelope. No offer less than the minimum value established herein below for said lot shall be considered by the Township Committee.

SECTION 3. In the event of bids being submitted by more than one (1) contiguous property owner with respect to said lots, the sale shall be made, if at all, to the highest bidder. The Township Committee reserves the right to reject any and all bids and to thereafter advertise the subject property for public sale pursuant to N.J.S.A. 40A:12-13(a).

SECTION 4. The following conditions of sale shall apply:

(a) The successful bidder shall submit a certified check made payable to the "Township of Hamilton" in the amount of twenty (20%) percent of the purchase price, which check shall be submitted in the sealed envelope at the time of submission of the bid. Persons bidding on behalf of a contiguous property owner shall be required to submit in writing satisfactory evidence of their authority. The balance of the purchase price plus FOUR HUNDRED, TWENTY-FIVE (\$425.00) DOLLARS to cover administrative costs including but not limited to advertising, legal and recording fees shall be paid in cash or certified check within ten (10) days after the Township Committee accepting the bid and authorizing the sale to the high bidder.

(b) The Deed prepared by the Township Committee shall not be tendered until the full purchase price is paid.

(c) Title shall be conveyed by and through a Quitclaim Deed and shall convey only the right, title and interest of the Township of Hamilton to the land, as described herein. No warranties and covenants are or shall be made by the Township of Hamilton and in no event shall there be any liability on the part of the Township by reason thereof. The right, title and interest of the successful bidder, as purchaser, shall be subject to the following conditions, covenants, restrictions, easements and exceptions which shall run with the land and shall also become part of the Deed granted to the purchaser for the recording:

- (1) Easement of utility companies and of governmental agencies or bodies.
- (2) Any encroachments, prescriptions, easements or other state of facts pertaining to said lands which may be ascertained upon a visual examination and inspection of the land and the lands surrounding said land and any restrictions and covenants of record.
- (3) All existing federal, state, county and municipal laws, statutes, ordinances, rules and regulations including, by way of description and not by limitation, existing zoning, health and planning board rules and regulations.
- (4) No representation of any kind is made that the land in question, surface as well as subterranean portions, is suitable or adaptable for any particular use whatsoever.
- (5) No representation of any kind is made concerning gas or electric service to the land.

(d) In the event that the Township cannot convey good and marketable title, subject to the above, the purchaser will be entitled to the return of the deposit, without interest, and the Township will not be responsible or liable in any other manner and for any other amount.

(e) In the event that the purchaser defaults in making payment to the Township, as set forth above, or if the purchaser cannot make settlement in accordance with the terms thereof, the deposit made by the successful bidder on account of the purchase will be retained by the Township as and for its liquidated damages and the land may be resold. This remedy shall be in addition to the Township's right to compel specific performance of the purchaser's obligation hereunder. Time is of the essence.

SECTION 5. The Township owned lots and minimum bid established therefore are as follows:

<u>Block/Lot(s)</u>	<u>Minimum Bid</u>	<u>Location</u>	<u>Zoning</u>	<u>LOT Size</u>
666 / 23	\$4,720.00	First Avenue	FA-25	4.72 acres
534 / 12.02	\$3,645.00	Estelle Avenue	FA-10	2.43 acres

SECTION 6. SPECIAL CONDITIONS: NONE

SECTION 7. All Ordinances and parts of Ordinances of Hamilton Township heretofore adopted that are inconsistent with any of the terms and provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

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SECTION 8. If any section, paragraph, subsection, clause or provision of this Ordinance shall be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any part thereof.

SECTION 9. This Ordinance shall take effect immediately upon its publication after final passage as required by law.

ROLL CALL: GATTO	"AYE"	
PALMENTIERI	"AYE"	
PRITCHARD	"AYE"	
SILVA	"AYE"	
GASKILL		ABSENT

ORDINANCE #1653-2009 INTRODUCED AND PASSED FIRST READING ON JULY 6, 2009.

Introduction Ordinance #1654-2009

Ms. Gatto moved, seconded by Mr. Pritchard, that the following resolution is hereby adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that Ordinance No. 1654-2009 be and is hereby introduced and passed on first reading and the Township Clerk is authorized to advertise same in the July 8, 2009 issue of the Atlantic County Record for a public hearing to be held in the municipal building, Mays Landing, NJ at 6:30 P.M. on Monday, July 20, 2009.

RESOLUTION ADOPTED WITH ALL MEMBERS PRESENT VOTING "AYE", NO "NAY", NO "ABSTAIN", ONE MEMBER ABSENT.

TOWNSHIP OF HAMILTON
ORDINANCE #1654-2009

AN ORDINANCE AMENDING ARTICLE III, OF CHAPTER 70 OF THE CODE OF THE CODE OF THE TOWNSHIP OF HAMILTON, COUNTY OF ATLANTIC AND STATE OF NEW JERSEY, ENTITLED "POLICE DEPARTMENT, EXTRA-DUTY EMPLOYMENT" AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES HERETOFORE ADOPTED THE PROVISIONS OF WHICH ARE INCONSISTENT HEREWITH.

BE IT ORDAINED by the Township Committee of the Township of Hamilton that:

SECTION 1. § 70-13 is hereby amended to read as follows:

§ 70-13. Purpose.

For the convenience of those persons and entities which utilize the services of extra-duty law enforcement officers of the Hamilton Police Department, and to authorize the outside employment of Township police while on extra-duty the Township hereby establishes a policy regarding the use of said officers.

- A. Members of the Police Department shall be permitted to accept police-related employment for private employers or school districts only during extra-duty hours and at such time as will not interfere with the efficient performance of regularly scheduled or emergency duty for the Township.
- B. Any person or entity wishing to employ extra-duty police shall first obtain approval of the Chief of Police, which shall be granted if, in the opinion of the Chief, such employment is not inconsistent with the efficient functioning and good reputation of the Police Department, and would not unreasonably endanger or threaten the safety of the officer or officers who are to perform the work.

SECTION 2. § 70-14 is hereby amended to read as follows:

§ 70-14. Escrow accounts.

- A. Any person or entity requesting the services of an extra-duty law enforcement officer in the Hamilton Township Police Department shall estimate the number of hours such law enforcement services are required, which estimate shall be approved in writing by the Chief of Police, and shall establish an escrow account with the Chief Financial Officer of the Township by depositing an amount sufficient to cover the rates of compensation and administrative fees set forth in § 70-16 for the total estimated hours of service.
- B. Prior to posting any request for services of extra-duty law enforcement officers, the Chief of Police or his designee shall verify that the balance in the escrow account of the person or entity requesting service is sufficient to cover the compensation and fees for the number of hours specified in the request for services. The Chief of Police shall not post a request for service from any person or entity unless all fees and compensation required in the manner described above have been deposited with the Chief Financial Officer. No officer shall provide any such services for more hours than are specified in the request for services.

- C. In the event the funds in such an escrow account should become depleted, services of extra-duty law enforcement officers shall cease and requests for further or future services shall not be performed or posted until additional funds have been deposited in the escrow account in the manner described above.
- D. The person or entity requesting such services shall be responsible for ensuring that sufficient funds remain in the escrow account in order to avoid any interruption of services.

SECTION 3. § 70-15 Requests for services is hereby amended to read as follows:

§ 70-15. Requests for services.

- A. An extra-duty application and agreement must be signed and filed by the extra-duty employer who is requesting the services ten (10) working days prior to the start of the event / project. (Public Utilities are exempt from this requirement when performing emergency repairs.) All applications are subject to review by the Chief of Police in order to determine if the event / construction project is staffed according to departmental policy and according to work zone safety regulations. Applications require final approval by the Chief of Police or his/her designee.
- B. Prior to the performance of services by any Township law enforcement officer, the person or entity requesting such services shall indemnify and hold the Township harmless from and against any and all losses, claims, damages or expenses, including reasonable attorney fees, arising from the performance or police-related duties by such extra-duty township police officer on behalf of such entity. Such indemnity agreement shall be in a form acceptable to the Township Attorney.
- C. Prior to the performance of services by any Township law enforcement officer, the person or entity requiring such services shall provide the Township, with a certificate of insurance from a company authorized to do business in the State of New Jersey evidencing workers' compensation coverage, personal liability and comprehensive general liability with policy limits of not less than \$1,000,000 and property damage liability coverage with policy limits of not less than \$300,000. Such policies of insurance shall name the Township as an additional insured and shall remain in effect during the entire period that the officer is employed by the outside entity.

SECTION 4. § 70-16. Rates of compensation; administrative fee; payment for services is hereby amended to read as follows:

§ 70-16. Rates of compensation; administrative fee; payment for services.

- A. The hourly rate of compensation to the Township for contracting the services of extra-duty law enforcement officers is the sum of:
 - 1. The hourly rate of \$55.63 for the calendar year 2009, that rate increased in subsequent years by the annual percent increase in police officer salary authorized by Township Committee, and;
 - 2. An administrative fee to cover social security contribution, workers' compensation insurance, and other benefits and costs associated with the assignment of extra-duty police officers, calculated as an additional 14% of the hourly rate in Section A above.
- B. If the Chief of Police or his/her designee determines that a patrol vehicle is required to effectively perform the extra-duty work, an additional fee for that patrol vehicle use will be assessed in the amount of twenty dollars (\$20.00) per day.

SECTION 5. Severability and Effectiveness Clause.

- (a) If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.
- (b) Any Ordinances or parts of Ordinances inconsistent with the terms of this Ordinance hereby repealed to the extent of such inconsistency.

SECTION 6. Effective Date.

This Ordinance shall take effect upon its final passage and publication as provided by law.

ROLL CALL: GATTO	"AYE"	
PRITCHARD	"AYE"	
PALMENTIERI	"AYE"	
SILVA	"AYE"	
GASKILL		ABSENT

July 6, 2009

Ms. Gatto moved, seconded by Mr. Palmentieri, that the following resolution is hereby adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that the following Business Registration Licenses are hereby approved:

1. Quality Modular Homes LLC - modular home sales office on Route 50.
2. Deane N Diane's Cash & Coins - buying/selling coins, silver, gold, diamonds, jewelry, paintings & objects of art at Hamilton Mall.
3. New Petro Stop Inc. - gas station/food etc. store at Route 50 & Third Street.
4. Remember When - collectibles store on Main Street.

RESOLUTION ADOPTED WITH ALL MEMBERS PRESENT VOTING "AYE", NO "NAY", NO "ABSTAIN", ONE MEMBER ABSENT.

Ms. Gatto moved, seconded by Mr. Palmentieri, that the following resolution is hereby adopted.

RESOLUTION AUTHORIZING PUBLIC LAND SALE

WHEREAS, the Township of Hamilton is the owner of lands hereinafter described; and

WHEREAS, in the judgment of the Township of Hamilton, said lands are of no further use for public purposes, are not needed for public use, and should be disposed of by sale at public auction in accordance with the statute in such case made and provided,

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Hamilton, that the Township of Hamilton, County of Atlantic, State of New Jersey shall sell to the highest bidder, at a public sale to be held on WEDNESDAY, JULY 29, 2009 at 10:00 AM in Conference Room A of the municipal building, 6101 Thirteenth Street, Mays Landing, NJ all right title and interest of the Township of Hamilton in and to the lands described as follows subject to the terms and conditions set forth in the Notice of Public Land Sale as published in accordance with law and such other conditions as may be stated at the time of sale.

BE IT FURTHER RESOLVED that all parcels in Mizpah Village shall be sold in package lots as set forth below:

Mizpah Village MV ZONE 1 Acre minimum MINIMUM BID PER PARCEL \$20,000.00

- Block 321, Lots 45, 47-59, 61-82 (2.18 acres)
- Block 327, Lots 36-41.02, 42 (1.09 acres)
- Block 329, Lots 23-34 (1.09 acres)
- Block 334, Lots 1, 4-5, 7-8, 19-25, 27-28 (1.49 acres)
- Block 338, Lots 30, 32-35, 37-46 (1.03 acres)
- Block 344, Lots 9-21, 24-25, 27-28, 31-35 (1.60 acres)
- Block 350, Lots 26-28, 30-33, 38-43 (1.033 acres)
- Block 352, Lots 10, 12-17, 19, 21 (1.606 acres)
- Block 353, Lots 10-29, 32-33 (2.123 acres)
- Block 353, Lots 1-8, 42-44 (1.13 acres)
- Block 362, Lots 21-28, 30-35, 38-41 (1.49 acres)
- Block 364, Lots 1-9, 48-62 (1.38 acres)
- Block 369, Lots 13-16, 18-20 (1.03 acres)
- Block 372, Lots 9-18 (1.49 acres)
- Block 374, Lots 1-17, 22, 24, 25 (2.18 acres)
- Block 377, Lots 14, 17-21, 28-31 (1.377 acres)

BE IT FURTHER RESOLVED that all parcels in Sunshine Park shall be offered as a package totaling 30.66 acres +/-.

Sunshine Park 30.66 acres +/- GAL ZONE 1 Acre minimum MINIMUM BID \$275,000.00

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| Block 1103, Lots 4-87 (5.16 acres +/-) |
| Block 1105, Lots 1-57 (3.22 acres +/-) |
| Block 1106, Lots 1-84 (4.97 acres +/-) |
| Block 1107, Lots 1-53 and Lot 58.01 (3.05 acres +/-) |
| Block 1108, Lots 1-8 and Lots 10-72 (4.05 acres +/-) |
| Block 1109, Lots 1-65 (3.55 acres +/-) |
| Block 1110, Lots 2-50 (3.08 acres +/-) |
| Block 1111, Lots 1-62 (3.58 acres +/-) |

RESOLUTION ADOPTED WITH ALL MEMBERS PRESENT VOTING "AYE", NO "NAY", NO "ABSTAIN", ONE MEMBER ABSENT.

July 6, 2009

Ms. Gatto moved, seconded by Mr. Palmentieri, that the following resolution is hereby adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that Travelers Casualty & Surety Company of America certificate extending the expiration date of their bond #105144013 to August 13, 2010, said bond being the stormwater management system maintenance guarantee for Wawa Store #0941 on Black Horse Pike (Block 1132/Lot 49) be and is hereby accepted.

RESOLUTION ADOPTED WITH ALL MEMBERS PRESENT VOTING "AYE", NO "NAY", NO "ABSTAIN", ONE MEMBER ABSENT.

Ms. Gatto moved, seconded by Mr. Palmentieri, that the following resolution is hereby adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that the purchase of forty (40) 6'x8' rubber curbs from Playsafer under State Contract #A5979 for the Mattie Hall Park in Weymouth and appropriation of \$2,320.00 from the Offsite Improvement Fund to cover the cost thereof is authorized.

RESOLUTION ADOPTED WITH ALL MEMBERS PRESENT VOTING "AYE", NO "NAY", NO "ABSTAIN", ONE MEMBER ABSENT.

Ms. Gatto moved, seconded by Mr. Palmentieri, that the following resolution is hereby adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that Winding River Boating Association is hereby granted permission to use the top of the Lake Lenape Dam area for the starting clock and Race Officials at the D. J. Murphy Jr. Memorial Race to be held on Lake Lenape September 12 and 13, 2009 contingent upon the Boating Association executing a hold harmless agreement, posting a certificate of insurance with the Township as a named insured and receiving Atlantic County approval.

RESOLUTION ADOPTED WITH ALL MEMBERS PRESENT VOTING "AYE", NO "NAY", NO "ABSTAIN", ONE MEMBER ABSENT.

Ms. Gatto moved, seconded by Mr. Palmentieri, that the following resolution is hereby adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that the Mayor and Township Clerk are hereby authorized to execute an Inter-local Waste Hauling Services Agreement with Atlantic County Special Services School District extending the expiration date of the existing agreement to March 1, 2010.

RESOLUTION ADOPTED WITH ALL MEMBERS PRESENT VOTING "AYE", NO "NAY", NO "ABSTAIN", ONE MEMBER ABSENT.

Ms. Gatto moved, seconded by Mr. Palmentieri, that the following resolution is hereby adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that the engineering services proposal of Remington Vernick for a structural evaluation of the municipal building at a cost not to exceed \$4,000.00 is hereby accepted, funding for same to be appropriated from Building Improvement Ordinance #1467-2003.

RESOLUTION ADOPTED WITH ALL MEMBERS PRESENT VOTING "AYE", NO "NAY", NO "ABSTAIN", ONE MEMBER ABSENT.

Ms. Gatto moved, seconded by Mr. Palmentieri, that the following resolution is hereby adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that it has no objections to Atlantic County approving the closing of CR 616 and CR 559 to Avenue G on July 11, 2009 for the Lake Lenape Triathlon sponsored by PR Racing.

RESOLUTION ADOPTED WITH ALL MEMBERS PRESENT VOTING "AYE", NO "NAY", NO "ABSTAIN", ONE MEMBER ABSENT.

Ms. Gatto moved, seconded by Mr. Palmentieri, that the following resolution is hereby adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that authorization is hereby given for receiving of sealed bid proposals for HVAC a cleaning and maintenance service contract at 10:00A.M. on July 28, 2009 with a pre-bid meeting at 10:00 A.M. on July 21, 2009.

RESOLUTION ADOPTED WITH ALL MEMBERS PRESENT VOTING "AYE", NO "NAY", NO "ABSTAIN", ONE MEMBER ABSENT.

July 6, 2009

Ms. Gatto moved, seconded by Mr. Palmentieri, that the following resolution is hereby adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that an the sum of \$58,686.00 be inserted as an item of revenue titled Safe & Secure Communities Program in the 2009 Budget with an off-setting appropriation for same pursuant to Chapter 159.

RESOLUTION ADOPTED WITH ALL MEMBERS PRESENT VOTING "AYE", NO "NAY", NO "ABSTAIN", ONE MEMBER ABSENT.

Ms. Gatto moved, seconded by Mr. Palmentieri, that the following resolution is hereby adopted.

RESOLUTION OF THE GOVERNING BODY OF THE TOWNSHIP OF HAMILTON
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

WHEREAS, the Township of Hamilton has opted to participate in the Atlantic County Community Development Block Grant (CDBG) Program for FY 2008; and

WHEREAS, as a participant, the Township of Hamilton expects to be allocated **\$10,000.00** for FY 2008 for the project known as **Senior Lunch Program Equipment**; and

WHEREAS, in order to be allocated CDBG funds, the Township of Hamilton must enter into an interlocal service agreement with the Atlantic County Improvement Authority, the administrator of the Atlantic County CDBG Entitlement Program,

NOW, THEREFORE, BE IT RESOLVED that the Agreement by and between the Atlantic County Improvement Authority and the Township of Hamilton, which is attached hereto, is approved by the Chief Elected Official and the Municipal Clerk are authorized to sign said agreement.

RESOLUTION ADOPTED WITH ALL MEMBERS PRESENT VOTING "AYE", NO "NAY", NO "ABSTAIN", ONE MEMBER ABSENT.

Ms. Gatto moved, seconded by Mr. Palmentieri, that the following resolution is hereby adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that the following Raffle Licenses are hereby approved:

- (1) RL #7-2009 for the Rotary Club of Mays Landing 4-H Fair games August 6 through August 8, 2009.
- (2) RL #8-2009 for Atlantic County SPCA off-premises draw raffle on December 5, 2009.

RESOLUTION ADOPTED WITH ALL MEMBERS PRESENT VOTING "AYE", NO "NAY", NO "ABSTAIN", ONE MEMBER ABSENT.

Ms. Gatto moved, seconded by Mr. Palmentieri, that the following resolution is hereby adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that Liberty Mutual Insurance Company bond #019023856 in the amount of \$32,636.45 is hereby accepted as a 2-year Maintenance guarantee for Shore Toyota non-stormwater management system components of their portion of Veterans' Way and the original \$285,181.92 Liberty Mutual Insurance Company Performance Bond for said project is hereby released.

BE IT FURTHER RESOLVED that Shore Toyota check #072800 in the amount of \$10,140.84 is hereby accepted for deposit and held in escrow as a 4-year maintenance guarantee for Shore Toyota stormwater management system components of their portion of Veterans' Way.

RESOLUTION ADOPTED WITH ALL MEMBERS PRESENT VOTING "AYE", NO "NAY", NO "ABSTAIN", ONE MEMBER ABSENT.

Ms. Gatto moved, seconded by Mr. Palmentieri, that the following resolution is hereby adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that Liberty Mutual Insurance Company bond #019023855 in the amount of \$58,995.63 is hereby accepted as a 2-year maintenance guarantee for Shore Toyota non-stormwater management system components of their facilities expansion/car wash project and the original \$432,690.00 Liberty Mutual Insurance Company Performance Bond for said project is hereby released.

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BE IT FURTHER RESOLVED that Shore Toyota check #072801 in the amount of \$5,907.87 is hereby accepted for deposit and held in escrow as a 4-year maintenance guarantee for Shore Toyota stormwater management system components of their facilities expansion/car wash project.

RESOLUTION ADOPTED WITH ALL MEMBERS PRESENT VOTING "AYE", NO "NAY", NO "ABSTAIN", ONE MEMBER ABSENT.

Ms. Gatto moved, seconded by Mr. Palmentieri, that the following resolution be adopted.

WHEREAS, applications for renewal of the following Plenary Retail Consumption and Plenary Retail Distribution Licenses were accepted by the Township Committee of the Township of Hamilton for filing on June 15, 2009 with no action to approve or deny the renewal of said licenses pending receipt Tax Clearance Certificates; and

WHEREAS, the required Tax Clearance Certificates have been received,

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Hamilton that the following Alcoholic Beverage Licenses are hereby approved and issued for the period July 1, 2009 through June 10, 2010:

PLENARY RETAIL CONSUMPTION LICENSES:

PLATINUM SHOWCASE LLC 0112-33-036-008	PLATINUM PLAYGROUNG	7685 BLACK HORSE PIKE HAMMONTON, NJ 08037
MAYS LANDING SAKURA LLC 0112-33-028-010	SAKURA JAPANESE STEAK, SEAFOOD & SUSHI BAAR	4215 BLACK HORSE PIKE MAYS LANDING, NJ 08330

RESOLUTION ADOPTED WITH ALL MEMBERS PRESENT VOTING "AYE", NO "NAY", NO "ABSTAIN", ONE MEMBER ABSENT.

Ms. Gatto moved, seconded by Mr. Palmentieri, that the following resolution is hereby adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that the minutes of the June 15, 2009 regular meeting, the June 25, 2009 special meeting and the June 15, 2009 executive session are hereby approved and adopted as published.

RESOLUTION ADOPTED WITH ALL MEMBERS PRESENT VOTING "AYE", NO "NAY", NO "ABSTAIN", ONE MEMBER ABSENT.

Ms. Gatto moved, seconded by Mr. Palmentieri, that the following resolution is hereby adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that all properly executed and approved payrolls and bills are hereby ordered paid, the bill list total being \$4,505,200.54 as of July 2, 2009.

RESOLUTION ADOPTED WITH ALL MEMBERS PRESENT VOTING "AYE", NO "NAY", NO "ABSTAIN", ONE MEMBER ABSENT.

Reports

Mr. Sasdelli reported he recently went to a meeting in Cape May and brought back a really nice map. Mr. Sasdelli said Franklin Township did one 12 years ago. He said the company will make 15,000 copies at no cost to the Township because they are paid through advertising on it but the agreement requires the Township to send one to every resident in 2010. Mr. Sasdelli said it would save a lot of phone calls to town hall and he would like to have \$4,000.00 in the 2010 budget for postage. Mr. Silva said he liked the idea; that he had seen them; that they work well; and they answer a lot of questions. He asked when the agreement had to be signed. Mr. Palmentieri suggested they sell one more ad and cover the postage costs. Mr. Silva suggested they could be put out front for people to take when they come into the building. He asked Mr. Sasdelli to look into possible options. Ms. Gatto suggested they could be put in with the tax bills or whenever the Township does a mailing. Mr. Sasdelli said there are restrictions on what can included with the tax bills. Ms. Gatto asked about other mailings the Township does. Mr. Sasdelli said they don't do it to all residents and the Community Education newsletter isn't mailed anymore. He said he will check to see if there are other mechanisms for distributing it. Mr. Pritchard suggested it could be done as an insert in one of the weekly newspapers. Mr. Palmentieri said they don't go to every residence. Mr. Pritchard said the Township would only have to mail them to those who don't get the papers.

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Solicitor: None
Engineer: None

Mr. Pritchard congratulated the Merchants' Association on the successful Hometown Celebration and Judy Link on her appointment to the Pinelands Commission.

Ms. Gatto congratulated the Merchants' Association and said it was a nice showing of cooperation with a private entity, the County with Sheriff's Officers and the help the Township Officers gave in coordinating it.

Deputy Mayor Silva reported the contract for the 105' ladder truck was awarded at a special meeting last week. He commented on a surrounding community having spent \$932,000.00. for a 102' ladder truck and said the Mays Landing Fire Chief and members deserve a lot of credit for agreeing to go out for a demo, new, or slightly used fire truck and the Township got a demo for \$610,000.00. The Deputy Mayor said \$532,000.00 will come from the capital fund and the rest from the other fire company's allocations in support of the move. He said it also supported the fire study and he thinks it was a win-win situation for everyone. Deputy Mayor Silva said they are replacing a 1985 truck that has become a maintenance nightmare and difficult to get structural certification for.

Freeholder Chairman Curcio re: swimming at Lake Lenape

Freeholder Chairman Jim Curcio said he wanted to speak to the governing body because there have been questions about Lake Lenape. He said he hoped some short term and long term ideas, current uses, future uses, recreation on the lake, and the various costs for both county and municipality could be talked about briefly tonight. Mr. Curcio said one question was about the Crew Races and he hopes they will be able to sit down with representatives of township government to discuss a comprehensive plan going forward. He said another question many people have asked and the Township Committee has wrestled with was swimming on the lake. He said the County Parks Department talked about it because the County has such a large presence on Lake Lenape historically and currently through county government. Mr. Curcio said they wanted to talk about what the County could do to help the Township bring some type of swimming to the lake to see if anything could be done for this year; about what could be done in existing parks; what would be most efficient; what would be the best location; and a long term plan to address swimming on Lake Lenape. Mr. Curcio said the immediate issue they talked about is what could be done to salvage some part of the 2009 summer and there were a few ideas but everything has to be fleshed out by the professionals. Mr. Curcio said the County Administrator suggested a plan that involved no additional township taxpayer money if some kind of inter-local agreement could be entered into for the county to bring in a coordinator who could provide swimming at the Cove. Mr. Curcio said they identified the Cove because it would be ready to go; the Township has a Public Works Department that does an excellent job of keeping it up; and it was the property most recently used for swimming. He explained that under the proposal the Township would authorize the County to use the Cove and parking area; the Township would continue with its public works maintenance; the insurance would be through the JIF, the provider whoever that will be, or the County; the County would provide lifeguards and beach tag checkers possibly a through private, non-profit organization, the ACIA or some other entity; and the Township would have to authorize the County to collect the beach tag fees. Mr. Curcio said the County believes they can do it in an efficient way with lifeguards that have to be certified, have background checks and everyone having to be up to par. He said they would want whoever is coordinating it to have one experienced lifeguard for every rookie. Mr. Curcio said the County might be able to come up with some rookie lifeguards through the Workforce Investment Board and the Parks Department would come up with some veteran lifeguards for each shift. He said they have spoken to the Career Opportunity Development Inc. (CODI) which might possibly be able to negotiate and be able to work in the position as Coordinator. He said the lifeguards would have to be provided through the County and the Coordinator would organize and coordinate hours of operation, collecting the fee to defray expenses. Mr. Curcio said hopefully the services could be provided by the last week of July through Labor Day if everything can be put in place. He said a key component would be a long term commitment to explore complete uses of the Lake and the most efficient, proper way to provide recreation at these facilities. He said what he presented is a short term solution to salvage the '09 season without putting a further burden on the Township's taxpayers. Mr. Curcio said that the County, being regional government, hopes they can work in cooperation with the Township. He said the Township has been a great partner with the County on Lake Lenape and he thanked everyone in Township government, especially its staff and professionals, for all the help they have given the County on Lake Lenape, on this particular issue, on the Crew races and every issue. He said everyone was very positive and constructive and he thinks the County and Township have a great partnership going forward to meet the needs of all the residents.

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Mr. Pritchard said he thought what Mr. Curcio presented was win-win and he didn't see any negatives for the Township at all. He said he was very appreciative and thanked Mr. Curcio for his efforts.

Ms. Gatto said she ran into Mr. Curcio after the last meeting and knows that he went back and had discussions with the County Executive. She said there are a lot of details that have to be ironed out and she would defer to Mr. Sasdelli and Mr. Lafferty on how it would be done. Ms. Gatto questioned giving the revenue to the County or another entity and what happens if they make a profit. She said she thinks the Township should be transitioning the risk of a loss and she is willing to do that. She said she thinks the County would be looking to break even. Ms. Gatto said she assumes the hours would be based on anticipated revenue. Mr. Curcio said that made sense and he thought any memorandum of understanding entered into could address the question of excess revenue. He said he also thought about possibly holding an event where beach tag sales could be promoted and maybe people would make donations to help defray some of the costs so swimming could be available this summer. He said many Freeholders have said they would like to contribute on a bipartisan basis to make this treasure available to the people, especially township residents, for swimming and recreation. Deputy Mayor Silva asked Mr. Curcio to give a copy of what he presented to Mr. Sasdelli. He asked if he sensed a change in the County attitude with regard to taking on the liability of swimming at Lenape Park. The Deputy Mayor said the Township Committee decision was a budgetary one and the County's was a policy decision. He said the Township can't spend money it hasn't appropriated and part of what they have to look at going forward is that the treasure Mr. Curcio spoke about is the entire lake and where some of these activities can be done and shared with everybody who wants to use it. He asked if the County was going to take their insurance through the JIF. Mr. Curcio explained the County doesn't have a JIF and he doesn't know how that will work. He said it was suggested today that if they go to a non-profit entity that entity may have the necessary insurance. Mr. Curcio said he didn't want to commit CODI because he doesn't know the details. Ms. Gatto said the Township will have to check with its Risk Management Consultant. She asked if the County Attorney would contact the Township Attorney and work with Mr. Sasdelli to try to put something together. Deputy Mayor Silva said he wanted to see all the details before telling them to go ahead and to be sure the Township isn't spending any money it hasn't appropriated. Mr. Curcio said that would have to be part of the reimbursement. He said that as he looked into the Workforce Investment Board and other federal programs there is a chance to put a number of people to work with federal dollars but what they will be qualified to do is left to be seen and that is why a good coordinator is needed. Mr. Curcio said that as far as long-term use of the lake, the County Executive and Freeholders would both have to be on board because the County has a divided form of government. He said he thinks everything is on the table right now and a lot of good ideas have come around but everything takes time to implement. Mr. Curcio said he thinks all the parties need to come to the table to talk about the future of Lake Lenape. He said he knows the County Parks Committee and Freeholders will go along with this proposal if it can get people into the water without the danger of swimming at an unguarded beach. He said the County Executive told him his office supports it as a short term solution and will support a steering committee to talk about the future of Lake Lenape. Mr. Curcio said he would leave the information with Mr. Sasdelli to review and hopefully the Committee will start talking to its solicitor to see what has to be done in the way of an agreement. Deputy Mayor Silva thanked Mr. Curcio for his time.

Public comment

Aline Dix questioned why there are so many Sheriff's cars at the Cove chasing people out of the water. She said people from out of town came ready to pay but they are enjoying the beach for free.

Ms. Dix commented on the fire hydrant by Tanglewood Drive having to be shut off at the street because of vandalism and said she doesn't remember a fire hydrant ever being vandalized. Ms. Dix said kids are running the street and properties have to be watched constantly because of what they are doing. She said she was told kids are kicked out of Gaskill Park if they go there to play pick-up football and she didn't know if they were being kicked out of Underhill. Ms. Dix said it has never been this bad and she can't say how much of it is because of no swimming at the Cove. She asked if the reason they weren't allowed to use the ball fields was that they aren't an organized group. She said the taxpayers are paying a lot for recreation maintenance.

Ms. Dix asked why the issue of billboards on Township property being concessions wasn't being looked into when the Committee has something that may not be a properly signed document. Deputy Mayor Silva said he was sure the Finance Committee will look into it. Ms. Gatto asked Mr. Sasdelli to put it on the Finance Committee Meeting agenda for tomorrow. The Deputy Mayor said he was on the MUA for 7 years and never saw hydrants vandalized either but he doesn't think Ms. Dix can blame the Township Committee for what is going on with fire hydrants. He said the Township Committee can't be responsible for kids being chased from the fields.

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Lorraine Granese said the Public Works spends countless man-hours maintaining Township fields that the soccer, hockey, football and baseball athletic groups in the Township use almost exclusively and asked if that was spending taxpayer money for the benefit of only those private groups. Mr. Sasdelli said that question comes up all the time and it depends on who defines a public purpose and government benefit. He explained it is a legitimate government service if government adopts a strategy that providing a certain level of core recreation benefits everybody and it gets tricky because someone pays \$75-\$80 to register their kid in the program and the township doesn't get any of that money. He said the taxpayers pay for the seed, fertilizer, irrigation and cutting the grass but someone pays an organization \$75.00 and they pay referees, umpires, and all kinds of things. Mr. Sasdelli said the Finance Committee is addressing these things and one of the things they are looking at is a user fee agreement. He said if an agency wants to use a township facility maintained by the taxpayers they should have to pay a user fee. Mr. Sasdelli explained the question then is what if most of the kids are from in town and they are paying taxes; what if they are from out of town; and should there be an in-town rate and out-of-town rate. Ms. Granese said she believes it is responsibility of the schools and private agencies to provide entertainment for children and it is not the role of government. She said she thinks they should rent the fields. Ms. Granese said they don't use the fields 24/7 and asked if other groups or residents are allowed to use them when those groups aren't using them. Mr. Sasdelli said the township needs a more defined policy on who can use the fields, when they can use them and who gets first choice. He commented on the possibility of someone being charged to use the field at 9 but when they get there it is all torn up because someone played on it from 7-9 and said the township is grappling with that. He commented on groups coming in and playing a pick up soccer game and questioned if that is something the Township wants to allow. Ms. Granese said she likes the idea of a user fee.

Jim Link agreed with Ms. Dix about what is happening around Tanglewood Drive and Park Road and kids running around doing havoc. Mr. Link said it is not an isolated incident, it is a problem in the whole community. He said he and his wife deal with it privately as a business owner but it is getting burdensome and they would appreciate a little help from Township Committee. He said he understood what Deputy Mayor Silva was saying but there are less and less things for kids not involved in organized sports to do.

Mr. Link commented on the health benefits of roller skating and said that he and Judy haven't discussed the details yet but they would like to make their rink and facilities available to the Township employees at a discount.

Mr. Link said he applauded Mr. Curcio for wanting to do something about swimming at Lake Lenape but he saw it as being disingenuous and too little, too late. He said more than 3.8 million taxpayer dollars were spent to acquire Lake Lenape Park from a private entity. Mr. Link said there has been swimming along that property since the turn of the century and he thinks there would have been a huge outcry against the County acquiring it if the Freeholders had put out to the public prior to spending \$3.8 million that they weren't going to allow swimming. He said that in his opinion the Freeholders were pointing fingers at the Township Committee and saying they dropped the ball because it was in their back yard. Mr. Link said he thought it was unfair and that trying to fix something like this this late in the game is pure politics. He said he welcomed any kind of solution that will get people swimming in the lake but he didn't believe this is a short or long term fix. Mr. Link said he thought swimming should continue at the 17 acres of Lenape Park especially at the price taxpayers paid for it. Ms. Gatto said Freeholders Schroeder, Giordano, Chairman Curcio and other Freeholders have been trying to help the Township find a workable solution that benefits all of the taxpayers and visitors and she didn't see it as the Freeholders pointing fingers at Township Committee.

Mr. Pritchard said he thinks discussion of a long term plan is important and it is important to keep in mind what would be at Lenape Park if the County hadn't purchased it. Deputy Mayor Silva said that would be a whole other discussion that he and Mr. Pritchard would disagree on and he didn't want to get into it here.

Rich DeFeo suggested the Current newspaper might deliver the map Mr. Sasdelli talked about for nothing or for a couple hundred dollars. Mr. Pritchard said not everyone gets it so additional means of delivery would be needed.

Mr. DeFeo said every place he deals with charges \$25.00 for a zoning permit that is not refundable. He said he and Mr. Silva spoke about looking into something like that about a year ago.

Mr. DeFeo asked if the Township had any basketball courts the kids can use. Ms. Gatto said there are some at the school. Mr. DeFeo said it might stop some of the mischief if the Township still had the skateboard park. He said it could be monitored. Mr. DeFeo agreed with Ms. Granese about kids not being allowed on some of the fields and said it has to be checked into.

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Mr. DeFeo said anything is better than nothing to help get over the hump as far as Lake Lenape goes. He said getting lifeguards will be the biggest problem.

Merhi McLaughlin said she is a candidate for Township Committee and asked when the revenue strategy was initiated. Mr. Palmentieri said the Planning Board initiated the cell tower idea 6-7 years ago and there was an Ordinance to govern how it would operate. He said a number of township-owned sites were taken off the market so they would be available when a provider needed them and the Township is now starting to get activity on it. Ms. McLaughlin said generating revenue is important and should be concentrated on long term. Ms. Gatto said the strategy started 2 years ago. Deputy Mayor Silva said the Finance Committee is looking at it 3-5 years out. He said spending is equally important and the Committee has to try to control it. Ms. McLaughlin said recreation opportunities are not a luxury. She said it is good to say the Township and County are working as a team but she wished the Township had done it earlier so the kids could be swimming.

Judy Link said the Rotary is starting to talk with Mr. Sasdelli about the Halloween Parade costs. She said they started at the VFW down to Farragut Avenue once and asked if that could be looked into if it would cost less money. Mr. Sasdelli said Rotary has to meet with Chief McKeen, Lt. Tappeiner and Sue Giberson about the closing roads. Mrs. Link said mischief night is the next night and the police staffing for it is bundled with the Halloween Parade. Mr. Sasdelli said the Rotary will only be charged for police time used for closing the street for the parade, they will not be charged for police time on mischief night. Mrs. Link asked about using the Sheriff. Chief McKeen said that is part of the discussions. Mr. Sasdelli said the Township will do whatever it can to support Rotary and other group functions but will not use tax dollars to subsidize them. He said Mrs. Link has said the parade is the Rotary's major fund raiser. Mrs. Link said Rotary provides real services to the community and raises money at the 4-H Fair and their golf tournament. She said the parade has been being done for 42 years.

Harvey Kesselman commended the Committee on the bond rating increase and said they and all the workers should be credited for it. He questioned the amount of the refunding; if it was existing debt; what interest rate they hope to get; who was handling the bond sale; how the market for bond sales is now; and who chose the Standard & Poor for the rating. Mr. Sasdelli explained it is existing debt; the amount is \$6.8 million; the highest interest rate would be 3%; McManimon & Scotland is handling it; the Auditor and bond counsel picked the time for doing it; and that he followed the advice of the bond counsel Ron Ianaole.

Mr. Kesselman said schools and colleges all have user fees and priority lists for use of their facilities.

Mr. Kesselman said he didn't believe the 105' ladder truck would cover a 90' structure and suggested the Township look into whether it would. Deputy Mayor Silva said Cologne has a 100' ladder truck and he doesn't believe they can't handle anything in the township at this time. Mr. Kesselman said there is a plan for something higher.

Harry Rogers questioned the bond sale statements that the total indebtedness will be \$6.8 million. Mr. Sasdelli said the \$6.8 million is from everything the Township is allowed to bond at this time. He said the Township is allowed debt of 3½% of the total assessed value and they are only using about half of that. Mr. Rogers said spending is the hardest thing to control and suggested the Committee look into what Mr. Bongiovanni submitted for a renters' fee for once a year inspections. He said he saw that as a significant quality of life issue and that are way too many people living in too small houses sending too many children to our schools. He referred to the Committee talking about charging user fees for the Zoning and Planning Board and said not all applicants are equitable. Mr. Rogers said some applicants come night after night with the Board Solicitor sitting there at hundreds of dollars an hour and suggested there be a graduated fee scale for the number of hours they spend before the boards. Mr. Pritchard said most of those fees are passed through to the developer. Mr. Rogers said he wasn't aware of that.

Mr. Rogers said there didn't seem to be a whole lot of progress at the Old Wheaton project and he is at a loss to see how it will come about with the state of the economy. Mr. Lafferty said the Township is in the final stages of developing the Redevelopment Agreement. Mr. Pritchard said it is moving slowly because of other agencies involved. Deputy Mayor Silva said there would be an update on it at the next meeting. Mr. Rogers asked if the Committee was satisfied with its progress. Mr. Pritchard said they would like to see it move forward faster.

Susan Elkins said she lives on Lenape Avenue and isn't running for anything. She commented on seeing kids going back and forth to the Cove all summer and said now they are going up and down in packs of 15-20 on anything with wheels. She said they don't know what to do with themselves because the Cove is closed. Mrs. Elkins said the MUA bought Scoops Place so people can't get ice cream now. Deputy Mayor Silva said Scoops closed long before the MUA bought it because the owner's wife was sick. He said it brought people to Gaskill Park but parking was hazardous and the

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people who parked in Birch's lot got towed away. Mrs. Elkins commented on the County buying Lenape Park and said more people aren't coming into town now because there is no swimming at the Cove and there no fireworks. She said it is like the town is being shut down a little at a time. Mrs. Elkins said she is a realtor and people don't buy a house on the lake, they buy a neighborhood. She commented on there being no hometown celebration, not being able to walk on Main Street because sidewalks were taken out and the holes weren't filled in after the tanks were taken out. Mrs. Elkins said all of the property values will decrease if the Township isn't careful. Deputy Mayor Silva said he thought some people could remember when the antique shop was an ice cream place. He said the sidewalks Mrs. Elkins referred to were fixed a long time ago. The Deputy Mayor said the hardest thing for people to understand when they come to the public sector from the private sector is that things don't move as quickly.

There being no further questions or comments from the public, Mr. Pritchard moved, seconded by Mr. Palmentieri, that the public comment portion be closed.

MOTION CARRIED WITH ALL MEMBERS PRESENT VOTING "AYE", NO "NAY", NO "ABSTAIN", ONE MEMBER ABSENT.

A 10 minute recess was taken.

Synopsis: John & Deborah Pucci request for reconsideration of the December 1, 2008 Township Committee Resolution denying their request for an extension of time to comply with Condition E and rescinding prior approval of a Use Variance re: Block 1305, Lots 9.01 and 9.05 (remanded to Township Committee by Judge Armstrong)

Mr. Lafferty explained the litigation the Township is in with Mr. and Mrs. Pucci in Atlantic County Superior Court came before Judge Valarie Armstrong by way of a management conference. He summarized the history of the matter as follows: the April 7, 2008 resolution condition was for removal of the dirt pile from Mr. Pucci's property within 6 months with a proviso for a window for requesting an extension based on certain proofs being provided by Mr. and Mrs. Pucci; Mr. Pucci made application and appeared before the governing body last October, without counsel, for an extension of time within which to comply with the condition of his variance that the governing body had modified; the governing body reviewed what was submitted and the information available at that time and made a decision not to grant the extension and therefore rescinded the use variance that Mr. Pucci had been granted; that was the only condition the governing body was dealing with and the remaining conditions imposed by the Zoning Board of Adjustment remained in place; in January of this year Mr. and Mrs. Pucci requested reconsideration of the denial through a letter from counsel Alfred Scerni; thereafter Mr. Scerni became Labor Counsel and the Pucci's had to secure new counsel; in the meanwhile the 45-day time period in which to file a complaint in lieu of prerogative writ was running and Mr. Pucci's counsel initiated that complaint; at that point Mr. Lafferty issued an opinion and Mr. Darcy agreed that filing of the litigation divested the governing body of any jurisdiction over the matter; those matters go to the County Superior Court and are routinely handled by the most senior presiding judge for the vicinage; Mr. Lafferty and Mr. Darcy appeared before Judge Armstrong on April 20th and made her aware of the procedural history of the case; Judge Armstrong felt it was an issue that should be addressed by the governing body as a forum of primary jurisdiction and directed the matter be remanded to the governing body for consideration of the motion for reconsideration. Mr. Lafferty explained the governing body must first consider the request or motion for reconsideration. He explained they are not restricted in what evidence or facts they review in conjunction with that examination and that it can be evidence not presented previously and newly developed evidence. Mr. Lafferty said one of the points Mr. Darcy made in his presentation and wants the governing body to consider is that the depth and breadth of the economic turn down wasn't known in October and November of 2008 as it is today. He explained the first issue the governing body has to look at is whether there were changed circumstances that warrant an alteration of its prior decision and the condition at issue and said once that decision is made the next step is to decide whether there is sufficient evidence to warrant a change in Condition E in the original variance approval which related to removal of the dirt pile. Mr. Lafferty said only the applicants Mr. and Mrs. Pucci and the appellant Mrs. Diefenbeck have a right to participate in the process. He said the issue to be dealt with is defined and discreet and it is not a full-blown public hearing or an opportunity to revisit the original grant of the use variance and issues that the Zoning Board and governing body spent so much time on and the issue to be dealt with tonight is purely defined and discreet. He suggested Mr. Pucci, through his counsel, should make their presentation and then the governing body can hear from Mrs. Diefenbeck.

Deputy Mayor Silva recognized Mr. Darcy and invited him to come forward to make his presentation.

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Thomas Darcy said he an attorney, a licensed professional planner and professional licensed land surveyor but he is here tonight solely in his capacity as the attorney representing John Pucci. Mrs. Anderson said she wasn't hearing Mr. Darcy on the recorder. Ms. Gatto asked if everything was being picked up on the video recorder. Ms. Hedrick said that it was.

Mr. Darcy said they are seeking reconsideration of the governing body's denial of a 6 month extension to allow Mr. Pucci an additional 6 months to remove the dirt pile which was a condition of the use variance the Committee granted in its denovo review of his use variance application. He said they hope to present sufficient documentary, testimonial and photographic evidence not only to justify the reconsideration but for the Committee to find that the dirt pile has in fact been removed; that Mr. Pucci has satisfied the condition the Township Committee imposed on him as a condition of the use variance; and that it occurred within the maximum 12 month period that the Committee indicated they felt was appropriate under denovo review contrasted with the longer period the Zoning Board of Adjustment had granted. Mr. Darcy said they respectfully request the Committee consider reinstating of the use variance so that Mr. Pucci can get on with his site approval at the Zoning Board of Adjustment if the Committee chooses to reconsider and finds that the pile has been removed and the condition satisfied. He said he wanted to guide Mr. Pucci and the Committee through the report he submitted to the to show the efforts Mr. Pucci made to get the pile removed during the first 6 months; the mitigating circumstances occurring during that 6 months that prevented him from getting the pile removed through obstacles beyond his control; and the efforts Mr. Pucci made to have it removed during the second six month period even though he was denied the extension so he did in fact comply with the condition within the 12-month period.

Mr. Lafferty swore Mr. Pucci in.

Mr. Darcy asked Mr. Pucci to confirm that the Township Committee approval was granted on or about April 8, 2008 and that it required that the dirt pile be removed during the first 6 month period. Mr. Pucci answered in the affirmative. Mr. Darcy showed Mr. Pucci various pages in the report he submitted and had him confirm that they were copies of the flier he sent out that contained a large business card for Chestnut Run Excavating and Tree Service; that they showed the various people the fliers were sent to; that the smaller flier was also sent with the 124 fliers; an affidavit for the general flier that was sent out; a letter from Puggi Recycling dated June 29, 2009 saying Mr. Pucci had contacted him and that the letter was the exception; that most of those contacted were not very receptive to giving written confirmation that Mr. Pucci had contacted them; that he was trying to move the dirt out; that he wasn't trying to get maximum dollars for it; that he intended to get it out within the 6 month period; and that he signed affidavits of all the efforts he made and included them in the report. Mr. Pucci answered in the affirmative to each question. Mr. Pucci read the contents of the flier into the record and said that people in the dirt business said they didn't need it because they had so much of their own. In response to other questions by Mr. Darcy, Mr. Pucci confirmed he contacted the ACUA in the summer of 2008 and that they didn't want the dirt; that he contacted DJ Recycling but had no success with them and he confirmed it with an affidavit. Mr. Darcy asked if Mr. Pucci had an ad for top soil in the yellow pages during the 6 month period and if he put some specialized ads in the Brigantine Times during the spring and summer of 2008. Mr. Pucci responded in the affirmative and said he advertised in the Brigantine Times because he owns a home there. Mr. Darcy asked Mr. Pucci to estimate how much fill material he was able to move off-site the first 3 months of the first 6 month period. Mr. Pucci said approximately 15% was removed in his own work as Chestnut Run Excavating and that it was removed from the back of the pile as directed by the Soil Conservation Plan. Mr. Darcy asked Mr. Pucci to characterize the response or non-response he received during the first 6 months. Mr. Pucci said he got no response at all to the 124 fliers he sent out. Mr. Darcy commented on the economy and the Legislature working on the Permit Extension Act during the 2008 summer months and said Mr. Pucci was trying to move the top soil out but there are mitigating circumstances. He suggested the conditions the Legislature recognized throughout the state are parallel to Mr. Pucci's circumstances. Mr. Darcy said the Department of Labor statistics report on permits issued in Atlantic County show they were relatively stable 2002 through 2005, started to decline in 2006 and were almost 50% lower in 2007. He said there were some extreme economic conditions in the summer of 2007 and 2008. Mr. Darcy asked Mr. Pucci if he applied for a permit to cut trees on his property that allowed him to cut trees for an agricultural field for horses and other animals. Mr. Pucci said he got a permit in August of 2008; that he didn't start until after the first hearing; and that he moved approximately 30% of the pile in 20 days. Mr. Darcy asked Mr. Pucci if he continued to make a good faith effort to remove the pile even though he was denied an extension. Mr. Pucci said he did; that trucking it off-site commenced the first 2 weeks in December and he continued spreading it on his own property. Mr. Darcy asked Mr. Pucci if the photos on page 50 reasonably depicted the condition of his property in January 2009. He said the photo on page 26 showed what the pile originally looked like when it was 12'-14' high and the January 2009 photo shows there is a substantial difference in the profile of the pile. Mr. Darcy

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asked Mr. Pucci if he continued his efforts to reduce the pile after January and to grade the pile out on his own property in accordance with his zoning permit. Mr. Pucci said he did. Mr. Darcy referred to photos that showed it is almost level with the existing driveway and asked Mr. Pucci if he felt that he had complied by March of 2009, about one month prior to the deadline for completely removing the pile off-site or regrading it. Mr. Pucci said he did. Mr. Darcy said other mitigating circumstances he feels warrant reconsideration were (1) the Zoning Board of Adjustment rendered an opinion originally that they had no objection to the Committee granting the extension and they were the original entity that requested the pile be removed (2) Mr. Pucci made contact with the Administrator in July 2008 and showed him what was basically being presented tonight (3) the pile did get removed within the 12 month period. He said it would have been better if it was out within the 6 month period but it was removed in 12 months. Mr. Darcy said the Board of Adjustment and Township Committee felt the pile was an aesthetic eyesore to the view from Harbor Avenue. Mr. Darcy said he and Mr. Pucci felt that the condition has been met and granting the use variance would not be detrimental to the community. He urged the Committee to find a retroactive extension was appropriate; that the pile has in fact been removed; the condition has been satisfied; the original purpose of getting the pile out has been met; and reinstate the use variance.

Mr. Lafferty asked Mr. Darcy if it was his clients' intent to maintain his property and the street scape it its present condition and not to replace or reconstitute the pile. Mr. Darcy said his client knows that in granting the variance the Zoning Board wanted the pile out of there and in affirming the variance the Township Committee wanted that pile out of there. Mr. Darcy said he couldn't imagine Mr. Pucci would ignore both those agencies recommendations and put the pile back there. Mr. Pucci said that in his opinion that particular lot is not part of the application; that the use of that lot has changed since this whole situation happened; that it was just a wooded lot before; and the pile was stored specifically for commercial use. Mr. Pucci said he understands that lot is not part of his use variance and cannot be used for commercial purposes. Mr. Lafferty asked Mr. Pucci if there was an understanding that the pile will not be reconstituted or replaced at that location and that Mr. Pucci is assuring the Township Committee he isn't going to revert that property to its prior use if the Township Committee is inclined to entertain a motion for reconsideration. He said it was clear that the Township Committee had concerns about the use of that adjacent property for commercial purposes and the aesthetic issue was obviously a real concern. Mr. Pucci said that property will not be reverted back to commercial use. After a private conversation with Mr. Pucci, Mr. Darcy said the question is whether or not Mr. Pucci will ever reconstitute that pile and he said Mr. Pucci will never have a pile of that size in front again but he is concerned about having a small berm along Harrison Avenue. He asked if something like that would be within the scope of what the Committee was asking. Mr. Lafferty said his question was the depositing of waste soil in the fashion it was relative to resale or marketing and for his commercial business. He said it is Mr. Pucci's right if there is landscaping to be done on the property and it is done within the parameters of local ordinances. Ms. Gatto asked what type of landscaping Mr. Lafferty described as permissible. Mr. Lafferty said that is for the enforcement people to deal with. He said Mr. Pucci probably knows the Land Use Ordinance better than most people. Mr. Pucci said he will abide by all the ordinances that he has to after today. He said there is no ordinance about piles of dirt. Mr. Lafferty said there are restrictions on excavation, mining, landscaping, buffers for proximity to roadsides, and those types of issues.

Susan Diefenbeck said the Township Committee resolved this issue many times, made decisions and worked very hard in doing it with Mr. Rosenberger, Mr. Campbell and all of the professionals. She commented on the long hours being spent to hammer this out and said Mr. Pucci agreed to the terms. Mrs. Diefenbeck said Mr. Pucci was told to remove the dirt and get a commercial permit. She said he didn't comply and the dirt wasn't removed. She said he didn't clear cut 3 lots; the dirt was spread on one lot so it could be minimized. Mrs. Diefenbeck said she didn't know what pictures the Committee was looking at but she looks at the dirt every day. She said the decision for the dirt to be removed in 6 months wasn't made haphazardly and Mr. Pucci disregarded the directions of the Zoning Board. Mrs. Diefenbeck said the Committee gave Mr. Pucci clear direction on what had to be done to maintain the commercial variance. She said removal of the dirt was a condition upon which Mr. Pucci could keep his variance and he didn't comply. She said Mr. Pucci was told to remove the dirt, not smear it. Mrs. Diefenbeck said it isn't okay that Mr. Pucci didn't comply because there is a community looking at the Township Committee; listening to everything they say; and the Committee should be sending a message to the community. She asked if Mr. Pucci was going to start mining that dirt and digging it up to sell for his business and questioned how that was going to be stopped. Mrs. Diefenbeck said Mr. Pucci is using the next lot over as commercial. She said that at 8 PM on June 30th Mr. Pucci brought his commercial truck in from the outside and dumped a huge truckload of stumps, and branches onto the front of his residential lot near the street. She said he is now using his residential lot as a dumping ground for his business and asked what can be done to prevent it from continuing. Mrs. Diefenbeck said Mr. Pucci was told there was to be no stock piling of material on his commercial property so he is putting so he is putting a large

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new pile of dirt on top of the old pile at the back of the residential lot. She said the restriction was that any stock piling has to be behind the garage so it can't be seen from the road but Mr. Pucci is dumping it at the front of his residential lot next door. She said there are 2 commercial lots and if you drove by you would see that Mr. Pucci doesn't maintain it. Mrs. Diefenbeck said if the lots remained fallow they wouldn't have to be maintained. She said commercial property has to be held to a higher standard than residential. Mrs. Diefenbeck commented on her nephew in third grade learning the definition of consequences and said he isn't seeing any consequences of Mr. Pucci not complying. She said that if she didn't comply with a ruling of the Township Committee or Zoning Board she would pay consequences. She said the dirt was removed but it wasn't done properly. Mrs. Diefenbeck said she doesn't want to live next to a recycling center, gravel pit or dump. She said the resolution was very detailed as to what is accepted as proof that Mr. Pucci attempted to remove the dirt in the first 6 months and 124 flyers is not proof. Mrs. Diefenbeck said Mr. Pucci came in and showed envelopes to a secretary; no one knows what was in them; no one saw postage on the envelopes; and a postage receipt doesn't prove anything. Mrs. Diefenbeck said the business world has requirements and there should have been an affidavit and proofs but there was nothing. She said the flyers cannot and should not be counted because they didn't meet the requirements. Mrs. Diefenbeck said Mr. Puggi doesn't buy dirt he sells it; his letter wasn't done in a timely fashion to meet the requirements; and it should have been notarized. She said it wasn't accepted before and shouldn't be accepted now. Mrs. Diefenbeck said the ad in the yellow pages has been there for 10 years and was used when Mr. Pucci was running an illegal business. Mrs. Diefenbeck said the reason the Township Committee denied the extension was that Mr. Pucci didn't meet the proofs requirements. Mrs. Diefenbeck said the Township Committee followed the resolution and did what they were supposed to do. She said she didn't know why things that weren't accepted then have to be brought up now and they shouldn't be accepted now. Mrs. Diefenbeck referred to Mr. Darcy saying mitigating circumstances were the economy and said Mr. Pucci should have thought about the economy before he started his illegal business. She said she thought all of the Township attorneys agreed the new state regulations didn't apply to Mr. Pucci or his business. Mrs. Diefenbeck said the economy and building permits can't be applied to an illegal business or commercial dirt pile on residential property. She said all the talk about the economy and new permit laws should not be considered. Mrs. Diefenbeck said 30% of the dirt wasn't removed, it was spread around on one lot to make it look like it was gone. Mrs. Diefenbeck said they still have the flooding problems they had before. She said meeting with Mr. Sasdelli doesn't meet the requirements placed in the resolution. Mrs. Diefenbeck referred to Mr. Pucci stating he took 100 tri-axles off the property since December 2008 in a 2 week period and said she was home for 4 weeks in December and is positive that he is lucky if there were 4. She referred to Mr. Darcy's comment about it not being detrimental to the zoning plan and said the area is residential on the zoning plan and the only detriment is Mr. Pucci having an illegal business there. Mrs. Diefenbeck said the Township Committee and Zoning Board did what was right; they put it in their resolution; and Mr. Pucci didn't meet what was in the resolution then or now. She asked the Township Committee not to reconsider this.

Mr. Darcy asked Mrs. Diefenbeck if she was going to sit there and tell the Township Committee the condition of Mr. Pucci's lot right now is not substantially different than when the pile was there. Deputy Mayor Silva asked Mr. Darcy if he personally visited the property. Mr. Darcy said he hadn't. The Deputy Mayor asked Mr. Darcy if he was saying the pictures are representative of what is now on that property. Mr. Darcy said that is what Mr. Pucci says. Mr. Lafferty said he thought the Deputy Mayor was asking if the photographs on 50A fairly and accurately depict the condition of the property as it exists today relative to the dirt pile. Mr. Pucci said the pictures were taken in March but that wasn't to step back and never use the lot again. He said he is continuing to clear cut and take trees down. He said that the rye grass has grown for soil conservation and is uneven but the level of the dirt is no higher than it was in the pictures taken in March. Mr. Pucci said his clear cutting permit was good until August but he received a 6 month extension on it to February of 2010 and that it is a continuing process. He said the reason it doesn't look like those pictures now is because he is continuing to clear cut and to push material on the lot but the level of dirt is no higher than it was in those pictures. Deputy Mayor Silva asked Mr. Pucci if he brought in any dirt and put it on top of it since the pictures were taken. Mr. Pucci said he hasn't.

Deputy Mayor Silva asked if Mr. Lafferty said mining was prohibited there. Mr. Lafferty said the Township Ordinance prohibits it anywhere. Mr. Pucci asked for the definition of mining and said he absolutely is not digging or taking soil out of the ground and removing it from the property.

Ms. Gatto asked when pictures on exhibit 19A and the 2 pages after that were taken. Mr. Darcy said they were taken March 4th. Mr. Lafferty said he thought the question was whether that is the level of soil once it was spread out. Ms. Gatto said she was trying to establish the difference between the photos on exhibit 16C which she thinks they said was in March and those on the page after that. She said there was snow on the ground. Mr. Darcy said they were in January. Mr. Lafferty said he thought Ms. Gatto was asking when the pictures on page 54 were taken. Ms. Gatto said it was page 54A, exhibit 19. Mr. Darcy said they were March pictures.

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Mr. Lafferty asked if the first ones were in January and these were in March. Mr. Darcy said that was correct.

Deputy Mayor Silva asked for a definition of removal. Mr. Lafferty said it is whatever the Committee decides it is. He said it isn't defined in the original resolution but he thinks a reasonable interpretation is any lawful means of dissipating the dirt pile. Mr. Lafferty said he sat through the hearings and knows that was a concern of the governing body and obviously of the Zoning Board of Adjustment because they generated the original condition. He said he doesn't think the governing body can dictate to a property owner how to remove or dissipate a condition as long as it is done by a lawful means. Mr. Lafferty said there is no true answer to that question but he thinks what he gave was a reasonable response.

Mrs. Diefenbeck looked at the pictures and said she was shocked because she lives across the street and doesn't see anything half that clean. She said there are tons of branches, stumps and stuff like that there that were dumped out of Mr. Pucci's commercial truck. Mr. Darcy said that has nothing to do with this.

Mr. Lafferty cautioned the governing body that they have a very discreet issue before them and that they do not have general enforcement of land use and zoning before them. He said if there is an issue with the condition of the property that is not consistent with municipal ordinances there are avenues for enforcement but the governing body isn't that avenue.

Deputy Mayor Silva asked if the Township Committee Members had any questions. Ms. Gatto asked Mr. Lafferty if he had all of the resolutions. He said he did. Ms. Gatto asked for clarification that the November 26, 2007 Zoning Board original resolution said "mounds of dirt". Mr. Lafferty said a copy of the original resolution was on page 12 of Mr. Darcy's exhibit and said the language Ms. Gatto referred to is on page 2, subparagraph E. He said that it says "mounds of dirt shall be removed". Ms. Gatto questioned Mrs. Diefenbeck's assertion that the State regulations Mr. Darcy referred to in terms of economic conditions didn't apply to Mr. Pucci. Mr. Lafferty said Mrs. Diefenbeck was correct that the Permit Extension Act of 2008 doesn't apply to this particular property because it is not within one of the designated areas. He said he thought Mr. Darcy looking at the legislative intent behind the Act to support the proposition he is bring to the Township Committee.

Mr. Lafferty said Mr. Rosenberger (the Zoning Board Solicitor) and Robert J. Campbell (the Board Chairman) sent letters to the Township Committee on behalf of the Zoning Board of Adjustment. He said Mr. Rosenberger's letter of October 14, 2008 indicated that the Zoning Board of Adjustment didn't object to an extension of time within which to comply with that condition. Mr. Lafferty said that was logical considering that the Zoning Board time frame was 24 months. Mrs. Diefenbeck said that wasn't what she was talking about, she was talking about Mr. Rosenberger putting a lot of hours with other professionals and the Township having to hire an outside solicitor. Mr. Lafferty apologized for misunderstanding her comment.

Deputy Mayor Silva asked Mrs. Diefenbeck if she wanted to say anything else. Mrs. Diefenbeck said there was probably more that she could say but she thinks her main point is out there.

The Deputy Mayor asked Mr. Darcy if he had anything more to say. Mr. Darcy said he thought Mrs. Diefenbeck was trying to use the condition as a punitive measure to defeat the use variance that the Zoning Board and the governing body granted to Mr. Pucci. He said condition wasn't intended to be punitive, it was to get the pile out of there. Mr. Darcy said Mr. Pucci didn't get it out within 6 months and perhaps could have made better efforts to do it but he did get it out within 12 months. He said he thinks they submitted evidence that there were significant obstacles to being able to do it and most importantly that he got it removed within the 12 month period. Mr. Darcy said they feel that because of that the Township Committee should grant the reconsideration and preserve the approvals the Zoning Board of Adjustment and Township Committee granted to Mr. Pucci.

Deputy Mayor Silva asked if the first issue was to determine if the Committee would reconsider the request for reconsideration because of changed circumstances and the condition for removal of the pile was accomplished within the second 6 month time period and if it was a positive, the second issue was whether they want to reinstate the variance. Mr. Lafferty explained the Committee had to decide whether or not they want to retroactively reinstate the extension and grant it.

Mr. Pritchard asked if it would go back to Superior Court if the Township Committee decided not make a decision tonight. Mr. Lafferty explained the Superior Court has retained jurisdiction of the matter as set forth in the Order of Remand. He said the first decision the Committee had to make is whether or not they find changed circumstances that warrant their reconsideration of their denial of the extension. He explained changed circumstances can be new information that wasn't known at the time or anything the Township Committee feels is appropriate and once that decision is made a separate decision has to be made as to what the Committee's Decision as part of the process of reconsideration.

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Deputy Mayor Silva said everyone having gone through some complex discussions during the process; a lot was put on the table; there has been pain on both sides; and now the moment of truth has come. He asked the Committee Members what their pleasure was. Mr. Lafferty said if there is no motion to reconsider, the request fails.

Mr. Palmentieri said he would make a motion to reconsider the denial of the request for an extension for all of the reasons stated. He said that looking at the whole history of this matter he thinks there were a number of things that were not handled in the best manner on everybody's part but the bottom line is that the condition was to have the dirt pile removed.

Ms. Gatto said she didn't know if economic conditions is reason enough to say there was a change in circumstances to reconsider because the economic conditions were being faced at the time the Township Committee went through its budget struggles so she thinks they were aware of it. She said her hesitation was that she thinks everyone has seen that thinks are worse than they ever imagined. Ms. Gatto said she isn't in that industry but she understands there is a tickle-down effect and she is trying to decide if there is enough to make that a reason for reconsideration.

Mr. Palmentieri said Ms. Gatto is struggling with something he didn't waste that much time on. He said that after spending 10 years with the Land Use Law he questioned what would be the defacto overruling of the Zoning Board decision based upon what might be called a lack of Land Use Law dealing with voluntary agreed upon conditions. Mr. Palmentieri said he thinks that would be overturned in Court so he has a legal problem with upholding the entire course of events in front of the Township Committee at this point.

Deputy Mayor Silva said he tried to look at it prudently, narrowly and if the circumstances changed. He said whether that was demonstrated to everyone's satisfaction or not, he has been down that street and when he first saw the dirt pile it was huge and long and it isn't any longer. He said the removal was accomplished within the 6 month time frame even though the extension might not have been granted by the Township Committee; it was handled by the Superior Court based on the challenge; and it remanded back to the Township Committee. Deputy Mayor Silva said he was trying to look at in the vein and that he would second the motion made by Mr. Palmentieri.

Mr. Pritchard asked if it will immediately go back to the courts again if for some reason the motion didn't pass and if the Court would automatically make a decision. Mr. Lafferty explained it never left the courts and it will go through the regular litigation process. He said it was important from a Land Use perspective that the Township Committee to look at it in a Land Use Setting. Mr. Lafferty explained the Committee has very few guidelines and said that whatever the Members' vote on the motion ultimately is, each one should state clearly on the record what the reason for their vote is. He said he didn't think the litigation process should be part of this.

Deputy Mayor Silva called for a vote on the motion made by Mr. Palmentieri and seconded by Deputy Mayor Silva to reconsider the denial of the request for an extension for all of the reasons stated. He said that looking at the whole history of this matter he thinks there were a number of things that were not handled in the best manner on everybody's part but the bottom line is that the condition was to have the dirt pile removed.

MS. GATTO: "YES" because she still believes not enough action was taken December 1st but things changed and the dirt pile was removed. She said she doesn't believe the economic reasons.

MR. PALMENTIERI: "YES" because of the prior comments and the dirt pile has been removed.

MR. PRITCHARD: "YES" because he feels the conditions will prevent a recreation of the dirt pile.

DEPUTY MAYOR SILVA: "YES" for the same reasons as stated before; changed circumstance warrant the extension and removal of the dirt pile was accomplished in 6 months.

MOTION CARRIED WITH FOUR MEMBERS VOTING "YES", NO MEMBERS VOTING "NO", NO MEMBERS ABSTAINING AND ONE MEMBER ABSENT.

Consideration of Modification of the December 1, 2008 resolution retroactively

Ms. Gatto questioned what the motion would be. Mr. Lafferty said the motion is to *modify the Township Committee's December 1, 2008 resolution so as to reinstate the Use Variance and to grant an additional extension of time retroactively within which to comply with the condition E.* Mr. Silva said that since the condition has been remedied, this will solidify that decision.

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Mr. Palmentieri said he made the motion as stated by the Solicitor and Deputy Mayor Silva seconded it.

Mr. Pritchard asked if the Committee can add anything to the conditions as far as not reinstating the dirt pile. He said he has a concern about that and wants the language to be very specific and very clear. Mr. Lafferty said any resolution he prepares will emphasize that. Ms. Gatto said Condition F of the original variance says no additional fill shall be delivered to or accumulated on the site. Mr. Lafferty said that condition remains in effect. Deputy Mayor Silva said that it goes back to the original variance by reinstating it. Ms. Gatto said the Committee is saying there is evidence supporting a change to Condition E that the mounds of dirt discussed shall be removed altogether within 6 months with the extension of 12 months retroactively.

Mr. Lafferty explained that if the Committee does that the Use Variance will be reinstated because the removal has already been accomplished. He explained there was a denovo review by the Township Committee and the only condition the Committee modified was the time frame in Condition E and any other conditions in the Use Variance remained in full force and effect.

Mr. Pritchard said the original variance stated "additional mounds of dirt" and he wants to make sure that what is existing and spread on the site now doesn't somehow end up being reformulated into a large pile. Mr. Lafferty said that would constitute a mining activity and that is not allowed anywhere in the Township under the Ordinance. He said scalping the surface and selling the top soil is not a permitted use of the property. Mr. Pritchard said he is only going there with this because of the history of the neighborhood. He said it frustrates him that no matter which decision the Township Committee makes, things are not going to change. He said he had hoped they could resolve this amongst themselves somehow but that hasn't happened. Mr. Lafferty said he thinks Mr. Pritchard's concern is that he doesn't want to see a bulldozed pile 12' high and 300' long a week from now. Mr. Pritchard said he also doesn't want to see the Police Department or the Zoning Officer called every other day because somebody is riding a golf cart or doing something else. He said that is what frustrates him.

Ms. Gatto said theoretically Condition E is the mound of dirt so if it reappears it would violate Condition E and be a violation of the Use variance. Mr. Lafferty said that was correct and Condition F provides that no additional dirt be brought in and put on the property.

Mr. Sasdelli explained the Township Committee isn't only making a Land use decision they are also making a business decision. He said if it goes back to court and through that process he has the utmost confidence Mr. Lafferty will do all of the research necessary to defend the Township Committee and give them the best chance of winning but Mr. Lafferty doesn't work for free. Mr. Sasdelli explained it is a long process and the Township Committee would be asking the judge to look at these issues and at the same things that they are looking at, Condition E and same pictures they are looking at.

Ms. Gatto said it is the Township Committee's duty to spend the public trust for all 27,000 residents appropriately. Deputy Mayor Silva said he didn't want to send the message that the only reason the Committee is making this decision is because they don't want to go back to court. He said that has no bearing on any decision he will make.

Mr. Lafferty said the Township Committee needs to focus on the Land Use aspect of this. He said the motion will be to rescind the December 1, 2008 resolution, reinstate the Use Variance and grant an extension of some period of time for compliance.

Ms. Gatto asked if the committee would be setting any bad precedent to say any applicant who was denied and who did certain actions after the denial can come back and say they did it and ask for their permit. Mr. Palmentieri said it wouldn't because the Township Committee doesn't hear these appeals anymore. Mr. Lafferty explained it wouldn't because the Township Committee is dealing with a particular setting and particular circumstances.

Mr. Palmentieri asked what an appropriate time period would be. Mr. Lafferty said it is the Committee's discretion and explained if they made it just for the 6 months as provided for in the April 7, 2008 resolution it would be retroactively extended until April 7, 2009. Mr. Palmentieri asked how the Committee would finalize it. Mr. Lafferty said they do it by reinstating the Use Variance. He explained the Committee can't determine compliance with all of the other conditions. Mr. Palmentieri asked how compliance with the one condition being talked about would be established. Ms. Gatto said she thought the March photos would have to be used. Mr. Palmentieri asked if the Township Committee determines that or if they were setting it up for the Zoning Officer to go out and inspect. Mr. Lafferty said the only issue before the Township Committee is reinstatement of the Use Variance and if they decide the condition has been met and satisfied that would have to be in the resolution.

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Mr. Lafferty explained the Zoning Officer would determine compliance and said he has a duty to monitor compliance with zoning regulations. Mr. Palmentieri said he hasn't done it prior to what the Township Committee is retroactively extending it to. Mr. Lafferty said it would only come up as a zoning violation. He said you do not get a certificate of compliance. Mr. Palmentieri said the default position is compliance unless there is a finding of lack of compliance. Deputy Mayor Silva said if the second 6 month period extension was granted the clock would automatically have been set then. Mr. Palmentieri said that would take it to April 7, 2009.

Mr. Palmentieri moved, seconded by Ms. Gatto that the December 1, 2008 Resolution be modified by retroactively granting a 6 month extension of time for compliance with Condition E, removal of the dirt pile, to April 2, 2009 and to reinstate the Use Variance.

Mr. Lafferty said the members could incorporate their prior comments or reasons in their vote.

MS. GATTO: "YES" because she still believed not enough action was taken December 1st but because the Township Committee reconsidered on the change of varying conditions and the dirt pile has been removed in some fashion. She said she doesn't believe economic conditions is a reason.

MR. PALMENTIERI: "YES" because of the prior comments including that the dirt pile has been removed.

MR. PRITCHARD: "YES" because he feels confident that the conditions have been agreed to will prevent reformation of the aforesaid pile of dirt.

DEPUTY MAYOR SILVA: "YES" for all the same reasons as before; removal of the pile was accomplished in the 6 month time period' and it is only right that the Township Committee reinstate the Use Variance at this time.

MOTION CARRIED WITH FOUR MEMBERS VOTING "YES", NO MEMBERS VOTING "NO", NO MEMBERS ABSTAINING, AND ONE MEMBER ABSENT.

Mr. Pritchard moved, seconded by Mr. Palmentieri, that this meeting be and is hereby adjourned.

MOTION CARRIED WITH ALL MEMBERS PRESENT VOTING "AYE", NO "NAY", NO "ABSTAIN", ONE MEMBER ABSENT.

ATTEST:

JOAN I. ANDERSON, R.M.C.

TOWNSHIP CLERK