

**TOWNSHIP OF PARSIPPANY-TROY HILLS  
TOWNSHIP COUNCIL AGENDA MEETING**

**November 10, 2009**

**Public Invited – Public Participation**

**MEETING CALLED TO ORDER by Council President Cesaro at 7:32 p.m.**

**FLAG SALUTE**

<b>Roll Call:</b>	<b>Mr. Barberio</b>	<b>-</b>	<b>Present</b>
	<b>Mr. dePierro</b>	<b>-</b>	<b>Present</b>
	<b>Mr. Fox</b>	<b>-</b>	<b>Present</b>
	<b>Ms. Grossi</b>	<b>-</b>	<b>Present</b>
	<b>Mr. Cesaro</b>	<b>-</b>	<b>Present</b>

**OTHERS PRESENT:** Mayor Luther (for a portion of the meeting); J. Lim, Business Administrator; J. Verrone, Esq., Township Attorney; J. Silver, Township Clerk

The purpose of this meeting is to set the Agenda for the Regular Township Council Meeting of November 24, 2009

**FORMAL ACTION MAY OR MAY NOT BE TAKEN.**

Adequate notice of this meeting has been provided in accordance with the requirements of the Open Public Meetings Law by filing the notice in the Office of the Township Clerk and by posting the meeting notice on the bulletin board at the Municipal Building on December 2, 2008 where it has remained posted since that date. A legal notice appeared in both the Daily Record and the Star Ledger on December 9, 2008. The 2009 meeting schedule was forwarded by fax to other local newspapers and local radio stations on December 2, 2008.

**PRESENTATION** – Mayor Luther presented John Rovnanik with a Proclamation commending him for his heroic efforts on June 4, 2009 when he saved the life of his neighbor, In Ku Choi, who, confined to a wheelchair, was unable to escape from a “working house fire” without Mr. Rovnanik’s assistance. Additionally, representatives of Fire Districts 3 and 6 recognized Mr. Rovnanik for his life-saving actions.

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**ORDINANCES**

**Second Reading(s) and Public Hearing(s) – 11/24/09 ON**

**Amending Chapter 405, Vehicles and Traffic, Section 22, Through Streets, and Section 24, Multi-Way Stop Intersections (Multi-Way Stop on Mazdabrook Blvd. at the Jefferson Road/Raymound Blvd. Intersection) (09:38)**

**Refunding Bond Ordinance – Prior General Improvement Bond Issue (09:39)**

**Refunding Bond Ordinance – Prior Water Utility Bond Issue (09:40)**

**Refunding Bond Ordinance – Prior Sewer Utility Bond Issue (09:41)**

**Authorizing the Acquisition by Purchase of Property Identified as Block 501, Lot 29 and Commonly Known as 200 River Drive for Open Space (09:42)**

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**Status of Adopted Ordinances:**

<b><u>Ordinance Title and Number</u></b>	<b><u>Adopted Date</u></b>	<b><u>Mayoral Action</u></b>	<b><u>Effective Date</u></b>
<b>Transparency in Municipal Government (09:36)</b>	<b>10/20/09</b>	<b>Approved</b>	<b>11/29/09</b>
<b>Economic Development Advisory Committee (09:37)</b>	<b>10/20/09</b>	<b>Approved</b>	<b>11/29/09</b>

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**DISCUSSION/REMINDERS**

**Scheduled Meetings**

**11/24/09 @ 7:30 p.m.**

**Regular Meeting  
Public Invited – Public Participation**

**12/8/09 @ 7:30 p.m.**

**Agenda Meeting  
Public Invited – Public Participation**

**Presentations:**

**Historic Preservation Advisory Committee Yearly Update (11/09)** Julia Peterson advised that she is the former Chair of the Committee. She introduced Nancy Brighton, the present Chair.

Ms. Peterson reviewed the Committee's activities for the past year, particularly highlighting the following:

- The Committee has been monitoring Planning Board and Board of Adjustment cases relative to applications that would impact historic properties;
- The Garrigus House on the Stickley Museum Grounds was demolished with the building's footprint and hearth being preserved;
- The Miller-Kingsland House (on the border between Parsippany and Boonton) has been preserved in its current setting; and
- The exterior renovations at the Bowlesby-DeGelleke House have been completed.

Ms. Brighton briefly advised that the Committee, in 2010, will continue to monitor (1) the Glaxo-Smith-Kline Barn, noting that the structure is in disrepair; (2) Greystone and the Kirkbride Building; (3) the Forge Pond Dam; and (4) the impact of re-development on historic properties (Planning Board and Board of Adjustment applications).

**Environmental Advisory Committee Yearly Update (11/09) NEXT AGENDA**

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**Minutes for Approval:**

**Agenda Meeting of 10/13/09 ON\***

**Regular Meeting of 10/20/09 ON\***

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**Discussion:**

**Sewer Fee Tax Deduction (7/08)** Mr. Barberio requested that this matter be removed from the Council's agenda and placed under the Mayor's section of the agenda for continued follow-up in 2010.

**Obtaining Conflict Counsel in Connection with Pay to Play Reform Ordinance (11/09)**

Mr. Fox pointed out that, inadvertently, an elected official, lacking a definition of the law, could get into trouble. He noted that the legislation, as written, is confusing. Ms. Grossi commented that there seems to be contradictory paragraphs, which could lead to a difference in interpretation. Mr. Fox felt that, if Council Members obtain a legal interpretation, they are afforded protection as long as they follow the interpretation provided. The other Council Members concurred. Ms. Verrone stated that she provided the names of several attorneys who have given seminars for the New Jersey Institute for Continuing Legal Education on campaign

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contribution law. Ms. Lim was asked to contact the attorneys listed to obtain their hourly rates. A resolution authorizing a professional services agreement with the selected attorney for the specific purpose of providing the Council with an opinion is to be considered at the November 24, 2009 Regular Meeting. Ms. Verrone commented that she doesn't imagine that the cost will exceed the pay-to-play threshold. **RESOLUTION – ON\***

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**Resolution:**

**Approving 2010 Council Meeting Schedule (11/09) ON\***

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**MAYOR**

**Presentation of Proclamation Honoring John Rovnanik for his Life Saving Heroic Actions on June 4, 2009** (See Page 1)

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**ADMINISTRATION**

**BID(S)**

**Taken:**

**11/4/09 One New 65 Foot Aerial Tower and Forestry Body to Be Mounted on a Township Supplied Cab and Chassis – Rebid AWARD\***

**11/5/09 Redesign and Upgrade of 16 MGD Wastewater Treatment Plant** Ms. Lim advised that four bids were received ranging in cost from approximately \$21 million to \$24 million, which is less than the estimate. The Administration, per Ms. Lim, is very pleased with the bids, noting that it appears that the bid paperwork is in order. A recommendation will be submitted to the Council at the December meeting.

**NEXT AGENDA**

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**To Be Taken:**

**11/25/09 @ 10:00 a.m. 16-Inch Transmission Main (Farney Pump Station to Route 53)**

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**QUOTATION(S)/PROPOSAL(S)/QUALIFICATION(S)**

**Received:**

**5/28/09**

**Proposals for the Redesign, Permitting, Construction, Operation and Maintenance Services for Sludge Incinerators and Design, Permitting, Construction, Operation and Maintenance Services for a New Sludge Cake Receiving**

**Facility at the Wastewater Treatment Facility** Ms. Verrone advised that there will be meetings held in the next couple of weeks to try to finalize some of the negotiations. Ms. Lim indicated that the Administration will probably be able to make a recommendation to the Council in December.

**Requested:**

**None**

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**Resolution(s):**

**Supporting the Over the Limit Under Arrest 2009 Year End Crackdown (11/09) ON\***

**Authorizing an Agreement with Parsippany Rescue and Recovery Unit, Inc. – Lease of Rescue and Recovery ATV, 2008 Polaris, Ranger 6 x 6 (11/09) ON\***

**Authorizing the Expenditure of Open Space Trust Fund Monies (11/09)** Ms. Lim noted that a revised memo was forwarded to the Council this afternoon. She reviewed the change.

**ON\***

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**Ordinance(s):**

**Amending and Supplementing Chapter 290, Parks, Recreation Areas and Public Lands, Article II, Use Regulations; Permit Requirements (Re: Roller Hockey – Youth Non-Resident Fee) (11/09) INTRODUCTION - ON**

**Granting Conservation Easement to NJDEP as a Condition of Two DEP Permits for a 16” Water Main Across Watnong Brook (11/09) INTRODUCTION - ON**

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**ENGINEERING**

**Update/Recommendation(s):**

*Italicized* comments below are excerpts from a November 5, 2009 memo from Mr. Lizza, Municipal Engineer, to Ms. Lim.

**Status of Road Resurfacing – Puddingstone Area (8/07) No change in status. NEXT AGENDA**

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**Recommendations Relative to Mr. and Mrs. Lau's Concerns – Escrow Requirement in Connection with Sidewalk Repair (10/07) No change in status. NEXT AGENDA**

**Camp Meeting Association Angle Parking Simpson Avenue (8/08) No change in status. NEXT AGENDA**

**Troy Brook through the Hills of Troy (11/08) No change in status. NEXT AGENDA**

**Feintuch Property Corner of Littleton Road/Parsippany Boulevard (11/08) No change in status. NEXT AGENDA**

**711 Park Road – Fairview Estates (11/08) No change in status. NEXT AGENDA**

**Edgefield Drive No Parking Zone (Upper) (6/09) No change in status. NEXT AGENDA**

**Canterbury Estates Vacation of Lots 26 and 77 in Block 98 (5/09) No change in status. NEXT AGENDA**

**Extension of Major Soil Moving Permit – Morris Corporate Center VII, Block 136.01, Lot 1 (11/09) *The Planning Board received a request for an extension of the major soil moving permit and recommends that the Township Council approve this extension to December 10, 2010. This office has reviewed the request and also recommends approval of the extension by resolution.* RESOLUTION - ON\***

**Major Soil Moving Permit – Zamperla, Inc., Block 449, Lot 2 (11/09) *The Planning Board received a request for an extension of the major soil moving permit and recommends that the Township Council approve this extension to October 24, 2010. However, there is no documentation that the Township Council ever received or approved the original soil moving permit. This office has reviewed the documentation and recommends that the Township Council approve the permit by resolution to coincide with the terms of the Site Plan approval.* RESOLUTION - ON\***

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**CHIEF FINANCIAL OFFICER**

**Resolution(s):**

**Amending Adopted Budget – Board of Public Utilities Clean Energy Program (11/09) Ms. Lim explained that an energy audit will be conducted in many of our municipal buildings that will set the Township up for future funding and incentives, which are really rebates, under the BPU Clean Energy Program. ON\***

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**ATTORNEY**

**Discussion:**

**Request of R. Garofalo, Esq., Representing Powder Mill Heights, Regarding Refuse Collection (11/09)** Ms. Verrone indicated that a letter was sent to Mr. Garofalo on October 19, 2009 in response to his communication. Specific information that would assist the Administration assess the issues was requested. No response has been received as of yet.

**NEXT AGENDA**

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**TOWNSHIP OFFICES / COMMITTEES**

**Mt. Tabor Fire District No. 1 – Memo of 10/28/09 Requesting the Adoption of an Ordinance to Establish Fire Zones and Regulate Parking at Grato Restaurant, 2230 Route 10 (Block 174, Lot 35.01) and Tabor Road Tavern, 510 Tabor Road (Block 174, Lot 36.01) ORDINANCE INTRODUCTION - ON**

**Planning Board – Memos of 10/28/09 Recommending (1) An Extension of the Major Soil Moving Permit Issued to Zamperla, Inc., Block 449, Lot 2, 49 Fanny Road to October 24, 2010 to Coincide with the Term of the Site Plan Approval and (2) An Extension of the Major Soil Moving Permit Issued to MCCVII, Block 136.01, Lot 2, Interpace Parkway, to December 10, 2010 to Coincide with the Term of the Site Plan Approval (See discussion under “Engineering” on Page 6.)**

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**COMMUNICATIONS**

**Correspondence:**

**Roy Messmer – Regarding (1) 10/16/09 Star-Ledger Article Entitled “Bill Includes \$185M for Jersey Projects” and Questioning Why Doesn’t Parsippany, With the Sewer Plant Being One of the Largest Users of Electricity, Qualify or Submit Paperwork for Stimulus Dollars (10/16/09); (2) 10/21/09 Star-Ledger Article Entitled “The Reluctant Landlords” and, Additionally, Reminding the Council that the Phosphate Ordinance is the Responsibility of the Health Department (10/21/09); and (3) 10/21/09 Star-Ledger Article Entitled “New Device Helps Tame Blazes” (10/21/09)**

In connection with the first correspondence, Ms. Lim explained that the Sewer Redesign Project includes \$5 million in a forgivable loan, which essentially amounts to a grant as long as the deadlines for the Stimulus Program are met. Ms. Lim noted that the Township is benefitting from huge savings in terms of interest costs. Additionally, the Township did receive \$500,000 in Energy Block Grant funding, an entitlement grant, which is currently being worked on. All the paperwork required to date has been submitted. Ms. Lim advised that the Township is looking to spend about \$200,000 for the conversion of all of our traffic signals that are not currently LED to LED, which has an approximate two-year payback. The remainder of the \$500,000 will probably go to energy efficiency improvements in the municipal buildings.

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There were no comments offered relative to the second correspondence.

In connection with the third correspondence, Council President Cesaro indicated that he spoke with Fire Commissioner Bob Kane about the new device. Mr. Kane, who was present in the audience, explained that the devices, which vary in cost, are being reviewed by the Morris County Fire Academy. The National Fire Protection Association, per Mr. Kane, has no guidelines or standards for these devices.

**Resolution(s):**

**Mendham Township – Supporting Legislation to Eliminate the Route 24 Extension from the Official State Map**

**Rockaway Township – Petitioning President and U.S. Congress to Preserve Health Care Coverage for Our Older Americans and Veterans and to Formulate a Health Insurance Reform Package that Provides All Other Americans with the Privilege of Selecting a Health Insurance Plan that Best Suits Their Needs**

**Netcong Borough – Opposing P.L. 2009, C. 118 and Its Application Statewide (Pilot Program – County Takeover of Tax Assessment and Valuation)**

**Highlands Council – Supporting Referendum Ballot Question #1**

**Boonton Town – Opposing P.L. 2009, C. 118 and Its Application Statewide (Pilot Program – County Takeover of Tax Assessment and Valuation)**

**Montville Township – Supporting the Enactment of P.L. 2009, C. 118 and Any Plan to Study the Expansion of the Pilot Program to Include Morris County**

**Mendham Borough – Opposing P.L. 2009, C. 118 and Its Application Statewide (Pilot Program – County Takeover of Tax Assessment and Valuation)**

No interest was offered in supporting the above listed resolutions.

*(Note: The Township Council previously adopted a resolution opposing P.L. 2009, C. 118 and its application statewide.)*

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**APPLICATION(S):**

**License(s):**

**Liquor License Person to Person Transfer of Inactive License No. 1429-33-005-006 from Interpark Liquor License, LLC to KILLALA, LLC t/a Blackthorn Restaurant and Irish Pub (1735 U.S. Route 46) ON\***

**2010 Renewal of Licenses – Amusement Games, Entertainment, Taxi/Limo, Tourist Accommodations, Truck Terminal ON\***

**Tourist Accommodation License – Hampton Inn & Suites Parsippany/North, 3737 Route 46 East** Motion by Council President Cesaro, seconded by Ms. Grossi, to adopt the following resolution:

**BE IT RESOLVED** by the Township Council of the Township of Parsippany-Troy Hills that the following new Tourist Accommodation License be issued for the year 2009, pending final approvals from appropriate municipal departments:

**Hampton Inn & Suites Parsippany/North  
3737 Route 46 East  
Parsippany, NJ 07054**

**Roll Call:** Barberio - Yes  
dePierro - Yes  
Fox - Yes  
Grossi - Yes  
Cesaro - Yes

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**\*Consent Agenda Items**

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**PUBLIC HEARING**

**Council President Cesaro opened the meeting to the public to speak on any topic, noting a five-minute time limit per speaker.**

**Roman Hoshowsky, 919 Lake Shore Drive**, expressed his view that a serious problem is being ignored by the Housing Division – the number of students living in apartments and attending Parsippany public schools. He noted the difficulty in finding out this information because the School Board cites confidentiality and privacy concerns. He advised that he submitted an OPRA request to the Board of Education asking for the number of students attending Parsippany Public Schools who use Tivoli Gardens Apartments as an address. The response he received was 521 students. He expressed his view that “somebody was asleep at the wheel” and stated that “either through willful neglect, incompetence or something more sinister, the problem was allowed to fester for years and, in the meantime, Parsippany taxpayers are being fleeced.” He felt the need for an audit, and, perhaps, thought should also be given to forming an ethics committee.

**Catherine DiMarco Christall, 20 Exeter Street**, noted that in June of 2008, she and Roy Messmer stood outside Tivoli Gardens and counted how many children either got on the bus or what was perceived as children being driven to school by parents. At that time, 150 children were counted, which did not include children who were out sick or high school seniors who

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drove to school. Now there are 521 children registered at Tivoli Gardens. One of three things is happening – the Board of Education made a mistake, Tivoli Gardens is extremely over capacity and/or people are coming from out of town and dropping their children off using Tivoli Gardens as their address. She further pointed out that the number of 521 does not reflect the numbers of children under or over (public) school age. Also, not included is the number of individuals that she and Mr. Messmer perceived as grandparents walking youngsters to the bus stop. Based on capacity, she estimates that there are 200 children at Tivoli Gardens that shouldn't be attending school in Parsippany, which comes to \$2.6 million a year for one apartment complex. She also questioned how many of these children are getting free lunches, after school care, and tutoring, which also costs the taxpayers money. She expressed her hope that something can be done to address this.

Ms. Grossi commended Ms. DiMarco Christall, Mr. Messmer and Mr. Hoshowsky for obtaining the information. She felt that the numbers relative to Tivoli Gardens are typical of a lot of the garden apartments; we should try to get the numbers from the other complexes as well and then bring this concern to the landlords, questioning how can there be so many children registered in the school system based on the number of one and two bedroom apartments. She further expressed her view that the Township should hold the landlords accountable.

Ms. Grossi asked Ms. Verrone if there is any way, in particular, that the Township could deal with the issue, reiterating that clearly there are not enough bedrooms in the apartment complex to house 521 students as well as the number of children under and over public school age. Ms. Verrone advised that presenting this information to the landlord might be the first step. The landlord will probably disavow any knowledge of the overcrowding, but it is the place to start. That issue aside, it will take old-fashion detective work on behalf of the Housing Division to take copious notes over a period of time to try to document what they are seeing. If there is enough first-hand information, enough personal knowledge, the Township can, perhaps, get administrative search warrants and do what needs to be done in order to determine whether there is overcrowding.

Ms. Grossi suggested that water bills be reviewed as to water consumption. From the amount of water used, a determination may be able to be made as to whether there are more people living in an apartment than should be living there.

Ms. Verrone agreed that there are many steps that can be taken to build a case including first-hand knowledge based on what is viewed, inspection of water usage, etc.

Mr. Fox suggested that a task force be created between the Housing Division and the Police Department and that two officers be assigned to an aggressive Housing Unit. Additionally, there should be specialized training relative to our occupancy codes by an attorney or someone with expertise in this area so that enforcement is in line with the law.

Mayor-Elect Barberio confirmed that he would enforce the Code and anyone who is sending a child to our school system who is not legally eligible to attend will be sent a bill. His administration will be very aggressive in dealing with this issue.

**Roy Messmer, 10 Drumlin Drive**, commended Mr. Hoshowsky for his efforts. He pointed out that other towns have handled this better than us. Montville Township, for example, hired a “Residency Compliance Officer.” Ms. Grossi questioned whether the Residency Compliance Officer was hired by the Montville Board of Education. Mr. Messmer was not sure. Ms. Grossi felt that this was probably the case. She indicated that she had made a proposal to the Parsippany Board of Education whereby the Board and the Township could share the responsibility. She had suggested that the Housing Unit could be the Residency Compliance Officer for the School District. The Township has the personnel; the Board of Education and the Township would just have to work together.

**Pat Petaccia, 182 Hawkins Avenue**, questioned why the Board of Education cannot help the Township by providing information regarding children attending school who may have “duplicating addresses.” This has been going on for years; no one has made any decent suggestions until tonight. She hopes that now something will be done to address this. Ms. Petaccia next questioned why the “sewer fee deduction” is being postponed. Mr. Barberio explained that the matter will be listed under the Mayor’s portion of the agenda in 2010, noting that what he proposed is a lot more difficult than originally anticipated due to the IRS Codes and laws. He will, however, continue to pursue the matter. Ms. Petaccia also took this opportunity to ask Ms. Lim the status of Phase II for Ball and Condit. Ms. Lim responded that she does not know if the project is included in the Engineer’s 2010 Capital Budget as she hasn’t reviewed the budget requests as of yet. She will check and advise Ms. Petaccia. Ms. Petaccia then asked for an explanation for the need to hire a conflict attorney to provide an opinion relative to the pay-to-play reform ordinance, what needs to be examined and how much will it cost. She noted that similar ordinances are being used in other municipalities without problems. Mr. Fox suggested that Ms. Petaccia read the ordinance, noting that it is very confusing. He doesn’t know what other towns are doing, but Parsippany likes to do things right; it’s imperative that a legal interpretation be provided before an elected official or an employee gets into trouble because of a misinterpretation.

**Seeing no one else come forward to speak, Council President Cesaro closed the public portion of the meeting.**

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**Closed Session:**

**Property Acquisition (11/09)** A motion was made by Council President Cesaro, seconded by Mr. Barberio, to convene in closed session to discuss the acquisition of property. Resolution attached.

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TOWNSHIP COUNCIL AGENDA MEETING OF NOVEMBER 10, 2009

**MOTION TO ADJOURN: Mr. Barberio**

**SECONDED BY: Mr. Fox**

<b>Roll Call:</b>	<b>Mr. Barberio</b>	<b>-</b>	<b>Yes</b>
	<b>Mr. dePierro</b>	<b>-</b>	<b>Yes</b>
	<b>Mr. Fox</b>	<b>-</b>	<b>Yes</b>
	<b>Ms. Grossi</b>	<b>-</b>	<b>Yes</b>
	<b>Mr. Cesaro</b>	<b>-</b>	<b>Yes</b>

**MEETING ADJOURNED: 8:45 p.m.**

**RE: Property Acquisition (Block 338, Lot 2)**  
**DATE: November 10, 2009**  
**TIME: 8:30 p.m.**

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**MOTION BY: Council President Cesaro**  
**SECONDED BY: Mr. Barberio**

**RESOLUTION**

**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**, the Township Council is of the opinion that such circumstances presently exist; and

**WHEREAS**, the Township Council wishes to discuss:

**Property Acquisition**

**AND, WHEREAS**, minutes will be kept, and once the matter involving the confidentiality of the above no longer requires confidentiality, the minutes can be made public.

**NOW, THEREFORE BE IT RESOLVED** by the Township Council of the Township of Parsippany-Troy Hills that the public be excluded from this meeting.

<b>Roll Call:</b>	<b>Barberio</b>	<b>-</b>	<b>Yes</b>
	<b>dePierro</b>	<b>-</b>	<b>Yes</b>
	<b>Fox</b>	<b>-</b>	<b>Yes</b>
	<b>Grossi</b>	<b>-</b>	<b>Yes</b>
	<b>Cesaro</b>	<b>-</b>	<b>Yes</b>

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**MOTION TO ADJOURN CLOSED SESSION BY: Council President Cesaro**  
**SECONDED BY: Mr. Barberio**

<b>Roll Call:</b>	<b>Barberio</b>	<b>-</b>	<b>Yes</b>
	<b>dePierro</b>	<b>-</b>	<b>Yes</b>
	<b>Fox</b>	<b>-</b>	<b>Yes</b>
	<b>Grossi</b>	<b>-</b>	<b>Yes</b>
	<b>Cesaro</b>	<b>-</b>	<b>Yes</b>

**CLOSED SESSION ADJOURNED: 8:45 p.m.**