

INDEPENDENCE TOWNSHIP COMMITTEE
MEETING AGENDA
September 14, 2010 7:00 PM

1. Call to Order, Flag Salute, Open Public Meeting Act
2. Attorney Angelo Bolato-Warren county Habitat for Humanity
3. Cody Records Management System
4. Tie a Ribbon Campaign
5. Resolution 10-53: 2010-2011 Club Licenses approval Independence Township Volunteer Fire Department
6. Land Use Chairman Glenn Williams-Highlands Preservation Conformance
Resolution 10-58: Submission of Petition For Plan Conformance To the Highlands Water Protection and Planning Council For Land In the Preservation Area Only
7. Minute Approval: 6.01.10, 6.09.10, 7.13.10, 8.10.10
8. Consent Agenda:
 - Resolution 10-54:** Approval of Fire Department Member-Jason K Hensley
 - Resolution 10-55:** A RESOLUTION AUTHORIZING THE SIGNING OF A MUNICIPAL ALLIANCE GRANT BETWEEN INDEPENDENCE TOWNSHIP MUNICIPAL ALLIANCE AND THE COUNTY OF WARREN, STATE OF NEW JERSEY
 - Resolution 10-56:** RESOLUTION PROVIDING FOR THE INSERTION OF ANY SPECIAL ITEM OF REVENUE IN THE BUDGET OF ANY COUNTY OR MUNICIPALITY PURSUANT TO N.J.S.A. 40A:4-87, CHAPTER 159, P.L. 1948
 - Resolution 10-57:** ENDORSEMENT OF TREATMENT WORKS APPROVAL CAMP MERRY HEART
9. Department Reports:

a. Tax Collector	g. Emergency Services
b. Construction/Zoning	h. DPW
c. Environmental	i. Municipal Clerk
d. Treasurer	j. Land Use Board
e. Recreation/Green Acres	k. Seniors
f. Police	l. Board of Education
	m. Shared Services
10. Professional Reports
 - Township Attorney, Judith Kopen:
 - Township Engineer, Nevitt Duveneck:
11. Old Business:
 - Ordinance 2010-05
 - Second Reading/ Public Hearing
 - AMENDING ARTICLE I OF CHAPTER 126
12. New Business:
 - First Reading Ordinance 2010-06
 - AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED SALARIES AND COMPENSATION
 - Public Hearing October 12, 2010
13. Public Comment:
14. Payment of Bills:
15. Executive Session:
16. Adjournment:

INDEPENDENCE TOWNSHIP COMMITTEE
Meeting held at the Municipal Building, Great Meadows, NJ,
September 14, 2010 7:00 p.m.

This is a regular meeting of the Township Committee of Independence Township, Warren County, New Jersey. This meeting was called to order by Mayor Robert Giordano at 7:00 p.m. with the following announcement: "Adequate notice of this meeting was given in accordance with the Open Public Meetings Act by providing a schedule of regular meetings to the Star Gazette and The Express Times, posting a copy thereof on the Township bulletin board and filing a copy thereof in the office of the Municipal Clerk." The Pledge of Allegiance to the American Flag was led by Mayor Giordano.

ROLL CALL:

Present: Mayor Robert Giordano, John Cummins, Mark Grimes, Timothy Norton, Richard Wall, Debi Hrebenak, Judith Kopan, Esq., and Nevitt Duveneck, P.E.

Absent: None recorded.

Attorney Angelo Bolcato – Warren County Habitat for Humanity - In reference to the Snyder Property. Attorney Bolcato reviewed the history of the anticipated conveyance of the Snyder lot to Habitat. In trying to proceed to acquire the property, a determination must be made as to if a well and septic can be placed on the site as per the DEP and health regulations. There has been difficulty in determining the location of the neighbor's well. Attorney Bolcato would like to have the Committee give their consent, as the owners of the property, for the filing of the application for the septic and well by Habitat for Humanity as contract purchaser. Mr. Norton made a motion to approve the request presented by Attorney Bolcato to give consent for the filing of the application to the DEP. Mr. Grimes seconded the motion with roll call as follows:

Ayes: Mr. Cummins, Mr. Grimes, Mr. Norton, Mr. Wall, and Mayor Giordano

Nays: None recorded

Abstain: None recorded.

Motion carries with five (5) affirmative votes.

Cody Records Management System: Chief Riley stated that the Phase II money has been released and proceeded to introduce Dennis Fisher of Cody Systems along with Chief Paul Hager from Pohatcong Township. Mayor Giordano stated that the concern is mainly the maintenance fee of \$8,000 that would be incurred after the first year. Mr. Fisher explained that a town dropped out which opened the door for Independence to take part in this program. Mr. Cummins explained his concerns. Mr. Norton asked for more background on this. Mr. Fisher then discussed the history of the program. The system would be both in-house and mobile. All counties in the State would share and access information through a main data base.

Four municipalities signed on in Phase I. \$423,000 is allotted for Phase II. There has been a unanimous agreement between the chiefs of all municipalities in Warren County however each municipality must sign-on individually. There is no promise for funding beyond Phase II. Mr. Fisher stated that there is no legal obligation to pay the maintenance fee. The Committee would like to look into this system further and they will get back to Chief Riley.

Tie a Ribbon Campaign: Breast Cancer Awareness program. Ribbons will be placed on various trees. Mr. Norton made a motion to give permission for the ribbons to be placed within the Township. Mr. Wall seconded the motion with roll call as follows:

Ayes: Mr. Cummins, Mr. Grimes, Mr. Norton, Mr. Wall, and Mayor Giordano

Nays: None recorded

Abstain: None recorded.

Motion carries with five (5) affirmative votes.

Resolution 10-53: 2010 – 2011 Club Licenses approval, Independence Township Volunteer Fire Department. Charlie Barabas was present and explained that their insurance company

wants the fire company to have a club license for members. This license would not cover banquets. A motion was made by Mr. Wall to approve the fire company's request for a 2010 - 2011 Club License. Mayor Giordano seconded the motion with roll call as follows:

Ayes: Mr. Cummins, Mr. Grimes, Mr. Norton, Mr. Wall, and Mayor Giordano

Nays: None recorded

Abstain: None recorded.

Motion carries with five (5) affirmative votes.

Land Use Board Chairman Glenn Williams – re: Highlands Preservation Conformance.

Mr. Williams submitted a draft resolution to the Committee for review concerning conformance to the Highlands Act in the Preservation area. The Land Use Board adopted a resolution at their August 16th meeting recommending that the Township Committee change their position on conformance and adopt the resolution necessary. The primary reason would be to free up the funding. The State money is only available to municipalities participating in the Highlands conformance. Mr. Williams discussed what was brought out at the meeting between the Township and the Highlands Council. Without the funding the township does not have access to their professionals to be able to complete the modules which are necessary to submit to the Council. The present position was taken because of a lack of interest to conform our zoning to the Preservation area. Some new opportunities have been presented and the Land Use Board feels that we should be in the game in order to present our comments and concerns. Money for the COAH process, approximately \$22,000, can also be refunded back to the Township if we are participating. We have been approved for \$115,000 and the vouchers so far amount to approximately \$70,000. Therefore, the money is there to be refunded to us if we participate just as long as we conform to the requirements of the Preservation zone. The Land Use Board would like to submit Module 5 which is basically the Master Plan and the Board feels this will help the Township with tax ratables. The Land Use Board recommends that the Township Committee comply with conformance in the Preservation area only. Mr. Williams presented a draft resolution for review by the Committee. This resolution opposes the Highlands Act and it also objects to the fact that the Township cannot be reimbursed without participating in the program.

Carmen Fuela stated that he is in the Preservation area and he feels that if you adopt this resolution you are hurting the people in this area. Jim Kelsey questioned why the bills were paid and he is against conformance. Glenn Cogle is against compliance. George Ulmer voted to comply so that the Township receives the funding however he is against the Highlands. Art Robinson feels the Township should participate to be able to be in the game. Charlie Barabus feels we should take the funding. Dennis O'Rourke wants to see Liberty Square developed. Deborah Post feels you should not conform. Mr. Cummins made a motion not to conform to the Highlands Act. Mayor Giordano seconded the motion with roll call as follows:

Ayes: Mr. Cummins and Mayor Giordano

Nays: Mr. Grimes, Mr. Norton, and Mr. Wall

Abstain: None recorded

Motion fails with only two (2) affirmative votes.

Mr. Wall made a motion to adopt the resolution drafted by Mr. Williams to conform to the Highlands requirements in the Preservation area only. Mr. Norton seconded the motion with roll call as follows:

Ayes: Mr. Norton, Mr. Grimes made a statement as to why he is registering an Aye vote, and Mr. Wall.

Nays: Mr. Cummins made a statement against the adoption of this resolution, and Mayor Giordano who also made a statement against this resolution.

Abstain: None recorded.

Motion carries with three (3) affirmative votes.

Minute Approval: 6.01.10, 6.09.10, 7.13.10, 8.10.10

A motion was made by Mr. Cummins to adopt 6.01, 6.09, 7.13, and 8.10.10 as written. Mr. Wall seconded the motion with roll call as follows:

Ayes: Mr. Cummins, Mr. Grimes, Mr. Norton, Mr. Wall, and Mayor Giordano

Nays: None recorded

Abstain: None recorded

Motion carries with five (5) affirmative votes.

Consent Agenda:

- **Resolution 10-54: Approval of Fire Department Member – Jason K. Hensley**

WHEREAS, there is a need for members on the Independence Volunteer Fire Department; and

Whereas, *Jason K Hensley* has made application for membership to the Fire Department and has been approved by the Membership Committee; and

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Independence, that *Jason K Hensley* is hereby approved as a member of the Independence Volunteer Fire Department.

- **Resolution 10-55: A Resolution Authorizing the Signing of a Municipal Alliance Grant between Independence Township Municipal Alliance and the County of Warren, State of New Jersey.**

WHEREAS, Independence Township has established through Resolution # 93-31 a Municipal Alliance Committee; and

WHEREAS, the Municipal Alliance Committee has applied for and received a grant from the County of Warren in the amount of \$ 9,802.00; and

WHEREAS, the Municipal Alliance Committee desires to utilize the grant for a variety of programs aimed at prevention of drug abuse within the community; and

WHEREAS, the grant imposes upon municipalities certain requirements including the raising of a required local match of \$ 1,745.00; and

WHEREAS, a resolution authorizing the Mayor of the Township of Independence to execute an agreement for the Municipal Alliance Grant will memorialize the commitment of the Township of Independence to drug prevention and indicate the assent of the Committee of the Township of Independence to the efforts undertaken by the Township of Independence Municipal Alliance Committee and the requirements contained in the Municipal Alliance Grant; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Committee of the Township of Independence in the County of Warren, State of New Jersey, that the Township of Independence does hereby accept the terms and conditions of a Municipal Alliance Grant between the County of Warren, State of New Jersey and designates Mayor Robert M. Giordano to execute the said grant agreement on behalf of the Township of Independence and its Municipal Alliance Committee.

- **Resolution 10-56: Resolution Providing for the Insertion of any Special Item of Revenue in the Budget of any County or Municipality Pursuant to NJSA 40A:4-87, Chapter 159, P.L. 1948.**

WHEREAS, N.J.S. 40A:4-87, Chapter 159, P.L. 1948 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of an item of appropriation for an equal amount; and

WHEREAS, Independence Township has received a Over the Limit Under Arrest Statewide Crackdown Grant for 2010 in the amount of \$ 4,400.00 and wishes to amend its 2010 Budget to include this amount as a revenue;

NOW, THEREFORE, BE IT RESOLVED that the Township Committee of the Township of Independence, Warren County, New Jersey, hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2010 in the sum of \$ 4,400.00 to be received as a revenue from:

Miscellaneous Revenues
Special Items of General Revenue Anticipated with Prior Written Consent of the Director of
Local Government Services:
Public and Private Revenues Offset with Appropriations:
Over the Limit Under Arrest Statewide Crackdown Grant

BE IT FURTHER RESOLVED that a like sum of \$ 4,400.00 be appropriated under the caption of:

General Appropriation
(A) Operations Excluded from "Caps"
Public and Private Programs Offset by Revenues:
Over the Limit Under Arrest Statewide Crackdown Grant

BE IT FURTHER RESOLVED that one (1) certification form be sent to the Director of the Division of Local Government Services for their approval.

- **Resolution 10-57: Endorsement of Treatment Works Approval Camp Merry Heart.**

WHEREAS, the Independence Township Committee has previously approved an application to permit the replacement of two (2) failing septic systems located on the Camp Merry Heart property Block 1 Lots 18; and

WHEREAS, the Treatment Works Approval has been reviewed by the Township consulting engineers, Finelli Consulting, Inc.; and

WHEREAS, the Township has determined that it is in the best interest of the Township and Camp Merry Heart that its Mayor, Robert M Giordano, executes the said Treatment Works Application.

BE IT FURTHER RESOLVED, by the Independence Township Committee that Robert M giordano, in his capacity as Mayor, be and he is hereby authorized to execute, on behalf of the Township, the Treatment Works Application for the foregoing sewer extension.

A motion was made by Mr. Grimes to adopt Resolutions 10-54 through and including 10-57. Mr. Cummins seconded the motion with roll call as follows:

Ayes: Mr. Cummins, Mr. Grimes, Mr. Norton, Mr. Wall, and Mayor Giordano

Nays: None recorded

Abstain: None recorded

Motion carries with five (5) affirmative votes.

DEPARTMENT REPORTS:

Tax Collector - posted

Construction/Zoning – No report

Environmental – Mr. Ulmer said this month's meeting was cancelled.

Treasurer – Report submitted.

Recreation/Green Acres – No report.

Police – Chief Riley was present and gave a report.

Emergency Services – Kieth Aiello was present and gave a report.

DPW – Report submitted.

Municipal Clerk – Ms Hrebenak stated that Brian Trimatore has requested to be refunded for his building permit for Liberty Square. A motion was made by Mr. Cummins to authorize Attorney Kopen to send a letter stating the \$25,000 would not be refunded. Mr. Norton seconded the motion with roll call as follows:

Ayes: Mr. Cummins, Mr. Grimes, Mr. Norton, Mr. Wall, and Mayor Giordano

Nays: None recorded

Abstain: None recorded

Motion carries with five (5) affirmative votes.

Land Use Board – Mr. Williams gave a report earlier in the meeting.

Seniors – Mr. Walter gave a report.

Board of Education – Joe Mailloux was present and noted that the busing schedules seem to be working out. Charlie Barabus asked about a solar system. Mrs. Walter asked how long the average student is on the bus. Mr. Cummins asked about the 20% increase for the Administrator that was listed in the Board's minutes. Mr. Mailloux will get back to him with an explanation before the next Township meeting.

Shared Services – There was not a meeting this month.

PROFESSIONAL REPORTS:

Township Attorney: Judith Kopan, Esq.

7-Eleven/Great Meadows State Park Issue

We received a response from the NJDEP, which we have provided to you, that indicated that the DEP intends to proceed with the park plans. Per the instructions of the Township Committee, we have contacted 7-Eleven's attorney, Lloyd Tubman, as to the current status of this matter. She advises that they have been in contact with David Bean of the DEP and that they are waiting for further information from the DEP. It has been approximately 6 weeks since she has had any communication from Mr. Bean, and she will be reaching out to him again. She anticipates making an informational application to the Board of Adjustment once further information is received from the DEP.

Foreclosure-Kays Estate

Final Judgment received. I also received a copy of the Certificate of Regularity from Mr. Edleston. However, the Certificate does contain some technical limitations. I have asked whether Habitat is prepared to have title transferred to it in any case. It does appear that Habitat may accept the judgment as adequate to transfer title. However, a further issue having to do with location of septic due to the proximity of a neighboring property's well was authorized to be further researched by Engineer Duveneck. It was concluded that, even in the worst case scenario as to the neighboring well's location, it was possible to construct the septic (although a waiver would be needed from the County Health Dept. as to the requirement that it be at least 10' from the property line).

I have contacted Angelo Bolcato, the attorney for Habitat, to determine if Habitat will accept the transfer of title for Bl. 21, L.73. Mr. Bolcato has sent a letter that was forwarded to you with a proposed plan of action for Habitat to make application to the County for a septic permit, and, if approved, to accept conveyance of the Property in October. We should discuss.

Green Acres – Asbury Hills Estate

Asbury Hills executed the Agreement with the Township, and provided it to my office by email on December 1, 2009, as had been required by the Township.

Asbury Hills has been attempting to restructure for some time according to various communications from principles of Asbury Hills. They were requesting additional work from the Township Engineer. I sent a letter to them stating that no such additional work would be completed until they place an additional \$10,000 in escrow or, in the alternative, by authorizing that amount to be paid from the Cash Performance Bond, which Nevitt advises would not otherwise affect any obligation of Asbury Hills to the Township. Asbury Hills did not authorize the amount of \$10,000, but did authorize the amount of \$7,500 to be paid from the Cash Performance Bond. Kevin Lifer will be crediting that amount to professional's bills per his voicemail to me.

Nevitt sent correspondence to Asbury Hills in June with the remaining issues that need to be addressed on the property. Asbury Hills has done nothing in response to Nevitt's letter, however, and, therefore, we sent a letter to the bonding company and Asbury Hills' principles, on which you have been copied, to begin the process of calling the bond. **A declaration of default was served on or about August 9, 2010.**

In response to the declaration of default, the bonding company has contacted the Township and asked for a meeting to discuss possible resolution of this matter. We have informed them that the Township shall meet on the condition that they authorize the release of \$4000 (the amount was confirmed with Nevitt Duveneck) from the cash bond escrow for this project for payment of past due and future Township's professional fees, including the fees of the Township attorney and engineer for attendance at a meeting. Through the bonding company, they have agreed to do so, but we are awaiting written authorization and dates for a meeting.

Foreclosures

We have drafted the foreclosure complaint for the 2 parcels for which the title company was able to complete the title searches. We have forwarded the proposed complaint to Garden State Legal, the company that issues Certificates of Regularity, for their review. After review by Garden State, we needed to redraft the Complaint slightly in order to address a discrepancy between the number of lots authorized to be foreclosed pursuant to the Resolution Authorizing Foreclosure, and the number of lots actually being foreclosed. However, that has been corrected and the documents forwarded for filing with the Court.

We have been informed by Pat Noll that the tax sale certificate for the KJW property has been redeemed, so that is good news for the Township.

SEC (Ameripay)

The Federal Court case has been dismissed and only the bankruptcy matter is now active.

We have confirmed that proofs of claim are not yet due in the bankruptcy matter. The matter is currently listed as a "no asset" case. In discussing this matter with the attorney for the bankruptcy trustee, it does appear unlikely that there will be funds available to satisfy the millions of dollars of municipal and school claims, but proofs of claim should be filed if any assets are identified, and we will coordinate with Kevin Lifer.

The bankruptcy trustee has filed a motion to abandon certain office furnishings, fixtures and equipment of Ameripay as being of inconsequential value to the estate. The estimated value for all of the aforementioned items is approx. \$14,000, which motion was granted.

Public Intoxication Ordinance

At the request of Chief Riley, I reviewed Section 289-3, "Intoxication", of the Independence Code. That provision states, in pertinent part, that, "No person under the influence of intoxicating liquor shall loiter or create a disturbance in any public street or public or quasi-public place..." That language is identical to the language of a repealed NJ statute, NJSA 2A:170-30. The statute that "replaced" the repealed statute is NJSA 2C:33-2, the "disorderly conduct" statute. That statute defines disorderly conduct in terms of fighting, creating a hazardous condition, or using unreasonably loud or abusive language, but without reference to drinking.

In fact, NJSA 26:2B-7 makes it the public policy of New Jersey that intoxicated persons may not be subjected to criminal prosecution because of their consumption of alcoholic beverages, but rather that such persons should be afforded treatment. The statute also provides in other sections (16, 17, 26 and 29) that municipalities may not deem public intoxication an offense, and that ordinances creating such an offense are repealed.

While the Independence ordinance has language stating that it is only when an intoxicated person is "loitering" or "causing a disturbance" that an offense is committed, these broad terms, especially considering the repeal of the state statute with identical language, do appear to violate NJSA 26:2B-7 et. seq. I would recommend repealing section 289-3. I would ask for the input of Chief Riley, but it seems that the type of behavior that can be prohibited is already prohibited by other sections of the Independence Code, specifically Section 289-4, 5, and 6.

Highlands Issues

Per your authorization, a notice of claim was sent to the Highlands Council in order to preserve the Township's right to be able to assert the argument that the

Township should be paid for professional fees previously incurred and submitted, in a lawsuit against the Council in the future.

As previously reported, there appears to be an argument to be made under a number of provisions in the grant language that the Township should be paid for these fees regardless of its actions concerning whether or not to “opt-in” to the Preservation area. As requested by the Township Committee, we have sent a letter to the Highlands Council, on which you have been copied, again demanding reimbursement. In addition, the Mayor sent a letter to the Governor’s office also demanding reimbursement. A letter was sent back to the Township from the Highlands Council again deferring payment.

We understand that further meetings have occurred between Highlands and Township representatives.

Hills of Independence Condominiums –request for enforcement of Title 39

We received another resolution and request from the Hills of Independence for the enforcement of Title 39. I have forwarded this to Chief Riley and discussed it with him. There are issues that are presented by the request. There is nothing in the resolution that addresses the willingness of the Condominium Association to pay for any changed signage, markings, etc. that may be required to conform with Title 39. Further, the Condominium Association has asked that the Township enforce additional restrictions that are set forth in their bylaws that are in addition to the requirements of Title 39.

As requested by the Committee, we have been in contact with the attorney for the Hills of Independence, Donna Shaw, to schedule a meeting between our office, Chief Riley, and the Hills of Independence to further address the Hills’ request. As also authorized by the Committee, we indicated to Ms. Shaw that the Hills would have to pay for our attorney fees for attendance at the meeting. Ms Shaw indicated that the Hills was unhappy with our request that they pay for the Township attorney’s fees. She is attempting to clarify with her client as to whether they desire to proceed with their Title 39 enforcement request. Tim Liston, as a representative of the Hills, appeared at your June meeting, and indicated that the Hills would have their attorney, Ms. Shaw, contact our office in regard to how they wanted to proceed. However, we have had no contact from Ms. Shaw.

Email and OPRA Issues

As requested, we provided a memo regarding email usage. We have researched an issue as to the scope of an OPRA request, and are separately providing a memo to you in that regard.

Further, we have assisted Debi in evaluating and responding to the OPRA request made on behalf of Tom Thorp’s clients. The documents that are required to be produced under OPRA should be provided to Mr. Thorp during the week of 7/12. We have confirmed that he has agreed to this date extension.

A question was raised at last month’s meeting by a Committee member about whether Rec Commission records could be public records. The definition from the statute is as follows:

“Government record” or “record” means any paper, written or printed book, document, drawing, map, plan, photograph, microfilm, data processed or image processed document, information stored or maintained electronically or by sound-recording or in a similar device, or any copy thereof, that has been made, maintained or kept on file in the course of his or its official business by any officer, **commission, agency or authority of the State or of any political subdivision thereof, including subordinate boards thereof, or that has been received in the course of his or its official business by any such officer, commission, agency, or authority of the State or of any political subdivision thereof, including subordinate boards thereof.** The terms shall not include inter-agency or intra-agency advisory, consultative, or deliberative material.

It would appear that in some instances, therefore, Rec Commission records could be public records.

Contract with CODY. As requested by the Mayor, we provided a limited review and comment as to the proposed software contract with CODY to benefit the Police Department.

PILOT Agreement re Liberty House. Debi has provided you correspondence and background information as to the request by the new owners of Liberty House for a renegotiation of their PILOT agreement, which was originally entered into in the mid-1980's.

Township Engineer: Nevitt Duveneck

KUCHARSKI JUNKYARD LICENSE

(no change since last month's report)

KETCHAM ROAD RECONSTRUCTION (2009 TRUST FUND GRANT)

- The Township was successful in receiving an award for the Ketcham Road Reconstruction grant application in the amount of \$199,000.00.
- Our office has nearly completed the base mapping for the project. After consultation with a wetlands consultant, it appears that the installation of the proposed storm sewer will require NJDEP permitting which will delay the project.
- The timeframe for acquiring NJDEP permit approval will delay the timeframe for construction into 2010 construction season. We have contacted the NJDOT Local Aid office to discuss the project and they informed us that we have until June of 2010 to award the project.
- Our office submitted construction design drawings to the NJDEP for review. Nevitt had a detailed conversation with the NJDEP representative who requested a map with the limit of disturbance marked out to allow a pre-application review before submitting the Land Use Regulation (LURP) application for the project.
- Currently our office is preparing the above-referenced plan and will be submitting same to the NJDEP this week as a pre-application review. We will then submit the LURP application for the project.
- Recently, we requested NJDOT help in facilitating a pre-application meeting with NJDEP for the LURP and we now have a meeting set with NJDEP LUR for Monday, April 12, 2010.
- Our office attended a meeting with the NJDEP and we now have clear direction related to the type of LURP application to be submitted. We should be in a position to submit the LURP permit application in the near future.
- Our office requested and received an extension from the NJDOT to award the project by December 31, 2010. It is our understanding that companion Resolution formally requesting the extension is on the agenda for passage at the upcoming Committee meeting.
- Our office submitted the LURP application to the NJDEP for review and approval.

HIGHLANDS PLAN CONFORMANCE

(no change since last month's report)

OUTSIDE WOOD FURNACE ORDINANCE

(no change since last month's report)

TOWNSHIP WASTEWATER MANAGEMENT PLAN

- The NJDEP has amended their requirements for Warren County municipalities relative to the submission of a "complete" WMP prior to the original July 7, 2009 deadline.

Mike Finelli recently spoke with Rick Brown, NJDEP, regarding the NJDEP's requirements for WMP submissions in Warren County/Highlands municipalities. The NJDEP will be accepting an "interim" WMP which is a much abbreviated and more concise WMP submission. Additionally, the NJDEP has made available a \$10,000 grant for each municipality who decides to proceed and submit an "interim" plan. Our office has been successful in securing these funds for the Township.

- The deadline for submission of a WMP plan was extended to April 2011. Our office has been notified by the NJDEP that an Interim WMP could be submitted to receive reimbursement for the work completed on the plan. Via correspondences from our office dated August 12, 2010 and September 2, 2010, respectively, to Ms. Theresa Bottini, we believe that the supporting information required by the NJDEP in conjunction with the release of these grant monies has now been submitted. Therefore, we are hopeful that the Township will soon receive reimbursement from the State for the work completed to date on the Township's Interim WMP.
- Via correspondence dated August 27, 2010 from our office to Mr. Neal Ferrari, NJDEP, the Township's Interim WMP has been submitted for initial review by the NJDEP. All Township Committee Members should have received a copy of our cover letter and supporting report. The full-size WMP Map was provided to Deb Hrebenak, Clerk, for the Township records. I am unaware of the timeframe associated with the NJDEP providing their initial review comments on the WMP to the Township.

ASBURY HILL ESTATES

- The Committee supported calling the Performance Guarantee for the project to complete the outstanding drainage work as well as address other outstanding issues at the site.
- It was brought to our attention that the enhanced swale at 50 Ketcham Road was previously retaining water and developed a mosquito problem in the summer months. Our office will be working with the developer to remediate the problem by reconstructing the swale in the spring.
- The Developer's Agreement regarding the completion of the storm sewer, regrading of the enhanced swales and eventual release of the Stop Work Order on the project was executed by the Township and the developer.
- The storm sewers approved with the subdivision have all been installed. There remains pavement repair and bank restoration to be completed in the spring.
- Recently, our office held a meeting with Tom Batton to review remaining punchlist items to be completed at the site. At this juncture the developer is required to alleviate a deficiency in the project escrow before we move forward.
- Our office has been made aware of at least 4 different refinance loan closing dates that have been cancelled with the Asbury Hills partners. At this juncture, our office will coordinate with the Township attorney to begin proceedings to secure the project performance bond to perform the uncompleted onsite work on the project.
- Our office has coordinated with the Township attorney to call the Performance Bond on the project and we will be discussing this further at the upcoming meeting.
- We are currently scheduling a meeting with the bond insurance company and the developer to review the work to be completed at the site. However, we will not be attending any meetings until the developer authorizes the Township CFO to draw upon the Cash Bond for the project to replenish their escrow.

KINGSTON HILL

- The construction at this major subdivision on Ketcham Road north of the Asbury Hills development is 95% complete. According to Municipal Land Use Law (MLUL) the developer has the option of constructing the public improvements under Preliminary

Approval without posting the Performance Guarantee but must post the Performance Guarantee prior to developing the subdivided lots. The only major construction item remaining is the top course paving. If the top course paving was completed now, the developer has the right to submit a two (2) year Maintenance Bond without submission of the Performance Guarantee.

- In the past month, the developer has indicated that he will complete the project including the final top course paving and request posting of the required two (2) year maintenance bond for the project once all work has been completed and approved by our office.
- Our office met with the developer this week and discussed the remaining work to be performed at the site to complete the remaining onsite improvements.
- It is our understanding that the developer is getting prepared to construct the final top course of paving for the project on Laurel Court.

SNYDER PROPERTY – HABITAT FOR HUMANITIES

- Habitat for Humanities is in the process of designing the future septic system for the property. The Township received a correspondence from the attorney representing Habitat for Humanities regarding the viability of developing the property as it relates to the lot supporting a septic system. It appears that the requirement of 100' minimum separation between the well cannot be satisfied with the neighboring property.
- Our office investigated the situation related to the septic/well issue and we have coordinate with the adjacent property owner relative to the actual location of his well. Subsequently, we forwarded the results of our investigation to Habitat for Humanities for their use.
- Per a recent correspondence, it appears that an application is being made to the WC Health Department for septic design approval.

WARREN COUNTY ALL HAZARDS PLAN

(no change since last month's report)

2011NJDOT MUNICIPAL TRUST FUND GRANT APPLICATIONS

- On behalf of the municipality, our office has prepared two (2) NJDOT applications. The number 1 priority is Ketcham Road from Route 46 to Laurel Court and the second priority is a portion of Townsbury Road. Our office submitted the applications electronically and the supporting Resolutions passed by the Township have been forwarded to the NJDOT.

Old Business: Ordinance 2010-05: Second Reading/Public Hearing – Amending Article 1 of Chapter 126.

A motion was made by Mr. Cummins to open the meeting for public discussion of Ordinance 2010-06. Mr. Norton seconded the motion followed by a unanimous roll call.

Hearing no comments, a motion was made by Mr. Cummins to close the public discussion on this ordinance. Mr. Norton seconded the motion followed by a unanimous roll call.

Mr. Cummins made a motion to adopt Ordinance 2010-15 Amending Article 1 of Chapter 126. Mr. Norton seconded the motion with roll call as follows:

Ayes: Mr. Cummins, Mr. Grimes, Mr. Norton, Mr. Wall, and Mayor Giordano

Nays: None recorded

Abstain: None recorded

Motion carries with five (5) affirmative votes.

New Business:

Ordinance 2010-06: First Reading – An Ordinance to Amend An Ordinance Entitled Salaries and Compensation.

AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED SALARIES AND COMPENSATION

Be It Ordained by the Township Committee of the Township of Independence, the following salary ranges, being established for Township employees for the year 2010.

Police	
Chief of Police	\$ 80,000-97,500
Lieutenant	\$ 82,084-83,726
Sergeant/1 st . Class	\$ 78,805-80,381
Corporal	\$ 77,039-78,580
Patrolman	\$ 45,150-77,037

A motion was made by Mr. Norton to introduce Ordinance 2010-06 on First Reading. Mr. Grimes seconded the motion with roll call as follows:

Ayes: Mr. Cummins, Mr. Grimes, Mr. Norton, and Mayor Giordano

Nays: Mr. Wall

Abstain: None recorded

Motion carries with four (4) affirmative votes.

PUBLIC COMMENT: George Ulmer asked if the Highlands resolution that was passed tonight is exactly as written by Mr. Williams or if other thoughts can be injected into it. Mayor Giordano noted that the Resolution can be amended if necessary. Mr. Ulmer also noted that the memorial is moving forward with permits having been issued. Sue Cullen asked for a copy of the Highlands resolution passed tonight. Muriel Walter wanted to thank the fire chief for notifying the senior citizens of a situation that had developed. Chief Riley noted that this situation has been closed.

New Business:

Water Usage Fee: Mr. Cummins made a motion that a Resolution be drawn to implement a water usage fee for all municipalities outside of the Highlands region. This fee would benefit the Highlands water shed. There has not been any action by the State to institute such a fee. Mr. Nyduch made suggestions on how this fee could be established. Mr. Ulmer made comments on his discussion with Highlands representatives concerning this fee. Mr. Cummins will put a resolution together.

BILLS: A motion was made by Mr. Norton to pay the bills as listed. Mr. Wall seconded the motion with roll call as follows:

Ayes: Mr. Cummins, Mr. Grimes, Mr. Norton, Mr. Wall, and Mayor Giordano

Nays: None recorded

Abstain: None recorded

Motion carries with five (5) affirmative votes.

EXECUTIVE SESSION RESOLUTION

The following Resolution was approved at 9:40 p.m. to enter into Executive Session with a motion by Mr. Norton, seconded by Mayor Giordano and followed by a unanimous roll call.

WHEREAS, Section 8 of the Open Public Meetings Act, Chapter 231, P.L. 1975 permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist.

NOW, THEREFORE BE IT RESOLVED by the Township Committee of the Township of Independence, County of Warren and State of New Jersey, as follows:

The public shall be excluded from discussion of and action upon the hereinafter specified matter.

The general nature of the subject matter to be discussed is as follows:
Pending litigation

It is anticipated at this time that the above-stated matter will be made public at such time as deemed appropriate.

This resolution shall take effect immediately.

A motion to come out of Executive Session at 10:05 p.m. and enter into regular session was made by Mr. Cummins, seconded by Mr. Norton with roll call as follows:

Ayes: Mr. Cummins, Mr. Grimes, Mr. Norton, Mr. Wall, and Mayor Giordano

Nays: None recorded

Abstain: None recorded

Motion carries with five (5) affirmative votes.

Mayor Giordano stated that a legal issue was discussed during the executive session and no action will be taken at this time.

Personnel Policy Revision: Mr. Cummins stated that he would like to make a motion to authorize Attorney Kopen to revise the personnel policy of the Township to state that employee's are not permitted to bring their dogs to work as a public safety factor. Mr. Grimes seconded the motion with roll call as follows:

Ayes: Mr. Cummins, Mr. Grimes, Mr. Wall, and Mayor Giordano

Nays: None recorded

Abstain: Mr. Norton

Motion carries with four (4) affirmative votes.

ADJOURNMENT: A motion was made by Mr. Cummins to adjourn the meeting at 10:10p.m. Mr. Norton seconded the motion with roll call as follows:

Ayes: Mr. Cummins, Mr. Grimes, Mr. Norton, Mr. Wall, and Mayor Giordano

Nays: None recorded

Abstain: None recorded

Motion carries with five (5) affirmative votes.

Respectfully submitted,

Deborah M. Hrebenak, RMC
Municipal Clerk/Administrator