

## **Long Hill Township Committee Minutes February 22, 2012 Regular Meeting**

The Township Committee of the Township of Long Hill, County of Morris, State of New Jersey, convened in Regular Session at the Municipal Building, 915 Valley Road, Gillette, New Jersey, on Wednesday, **February 22, 2012** at 7:00 p.m.

### **Statement of Adequate Notice:**

Mayor Mazzucco read the following statement:

“In compliance with the Open Public Meetings Law of New Jersey, adequate notice of this meeting was included in a list of meetings notice which was electronically sent to the Echoes Sentinel, Courier News and Daily Record on January 4, 2012; posted on the bulletin board in the Municipal Building on January 4, 2012 and has remained continuously posted as the required notices under the Statute. In addition, a copy of this notice is and has been available to the public and is on file in the office of the Municipal Clerk.”

### **Executive Session:**

A motion was made by Mr. Schuler and seconded by Mr. Roshto to approve Resolution 12-110  
Vote:

#### **RESOLUTION 12-110 EXECUTIVE SESSION**

**BE IT RESOLVED**, pursuant to the Open Public Meetings Act, that the Township Committee of Long Hill Township meet in closed session to discuss the following matters:

#### Personnel:

- Township Administrator Recruitment
- CFO Position

#### Contract Negotiations:

- None

#### Attorney Client Privilege:

- None

#### Collective Bargaining:

- None

#### Pending or Anticipated Litigation:

- Tax Appeal

#### Property Acquisition:

- Open Space

**BE IT FURTHER RESOLVED** that minutes of this executive session meeting will be released to the public in a timely fashion pursuant to the Open Public Records Act and other applicable laws and regulations.

### **Roll Call:**

On roll call the following Committee members were present:

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Jerry Aroneo; Guy Piserchia; Guy Roshto; Cornel Schuler; Mayor Michael Mazzucco

Absent: None

Also present: John Pidgeon, Township Attorney; Richard Sheola, Township Administrator/CFO; Christine Gatti, Township Clerk

### **Pledge of Allegiance:**

All present recited the Pledge of Allegiance.

### **Proclamation to Girl Scouts**

Mayor Mazzucco presented a Proclamation to the Girl Scouts.

“**WHEREAS**, March 12, 2012, marks the 100<sup>th</sup> anniversary of the Girl Scouts of the United States of America, which began in 1912 when Savannah, GA native Juliette “Daisy” Gordon Low gathered 18 girls to provide them the opportunity to develop physically, mentally, and spiritually; and

**WHEREAS**, for 100 years, Girl Scouting has helped build millions of girls and women of courage, confidence, and character who act to make the world a better place; and

**WHEREAS**, the award winning Girl Scout Leadership Program helps girls discover themselves and their values, connect with others, and take action to make the world a better place; and

**WHEREAS**, the Girl Scout Gold Award, the highest honor in Girl Scouting, requires girls to make a measurable and sustainable difference in their community, assess a need and design a solution, find the resources and support to make it happen, complete the project and also inspire others to sustain it; and

**WHEREAS**, the Gold Award honors leadership in the Girl Scout tradition, and Gold Award recipients have already changed the world as high school students; and

**WHEREAS**, core programs around Science, Technology, Engineering and Math (STEM), environmental stewardship, healthy living, financial literacy, and global citizenship help girls develop a solid foundation in leadership; and

**WHEREAS**, since its founding in 2000, the Girl Scout Research Institute has become an internationally recognized center for original research, research reviews and surveys that provide significant insights into the lives of girls; and

**WHEREAS**, through the dedication, time, and talent of volunteers of different backgrounds, abilities, and areas of expertise, the Girl Scout Program is delivered to over 34,400 girls in grades K-12 across the northern New Jersey; and

**WHEREAS**, today, more than 50 million American women are Girl Scout alumnae, 3.3 million girls and adult volunteers are active members, and Girl Scouts is the largest member of the World Association of Girl Guides and Girl Scouts, a global movement comprised of more than 10 million girls in 145 countries worldwide;

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**NOW, THEREFORE, I, Michael Mazzucco**, by virtue of the authority vested in me as Mayor of Long Hill Township, New Jersey, do hereby applaud the Girl Scouts of Northern New Jersey and Girl Scouts of the United States of America for their 100 years of leadership and expertise as the voice for and of girls, and proudly proclaim 2012 as "Year of the Girl."

### **Township Committee Liaison Reports:**

Mr. Piserchia updated the Committee and public on the following as Township Committee Liaison; he announced that the School Board approved the move of the School Board Election to the General Election. He pointed out that 86% of schools moved their election to November.

Mr. Aroneo updated the Committee and public on the following as Township Committee Liaison; he reminded the Committee of the affordable housing trust deadline which is July 17<sup>th</sup>. Mr. Sheola stated that he was going to speak with Township Planner Kevin O'Brien and have information by the next meeting. Mr. Aroneo stated that the Open Space Advisory Committee continues to examine properties. He reviewed the discussions among the Communications Advisory Committee regarding social media, The Committee agreed to authorize the Communications Advisory Committee to review social media use on township computers.

### **Discussion:**

#### **Presentation: Preliminary Concept Plan for TIFA Property [Presented by Advanced Realty]**

Making the presentation was Peter Wilson of Porzio, Bromberg & Newman on behalf of Advanced Realty, LLC. Kevin Tartaglione of Advanced Realty and Lance Blake, Project Architect, were also present

Mr. Wilson pointed out that they were here this evening to discuss a twelve acre property located at 50 Division Avenue in Millington directly across from the train station to the rear of the site is the Passaic River. Chris Stevenson, the attorney for the current owner, is also present. This site is zoned limited industrial and contains deteriorating and unsightly structures. The site is also a subject of Environmental Remediation. Advance's proposal would provide the means for the township to realize a number of public benefits. Demolition of the existing structures will be replaced with aesthetically pleasing, high quality new construction. It provides residential and retail sources. It will provide Long Hill Township with on-site affordable housing which would aid in compliance with your fair share obligation. It would enable preservation of open space of approximately five acres to the rear of the site, adjacent to the Passaic River. Through the use of payments, in lieu of taxes in redevelopment area bonds, it could provide a funding source for much needed waste water treatment, plant upgrades and the inflow and infiltration repairs to the Long Hill Township sewer infrastructure. In order to fund these benefits a sufficient investment return is obviously necessary. The redevelopment, as shown on the conceptual site plan, will provide for three buildings of living units, one building containing first floor retail space with living units above and a smaller retail building at the main entrance to the site. Supporting the transient oriented development are a club house and outdoor pool. This redevelopment is exactly what is state of the art planning and what many New Jersey municipalities are looking for. The transient oriented work force living space with supportive retail and professional offices that attracts young professionals and empty nesters from the Long Hill area in one and two person households. I have provided your Clerk with a letter outlining the opportunities that the redevelopment area offers. The payments in lieu of taxes actually afford the township a better cash flow than the current tax revenues for the site and the bonds do not count against the townships gross debt. Advance has extensive experience in partnering with municipalities to effect significant public improvements through the use of these

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funding techniques. Mr. Tartaglione will provide you with some background on Advance as well as to share some examples of redevelopment successes in which Advance has partnered with municipalities.

Mr. Aroneo said we could all agree that the demolition of the existing structures is necessary. About the bonds – who would pay the debt service? Mr. Wilson said it would be paid through the cash flow from the payment in lieu of taxes.

Mr. Aroneo commented the payment from that property would just go to service debt. No property tax is paid until that debt is satisfied. Mr. Wilson said the issuance of the bonds would free up a significant amount of capital that would allow for significant repairs. The tax free bond proceeds will go to benefit the municipality and its capital needs.

Mr. Aroneo stated that he did not feel an infrastructure was needed if the property was developed. As to the retail and new residential resources, he was not sure they were needed. As to the affordable housing requirements he pointed out that he thinks this may create affordable housing for us. Regarding the five acres of open space on the site adjacent to the Passaic River he asked if we are going to be able to use that space. Mr. Wilson replied that it was his understanding that it was part of the remediation area but he also understood that it would be appropriate for open space recreation.

Mr. Wilson wanted to clarify one thing. In reference to upgrades and repairs to the issues that we are aware of in you system, is not to expand the plant to service this redevelopment but to deal with the existing situation.

Mr. Roshto pointed out that this could potentially be a good thing. He commented that when you place the Millington Train Station in the wrong spot it gives me a feeling that you haven't really thought through this.

Mr. Tartaglione, Sr. Vice President of Advance Realty Development, said we think we have a win-win situation for both the township and for us. We think we can work with you in order to accommodate your needs, requirements and thoughts as well as our experience. Advance has been around for 32 years. We are a privately held real estate developer out of Bedminster. We think this location is perfect for redevelopment. We think the use of the transient oriented location, the design of the project is going to be something that would be a benefit both to the township as well as the local residents. We are not looking to put a new retail center here. This is an opportunity for professional offices. There will be supportive retail for the train station as well as the local residents. It is really to make a mixed use development. We have come here tonight for some thoughts and to get some feedback from you.

Mr. Blake, Rothland & Blake, thought this was a perfect site and everything that the state has been promoting. He pointed out that the first board shows an aerial view which shows the capped area. He reviewed the concept plans. He indicated that they are contemplating twelve to fifteen units per acre. Under that building we are proposing roughly 16,000 ft. of retail. We have the smaller fifty two hundred feet of retail. We are proposing several amenities such as a club house with a pool for the residents. We feel they are high design with a combination of stone and hardy plank siding which would really activate and enhance the neighborhood. The types of offices we think would work well are similar to a Weichert type office, small practitioners such as a doctor or dentist. Buildings one through three will only be residential and have a mix of studio and one or two bedroom homes. Building number four, which has the retail, was best suited to front the train station. The entrance into the site would be off of Division Avenue.

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Mr. Blake went on to say that they were willing to look at orienting the buildings anyway that makes sense. There are contours on the site and grade changes and some of the buildings are put in their locations based upon the grades.

Mr. Aroneo asked if a plan could be made keeping building four similar in use and changing buildings 1, 2 and 3 to some type of research, office building, and medical use. Keeping the front part of the building by the train station the same but changing it from residential use to some type of commercial use.

Mr. Lance thought from a building standpoint obviously the client could handle doing that. I will tell that we do not feel the market would be there for that type of use. Anywhere in suburban New Jersey right now, office, medical research is floundering outside of the urban location. There is no market and rents are way off of what they were. That is not a viable use for here.

Mr. Aroneo asked if it were foreseeable that if the real estate market someday corrects itself and those people became homeowners that we could have a problem renting those units the same way you have problems renting shopping centers and office space right now.

Mr. Lance felt that the dynamics of how people are living today are different than what may have been in the past. We think a location like this; adjacent to a train station, with amenities you will still have a demand for this type of product. Whether it's a newly engaged couple or someone just getting out of college there will still be a demand. We and the lenders feel very strongly about this type of product. Lenders are willing to finance long term.

Mr. Piserchia asked what Mr. Lance thought an apartment in this area, next to a train station, would rent for.

Mr. Lance said based on the market we think they would go for anything from \$18-24.00 dollars a foot. A studio would be about 500 sf, a one bedroom would be between 600- 750 and a two bedroom would be about 900-1000 sf. There is a project up the road which has a vacancy rate of less than 2%. We like to do smaller units for two reasons. Townships like it because it limits the amount of people living in the units. (listed rental projects) In answer to Mr. Schuler's question he advised that presently they were contemplating three stories. The smaller retail would be one story. The height on one or two of the buildings could go down to two stories.

Mayor Mazzucco opened the meeting to the public for Questions or Comments.

William Joyce, resident of Gillette, asked how much notice do the tenants get when they have to leave and what would be the earliest time that would happen and what would be the typical time. Mr. Lance said on a month to month basis they would be entitled to a two month notice. It would depend on the lease provisions and could be 18-20 months.

Larry Fast, resident of Gillette, voiced his concerns about the historic aspects of the neighboring buildings. He asked if they were aware of the National Register of Historic Places status as it related to the Millington Train Station. It is on the National Register it would automatically be triggering section 106 which is handled on behalf of the Federal Government. He pointed out that they would have to essentially make the case to them on how this would not creating a detrimental value on the building and its context.

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Mr. Wilson said he was aware of the Historic Preservation mechanism and would meet the requirements.

Mr. Fast noted that a cell tower across the street had triggered a review of that building and it was found not to be in conformance and what you are proposing is considerably bigger.

Mr. Ruiz, resident of Stirling asked if there had been a traffic study. He pointed out that the area is a very quiet neighborhood. Now you will be bringing a lot of people and their cars and you will create a lot of traffic.

Mr. Tartaglione said a traffic study has not been done yet.

Mr. Cilino, resident of Millington, had two questions. First, it appears as if you are trying to make a third center in Long Hill Township, one being on Valley Road and the second is Main Street in Stirling. With that I was wondering what the thought process was in putting the small stores around the station when there are stores in town which have been vacated and businesses are struggling at this point in time.

Mr. Tartaglione said that they envisioned the adjacency to the train station making a different opportunity. It will be specific to the local residents.

Mr. Aroneo asked if it was going to be self-sustaining. The 150 units will sustain the retail?

Mr. Tartaglione answered yes.

Mr. Cilino commented that he thought that this would be a disservice to the township. We would be getting more people but not giving the stores the opportunity to benefit. Long Hill Township, as it is today, would not benefit from what you are proposing. I do support the area and the rebuild of that area because it does need it. My second question was what is your vision assuming that this was a go; how do you think that would render the rest of the area around the train station in terms of aesthetics?

Mr. Tartaglione said they saw this as a big piece of the Long Hill puzzle. We think the area has its quaint characteristic and aesthetic but the redevelopment of the property will have a domino effect. I think it will increase property values.

Mr. Cilino asked if he had a feel for how many people do stop in at the train station.

Mr. Tartaglione said they did meet with NJ Transit and they were overly excited for what is proposed.

Michael Spiffer, warehouse manager on the site. He stated that he currently is the resident of the building. He asked to please let the current tenants know as soon as possible if something is decided about the site. We are all in business and trying to make a living. Is there any thought as to upgrading what is there? As you were stating the building is dilapidated and it is fairly well rented. If you upgraded the building and made it into a nicer facility you could possibly get more tenants.

Mr. Tartaglione said that from our experience we have looked at the opportunity and this property based on what it can command we cannot afford to upgrade the current building. We can not charge the rents it needs to stabilize it and make it viable. No matter how much capital they put into the building they can not get a return of those dollars.

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Mr. Spiffer asked if he understood it correctly. Renters are going to be able to handle the environmental situation that is there versus people who could possibly buy the building. I know that you are planning on cleaning it up but that entire building and property is concrete and laid over for a reason. Are you willing to deal with the amount of asbestos under that and handle the clean-up?

Mr. Tartaglione said the difference between renting and owning is specifically getting a mortgage. A lender is not going to give you monies. We understand what is going on under the surface. There are things that need to be done to clean it up and we will cap the site as well.

Mayor Mazzucco closed the public portion.

Mr. Wilson thanked the Committee for allowing them the opportunity to present this project. If there is an interest on the part of the municipality in engaging in further investigation of this we would appreciate that feedback and we would work with your professionals to begin to talk about the issues both in the concept plan and the process. From my client's perspective, in order to invest the significant resources to pursue that process we would very much appreciate either now at a preliminary level or whatever point you feel is appropriate as concrete feedback that you feel comfortable in giving so we know whether it's a viable exercise or not. We would appreciate feedback from you tonight or whenever you feel comfortable doing so.

Mr. Aroneo commented that he is reluctant to add large scale residential residences anywhere in the township. I think we all agree that that site is in dire need of something whether it is demolition or upgrade. We talked about changing the zoning. I am not so sure that a three story residential rental units is what is good for the township. It would be nice if it could be some type of office park. I think the five capped acres is not something we should count on for recreation. A question had been raised by Mr. Cilino as to what the rest of downtown Millington is going to look like. The large three story building would look out of place.

Mr. Roshto thought from what he had seen here tonight it does appear to be out of scale with the surrounding area. I think this is great for a start. I do believe that you are a little heavy on the rental units. I think you should be looking more on what it means to be a mixed use and come back with some ideas about how it fits in the town. Division Ave, Millington and Main Street Stirling, are premier places for a project like this. I am not sure that what has been presented tonight will be the ultimate solution for the area but I think it is a step in the direction of where we need to go.

Mr. Shuler agreed that development around the train station makes the most sense and lends to the least traffic impact. I do have some issues with what has been presented. The three stories do not fit in with the rest of the community although I think there may be some opportunity to get a three story in with the terrain, maybe. I think it is a bit denser than I would like. We all need to be conscious of the financials that will be necessary to clean that area up. I think we need to balance, perhaps make some sacrifices in what we ideally would like there.

Mr. Piserchia stated that the presentation was beautiful. He added that he does not know if this is right for the town and how the public would perceive it. My feeling is that it is a bit overwhelming. I think it would work but I just don't know if it's what the town wants. Three stories and one hundred fifty units I feel is a bit overwhelming to grasp. I would suspect you would get something similar from the public

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Mayor Mazzucco said you referred to a partnership with us. My interpretation is that the next step is in your hands. Do you want to go to the Planning Board? That is where you need to make your decision on whether or not you want to take it to the next step. I do not think that we are going to give you any direction.

Mr. Wilson asked if it would be alright with the Committee if your professionals were authorized to meet with us as a precursor to the process. In the redevelopment process the first step would be to deem the property as in need of development. That hearing would take place at the Planning Board but it is not really worth going to far with that if there is not going to be at least an openness after that happens to pursue a negotiation relative to the plan that gets adopted which would represent the project.

Mr. Piserchia had a question as to which board it would go before.

Mr. Pidgeon said if it goes by way of redevelopment then it would go to the Planning Board.

Mr. Aroneo said that we may not have a consensus when a plan comes back from the Planning Board. If we were to direct you to the Planning Board I would want to be sure that it would be a plan that we would be in favor of. I have heard some comments from my colleagues here which indicate that we are really not in favor of the way it looks right now. It might be a good idea to see if you can come up with another plan utilizing some of our comments.

Mr. Wilson stated that there will be, as there is with any project in New Jersey, opposition to it and that is a given. The vision that this Committee would offer and the opportunity for salutatory benefits to all the citizens can be significant. That leadership that you would show be engaging in the process could be a huge win-win. The request is a simple one. I think for us to even go the next step we would have to consider the redesign of a concept plan or making an application to the Planning Board we need some dialogue with your professionals in terms of what their expectations would be as your advisors.

Christopher Connor, Chairman of the Planning Board, stated that he came to the meeting for two reasons. One was to look at this and later to talk about ordinances. I wanted to make sure that they realize that we are in the process of working on a new Millington Element of the Master Plan. Preliminary work was done last year associated with a grant that we have for looking at this as a transit village area. Data and some statistics have been put together. Kevin O'Brien, Township Planner, is working on that project along with the Township Engineer. I think it is important that at some point when something like this comes before the Planning Board but reasonably early because the intent would be having a Master Plan draft probably during the summer of this year. I would hate to see someone work for another four months and put something together based on a document which is out of date. Some dialogue between Advance and Planning Board might be appropriate.

Mr. Wilson said he was unaware of the Master Plan revisions. This would provide a mechanism to advance the discussion and allow Advance to decide whether they can devote the necessary resources to move on with the plan. I am sure that Mr. Tartaglione has heard the comments and requests relative to this concept plan and we will go back to see if there are revisions that can be made to it and still allow his company to fund significant work that has to be done here to make it a usable site.

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Mr. Pidgeon asked if his client was only willing to proceed if the Township utilizes the redevelopment law or would he be willing to do it through the general development application process.

Mr. Wilson said that Mr. Tartaglione has indicated that he would be willing to go to the Planning Board with a concept plan as the next step. There are significant reasons to do it through redevelopment. It is a much more efficient process. Many other municipalities are successful with using those techniques and there are a lot of benefits. That being said and since this effort is already underway the next step for us would be to contact the Planning Board.

Mr. Schuler asked how the pilot program worked.

Mr. Pidgeon said it was more than just the pilot program. There is the whole redevelopment law which has plusses and minuses. You would declare the area in need of re-development and then there is a redevelopment plan entered into between the township and the developer. The benefit is that it gives the township much greater control over the details of the project. As far as the pilot program, it is somewhat controversial. Benefit is that you get the area redeveloped. The statute is written so you do not get less in taxes than you would from the current lease. The developer ends up getting less. The town is not going to get the benefit of all the increased market value resulting from the improvement to the property for the term of the pilot program. We could spend the whole meeting discussing that and it is really a policy program

Mr. Aroneo asked if they were negotiated on a case by case basis. Mr. Pidgeon pointed out that he thought the term was fixed and long term is up to 30 years. The tax is 2% of the value or 15% of the income. Then over the course of the defined period of time the taxes are the same as what they are today. Messrs. Roshto and Pidgeon reviewed the program.

Mr. Wilson thanked the Committee and stated that they would reach out to the Planning Board.

### Draft Technical Review Committee and Development Applications Checklist Ordinances

Mr. Pidgeon stated that as we had discussed last time these are two separate ordinances. Both of the ordinances came from the Planning Board via Kevin O'Brien, Township Planner. The first one pertains to a Technical Review Committee and was basically just put into our format. It is a procedural ordinance recommended by the Planning Board. The second one replaces a number of different check lists for different kinds of applications with a universal check list. He pointed out that he replaced all of the sections with new section referring to the new consolidated check list. The Committee requested someone to attend to discuss the substance.

Chris Collins, Planning Board Chair, said there are two committees that are pertinent to trying to make this process work more efficiently. One is an Application Review Committee which consists of three board members and professionals. What it is designed for is for someone with an idea that they might want to make a change to a building, build something or considering purchasing a property for redevelopment but they are not sure if they can or cannot do it. They can come before the sub-committee prior to a Planning Board meeting and they will show us what they would like to do. The professionals will give their opinion as to what the ordinances are or the engineer may give his opinion as to any problems such as contours, steep slopes, etc. The Planning Board members basically take a look at it and respond with their opinions as to how they think that may fit within the town and the environment. It is understood that this is informal advice. It is then the applicant's choice if they want to go before a board. The Site Plan Waiver Committee consists of two Planning Board members and one alternate. This is designed to help people who want to make small changes to the building.

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He reviewed the Committee's purpose. The committee being proposed is the Technical Review Committee and that Committee was put forth as another way to make things work well. Both boards need to have applicants come before them fully prepared and ready for action. We should not have them show up and find out there are things technically wrong with their plans. The solution is the Technical Review Committee where the professionals, including the applicants' professionals, can sit down together and get the technical stuff right by conference and get things right before they come to a board. This will save the town money, saves the boards time and will save the client money because hopefully they will not have to come a second time. There were questions as to whether there should be Planning Board or Zoning Board members on the Committee. It was the decision of the Planning Board that the Technical Review Committee should focus on technical issues (engineering, ordinance, planning etc.) Having two board members, although we are reasonable knowledgeable, that is not our job. That should really be just the technical people.

Mr. Roshto asked why are we making this a requirement on the applicant as opposed to making it an option? Mr. Collins said because the client that will not do this is probably the client that will be a problem. You will have a client that really does not know or has not hired professionals that are familiar with what they are doing. If they by pass this and they come in and we have any of the problems I just addressed it is a disservice to us on the board and a disservice to them. We feel it would be better for everyone to force them through a mandatory process. Ultimately it will save them time.

Mr. Roshto asked if Mr. Collins saw any possibility that it would make it through the Technical Review Committee, comes before the board and then the Planning Board tells them they have forgotten something. Mr. Collins pointed out that it was a possibility. It is much less likely if we go through the process. If it is something that should have been caught by the Technical Review Committee than we will have to find out why that happened. The application would not be deemed complete until the Technical Review Committee says so and all of the technical things are dealt with and the Planning/Zoning Board Administrator would be in charge of making sure that all of the other pieces are there. And then we would say the application was complete and the clock will start. We want to be very specific in this town as to the definition of completeness.

Mr. Aroneo thought this was a critical point. Is the legislation now clear? When the application is complete or when the application is submitted. Mr. Collins said he would give his understanding as Chairman and then let Mr. Pidgeon comment. My understanding is that it is not clear because no one had really defined "completed". The law just says complete. Clearly the Planning Boards want to have completeness as far in the future as possible and the applicant may want completeness when they submit their drawings. No one has decided that yet and it may end up being decided in court.

Mr. Pidgeon commented that he thought that a Committee such as this would help. It is a benefit if someone were to challenge in a court. This would be an administrative function. A discussion ensued among the Committee, Mr. Pidgeon and Mr. Collins regarding the present process and the proposed.

Mr. Pidgeon said it was up to the Committee if they wanted to introduce Ordinance now.

Mr. Roshto made a motion to introduce **Ordinance #298-12 An Ordinance Creating A Technical Review Committee And Supplementing And Amending The Township Land Use Code** which was seconded by Mr. Piserchia.

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Roll Call Vote: All Ayes

Mayor Mazzucco announced that the public hearing is scheduled for March 28<sup>th</sup>.

**ORDINANCE #298-12  
AN ORDINANCE CREATING A TECHNICAL REVIEW COMMITTEE AND SUPPLEMENTING  
AND AMENDING THE TOWNSHIP LAND USE CODE**

**STATEMENT OF PURPOSE:** *To create a technical review committee to meet with applicants for subdivision, site plan or variance approval prior to an application being deemed complete to discuss the proposed application, overall planning issues, and technical aspects of the application with the applicant and the applicant's professionals.*

**WHEREAS**, the Township Planning Board, in a December 12, 2011 memorandum from Township Planner Kevin O'Brien, recommended the creation of a Technical Review Committee and submitted proposed ordinance provisions for consideration by the Township Committee; and

**WHEREAS**, the Township Committee supports the recommendations of the Planning Board as outlined in the Township Planner's memorandum;

**NOW THEREFORE BE IT ORDAINED** by the Township Committee of the Township of Long Hill in the County of Morris, New Jersey, that the Township's Land Use Code e is hereby supplemented and amended as follows:

**Section 1.** The definition of "Administrative Officer" in Section 111 entitled "General Terms" is amended to read as follows:

*"Administrative Officer -*

1. The Township Planning and Zoning Administrator shall be the Administrative Officer charged with reviewing development applications and requests for administrative waivers and determining whether they are complete in accordance with the provisions of N.J.S.A. 40:55D-10.3.
2. The Administrative Officer may consult with the Township Technical Review Committee in determining complete applications.
3. The Township Zoning Officer shall be the Administrative Officer for all other purposes."

**Section 2.** The following new definitions are hereby added to Section 111 in

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alphabetical order:

*“Technical Review Committee* - The Committee shall consist of: The Administrative Officer, the Zoning Officer, the Planning Board Engineer and the Planning Board Planner. The Committee may be called to review applications at the discretion of the Administrative Officer.

*Application For Development* – The completed application form and all accompanying documents required by ordinance for approval of a subdivision plan, site plan, planned development, conditional use, zoning variance, site plan waiver, development permit, or other permit pursuant to this chapter.

*Complete Application* - An application form completed as specified by this chapter and the rules and regulations of the Township and all accompanying documents required by this chapter for approval of the application for development and the submission of all required fees and professional review escrow funds.”

**Section 3.** Subsection 162 entitled “Requirements” in Section 160 entitled “Site Plan and Subdivision Review” is supplemented and amended by adding the following new subsections 162.8 entitled “Completeness Requirements” and 162.9 entitled “Technical Review Committee”

### **“162.8 COMPLETENESS REQUIREMENTS**

- a. No application for development shall be deemed complete unless the applicant has submitted the applicable items, information and documentation listed in the checklist as well as all required application fees and professional review escrow funds. If an applicant wishes to exclude any required item the applicant must request a waiver in writing for each item and state the reasons supporting each such waiver request. Checklists for each type of application are found in Section 167.
- b. Each application for approval of a minor subdivision, minor site plan, preliminary major subdivision, preliminary major site plan, final major subdivisions, final site plan or a conditional use, as the case may be, and each application for variance relief, shall include all items, data, information and/or documentation requested in the appropriate corresponding checklists. Design waiver requests are to be listed separately along with a reason for the requested waiver.
- c. The Administrative Officer shall review all applications and accompanying documents required by this chapter to determine that the application is complete within the 45 day statutory period. An application for development shall be complete for purposes of commencing the statutory time period for action by the Planning Board or the Zoning Board of Adjustment when so certified by the Administrative Officer. Nothing herein shall be construed as diminishing the applicant's obligation to prove in the application process that he or she is entitled to approval of the application.
- d. The Administrative Officer may subsequently require correction of any inaccurate or erroneous information. The Administrative Officer may also require submission of additional information not specified in the checklist or any revisions to the accompanying documents, as are reasonably necessary for comprehensive review of the application for development. .

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**162.9 TECHNICAL REVIEW COMMITTEE**

**a. Purpose**

A Technical Review Committee (TRC), comprised of the Administrative Officer, Zoning Officer, the Board Engineer, and the Board Planner shall meet with applicants for subdivision, site plan or variance approval prior to any application being deemed complete. The Technical Review Committee will discuss the proposed application, overall planning issues, and technical aspects of the application with the applicant and their professionals.

**b. Meetings**

Technical Review Committee meetings shall take place at a time and place convenient to the Administrative Officer and the Technical Review Committee.

**c. Review and Comments**

1. Members of the Committee shall perform a preliminary review of the application for discussion with the applicant at the Technical Review Committee meeting.
2. The TRC shall review each application for compliance with the Township's zoning requirements, development regulations, sound planning policies and design standards and shall advise the applicant of any deficiencies.
3. The findings of the TRC shall in no way be construed to relieve the applicant of the responsibility for complying with zoning requirements, development regulations and design standards and shall not be binding on either the Board or the applicant.
4. An application shall be deemed complete by the TRC if it finds that the application will meet or will exceed the Checklist standards specified in Section 167 of the Township Land Use Ordinance. If the application does not meet the Checklist standards it shall be deemed incomplete.
5. After an application is deemed complete, reports on the application shall be prepared by the appropriate staff and submitted to the approving authority to assist in their deliberations.

**d. Waiver of Requirement to Appear**

The Administrative Officer may waive the requirement for an applicant to appear before the Technical Review Committee based upon the complexity of the application, or may invite additional Township agencies to participate in the Technical Review process.”

**Section 4.** Any and all other ordinances or parts thereof in conflict or inconsistent with any of the terms hereof are hereby repealed to such extent as they are so in conflict or inconsistent.

**Section 5.** In case any article, section or provision of this ordinance shall be held invalid in any court of competent jurisdiction, the same shall not affect any other article, section or provision of this ordinance except insofar as the article, section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

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**Section 6.** This ordinance shall take effect immediately upon final passage and publication as required by law.

Mr. Collins reviewed the checklist ordinance and pointed out that the ordinance was a result of a lot of work done by the sub-committee again to make things work better and easier on the applicant. It has been reduced from 25-30 pages to five pages. A.J. Batista, Planning Board member, was the one responsible for the document. Tom Behr, former Planning Board member and Board of Adjustment member, had also worked on it. The idea was to put everything on a few pages. He directed the Committee to look at the left hand side where it shows the various submission requirements. When the applicant comes in the type of application has to be decided. As the administrator I would mark the applicable column. Different applications have different requirements and it should make it quicker and easier for the applicant as well as the administrator.

Mr. Roshto pointed out that this was phenomenal work. He felt it would be a significant help to the applicant and thanked Mr. Collins for all his and the Boards efforts.

Mr. Pidgeon wanted to go back to the time of the decision rule. Cox (2012) says “as a result of this natural tension there will likely be much debate about the meaning or term submission of an application for development since the statute defines application of development as the application form and all accompanying documents required by Ordinance for approval the date of submission should be construed to be the date of complete application is submitted. Otherwise an applicant can make a totally inadequate submission simply to attempt to defeat an opinion or contemplated ordinance amendment”. I think the language of the statute is somewhat vague. Mr. Aroneo thought they were saying that the ordinance can define what completeness is.

Mr. Piserchia said he would like to add to what Mr. Roshto said. He could attest to the work put into it.

Mayor Mazzucco made a motion to introduce Ordinance 300-11 – Adopting a Consolidated Development Application Checklist which was seconded by Mr. Piserchia

Roll Call: All Ayes

Mayor Mazzucco announced that the public hearing is scheduled for March 28, 2012.

**RDINANCE #300-12  
AN ORDINANCE ADOPTING A NEW CONSOLIDATED DEVELOPMENT APPLICATION  
CHECKLIST AND AMENDING RELEVANT SECTIONS  
OF THE TOWNSHIP LAND USE CODE**

**STATEMENT OF PURPOSE:** *To adopt a new consolidated application checklist that can be used for various types of development applications.*

**WHEREAS,** the Township Planning Board has recommended adoption of a new consolidated checklist that will cover various types of development applications;

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**NOW, THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of Long Hill in the County of Morris, New Jersey as follows:

**Section 1.** The attached “Land Use Application Checklist (1/11/2012)” is hereby adopted by the Township and is to be attached to the Township Land Use Code as Exhibit “A”.

**Section 2.** Paragraph “a” of subsection 164.1 entitled “Application Procedure for Minor Site Plans and Minor Subdivisions” is amended to read as follows:

“a. The applicant shall submit to the Secretary of the approving authority the appropriate application(s), which includes the application(s) for any requested variance(s) and the application checklist attached to this Land Use Code as Exhibit “A” with the items of information required therein . . . .”

**Section 3.** Subsection 164.4 entitled “Submission (Checklist) Requirements for Minor Site Plans and Minor Subdivisions” is amended in its entirety to read as follows:

“Submission requirements for minor site plans and minor subdivisions are set forth in the Land Use Application Checklist, which is attached to this Land Use Code as Exhibit “A”.

**Section 4.** Subsection 165.1 entitled “Application Procedure for Preliminary Major Site Plans and Preliminary Major Subdivisions is amended in its entirety to read as follows:

“a. The applicant shall submit to the Secretary of the approving authority the appropriate application(s), which includes the application(s) for any requested variance(s) and the Application Checklist attached to this Land Use Code as Exhibit “A” with the items of information required therein . . . .”

**Section 5.** Subsection 165.4 entitled “Submission (Checklist) Requirements for Preliminary Major Site Plans and Preliminary Major Subdivisions” is amended in its entirety to read as follows:

“Submission requirements for minor site plans and minor subdivisions are set forth in the Land Use Application Checklist, which is attached to this Land Use Code as Exhibit “A”.

**Section 6.** Subsection 166.1 entitled “Application Procedure for Final Major Site Plans and Final Major Subdivisions” is amended to read as follows:

“A final plan or final plat shall be submitted to the Secretary of the approving authority within three (3) years after the date of preliminary approval or any authorized extension thereof as permitted by this Section. The applicant shall

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submit to the Secretary the appropriate application(s), which includes the applications for any requested variance(s) and the Checklist attached to this Code as Exhibit A with the items of information required therein; evidence of payment of fees in accordance with Section 180 of this Ordinance. . . . ”

**Section 7.** Subsection 166.4 Submission (Checklist) Requirements for Final Major Site Plans and Final Major Subdivision

“Submission requirements for final major site plans and final major subdivisions are set forth in the Land Use Application Checklist which is attached to this Land Use Code as Exhibit "A".

**Section 8.** Subsection 173 entitled “Provisions Applicable to Both Planning Board and Board of Adjustment” in Section 170 entitled “Land Use Procedures” is supplemented and amended by adding a new Subsection 173.12 entitled “Submission Requirements - Checklist” which reads as follows:

**“173.12 Submission Requirements - Checklist**

All applicants must comply with the submission requirements set forth elsewhere in this Code and in the Land Use Application Checklist, which is attached to this Code as Exhibit “A”.

**Section 9.** Any and all other ordinances or parts thereof in conflict or inconsistent with any of the terms hereof are hereby repealed to such extent as they are so in conflict or inconsistent.

**Section 10.** In case any article, section or provision of this ordinance shall be held invalid in any court of competent jurisdiction, the same shall not affect any other article, section or provision of this ordinance except insofar as the article, section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

**Section 11.** This ordinance shall take effect immediately upon final passage and publication as required by law.

Note: Exhibit A (Land Use Application Checklist) is located in Ordinance Book

Township Committee Meeting Start Time

Mayor Mazzucco stated that the Committee has been coming in late because we have a lot of matters to address in Executive Session. I would like to discuss whether or not to change the

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meeting start time or shall we stay more in line with the 7:30 deadline starting this meeting. He asked for the Committee members for comments.

Mr. Aroneo said that we try to be on time for the residents. I think with the implementation of LHTV I think that people tune in at 7:30 p.m. and expect to see the meeting starting. We do not know when the Executive Session business will end. I think if we have an important matter then I feel it is acceptable to be a little late. I do not think it truly was a hard cut off. I think it has always been an approximate time. If you are concerned that it is running towards 8 pm we can come back after the regular meeting. I would rather that than to start later.

Mr. Piserchia understood Mayor Mazzucco's point. We will have to end Executive Session at 7:30 and then go back into Executive Sessions when more items needs to be discussed.

Mayor Mazzucco disagreed with Mr. Aroneo about the soft time. We say the meeting starts at 7:30 then that is when it should start.

Mr. Schuler asked if the Committee wanted to entertain starting the Executive Session at 6:45. The consensus of the Committee was to keep to the 7:30 p.m. start time.

**Ordinance Public Hearing / Consideration of Adoption:**

**ORDINANCE #294-12 AN ORDINANCE GRANTING MUNICIPAL CONSENT FOR THE OPERATION OF A CABLE TELEVISION SYSTEM WITHIN THE TOWNSHIP OF LONG HILL TO COMCAST**

Mr. Aroneo recused himself from this matter and exited the meeting during adoption of Ordinance 294-12

Mayor Mazzucco read the ordinance by title and opened the public hearing. No one wished to be heard therefore Mayor Mazzucco closed the public hearing.

A motion was made by Mayor Mazzucco and seconded by Mr. Piserchia to adopt Ordinance 294-12.

Roll Call Vote: Mr. Piserchia, Mr. Roshto, Mr. Schuler and Mayor Mazzucco  
Abstain – Mr. Aroneo

**ORDINANCE #294-12  
AN ORDINANCE GRANTING MUNICIPAL CONSENT FOR THE OPERATION  
OF A CABLE TELEVISION SYSTEM WITHIN  
THE TOWNSHIP OF LONG HILL TO COMCAST**

**WHEREAS**, the governing body of the Township of Long Hill, New Jersey (hereinafter referred to as the Township) determined that Comcast, (hereinafter referred to as the Company or Comcast) had the technical competence and general fitness to operate a cable television system in the Township, and

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**WHEREAS**, by application for renewal of municipal consent filed with the Township and the Office of Cable Television on or about October 29, 2010, Comcast has sought a franchise renewal; and

**WHEREAS**, the Township, having held public hearings, has made due inquiry of Comcast, and to identify the Township=s future cable-related needs and interests; and has concluded that Comcast has substantially exhibited the technical competence and general fitness to operate a cable television system, and has committed to certain undertakings responsive to the Township's future cable-related needs and interests; and

**WHEREAS**, the Township Communications Advisory Committee has reviewed and approved the form of this municipal consent ordinance; and

**WHEREAS**, the governing body of the Township has accordingly concluded that the consent should be granted subject to the requirements set forth below; and that, provided Comcast's proposal embodies the commitments set forth below, the Township=s municipal consent to the franchise renewal should be given;

**NOW THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of Long Hill, County of Morris, and State of New Jersey, as follows:

**SECTION 1. PURPOSE OF THE ORDINANCE**

The municipality hereby grants to Comcast renewal of its non-exclusive Municipal Consent to place in, upon, across, above, over and under highways, streets, alleys, sidewalks, easements, public ways and public places in the municipality, poles, wires, cables, underground conduits, manholes and other television conductors, fixtures, apparatus and equipment as may be necessary for the construction, operation and maintenance in the Municipality of a cable television and communications system.

**SECTION 2. DEFINITIONS**

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. Such meaning or definition of terms is supplemental to those definitions of the Federal Communications Commission ("FCC") rules and regulations, 47 C.F.R. Subsection 76.1 et seq., and the Cable Communications Policy Act, 47 U.S.C. Section 521 et seq., as amended, and the Cable Television Act, N.J.S.A. 48:5A-1 et seq., and shall in no way be construed to broaden, alter or conflict with the federal and state definitions:

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- a. "Town" or "Municipality" is the Township of Long Hill, County of Morris, State of New Jersey.
- b. "Company" is the grantee of rights under this Ordinance and is known as Comcast of Central New Jersey II.
- c. "Act" or "Cable Television Act" is Chapter 186 of the General Laws of New Jersey, and subsequent amendments thereto, N.J.S.A. 48:5A-1, et seq.
- d. "FCC" is the Federal Communications Commission.
- e. "Board" or "BPU" is the Board of Public Utilities, State of New Jersey.
- f. "Office" or "OCTV" is the Office of Cable Television of the Board.
- g. "Basic Cable Service" means any service tier, which includes the retransmission of local television broadcast signals as defined by the FCC.
- h. "Application" is the Company's Application for Renewal of Municipal Consent.
- i. "Primary Service Area" or "PSA" consists of the area of the Municipality currently served with existing plant as set forth in the map annexed to the Company's Application for Municipal Consent.

**SECTION 3. STATEMENT OF FINDINGS**

Public hearings conducted by the municipality, concerning the renewal of Municipal Consent herein granted to the Company were held after proper public notice pursuant to the terms and conditions of the Act and the regulations of the Board adopted pursuant thereto. Said hearings, having been fully open to the public, and the municipality, having received at said public hearings all comments regarding the qualifications of the Company to receive this renewal of Municipal Consent, the Municipality hereby finds that the Company possesses the necessary legal, technical, character, financial and other qualifications and that the Company's operating and construction arrangements are adequate and feasible.

**SECTION 4. DURATION OF FRANCHISE**

The non-exclusive Municipal Consent granted herein shall expire 15 years from the date of expiration of the previous Certificate of Approval issued by the Board.

In the event that the Municipality shall find that the Company has not substantially complied with the material terms and conditions of this Ordinance, the Municipality shall have the right to petition the OCTV, pursuant to N.J.S.A. 48:5A-47, for appropriate action, including modification and/or termination of the Certificate of Approval; provided however, that the Municipality shall first have given the Company written notice of all alleged instances of non-compliance and an opportunity to cure same within ninety (90) days of that notification.

**SECTION 5. FRANCHISE FEE**

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Pursuant to the terms and conditions of the Act, the Company shall, during each year of operation under the consent granted herein, pay to the Municipality two percent (2%) of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for cable television reception service in the Municipality or any higher amount required by the Act or otherwise allowable by law, whichever is greater.

**SECTION 6. FRANCHISE TERRITORY**

The consent granted under this Ordinance to the renewal of the franchise shall apply to the entirety of the Municipality and any property subsequently annexed hereto.

**SECTION 7. EXTENSION OF SERVICE**

The Company shall be required to proffer service to any residence or business along any public right-of-way in the Primary Service Area, as set forth in the Company's Application. The Company's Line Extension Policy, as set forth in the Company's Application, shall govern any extension of plant beyond the Primary Service Area, except that the residential density for the Line Extension Policy shall be 15 HPM (Homes Per Mile) for the term of this franchise renewal.

**SECTION 8. CONSTRUCTION REQUIREMENTS**

Restoration: In the event that the Company or its agents shall disturb any pavement, street surfaces, sidewalks, driveways, or other surface in the natural topography, the Company shall, at its sole expense, restore and replace such places or things so disturbed in as good a condition as existed prior to the commencement of said work.

Relocation: If at any time during the period of this consent, the Municipality shall alter or change the grade of any street, alley or other way or place the Company, upon reasonable notice by the Municipality, shall remove, re-lay or relocate its equipment, at the expense of the Company.

Removal or Trimming of Trees: During the exercise of its rights and privileges under this franchise, the Company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks or other public places of the municipality so as to prevent the branches of such trees from coming in contact with the wires and cable of the Company. Such trimming shall be only to the extent necessary to maintain proper clearance of the Company's wire and cables.

**SECTION 9. CUSTOMER SERVICE**

In providing services to its customers, the Company shall comply with N.J.A.C. 14:18-1, et seq. and all applicable state and federal statutes and regulations. The Company shall strive to meet or exceed all voluntary company and industry standards in the delivery of customer service and shall be prepared to report on it to the municipality upon written request of the Municipality Administrator or Clerk.

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- a. The Company shall continue to comply fully with all applicable state and federal statutes and regulations regarding credit for outages, the reporting of same to regulatory agencies and notification of same to customers.
- b. The Company shall continue to fully comply with all applicable state and federal statutes and regulations regarding the availability of devices for the hearing impaired and the notification of same to customers.
- c. **The Company shall use every reasonable effort to meet or exceed voluntary standards for telephone accessibility developed by the National Cable Television Association (NCTA).**
- d. Nothing herein shall impair the right of any subscriber or the Municipality to express any comment with respect to telephone accessibility to the Complaint Officer, or impair the right of the Complaint Officer to take any action that is permitted under law.

### **SECTION 10. MUNICIPAL COMPLAINT OFFICER**

The Office of Cable Television is hereby designed as the Complaint Officer for the Municipality pursuant to N.J.S.A. 48:5A-26(b). All complaints shall be received and processed in accordance with N.J.A.C. 14:17-6.5. The Municipality shall have the right to request copies of records and reports pertaining to complaints by Municipality customers from the OCTV.

### **SECTION 11. LOCAL OFFICE**

During the term of this franchise, and any renewal thereof, the Company shall maintain a business office or agent in accordance with N.J.A.C. 14:18-5.1 for the purpose of receiving, investigating and resolving all local complaints regarding the quality of service, equipment malfunctions, and similar matters. Such a business office shall have a publicly listed toll-free telephone number and be open during standard business hours, and in no event (excepting emergent circumstances) less than 9:00 A.M. to 5:00 P.M., Monday through Friday.

### **SECTION 12. PERFORMANCE BONDS**

During the life of the franchise the Company shall give to the municipality a bond in the amount of twenty-five thousand (\$25,000.00) dollars. Such bond shall be to insure the faithful performance of all undertakings of the Company as represented in its application for municipal consent incorporated herein.

### **SECTION 13. SUBSCRIBER RATES**

The rates of the Company shall be subject to regulation as permitted by federal and state law.

### **SECTION 14. PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS**

- a. The Company shall continue to provide residents with a system-wide public access channel maintained by the Company. Qualified individuals and organizations may utilize public access for the purpose of cablecasting non-commercial access programming in conformance with the Company's published public access rules.

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- b. The Company shall continue to provide a system-wide leased access channel maintained by the Company for the purpose of cablecasting commercial access programming in conformance with the Company's guideline and applicable state and federal statutes and regulations.
- c. The Company shall continue to provide a dedicated local access channel maintained by the Company for the purpose of cablecasting non-commercial access programming in conformance with the Company's guidelines and applicable state and federal statutes and regulations. The company shall continue to provide a second local access channel for the purpose of cablecasting non-commercial educational programming in conformance with the Company's guidelines and applicable state and federal statutes and regulations.
- d. The Company shall take any steps that are necessary to ensure that the signals originated on the access channels are carried without material degradation, and with a signal whose quality is equal to that of the other standard channels that the Company transmits.

**SECTION 15. COMMITMENTS BY THE COMPANY**

- a. The Company shall provide standard installation and basic cable television service on one (1) outlet at no cost to each school in the Municipality, public and private, elementary, intermediate and secondary, provided the school is within 200 feet of active cable distribution plant. Each additional outlet installed, if any, shall be paid for on a materials/equipment plus labor basis by the school requesting service. Monthly service charges shall be waived on all additional outlets.
- b. The Company shall provide standard installation and basic cable television service at no cost on one (1) outlet to each police, fire, emergency management facility and public library in the Municipality and other municipal facilities listed herein,

Town Hall  
Free Public Library  
Old Town Hall  
Police Headquarters  
Lounsberry Meadow  
Department of Public Works Facility  
Central School  
Millington School  
Gillette School  
First Aid Squad  
Stirling Fire Company  
Millington Fire Company  
Senior Center

provided the facility is located within 200 feet of active cable distribution plant. Each additional outlet installed, if any, shall be paid for on a materials/equipment plus labor basis by the Municipality. Monthly service charges shall be waived on all additional outlets.

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- c. The Company shall provide, free of charge, one (1) non-networked cable modem and monthly Internet service to each school in the Municipality, public and private, elementary, intermediate and secondary and to the public library. The Internet service provided for herein must be available to student and patron use and cannot be limited to administrative uses. All facilities must be located with 200 feet of active cable distribution plant.
- d. Within six months of the issuance of a renewal Certificate of Approval by the OCTV, the Company shall provide to the municipality a one-time grant in the amount of \$30,000 for access related needs.

**SECTION 16. EMERGENCY USES**

The Company will comply with the Emergency Alert System ("EAS") rules in accordance with applicable state and federal statutes and regulations.

The Company shall in no way be held liable for any injury suffered by the municipality or any other person, during an emergency, if for any reason the municipality is unable to make full use of the cable television system as contemplated herein.

**SECTION 17. LIABILITY INSURANCE**

The Company shall at all times maintain a comprehensive general liability insurance policy with a single limit amount of \$1,000,000 covering liability for any death, personal injury, property damages or other liability arising out of its construction and operation of the cable television system, and an excess liability (or "umbrella") policy in the amount of \$5,000,000.

**SECTION 18. INCORPORATION OF THE APPLICATION**

All of the statements and commitments contained in the Application or annexed thereto and incorporated therein, and any amendment thereto, except as modified herein, are binding upon the Company as terms and conditions of this consent. The Application and other relevant writings submitted by the Company shall be annexed hereto and made a part hereof by reference provided same do not conflict with applicable State or Federal law.

**SECTION 19. COMPETITIVE EQUITY**

Should the Municipality grant a franchise to construct, operate and maintain a cable television system to any other person, corporation or entity on terms materially less burdensome or more favorable than the terms contained herein, the Company may substitute such language that is more favorable or less burdensome for the comparable provision of this Ordinance subject to the provisions of N.J.A.C. 14:17-6.7.

**SECTION 20. SEPARABILITY**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or federal or state agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and its validity or unconstitutionality shall not affect the validity of the remaining portions of the Ordinance.

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**SECTION 21. THIRD PARTY BENEFICIARIES**

Nothing in this Franchise or in any prior agreement is or was intended to confer third-party beneficiary status on any member of the public to enforce the terms of such agreements or Franchise.

**SECTION 22. EFFECTIVE DATE**

This Ordinance shall take effect immediately upon issuance of a Renewal Certificate of Approval from the BPU.

**ORDINANCE 295-12 AN ORDINANCE CONCERNING PENALTIES FOR VIOLATION OF THE TOWNSHIP TREE ORDINANCE AND AMENDING SECTION 23-3 OF THE TOWNSHIP CODE ENTITLED "TREES LOCATED ON MUNICIPAL LAND"**

Mayor Mazzucco read the ordinance by title and opened the public hearing.

Mr. Piserchia asked Mr. Pidgeon a question regarding a sentence which says "subject to the tree replacement and/or treatment provisions set forth in subsections 23-4 and 23-52. Mr. Pidgeon thought those were the sections that dealt with subdivisions and that has not changed. Mr. Piserchia stated that his concern remains. If somebody cuts down ten trees they will be subject to the maximum municipal fine of \$100.00 per incident.

Mr. Pidgeon part of the problem with ordinances that amend the code is that we don't have the whole code. Public land is really the change to this. That would be the second paragraph of the penalty section where it says "in addition when a person removes, injures, breaks, defaces, poisons or damages any tree or shrub located upon any municipal land he shall be required to replace the damaged or destroyed tree or shrub which has an appraised value equal to the appraised value of the tree or shrub that was damaged using specimens as designated by the Township Shade Tree Commission."

Mr. Piserchia asked where it is no practicable to plant a large tree what happens.

Mr. Pidgeon that is something the Shade Tree Commission will have to take into effect and we have discussed this last time and didn't want to go into too much detail as to what it was. The appraised value could be the value of the property before and after the removal of the tree.

Mr. Aroneo gave as an example: An 80 ft. oak could be \$10,000.00. Now you owe us \$10,000 worth of tree plantings. I think it has been established that it can be on that property or other properties around the town. The monies would go to the Shade Tree Trust fund as defined in the ordinance.

Public Comment:

Dennis Sandow, resident of Millington, said he speaks as a wood lot owner. He did not understand appraised value. He had a couple of rules of thumb from the last time I sold a large amount of timber. He reviewed proposed appraisal value of a tree. I don't think the language here is precise enough. By what metric do you assess its value?

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Mr. Roshto says the ordinance “shall be required to replace the damaged or destroyed tree” and then goes on to talk about appraised value. Could it be assumed that the appraised value is for the replacement?

Mr. Pidgeon said it could. The appraised value is the same as a house or car but not the value of the lumber. We intentionally left it somewhat open ended so the Shade Tree Commission could work it out with the offender.

A motion was made by Mr. Piserchia and seconded by Mr. Schuler to adopt Ordinance 295-12.  
Roll Call Vote: All Ayes

Roll Call Vote: All Ayes

**ORDINANCE #295-12  
AN ORDINANCE CONCERNING PENALTIES FOR VIOLATION OF THE TOWNSHIP TREE  
ORDINANCE AND AMENDING SECTION 23-3 OF THE TOWNSHIP CODE ENTITLED  
“TREES LOCATED ON MUNICIPAL LAND”**

**STATEMENT OF PURPOSE:** *To clarify the penalty for damaging or destroying a tree on public property.*

**WHEREAS**, the Township Committee wishes to make it clear that anyone who destroys or damages a tree located on municipal property will have to replace that tree;

**NOW THEREFORE BE IT ORDAINED** by the Township Committee of the Township of Long Hill in the County of Morris, New Jersey, that Chapter 23-3 of the Township Code entitled “Trees Located on Municipal Land” is hereby amended as follows:

**Section 1.** The title of Section 23-3 is hereby changed to “Trees.”

**Section 2.** Section 23-6 entitled “Penalties” is hereby supplemented and amended to read as follows”

**23-6 PENALTIES.**

Any person who ~~shall~~ violates any provisions of this chapter or the terms and conditions of any tree removal permit issued pursuant to this chapter ~~shall be~~ subject to the tree replacement and/or treatment provisions set forth in ~~subsections 23-4.4 and 23-5.2 of this chapter and~~ shall also be liable to the penalty stated in Chapter I, Section 1-5. The minimum fine for a violation of this section shall be one hundred (\$100.00) dollars. Each tree or shrub that is damaged or destroyed shall constitute a separate offense and shall be punishable as such hereunder

In addition, any person who removes, injures, breaks, defaces, poisons or damages any tree or shrub located upon any municipal land, or otherwise violates the provisions of Section 23-2.3 of this Chapter, shall be required to

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replace the damaged or destroyed tree or shrub with a tree or shrub which has an appraised value equal to the appraised value of the tree or shrub that was damaged or destroyed, using specimens designated by the Township Shade Tree Commission.

Any person who shall violates any provisions of this chapter subsection 23-3.3 above or the terms and conditions of any tree removal permit issued pursuant to this chapter shall be subject to the tree replacement and/or treatment provisions set forth in subsections 23-4.4 and 23-5.2.

**Section 3.** Any and all other ordinances or parts thereof in conflict or inconsistent with any of the terms hereof are hereby repealed to such extent as they are so in conflict or inconsistent.

**Section 4.** In case any article, section or provision of this ordinance shall be held invalid in any court of competent jurisdiction, the same shall not affect any other article, section or provision of this ordinance except insofar as the article, section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

**Section 5.** This ordinance shall take effect immediately upon final passage and publication as required by law.

**ORDINANCE 296-12 AN ORDINANCE AUTHORIZING PURCHASE A NEW COMPUTER SERVER FOR TOWN HALL FROM CAPITAL SURPLUS**

Mayor Mazzucco read the ordinance by title and opened the public hearing. No one wished to be heard therefore Mayor Mazzucco closed the public hearing.

Mr. Aroneo thanked the Communication Advisory Committee for all their work.

Mr. Sheola had an updated quote and as of February 2<sup>nd</sup> it was \$15,398.00. Whatever is not used can be canceled out.

A motion was made by Mr. Roshto and seconded by Mr. Piserchia to adopt Ordinance 296-12.  
Roll Call Vote: All Ayes

**ORDINANCE #296-12  
AN ORDINANCE AUTHORIZING PURCHASE A NEW COMPUTER SERVER FOR TOWN HALL FROM CAPITAL SURPLUS**

**BE IT ORDAINED** by the Township Committee of the Township of Long Hill in the County of Morris, New Jersey as follows:

**Section 1.** New Computer Server for Town Hall \$17,000

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**Section 2.** The capital budget is hereby amended to conform with provisions of this ordinance to the extent of any inconsistency therewith and the resolution promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director, Division of Local Government Services, is on file with the Township Clerk and is available for public inspection.

**Section 3.** The sum of \$17,000 is hereby appropriated from the Capital Surplus to cover the cost of the items described in paragraph 1 and 2 of this ordinance.

**Section 4.** This ordinance shall take effect immediately upon final passage and publication as required by law.

### **Resolutions:**

#### **Consent Agenda Resolutions:**

Mayor Mazzucco made a motion to introduce and approve Resolutions 12-111 through 12-123, excluding Resolutions 12-114, 12-118 and 12-122 which was seconded by Mr. Schuler.

Mr. Piserchia had a question about Resolution 12-114, the return of a performance guarantee on Highland. Mr. Aroneo recused himself from this discussion. Mr. Piserchia commented that the Committee had spoken about this at the last meeting. Mr. Pidgeon indicated that the trees had been planted and the bond may be released. The new maintenance bond will cover the landscaping.

Susan Jeans, Chair of the Shade Tree Commission, stated that they had not been advised that the trees were in place and would like to look at the site.

Mayor Mazzucco made a motion to pull 12-114.

Mr. Aroneo wished to discuss Resolution 12-122, the Grounds Maintenance Contract. My question is with the areas shown as alternate bids. Some of them are Police Headquarters and maintenance of shrubs and mulch. What other areas in town do we have contractors doing similar maintenance? He asked who did the landscaping at the Millington Train Station.

Mr. Pidgeon said the bid specification was the same one we used a few years ago. If we find out that there is a private company taking care of the train station then we would have to rebid the project. We can award as a change order.

Mr. Sandow, resident of Millington, stated that he was troubled that you are issuing a word for word identical contract and it is \$10,000 less than the bids that came in two years ago. The bid two years ago was a local in town contractor whereas this contractor is in Skillman. Something does not add up.

Mr. Sheola commented that the last time the township bid this the lowest two bidders were both rejected because of deficiencies in their bids. It went to the vendor listed as number two on this

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tabulation, really by default. The price that we would pay this year for the same services is actually less than what we paid the last contractor.

Mr. Aroneo said the DPW is maintaining a greater area. I think we should also be cognizant of what we are paying contractors versus what it is costing us to maintain DPW work force .We are contracting out \$31,000. We buy the equipment but we can't accomplish all of our maintenance. Should we evaluate that?

Mr. Schuler asked if there was a way for us to see what the cost would be if we did it?

Mr. Sheola said he would talk with the Public Works Director and possibly could come up with the cost to cut the lawn at Police Headquarters, etc.

Mr. Schuler stated that he would like to get a sense of whether or not we could do it more effectively in-house or is it more effective to outsource more.

Mr. Sheola commented that we do not have the capacity to do the three items in the base bid. We can go back and cost out the other two locations and get an idea of what it takes to do the shrubs and the mulch ourselves.

Mr. Aroneo said he had conversations with Department of Public Work Director about taking on Riverside, town hall and Meyersville but we do not have adequate staff for that. We are also maintaining a fleet of mowing equipment, trailers, etc. Is it worth it for us to maintain that for these other smaller sites? If we outsource everything then we do not need to maintain any lawn mowing.

Mayor Mazzucco suggested getting a list of all the properties that we do cut.

Mr. Sandow indicated that it was worth pointing out the DPW not only cuts the minor properties but they also do right-of-way clearance on 60 miles of road. For safety and liability reasons you would not contract out. On Long Hill Road and Mountain Avenue the grass is always high. It is a county road but if it is too high and DPW comes out and fixes it. We need the equipment and the man power.

Mr. Aroneo said he had discussed with the DPW Director about using our large pile of mulch to put in those intersections to eliminate the high grass, therefore we could mow less.

Mr. Sheola gave a brief overview of Resolution 12-123.

Roll Call Vote on Consent Agenda Resolutions 12-111 though 12-123 excluding Resolutions 12-114, 12-118 and 12-122: All Ayes

### **RESOLUTION 12-111 APPROVING PAYMENT OF BILLS**

**BE IT RESOLVED**, that the Township Committee of the Township of Long Hill does hereby approve the payment of the bills as presented by the Chief Financial Officer.

**BE IT FURTHER RESOLVED**, that the bills list be appended to the official minutes.

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**RESOLUTION 12-112  
APPROVAL AND RELEASE OF REGULAR SESSION MINUTES AND APPROVAL OF  
EXECUTIVE SESSION MINUTES (AS REDACTED)**

**BE IT RESOLVED**, that the Township Committee of the Township of Long Hill does hereby approve and release the Township Committee Minutes of the November 22, 2011 and December 14, 2011 Meetings.

**BE IT FURTHER RESOLVED** that the Township Committee hereby approves the November 22, 2011 and December 14, 2012 Executive Session Meeting Minutes as redacted by the Township Attorney.

**RESOLUTION 12-113  
AMENDMENT TO THE 2012 TEMPORARY BUDGET**

**WHEREAS**, 40A:4-19 Local Budget Act provides that where any contracts, commitments, or payments are to be made prior to the final adoption of the 2012 budget, temporary appropriations be made for the purposes and amounts required in the manner and time therein provided; and

**WHEREAS**, the total appropriations in the 2011 budget, less appropriations made for Capital Improvement Fund, Debt services and relief of the poor are as follows:

General - Total General Appropriation	\$	12,283,762
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**WHEREAS**, 25.25% of the total appropriations in the 2011 Budget less appropriations made for Capital Improvement Fund, Debt services and relief of the poor are as follows:

General -	\$	3,224,487
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**NOW, THEREFORE, BE IT RESOLVED**, by the Township Committee of the Township of Long Hill, in the County of Morris, State of New Jersey, that the temporary appropriations be amended and that a certified copy of this resolution be transmitted to the Chief Financial Officer for his/her records:

<b>New Appropriation</b>	
<b>GENERAL GOVERNMENT</b>	
Municipal Services Act	
Other Expenses	\$ 30,000.00 (correcting amount)
Aid to Volunteer Fire Companies	\$ 22,500.00
Senior Citizens	
Other Expenses	\$ 8,300.00
Library	\$286,000.00

**RESOLUTION 12-115  
AUTHORIZING THE RETURN OF  
PROFESSIONAL REVIEW ESCROW – MORELAND**

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**WHEREAS**, Bryan Moreland of Block: 12604, Lot: 8 & 8.01, in regards to Application No. 08-14P, has requested that the Professional Review Escrow fees be returned; and

**WHEREAS**, the Township Planning/Zoning Board Administrator has certified that there are no outstanding invoices and have approved the release of this Professional Review Escrow;

**WHEREAS**, the Chief Financial Officer has determined that \$266.00 remains in the account;

**NOW, THEREFORE, BE IT RESOLVED** that the Township Committee of the Township of Long Hill hereby directs the Chief Financial Officer to return the balance of the Professional Review Escrow in the total amount of \$266.00 to Bryan Moreland – 1716 Long Hill Road Millington, NJ 07946.

**RESOLUTION 12-116  
AUTHORIZING THE RETURN OF REMAINING SPECIAL EVENT  
ESCROW [BERNARDS TWP. REGIONAL CHAMBER OF COMMERCE]**

**WHEREAS**, Bernards Township Regional Chamber of Commerce held a special event called Holiday Parade in the township on December 22, 2011 and has requested that the remaining Special Event Escrow fees be returned; and

**WHEREAS**, the Chief of Police has certified that there are no outstanding invoices and have approved the release of this Special Event Escrow;

**WHEREAS**, the Chief Financial Officer has determined that \$55.36 remains in the account;

**NOW, THEREFORE, BE IT RESOLVED** that the Township Committee of the Township of Long Hill hereby directs the Chief Financial Officer to return the balance of the Special Event Escrow in the total amount of \$55.36 to the Bernards Township Regional Chamber of Commerce P.O. Box 11 Basking Ridge, NJ 07920.

**RESOLUTION 12-117  
AUTHORIZING RELEASE OF PERFORMANCE GUARANTEE  
AND ENGINEERING INSPECTION FEE [WEINERMAN]**

**WHEREAS**, Howard Weinerman, of Block: 10911, Lot: 10 [Laura Drive Subdivision] requested the return of his performance guarantee and engineering inspection fee; and

**WHEREAS**, Township Engineer Paul Ferriero, in a February 1, 2012 memorandum, approved the full release of the performance guarantee and engineering fees which includes a \$23,202.11 performance guarantee and \$188.50 engineering inspection fee; and

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Long Hill in the County of Morris, New Jersey as follows:

1. Performance Guarantee in the amount of \$23,202.11 is hereby released.
2. Engineering Inspection Fee in the amount of \$188.50 is hereby released.

**RESOLUTION 12-119**

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**APPROVING SPECIAL PERMIT FOR SOCIAL AFFAIR  
[KNIGHTS OF COLUMBUS]**

**WHEREAS**, the Knights of Columbus Council has submitted an Alcoholic Beverage Control Application for a Special Permit for a Social Affair to be held on March 17, 2012 from 7:00 p.m. to 11:00 p.m. to be held at the St. Vincent de Paul Parish Center, Bebout Avenue, Stirling, New Jersey 07980; and

**WHEREAS**, the Chief of Police has reviewed the application and has no objection to the granting of a special permit to be issued to the applicant to sell alcoholic beverages at the affair to be held on the date and premises noted, subject to, however, the following conditions:

1. The following individual will be the only persons allowed to serve alcohol:  
  
Daniel Gildea, Kevin Dempsey, Robert Mahoney  
  
Address on file in Police Headquarters
2. No one under the age of 21 shall be served alcoholic beverages.
3. No person assumed to be under the influence of an alcoholic beverage shall be served or allowed to walk or drive from the event.
4. No alcoholic beverages are to be carried or consumed in the parking lot area. The consumption of alcoholic beverages shall be confined to the interior of St. Vincent de Paul School.
5. Alcoholic beverages shall only be served and/or consumed between the hours of 7:00 p.m. and 11:00 p.m.

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Committee of the Township of Long Hill, in the County of Morris, State of New Jersey as follows:

1. The Township Committee, the licensing authority of the municipality, has no objection to the granting of a special permit and consents thereto with the special conditions as outlined by the Chief of Police.
2. The Township Clerk is hereby authorized to sign the municipal certification on the application and forward it to the applicant.

**RESOLUTION 12-120  
CERTIFYING JUNIOR MEMBERSHIPS WITH STIRLING  
VOLUNTEER FIRE COMPANY**

**BE IT RESOLVED**, that the Township Committee of the Township of Long Hill does hereby certify that Jonathan Cheshire, Kevin Hall, James Tagliaferro, David Dessinger and Kyle Mobus are Junior Members of the Stirling Volunteer Fire Company.

**RESOLUTION 12-121  
CERTIFYING JUNIOR MEMBERSHIPS WITH MILLINGTON  
VOLUNTEER FIRE COMPANY [FAIRCHILD]**

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**BE IT RESOLVED**, that the Township Committee of the Township of Long Hill does hereby certify that Nick Fairchild is a Junior Member of the Millington Volunteer Fire Company.

**RESOLUTION 12-123**

**AUTHORIZE APPROVAL OF 2011 EXPENSES FOR CHESTNUT RUN CONDOMINIUM ASSOCIATION AS PROVIDED UNDER THE NEW JERSEY MUNICIPAL SERVICES ACT**

**NOW THEREFORE, BE IT RESOLVED** that the Township Committee of the Township of Long Hill in the County of Morris, State of New Jersey, hereby approves the 2011 Reimbursement under the Municipal Service Agreement with Chestnut Run for snow removal and street lights in accordance with the Municipal Services Act N.J.S.A. 40:67-23.1 *et seq.* and the schedule attached herewith.

**Old Business:**

Mr. Piserchia stated that the Committee previously discussed a matter which was brought to my attention by a resident concerning 74 Morristown Road. He added that pictures are in your packets for review.

Mr. Roshto said when he speaking with DPW Director Mr. Sweeny about other properties he also mentioned this property. We spoke about possibly tightening up our ordinances so that it frees him up to address these kinds of issues. He asked if the Committee would like to discuss these issues.

Mr. Pidgeon said the ordinance already prohibits it. It is a question of enforcement. I think this kind of prohibition about creating a business in a residential zone is more difficult to enforce. Zoning violations come before the municipal court and in order to evict someone there has to be proof beyond a reasonable doubt.

**New Business:**

Mr. Piserchia asked if the township has a Green Team. Mr. Roshto noted that Mr. Aroneo had recommended that the Green Team be a part of the Environmental Committee. Mr. Piserchia commented that Warren already has what they call a Green Team and Green Brook and Watchung are introducing one. They contacted us to see if we would be interested. Perhaps the Environmental Commission would want to step up and take part in this. They had been talking about something similar. They said we could join in without any commitment. I would like to say yes. Mr. Aroneo added that it would be great if the Environmental Commission could handle it.

Mr. Roshto was concerned about the Green Team as the focus is a bit different than the Environmental Commission. I feel that if the Green Team is part of the Environmental Commission it could get swallowed up and will not get the focus it deserves.

Mayor Mazzucco asked if we needed another Committee or should we let it go to the Environmental Commission and see if it comes back with a yes or no.

Mr. Roshto would like to see a real commitment with a Green Team because it has cutting edge ideas.

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### **Old Business:**

Mr. Schuler stated that he would like to have a discussion with the Waste Water Committee. Not necessarily on the proposal that has been lingering but a sense of direction of what we would like them to focus on and present it to us in regards to the treatment plant. The Committee agreed to schedule the items for discussion at the next meeting.

Mr. Roshto indicated that we had two huge piles of mulch that will be sitting in DPW for maybe three years. He spoke with the Director and one of the thoughts he had was that there could be more people coming to DPW asking for deliveries. The question is do we want to hire two temporary workers for a period of time to handle that. Mr. Schuler said he thought there was an issue where everyone and their friend are coming down to get mulch. He added that he would be receptive to that.

Mr. Sheola indicated that he thought the problems with the mulch were the request for purchase and delivery. That has been our process for the last few years. Last year we limited it to only two truckloads per household. We have hired temporary workers under the Clean Communities Grant. Realistically it does not affect your budget because it is one of the allowable uses of this grant. It is a low impact on the budget.

A discussion ensued among the Committee and Mr. Sheola regarding mulch, charges for mulch, distribution of mulch and hiring temporary workers. The consensus of the Committee was to ask Tom Sweeney, DPW Director, for a progress report of DPW.

Mayor Mazzucco made motion to extend the meeting for an additional fifteen minutes, motion seconded by Mr. Schuler. Vote: All in Favor

### **Meeting Open to the Public**

Thomas Boeimo, resident of Stirling, stated that Mr. Aroneo asked that I write a letter to the Committee. I did and I got a legal response back for Mr. Pidgeon. He asked if anyone looked into the letter. I listed all the lot number of property owned by the Township.

Mr. Aroneo indicated that the letter had been received and the township looked into it. We responded to you and unfortunately we can not help you.

Mr. Bolemo said if you own that property you are responsible for whatever happens on that property. If you look at all the lot numbers listed it says the township owns those properties.

Mr. Pidgeon indicated that he had dealt with that in his letter. There is no proof of ownership. I believe I copied this Committee on my letter as requested. Based on my reports and Mr. Ferriero's report, the Township Committee will not be taking any action and the matter is concluded. There is no evidence that the township owns those properties.

Mr. Aroneo added that our engineer stated that he was not sure that what you requested to have done there will remediate your problem. Your problem is not coming from the source that you are claiming.

Mr. Bolemo did not agree. I think what Mr. Aroneo said at one of the meetings is go by the old plans and redo that ditch as it was before they put the buildings up.

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Mayor Mazzucco said this was not our responsibility and added that the responsibility is Mr. Boeimo's. We have spent a lot of time and money on this issue and having our professionals look into this matter.

Mr. Bolemo reiterated that he felt it was his responsibility to make this Committee understand who owns that property.

**Adjournment**

There being no further business, a motion was made by Mayor Mazzucco and seconded by Mr. Piserchia to adjourn the meeting at 11:15 p.m. Vote: All Ayes

Respectfully submitted,

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Christine A. Gatti  
Township Clerk  
/mf/

Approved: July 18, 2012