

The regular meeting of the East Amwell Township Committee was called to order at 7:30 p.m. Present were Mayor Peter Kneski, Deputy Mayor Linda F. Lenox, and Committee members Patricia Cregar, C. Larry Tatsch and Timothy Martin. Township Administrator Timothy Matheny and Attorney Richard Cushing were also in attendance.

In compliance with the Open Public Meetings Act, Municipal Clerk Teresa R. Stahl announced that this is a regularly scheduled meeting, pursuant to the resolution adopted on January 4, 2009, and a meeting notice published in the Hunterdon County Democrat issue of January 8, 2009. A copy of the agenda for this meeting was forwarded to the Hunterdon County Democrat, Times of Trenton, Star Ledger, Courier News, posted on the bulletin board, and filed in the Clerk's Office on August 11, 2009.

The meeting opened with the Pledge of Allegiance to the American Flag.

### **AGENDA REVIEW**

Three items of correspondence were added: 8/12/09 Interim Order from the Government Records Council; 7/30/09 Inter-Office Memos from Administrator and Board of Health Administrative Officer re: Evaluation; 8/11/09 Letter from East Amwell Agricultural Advisory Committee re: Seramba/Serafin, B.5/L.3 Commercial Farm.

### **ANNOUNCEMENTS**

- A. There is only one Township Committee Meeting in August on August 13, 2009. The next regular Township Committee meeting will be held on September 10, 2009.
- B. There is NO RECYCLING DEPOT for September 2009. The next scheduled Recycling Depot is on October 3, 2009, from 8 a.m. - 11 a.m. on the municipal lot.
- C. Municipal Offices will be closed on Monday, September 7, 2009, in observance of Labor Day.
- D. The East Amwell Township Historic Preservation Committee is working on a pictorial history of the Township. If you would like to share your old (1700-1970) photos, please contact Paul Sterchele at [jackiester@comcast.net](mailto:jackiester@comcast.net) or Kat Cannelongo at 908:892-9558.
- E. The Recreation Committee will sponsor their Music in the Park Concert at the Marion F. Clawson Memorial Park on Saturday, October 3. Mark your calendars for this event.

### **5) APPROVAL OF MINUTES**

June 25, 2009, Special Minutes (Interview) were approved on a motion by Deputy Mayor Lenox, seconded by Mrs. Cregar, and carried with two abstentions, Mayor Kneski and Mr. Martin.

June 25, 2009, Regular Minutes were approved on a motion by Mrs. Cregar, seconded by Mr. Tatsch, and carried with two abstentions, Mayor Kneski and Mr. Martin.

June 25, 2009, Executive Minutes (Land Acquisition) were approved on a motion by Deputy Mayor Lenox, seconded by Mr. Tatsch, and carried with some minor typing corrections; there were two abstentions, Mayor Kneski and Mr. Martin.

July 16, 2009, Regular Minutes were approved on a motion by Deputy Mayor Lenox, seconded by Mrs. Cregar, and carried with a typing correction on page two; there were two abstentions, Mr. Martin and Mr. Tatsch.

**6) OPEN TO THE PUBLIC** Comments pertaining to topics not on tonight's agenda (limited to total of 15 minutes)

Frances Gavigan, 123 Wertsville Road and a member of the Historic Preservation Committee, spoke about recent construction activities on the Sutphin Farm, property previously owned by the Kanach family, purchased by the County, and sold with County deed restrictions and preservation easements for a historic restoration. (Historian) Jim Davidson investigated, along with members of the Historic Preservation Committee, including Ms. Gavigan and Ms. Cannelongo. Ms. Gavigan mentioned specifics about historic elements being removed, and she mentioned a 1749 date stone uncovered during the renovations. Ms. Gavigan noted that the Construction Official is aware of the situation, that the County Historian has attempted to make an appointment with "Mr. Sullivan," that she has information on "here-say" discussions between the contractor and Mr. Davidson about the project, and that the County was not aware of the construction, including installing new electric, Ms. Gavigan was bringing this to the Township's attention because the County is counting on East Amwell to make sure that the historic value of the property is not lost.

Andrea Bonette, 17 Ridge Road, asked about Comcast complaints about lost stations and providing boxes; the governing body was not aware of any. Ms. Bonette raised her concerns, including changing stations in East Amwell and in Long Beach Island (including replacing MSN with Fox News).

Mr. Tatsch explained that during negotiations, Comcast spoke about the need to increase band width, and that by keeping some of the older stations, it did not provide the capacity to provide all the digital and high definition stations they needed; Comcast's plan was to phase out low resolution channels for new high definition stations. The adapter boxes were available to the public free of charge to get the high definition stations. He further explained that the Township was constrained by the state on what could be negotiated for the renewal, and he stated, "We did the best we could," adding that the Township "got a little extra, ... but not much."

Mrs. Bonette referenced a tape she obtained at the NJ League of Municipalities a number of years ago about cable negotiations. She further commented that she would be contacting the FCC about the issue.

The Clerk reminded the governing body that Comcast would be attending the second meeting in September, and she will forward the specific date information to Mrs. Bonette by email.

Mrs. Bonette commented on attending the Board of Adjustment meeting on Tuesday and bringing up the Cifelli property on Lindbergh Road (i.e., tree clearing for a pole barn and shed). She further commented that Engineer O'Neal and Tamara Lee were aware of the development requirements to be completed in June, that she brought this up at March and April Board meetings; she believed that the property owner has not started work yet. She asked that the Zoning Officer or someone follow up on this and let her know the status. Mayor Kneski directed Administrator Matheny to talk with the Construction Official or Zoning Officer about the permits, and he suggested that Mrs. Bonette follow up with the Administrator.

Motion by Mr. Tatsch, seconded by Mrs. Cregar, and it was carried unanimously to close to the public.

## **INTRODUCTION OF ORDINANCES/PUBLIC HEARINGS**

### **Introduction of Ordinances:**

ORDINANCE 0 9-10: AN ORDINANCE AMENDING CHAPTER 92, ARTICLE V, ENTITLED "DEVELOPMENT APPLICATION REVIEW PROCEDURES", SECTIONS 92-27 THROUGH 92-29 AND SECTION 92-39, AND CHAPTER 92, ARTICLE VII, SECTION 92-93 (RESERVED); OF THE TOWNSHIP OF EAST AMWELL, COUNTY OF HUNTERDON, STATE OF NEW JERSEY TO IMPLEMENT NATURAL RESOURCE LIMITATION AND CAPABILITIES REGULATION TO CALCULATE MAXIMUM PERMITTED UNIT YIELD

Mayor Kneski commented the Planner will be at the Township Committee meeting during the public hearing next month. The Planning Board has been working on this ordinance for a

number of months, and it affects the unit yield calculations for large developments, excluding certain environmental areas from the unit yield. Engineer O'Neal, who was present at this time, said that this was correct, it works with open land ratios, and it provides a density bonus by preserving lands, i.e., the environmental areas are subtracted out of the land calculations. Attorney Lorraine Staples, of the firm Gebhardt & Kiefer, reviewed the ordinance and found it suitable.

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**EAST AMWELL TOWNSHIP  
ORDINANCE 09-10**

**AN ORDINANCE AMENDING CHAPTER 92, ARTICLE V, ENTITLED "DEVELOPMENT APPLICATION REVIEW PROCEDURES", SECTIONS 92-27 THROUGH 92-29 AND SECTION 92-39, AND CHAPTER 92, ARTICLE VII, SECTION 92-93 (RESERVED); OF THE TOWNSHIP OF EAST AMWELL, COUNTY OF HUNTERDON, STATE OF NEW JERSEY TO IMPLEMENT NATURAL RESOURCE LIMITATION AND CAPABILITIES REGULATION TO CALCULATE MAXIMUM PERMITTED UNIT YIELD**

**WHEREAS**, the East Amwell Township Planning Board adopted a comprehensive Master Plan in 1985 with amendments thereto in 1992, 1993, 1998, 2002 and 2005 and a Reexamination Report of the Master Plan in 1999 and October 2003 in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-28; 89) and has implemented land use regulations to implement the goals and objectives established therein; and

**WHEREAS**, the 2005 Land Use Plan established goals and objectives specific to environmental concerns and to establish residential densities and nonresidential floor area ratios related to the carrying capacity of the land; and

**WHEREAS**, East Amwell's concern with protecting and preserving natural resources remains a central component of the Township's land use policies as set forth in the Township-Wide Goals and Objectives, as adopted by the Planning Board in 2004, which state "*East Amwell seeks the preservation of as much environmentally sensitive land and productive agricultural land as practicable, to protect critical resources, promote continued agriculture and maintain a desirable quality of life for East Amwell residents.*"

**WHEREAS**, the *Municipal Land Use Law*, specifically N.J.S.A. 40:55D-65.b allows for "...*other ratios and regulatory techniques governing the intensity of land use...*" and where such methods designed to adjust the density and intensity of land development have been found to be a legitimate exercise of this statutory provision by the New Jersey Supreme Court in Rumson Estates, Inc. v. Borough of Fair Haven, 177 N.J. 338 (2003); and

**WHEREAS**, the Planning Board recommends that the Township's zoning, site plan and subdivision regulations be revised and supplemented with appropriate measures to relate the intensity of development to the characteristics of the land in order to achieve the long-standing goals and objectives established in the Township's Master Plan; and

**WHEREAS**, the Township Committee of the Township of East Amwell concurs with this recommendation of the Planning Board and finds that the ordinance revisions are consistent with the East Amwell Township Master Plan.

**NOW THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of East Amwell, in the County of Hunterdon and the State of New Jersey as follows:

**Section 1:** Chapter 92, entitled "Land Management", Article V section 92-27, entitled "Submission of preliminary and final major site plan", and Article V section 92-28, entitled "Submission of preliminary and final major subdivision plats", and Article V Section 92-29, entitled "Submission of minor subdivision plats and minor site plans", and Article VIII, entitles "Zoning Provisions" Section 92-93 (reserved) shall be amended and supplemented, to read as follows:

**§92-27. Submission of preliminary and final major site plans**

[insert] B(4). Each preliminary and final major site plan shall include the Resource Conservation Calculations in accordance with §92-93 of this chapter.

**§92-28. Submission of preliminary and final major subdivision plats**

[insert] B(5). Each preliminary and final major subdivision plat shall included the Resource Conservation Calculations in accordance with §92-93 of this chapter.

**§92-29. Submission of minor subdivision plats and minor site plans**

[insert] B(4). Each minor subdivision plat and minor site plan shall include the Resource Conservation Calculations in accordance with §92-93 of this chapter.

**§92-39. Development application checklist**

**§92-39B. Preliminary and final major site plan (§92-27)**

28. The following items must be shown on the site plan plat: [§ 92-27B(3)(m)]

- b) Gross and net tract acreage to the nearest one-hundredth of an acre in accordance with §92-93 [insert].

**§92-39C. Preliminary and final major subdivision plats (§92-28)**

13. The following items must be shown on the subdivision plat:

- b) Gross and net tract acreage to the nearest one-hundredth of an acre in accordance with §92-93 [insert].

**§92-39D. Minor Subdivision plans and minor site plans (§92-29)**

10. The following items must be shown on the subdivision plat or site plan:

- b) Gross and net tract acreage to the nearest 0.01 of an acre in accordance with §92-93 [insert].

**§92-93. Resource Conservation Calculations**

The Resource Conservation Calculations that follow are to be used to compute the total area of a tract that is suitable for development after subtracting identified resource conservation areas, and to determine the maximum permitted lot yield of residential development or intensity of nonresidential development. These calculations and their mapped locations of resource features will assist in guiding, to the greatest extent practicable, all development activities to suitable area(s) of the tract.

A. Applicability. The calculations required in paragraph B. below shall be submitted as part of any conceptual plan for informal review, or any minor or major subdivision or site plan application. These requirements shall not apply to requests for construction permits for permitted uses and structures on existing lots-of-record, if no subdivision or site plan approval is required.

B. Resource Conservation Factors – Maximum Tract Yield. A Maximum Tract Yield Calculation Form prepared by the applicant shall be submitted to the Board, along with a map of the entire tract illustrating natural resource features, including flood plains, wetlands, NJDEP-required wetlands transition areas, stream channels, stream corridors, areas of slopes greater than 12% but less than 25% and areas of slopes 25% and greater.

**RESOURCE CONSERVATION AREA  
MAXIMUM TRACT YIELD CALCULATION FORM**

		Column A	Column B	Column C
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		Acres	Resource Conservation Ratio	Acres
1.	Gross Tract Area			
2.	Area of existing conservation easements or deed restrictions, where such easements and/or restrictions were imposed as a condition of subdivision or site plan approval			
3.	Adjusted Gross Tract Area (Line 1 less Line 2)			
	Resource Conservation Areas: (see Notes (a) and (b))			
4.	Bodies of water, area of flood plains, wetlands, stream corridors		1	
5.	Area of slopes 25% and greater based on 10' contour intervals		1	
6.	Area of slopes greater than 12% but less than 25% based on 10' contour intervals		0.75	
7.	NJDEP-required wetlands transition areas		0.75	
8.	Area of 300' buffer to Category 1 Waters		0.5	
9.	Total Deductible Resource Conservation Area (sum of Column C, Lines 4 through 8)			
10.	Net site area adjusted for Resource Conservation Areas (Line 3 less Line 9)			
11. a.	Residential - Maximum Permitted Lot Yield			
11. b.	Non-residential - Maximum Impervious Ratio			
12. a.	Maximum permitted number of principal dwelling units (Line 10 multiplied by Line 11.a.)			
12. b.	Maximum square feet of impervious coverage (Line 10 multiplied by Line 11.b.)			

**Notes:**

- 1) Enter appropriate acreage in Column A, multiply Column A by factor in Column B and place result in Column C.
- 2) When resource conservation areas overlap, enter the affected acreage on the line with the higher resource conservation factor and do not include it in the calculation of the resource conservation area having the lower factor. Do not double-count resource conservation acreage.
- 3) If utilizing the Open Lands Ratio Zoning in accordance with §92-91H(2)(b), deduct the remaining .25 ratio for steep slopes greater than 12% when calculating the Open Lands ratio in order to avoid double counting.
- 4) Round down to the nearest dwelling unit or square foot.

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**Section 2. Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is held invalid or unconstitutional for any reason by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such hold shall not affect the validity of the remaining portions hereof.

**Section 3. Effective Date.** This Ordinance shall take effect, following final passage, upon publication of notice of publication and the filing of a copy with the Hunterdon County Planning Board.

By Order of the Township Committee,

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Peter Kneski, Mayor

Attest: \_\_\_\_\_  
Teresa R. Stahl, RMC/CMC  
Municipal Clerk

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Motion by Mr. Tatsch, seconded by Mr. Martin, and it was carried unanimously to introduce Ordinance 09-10. The ordinance will be published in the August 20, 2009, issue of the Hunterdon County Democrat, and the public hearing will be held at the regular Township Committee meeting to be held on September 10, 2009, at 7:30 p.m.

**ORDINANCE 09-11: AN ORDINANCE TO AMEND THE CODE OF EAST AMWELL TOWNSHIP, CHAPTER 81, FLOOD DAMAGE PREVENTION, BY REPEALING THE EXISTING ORDINANCE AND CREATING ANEW THE FLOOD DAMAGE PREVENTION ORDINANCE**

Engineer Dennis O'Neal explained that the ordinance works hand-in-hand with the flood insurance rate maps. The last version of the maps was prepared in 1981, and the Federal Emergency Management Agency (FEMA) wanted to update the maps. The ordinance was provided to municipalities in draft form as a template from which to work, and the new ordinance includes reference to d-firm maps. In order to participate in the FEMA program, municipalities must adopt the map and new ordinance. The ordinance is almost identical to the existing Chapter 81 in The Code of East Amwell with references being made to the new d-firm maps. The previous ordinance delegated the Planning Board Chairman as the local authority; however, Attorney Lorraine Staples, in her review, recommended that either the Zoning Officer or the Construction Official be the authority, and the Township Committee must decide. Mr. O'Neal also stated that in 14-15 years, he has never seen an application processed. He also noted that the ordinance must be adopted by September 25, 2009.

Mr. Cushing commented on Ms. Staples opinion that the Planning Board Chairman was not the appropriate authority since it was more of an administrative function, and the recommendation was either the Zoning Officer or Construction Official. If the applicant has a disagreement, the appeal process would be through the Board of Adjustment. Mr. Cushing also commented on the possibility of creating complications if the Planning Board Chairman disagreed on a flood plain permit for a development application before the Planning Board. Mr. Cushing also explained that \$2,000 was the maximum penalty allowed.

Some further discussion took place about the local authority; Zoning Officer McManus spoke with Ms. Staples today suggesting that the Construction Official be appointed. Comments were made about the Zoning Officer interpreting ordinances while the Construction Official is more familiar with code related matters. Mr. O'Neal felt that whoever was appointed would check with the engineer if there were questions. Mayor Kneski commented on his knowledge in another township where the NJ Department of Community Affairs developed regulations years ago designating the Construction Official to address local FEMA requirements since permits would be required, i.e., FEMA and BOCA would work together. A recommendation was made to check with DCA on the appropriateness of this assignment.

Mr. Cushing explained that the ordinance could be introduced with the Mayor being authorized to make the decision on whether the Zoning Officer or the Construction Official is named as the local authority. Mr. Cushing also spoke about the Board of Adjustment being the appropriate board to hear appeals rather than the Township Committee since they were set up for such appeal hearings. There was a consensus of the Township Committee to authorize the Mayor to make the decision on the local authority before publication and to increase the penalty to \$2,000.

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**AN ORDINANCE TO AMEND THE CODE OF EAST AMWELL TOWNSHIP,  
CHAPTER 81, FLOOD DAMAGE PREVENTION, BY REPEALING THE EXISTING  
ORDINANCE AND CREATING ANEW THE FLOOD DAMAGE PREVENTION  
ORDINANCE**

BE IT ORDAINED by the Township Committee of the Township of East Amwell that Chapter 81, Flood Damage Prevention, be repealed in its entirety and a new Chapter 81, The Flood Damage Prevention Ordinance, be created.

**ARTICLE 1  
General Provisions**

**STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES**

**§ 81 -1. STATUTORY AUTHORIZATION**

The Legislature of the State of New Jersey has in N.J.S.A. 40:48-1, et seq., delegated the responsibility to local governmental units to adopt regulations designed to promote public health, safety, and general welfare of its citizenry. Therefore, the Mayor and Township Committee of East Amwell Township, of New Jersey does ordain as follows:

**§81-2. FINDINGS OF FACT**

[1] The flood hazard areas of Township of East Amwell are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

[2] These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, causes damage in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

**§81-3. STATEMENT OF PURPOSE**

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- [1] To protect human life and health;
- [2] To minimize expenditure of public money for costly flood control projects;
- [3] To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- [4] To minimize prolonged business interruptions;
- [5] To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, bridges located in areas of special flood hazard;

- [6] To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
- [7] To ensure that potential buyers are notified that property is in an area of special flood hazard; and
- [8] To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

#### **§81-4.METHODS OF REDUCING FLOOD LOSSES**

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- [1] Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- [2] Requiring that uses vulnerable to floods including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- [3] Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- [4] Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- [5] Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

### **ARTICLE II Definitions**

#### **§81-5. DEFINITIONS**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

**"Appeal"** means a request for a review of the Construction Official's interpretation of any provision of this ordinance or a request for a variance.

**"Area of shallow flooding"** means a designated AO, AH, or VO zone on a community's Digital Flood Insurance Rate Map (DFIRM) with a one percent annual or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**"Area of special flood hazard"** means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

**"Base flood"** means the flood having a one percent chance of being equaled or exceeded in any given year.

**"Basement"** means any area of the building having its floor subgrade (below ground level) on all sides.

**"Breakaway wall"** means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

**"Development"** means any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

**"Elevated building"** means a non-basement building (i) built in the case of a building in an Area of Special Flood Hazard to have the top of the elevated floor elevated above the ground level by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water, and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In an Area of Special Flood Hazard "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

**"Flood or flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- [1] The overflow of inland or tidal waters and/or
- [2] The unusual and rapid accumulation or runoff of surface waters from any source.

**"Flood Insurance Rate Map" (FIRM)** means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**"Flood Insurance Study" (FIS)** means the official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

**"Flood plain management regulations"** means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**"Floodway"** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.2 foot.

**"Highest adjacent grade"** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**"Historic Structure"** means any structure that is:

[a] Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

[b] Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

[c] Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or

[d] Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

- (1) By an approved State program as determined by the Secretary of the Interior; or
- (2) Directly by the Secretary of the Interior in States without approved programs.

**"Lowest Floor"** means the lowest floor of the lowest enclosed area [including basement]. An unfinished or flood resistant enclosure, useable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor provided that such enclosure is not built so to render the structure in violation of other applicable non-elevation design requirements.

**"Manufactured home"** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

**"Manufactured home park or manufactured home subdivision"** means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

**"New construction"** means structures for which the start of construction commenced on or after the effective date of a floodplain regulation adopted by a community and includes any subsequent improvements to such structures.

**"New manufactured home park or subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the flood plain management regulations adopted by the municipality.

**"Recreational vehicle"** means a vehicle which is [i] built on a single chassis; [ii] 400 square feet or less when measured at the longest horizontal projections; [iii] designed to be self-propelled or permanently towable by a light duty truck; and [iv] designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**"Start of Construction"** for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No. 97-348) includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings or piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**"Structure"** means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

**"Substantial Damage"** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**"Substantial Improvement"** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

[1] Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or

[2] Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

"**Variance**" means a grant of relief from the requirements of this ordinance that permits construction in a manner that would otherwise be prohibited by this ordinance.

**ARTICLE III**  
**Applicability; Enforcement; Interpretation**

**§81-6 LANDS TO WHICH THIS ORDINANCE APPLIES**

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of Township of East Amwell, Hunterdon County, New Jersey.

**§81-7. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD**

The areas of special flood hazard for the Township of East Amwell, Community No. 340498, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- (a) A scientific and engineering report "Flood Insurance Study, Hunterdon County, New Jersey (All Jurisdictions)" dated September 25, 2009.
- (b) "Flood Insurance Rate Map for Hunterdon County, New Jersey (All Jurisdictions) as shown on Index No. 34019C0334F, 34019C0345F, 34019C0352F, 34019C0353F, 34019C0354F, 34019C0356F, 34019C0357F, 34019C0358F, 34019C0359F, 34019C0361F, 34019C0362F, 34019C0363F, 34019C0364F, 34019C0368F, 34019C0370F, 34019C0386F, whose effective date is September 25, 2009.

The above documents are hereby adopted and declared to be a part of this ordinance. The Flood Insurance Study and maps are on file at 1070 US Highway 202/31, Ringoes, New Jersey 08551-1051.

**§81-8. PENALTIES FOR NONCOMPLIANCE**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$2,000.00 or imprisoned for not more than 90 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Township of East Amwell from taking such other lawful action as is necessary to prevent or remedy any violation.

**§81-9. ABROGATION AND GREATER RESTRICTIONS**

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**§81-10. INTERPRETATION**

In the interpretation and application of this ordinance, all provisions shall be:

- [1] Considered as minimum requirements;
- [2] Liberally construed in favor of the governing body; and,
- [3] Deemed neither to limit nor repeal any other powers granted under State statutes.

**§81-11. WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This

ordinance does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

This ordinance shall not create liability on the part of Township of East Amwell, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

#### **ARTICLE IV Administration**

##### **§81-12 ESTABLISHMENT OF DEVELOPMENT PERMIT**

A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in §81-7. Application for a Development Permit shall be made on forms furnished by the Construction Official and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

Specifically, the following information is required:

[1] Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;

[2] Elevation in relation to mean sea level to which any structure has been floodproofed.

[3] Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in §81-17B; and,

[4] Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

##### **§81-13. DESIGNATION OF THE LOCAL ADMINISTRATOR**

The Construction Official is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

##### **§81-14. DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR**

Duties of the Construction Official shall include, but not be limited to:

###### **A. PERMIT REVIEW**

[1] Review all development permits to determine that the permit requirements of this ordinance have been satisfied.

[2] Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.

[3] Review all development permits to determine if the proposed development is located in the floodway, assure that the encroachment provisions of §81-18 [1] are met.

###### **B. USE OF OTHER BASE FLOOD AND FLOODWAY DATA**

When base flood elevation and floodway data has not been provided in accordance with Section §81-7, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Construction Official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer §81-17A, , SPECIFIC STANDARDS, Residential Construction, and §81-17B, SPECIFIC STANDARDS, Nonresidential Construction.

###### **C. INFORMATION TO BE OBTAINED AND MAINTAINED**

[1] Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

[2] For all new or substantially improved floodproofed structures:

- [i] verify and record the actual elevation (in relation to mean sea level); and
- [ii] maintain the floodproofing certifications required in §81-12 (3).

[3] Maintain for public inspection all records pertaining to the provisions of this ordinance.

#### **D. ALTERATION OF WATERCOURSES**

[1] Notify adjacent communities and the New Jersey Department of Environmental Protection, Dam Safety and Flood Control Section and the Land Use Regulation Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

[2] Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood carrying capacity is not diminished.

#### **E. INTERPRETATION OF FIRM BOUNDARIES**

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in §81-15.

### **§81-15. VARIANCE PROCEDURE**

#### **A. APPEAL BOARD**

[1] The Board of Adjustment as established by the Township of East Amwell shall hear and decide appeals and requests for variances from the requirements of this ordinance.

[2] The Board of Adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Construction Official in the enforcement or administration of this ordinance.

[3] Those aggrieved by the decision of the Board of Adjustment, or any taxpayer, may appeal such decision to the appropriate court, as provided by statute.

[4] In passing upon such applications, the Board of Adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

- (i) the danger that materials may be swept onto other lands to the injury of others;
- (ii) the danger to life and property due to flooding or erosion damage;
- (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (iv) the importance of the services provided by the proposed facility to the community;
- (v) the necessity to the facility of a waterfront location, where applicable;
- (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (vii) the compatibility of the proposed use with existing and anticipated development;
- (viii) the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
- (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
- (x) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

(xi) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

[5] Upon consideration of the factors of §81-15 A [4] and the purposes of this ordinance, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

[6] The Construction Official shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

## **B. CONDITIONS FOR VARIANCES**

[1] Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in §81-15 A [4] have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

[2] Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

[3] Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

[4] Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

[5] Variances shall only be issued upon:

- (i) a showing of good and sufficient cause;
- (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
- (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in §81-15 A[4], or conflict with existing local laws or ordinances.

[6] Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

## **ARTICLE V**

### **Provisions For Flood Hazard Reduction**

#### **§81-16. GENERAL STANDARDS**

In all areas of special flood hazards the following standards are required:

#### **A. ANCHORING**

[1] All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

[2] All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

**B. CONSTRUCTION MATERIALS AND METHODS**

[1] All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

[2] All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

**C. UTILITIES**

[1] All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

[2] New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;

[3] On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and

[4] Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

**D. SUBDIVISION PROPOSALS**

[1] All subdivision proposals shall be consistent with the need to minimize flood damage;

[2] All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

[3] All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,

[4] Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).

**E. ENCLOSURE OPENINGS**

All new construction and substantial improvements having fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, or other covering or devices provided that they permit the automatic entry and exit of floodwaters.

**§81-17. SPECIFIC STANDARDS**

In all areas of special flood hazards where base flood elevation data have been provided as set forth in § 81-7, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or in § 81-14B, Use of Other Base Flood Data, the following standards are required:

**A. RESIDENTIAL CONSTRUCTION**

[1] New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation;

[2] require within any AO zone on the municipality's FIRM that all new construction and substantial improvement of any residential structure shall have the lowest floor, including

basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet (at least two feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

## **B. NONRESIDENTIAL CONSTRUCTION**

[1] New Construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or

[2] require within any AO zone on the municipality's FIRM that all new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet (at least two feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures; or together with the attendant utilities and sanitary facilities, shall:

[3] be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

[4] have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,

[5] be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in §81-14 C [2].

## **C. MANUFACTURED HOMES**

[1] Manufactured homes shall be anchored in accordance with §81-16A[2].

[2] All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the top of the lowest floor is at or above the base flood elevation.

## **§81-18 FLOODWAYS**

Located within areas of special flood hazard established in §81-7 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters

which carry debris, potential projectiles, and erosion potential, the following provisions apply:

[1] Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless a technical evaluation demonstrates that encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

[2] If §81-18[1] is satisfied, all new construction and substantial improvements must comply with ARTICLE V, PROVISIONS FOR FLOOD HAZARD REDUCTION.

[3] In all areas of special flood hazard in which base flood elevation data has been provided and no floodway has been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than two-tenths (0.2) of a foot at any point.

## **§81-19. FEES**

The application fee for a development permit for a flood hazard area shall be set forth in 92-20 D (5) of Chapter 92, Land Development, of The Code of East Amwell.

**BE IT FURTHER ORDAINED** that if any section, subsection, sentence, clause, phrase or portion of this ordinance is held invalid or unconstitutional for any reason by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such hold shall not affect the validity of the remaining portions hereof.

**BE IT FINALLY ORDAINED** that this Ordinance shall take effect immediately upon the filing of a copy hereof with the Planning Board of the County of Hunterdon and after final passage and publication according to law.

By Order of the Township Committee,

\_\_\_\_\_  
Peter Kneski, Mayor

Attest: \_\_\_\_\_  
Teresa R. Stahl, RMC/CMC  
Municipal Clerk

++++  
Motion by Mr. Martin, seconded by Mr. Tatsch, and carried unanimously to introduce the ordinance and authorize the Mayor to determine the local authority before publication. The ordinance will be published in the August 20, 2009, issue of the Hunterdon County Democrat, and the public hearing will be held at the regular Township Committee meeting on September 10, 2009, at 7:30 p.m.

(Note for the record: On August 17, 2009, the Mayor determined that the Construction Official is the local authority.)

**SPECIAL DISCUSSIONS**

**UPDATE FROM ENGINEER O'NEAL REGARDING THE APPLICABILITY OF THE STORMWATER MANAGEMENT ORDINANCE**

Engineer Dennis O'Neal prepared an 8/6/09 memo concerning Block 5, Lot 3, based on a request from the governing body at the last meeting. Mayor Kneski provided background information, e.g., the concern about stormwater drainage and run-off onto Rosemont-Ringoes Road, Zoning Officer involvement and movement of mounds of dirt, continued flooding on lots below the farm, concerns raised by the McGees at the last meeting, and the request to have the Engineer address the stormwater issue. The Zoning Officer was previously involved with the complaint.

Mr. O'Neal referenced his memo, with the following highlights: Kevin Milz (Hunterdon Count Soil Conservation), Zoning Officer Richard McManus, and Hunterdon County Engineer John Glynn were involved in review. The stormwater management ordinance was based on the NJ Department of Environmental Protection model presented in 2000 and subsequently modified within guidelines and adopted by East Amwell Township. The ordinance does not regulate agricultural uses; they go to the Soil Conservation District. Mr. O'Neal also referenced the berm on the farm terrace behind Lot 3.01, the creation of a motor-cycle ramp, and the definition of major development. The berm built over 20 years ago as a function of the farm is not covered under the stormwater ordinance; it is an issue for Soil Conservation District, and there have been some discussions with representatives of that agency. The ramp built up hill from the farm operation (not an agricultural use) must be at least one acre before it is under the stormwater management ordinance jurisdiction. The ramp has been removed, but when the Soil Conservation District representatives went out on a complaint in the past, they advised that it was under 5,000 square feet, less than their threshold for jurisdiction. Mr. O'Neal noted that the stormwater management ordinance does not apply until 43,000 square feet (i.e., 1 acre) of disturbance is involved. Mr. O'Neal concluded that the berm and the construction/removal of the ramp was not under the stormwater management defined jurisdiction.

Mayor Kneski asked if the County offered any suggestions to rectify the problem. Mr. O'Neal explained that the berm was created over 20 years ago to control erosion (when Mr. Stahl owned

both parcels of land, i.e., his property and the Seramba/Serafins). There was a 10 year obligation to maintain the berm. Soil Conservation District built the berms to a certain height with a swale for run off; the life span of the berm is about 20 years and natural erosion will reduce it in size. Originally, water came down the berm, ran into the swale and traveled via ditch to the existing pond on the Stahl property; silt has filled in the swale and ditches, and it will take neighbor cooperation to reconstruct the swale/ditch to carry the water to the pond. Mr. O'Neal stated that Soil Conservation District inspectors advised him that the swale could be modified, going towards the east down a flag stem to Route 604. HC Engineer Glynn has advised that "he would be able to take care of the water" on Route 604, which would also eliminate problems of water accumulation on the road. There was supposed to be a meeting with all involved at the County last Friday; however, the meeting did not happen, and there will be a meeting with the Hunterdon County Planning Board at the end of the month.

The conclusion was that there was no jurisdiction under the stormwater management ordinance, and Mr. Glynn at the County is trying to actively help with the problem. Mayor Kneski hoped that the County Planning Board will assist. Mayor Kneski stated that he would open the meeting to the residents for comment.

John Seramba, 111 John Ringo Road, handed a letter to the governing body and those present on the dais. He stated that he and his wife have had the County involved since the McGees wrote to the Freeholders. He has been in contact with Freeholder Matt Holt and had a preliminary meeting with Sue Dzmara.

Mr. Seramba corrected Mr. O'Neal, stating that the County meeting did take place last week, noting attendees Matt Holt, Kevin Milz, Mark DePalma, and Bill Millet (CADB). He commented on all neighbors involved, including the McGees, Swangers, Santos, Stahl, and Seramba/Serafin. He stated that he wants the matter resolved, and he is tired of the complaints, untruths, and lies. He read his August 13 letter into the record, as attached to the official set of minutes. Mr. Seramba advised that interested parties would be able to obtain a copy of his letter under OPRA.

Mr. Seramba stated that the Seramba family wants to correct problems, but it is not just a Seramba problem. Mayor Kneski commented on resolving a problem going on too long. Mr. Seramba noted his involvement with County representatives to assist. He concluded that the Zoning Officer should have handled the matter, when he brought it to his attention and to former Mayor Tatsch's attention, noting the problems incurred after that. He mentioned contacting specific agencies for assistance, yet harassment continues.

Hugh McGee, 11 Rosemont-Ringo Road, brought up Chapter 122, the Stormwater Management Ordinance, stating that it does apply to soil disturbances greater than one acre. Mr. McGee stated that he made his initial complaint on February 25, 2008 to the Zoning Officer, asking enforcement of the stormwater management ordinance of a soil disturbance exceeding one acre; Mr. McManus did not enforce the ordinance. The Soil Conservation District inspections were not done until July 2008, after the property was farmed and planted. Mr. McGee continued as follows: he contacted former Mayor Tatsch about enforcement, who wanted evidence of a greater than one acre soil disturbance prior to July 2008; in November 2008, he again asked why the stormwater management ordinance was not being enforced; he suggested that Mr. O'Neal prepare his memo based on evidence the Zoning Officer should confirm that the soil disturbance in February 2008 was more than one acre, and the stormwater management ordinance should have applied. Mr. McGee concluded that soil erosion and degradation are the primary reasons for flooding, the berm should be remediated, enforcing Chapter 122 of The Code should have been done, and the Neshanic Restoration Project cites the water problem as having a negative effect on the third branch of the Neshanic River, among other items.

Mr. Seramba stated that he was willing to cooperate in making repairs.

Mr. Tatsch stated that when there are disputes between two neighbors in which it is unclear where the fault may lie, the Township Committee does not have the technical ability or the expertise to decide. The governing body must depend on professionals and not take sides. Mr. Tatsch explained that the Township Committee depend on Mr. McManus, Mr. O'Neal, and the Soil Conservation District to help facilitate and reach a common goal. The goal at this time

to remediate the drainage problem for all of the neighbors, and he did not believe "going back a year and a half to retroactively blame ... or reevaluate ... will allow the problem to be solved." Mr. McGee and Mr. Tatsch exchanged comments about the decision made by the Zoning Officer at the time based on information available at that time.

Further comments were exchanged between Mr. Seramba and Mayor Kneski about correcting problems, including the berm, drainage on the Stahl property and input from NCRS and Soil Conservation, County meetings, etc. Mayor Kneski commented on the hope that the problem would be fixed by September, making progress, and "working together to reach a common goal."

**SPECIAL COMMITTEE REPORTS**

**CLAWSON PARK ADVISORY COMMITTEE:**

1) Rescind Resolution 97-09 and Approve New Resolution to Design Rain Gardens: Toni Robbi was present at this time. He asked that the correct name be presented in the resolution since the Master Gardeners are unable to participate in the project.

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**RESOLUTION #116-09**

BE IT RESOLVED by the Township Committee of the Township of East Amwell that they hereby rescind Resolution 97-09 and instead hereby support the project of the creation of between two to four rain gardens being developed in the Marion F. Clawson Memorial Park by Rutgers Cooperative Extension Water Resources Program, who will provide East Amwell Township with design and installation oversight for this project free of charge. Required excavation and planting materials will be provided by the Township or through donations.

By Order of the Township Committee,

\_\_\_\_\_  
Peter Kneski, Mayor

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Mrs. Cregar made the motion, seconded by Deputy Mayor Lenox, and it was carried unanimously.

The Township Committee thanked Mr. O'Neal for his participation this evening, and he left the meeting at this time.

**STANDING COMMITTEE REPORTS**

**LOCAL PUBLIC ASSISTANCE COMMITTEE**

1) Resignation of Member Dwight Hutchison: In a letter dated July 8, 2009, Dr. Hutchison submitted his letter of resignation since he was moving out of East Amwell Township. Mr. Tatsch made the motion to accept his resignation with regret, stating, "I worked with Dr. Hutchison on the Board of Health, he was a very fine member and very professional. I am sorry to see him move, taking along his expertise, and I wish him luck." Mr. Tatsch suggested that a letter of thanks and recognition for his many years of service be prepared. Deputy Mayor Lenox seconded the motion, which was carried unanimously.

**ENVIRONMENTAL COMMISSION**

1) Sustainable Jersey Certification: The Clerk reminded the governing body that they have discussed this program for the past few months, and the Environmental Commission has agreed to take the lead. However, the Township Committee must adopt a resolution authorizing participation.

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RESOLUTION #117-09

Resolution Supporting Participation
In the Sustainable Jersey™ Municipal Certification Program

WHEREAS, a sustainable community seeks to optimize quality of life for its residents by ensuring that its environmental, economic and social objectives are balanced and mutually supportive; and

WHEREAS, East Amwell Township strives to save tax dollars, assure clean land, air and water, improve working and living environments as steps to building a sustainable community that will thrive well into the new century; and

WHEREAS, East Amwell Township hereby acknowledges that the residents of East Amwell Township desire a stable, sustainable future for themselves and future generations; and

WHEREAS, East Amwell Township wishes to support a model of government which benefits our residents now and far into the future by exploring and adopting sustainable, economically-sound, local government practices; and

WHEREAS, by endorsing a sustainable path East Amwell Township is pledging to educate itself and community members further about sustainable activities and to develop initiatives supporting sustainable local government practices; and

WHEREAS, as elected representatives of East Amwell Township, we have a significant responsibility to provide leadership which will seek community-based sustainable solutions to strengthen our community:

NOW, THEREFORE, BE IT RESOLVED, that to focus attention and effort within East Amwell Township on matters of sustainability, the Township Committee wishes to pursue local initiatives and actions that will lead to Sustainable Jersey Municipal Certification.

BE IT FURTHER RESOLVED, by the Township Committee of East Amwell Township that we do hereby authorize Dart Sageser to serve as their agent for the Sustainable Jersey Municipal Certification process and authorize Dart Sageser to complete the Municipal Registration on behalf the Township of East Amwell.

By Order of the Township Committee,

Peter Kneski, Mayor

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Motion by Mr. Tatsch, seconded by Deputy Mayor Lenox, and it was carried unanimously to approve the resolution.

2) Appointment of Student Members (See 7/16 Minutes for Background): Based on the previous request from the Environmental Commission and the approval by the governing body to allow the appointment of student members, Environmental Commission Chairman Petrus recommended the following appointments: Krystina Hanntz as the Student Member and Katie Haney as the Alternate Student Member. Motion by Deputy Mayor Lenox, seconded by Mr. Tatsch, and it was carried unanimously to appoint these student members.

3) Conservation Easements/Visitation Process and Letters to Residents: The Environmental Commission sent their August 3 email with a draft letter to be provided to residents regarding inspections. The Clerk advised the governing body that the Environmental Commission will be re-writing their letter, based on previous comments from the Township Attorney on 8/4. Mr. Cushing explained that the Environmental Commission is very interested, and it is admirable to inspect easements; however, he reminded the governing body that this would mean going on private property and residents may be very sensitive of these inspections,

especially by government representatives. He commented on making sure that property rights are being respected and that the residents are carefully advised in advance.

PLANNING BOARD

1) 7/13 Letter from Planner Banisch re: NJ DEP Local Government Greenhouse Gas Reduction Grant Program, USEPA Climate Showcase Communities Grant Program, and Sustainable Jersey Points: The Clerk stated that this was for the governing body's information only, noting that the Environmental Commission is taking the lead on the Sustainable Jersey program, however, "no one is at the helm of the Greenhouse Gas Reduction Program."

FARMLAND/OPEN SPACE PRESERVATION COMMITTEE

1) Appraisal for Lanwin Development Corporation, B. 21/L.1 - Cider Mill Road: F/OSPC Chair Glorianne Robbi was present at this time.

Mrs. Robbi highlighted her 8/11/09 memo, requesting the approval for one appraisal on the 88 acre parcel on Cider Mill Road. The owner has provided a signed letter to the Clerk; he has been working with D & R Greenways to purchase development credits, although this will not happen this year. Mrs. Robbi commented on this being "marvelous land, surrounded by preserved land, ... and (previously) ranked number 1 in the County's municipal P.I.G. program this past spring." She reminded the Township Committee that due to the County's option contract and "low ball price," three excellent farmers (including this one) refused to sign with the County.

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**RESOLUTION #118-09**

BE IT RESOLVED by the Township Committee of the Township of East Amwell, that they hereby authorize the Farmland/Open Space Preservation Coordinator to arrange for one appraisal on the following property: Lanwin Development Corporation, Block 21/Lot 1.

By Order of the Township Committee,

\_\_\_\_\_  
Peter Kneski, Mayor

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Motion by Deputy Mayor Lenox and seconded by Mrs. Cregar to approve the resolution. Mr. Tatsch and Mrs. Robbi exchanged comments on trying to acquire this property, which "is not a done deal," and the resolution was carried unanimously.

RECYCLING COMMITTEE

1) Draft Recycling Ordinance: This item was provided to the Township Committee as information only since the ordinance is currently going through legal review. Mr. Martin commented on the Recycling Committee's concerns about enforcement, which will be coming to the Township Committee. Mr. Cushing stated that most towns he is familiar with have their own garbage and recycling services. He asked what would trigger enforcement, i.e., would it be a complaint from a scavenger about not doing it right. He asked if the County would enforce, and Mr. Martin said no. Mr. Martin explained that the Recycling Coordinator can issue violations, but there is no inspector. Mr. Cushing suggested a Code Enforcement Officer, a position broader than a Zoning Officer; he suggested that the Township Administrator might hold that title, although the Zoning Officer could also do it.

Mr. Martin commented that the Township Committee will be looking at the ordinance, which has to be adopted by the first of the year, i.e., in 2010. The Recycling Committee has taken the existing ordinance and merged it with the County's draft. The discussion on enforcement may take place at a later time, including enforcement by a Code Enforcement Officer for this ordinance and perhaps the tree-harvesting ordinance. Mr. Cushing recommended that Mr. Martin ask other towns similar to East Amwell how they will handle enforcement.

**UNFINISHED BUSINESS**

## TOWNSHIP ADMINISTRATOR'S UPDATE

1) Resignation of Board of Health/Construction Secretary: Darlis Maksymovich gave her two weeks notice in a letter dated July 20, 2009, and left the Township as of the beginning of August (i.e., last day of work on July 31). Deputy Clerk Carolyn Fritsch is handling the Board of Health duties, and Office Assistant Pamela Dymek is handling Construction Office duties at this time.

2) Card Access System Installation: The system is currently being installed; visitors will notice "hockey puck" type hardware by the doors. There will be access cards and number buttons on the locks, which can be generated by a rolling system. The company will provide system training to the Administrator and the Clerk.

3) Construction Clearance Certification: Mr. Matheny is still working on this project.

4) Staff Request for 2009 Additional Vacation Days: Mr. Matheny reminded the governing body that this item was on the agenda at the last meeting when there were only three members present, i.e., one yes; one no; and one no opinion. Staff members previously signed a letter stating their disappointment that many neighboring municipalities received stipends or between 2 - 3 % raises, while East Amwell Township remained flat. The request for this year only was for extra time off in some form.

Mr. Martin thought it would be a good idea to give a floating holiday; Mr. Matheny noted that there is no category in the policy manual, and it could be an additional personal day; it would be used in 2009 and not carried over. Mr. Matheny advised the Township Committee that pros and cons of the extra benefit were discussed with staff members, a number of draft memos were written, although there was no full consensus by staff, including from part time employees who would not see a benefit. He reminded the Committee that the impact of one day is a symbolic gesture and not equivalent to a 3% raise, providing statistics of a \$50,000 a year employee's 3% raise being equivalent to 6 or 7 days of service.

Mr. Tatsch read the requests and did not feel strongly one way or the other, stating while the day off had no impact on the budget, time off does translate in money and this would be inconsistent with the Township's desire to have a flat budget. He noted that the office was now down one staff member with the recent resignation, staff is working harder to cover assignments, the DPW is down one person, and as long as the reward did not adversely affect the Township, he would lean toward the benefit (although he saw Deputy Lenox's previous argument).

Further comments included the following: Mr. Martin spoke about recent documentation about higher productivity in the workplace due to decreased staffing - he believed the staff had a high work ethic and he did "not see a hit" if an extra day was given; Deputy Mayor Lenox was now supportive of an extra day for staff; Mayor Kneski agreed with the extra day for this year, cautioning that it was only for this year and would not become two days next year - he recognized that the staff are dedicated to the Township; Deputy Mayor Lenox hoped that employees would see a raise next year; Mr. Matheny said that an employee working less than 15 hours would receive a half day off instead of a full day.

Motion by Mrs. Cregar, seconded by Mr. Martin, and it was carried unanimously to authorize the Township Administrator to work out the details of the full or half-day benefit for employees for the rest of 2009 only.

5) City Connections Website Creation: Mr. Matheny explained that the site is being developed with our input; he wants it done right, not fast. The template is there, and it will be provided to the governing body to see. The Clerk is working with City Connections.

6) Resolution of Appreciation for Laura Lewis for Website Management: The Township Committee was appreciative of all the efforts of volunteer Laura Lewis (also a member of the Environmental Commission), who has been maintaining the website for the past several years.

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RESOLUTION #119-09  
RESOLUTION OF APPRECIATION

WHEREAS, East Amwell Township has been fortunate over the years to have a wealth of qualified volunteers who contribute to government operations for the benefit of the residents of our community; and

WHEREAS, East Amwell Township has depended on volunteers for maintaining a website since creating the site, www.eastamwelltownship.com, during the last decade; and

WHEREAS, Laura Lewis has been the East Amwell Township Webmaster for the past several years and has spent countless hours maintaining the existing website, updating and posting information, and using her creative talents to develop the site; and

WHEREAS, as part of their long term goal, East Amwell Township is in the process of transitioning the site to be maintained by a company specializing in municipal website development and maintenance;

NOW, THEREFORE, BE IT RESOLVED that the Township Committee of the Township of East Amwell, does hereby recognize the tremendous efforts set forth by Laura Lewis as the East Amwell Township Webmaster, and they commend her for her dedication to the task;

BE IT FURTHER RESOLVED that the Township Committee of the Township of East Amwell extends their appreciation to Laura for all her fine work, and that a copy of this resolution be presented to Laura Lewis for a job well done!

By Order of the Township Committee,

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Peter Kneski, Mayor

+++++ Motion by Mr. Tatsch, seconded by Deputy Mayor Lenox, and it was carried unanimously to approve the resolution, which will be posted on the new website with a statement about Laura’s assistance and years of service.

7) Increase in NJ State Health Benefits Program Costs for 2010: Mr. Matheny and Treasurer Luhrs have talked about the proposed 18% increase in the State Health Benefits Program next year, noting that there will be a cap waiver for this item. He was asking for direction from the governing body on whether they wanted other alternatives to be considered.

Deputy Mayor Lenox was aware of some municipalities who may have information on self-insured programs. Mr. Cushing said that these were know as JIF's (Joint Insurance Funds), and they are usually created for liability and public official insurance rather than medical insurance. Deputy Mayor Lenox will get further information from these municipalities.

Mrs. Luhrs will be directed to look into other options to consider.

8) Under Legal Age Drinking on Private Properties: This item is listed under correspondence, and a private group is asking for information on local ordinances pertaining to the topic. Mr. Matheny contacted Lt. Skelton at the Kingwood Barracks of the State Police, asking if such an ordinance would assist his department. Lt. Skelton did not believe East Amwell Township had a real issue, but he will get further information and respond to Mr. Matheny in the future. Comments were exchanged between the governing body, Mr. Cushing, and Mr. Matheny; Mr. Cushing particularly noted possible complications with P.L. 200 in interfering with parents religious or personal rights to share alcoholic beverages with their own under-age children. Mayor Kneski concluded that as long as the Police had enforcement powers without the adoption of the law and there were no real problems, there is no need for adoption of the ordinance at this time.

9) Purchasing Agent Classes: Mr. Matheny will continue the last in the series of Purchasing Agent Classes at a night class in New Brunswick for nine weeks, starting in September.

RECEIPT OF THE 2008 AUDIT:

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**RESOLUTION #120-09**

GOVERNING BODY CERTIFICATION OF THE ANNUAL AUDIT

WHEREAS, NJSA 40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions; and

WHEREAS, the annual Report of the Audit for the year 2008 has been filed by a Registered Municipal Accountant with the Municipal Clerk of the Township of East Amwell as per the requirements of NJSA 40A:5-6, and a copy has been received by each member of the governing body; and

WHEREAS, R.S. 52:27BB-34 authorizes the Local Finance Board of the State of New Jersey to prescribe reports pertaining to the local fiscal affairs; and

WHEREAS, the Local Finance Board has promulgated a regulation requiring that the governing body of each municipality shall by resolution certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled Comments and Recommendations; and

WHEREAS, the members of the governing body have personally reviewed as a minimum the Annual Report of the Audit, and specifically the sections of the annual audit entitled Recommendations, as evidenced by the group affidavit form of the governing body; and

WHEREAS, such resolution of certification shall be adopted by the governing body no later than forty-five days after the receipt of the annual audit, pursuant to N.J.A.C. 5:30-6.5; and

WHEREAS, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

WHEREAS, failure to comply with the regulations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52 – to wit:

R.S. 52:27BB-52 – “A local officer or member of a local governing body, who after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, of both, in addition shall forfeit his office.”

NOW, THEREFORE, BE IT RESOLVED, that the Township Committee of the Township of East Amwell, County of Hunterdon, State of New Jersey, hereby states that it has complied with N.J.A.C 5:30-6.5 and does hereby submit a certified copy of this resolution and required affidavit to said Board to show evidence of said compliance.

By Order of the Township Committee,

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Peter Kneski, Mayor

+++++ Motion by Mrs. Cregar, seconded by Mr. Tatsch, and it was carried unanimously to approve the resolution.

DISCUSSION ON TRAP, NEUTER AND RELEASE PROGRAM EMAILS OF 7/1 & 7/2 FROM BUFF BARR (See July 16, 2009 Minutes for Background)

The Township Committee briefly discussed the emails from the resident on Van Lieus Road supporting the trap, neuter and release program (TNR). Mr. Tatsch stated that the Board of Health never discussed the program. He read the comments in the emails and they "sounded reasonable." Mr. Martin also read the material, commenting that when ferals are left to roam, even after being neutered, they kill wildlife; he was ambivalent about the topic. If the result of neutering is to be perceived as birth control for the cats with the intent that groups of cats will dissipate, this will still not control new cats that show up. Mr. Tatsch asked how the program would work; Mr. Martin commented that the municipality is not large enough nor properly equipped to handle the program; he asked that Ms. Barr provide a proposal of what is being suggested. Mayor Kneski asked the Clerk to work with the Administrator on finding out more information and getting back to him.

**NEW BUSINESS**

REQUEST FROM AMWELL VALLEY FIRE COMPANY FOR ALCOHOLIC BEVERAGE CONTROL PERMIT FOR 2009 HARVEST FEST ON SEPTEMBER 12, 2009 (RAINDATE SEPTEMBER 13, 2009)

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**RESOLUTION #121-09**

BE IT RESOLVED by the Township Committee of the Township of East Amwell, County of Hunterdon, State of New Jersey, that they have no objection to a Special Permit for a Social Affair being granted to the Amwell Valley Fire Company (Club License #1008-31-002-01) from the New Jersey Division of Alcoholic Beverage Control for the annual Harvest Fest to be held on September 12, 2009 (rain date September 13, 2009) to be held on the Amwell Valley Fire Company property.

By Order of the Township Committee,

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Peter Kneski, Mayor

+++++ Motion by Deputy Mayor Lenox, seconded by Mrs. Cregar, and it was carried unanimously to approve the resolution.

**OPEN TO THE PUBLIC**

Motion by Deputy Mayor Lenox, seconded by Mr. Martin, and it was carried unanimously to open to the public for comment.

Frances Gavigan, 123 Wertsville Road, commented on her anger and silence at the meeting last month. She noted that her comments tonight are not a criticism of the Clerk. She demanded action from the Township Committee concerning the "clandestine behavior of a Board Chairman." Ms. Gavigan spoke at length about harassment and expense involved with a property owner who is farming his property and not developing it. She provided details about the Seramba property (e.g., growing crops, moving an agricultural building on the property and leveling slope soil as a common practice, actively farming the site, having a son who rides a dirt bike which will make a trail when you ride in the same location, her assistance in helping move materials on the property, etc.). Ms. Gavigan spoke about the McGee property (e.g., initiation of the water problem by putting up a shed and a raised garden). She commented on the Zoning Officer acting on information without making contact with the property owner and issuing violations.

Ms. Gavigan stated an issue going on for three years needs to be addressed; she has contacted other authorities but will allow the Township Committee to investigate as a first step and act appropriately. She commented on exposure and on the perception of integrity; she also

commented on Mrs. Bonette's questions on the Cifelli situation on Lindbergh Road, stating that they were inappropriate.

Ms. Gavigan read an 8/13/09 letter into the record from Jay and Susan Monroe, which is attached to the official set of minutes, regarding abuse of power and expenses involved with a false accusation by Andrea Bonette in 2003.

Ms. Gavigan read her own 8/13/09 letter into the record, regarding "Allegations of Abuse of Office and Violations of the Open Public Meetings Act," as attached to the official set of minutes. The letter outlines her belief of a violation of the Open Public Meetings Act and her inability to receive minutes of the ad hoc committee on Stormwater Mangement.

Ms. Gavigan concluded by stating that this is not a pleasant experience, but her personal anger and outrage about the ethics issue is at stake. She stated that this is not a political issue, and she commented Deputy Mayor Lenox for her open mindedness in discussing the Serambas. She called for honesty. Ms. Gavigan concluded by stating that she was sorry for the expenses being caused to the taxpayers.

Mr. Seramba thanked the governing body for allowing him to read his letter into the record and to give his opinion with facts. He commented on speaking with Hugh McGee twice and receiving comments which make him upset.

Motion by Mr. Tatsch, seconded by Mr. Martin, and it was carried unanimously to close to the public.

**UNFINISHED BUSINESS, Continued**

**RESOLUTION TO ENTER EXECUTIVE SESSION**

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**RESOLUTION #122-09**

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

WHEREAS, East Amwell Township Committee is of the opinion that circumstances presently exist; and

WHEREAS, the governing body of the Township of East Amwell wishes to discuss litigation, potential litigation, contracts, land acquisition, and to receive advice from the Township Attorney; and

WHEREAS, minutes will be kept and once the matter involving the confidentiality of the above no longer requires that confidentiality, then minutes can be made public;

NOW, THEREFORE, BE IT RESOLVED that the public be excluded from this meeting.

By Order of the Township Committee,

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Peter Kneski, Mayor

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Motion by Mr. Tatsch, seconded by Deputy Mayor Lenox, and it was carried unanimously to approve the resolution.

Executive session began at 9:50 p.m.

The regular meeting resumed at 10:55 p.m.

Mr. Cushing left the meeting at this time.

**ADMINISTRATIVE REPORTS**

TREASURER LUHRS provided the bills of the evening and a statement of cash on hand. Motion by Deputy Mayor Lenox, seconded by Mrs. Cregar, and it was carried unanimously to approve the bills.

Treasurer's Resolutions:

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**RESOLUTION #123-09**

WHEREAS, the Public Works Superintendent of the Township of East Amwell has approved the refund of the following driveway bond;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of East Amwell that the Treasurer is authorized to issue a refund check to the following applicant:

Applicant	Amount of Refund
Eileen Mullen	\$1,500.00

By Order of the Township Committee,

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Peter Kneski, Mayor

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**RESOLUTION #124-09**

WHEREAS, it has been determined by the Board of Health of the Township of East Amwell that the following witness fees can be refunded;

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of East Amwell that the Treasurer is hereby authorized to refund the following amounts to the applicant:

Applicant	Amount Refunded
Sam Schlauch	\$360.00
Patricia Morrison	\$200.00
Steven Walker	\$200.00

By Order of the Township Committee,

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Peter Kneski, Mayor

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Motion by Mr. Tatsch, seconded by Deputy Mayor Lenox, and it was carried unanimously to approve the resolutions.

TAX COLLECTOR HYLAND provided her July report and an affidavit to the Clerk about mailing tax bills on July 27, 2009. Mrs. Cregar commented on not receiving her tax bill.

All other reports on the agenda were acknowledged without comment.

**CORRESPONDENCE**

No comments were made about correspondence.

**ADJOURNMENT**

There being no further business, a motion was made by Mr. Martin, seconded by Mrs. Cregar, and carried unanimously to adjourn the meeting at 11:00 p.m.

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Teresa R. Stahl, RMC/CMC  
Municipal Clerk