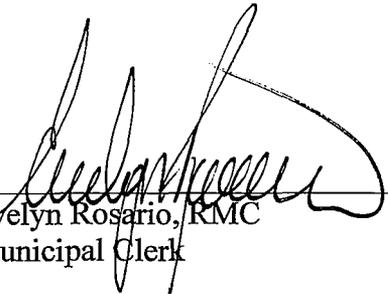


July 1, 2008 Meeting Transcription approved by the Board of Commissioners of the Township of Nutley at their meeting held on Tuesday June 9, 2009.



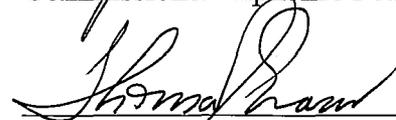
Evelyn Rosario, RMC
Municipal Clerk



Commissioner Joseph P. Scarpelli



Commissioner Alphonse Petracco



Commissioner Thomas J. Evans



Commissioner Mauro G. Tucci



Mayor Joanne Cocchiola

TOWNSHIP OF NUTLEY, NEW JERSEY
BOARD OF COMMISIONERS

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PUBLIC MEETING

)
) TRANSCRIPT OF
) PROCEEDINGS

- - - - -)

149 Chestnut Street
Nutley, New Jersey 07110
Tuesday, July 1, 2008
8:12 p.m.

ORIGINAL

BEFORE:

- Mayor Joanne Cocchiola
- Commissioner Joseph P. Scarpelli
- Commissioner Alphonse Petracco
- Commissioner Thomas J. Evans
- Commissioner Mario G. Tucci

Job No. 202239

1 Nutley Board of Commissioners, 07/01/08

2 (Pledge of Allegiance)

3 (Sunshine Notice)

4 THE CLERK: Commissioner Scarpelli?

5 COMMISSIONER SCARPELLI: Here.

6 THE CLERK: Commissioner Petracco?

7 COMMISSIONER PETRACCO: Here.

8 THE CLERK: Commissioner Evans?

9 COMMISSIONER EVANS: Here.

10 THE CLERK: Commissioner Tucci?

11 COMMISSIONER TUCCI: Here.

12 THE CLERK: And Mayor Cocchiola?

13 MAYOR COCCHIOLA: Here.

14 THE CLERK: All present, Mayor.

15 MAYOR COCCHIOLA: Thank you. We
16 have no minutes to approve so we can move
17 onto communications.

18 THE CLERK: Yes, Mayor, I have one
19 item of communication from Jim Dandy's of
20 Nutley requesting to submit an ABC
21 Catering permit to the State of New
22 Jersey for approval for activities,
23 concert in the park, Memorial Park, on
24 July 10, 2008. And I need a motion and a
25 second, please.

1 Nutley Board of Commissioners, 07/01/08

2 COMMISSIONER EVANS: Motion.

3 COMMISSIONER TUCCI: Second.

4 THE CLERK: Commissioner Scarpelli?

5 COMMISSIONER SCARPELLI: Aye.

6 THE CLERK: Commissioner Petracco?

7 COMMISSIONER PETRACCO: Aye.

8 THE CLERK: Commissioner Evans?

9 COMMISSIONER EVANS: Aye.

10 THE CLERK: Commissioner Tucci?

11 COMMISSIONER TUCCI: Aye.

12 THE CLERK: And Mayor Cocchiola?

13 MAYOR COCCHIOLA: Aye.

14 THE CLERK: That's all for
15 communications and correspondence, Mayor.

16 MAYOR COCCHIOLA: Thank you. Then
17 we can move on to bills.

18 THE CLERK: Sure. Bill is July 1,
19 2008: Public affairs, \$167,054.16;
20 revenue and finance, \$2,073,416.79;
21 public safety \$49,072.55; public works,
22 \$83,019.85; parks and public property,
23 \$66,035.21; payroll as of June 27, 2008
24 \$834,862.20 for a grand total bill is
25 \$3,274,660.76. And that's all for bills,

1 Nutley Board of Commissioners, 07/01/08

2 Mayor.

3 COMMISSIONER EVANS: Move the bills.

4 COMMISSIONER TUCCI: Second.

5 THE CLERK: Commissioner Scarpelli?

6 COMMISSIONER SCARPELLI: Aye.

7 THE CLERK: Commissioner Petracco?

8 COMMISSIONER PETRACCO: Aye.

9 THE CLERK: Commissioner Evans?

10 COMMISSIONER EVANS: Aye.

11 THE CLERK: Commissioner Tucci?

12 COMMISSIONER TUCCI: Aye.

13 THE CLERK: And Mayor Cocchiola?

14 MAYOR COCCHIOLA: Aye.

15 THE CLERK: Thank you, Mayor.

16 MAYOR COCCHIOLA: Thank you.

17 Commissioner Evans, you have an ordinance
18 for introduction this evening?

19 COMMISSIONER EVANS: Yes, Mayor.

20 I'll read by title. "An ordinance to
21 amend an ordinance codified in the code
22 of the Township of Nutley, Chapter 228,
23 entitled vehicles and traffic,
24 particularly Article II, Section 10
25

1 Nutley Board of Commissioners, 07/01/08
2 entitled 'stopping or standing prohibited
3 during certain hours' to add the location
4 set forth therein.' This would be the
5 north side -- to the east side of Passaic
6 Avenue, north of Satterthwaite given the
7 new turn that's in place, eliminate
8 parking on that turnout. I move that
9 this ordinance is to be passed to the
10 second reading and advertised in the
11 Nutley Sun together with the notice
12 required by law and that further
13 considerations said ordinance with a
14 final passage by the Board of
15 Commissioners be held at second reading
16 on August 5, 2008. So move.

17 MAYOR COCCHIOLA: Need a second.

18 COMMISSIONER SCARPELLI: Second.

19 THE CLERK: Commissioner Scarpelli?

20 COMMISSIONER SCARPELLI: Aye.

21 THE CLERK: Commissioner Petracco?

22 COMMISSIONER PETRACCO: Aye.

23 THE CLERK: Commissioner Evans?

24 COMMISSIONER EVANS: Aye.

25 THE CLERK: Commissioner Tucci?

1 Nutley Board of Commissioners, 07/01/08

2 COMMISSIONER TUCCI: Aye.

3 THE CLERK: And Mayor Cocchiola?

4 MAYOR COCCHIOLA: Aye. And you have
5 a public hearing this evening?

6 COMMISSIONER EVANS: Yes, Mayor.

7 MAYOR COCCHIOLA: Two actually. The
8 first public hearing is Ordinance 306a
9 which is to eliminate parking between 16
10 Ridge Road and 20 Ridge Road as it's
11 separated by fifteen feet of curving and
12 that is substandard and insufficient to
13 park a vehicle. Both the residents on
14 either side have requested this
15 prohibition.

16 MAYOR COCCHIOLA: Is there anyone
17 here this evening that would like to
18 address the board with respect to this
19 ordinance? There's no one.

20 COMMISSIONER EVANS: Close the
21 public hearing?

22 COMMISSIONER SCARPELLI AND

23 COMMISSIONER PETRACCO: Second.

24 THE CLERK: Commissioner Scarpelli?

25 COMMISSIONER SCARPELLI: Aye.

1 Nutley Board of Commissioners, 07/01/08

2 THE CLERK: Commissioner Petracco?

3 COMMISSIONER PETRACCO: Aye.

4 THE CLERK: Commissioner Evans?

5 COMMISSIONER EVANS: Aye.

6 THE CLERK: Commissioner Tucci?

7 COMMISSIONER TUCCI: Aye.

8 THE CLERK: Mayor Cocchiola?

9 MAYOR COCCHIOLA: Aye.

10 COMMISSIONER EVANS: Move the
11 ordinance.

12 COMMISSIONER SCARPELLI: Second.

13 THE CLERK: Commissioner Scarpelli?

14 COMMISSIONER SCARPELLI: Aye.

15 THE CLERK: Commissioner Petracco?

16 COMMISSIONER PETRACCO: Aye.

17 THE CLERK: Commissioner Evans?

18 COMMISSIONER EVANS: Aye.

19 THE CLERK: Commissioner Tucci?

20 COMMISSIONER TUCCI: Aye.

21 THE CLERK: Mayor Cocchiola?

22 MAYOR COCCHIOLA: Aye.

23 COMMISSIONER EVANS: And the second
24 ordinance is 3062 which is to eliminate a
25 handicap parking spot on Centre Street

1 Nutley Board of Commissioners, 07/01/08
2 and to add a handicap parking spot on
3 Yale Street at the request of the owners.

4 MAYOR COCCHIOLA: Is there anyone
5 here this evening that would like to
6 address the board with respect to
7 Ordinance No. 3062? There's no one.

8 COMMISSIONER EVANS: Close the
9 public hearing?

10 COMMISSIONER SCARPELLI: Second.

11 THE CLERK: Commissioner Scarpelli?

12 COMMISSIONER SCARPELLI: Aye.

13 THE CLERK: Commissioner Petracco?

14 COMMISSIONER PETRACCO: Aye.

15 THE CLERK: Commissioner Evans?

16 COMMISSIONER EVANS: Aye.

17 THE CLERK: Commissioner Tucci?

18 COMMISSIONER TUCCI: Aye.

19 THE CLERK: And Mayor Cocchiola?

20 MAYOR COCCHIOLA: Aye.

21 COMMISSIONER EVANS: Move the
22 ordinance?

23 COMMISSIONER SCARPELLI: Second.

24 THE CLERK: Commissioner Scarpelli?

25 COMMISSIONER SCARPELLI: Aye.

1 Nutley Board of Commissioners, 07/01/08

2 THE CLERK: Commissioner Petracco?

3 COMMISSIONER PETRACCO: Aye.

4 THE CLERK: Commissioner Evans?

5 COMMISSIONER EVANS: Aye..

6 THE CLERK: Commissioner Tucci?

7 COMMISSIONER TUCCI: Aye.

8 THE CLERK: And Mayor Cocchiola?

9 MAYOR COCCHIOLA: Aye.

10 COMMISSIONER EVANS: Thank you,

11 Mayor.

12 MAYOR COCCHIOLA: Thank you.

13 Resolutions, Commissioner Scarpelli.

14 COMMISSIONER SCARPELLI: Thank you,

15 Mayor.

16 Whereas, the Township of Nutley
17 through the Department of Public Works
18 has a need to acquire the service of an
19 engineering consultant as a nonfair and
20 open contract pursuant to the provisions
21 of NJSA 19:44 A-20.4 or 20.5 as
22 appropriate.

23 And, whereas, the engineering
24 coordinator has determined and certified
25 in writing that the value of the

1 Nutley Board of Commissioners, 07/01/08
2 aggregate service provided by the vendor
3 for the term of the contract will exceed
4 17,500.

5 And, whereas, the anticipated term
6 of this contract is seven months from
7 June 1, 2008 through December 31, 2008.

8 And, whereas, Pennoni Associates,
9 Incorporated, has submitted a proposal
10 dated June 20, 2008 indicating they will
11 provide engineering services according to
12 the fee schedule attached to this
13 resolutione

14 And, whereas, Pennoni Associates,
15 Inc. has completed and submitted a
16 Business Entity and Disclosure
17 Certificate which certifies that said
18 corporation has not made any reportable
19 contributions to a political candidate
20 committee in the Township of Nutley in
21 the previous one year and the contract
22 will prohibit Pennoni Associates from
23 making any reportable contributions
24 through the term of the contract.

25 And, whereas, the contract is not to

1 Nutley Board of Commissioners, 07/01/08
2 exceed 120,000 dollars and, whereas,
3 funds are available from account 8-01-
4 404-200 and have been certified by the
5 chief financial officer, said
6 certification being attached to this
7 resolution.

8 Now, therefore be it resolved that
9 the Board of Commissioners of the
10 Township of Nutley enter a contract with
11 Pennoni Associates, Inc. as described
12 herein, and be it further resolved that
13 the Business Disclosure Entity
14 Certificate and certification and the
15 Determination of Value be placed on file
16 with this resolution.

17 Be it further resolved that notice
18 of this action shall be printed once in
19 the Nutley Sun in accordance with the
20 Local Public's Contract Law. I move the
21 resolution.

22 COMMISSIONER PETRACCO: Second.

23 THE CLERK: Commissioner Scarpelli?

24 COMMISSIONER SCARPELLI: Aye.

25 THE CLERK: Commissioner Petracco?

1 Nutley Board of Commissioners, 07/01/08

2 COMMISSIONER PETRACCO: Aye.

3 THE CLERK: Commissioner Evans?

4 COMMISSIONER EVANS: Aye.

5 THE CLERK: Commissioner Tucci?

6 COMMISSIONER TUCCI: Aye.

7 THE CLERK: Mayor Cocchiola?

8 MAYOR COCCHIOLA: Aye.

9 COMMISSIONER SCARPELLI: Whereas,
10 the Township of Nutley is entered into
11 contract with D&L Paving Contracting,
12 P.O. Box 507, Nutley, New Jersey 07110,
13 for a project known as Resurfacing of
14 Passaic Avenue, Section 3 from the
15 original contract amount of \$170,704.87.

16 And, whereas, Engineering Services
17 has recommended the attached Change
18 Order, No. 2, in the amount of \$6,034.50
19 dated June 27, 2008 for an asphalt
20 increase.

21 And whereas, the funds are available
22 from Ordinance No. 3053 in the amount of
23 \$6,034.50, and has been certified by the
24 chief financial officer, said
25 certification attached to this

1 Nutley Board of Commissioners, 07/01/08
2 resolution.

3 Now, therefore be it resolved by the
4 Board of Commissioners, Township of
5 Nutley, County of Essex, State of New
6 Jersey, that the Change Order, No. 2, is
7 attached as a change from the contract
8 previously made by the Township of Nutley
9 with D&L Paving Contractors, Inc. for a
10 project known as Resurfacing of Passaic
11 Avenue Section 3 is hereby authorized and
12 approved. I move the resolution.

13 COMMISSIONER PETRACCO: Second.

14 THE CLERK: Commissioner Scarpelli?

15 COMMISSIONER SCARPELLI: Aye.

16 THE CLERK: Commissioner Petracco?

17 COMMISSIONER PETRACCO: Aye.

18 THE CLERK: Commissioner Evans?

19 COMMISSIONER EVANS: Aye.

20 THE CLERK: Commissioner Tucci?

21 COMMISSIONER TUCCI: Aye.

22 THE CLERK: And Mayor Cocchiola?

23 MAYOR COCCHIOLA: Aye.

24 COMMISSIONER SCARPELLI: Whereas,
25 the Township of Nutley has entered into a

1 Nutley Board of Commissioners, 07/01/08
2 contract with D&L Paving Contracting,
3 P.O. Box 507, Nutley, New Jersey 077110,
4 for a project known as Resurfacing of
5 Passaic Avenue Section 3 from original
6 contract amount of \$170,0487; and,

7 Whereas, engineering services has
8 recommended the attached Change Order,
9 No. 3, in the amount of \$19,577.35 dated
10 June 27, 2008 for extension of milling
11 and asphalt.

12 And, whereas, the funds are
13 available from Ordinance No. 2995A in the
14 amount of \$19,577.35, and has been
15 certified by the chief financial officer,
16 said certification attached to this
17 resolution.

18 Now, therefore be it resolved by the
19 Board of Commissioners, the Township of
20 Nutley, County of Essex, State of New
21 Jersey, that Change Order, No. 3, as
22 attached, is a change from the contract
23 previously made by the Township of Nutley
24 with D&L Paving Contractors, Inc. for the
25 project known as Resurfacing of Passaic

1 Nutley Board of Commissioners, 07/01/08
2 Avenue Section 3 is hereby authorized and
3 approved. I move the resolution.

4 COMMISSIONER PETRACCO: Second.

5 THE CLERK: Commissioner Scarpelli?

6 COMMISSIONER SCARPELLI: Aye.

7 THE CLERK: Commissioner Petracco?

8 COMMISSIONER PETRACCO: Aye.

9 THE CLERK: Commissioner Evans?

10 COMMISSIONER EVANS: Aye.

11 THE CLERK: Commissioner Tucci?

12 COMMISSIONER TUCCI: Aye.

13 THE CLERK: Mayor Cocchiola?

14 MAYOR COCCHIOLA: Aye.

15 Mr. Petracco?

16 COMMISSIONER PETRACCO: Thank you.

17 Be it resolved that by the Board of
18 Commissioners in the Township of Nutley
19 in the County of Essex, New Jersey, that
20 the township clerk be and she is hereby
21 authorized to advertise for sealed bids
22 for police uniforms and equipment.
23 Specifications are available in the
24 purchasing department Town Hall on
25 Kennedy Drive. Bids to be received on

1 Nutley Board of Commissioners, 07/01/08
2 Tuesday, July 22, 2008, in the
3 Commissioner Chambers, Town Hall, Kennedy
4 Drive at 3 p.m. Prevailing time at which
5 time there will be publicly opened --
6 publicly opened and read. I move this
7 resolution.

8 COMMISSIONER SCARPELLI: Second.

9 THE CLERK: Commissioner Scarpelli?

10 COMMISSIONER SCARPELLI: Aye.

11 THE CLERK: Commissioner Petracco?

12 COMMISSIONER PETRACCO: Aye.

13 THE CLERK: Commissioner Evans?

14 COMMISSIONER EVANS: Aye.

15 THE CLERK: Commissioner Tucci?

16 COMMISSIONER TUCCI: Aye.

17 THE CLERK: And Mayor Cocchiola?

18 MAYOR COCCHIOLA: Aye. Commissioner
19 Evans?

20 COMMISSIONER EVANS: Thank you,
21 Mayor.

22 Whereas, NJSA 40A:5-4 requires the
23 governing body of every local unit to
24 have made an annual audit of its books,
25 accounts and financial transactions.

1 Nutley Board of Commissioners, 07/01/08

2 And, whereas, the annual report of
3 audit for the year 2007 has been filed by
4 a registered municipal accountant with
5 the municipal clerk pursuant to NJSA
6 40A:5-6 and a copy of which has been
7 received by each member of the governing
8 body.

9 And, whereas, R.S. 52:27BB-34
10 authorizes that the local finance board
11 of the State of New Jersey to prescribe
12 reports pertaining to the local fiscal
13 affairs.

14 And, whereas, the local finance
15 board has promulgated NJAC 5:30-6.5, a
16 regulation requiring that the governing
17 body of each municipality shall, by
18 resolution, certify to the local finance
19 board of the State of New Jersey that all
20 members of the governing body have
21 reviewed, as a minimum, the sections of
22 the annual report entitled General
23 Comments and Recommendations.

24 And, whereas, the members of the
25 governing body have personally reviewed,

1 Nutley Board of Commissioners, 07/01/08
2 as a minimum, the annual report of the
3 audit specifically the sections Annual
4 Audit entitled General Comments
5 Recommendations as evidenced by the group
6 affidavit form of the governing body
7 attached hereto.

8 And, whereas, such resolution of
9 certification shall be adopted by the
10 governing body no later than forty-five
11 days after the receipt of the annual
12 order pursuant to NJAC 5:26.5.

13 And, whereas, all members of the
14 governing body have received and have
15 familiarized themselves with at least the
16 minimum requirements of the local finance
17 board of the State of New Jersey as
18 stated aforesaid and have subscribed to
19 the affidavit as provided by the local
20 finance board.

21 And, whereas, failure to comply with
22 the promulgations of the local finance
23 board of the State of New Jersey may
24 subject the members of the local
25 governing body to the penalty provision

1 Nutley Board of Commissioners, 07/01/08
2 of R. 52:27BB-52 to wit R. 52:27BB-
3 52-A local office or member of the local
4 governing body who after a date fixed
5 for compliance fails or refuses to obey
6 an order of the director under the
7 provisions of this article shall be
8 guilty of a misdemeanor upon conviction
9 may be fined not more than 1000 dollars
10 or imprisoned for not more than one year
11 or both, in addition, shall forfeit his
12 office.

13 Now, therefore be it resolved by the
14 Board of Commissions of the Township of
15 Nutley, hereby states that it has
16 complied by NJAC 5:30-6.5 and does hereby
17 submit a certified copy of this
18 resolution and the required affidavit to
19 the Board of -- to show evidence of said
20 compliance. So move.

21 COMMISSIONER TUCCI: Second.

22 THE CLERK: Commissioner Scarpelli?

23 COMMISSIONER SCARPELLI: Aye.

24 THE CLERK: Commissioner Petracco?

25 COMMISSIONER PETRACCO: Aye.

1 Nutley Board of Commissioners, 07/01/08

2 THE CLERK: Commissioner Evans?

3 COMMISSIONER EVANS: I was looking
4 for -- aye.

5 THE CLERK: Commissioner Tucci?

6 COMMISSIONER TUCCI: Aye.

7 THE CLERK: And Mayor Cocchiola?

8 MAYOR COCCHIOLA: Aye.

9 COMMISSIONER EVANS: Be it resolved
10 by the Board of Commissioners of the
11 Township of Nutley, County of Essex, New
12 Jersey that the treasurer be and she is
13 hereby authorized to refund all
14 overpayments of property taxes in the
15 amount of \$7@60.69 due to tax court
16 judgments as detailed below: Block 7604,
17 Lot 18 \$1653.93 for the years 2006 and 7;
18 Block 7605, Lot 13 \$3,442.80 for 2006 and
19 2007; Block 46@2, Lot 22, \$22,663.96 for
20 2007e So move.

21 COMMISSIONER TUCCI: Second.

22 THE CLERK: Commissioner Scarpelli?

23 COMMISSIONER SCARPELLI: Aye.

24 THE CLERK: Commissioner Petracco?

25 COMMISSIONER PETRACCO: Aye.

1 Nutley Board of Commissioners, 07/01/08

2 THE CLERK: Commissioner Evans?

3 COMMISSIONER EVANS: Aye.

4 THE CLERK: Commissioner Tucci?

5 COMMISSIONER TUCCI: Aye.

6 THE CLERK: And Mayor Cocchiola?

7 MAYOR COCCHIOLA: Aye.

8 COMMISSIONER EVANS: The next
9 resolution relates to the tax rate for
10 the current year. We're still waiting
11 for the state to finalize and to give us
12 notice as to the adjustments to our state
13 aid. And as a result of that, the Essex
14 Tax Board cannot certify the tax rate so
15 we would run the risk of not being able
16 to send out bills if we were to not have
17 resolution enabling us to issue an
18 estimated tax bill for the fourth
19 quarter. So in anticipation of an event
20 that may occur, this resolution is being
21 introduced.

22 Whereas, the adoption of Township of
23 Nutley 2008 certified tax rate will be
24 delayed until the township receives
25 notification from the Essex County Board

1 Nutley Board of Commissioners, 07/01/08
2 of Taxation.

3 Whereas, the tax collector will not
4 be able to complete the mailing of the
5 2008 tax bills before July 6, 2008 per
6 Chapter 72, per the laws of 1994 without
7 a certified rate.

8 Now, therefore be it resolved by the
9 Board of Commissioners of the Township of
10 Nutley, County of Essex, State of New
11 Jersey as follows:

12 1) The tax collector of the Township
13 of Nutley is hereby authorized and
14 directed to prepare and issue estimated
15 tax bills for the Township of Nutley for
16 the third installment of 2008. The tax
17 collector shall proceed and take action
18 as permitted and required by Chapter 72
19 Public Laws of 1994 and NJSA 54:4-66.2
20 and 54:4-66.3.

21 2) The total estimated tax levy for
22 2008 is hereby set at \$95,292,523.52.
23 The total estimated tax rate for 2008 is
24 hereby cited \$2.28 per hundredths of a
25 (indiscernible)

1 Nutley Board of Commissioners, 07/01/08

2 COMMISSIONER TUCCI: Second.

3 THE CLERK: Commissioner Scarpelli?

4 COMMISSIONER SCARPELLI: Aye.

5 THE CLERK: Commissioner Petracco?

6 COMMISSIONER PETRACCO: Aye.

7 THE CLERK: Commissioner Evans?

8 COMMISSIONER EVANS: Aye.

9 THE CLERK: Commissioner Tucci?

10 COMMISSIONER TUCCI: Aye.

11 THE CLERK: And Mayor Cocchiola?

12 MAYOR COCCHIOLA: Aye.

13 COMMISSIONER EVANS: Whereas, Sharon
14 Bozza is employed as a department of
15 revenue finance office of the municipal
16 clerk; and whereas, Sharon L. Bozza is
17 currently oute of-work due to a medical
18 situation; and whereas, Sharon L. Bozza
19 has exhausted all of her available sick
20 leave and other time due; and whereas, a
21 Phyllis Coldebella, purchasing agent,
22 desires a transfer of a total of twelve
23 of her cumulated sick days to Sharon L.
24 Bozza.

25 Now, therefore be it resolved by the

1 Nutley Board of Commissioners, 07/01/08

2 Board of Commissioners of the Township of
3 Nutley that under the circumstances
4 presented here and the governing body
5 authorized the aforementioned transfer of
6 sick days as described above. So move.

7 COMMISSIONER TUCCI: Second.

8 THE CLERK: Commissioner Scarpelli?

9 COMMISSIONER SCARPELLI: Aye.

10 THE CLERK: Commissioner Petracco?

11 COMMISSIONER PETRACCO: Aye.

12 THE CLERK: Commissioner Evans?

13 COMMISSIONER EVANS: Aye.

14 THE CLERK: Commissioner Tucci?

15 COMMISSIONER TUCCI: Aye.

16 THE CLERK: And Mayor Cocchiola?

17 MAYOR COCCHIOLA: Aye.

18 COMMISSIONER EVANS: Whereas, the
19 governing body of the Township of Nutley
20 petitioned the council on affordable
21 housing for substantive certification of
22 its Housing Element and Fair Share Plan
23 on December 6, 2005e

24 And, whereas, the Township of
25 Nutley's Fair Share Plan promotes an

1 Nutley Board of Commissioners, 07/01/08
2 affordable housing program pursuant to
3 the Fair Housing Act and the COAH's Third
4 Round Substantive Rules NJSA 5:94-1.

5 And, whereas, pursuant to NJAC 5:94-
6 7 and NJAC 5:80-26.1 the Township of
7 Nutley is required to appoint a municipal
8 housing liaison for the administration of
9 the Township of Nutley's Affordable
10 Housing Program to enforce the
11 requirements of NJAC 5:94-7 and NJAC
12 5:80-26.

13 And, whereas, the Township of Nutley
14 has adopted Nutley Ordinance 2932
15 entitled Fair Share Plan to provide for
16 the appointment of a municipal housing
17 liaison to administer the Township of
18 Nutley's Affordable Housing Program.

19 Now, therefore be it resolved by the
20 governing body of the Township of Nutley
21 in the County of Essex that John T.
22 Barry, Traffic Safety Officer, is hereby
23 appointed by the governing body of the
24 Township of Nutley as the municipal
25 housing liaison for the administration of

1 Nutley Board of Commissioners, 07/01/08
2 the Affordable Housing Program pursuant
3 to ~~ea~~ and in accordance with the code of the
4 Township of Nutley. So move.

5 COMM~~ES~~ONER SCARPELL~~E~~: Second.

6 THE CLERK: Commissioner Scarpelli?

7 COMM~~ES~~ONER SCARPELL~~E~~: Aye.

8 THE CLERK: Commissioner Petracco?

9 COMM~~ES~~ONER PETRACCO: Aye.

10 THE CLERK: Commissioner Evans?

11 COMM~~ES~~ONER EVANS: Aye.

12 THE CLERK: Commissioner Tucci?

13 COMM~~ES~~ONER TUCC~~E~~: Aye.

14 THE CLERK: And Mayor Cocchiola?

15 MAYOR COCCH~~E~~OLA: Aye.

16 COMM~~ES~~ONER EVANS: Thank you,
17 Mayor.

18 MAYOR COCCH~~E~~OLA: Thank you.

19 Commissioner Tucci?

20 COMM~~ES~~ONER TUCC~~E~~: Yes.

21 Whereas, the Township of Nutley
22 entered into a contract with D&L Paving
23 Contractors, Inc. ~~e~~ P. ~~o~~. Box 507, Nutley,
24 New Jersey for a walking path in Memorial
25 Park I; and, whereas, the superintendent

1 Nutley Board of Commissioners, 07/01/08
2 of parks and public property department
3 has recommended the following change
4 order from said contract as necessary.

5 Change Order No. 2, additional work
6 to expand the blacktop walking path along
7 the Memorial Bridge area in the amount of
8 7,600 dollars.

9 The money is available from account
10 number 2902 and has been certified by the
11 chief financial officer, said
12 certification being attached to this
13 resolutione

14 Now, therefore be it resolved that
15 the Board of Commissioners and the
16 township clerk be and they are hereby
17 authorized to enter into and sign said
18 contract for the Township of Nutley. I
19 move the resolution.

20 COMMISSIONER EVANS: Second.

21 THE CLERK: Commissioner Scarpelli?

22 COMMISSIONER SCARPELLI: Aye.

23 THE CLERK: Commissioner Petracco?

24 COMMISSIONER PETRACCO: Aye.

25 THE CLERK: Commissioner Evans?

1 Nutley Board of Commissioners, 07/01/08

2 COMMISSIONER EVANS: Aye.

3 THE CLERK: Commissioner Tucci?

4 COMMISSIONER TUCCI: Aye.

5 THE CLERK: And Mayor Cocchiola?

6 MAYOR COCCHIOLA: Aye.

7 COMMISSIONER TUCCI: That's all I
8 have, Mayor.

9 MAYOR COCCHIOLA: Thank you.

10 Whereas, the Township of Nutley and
11 the Township of Montclair wish to enter
12 into an agreement pursuant to which the
13 Township of Montclair will provide animal
14 control services and animal cruelty
15 investigative and enforcement services to
16 the Township of Nutley pursuant to NJSA
17 26:382-1 et seq.

18 And, whereas, the New Jersey
19 Interlocal Services Act provides that a
20 municipality may enter into a contract
21 with another municipality or local unit
22 for the joint provision of any service.

23 And, whereas, the director of the
24 Department of Public Affairs has
25 determined it is in the best interest of

1 Nutley Board of Commissioners, 07/01/08

2 the township to enter into such agreement
3 at an annual cost not to exceed 8750
4 dollars for the period June 1, 2008
5 through December 31, 2008; 15,445 dollars
6 for the period of January 1, 2009 through
7 December 31, 2009; and \$15,913.50 for the
8 period January 1, 2010 through December
9 31, 2010.

10 Therefore, be it resolved with the
11 mayor and director of public affairs be
12 and she is hereby authorized to execute
13 the attached agreement with the Township
14 of Montclair for the provision of animal
15 control services and animal cruelty
16 investigative and enforcement services.
17 I move the resolution.

18 COMMISSIONER PETRACCO: Second.

19 THE CLERK: Commissioner Scarpelli?

20 COMMISSIONER SCARPELLI: Aye.

21 THE CLERK: Commissioner Petracco?

22 COMMISSIONER PETRACCO: Aye.

23 THE CLERK: Commissioner Evans?

24 COMMISSIONER EVANS: Aye.

25 THE CLERK: Commissioner Tucci?

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2 COMMISSIONER TUCCI: Aye.

3 THE CLERK: And Mayor Cocchiola?

4 MAYOR COCCHIOLA: Aye.

5 That concludes the business portion
6 of our meeting this evening. Is there
7 any member of the public that would like
8 to address the board?

9 MR. NEGRA: Good evening,
10 commissioners. Again, I guess, I
11 presented a question in front of the
12 commission about four weeks ago.

13 MAYOR COCCHIOLA: I'm sorry, your
14 name and address.

15 COMMISSIONER SCARPELLI: Could you
16 give your name and address for the
17 record.

18 MR. NEGRA: I'm sorry. My name is
19 Ed Negra, 649 Bloomfield Avenue in
20 Nutley.

21 Four weeks ago, I was here and asked
22 Commissioner Tucci some questions about
23 the creative playground. At that time,
24 he was very helpful and I've called back
25 a couple times, I haven't received a

1 Nutley Board of Commissioners, 07/01/08
2 response, but I'm assuming that you just
3 haven't received the inspection reports
4 back from the playground. And I'm just
5 here tonight to ask you if you actually
6 have a final report on the playground?

7 COMMISSIONER TUCCI: I have, Mr.
8 Negra. I have two reports and as we
9 transmitted to you we had one report but
10 we were waiting for the second
11 independent report to come in so we could
12 confirm some of the things that were
13 stated in the first one. I do have both
14 reports in front of me this evening and,
15 Mayor, if it's okay with you and the
16 commissioners, I'd like to share some of
17 the findings and this may answer a lot of
18 questions from many folks here this
19 evening.

20 The first report was done by a
21 gentleman named Bruce DaVita. He's
22 affiliated with the County of Essex. He
23 also is a certified playground safety
24 inspector and has a private business that
25 goes by the name of Playground Safety

1 Nutley Board of Commissioners, 07/01/08
2 First, LLC.

3 He did a walk-through of our
4 creative playground on June 17th and he
5 identified twelve Priority 1 hazards.
6 And Priority 1 hazards are defined as
7 following: Something that would cause
8 death, brain damage, permanent paralysis,
9 loss of vision, loss of speech, loss of
10 limb, organ destructione

11 And some of the POHs that he
12 observed were: Exposed concrete footers,
13 okay, which are the footings on the
14 bottom of some of the apparatus theree
15 And they're exposed, and I can explain
16 why, because the playground has, in fact,
17 been closed and we haven't put the
18 surface down to absorb a fall of a child.
19 So that's something that could, in fact,
20 be easily remediede

21 Safety surface in many critical
22 locations was insufficiente Inadequate
23 use zones for slides and swings, head
24 entrapments in many locations, many
25 entanglements, many protrusions.

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2 He identified the openings from the
3 upper deck to the lower decks as POHs.
4 Crush points, strangulation hazards,
5 Falstrom tires, tire swing under the deck
6 and he also identified something that
7 there cannot be more than two swings per
8 bay.

9 Some of the other items that he
10 identified that are not POHs but are
11 still very serious conditions are: The
12 tires are holding water, which promotes
13 insect activity, the hardware is severely
14 rusted and worn and we do, in fact, treat
15 that and address that on a weekly basis.
16 Swing hangers are severely worn. Many of
17 the bolts extend more than two threads
18 past the nut. Rotted wood. Fungal
19 growth on the some of the wood members.

20 He's identifying here the use of CCA
21 lumber. And CCA lumber is lumber that's
22 treated with copper chromate and arsenic.
23 And it also goes by the name of
24 "Wolmanized Lumber". And then he states,
25 "That if CCA lumber is used, it must be

1 Nutley Board of Commissioners, 07/01/08

2 encapsulated or coated either with paint,
3 varnish, polyurethane, or some other
4 substance to keep that encapsulated.

5 What I plan on doing to determine whether
6 or not this is CCA lumber, because at
7 this point we don't know whether it is or
8 not from either of the reports, and I'll
9 share the second report with you also, is
10 I'd like to ask the Mayor in her
11 department if they could, in fact, have
12 the wood tested so we know exactly what
13 it is and what type of wood it is.

14 MAYOR COCCHIOLA: I'll ask Tom or
15 Stan.

16 COMMISSIONER SCARPELLI: Tom or
17 Stan?

18 MR. NEGRA: I could supply you with
19 that information.

20 MAYOR COCCHIOLA: You could --

21 MR. NEGRA: We had that at the
22 beginning of the project.

23 MAYOR COCCHIOLA: Well, that -- it
24 was tested at the beginning of the
25 project? Does it need to be tested

1 Nutley Board of Commissioners, 07/01/08
2 again?

3 MR. NEGRA: It was actually -- CCA,
4 chromate copper arsenic, at the
5 beginning -- and Robert Lenders, the way
6 he builds his playgrounds is that at the
7 playground, if everyone was there, they
8 noticed the big area where all of this
9 lumber was sealed before it went over to
10 the playground to be constructed. This
11 sealing process actually puts a film and
12 a coating over the CCA treating which
13 eliminates any of this hazardous
14 materials.

15 MAYOR COCCHIOLA: Does that ever
16 have to be repeated or one treatment is
17 enough?

18 MR. NEGRA: Well, I believe we've
19 been treating the playground every year.

20 COMMISSIONER TUCCI: We have been
21 treating it but, again, that minimizes
22 the risk. That doesn't, in fact,
23 eliminate the risk. And as I'm sure you
24 know being in that business, this CCA
25 lumber, the arsenic, can be transmitted

1 Nutley Board of Commissioners, 07/01/08
2 to a small child just by touching it. I
3 mean forget about sanding it or cutting
4 it because then once it becomes airborne
5 there are really serious health issues
6 that are involved.

7 MR. NEGRA: But depending on what
8 report you hear or you read there are
9 differing opinions about that altogether
10 throughout the industry.

11 COMMISSIONER TUCCI: Um-hum. Well,
12 this is true. And I have one here that I
13 downloaded today and this is "EPA
14 Announces Ban on CCA Wood for Residential
15 Use" and it talks about what CCA
16 pressure-treated wood is. What it is,
17 how the arsenic is released, how does the
18 arsenic affect people, and I'll be happy
19 to share this with you. And you're
20 right. There are different schools of
21 thought on this --

22 MR. NEGRA: There is

23 COMMISSIONER TUCCI: -- but
24 nonetheless, the risk can be minimized.
25 I don't know that the risk can, in fact,

1 Nutley Board of Commissioners, 07/01/08

2 be totally eliminated. But that we will,
3 in fact, determine, all right?

4 MR. NEGRAe Okay.

5 COMMISSIONER TUCCIE I think we
6 should still have it treated. If you can
7 facilitate that for Mr. Restaino so we
8 can see what state that wood is, in fact,
9 in.

10 MAYOR COCCHIOLAe Not a problem.

11 MR. NEGRAe We did have --

12 COMMISSIONER TUCCIE It is not ABA
13 compliant in all areas. We do have
14 protruding nails and that's just a
15 function of it being used and children
16 playing on it and we do address that but
17 they do come back.

18 We do have some checked cracked and
19 splintering wood. There are some
20 tripping hazards. There's some worn
21 chain and there's a loss of sight while
22 the child is, in fact, in the structure.

23 He closes this letter by saying, "I
24 hope this helps you with your decisions
25 that you will be making and I'm glad to

1 Nutley Board of Commissioners, 07/01/08

2 see that this playground has been closed.

3 Please feel free to contact me at any

4 time. And that is the one, and this

5 will, in fact, be in the clerk's office

6 tomorrow morning and available at the

7 parks department for anyone who wishes to

8 come and see it.

9 MR. NEGRA: Okay, fine.

10 COMMISSIONER TUCCI: The second

11 report was from the PMK Group, which is

12 the safety group that, in fact, services

13 our joint insurance fund. I had asked

14 Mr. Pat Lorimer to come out and -- or, in

15 fact, send someone out to do an

16 evaluation. And he comes up with similar

17 findings but not the exact findings. And

18 actually, he submitted two reports. The

19 first report he sent me was more of a

20 political report, if I had to

21 characterize it in one way or another,

22 without actual definitive answers to some

23 of the questions and highlighting whether

24 or not there were, in fact, dangers and

25 whether or not there were things that

1 Nutley Board of Commissioners, 07/01/08

2 needed to be addressed. So I called him
3 and both of those reports will, in fact,
4 be available, and I asked him to just
5 have the report done, don't soft-soap it,
6 tell us the truth. We need to know what
7 we're looking at here because it affects
8 our children and people in our township
9 and folks from surrounding townships that
10 use this park.

11 He came out on June 19th and he, in
12 fact, conducted his certified playground
13 inspection, and he states that there are
14 no head entrapment or neck entrapment
15 hazards to be found. He says, "Overall
16 the wooden structures are in good
17 condition. He didn't, in fact, address
18 whether or not it was CCA-treated wood.
19 He's approximating the age at fifteen
20 years old and I believe the age of the
21 playground is right around seventeen
22 years old. And I believe from what I've
23 learned that they usually have a life
24 expectancy of right around twenty years.

25 He also stated that there had been a

1 Nutley Board of Commissioners, 07/01/08

2 rat issue at the playground, but further
3 questioning revealed that muskrat from a
4 nearby stream had burrowed under some the
5 playground structures and there was no
6 evidence of rats there at the time he was
7 there. Well, obviously, there were no
8 rats there because the playground's been
9 closed and there are no children there so
10 there's no cookies, there are no
11 sandwiches or snacks to attract them up.

12 He also speaks about standards for
13 critical height and how many inches need
14 to be cleared on different parts of it.
15 He also identifies the fact that the east
16 end of the facility contains eight swings
17 and two bays per schooleage children and
18 there are not tot swings and ASTM
19 standards call for no more than two
20 swings per bay. He speaks about the wood
21 chips that are not there because we never
22 prepared it for use because we weren't
23 sure what the outcome would be.

24 He speaks to S-hooks that are open
25 and creating an entanglement hazard. And

1 Nutley Board of Commissioners 07/01/08

2 that they should not be open any more
3 than four inches or essentially the
4 width of a dime and that there is also an
5 entanglement hazard created by the bolts
6 and the center swing support which are
7 not tightened down flush with the support
8 of the surface. And he speaks to the
9 fact as Mr. DaVita did that many of the
10 bolts and the hardware are in fact
11 rusted despite what we do to do that.

12 He speaks to the fact that the
13 clearance between the swing on the far
14 right and the swing support is twenty
15 nine inches and the ASTM standards
16 require a minimum clearance of thirty
17 inches. Not a big issue because someone
18 like me a lay person looking at the
19 swing but according to the standards it
20 misses it by that one inch.

21 He speaks to the fact that the
22 spiral slide has an overall height of
23 seven feet two inches and that the metal
24 sheets that are contained in that slide
25 get hot when exposed to the sun and may

1 Nutley Board of Commissioners, 07/01/08

2 create an entanglement hazard and a cut
3 hazard if they begin to loosen up.

4 He says that there was a twenty-inch
5 drop at the end of the slide and the
6 maximum allowable drop is fifteen-inches
7 and that many of the bolts on the metal
8 sheets are, in fact, aged and rusted and
9 should, in fact, be replaced.

10 He speaks that entanglement hazards
11 existed above the slide exit with bolts
12 having more than two threads exposed as
13 Mr. DaVita's report did.

14 He identified another entanglement
15 hazard at the sliding pole with the bolt
16 holding the pole to the surface. Again,
17 having more than two threads exposed.
18 The top swing set had four swings in a
19 single bay. Again, the standards call
20 for no more than two. The upper swing
21 support was incorrectly installed and
22 badly rusted. Several of the S-hooks are
23 open creating an entanglement hazard.
24 And, again, he speaks to how much they
25 should be opened by.

1 Nutley Board of Commissioners, 07/01/08

2 The tire crawl tube consists of a
3 series of tires bolted together and
4 suspended by chains covered by rubber
5 hose. There were protruding bolts with
6 more than two threads exposed and sharpe
7 edge metal plates inside the tires which,
8 obviously, is not a good thing.

9 The rocking platform was wood
10 supported by chains covered by rubber
11 hose. He states that the structure is
12 located only fortyeight inches from a
13 wooden bench and has a wooden support
14 beam that a child could easily strike
15 when using or falling and/or jumping from
16 the platform. And, again, ASTM standards
17 call for a minimum play zone of eightye
18 four inches and PMK recommended that this
19 equipment be removed.

20 The rocking balance beam is both a
21 trip hazard and a fall hazard. And,
22 again, he speaks to the fact that there's
23 no surface material to cushion that fall
24 and we know why.

25 The layout of the play zone funnels

1 Nutley Board of Commissioners, 07/01/08

2 children through this area where they can
3 easily trip over this equipment and PMK
4 recommends this piece of play equipment
5 also be removed.

6 He speaks to the overhead rings.

7 And, again, he addresses the S-hooks
8 which were open creating the entanglement
9 hazard and also a potential pinch-point
10 between the chain and the S-hook and
11 which normally is tied to the rings are
12 supported by a vertical chain, not a loop
13 of chain, and this loop can allow a
14 child's finger to get between it and the
15 support hook.

16 Then he speaks that "One play
17 structure had a vertical tire crawl tube
18 with the tire swing at the bottom. This
19 too can allow a child to fall six and a
20 half feet, had no impact surfacing
21 beneath, the drop is unguarded at the top
22 so small children may, in fact,
23 accidentally fall through these tubes."

24 Then he goes through his summary of
25 what should and should not be done.

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2 So both of the reports, while
3 similar and identifying different types
4 of hazards and some of the same hazards,
5 all right, I guess, at the end of the
6 day, all point to the fact that the
7 playground by today's standards just does
8 not meet up, all right. And I understand
9 the emotion and the attachment that many
10 folks have with this playground. I know
11 a lot of people put in a lot of hard
12 work, a lot of hours. I, myself, worked
13 on the playground with Commissioner
14 Cocchiola at the time. It was a great
15 community project.

16 The last piece of information that
17 I'm waiting for is to see what state this
18 wood is in. But, I think, we all agree
19 that first and foremost our number one
20 priority always has to be the safety and
21 the health of our children no matter how
22 attached we may be, no matter how unique
23 and how exciting it is for people to see
24 this and come here and experience this.
25 As far as the project itself is

1 Nutley Board of Commissioners, 07/01/08
2 concerned, it was a great community
3 project. It brought a lot of people
4 together.

5 So depending on what the final piece
6 tells us and if, in fact, we decide as a
7 township that we're going to change this
8 structure there to something else, what
9 I'd like to put out, not only for the
10 Mayor and the other commissioners, but to
11 all of you is the fact that I see no
12 reason why we couldn't once again come
13 together as a community and design
14 something that would be appropriate.

15 It appears by all indications that
16 this structure is just coming close to
17 its useful life. The end is, in fact, in
18 sight. I mean it was great, it's
19 wonderful, but --

20 MR. NEGRA: Can I ask you a
21 question?

22 COMMISSIONER TUCCI: Sure.

23 MR. NEGRA: The other facilities in
24 town, as far as the other player is, I'm
25 sure there's maintenance and there's

1 Nutley Board of Commissioners, 07/01/08
2 updated codes that you have to stick to.

3 COMM@SS@ONER TUCC@: Absolutely.

4 MR. NEGRA: Do you tear down those
5 playgrounds or do you send a maintenance
6 crew out there to take care of the
7 problems and update them and bring them
8 up to code and --

9 COMM@SS@ONER TUCC@: Well, as I'm
10 sure, you know, because you interact with
11 many of our employees, we maintain not
12 only all of our playgrounds but all of
13 our parks and all of our public
14 buildings. We had, in fact, replaced
15 just about every playground if not every
16 playground. This may be the oldest
17 playground that's left. We are presently
18 in the process of rebuilding the
19 playground in the Glotzbach Park, because
20 that too had wooden structures there that
21 were dangerous for the children. So all
22 of our other ones are current
23 playgrounds; they meet the current safety
24 standards. And while we may agree or
25 disagree on what type of equipment we

1 Nutley Board of Commissioners, 07/01/08

2 have there, but with the one thing that
3 we can't deny is that everything that we
4 have replaced is, in fact, up to today's
5 standards, today's codes, and they are
6 safe for our children. And that's the
7 only thing we're looking to do here.

8 This is not a decision that I take
9 lightly. And I know a lot of people are
10 vested in this and are stakeholders in
11 what occurred and I appreciate that. I'm
12 one of them. But, again, I think first
13 and foremost we need to consider the
14 health and the safety of our children.

15 MR. NEGRA: Again, if
16 recommendations were proposed to you and
17 there were a group or town employees that
18 can update this playground to come up to
19 code, would that be acceptable without --

20 COMMISSIONER TUCCI: Absolutely.

21 MR. NEGRA: -- tearing down the
22 playground?

23 COMMISSIONER TUCCI: This is not
24 Cuba, all right. Whenever we do any
25 project in the parks department, as you

1 Nutley Board of Commissioners, 07/01/08
2 should be aware, we have several
3 meetings, we have several hearings. We
4 come up with what we believe would be
5 appropriate and what we think is a good
6 idea. But, again, we tweak our plans.
7 We tweak our designs in conjunction with
8 our neighbors and with townspeople. We
9 have -- I don't believe we've ever built
10 anything exactly the same way we
11 originally envisioned it because everyone
12 sees things differently. And everyone
13 brings a different perspective and we
14 take those perspectives in account. And,
15 again, if that can happen here and we can
16 modify this, into something that will, in
17 fact, be safe, then of course we're open
18 to hearing that.

19 MR. NEGRA: Okay. When will that
20 decision process be made and who will be
21 a part of that decision process?

22 COMMISSIONER TUCCI: Well, as I said
23 before, I'm waiting for the last piece.
24 I'd like to get the test back on the wood
25 so I know exactly what it is we're

1 Nutley Board of Commissioners, 07/01/08

2 looking at and I'd like to get one or
3 both of these gentlemen there and anyone
4 else is invited. We'll set up a date,
5 we'll actually walk it and we'll see what
6 the hazards are, we'll have the experts
7 tell us what we should do and what we
8 should not do. Because while we're all
9 well intentioned, we're not playground
10 safety experts, at least I'm not aware of
11 anyone here that is right now.

12 MR. NEGRA: Very true. And if it's
13 feasible that he says we can bring it up
14 to code --

15 COMMISSIONER TUCCI: Absolutely.

16 MR. NEGRA: -- then there would be a
17 way to do that?

18 COMMISSIONER TUCCI: Absolutely.

19 There are no predetermined decisions
20 here, Mr. Negra. Everything is on the
21 table and we'll be happy to listen to
22 everyone's comments. But, again,
23 remember, at the end of the day, and I'll
24 say it for the third time, we need to do
25 what's best for our children.

1 Nutley Board of Commissioners, 07/01/08

2 MR. NEGRA: Definitely. Security is
3 first.

4 COMMISSIONER TUCCI: Then we agree.

5 MR. NEGRA: And how will I know, or
6 the people know when this process is
7 going to take place or --

8 COMMISSIONER TUCCI: You can call
9 the parks department as I said and as I
10 promised the reports will be available
11 for everyone's inspection. And once we
12 get back the report on the wood from the
13 health inspector that will be available.
14 We'll set a date that's convenient. And
15 we'll just move forward and see what we
16 can do.

17 MR. NEGRA: Okay. Before I leave,
18 I'd just like to share a couple things
19 that might be in the decision process,
20 hopefully, that are very traditional to
21 Nutley and I think have a great bearing
22 on this project.

23 First of all, this is Nutley Hundred
24 Years and within this middle of the page
25 there's two sections, two main pages on

1 Nutley Board of Commissioners, 07/01/08
2 the creative playground. 1992 is
3 highlighted by the creative playground.
4 And it says, "Creative playground;
5 probably the largest volunteer project in
6 Nutley history. A group of citizens
7 first raised the idea of building this
8 unique playground and the volunteers did
9 everything, create, design, raise, and
10 funded this project. Over a thousand
11 volunteers took part in the actual
12 construction opened in 1992."

13 One other letter I'd like to read.
14 I was project coordinator on this job and
15 there were so many rewarding parts to
16 this. At the end of the project I
17 received a letter from a parent who had
18 his wife and two children there working
19 on the project and he said, "Ed, it gave
20 us something -- this was a fantastic
21 project. It gave us something to pass
22 onto our kids. Not just the playground
23 itself, but our sense of community pride.
24 The playground is a precious symbol of
25 camaraderie. You can't just go out and

1 Nutley Board of Commissioners, 07/01/08

2 buy one of these things.è

3 With that, I'll be in touch and
4 hopefully we can resolve any problems
5 that happen and hopefully we can keep the
6 playground. Thank you.

7 COMMISSIONER TUCCI: We'll see what
8 we can do.

9 MR. NEGRA: Okay.

10 COMMISSIONER TUCCI: Good luck.

11 MAYOR COCCHIOLA: Thank you, Mr.
12 Negra.

13 MAYOR COCCHIOLA: Good evening,
14 Mr. Magnifico.

15 MR. MAGNIFICO: Jack Magnifico, 160
16 Park Avenue.

17 Number one, congratulations to all
18 the commissioners. I wasn't here for
19 your installment but congratulations.
20 Thank you very much, Mr. Tucci, for your
21 assistance with the American Legion, with
22 the Boy's Day. You helped us become the
23 largest Boy's Day group to go down to
24 Rider College. I appreciate that very
25 much.

1 Nutley Board of Commissioners, 07/01/08

2 COMMISSIONER TUCCO: Thank you,
3 Jack. You do a great job.

4 MR. MAGNIFICO: And I know the men
5 do and the parents do too. The next
6 thing I have to ask of your group is you
7 had a Mr. John and Tom Pandolfi check me
8 out for trees. We proposed here, before
9 the election, a parking lot. I belong to
10 AMVETS. I'm the commander of AMVETS.
11 And the AMVETS group have said to me,
12 yes, we can give the town a loan of the
13 area that belongs to us along the
14 railroad tracks. There's 1.6 acres. And
15 that property is ours. We, naturally at
16 this point, are not going to use it for
17 anything other than what it was used for
18 before as a picnic ground but we don't
19 really need that anymore. We got other
20 parks that you have provided for us and
21 we really don't need a personal picnic
22 area. Anyway, your man came down and you
23 were kind enough to survey the trees and
24 I know I have about twenty trees that
25 have to be cut down in the circle, inside

1 Nutley Board of Commissioners, 07/01/08
2 the circle. That means that I would
3 appreciate if we could get it for
4 nothing, naturally. We're not a large
5 organization. We're a large
6 organization, but we're not wealthy.

7 The parking lot became a big issue.
8 We received a letter from the Board of
9 Education saying that this could not be
10 done. Well, I further studied it out
11 with some lawyers. We are a nonprofit
12 operation. We are not making any money
13 on this. We have been asked by the Mayor
14 and other people if we could provide help
15 for the town in the form of having space
16 for Washington School parents to pick up
17 their children, which we do now, which
18 would be a lot more safer if I had more
19 space, or we had more space, I should
20 say. Not I personally. Therefore, I am
21 asking this commission to go after the
22 Board of Education and see what we can do
23 to change the altitude of the individuals
24 that told me that we could not do this.

25 I also, I've talked to Mr. Petracco

1 Nutley Board of Commissioners, 07/01/08
2 about some gentleman that has decided
3 that he can build a garage on our
4 property and I think he's looking into
5 it; I'm sure he is and I would like that
6 removed as soon as possible so we don't
7 get into any more hassle.

8 We have been taking care of that
9 property since we got it through the
10 kindness of the paving company across the
11 street, cleaning it up, stuff like that.
12 It's become a problem for us and of late
13 I have already had made three reports
14 that we are getting more and more young
15 men having parties back there and doing
16 things that are not supposed to be done
17 and we'd like to have it stop -- you
18 know, put a stop to it. The police
19 department is working on that.

20 I also, I know you're working on
21 solar, and if you have any problem I have
22 a guy that I'm working with that we
23 started back in '02 with and he's going
24 to -- he's starting with me on my
25 building and a lot of new codes out

1 Nutley Board of Commissioners, 07/01/08

2 there. I don't know if he's told you
3 about them, the new people, because if
4 not, we'll get together.

5 Last but not least, consolidation.
6 I think you and I talked about that, Tom.
7 We have to somehow help this town. How
8 do we have to help it? We've got to
9 consolidate a lot of our efforts. Garage
10 efforts, parking efforts, whatever you
11 want to call them. We have to sit down
12 somehow and find out why we have -- it
13 keeps raising them, there's no question
14 about it. I think there has to be a
15 consolidation of operations with garages,
16 automobiles. We got two hundred and some
17 odd vehicles. I got the records of it.
18 It's unbelievable. And I'm not bitching.
19 I've been a long time resident of this
20 town and I worked with a number of
21 commissioners to try and do things, not
22 as a politician but as a friend, as a
23 member of this town. And I would sure as
24 heck I'd like to see the town keep its
25 older people and how do we do that is by

1 Nutley Board of Commissioners, 07/01/08

2 not burdening them with expensive other
3 things. And what I'm trying to get to is
4 the -- well, we know about the elder
5 care; that's taken care of, thank you and
6 it'll go further I'm sure. But these are
7 the things that I'm really trying to
8 push -- not push them for me, my times
9 are short, but there are other people in
10 this town that need help and if we don't
11 get to them, they're just going to sit
12 home and rot away. And that's what
13 happens to them because I've had to go to
14 a number of these calls and take them out
15 of their homes and bring them to
16 veteran's homes or get them some place so
17 that they don't take the long -- the
18 short way home. All right. So these are
19 things I want to bring forth to the new
20 commissioners. I know you're all
21 intelligent, you know what's going on in
22 this world, but this is our town. It's
23 probably one of the best towns in the
24 country. And before I die, I want to
25 make sure it stays that way. And if you

1 Nutley Board of Commissioners, 07/01/08
2 would please, please look into that
3 parking lot. I know, the Mayor would
4 love it and I would love it. Not for me,
5 it's for the senior citizen to go places
6 and leave their car somewhere where it
7 could be protected. And I assure you,
8 you're going to get a complaint -- all of
9 the neighbors, the lights and stuff.
10 Anything we plan, lighting, will be all
11 against -- lighting all through the trees
12 so that nobody -- it's not affecting the
13 lights in the houses. The fence along
14 where the houses are will all have a
15 barrier with trees on it. We've already
16 figured that out. I've got guys that are
17 willing to do this. I have builders that
18 are willing to help. But it's all up to
19 you now. Thank you, Commissioners.

20 MAYOR COCCHIOLA: Thank you, Mr.
21 Magnifico.

22 MR. SCERBO: How you doing? Lou
23 Scerbo, 21 Edgewood Ave. Good evening,
24 Commissioners.

25 I came to talk to you guys tonight

1 Nutley Board of Commissioners, 07/01/08
2 about the code of ethics. I'm sure you
3 guys have received many packets from me
4 over the last two months, but yet, I have
5 yet to receive any resolution in terms of
6 the information I sent to you and the
7 facts that are included within it. I had
8 a few questions to ask the commissioners.

9 Do you all agree that the Town of
10 Nutley needs to uphold the code of ethics
11 that we follow? I don't believe there
12 will be any disagreement in that.

13 MAYOR COCCHIOLA: Mr. Scerbo, are
14 you referring to the State Code of Ethics
15 that you provided to each one of us?

16 MR. SCERBO: Yes, I am.

17 MAYOR COCCHIOLA: State Code of
18 Ethics governed by the Commission on
19 Ethical Standards is applicable to state
20 employees and special state officers.

21 MR. SCERBO: Well, I also requested
22 our code of ethics and I was told that we
23 follow the state. When I called the
24 state, they said that this is the code of
25 ethics and although it may be slightly

1 Nutley Board of Commissioners, 07/01/08
2 different whether it's state officials,
3 it's pretty darn close. And since we do
4 not have one as a town, it was my only
5 other alternative to submit a code of
6 ethics that's followed by the state.

7 MAYOR COCCHIOLA: And it's a
8 document that everybody should abide by.

9 MR. SCERBO: I agree.

10 MAYOR COCCHIOLA: It's a well
11 thought out document.

12 MR. SCERBO: So that being said,
13 another question is, Commissioners, do
14 you agree that George Anderson, William
15 Speezio and Pennoni the engineering firm
16 for our town are all well respected at
17 what they do and know this town and its
18 codes extremely well. Does anyone have
19 an objection to that?

20 MAYOR COCCHIOLA: Mr. Scerbo, we
21 don't really know what you're --

22 MR. SCERBO: I'm getting to that.

23 MAYOR COCCHIOLA: -- what are you
24 asking?

25 MR. HARKINS: Mayor, if I could jump

1 Nutley Board of Commissioners, 07/01/08

2 in because --

3 MAYOR COCCHIOLA: Thank you,
4 Mr. Harkins.

5 MR. HARKINS: -- I did read your
6 package, Mr. Scerbo. And I think what
7 you're referring to are some actions
8 taken by the planning board --

9 MR. SCERBO: Yes, I'm getting to
10 that.

11 MR. HARKINS: -- and the actions of
12 some of the members on the planning
13 board. And as you know, that's an
14 autonomous board.

15 MR. SCERBO: Sure.

16 MR. HARKINS: It's a board separate
17 from this board and if you're unhappy
18 with the decision of that board or have
19 concerns about the propriety of some of
20 these actions there, there are certain
21 avenues that you can follow. This is not
22 one of them.

23 MR. SCERBO: What are they?

24 MR. HARKINS: If you aggrieved by a
25 decision of the board, you have a right

1 Nutley Board of Commissioners, 07/01/08

2 to file an appeal --

3 MR. SCERBO: I -- wait -- with all
4 due respect, Mr. Harkins, I did send you
5 out information, I did call you over two
6 months ago looking for this type of
7 guidance. I have also requested through
8 the planning board attorney that there is
9 a conflict of interest which is clearly
10 stated in the code of ethics, that no
11 planning board member, whether it's a
12 spouse, a relative or a close personal
13 friend, should have any interest -- let
14 me finish; I've waited two months, I feel
15 I have the right -- should have any
16 personal interest in an application. Two
17 planning board members and I have sent
18 you all the minutes -- wait, let me --

19 MR. HAWKINS: I don't want to --
20 play a little bit straight here.

21 MR. SCERBO: I'm not going straight.

22 MR. HAWKINS: I mean I'm starting to
23 connect the dots here and I just -- you
24 know, that board has its own counsel,
25 very able counsel.

1 Nutley Board of Commissioners, 07/01/08

2 MR. SCERBO: Granted, but how can I
3 get something down if that attorney --

4 MR. HAWKINS: I'm sure you have
5 counsel, very able counsel --

6 MR. SCERBO: -- wait a minute, wait
7 a minute. We all agree that a board
8 attorney cannot send out an application,
9 they work for the town, they cannot send
10 out an application without a motion and a
11 vote.

12 MAYOR COCCHIOLA: Hold on, hold on,
13 Mr. Scerbo --

14 MR. SCERBO: Without a motion and a
15 vote.

16 MAYOR COCCHIOLA: -- Mr. Scerbo.

17 MR. SCERBO: We know that. That's
18 law.

19 MAYOR COCCHIOLA: Hold on a minute.

20 MR. SCERBO: Sure.

21 MAYOR COCCHIOLA: You're referring
22 to the code of ethics.

23 MR. SCERBO: No, no, not right now.

24 MAYOR COCCHIOLA: No, no, you
25 started out referring to the code of

1 Nutley Board of Commissioners, 07/01/08

2 ethics.

3 MR. SCERBO: Yeah, I did. It's been
4 breached.

5 MAYOR COCCHIOLA: Premise number
6 one, this governing body, the five of us,
7 cannot influence, cannot get involved
8 with any application of the planning
9 board.

10 MR. SCERBO: I'm not asking you to.

11 MAYOR COCCHIOLA: Yes, you are.

12 MR. SCERBO: I'm asking -- no, I'm
13 not.

14 MAYOR COCCHIOLA: Sure. Now, wait a
15 minute.

16 MR. SCERBO: I'm not asking you to
17 get involved --

18 MAYOR COCCHIOLA: Sitting three feet
19 to your right is Phil McGovern who is
20 chair of the planning board. What I'm
21 going to ask you to do is at the
22 conclusion of this meeting if there is
23 something that you feel you've been
24 aggrieved or something that you need to
25 discuss, you need to discuss it with him.

1 Nutley Board of Commissioners, 07/01/08

2 MR. SCERBOe Well, I have something
3 that the police commissioners --

4 MAYOR COCCHOLAE You can't discuss
5 it with us.

6 MR. SCERBOe -- okay, let's go back
7 to the code of ethics then, can I discuss
8 that with you?

9 MAYOR COCCHOLAE For what purpose?

10 MR. SCERBOe Can I discuss the code
11 of ethics with the Commissioners of
12 Nutley, yes or no?

13 MAYOR COCCHOLAE If someone needs
14 to be recused from a matter involving the
15 planning board, then you bring it to the
16 attention of the chair --

17 MR. SCERBOe I've done that and
18 gotten nowhere. I've done it a board
19 attorney who refuses to answer my
20 e-mails.

21 COMMSSONER EVANSe Mr. Scerbo.

22 MAYOR COCCHOLAE Mr. Scerboe, at the
23 conclusion of this meeting, Mr. Kozyra's
24 here, Mr. McGovern's here. It's 9
25 o'clock at night, they're still here.

1 Nutley Board of Commissioners, 07/01/08

2 MR. SCERBO: So let me ask you this.

3 MAYOR COCCHIOLA: They will sit and
4 they will speak to you.

5 MR. SCERBO: So for the last two
6 months that I've reached out to the
7 planning board attorney and had nothing,
8 was that --

9 MAYOR COCCHIOLA: No, I think you've
10 had some e-mails back and forth.

11 MR. SCERBO: Yes, stating that he
12 doesn't feel he's in breach and that the
13 two women who came out against me are not
14 in breach.

15 MAYOR COCCHIOLA: Look. I see the
16 e-mails too.

17 MR. SCERBO: Right, you've seen the
18 e-mails.

19 MAYOR COCCHIOLA: So you need to
20 have a discussion with Mr. Kozyra and
21 Mr. McGovern, they are both here.

22 MR. SCERBO: I thought I was having
23 that discussion, but Mr. Kozyra --

24 MAYOR COCCHIOLA: They are both
25 willing to sit --

1 Nutley Board of Commissioners, 07/01/08

2 MR. SCERBO: -- refuses to answer my
3 e-mails.

4 MAYOR COCCHIOLA: They're right
5 here. They have waited all night long.

6 MR. SCERBO: I know that. Why won't
7 you answer my e-mails, Mr. Kozyra?

8 MAYOR COCCHIOLA: Okay. So when --
9 Mr. Scerbo, I'm going to ask you to calm
10 down and if you can't I'm going to ask
11 you to leave.

12 MR. SCERBO: Okay.

13 MAYOR COCCHIOLA: They're here, they
14 will sit and they will discuss this with
15 you at the conclusion of this meeting.

16 MR. SCERBO: Yeah, that's why I
17 thought I came here tonight.

18 MAYOR COCCHIOLA: They're here.

19 MR. SCERBO: I thought I did come
20 here tonight.

21 MAYOR COCCHIOLA: They'll sit down
22 with you at the conclusion of this
23 meeting --

24 MR. SCERBO: I have one other
25 question then. I have one other

1 Nutley Board of Commissioners, 07/01/08

2 question --

3 MAYOR COCCHIOLA: -- and they will
4 discuss this with you.

5 MR. SCERBO: -- I think I'm entitled
6 to that. If a -- if a homeowner applies
7 for a variance for a three-foot fence and
8 he's granted that variance but then goes
9 ahead and puts a six-foot fence up, how
10 do you think the recourse and protocol is
11 to that?

12 MAYOR COCCHIOLA: We can't answer
13 that question right now.

14 MR. SCERBO: Of course.

15 MAYOR COCCHIOLA: We're the
16 governing body of the municipality.

17 MR. SCERBO: Fair enough, fair
18 enough.

19 MAYOR COCCHIOLA: Do you have any
20 other questions. Mr. Kozyra and
21 Mr. McGovern are both here.

22 MR. SCERBO: I don't have any other
23 questions other than the fact that
24 there's been a breach. I hope it's in
25 the minutes. There's been a breach in

1 Nutley Board of Commissioners, 07/01/08
2 the code of ethics from Ms. Tangorra, Ms.
3 Craine and Mr. Kozyra.

4 UNIDENTIFIED SPEAKER: Mr. Scerbo, I
5 wouldn't necessarily name names here and
6 if you're aggrieved you have recourse.

7 MAYOR COCCHIOLA: Okay, thank you,
8 Mr. Scerbo. Is there anyone else that
9 would like to address the board this
10 evening?

11 MR. SCERBO: I'll be in touch with
12 you, Mr. Kozyra and Mr. McGovern.

13 MR. COFFEE: Good evening al
14 Commissioners.

15 MAYOR COCCHIOLA: Good evening.

16 MR. COFFEE: Most of you know who I
17 am. My name is John Coffee (ph.). I
18 live at 47 Lake Street in Nutley. And
19 that is a dead-end street that runs right
20 -- if you don't stop at the dead-end
21 street, you'll end up in Nichols Park.
22 I'm right next to the park.

23 After reading the article which
24 appeared in the Nutley Sun, dated June
25 26, 2008 on page 7, I wrote a letter to

1 Nutley Board of Commissioners, 07/01/08
2 the editor and sent copies to
3 Commissioner Tucci and Tom Pandolfi. Did
4 you get a copy?

5 COMMISSIONER TUCCI: Yes, I did.

6 MR. COFFEE: Great. I feel the
7 article, as written, has some mistakes
8 and errors. The first error being a
9 listing of Hudson Place which was close
10 to the park. This should have been
11 Funston Place. Now, that set it off
12 because if you've got an error in an
13 article like that, there's going to be
14 other problems.

15 Now, the second statement in the
16 article I question is Donna Hickey's, in
17 quotes, "Harrowing Tale" saying she spent
18 fifteen thousand dollars to among other
19 things have rats removed from her oven.
20 She also stated, according to the Nutley
21 Sun, "My home has been invaded by rats.
22 They got up to the second floor into my
23 child's room and into the bed. They had
24 babies and everything."

25 Now, the article goes on to state,

1 Nutley Board of Commissioners, 07/01/08

2 "The wood has to go. I had to buy a new
3 floor, bed and clothing for my child."
4 Now, my question to Mrs. Hickey is this,
5 were you and your family out of your home
6 for a period of time when something as
7 unbelievable as what was printed could
8 happen? I was an exterminator for
9 Terminix for several years and I have
10 personal knowledge with rats, I have
11 never seen a rat do that. The article
12 was written -- as written has given the
13 impression that this part of Nutley, by
14 Nichols Park, that is Funston Place, Lake
15 Street, Cottage Place and Bloomfield
16 Avenue is overrun by rats. That is not
17 true. But if you think it is true,
18 you'll have to prove it to me at your
19 earliest convenience.

20 Nichols Park is now and has always
21 been an open park where children play and
22 adults play softball and, yes, some even
23 have picnics. People come there from
24 other towns, that's true: Clifton,
25 Passaic, Bloomfield and Caldwell. Some

1 Nutley Board of Commissioners, 07/01/08

2 say we should keep it just for the people
3 of Nutley. How? How do you propose to
4 do that? It would be impossible to even
5 try to do it.

6 I helped to build a creative
7 playground along with the Commissioner
8 and mistakes were made. Parking is a big
9 problem and having the garbage removed
10 every day is another one, especially
11 during the summer. And if there is a
12 noise in the park after the curfew is in
13 effect at 10 p.m., call the police and
14 report it. They patrol the park twice an
15 evening and have for years. I know
16 because I requested that personally
17 myself. Thank you, very much.

18 MAYOR COCCHIOLA: Thank you,
19 Mr. Coffee.

20 MS. GAYNOR: Hi, my name is Alex
21 Gaynor, 197 Hillside Avenue. I'm also
22 here to talk about the creative
23 playground. I know Commissioner Tucci
24 had said a bunch of things that I didn't
25 know -- I didn't know all the violations

1 Nutley Board of Commissioners, 07/01/08

2 and stuff, but I've been playing at that
3 park, probably since I was about two, and
4 I'm fourteen. And I'm fine, so -- I
5 mean, I know you said there's a bunch of,
6 like, like things sticking out and things
7 that children can get hurt on but I've
8 been fine. I haven't really -- never
9 really known anybody whose gotten hurt by
10 the park and -- I mean the fact that it's
11 like that, you know, with, like, the wood
12 and all the different kind of corners and
13 stuff makes it unique. You know, I know
14 you say it's not -- it doesn't meet the
15 health codes but it's been -- or
16 whatever, sorry, but it's been working so
17 far in my opinion, so. And I know it's a
18 community effort and all that stuff and I
19 really hope that there is a way to save
20 it. And I don't have many facts and
21 stuff but I'm just coming to say that I
22 really -- that's my favorite park. I
23 mean I still like the parks even though,
24 you know, I'm a teenager. But I really
25 hope that they're -- you can find a way

1 Nutley Board of Commissioners, 07/01/08

2 to repair what needs to be repaired
3 because it sounded like a bunch of things
4 could be repaired, like the loose nails
5 and stuff, but I'm not really suree And
6 I just -- I'm just hoping that it could
7 be saved because that's one of my
8 favorite parks stille Thank youe

9 MAYOR COCCHIOLA: Thank you, Alexe

10 MSe NOCERA: Tina Nocera, 66 Union
11 Avenuee I didn't really think there was
12 anything I needed to add to the
13 playground comments especially after all
14 the eloquent speeches and this young girl
15 who just appreciates the parke I just do
16 want you to keep one thing in mind,
17 Commissioner Tucci, I guess, first of
18 all, did we get the pied piper or did the
19 rat problem now just go away? Because
20 all I've heard you talking about was the
21 safety of the park, so what happened with
22 that situation? I'm not clear on thate
23 COMMISSIONER TUCCI: The rat problem
24 existed because of the children that were
25 playing theree And as I've said time and

1 Nutley Board of Commissioners, 07/01/08

2 time again, because of them dropping
3 cookies and pieces of sandwich and things
4 like that attracted the rats --

5 MS. NOCERA: Don't we plan to invite
6 the children back?

7 COMMISSONER TUCCÈ: -- excuse me,
8 let me finish -- attracted the rats up
9 into the playground. So with the
10 playground closed, obviously, there are
11 no children in there so there is no food
12 in there so it's not attracting them up.
13 And we have, in fact, baited it.

14 MS. NOCERA: But when we have the
15 children back and little -- the goldfish
16 crackers, etcetera will -- I mean I'm
17 not -- I'm confused about that --

18 COMMISSONER TUCCÈ: I'm sorry I --

19 MS. NOCERA: -- all the children go
20 to all the parks and they all have little
21 snacks so I'm not clear on --

22 COMMISSONER TUCCÈ: Right. But the
23 other parks are a little bit different
24 than the creative playground as you well
25 know.

1 Nutley Board of Commissioners, 07/01/08

2 MS. NOCERA: Right.

3 COMMISSËONER TUCCI: The creative
4 playground does, in fact, some enclosed
5 areas. And those enclosed areas are
6 where the rats are attracted to. The
7 others are open. So if the child does
8 drop a piece of a sandwich or if a child
9 does drop a cookie, the birds will take
10 it, the squirrels will take it, they're
11 much more open. They don't have as many
12 concealed areas as the creative
13 playground.

14 MS. NOCERA: Well, the other
15 playgrounds are designed by lawyers; this
16 playground was designed by children.

17 COMMISSËONER TUCCI: Right.

18 MS. NOCERA: And that's probably the
19 biggest difference.

20 COMMËSSËONER TUCCË: But no matter
21 who it was designed by, I think we all
22 agree that it needs to be safe. And if
23 it's not safe, then it's not good for our
24 children.

25 MS. NOCERA: Right.

1 Nutley Board of Commissioners, 07/01/08

2 COMMISSIONER TUCCI: No matter how
3 much time those of us who did participate
4 in it have invested it, if it's not good
5 for our children, then it's really not
6 good for any of us.

7 MS. NOCERA: No one disagrees with
8 that at all. I don't think anyone here
9 would ever argue with you about the
10 safety of our children being the first
11 and most important thing. What we're
12 talking about is that if there needs to
13 be, in fact, a new structure, that it
14 will have the same intensity, the same
15 passion, the same commitment as the
16 people who are representing that first
17 playground in this room. And the only
18 way you're going to do that is to really
19 replicate the exact situations that
20 happen, which was community involvement,
21 awareness, participation. And maybe,
22 maybe this young girl, maybe this very
23 sweet young girl can lead the charge.

24 COMMISSIONER TUCCI: I couldn't
25 agree with you more, Ms. Nocera. I

1 Nutley Board of Commissioners, 07/01/08
2 couldn't agree with you more.

3 MS. NOCERA: So all I'm asking is if
4 this has to happen, it doesn't look like
5 the other very sterile lawyeredesignated
6 playgrounds.

7 COMMISSIONER TUCCI: I have to
8 disagree with you. I'm not so sure that
9 I'd characterize all the other
10 playgrounds as sterile, but if the
11 township would like something a bit
12 different, a bit more creative, then
13 absolutely we will entertain that.

14 MS. NOCERA: Then all I ask is that
15 you involve the children, okay?

16 COMMISSIONER TUCCI: We will
17 involve --

18 MS. NOCERA: And by the way --

19 COMMISSIONER TUCCI: -- we will
20 involve everyone.

21 MS. NOCERA: -- I'd like to offer,
22 I'm a member of the International
23 Association of a Child's Right to Play
24 which is a national organization
25 sanctioned by the UN, which is -- it's

1 Nutley Board of Commissioners, 07/01/08

2 very important that our children do learn
3 to play, you know, especially in this
4 technological age with texting and the
5 games and all that stuff, there is
6 nothing like fresh air and spiders and
7 dirt and, yeah, maybe even some
8 splinters.

9 COMMISSIONER TUCCI: Well, some
10 splinters wouldn't be so bad, but
11 splinters laced with arsenic are not a
12 good thing.

13 MS. NOCERA: Good point. Point
14 taken. Thank you very much.

15 COMMISSIONER TUCCI: Thank you.

16 MR. RECCHIONE: Hi, I'm Mike
17 Recchione, 565 Passaic Avenue and I want
18 to talk about the park too.

19 It was an impressive list of
20 violations that you read, but most of
21 them were protruding bolts, too many
22 swings in a bay, the chips that you
23 removed when you closed the park, they
24 could be put back, a drop from a slide
25 that was too far. There were a couple of

1 Nutley Board of Commissioners, 07/01/08

2 small structures that could be moved, but
3 it sounded very much like everything that
4 you cited could be fixed pretty easily
5 with the right kind of maintenance. A
6 swing support installed upside down,
7 that's human error, right. There's no
8 fundamental flaw in the design of the
9 park. So the one fundamental issue is
10 whether or not CCA lumber structures can
11 still meet code.

12 It appears from the first report
13 that you cited that they can as long as
14 they're coated. You don't eliminate the
15 risk completely, but there's no such
16 thing as a risk-free structure anyway.
17 So as long as it's still legal to have
18 wooden structures, and they're all going
19 to be made out of some kind of pressuree
20 treated wood that's coated with something
21 to make them safer, there's nothing
22 that's fundamentally wrong with this
23 park. Is there a way that we can
24 approach this very conservatively and
25 say, what would it take us to fix it and

1 Nutley Board of Commissioners, 07/01/08
2 keep the structure, the basic
3 architecture and the concept of it as a
4 fantasy park that was community designed
5 rather than replacing the entire
6 structure with something modern? There
7 was nothing in your list that was very
8 difficult to fix or even a major
9 structural or conceptual flaw.

10 COMMISSIONER TUCCIE I'm sure that's
11 a very easy statement for you to make
12 from where you stand, but from where I
13 sit, and from overseeing over a hundred
14 acres of parkland and all the municipal
15 buildings and all of the playgrounds and
16 all of the other facilities we have in
17 the township, it's not such an easy task.

18 MR. RECCHIONE Well, I mean if
19 we're talking about a few bolts that are
20 protruding --

21 COMMISSIONER TUCCIE I would agree
22 with you -- let me finish -- I would
23 agree with you that nothing is impossible
24 and that we will, in fact, entertain
25 modifying it, eliminating the hazards and

1 Nutley Board of Commissioners, 07/01/08
2 seeing what we could do to do that. But
3 I do want to read one other part here.
4 And it says here, very succinctly, "CCAe
5 treated wood should not be used as
6 playground mulch or equipment. So I
7 mean we can minimize the risk by coating
8 it and encapsulating it, but you never
9 eliminate the risks.

10 MR. RECCHIONE: Right. You're
11 quoting from -- what website was that?

12 COMMISSIONER TUCCI: The jury is
13 still on that and we want to see to what
14 degree the risk presents itself. That's
15 why we're going to have the wood tested.

16 MR. RECCHIONE: Commissioner Tucci,
17 can you give me the reference on that
18 website? Was that a US Government
19 website that sets standards for
20 playgrounds or was it just a website?

21 COMMISSIONER TUCCI: It's a
22 website --

23 MR. RECCHIONE: There are thousands
24 and thousands of websites.

25 COMMISSIONER TUCCI: -- actually, it

1 Nutley Board of Commissioners, 07/01/08
2 comes out of the handbook, the Public
3 Playground Safety Handbook put out by the
4 US Consumer Product Safety Commission.

5 MR. RECCHIONE: All right. And is
6 there a mandate to not use wood?

7 COMMISSIONER TUCCI: "Saving Lives
8 and Keeping Families Safe".

9 MR. RECCHIONE: In other words, can
10 wood meet code? What material --

11 COMMISSIONER TUCCI: I'm sorry, can
12 the wood be what?

13 MR. RECCHIONE: Can wood be made to
14 meet code for a playground?

15 COMMISSIONER TUCCI: Not CCA-treated
16 wood. There are different types of wood
17 that can, in fact, be utilized.

18 MR. RECCHIONE: Right. That
19 conflicts with the first report that you
20 read.

21 COMMISSIONER TUCCI: And there are
22 different types that -- are we going to
23 speak over each other, Mr. Recchione or
24 are we going to talk in a civilized
25 manner?

1 Nutley Board of Commissioners, 07/01/08

2 MR. RECCHIONE: You know, I've got a
3 stake in the park, my kids loved it too
4 and it's a unique resource. The way that
5 you presented your arguments made it
6 clear that you had arrived at a
7 conclusion.

8 COMMISSIONER TUCCI: I'm not --
9 let's just make one thing perfectly
10 clear, I'm not presenting an argument,
11 I'm presenting facts. They're not my
12 findings, they're not my conclusions,
13 they're the conclusions of playground
14 safety inspectors. All right. I'm just
15 giving you information.

16 MR. RECCHIONE: Okay. There was --

17 COMMISSIONER TUCCI: All right. And
18 I'm sharing information with everyone.
19 It's open for everyone to reviewe

20 MR. RECCHIONE: There was one
21 fundamental issue in all of the
22 violations -- all of the problems that
23 you cited. The one fundamental one was
24 whether or not it's legal to have CCAe
25 treated wood as a structural material in

1 Nutley Board of Commissioners, 07/01/08

2 a park --

3 COMMISSIONER TUCCI: I haven't seen
4 anything that says it's illegal --

5 MR. RECCHIONE: --particularly, if
6 it's a grandfather park.

7 COMMISSIONER TUCCI: -- all right,
8 but it's not recommended.

9 MR. RECCHIONE: It's a dangerous
10 world, right. But if the park can be
11 made to meet code and preserve it's
12 current design, are you committed to take
13 that course or are you at this point
14 committed to taking a course which
15 involves --

16 COMMISSIONER TUCCI: I'll say it
17 again, because, obviously you didn't hear
18 me when Mr. Negra was speaking, I said,
19 all options are open. We will entertain
20 any reasonable alternative to make the
21 park safe. Whether that's modifying
22 what's there, whether it's removing
23 what's there, building something else.
24 There has not been a determination made.
25 I come into this with no preconceived

1 Nutley Board of Commissioners, 07/01/08
2 determinations as to the outcome of this
3 park.

4 I mean I don't know what else I can
5 say. I understand how people feel about
6 it. I also have a close attachment to
7 the park. I'm very happy that this young
8 lady took the time out of her schedule to
9 come here and to share with us how she
10 feels about the park. I know
11 Mr. Levindoski (ph.ø) has written me a
12 letter on behalf of the preservation
13 group about the park. I mean there are
14 many people that have a vested interest
15 in this park and would like to see it
16 saved in some way, shape or form. And
17 all those options are open to us. So am
18 I committed to keeping those options
19 open? Absolutely, yes, I am.

20 MR. RECCHIONE: Okay. Thank you.

21 COMMISSIONER TUCCI: You're welcome.

22 MAYOR COCCHIOLA: Thank you, Mr.
23 Recchione.

24 MR. LEVENDOSKI: Jim Levindoski, 19
25 Colonial Terrace. I'm sorry. I think --

1 Nutley Board of Commissioners, 07/01/08

2 first of all, Commissioner Tucci, thank
3 you for sharing all that information and
4 I appreciate your openness (sic).

5 Just as I get clarity so -- because there
6 seem to have been different things in the
7 press and whatnot, there's no proposal to
8 remove the facility in its entirety? I
9 mean a playground will remain provided
10 that what remains is -- that the risks
11 are mitigated and so on and so forth.

12 COMMISSIONER TUCCI: Right. It's my
13 opinion that we need a playground in that
14 park, yes.

15 MR. LEVINDOSKI: Okay. So it's not
16 going to be demolished, I mean there's
17 nothing there?

18 COMMISSIONER TUCCI: That was never
19 in my plans.

20 MR. LEVINDOSKI: Okay. All right,
21 thank you.

22 COMMISSIONER TUCCI: Thank you, Jim.

23 MR. DOLACHECK: Bill Dolacheck
24 (ph.), 501 Centre Street. I'd also like
25 to talk about the park.

1 Nutley Board of Commissioners, 07/01/08

2 I just would like to say the
3 majority of the (indiscernible) that's on
4 the wood on the surface by this time have
5 been washed away by rain. By sealing it,
6 I believe, the wood would be perfectly
7 safe. And I would like to offer my
8 services, my son's services, to fix
9 anything that's unsafe for any children
10 at the park and we'll reform the
11 committee. And we'll get volunteers back
12 in there to make the park safe for
13 everybody. And I think I got my first
14 one right over there.

15 COMMISSIONER TUCCI: I think you're
16 right.

17 MR. DOLACHECK: Thank you very much.

18 MAYOR COCCHIOLA: Thank you,
19 Mr. Dolacheck.

20 MR. HICKEY: Thomas Hickey, I live
21 at 44 Funston Place in Nutley. My house
22 is the house which had the rat in it.
23 And either I cut the hole in myself or we
24 made this up. Guys, I don't -- I'm not
25 an expert at extermination, but I've had

1 Nutley Board of Commissioners, 07/01/08
2 mice in my house over the last fifteen
3 years when I lived there. High rains,
4 change of weather you get them once in a
5 while you see the droppings. I had no
6 idea there was anything in my house at
7 all. There was no signs of it.

8 (Indiscernible) wasn't in. My kids were
9 hearing things in the walls. Had no idea
10 what it could possibly be. My daughters
11 said they saw some in the kitchen. Said,
12 "Guys, there's no signs of mice. We've
13 had them all the time." I've had
14 exterminators in my house twice a year
15 for the last fifteen years. If it does
16 happen, I have it taken care of.

17 I had just changed the floors in my
18 daughter's room for -- son's room, five
19 months ago. I know the baseboards; it's
20 what I do for a living. When I saw
21 something, the kids were screaming
22 upstairs, there was something in the
23 room, I went upstairs I said "I'm going
24 to settle this right now. I've had it.
25 Because I've been hearing it for two

1 Nutley Board of Commissioners, 07~~4~~01~~4~~08
2 weeks. When I moved all the furniture
3 out the way, there was a hole in the
4 wall. Because I said, "If there's a rat
5 in here, I'm not going to let it leave.
6 I'll fix this right now." Somebody came
7 out from the town -- an exterminator that
8 was sent by the town. We called the
9 town, there was a problem. He was the
10 one who explained to me, believe it or
11 not he said, "These rats are
12 intelligent." I've had traps, he said,
13 "They're not going to go in the traps."
14 He said, "It's not a mouse, it's a rat",
15 which is a problem. It had destroyed
16 underneath the carpet in the room and,
17 honestly, for sanitary reasons I tossed
18 out the beds, I got rid of everything.

19 Now, I love the park too. I mean,
20 guys, my kids played in that park. They
21 grew up in that park. I have no problem
22 with the park. I don't want the park
23 torn down. The problem I have is when
24 that park shut down, you had signs out,
25 nobody's allowed in the park. When you

1 Nutley Board of Commissioners, 07/01/08

2 walk by there, you could stand there
3 midday and you could see rats inside the
4 park running all over the place. It's a
5 problem. How hard is it to get somebody
6 to take care of the rat problem? I mean
7 if we take care of the problem, I have no
8 complaint over it.

9 But -- I didn't even want to speak
10 here tonight but for somebody to come up
11 and say that it was made up, the story
12 was made up, in twenty years you've never
13 seen anything happen like that? I've no
14 reason to lie about it. And, guys, I'm
15 not kidding you, I love the park too.
16 But it did happen, okay. It did happen.
17 It's either that or I'm a liar.

18 MR. COFFEE: I didn't say you were a
19 liar.

20 MR. HICKEY: If the problem's taken
21 care of, I have no issues with anything,
22 guys. And I -- c'mon. They figured out
23 a way to charge four dollars for a gallon
24 of gas or four dollars for a gallon of
25 milk, we can't get rid of the rats.

1 Nutley Board of Commissioners, 07/01/08

2 That's all I say, guys. I'm all for it.
3 I want to keep it. My friends built that
4 park too. I have a lot of buddies in
5 town. We talk about it. And they say
6 the same thing to me. Guys, c'mon. It's
7 been there a long time. They have no
8 issue with it. But if it's a problem to
9 the safety in your house with your
10 children, think about it. It's either
11 taken care of or you take care of the
12 problem. That's it. You tear it down.
13 And I have no problem with it at all.
14 But, guys, I mean how hard is it? I'll
15 make the phone calls to the
16 exterminators. There's got to be
17 somebody who knows their job well enough
18 where it can done. Guys, that's all I
19 came here to say. Please. I know
20 everybody wants the park. They -- she's
21 willing to keep it. And it's almost
22 twenty years, huh? Son of a gun. Guys,
23 thank you. Congratulations, guys, nice
24 job.

25 MAYOR COCCHIOLA: Mr. Hickey, one

1 Nutley Board of Commissioners, 07/01/08
2 question. Your wife was here, I guess,
3 at the last meeting and after she -- she
4 was the only resident who complained at
5 that meeting about the rats. We sent
6 someone over. Did you get any relief
7 from that? I know that we sent some
8 exterminators over.

9 MR. HICKEY: They said there was an
10 issue with it and they're taking care of
11 it. That's why I love Nutley, guys.
12 You're taking care of your business. All
13 right. But I'd rather keep the peace and
14 get it taken care of. All righty.
15 Thanks for the time.

16 MAYOR COCCHIOLA: Thank you. Is
17 there anyone else who would like to
18 address the board this evening? You
19 can --

20 MS. ACKNEBERG: Tell them your name.
21 What's your name?

22 NOAH: Noah.

23 MS. SCHNAKENBERG: Okay. Do you
24 want to ask them anything about the park?

25 MAYOR COCCHIOLA: Hi, what's your

1 Nutley Board of Commissioners, 07/01/08

2 name?

3 NOAH: Noah.

4 MS. SCHNAKENBERG: What do you want
5 to say now, Noah.

6 NOAH: Hello. Noah.

7 MS. SCHNAKENBERG: You asked to say
8 something. You want to say anything or
9 not? We don't have a lot of time.

10 MAYOR COCCHIOLO: You want to tell
11 us something?

12 MS. SCHNAKENBERG: Do you want me to
13 tell them?

14 NOAH: You can.

15 MS. SCHNAKENBERG: You want to say
16 please save my park?

17 NOAH: Can we save it.

18 MS. SCHNAKENBERG: Okay. I think
19 what my son wanted to say was he was
20 going to ask you to please save the park.

21 NOAH: Yeah. Good.

22 MS. SCHNAKENBERG: Is that it?

23 NOAH: Yeah.

24 MS. SCHNAKENBERG: Okay. Go back to
25 dad.

1 Nutley Board of Commissioners, 07/01/08

2 MAYOR COCCHIOLA: Thank you, honey.

3 MS. SCHNAKENBERG: Thank for

4 indulging him. It's his civics lesson

5 for today. My name is Ashley (ph.)

6 Schnakenberg. I'm at 268 Washington Ave

7 in Clifton. (Indiscernible) in town, but

8 I did want to come here to implore you to

9 do what you can to remediate your

10 situation with the park. I'm here as a

11 parent and not just a parent but a parent

12 of a child in New Jersey. And living in

13 New Jersey we have a lot of problems with

14 toxins and hazards and such. I myself

15 have a lead problem in my backyard. I

16 had to deal with arsenic in my garage. I

17 have lead in my soil. I dealt with that

18 through encapsulation. The arsenic we'll

19 have to have removed, but there was a

20 half a box of it we found. They used to

21 spray fruit trees with this. But this

22 lead in my soil is a situation we've had

23 to deal with.

24 I chose as a parent not to remove

25 all the soil from my property given the

1 Nutley Board of Commissioners, 07/01/08
2 expense to that kind of a situation, you
3 can understand what that would involve,
4 that kind of remediation. But
5 encapsulation in the form of -- I'm also
6 a horticulturist, keeping the ground
7 covered with turf and keeping the
8 children from digging in the soil has
9 been an acceptable solution,
10 encapsulation, and I would implore you to
11 consider that as you see those various
12 arguments on whether -- what level is
13 safe, what level do you consider safe,
14 what's acceptable. As a parent, I'm okay
15 with encapsulation as long as the child
16 isn't eating off the substance and
17 dealing with old decks, you don't want to
18 be serving food or having your hands
19 touch it and then consuming food. But
20 it's a creative playground, it deserves a
21 creative solution. I think you have a
22 lot of people here, you have something
23 special. Even this many years later you
24 have support. Not just support from
25 within your own town but outside your

1 Nutley Board of Commissioners, 07/01/08

2 town. And there's a lot of people
3 perception and a lot of good you can do
4 with this kind of a coming together.

5 And the situation with the rats and
6 problems with the neighbors and all,
7 there's a lot of ways that you can come
8 up with solutions for that. You can do
9 permit parking only, you can create other
10 parking areas, you can tighten up on the
11 rat situation. Manhattan had an awful
12 rat situation for a long timee They got
13 rid of most of them, it was a big deal,
14 they cleaned up the rats.

15 Perhaps the surface areas you can
16 look at dealing with the mulch and the
17 chips and all. Perhaps you can bring the
18 park up to 21st Century standards.
19 Dealing with different surfaces, modern
20 surfaces, it would be easier to clean and
21 remove litter from that didn't involve
22 mulch.

23 As you said yourself, Mr. Tucci,
24 there's a lot of measurements and things.
25 There's a lot of standards you can bring

1 Nutley Board of Commissioners, 07/01/08
2 it back to. And I appreciate all the
3 care and concern in taking to keep my
4 child safe. But there's also a need for
5 a creative place to play. And I have to
6 tell you, there is no other creative
7 place to play nearby. The only other
8 park of this kind that I happen to have
9 seen is maybe in Madison or New Falls,
10 New York; Madison, New Jersey and New
11 Falls, New York I believe I've seen
12 these. And we really treasure your park
13 and hope that you'll come up with some
14 creative solutions for your creative
15 playground. Thank you.

16 MAYOR COCCHIOLA: Thank you.

17 MS. HICKEY: Connie Hickey, 44
18 Funston Place. I'm not up here to talk
19 to them; I'm up here to talk to the town,
20 really. I'm the one that lives with
21 that; my husband who was just up here.

22 Yes, it was a rat, it was a huge rat
23 and the rat had babies in my home. All
24 right. That was taken care of --

25 MAYOR COCCHIOLA: Ms. Hickey, you

1 Nutley Board of Commissioners, 07/01/08
2 want to direct your comments to us into
3 the microphone?

4 MS. HICKEY: -- sorry -- and it's
5 gone. And it's gone. The town has come
6 in, they've taken care of whatever
7 they've taken care of.

8 I understand all the emotions and
9 the feelings that all the children have
10 because my children have the same
11 feelings. They do not want the park to
12 come down. I will not allow my children
13 to go there and play because there are
14 rats embedded. They have homes in the
15 bottom of the wood. I see them there.
16 My neighbors see them there. If you want
17 your child to play there and you want to
18 risk them being under that wood and a rat
19 coming out and chomping their finger or
20 getting the germs and diseases from them,
21 then shame on you. Because that's just
22 stupidity, okay.

23 It's a beautiful playground. No,
24 there's not many out there like it, but
25 it is not safe for the children. And,

1 Nutley Board of Commissioners, 07/01/08

2 yes, a lot of children have gotten hurt
3 in that playground and it come to my home
4 and I have called ambulance and I have
5 taken care of those children. And it
6 does happen. And I know it happens in
7 all parks, but it does happen there and
8 it happens often. And I would love to
9 keep the park, but I think it's almost
10 impossibæe to reground that wood and get
11 it safe and clean for our children. You
12 have to think about the safety of our
13 kids. How would those volunteers feel if
14 a child got hurt or had a fatal disease
15 from a rodent or from the wood? You have
16 to think about that. Don't you think
17 they would rather come in and rebuild
18 something together as a community?
19 That's how I feel. I live there. I see
20 it. They're not even -- they're all over
21 the place. You have to be there to see
22 it night and day. And the people that
23 come in out of town, they leave garbage
24 all over the place, they don't care about
25 our streets. We pick up diapers, we pick

1 Nutley Board of Commissioners, 07/01/08

2 up bottles; it's constant. Because it is
3 a special place to come, they like to
4 come there and I know something could be
5 done about that, we can police that
6 situation. But as far as the safety of
7 these kids, of our children, and even our
8 adults and our animals and our dogs and
9 people who walk the park and

10 (indiscernible)e, it is, in my eyes,
11 living there day in and day out and I am
12 there with the kids all day, I play
13 softball in that park, I have four
14 children, I have parties and parties and
15 parties and kids are around my house
16 constantly. I am a kidfriendly person.
17 It is not safe for our children. And I'm
18 sorry for all the people who have
19 emotional issues and who want to keep
20 this park, but think about the children
21 first not about your emotions. It's
22 business. It's not a personal situation
23 here. You have to think about these kids
24 and the safety of them and the adults and
25 our dogs. And whatever animals that

1 Nutley Board of Commissioners, 07/01/08

2 other people are walking in the park,
3 whatever.

4 But I don't know what else to say.
5 I know it's emotional and I feel horrible
6 hearing everybody's situation. But it's
7 true and it's there and something really
8 has to be done. And that's just the way
9 it is. Thank you.

10 MAYOR COCCHIOLA: Thank you,
11 Ms. Hickey. Is there anyone else who
12 would like to address the board this
13 evening?

14 COMMISSIONER SCARPELLI: Let's do
15 adjourn.

16 MAYOR COCCHIOLA: Need a second.

17 COMMISSIONER EVANS: Second.

18 THE CLERK: Commissioner Scarpelli?

19 COMMISSIONER SCARPELLI: Aye.

20 THE CLERK: Commissioner Petracco?

21 COMMISSIONER PETRACCO: Aye.

22 THE CLERK: Commissioner Evans?

23 COMMISSIONER EVANS: Aye.

24 THE CLERK: Commissioner Tucci?

25 COMMISSIONER TUCCI: Aye.

1 Nutley Board of Commissioners, 07/01/08

2 THE CLERK: Mayor Cocchiola?

3 MAYOR COCCHIOLA: Aye. Meeting
4 adjourned.

5 (End of audio)

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C E R T I F I C A T I O N

I, Ellen S. Kolman, hereby certify that the foregoing is a true and correct transcription, to the best of my ability, of the sound recorded proceedings submitted for transcription.

I further certify that I am not employed by nor related to any party to this action.

In witness whereof, I hereby sign this date:
May 26, 2009.

Ellen S. Kolman sv

Ellen S. Kolman