

Minutes of the Conference Meeting of the Borough Council held April 16<sup>th</sup> 2015, at 7:30 p.m. in the Council Chambers, Borough Hall, 531 Speedwell Avenue, Morris Plains, New Jersey.

Mayor Frank J. Druetzler called the meeting to order and read the following notice:

I HEREBY ANNOUNCE AND STATE THAT ADEQUATE NOTICE OF THIS MEETING WAS PROVIDED BY VIRTUE OF A RESOLUTION SCHEDULING THE TIME, DATE, AND PLACE OF MEETINGS OF THE BOROUGH COUNCIL OF THE BOROUGH OF MORRIS PLAINS FOR THE YEAR 2015; WHICH RESOLUTION WAS ADOPTED BY THE BOROUGH COUNCIL ON JANUARY 7, 2015, AND WAS PUBLISHED IN THE *MORRIS NEWSBEE* AND IN THE *DAILY RECORD* AND BY THE FORWARDING OF SUCH RESOLUTION TO ALL PERSONS ON THE REQUEST LIST; BY THE POSTING OF SUCH RESOLUTION ON THE BULLETIN BOARD IN THE BOROUGH HALL; ALL OF THE ABOVE ACTIONS BEING IN ACCORDANCE WITH N.J.S.A. 10:4-6, *ET SEQ.*

Present on Roll Call:

Mayor Frank J. Druetzler  
Councilmembers: Jason C. Karr, Council President  
Joseph Cecala, Jr.  
Salvatore Cortese  
John Doherty  
Laurie J. Fu  
Suzanne B. McCluskey

Absent: None

Present: Gail H. Fraser, Esq., Borough Attorney

#### **ITEMS FOR DISCUSSION**

Mayor Druetzler asked if anyone had any questions on the Consent Calendar. Mayor Druetzler asked if all were agreeable to putting on this meeting's Consent Calendar an authorization for the Borough Engineer to prepare plans and bid specifications for the construction of a salt shed at the Borough Garage. All were agreeable.

Councilmember Cecala commented on a Scavenger Basin Cleaner. He provided details on this matter.

Ms. Fraser reminded of the recent approval of the GovDeals.com bid and that this relates to the Legal Notice.

Councilmember Fu advised of a meeting she and Councilmember Cortese had with Morris United. The primary matter discussed related to general signage and sponsored signage at the turf field. She asked if there were any concerns or requirements about this signage.

Cross discussion, including that it probably would be best if all the signs were the same or a very similar size.

Councilmember Cortese provided commentary in connection to costs/payments and maintenance of the fields and how the maintenance costs are raised. He also provided additional details relating to the working partnership with Morris United and what has been accomplished as a result of the efforts of all involved.

Councilmember Karr reminded that at the last meeting it was decided there would be discussion about the audit, but this is now on hold for a future meeting.

Councilmember Doherty advised that the Teen Center will be holding their Final Night on June 12<sup>th</sup> 2015. They would like to use the VFW Field. Who should he check with to see if this field is available.

He was advised to check with Mrs. Coffey at the Borough Annex.

**EXECUTIVE SESSION**

Moved by Councilmember McCluskey:

**BE IT RESOLVED THAT** Resolution No. 2015-52 entitled "Executive Session" be adopted.

Seconded by Councilmember Fu. So ordered.

Councilmember Karr moved that the Executive Session be adjourned.

Seconded by Councilmember McCluskey.

Councilmember Cecala moved that the Conference Meeting be adjourned at 7:57 p.m.

Seconded by Councilmember Doherty.

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Frank J. Druetzler, Mayor

Recorded by Rosanne Denman

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June Uhrin, Borough Clerk

Minutes of the Regular Meeting of the Borough Council held April 16<sup>th</sup> 2015 at 8:30 p.m. in the Council Chambers, Borough Hall, 531 Speedwell Avenue, Morris Plains, New Jersey.

Pledge of Allegiance and Prayer.

Mayor Frank J. Druetzler called the meeting to order and read the following notice:

I HEREBY ANNOUNCE AND STATE THAT ADEQUATE NOTICE OF THIS MEETING WAS PROVIDED BY VIRTUE OF A RESOLUTION SCHEDULING THE TIME, DATE, AND PLACE OF MEETINGS OF THE BOROUGH COUNCIL OF THE BOROUGH OF MORRIS PLAINS FOR THE YEAR 2015; WHICH RESOLUTION WAS ADOPTED BY THE BOROUGH COUNCIL ON JANUARY 7, 2015, AND WAS PUBLISHED IN THE *MORRIS NEWSBEE* AND IN THE *DAILY RECORD* AND BY THE FORWARDING OF SUCH RESOLUTION TO ALL PERSONS ON THE REQUEST LIST; BY THE POSTING OF SUCH RESOLUTION ON THE BULLETIN BOARD IN THE BOROUGH HALL; ALL OF THE ABOVE ACTIONS BEING IN ACCORDANCE WITH *N.J.S.A. 10:4-6, ET SEQ.*

Present on Roll Call:

Mayor Frank J. Druetzler  
Councilmembers: Jason Karr, Council President  
Joseph Cecala, Jr.  
Sal Cortese  
Jack Doherty  
Laurie J. Fu  
Suzanne B. McCluskey

Absent: None

Present: Gail Fraser, Esq., Borough Attorney  
Leon Hall, P.E., Borough Engineer

#### **APPROVAL OF MINUTES**

Councilmember Karr moved:

***BE IT RESOLVED THAT*** the minutes of the Budget Meeting of March 27<sup>th</sup> 2015 be approved.

Seconded by Councilmember Doherty. So ordered.

Voice vote. All in favor. Motion carried.

Councilmember Karr moved:

***BE IT RESOLVED THAT*** the minutes of the Executive, Conference and the Regular Meetings of April 2<sup>nd</sup> 2015 be approved.

Seconded by Councilmember McCluskey. So ordered.

Voice vote. All in favor. Motion carried.

#### **APPROVAL OF CONSENT CALENDAR**

Councilmember Karr moved:

***BE IT RESOLVED*** by the Mayor and Council of the Borough of Morris Plains, that the attached reports be accepted and that said reports be kept on file in the Clerk's Office:

**REPORTS**

Borough Clerk, March 2015  
Animal Licensing, March 2015  
Police Department, March 2015  
Fire Prevention, March 2015  
Municipal Court, March 2015  
Sanitarian, March 2015  
Animal Control, March 2015  
Treasurer, March 2015  
Tax Collector, March 2015  
Building Inspector, March 2015

Engineer, Quarterly

*THAT* the Resolution No. 2015-53 entitled, "RESOLUTION AUTHORIZING THE EXTENSION OF CONTRACT NO. C.2014, FIREWORKS DISPLAY SERVICES," be adopted as attached.

*THAT* the Resolution No. 2015-54 entitled, "RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN CONTRACT FOR PROFESSIONAL PLANNING SERVICES," be adopted as attached.

*THAT* the Resolution No. 2015-55 entitled, "REDEMPTION RESOLUTION BLOCK NO. 91, LOT NO. 8 REDEEM 3<sup>RD</sup> PARTY TAX LIEN #3-14," be adopted as attached.

*THAT* the Resolution No. 2015-56 entitled, "CANCEL UNEXPENDED AND DEDICATED BALANCES OF GENERAL CAPITAL APPROPRIATIONS," be adopted as attached.

*THAT* the letter of retirement of Randy Opitz, Master Senior Mechanic, Department of Public Works, be accepted effective September 1<sup>st</sup> 2015.

*THAT* the Ladies Auxiliary of the Morris Plains Fire Association be granted permission to hold a plant sale on the Fire house ramp, Saturday, May 9, 2015 from 8:00 a.m. to 2:00 p.m.

*THAT* having received quotes for the repair & restoration of exterior Fire Department staircase from the following:

Newark Wire Works, Inc	\$15,000.00
Custom Steel Contractors, Inc.	\$28,900.00
Susan R. Bauer, Inc.	\$39,473.00

*THAT* a purchase order be issued to Newark Wire Works, Inc., Edison, New Jersey in the amount of \$15,000.00.

*THAT* having received quotes for the purchase of 40 cubic yard Storage Container from the following:

Village Office Supply/Newtech Recycling	\$3,500.00
Rudco Products, Inc.	\$4,995.95
Northeast Industrial Mfg., Inc.	\$6,289.00

*THAT* a purchase order be issued to Village Office Supply/Newtech Recycling, Somerset, New Jersey in the amount of \$3,500.00.

*THAT* the Warner Lambert Retirees/Morris Plains Seniors, be granted permission to park ten (10) cars at Simons Park from May 10<sup>th</sup> 2015 through May 17<sup>th</sup> 2015 while on a cruise to Bermuda.

*THAT* Arjun Khadse be granted permission to make renovations to the landscaping at the Morris Plains Teen Center House on Tabor Road for his Eagle Scout Project, during June 2015.

*THAT* having received quotes for the purchase of 20' Open Landscape Trailer from the following:

RAW Trailer Sales	\$3,115.00
Trailerama	\$3,970.00
Performance Trailer Premier	\$3,200.00

*THAT* a purchase order be issued to R.A.W. Trailer Sales, Roxbury, New Jersey in the amount of \$3,115.00.

*THAT* Kenneth & Jennifer Simms be granted permission to serve alcoholic beverages at a graduation party to be held Saturday, May 23<sup>rd</sup> 2015 from 2:00 p.m. to 7:00 p.m. at Community Park.

*THAT* the Borough Clerk be and she hereby is authorized to advertise for an On-Line auction with GovDeals.Com starting on Thursday, May 7<sup>th</sup> 2015 through May 21<sup>st</sup> 2015, for the purpose of disposing the following pieces of property at the suggested minimum bid:

One	(1)	2004 Scavenger Basin Cleaner	
		Vin#1A9SS22394M274001, Model SV-13TM	\$10,000

*THAT* the Borough Engineer be authorized to prepare plans and bid specifications for the construction of a salt shed at the Borough Garage.

Seconded by Councilmember McCluskey.

Yeas: Councilmembers Karr, Cecala, Cortese, Doherty, Fu, McCluskey

Nays: None

Absent: None

Abstain: None

#### **GREETINGS OF PUBLIC AND INVITATION FOR DISCUSSION**

Mayor Druetzler opened this portion of the meeting to comments from the public.

Mr. Michael Kibalo, 12 Bryce Way, Morris Plains, stated he would like to further discuss Block 171, Lots 1.01 and 38. He distributed maps to Councilmembers. He requested a confirmation relating to a proposed conservation easement on Lot 1.01 concerning the development of Mack-Cali which has three lots. His concern is that some day there could be 200 more apartments, three stories high "looking right into their bedrooms". The homes located on Bryce Way represent some of the more expensive homes in the Borough and consequently also pay high taxes -- \$13,000/\$14,000 per year. He commented on an earlier statement about a future deed restricted land area(s), maintaining a certain amount of commercial zoning in this area, and a sewer line.

Mayor Druetzler advised that the Borough is being sued on Affordable Housing (COAH) requirements; he provided details and commentary on this. He also commented on the proposed development by M & M on Route 53 and another by a different developer on The American Road.

He provided a brief history of the proposal and pending application by Mack-Cali/Roseland Properties at 250 Johnson Road for a high-end apartment complex. If approved, this development will have 197 units, 30 of which will be affordable housing (low income/moderate income). He also advised on the conservation easement proposal, a path, a picnic table, and a deed restriction from this developer that there will not be housing on the remainder of the property. This application will be at the Planning Board very soon and the matters of the conservation easement and the deed restriction will be part of the hearing before the Planning Board.

Mr Kibalo stated he reviewed the application today that was provided by Mr. Hall, and there was nothing in it about the deed restriction, just the conservation easement (“around the pond and other areas”).

Mayor Druetzler commented on whether or not he can use the word “requirement” – “this is what we expect and this is what they said they would do”. There is no law that says this must be done.

Cross discussion about how the deed restriction would be imposed on property that the Borough does not own, including that the Borough Attorney stated the developer/property owner would need to execute a deed restriction from themselves to themselves restricting the property. It is her understanding that the developer Applicant is “prepared to deed restrict the remainder of the property for non-residential use”. This discussion happens at the Planning Board hearings. She advised he is able to attend any and all Planning Board meetings to learn more about this application and to speak if desired. Application approvals are subject to a variety of conditions. She provided extensive commentary on matters relating to this Roseland/Mack-Cali application.

Mayor Druetzler provided additional commentary of a general nature relating to current and future expansion within the Borough. He also commented on the issue of the significant number of vacant office buildings in New Jersey and wondered what will happen. He believes they ultimately will be razed and the land will become available for re-development.

Mr. Kibalo stated he believes the “perfect place” for additional apartments is on Route 53.

Cross discussion about the proposed construction on Route 53.

Mr. Sam Prasad, 14 Bryce Way, Morris Plains, asked about the lawsuits mentioned by Mayor Druetzler as well as their current status.

Ms. Fraser advised there are two existing lawsuits filed against the Borough by two property owners, one property is on Route 53 and the other is on The American Road. Both “allege that the Borough has not met its obligation to provide affordable housing, and that they are asking the Court to determine that those property owners are entitled to a builder’s remedy to allow them to building residential housing at a higher density so that they can include affordable housing on the property”.

Continuing, Ms. Fraser advised both these lawsuits are moving through the system very slowly. She provided details as to what has occurred so far, what is ongoing, and what still will need to occur. She also advised of the appointment by the Court of a Special Master to assist the Borough in revising its Zoning Ordinance to address affordable housing.

Mr. Prasad provided additional commentary expressing his thoughts.

Cross discussion about the lawsuits, how long they have been going on, the “whys and wherefores” of the lawsuits, change in the Borough, and related matters.

Mayor Druetzler provided information relating to an anonymous letter that was received that revealed the existence of a deed restriction (copy included in the letter) in connection with the Route 53 property. The deed restriction related to contamination of the property and that because of this housing, a school, or a daycare center could never be built on the property. The property’s water could never be used. The developer, however, does have the right to clean up this property, and that is what they propose to do. He expressed his belief that it may be impossible to ever assure this land is absolutely 100% cleaned up.

Cross discussion about the issues of the development proposals for Route 53 and for Johnson Road.

Mayor Druetzler advised about Borough ratable and advised that the Borough lost approximately 10% of the ratables through this office. This relates to possibly increased taxes.

Mr. Prasad expressed his thoughts about ratables and taxes.

Mr. Ed Malicki, 10 Bryce Way, Morris Plains, asked what impact these 197 apartments that would be built on Johnson Road might have on the prices of their homes on Bryce Way.

Mayor Druetzler does not believe there will be a negative impact on the value of the houses located on Bryce Way.

Mr. Al Martin, 8 Bryce Way, Morris Plains, thanked the Council for the information provided so far about the proposed Johnson Road development. He expressed concern about the parking lot at the rear of their property along Bryce Way. Should they install fencing? What about people walking around? How about traffic issues?

Mayor Druetzler advised that he does not anticipate anything these residents should be worried about.

Mr. Martin thanked the Council for its time and consideration.

Mayor Druetzler thanked the Bryce Way residents for coming to this meeting. He also advised about Planning Board meetings.

There was a fifteen-minute break.

## **PUBLIC HEARING**

### **Soil Disturbance Application**

Mayor Druetzler stated that this hearing will continue 10:30 p.m. If the hearing is not completed by 10:30 p.m., a Special Meeting will be scheduled for a future date.

Douglas Henshaw, Esq., Porzio, Bromberg & Newman, introduced himself to the Council and all others in attendance at this meeting stating he is the attorney for M & M Properties. He advised this is their second application for soil movement on Block 121, Lot 1. A previous soil movement application resolution was adopted on February 20<sup>th</sup> 2014. He introduced John Larkins who has previously testified before

this body in connection with this project. He asked Mr. Larkins to review his credentials and qualifications.

Mr. Larkins provided information on his credentials and qualifications. He has been involved with work at this property for approximately 2 to 2-1/2 years – since M & M purchased this property. He is specifically qualified to provide oversight and approval of contaminated sites.

Mayor Druetzler advised that the Borough has several qualified consultants present at this meeting: Joanne Voss, Esq. from Maraziti Falcon, Esqs., Joe Norton, LSRP, and Leon Hall, Borough Engineer.

Ms. Fraser swore in Mr. Larkins, Ms. Voss, Mr. Norton, and Mr. Hall.

Mr. Larkins provided background commentary concerning the property site, his communications with Ms. Voss, Mr. Norton, and Mr. Hall, and information in connection with exactly what is being sought with this application. The primary purpose of this application is to obtain approval from the Council so that the contaminated soil can be removed from the property. It is approximately 5,000 cubic yards of material. The soil will be transported to a disposal facility in Pennsylvania. All work being performed is in compliance with New Jersey Department of Environmental Protection (NJDEP) requirements. He acts as the Case Manager giving instruction and approval when activities are conducted on the site. All findings are recorded and submitted to the NJDEP. Once this accomplished, a Response Action Outcome is issued at some point in the future “to indicate the site has been cleaned up to a level that is satisfactory for residential development”.

Mr. Henshaw stated if any of the Borough Professionals or Councilmembers would like to ask questions, this might be a good time.

Mayor Druetzler asked Mr. Larkins if he has direct supervision of the site.

Mr. Larkins replied “somewhat”. He has supervision over the site, but he does not always know about excavation of contaminated soils beforehand; he is not always notified beforehand by the developer, M & M. M & M has professional staff members who are environmental scientists, and Mr. Larkins stated he does trust them to collect the proper soil samples and oversee that operation.

Mayor Druetzler advised of a letter from another law firm and a copy of a letter from Mark Mauriello in which he states “Activities were conducted under direct supervision of John Larkins, LSRP, of RTP Environmental.” This letter is dated July 16<sup>th</sup> 2014. “Direct supervision” is his specific concern.

Mr. Larkins advised he is at the site about two times a month.

Mayor Druetzler believes this is a problem. He recounted times when the soil pile(s) was covered and then uncovered and then covered again.

Mr. Larkins advised it is not his responsibility to ensure the pile(s) stays covered at all times.

Cross discussion about the issue of the soil pile(s) being covered, being uncovered; that if the soil did not have to sit there for such long periods of time being covered or uncovered would be much less of an issue; comments on available photos that were marked as exhibits; and that

many other municipalities have a different process for more quickly removing such soil.

Mayor Druetzler stated the earlier permit was also requesting approval to remove approximately 5,000 cubic yards of soil when in actuality 9,289 cubic yards were removed according to Mr. Hall.

Mr. Larkins stated he cannot recall the precise amount.

Mayor Druetzler asked how does the Borough know they are really going to remove 5,000 cubic yards this time based on what occurred previously?

Mr. Larkins advised that this Mr. Hall asked to survey this stockpile so the Applicant is confident that the volume as estimated is accurate.

Mr. Hall confirmed he asked for this survey. He said the actual application is for 5,258 cubic yards. This based on his field measurements.

In response to a question as to how long he has been employed by M & M, Mr. Larkins advised he has worked with M & M for the last seven years on various projects; he is a subcontractor, not an employee.

Councilmember McCluskey referred to an earlier time when Mr. Hall asked Mr. Larkins if the soil pile(s) needs to be covered and Mr. Larkins could not give him an answer, not knowing whether such a pile needed to be covered or not. She expressed concern about the soil/dust particles blowing around with the wind. Residents are concerned.

Mr. Larkins stated it is important to them to be able to remove the contamination from the property as quickly as possible. This is difficult to do in this Borough. They are doing the best they can.

Mayor Druetzler asked that two maps be displayed on the easel and be explained so they can be understood.

The maps were located, marked as exhibits and confirmed to be the correct ones ("Soil Excavation Plan 1 . . .", dated February 6, 2015, revision date of February 11, 2015). There was discussion to be certain the maps were the most recent. Ms. Fraser stated there was a supplemental package dated February 18<sup>th</sup> 2015. In the end the maps used were dated February 11, 2015 (as revised).

Mr. Larkins reviewed the maps and explained what each depicted. He also included commentary as appropriate and helpful to the Council. He also stated that no work will be done in the future without his knowing about it. He will not be on site when the soil is moved; M & M's Health and Safety Officer (Nathan McMillan) will be present. Mr. McMillan has all the necessary OSHA certifications and has received supervisory certification. Importation of top soil is also being requested under this application. M & M plans to use this for soil stabilization activities.

Mr. Hall provided additional information relating to the top soil and where it is likely to be used for stabilization purposes. He also referred to his March 6<sup>th</sup> 2015 report and some of the issues contained therein. He stated that 13,933.5 tons of contaminated soil has been removed from the site. When converted into cubic yards the result is approximately 9,289 cubic yards of contaminated soil. This relates to the earlier approval from February 2014 to remove 5,000 cubic yards. But, the applicant has actually removed 4,289 cubic yards of

contaminated soil without the approval of the Borough. He continued to review these issues, including communications and information related to top soil matters.

There was a question about the 1,300 cubic yards of top soil that the Applicant is requesting to import to raise the elevation to where they excavated below grade. If the Council determines that this must be brought back to existing grade, 1,300 cubic yards is not going to be sufficient, and there will need to be calculations done to determine what amount will bring it to existing grade. There is also going to be an additional request for 550 cubic yards of soil imported.

Mr. Larkins commented on the 550 cubic yards. He referred to a NJDEP Notice of Violation. He provided details as to the property areas in question in connection with this additional soil/top soil. The actual estimated amounts needed were reviewed.

Mr. Henshaw stated the soil for area of the former sewage treatment plant is not an area of clean-up. Therefore, this is not Mr. Larkins' responsibility; there is no contamination there. He asked if the Borough might want to consider allowing the Applicant to amend the application to allow for this additional top soil to be imported on an accelerated basis as part of this application to allow for planting and to take advantage of the growing season as pointed out by Mr. Hall. He would have no objection to this.

Mr. Hall asked about the timeframe when the first loads of soil were being trucked off the site and whether Mr. Larkins was aware of the volumes of soil that were being removed – up to a total of 9,200 cubic yards of soil that was transported off the site.

Mr. Larkins stated he was not aware of the volumes being moved off the site. He was advised through various items of documentation that the soil had been removed for off-site disposal. He first learned of this total just prior to when he issued a September updated report. He stated this is a normal process. He stated that when he learned what the actual amount of soil removed was, it was not specifically brought to anyone in particular's attention. He stated he did not know the original permit allowed for removal of only 5,000 cubic yards of soil.

Councilwoman McCluskey raised the fact that the Borough has a soil disturbance ordinance and it requires the filing of an application identifying a series of documents and information that must be submitted. She discussed additional actions that had taken place since the Applicant's September filing. This included Professionals' reports and various supplemental and updated reports and additional submissions by the Applicant.

In response to a question asked as to how can the Borough be assured that what is stated to be done in the future is indeed what will be done, Mr. Larkins stated all work is being done in compliance with the NJDEP requirements.

Ms. Fraser asked if anyone monitors to ensure that the Applicant is complying with the conditions of the prior approval? Who is doing that monitoring?

Mr. Larkins replied that M & M does the monitoring. It is his responsibility to do the monitoring, but there was a gap in time when there was a major dispute that did not allow for the monitoring to be done. As a result, the Applicant will conduct additional sampling to

confirm the dust has not contaminated other areas of the site. If it went off site, those samples will be used to verify that has not occurred.

Mr. Karr commented that this should never have happened. With all the professionals involved on behalf of the Applicant, it is hard to understand why this problem(s) could have occurred.

Mr. Larkins explained that when the Project Manager left the project this is when many of these problems began to occur.

Councilmember Fu asked what assurance the Borough will have that these problems will not happen again in the future?

Councilmember McCluskey stated the soil piles were left uncovered and open for months.

Mayor Druetzler asked for an answer to the question raised by Councilmember Fu.

Mr. Larkins stated there are now two Health and Safety Officers and double the amount of monitoring equipment on the site during site activities. Everything has been discussed and confirmed with the Borough Professionals.

Mr. Cecala asked for details about the excavating procedure.

Mr. Larkins stated the soil would be excavated, put into a truck, and taken to a disposal facility. He provided additional details relating to weather conditions, dust issues, concrete, and related matters.

Ms. Fraser asked how the soil disturbance request being made in this application will be properly monitored, by who and how?

Mr. Henshaw advised that the Applicant has selected a new environmental professional and there may be a second such professional.

Mr. Larkins provided the name of a second such professional named Gary Honikel. He is on site every day while Nate is there most of the time, but not every day.

Documents must still be provided for Gary Honikel. Only Nathan's are in the file now.

Mr. Henshaw stated that a revised health and safety plan was submitted and that if cannot be located, he will provide it "first thing in the morning".

The suggestion was made that before any soil removal occurs or any importing of top soil occurs, that the health and safety report will be reviewed by the Governing Body and the Borough Professionals and then approved by all.

Mr. Hall asked if Mr. Larkins is involved with air testing as related to the export of the previous soil. The resolution required that testing be done and performed during the excavation, loading, and transport of contaminated soil. Results needed to provided to him within five days.

Mr. Larkins stated the subcontractor was responsible for that work, but due to the aforementioned dispute, the Applicant has not been able to obtain those documents. Apparently, there is a problem concerning payment due.

Mr. Henshaw stated he will follow up on this matter.

Mr. Larkins stated he is present at this meeting – but only as their LSRP.

Brief cross discussion about why M & M has never directly provided important information to the Borough; perhaps they need to be questioned. “No one is speaking for M & M.”

It was stated that it may be a good idea to hear from someone from M & M, someone who can answer various questions since Mr. Larkins will not be responsible for anything that does not relate directly to the work he is doing as the Applicant’s LSRP. Somebody needs to be responsible for other issues that are related to this application.

Mayor Druetzler asked if there will be additional soil that needs to be removed after this? Where is it located?

Mr. Larkins responded they know the area where the contractor Danco had stockpiled the recycled concrete aggregate over a soil area; that has now co-mingled in with the soil and it is impossible to properly separate it for removal as an RCA material. The area size is roughly 200’ x 100’, and he pointed out the area on a displayed map. It needs to be excavated and stockpiled. Now that Building 182 is demolished, there is access to investigate other areas of concern; he pointed out this area, too. He provided further details as to how he believes this additional work will proceed, but he needs to talk with M & M as to their preferred process. He has also been in communication with Joe and Joanne over the past several weeks.

The question was asked as to whether there is any chance that more underground tanks might be found.

Mr. Larkins replied this is very possible. He referred to a No Further Action form issued by the NJDEP. The amount is 2,800 cubic yards of material is from an NJDEP No Further Action area of concern – no additional work is required. Two tanks were found there.

Mr. Hall asked about the removal of the slab in its entirety.

Mr. Larkins responded that this will be his recommendation to M & M.

Mr. Hall asked that if M & M does not follow his recommendation, what other options will be considered?

Mr. Larkins stated he does not know and will have get back to him. He will need to check NJDEP guidance as to what actually must be done. It is possible that areas of concern will be discovered underneath this slab. Everything will be removed in that area, and Mr. Larkins’ representatives will be present to inspect those areas to determine if additional investigation and/or remediation are required.

Mr. Hall asked if there was any need to explore the paved areas.

Mr. Larkins stated that according to previous reports there is no need for this at this time, and he feels comfortable about this determination. The company that did the work is quite reputable. A preliminary assessment was done and was approved by the NJDEP on two occasions. A site investigation was done, and the work plan and analytical results were approved by the NJDEP. Remedial investigation activities were performed and then the LSRP program came into effect.

Cross discussion about possible contamination in any other paved areas.

Mayor Druetzler asked if Pfizer is still responsible for any areas on the site.

Mr. Larkins stated Pfizer is responsible for two areas – the transformer area which has been excavated and what remains are small piles of soil and an area located in the conservation section of the property. Pfizer has provided him with a remedial action work plan for these areas, but he still must review this. He will also forward it to Joe so they can both review it to determine if the work plan is acceptable. As to the conservation area, their plan as he has been told, is to fence off the area as an engineering control so that nothing can be disturbed. He has informed Pfizer that before he can even approve this, he wants a consultation with NJDEP's permit group since this will require a remedial action permit for soils. He named Wayne Howitz. Based on comments of his and/or Joe's, it would next be submitted to the NJDEP for their comments and to learn if they accepted what they were planning to do for this particular case.

Cross discussion about permits, including land use permits to allow the installation of the fence referred to above and that Mr. Larkins does not believe any permit applications have been submitted yet.

Mr. Larkins provided details concerning the plan to install the fence, a deed restriction, deed notice, and notice when purchasing versus notice when renting.

Ms. Voss asked the question as to how M & M will assure the Borough that what is allowed assuming this application is approved is what will be done, nothing more, nothing less. Should someone from Mr. Larkins staff be present every day? She believes when she has visited the site with Mr. Hall she has observed some "very elementary things were not right". There do seem to be some disconnects between Mr. Larkins and M & M.

Mr. Larkins stated the Messrs. Honikel and MacMillan report to him every day on the site. This is a recent requirement and can be done via a telephone call or a text message. This is only on days when activities are ongoing at the site. At this point he does not believe there are any ongoing activities. Nathan will be present every day when operations start up again.

Several comments were made concerning the lack of a cohesive plan for the Borough to better understand exactly what will be done.

Mr. Larkins stated the health and safety report contains most if not all this kind of information. Nathan will be responsible for monitoring the equipment.

Mr. Hall asked about the timeframe when the concrete was being crushed and dust was blowing away from the site. Did this in any way violate any site remediation rules?

Mr. Larkins stated that it is his understanding that the answer is yes.

Mr. Hall stated this should have been done whether or not the concrete was contaminated. He asked Mr. Larkins if it would be reasonable to have someone from his company on site during any of these activities?

Mr. Larkins replied correct. He believes this was done for a period of time, but he cannot state it was done for the entire time. He stated

having someone on site during any of these activities would be a possibility, and he will discuss this with M & M.

Mayor Druetzler asked what the water in the tanker truck(s) is being used for. He also asked how many monitoring wells there are on site. What do they monitor?

Mr. Larkins stated it is spread around the site to control dust. There are four monitoring wells on site now. He explained what these wells monitor. The off-site wells still exist and are still being monitored and sampled in accordance with the permit. The levels continue to go down as predicted.

Mr. Hall requested that copies of various reports be submitted as the Pfizer LSRP always did.

Mr. Larkins agreed to do this.

A question was asked as to how much soil would be removed in a typical day. How many trucks?

Mr. Larkins stated he does not know but will find out and report back.

Brief cross discussion concerning wanting someone from M & M to be available to answer some of these questions and also questions from the Council and/or residents.

Ms. Janet Griffin, 99 Sun Valley Way, Morris Plains, expressed concern about the dust in the air and the work being done in general.

Mr. Joe Brendle, 125 Sun Valley Way, Morris Plains, asked about a certain crushed stone and crushed concrete pile and referred to the water treatment. Was it contaminated?

Mr. Larkins stated this pile was not contaminated. This was done as a precaution until the test results were received.

Mayor Druetzler advised there will need to be another Special Meeting. He also asked Mr. Henshaw for a copy of the transcript.

Discussion concerning the next Special Meeting and the notice(s) that will need to be prepared. It was specifically requested that M & M representatives be present at this meeting.

Ms. Fraser thanked the Applicant representatives.

## **REPORTS OF COMMITTEES AND/OR DEPARTMENT HEADS**

### **Finance**

Councilmember Karr reported of the Library's recent Shredding Day event, and it was very well attended. He thanked everyone for coming to the event.

### **Public Safety**

Councilmember McCluskey reported that she does not have report. Police Chief Kohn updated on the application period. A total of 120 applications went out and 41 were received back. A total of 37 applicants are now going through the various physical and other exams.

**Public Works**

Councilmember Cecala reported that Councilmembers have Superintendent Signorelli's report. He provided details of some of the work that is currently being done. On Saturday, he and Councilmember Karr will meet with a vendor to discuss possibly installing additional lighting at the 9-11 Memorial and at the gazebo.

Mr. Hall reported on various Borough projects, including a meeting with Honeywell representatives and a revised plan relating to 900 The American Road. The original site plan was approved in 2007.

**Public Buildings & Grounds**

Councilmember Fu reported that Little League Opening Day is on Saturday, April 18<sup>th</sup> 2015, at 10:00 a.m. She reported on summer camp registration and enhancement programs.

Councilmember Fu thanked the DPW staff for getting the fields and the snack bar ready. Resident tree locations were marked this past Monday, April 13<sup>th</sup> 2015. The Eagle Scout project is scheduled for Saturday, June 6<sup>th</sup> 2015 with a rain date of June 13<sup>th</sup> 2015 at the Teen Center.

Councilmember Fu reported on the recent Sustain the Plains meeting advising that Mr. Andy Jensen would like to join the committee and that a new report will be submitted soon in connection with their certification (needs 150 required points). The Parade Committee met recently. *Plains Talk* deadline is tomorrow, April 19<sup>th</sup> 2015.

**Public Welfare, Sanitation & Sewers**

Councilmember Doherty reported on Teen Center issues and activities. He updated on Recycling Committee activities. The Board of Health adopted the ordinance regarding massage parlors. Animal Control was very active.

**Ordinance & Public Utilities**

Councilmember Cortese reported that the Planning Board will be hearing the application for the proposed development on Johnson Road.

**PRESENTATION OF COMMUNICATION, PETITIONS, ETC.**

Mayor Druetzler opened the meeting to the public. Seeing none, Mayor Druetzler closed the meeting to the public.

**INTRODUCTION OF ORDINANCES**

Councilmember Cortese introduced the following ordinance and read the same by title and moved that it be passed on First Reading.

**ORDINANCE NO. 8-2015**  
**AN ORDINANCE TO APPROPRIATE \$71,000.00 FROM THE CAPITAL FUND  
BALANCE  
FOR EQUIPMENT AND UPGRADES FOR THE POLICE AND FIRE DEPARTMENTS  
TO BE UNDERTAKEN BY THE BOROUGH OF MORRIS PLAINS,  
IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY**

Councilmember Doherty seconded the motion.

Yeas: Councilmembers Karr, Cecala, Cortese, Doherty, Fu,  
McCluskey  
Nays: None  
Absent: None  
Abstain: None

Thereupon, Councilmember Cortese offered the following resolution:

**WHEREAS**, the above ordinance was introduced and read by title at this meeting on April 16<sup>th</sup> 2015 and passed on First Reading.

**NOW, THEREFORE, BE IT RSESOLVED** at a meeting to be held on May 7<sup>th</sup> 2015 at 8:30 PM prevailing time in the Municipal Building in the said Borough, this Council will further consider for Second Reading and final passage of said ordinance.

**AND BE IT FURTHER RESOLVED** that the Clerk of this Borough be and she is hereby directed to publish and mail the proper notice thereof, including the ordinance, post the ordinance on the Bulletin Board in the Municipal Building and make copies available to members of the general public.

Councilmember Doherty seconded the resolution. All in favor.

**ORDINANCES ON SECOND READING**

None.

**RESOLUTIONS**

None.

**UNFINISHED BUSINESS**

None.

**NEW BUSINESS**

None.

**VOUCHERS**

Councilmember Karr moved the vouchers for April 16<sup>th</sup> 2015 in the amount of \$2,523,834.67 be approved.

Seconded by Councilmember McCluskey.

Yeas: Councilmembers Karr, Cecala, Cortese, Doherty, Fu, McCluskey

Nays: None

Absent: None

Abstain: None

**EXECUTIVE SESSION**

None.

**ADJOURNMENT**

Councilmember Karr moved that the Regular Meeting be adjourned at 11:00 P.M.

Seconded by Councilmember McCluskey.

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Frank J. Druetzler, Mayor

Recorded by Rosanne Denman

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June Uhrin, Borough Clerk