September 16, 2008 Meeting Transcription approved by the Board of Commissioners of the Township of Nutley at their meeting held on Tuesday June 9, 2009.
TOWNSHIP OF NUTLEY
COUNTY OF ESSEX, NEW JERSEY
BOARD OF COMMISSIONERS

RE: PUBLIC MEETING TRANSCRIPT OF PROCEEDINGS:

Township of Nutley
Municipal Building
3rd Floor, Commission Chambers
One Kennedy Drive
Nutley, New Jersey 07111
Tuesday, September 16, 2008
7:00 p.m.

BEFORE:
Mayor Joanne Cocchiola
Commissioner Joseph P. Scarpelli
Commissioner Alphonse Petracco
Commissioner Thomas J. Evans
Commissioner Mauro G. Tucci

ALSO PRESENT:
Evelyn Rosario, Township Clerk
Kevin Harkins, Esq., Township Attorney
Jack Magnifico, Resident
Rory Moore, Resident
Dave Negra, Resident
Katie Aiello, Resident
Ken Molkenthin, Resident
Gene Downin, Resident

Job No.: 200651
MAYOR COCCHIOLA: Can everyone please stand for the flag salute?

(Pledge of Allegiance is recited)

MAYOR COCCHIOLA: Madam Clerk, could you please reread the Sunshine Notice for the benefit of those who were not in executive session?

MADAM CLERK: Pursuant to the requirements of the open public law, Chapter 231, Public Law 1975, notice of the 5 p.m. executive session meeting was duly published in the September 11, 2008 issues of the Nutley Sun and the Journal. A copy of this notice has been posted on the Nutley Town Hall bulletin board, and a copy is on file in the municipal clerk's office.

Pursuant to the requirements of the open public meeting law, Chapter 231, Public Law 1975, notice of this meeting was duly published in the September 13, 2007 issues of the Nutley Sun, the Journal, the Star Ledger, and the Herald News. Said notice was amended to reflect
the new start time of all 2008 remaining meetings and duly published in the May 29, 2008 issues of the Nutley Sun, the Journal, the Herald News, and the June 2, 2008 issue of the Star Ledger. A copy of this notice has been posted on the Nutley Town Hall bulletin board, and a copy is on file in the municipal clerk's office.

Commissioner Scarpelli?

COMMISSIONER SCARPELLI: Here.

MADAM CLERK: Commissioner Petracco?

COMMISSIONER PETRACCO: Here.

MADAM CLERK: Commissioner Evans?

COMMISSIONER EVANS: Here.

MADAM CLERK: Commissioner Tucci?

COMMISSIONER TUCCI: Here.

MADAM CLERK: Mayor Cocchiola?

MAYOR COCCHIOLA: Here.

MADAM CLERK: All present, mayor.

MAYOR COCCHIOLA: And the record should note that the board did enter into an executive session at 5 o'clock this evening to discuss personnel matters.

Before we begin our normal business
this evening, I'd like to ask my colleagues and everyone here this evening to join us in a moment of silence in memory of Joyce Donadio. Not only was Joyce a longtime employee of the Township of Nutley, but she was also a very dedicated person in the community, and volunteered in many civic organizations, and I know that we're all going to miss her terribly.

Thank you.

Madam Clerk, you can proceed with reports. Commissioner Scarpelli?


MAYOR COCCHIOLA: Thank you. Move on to bills.

MADAM CLERK: Yes, Mayor. Bill list, September 16, 2008. Public affairs, $84,461.29. Revenue and
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finance, $2,128,997.35. Public safety, $42,977.17. Public works, $380,116.94. Parks and public property, $96,602.68. Payroll as of September 16th -- I'm sorry, payroll as of September 5, 2008, $748,331.18, for a grand total bill list of $3,481,486.61. And that's all for bills, Mayor.

COMMISSIONER EVANS: Move the bills.
COMMISSIONER TUCCI: Second.
MADAM CLERK: Commissioner Scarpelli?

COMMISSIONER SCARPELLI: Aye.
MADAM CLERK: Commissioner Petracco?
COMMISSIONER PETRACCO: Aye.
MADAM CLERK: Commissioner Evans?
COMMISSIONER EVANS: Aye.
MADAM CLERK: Commissioner Tucci?
COMMISSIONER TUCCI: Aye.
MADAM CLERK: Mayor Cocchiola?
MAYOR COCCHIOLA: Aye.
MADAM CLERK: Thank you, Mayor.
MAYOR COCCHIOLA: Thank you. We can move on to introductions of ordinances.
Commissioner Tucci?

COMMISSIONER TUCCI: This is an ordinance to amend an ordinance to fix the salaries of certain officers and employees of the Township of Nutley in the County of Essex in the State of New Jersey, effective date January 1, 2008. I move that this ordinance be passed to a second reading and advertised in the Nutley Sun together with the notice required by law, and that further consideration of said ordinance for final passage by the board of commissioners be held at its second reading on -- what's that date, Evelyn?

MADAM CLERK: That would be October 21, 2008, Commissioner.


COMMISSIONER EVANS: Second.

MADAM CLERK: Commissioner Scarpelli?

COMMISSIONER SCARPELLI: Aye.

MADAM CLERK: Commissioner Petracco?
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COMMISSIONER PETRACCO: Aye.

MADAM CLERK: Commissioner Evans?

COMMISSIONER EVANS: Aye.

MADAM CLERK: Commissioner Tucci?

COMMISSIONER TUCCI: Aye.

MADAM CLERK: Mayor Cocchiola?

MAYOR COCCHIOLA: Aye.

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

MAYOR COCCHIOLA: Commissioner Petracco?

COMMISSIONER PETRACCO: Yes, I have two ordinances. An ordinance of the Township of Nutley adding Chapter 176 to the Nutley Municipal Code relating to canvassers. I move that this ordinance be passed to a second reading and advertised in the Nutley Sun together with the notice required by law, and that further consideration of said ordinance for final passage by the board of commission be held at its second reading on October 21, 2008.

COMMISSIONER SCARPELLI: Second.
MADAM CLERK: Commissioner Scarpelli?

COMMISSIONER SCARPELLI: Aye.

MADAM CLERK: Commissioner Petracco?

COMMISSIONER PETRACCO: Aye.

MADAM CLERK: Commissioner Evans?

COMMISSIONER EVANS: Aye.

MADAM CLERK: Commissioner Tucci?

COMMISSIONER TUCCI: Aye.

MADAM CLERK: Mayor Cocchiola?

MAYOR COCCHIOLA: Aye.

COMMISSIONER PETRACCO: Okay, my second is an ordinance of the Township of Nutley amending Chapter 175 of the Township of Nutley Municipal Code relating to peddlers and solicitors. I move that the ordinance be passed to a second reading and advertised in the Nutley Sun together with the notice required by law, and that further consideration of said ordinance for final passage by the board of commissioners be held at its second reading on October 21, 2008.
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COMMISSIONER SCARPELLI: Second.

MADAM CLERK: Commissioner Scarpelli?

COMMISSIONER SCARPELLI: Aye.

MADAM CLERK: Commissioner Petracco?

COMMISSIONER PETRACCO: Aye.

MADAM CLERK: Commissioner Evans?

COMMISSIONER EVANS: Aye.

MADAM CLERK: Commissioner Tucci?

COMMISSIONER TUCCI: Aye.

MADAM CLERK: Mayor Cocchiola?

MAYOR COCCHIOLA: Aye. We can move on to resolutions. Commissioner Petracco?

COMMISSIONER PETRACCO: Yes.

Resolution authorizing the award of a nonefair and open contractor for Labor Counsel. Whereas the Township of Nutley Department of Public Safety has a need to acquire the services of a Labor Counsel as a nonefair and open contract pursuant to the provisions of New Jersey S.A. 19:44A-20.4 or 20.5 as appropriate; and, whereas the director of public safety has
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determined and certified in writing that the value of the acquisition will exceed 17,500; and, whereas the anticipated term of this contract is July 1, 2008 through June 30, 2009 and may be extended as approved by this governing body; and whereas the law offices of Ruderman & Glickman, P.C. has submitted a proposal dated August 27th, indicated that they will provide labor council at a rate of 125 dollars per hour; and, whereas the firm of Ruderman & Glickman has completed an submitted a Business entity Disclosure Certification which certifies that the firm has not made any reportable contributions to a political or candidate committee in the Township of Nutley in the previous one year, and that the contract will prohibit the firm of Ruderman & Glickman from making any reportable contributions through the term of contract; and, whereas the contract is not to exceed 25,000 dollars, and whereas funds are available from account 8-01-
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308-209, and have been certified by the Chief Financial Officer, said certification being attached to this resolution; now therefore, be it resolved by the Board of Commissioners of the Township of Nutley authorizes a contract with the firm of Ruderman & Glickman as described hereon; and, be it further resolved that the Business Disclosure Entity Certification and the Determination of Value be placed on file with the resolution; and be it further resolved that a notice of this action shall be printed in the Nutley Sun in accordance with the Local Public Contracts Law. I move this resolution.

COMMISSIONER SCARPELLI: Second.
MADAM CLERK: Commissioner Scarpelli?

COMMISSIONER SCARPELLI: Aye.
MADAM CLERK: Commissioner Petracco?

COMMISSIONER PETRACCO: Aye.
MADAM CLERK: Commissioner Evans?

COMMISSIONER EVANS: Aye.
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MADAM CLERK: Commissioner Tucci?

COMMISSIONER TUCCI: Aye.

MADAM CLERK: Mayor Cocchiola?

MAYOR COCCHIOLA: Aye.

COMMISSIONER PETRACCO: That's all I have, Mayor.

MAYOR COCCHIOLA: Thank you.

Commissioner Evans?

COMMISSIONER EVANS: Thank you, Mayor. Be it resolved by the Board of Commissioners of the Township of Nutley in the County of Essex, New Jersey that the Township Treasurer be and she is hereby authorized to refund Brinks Home Security, 14 Worlds Fair Drive, Unit B, Somerset, New Jersey 08873, in the amount of one hundred dollars for the refund of a permit fee for the installation of a burglar and fire alarm system at 141 North Road. The installation contract has been withdrawn by the owner, Ms. Rudder, and all work scheduled with Brinks Home Security has been cancelled.

Paid by check number 1100695 on July 21,
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2008, so moved.

COMMISSIONER TUCCI: Second.

MADAM CLERK: Commissioner Scarpelli?

COMMISSIONER SCARPELLI: Aye.

MADAM CLERK: Commissioner Petracco?

COMMISSIONER PETRACCO: Aye.

MADAM CLERK: Commissioner Evans?

COMMISSIONER EVANS: Aye.

MADAM CLERK: Commissioner Tucci?

COMMISSIONER TUCCI: Aye.

MADAM CLERK: Mayor Cocchiola?

MAYOR COCCHIOLA: Aye. Whereas raffle applications have been received from the following organizations:

American Red Cross Nutley, license number 49-08, American Red Cross Nutley, license number 50-08, both were on-premise, one cash raffle, one merchandise raffle, Nutley Music Boosters, license number 51-08 for an on-premise 50/50 cash raffle, Friends of Nutley Singers, license number 52-08 for an on-premise 50/50 cash raffle. Whereas the applications have
been reviewed and approved by the Municipal Clerk and the Police Department. Therefore, be it resolved by the Board of Commissioners of the Township of Nutley, County of Essex, State of New Jersey that the aforementioned licenses are approved and the Municipal Clerk is authorized to issue the licenses. I move the resolution.

COMMISSIONER TUCCI: Second.

MADAM CLERK: Commissioner Scarpelli?

COMMISSIONER SCARPELLI: Aye.

MADAM CLERK: Commissioner Petracco?

COMMISSIONER PETRACCO: Aye.

MADAM CLERK: Commissioner Evans?

COMMISSIONER EVANS: Aye.

MADAM CLERK: Commissioner Tucci?

COMMISSIONER TUCCI: Aye.

MADAM CLERK: Mayor Cocchiola?

MAYOR COCCHIOLA: Aye. My second resolution, award for contract for trash removal has been postponed. This meeting
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will not be adjourned this evening.

Instead, we continue it until Friday
morning at 10:05 a.m. where that award
will be reconsidered.

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

MR. MAGNIFICO: Mayor Cocchiola,
members of the board, Jack Magnifico, 160
Park Avenue. This is in regards to the
AMVEES at 140 Walnut Street. I'm going
to send -- I'm going to give you each --

MADAM CLERK: Thank you.

COMMISSIONER PETRACCO: Thank you.

COMMISSIONER EVANS: I think I'm in
trouble. He just slapped me.

MR. MAGNIFICO: AMVETS Post 30, the
Veteran's Organization non-profit,
established in 1947. One of the
establishing people there was your
father, Mayor. Anyway, we're having a
problem, and it doesn't seem to get any
resolved. And I'm stuck with a lot of
debris that I can't move because everybody's afraid to touch it, including the people that came in from Essex County who were asked to come down and look at a problem. There was no problem with our property. AMVETS has owned it since 1947, and prior to our town's explosion as far as growth goes, we used to use it for the town's picnics, until ITT let us use the bigger property because we got bigger and bigger. Fortunately, we kept the property. At one point, Mr. Cocchiola and myself, Mr. Orechio and Mr. Kelly tried to make it into a veterans' home set up in there, but the town turned it -- the board turned it down as far as homes go. So that's water under the bridge. Subsequently, we have been taking care of it for the past fifty years, or forty years, in the form of letting the neighbors use it for their children, et cetera, et cetera. We pay the insurance on it, we take care of it, and at this point, it's become a burden.
and we don't want to sell it, we don't
want to give it to anybody, we want to
hold on to it for the sole purpose of
having a school parking lot to an
addition to what we have. What we have,
if you look on the map, is a problem.
And I've given you a map, survey.
There's a garage on our property. These
people have been informed since 1960 to
remove it, whoever was there at that
point. There's a fence with a couple of
put -- couple animals there that don't
belong there. Fortunately, there was
something up above in the corner, it says
140, it's north 24, east 30. There used
to be a building outside there, but the
person took it down. Whoever had it
there took it down.
In 1960 when I was the commander, I
had this survey done. The original
survey is here, all right, and we
informed the people that had the things
to remove them. They did. This
gentleman removed his and this gentleman
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removed his. Now it comes out -- I had a personal reason I had to leave for a while. I'm back, I'm the commander again, and we've got this situation with this garage there. Now, we want to put a gravel parking lot. We are doing a lot of work with the Department of Military Affairs with men coming in with -- we have two meetings a week, all right? And for instance, this coming month, we have a meeting where we're going to give out a hundred diplomas to veterans from Vietnam and World War II, and the parking lot that we have is too small because we try to accommodate our neighbors. All right? Our neighbors on Walnut Street don't have enough parking in their houses, so they come up and they park in our lot, which is okay, we don't mind. But now comes a time when we have to expand. And we are going to expand. But I want you to see what's on that map. I've already talked to Public Works. If you'll notice on the second page, there's a tree thing. In
that section, we have no intentions of cutting trees along the railroad, no intention of cutting any trees out along the property line of the people that live behind us, our neighbors. The only ones we're going to have to take down, and with an approval, is the inside trees. That's all we want to do. So far, we've been very fortunate. We have a very good neighbor, Linda Frank, who's been with us ever since day one. They come in there, they clean it up, bulldoze it, and it's going to cost me four containers to take the garbage that's out there, including dumpsters -- not dumpsters, refrigerators and other stuff like that.

I would like these commissioners, here, to realize what we're trying to do and get on somebody's case because it's going nowhere at this point. It happened before the election, if you remember, and now it has gone nowhere. And I am getting static from my members and I'm
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shouldn't be getting it from.

MAYOR COCCHIOLA: Mr. Magnifico,
what is it you're asking us to do?

MR. MAGNIFICO: I am asking you to
somehow get the Building Department --
all right, it's not your fault, the
Building Department's fault. I know the
people haven't given you their survey to
show you that they're illegally on our
property. Because my people want to sue
them. I don't want to do that. I just
want them to get off. All right?

COMMISSIONER EVANS: Jack, my
understanding is through the Code
Department, they've sent the property
owners letters --

MR. MAGNIFICO: I know they did.

COMMISSIONER EVANS: -- informing
them that they're encroaching on the
property.

MR. MAGNIFICO: One of my members --

COMMISSIONER EVANS: There's a
question of whether they are or they
aren't. I've seen the survey tonight for
the first time, right, so there could be a
issue between boundaries. I'm not saying there are --

MR. MAGNIFICO: I know.

COMMISSIONER EVANS: -- but that has to follow its course. So in the Building Department, I've asked them to draw it for clarity around the property line, whether or not there is an encroachment, right, whether or not permits have been taken out to construct whatever has been constructed there. And if there is a violation, they'll be noticed, the owners will be noticed. If it has to come down, ultimately, that's what we'll do, if that's, you know, if the fact is that between property owners there can't be an agreement reached to allow for an encroachment if one exists. So if you -- that becomes a legal matter between the two property owners --

MR. MAGNIFICO: Um-hum.

COMMISSIONER EVANS: -- which you have to resolve. So to date, we've sent
out notices to get a better understanding. I've pushed to have those notices go out so I can better understand what the status is. I didn't see this until tonight, so you've given me information that I didn't have. So I became aware of it just recently, and we're making steps to take action. Because I was also -- I believe one of your colleagues --

MR. MAGNIFICO: Hm?

COMMISSIONER EVANS: -- I thought it was at your behest, asked me to come by there Thursday morning to take a look.

MR. MAGNIFICO: I know you're going to. I understand that.

COMMISSIONER EVANS: So I'm going to be meetinge-- I'm going to meeting.

MR. MAGNIFICO: But my point is that what we're trying to do is the betterment for us --

COMMISSIONER EVANS: Sure.

MR. MAGNIFICO: -- and the community, and all I'm getting is static.
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Now, my people, my members, are up in arms. I mean, at our last meeting, they said how long are we going to put up with this, because they -- when I brought this thing out from 1990, they just about flapped. And I've been holding back on it because everybody asked me please, wait until after the election, which is I've done.

COMMISSIONER EVANS: Yeah.

MR. MAGNIFICO: Now, if we can't resolve this, let me know. Because we have a pro bono lawyer and I'll take care of it in that form. I don't want to do that with our community.

COMMISSIONER EVANS: I -- Jack, as I said. Thank you for this data tonight, which I didn't have, and we've asked for other information so we can put the two pieces of the puzzle together and proceed. So right now I'm at the data gathering stage.

MR. MAGNIFICO: Okay. Mr. Tucci, thank you very much for sending your tree
man over. I appreciate that, because we wouldn't know what's good or bad and without that we couldn't give you these documents. Mr. Scarpelli, I'll have to see you -- I have to talk to you about something. Thank you.

MAYOR COCCHIOLA: Thank you, Mr. Magnifico. Is there anyone else who would like to address the board this evening?

MR. MOORE: Rory Moore, 462 Chestnut Street. Ms. Cocchiola, you had an executive session this evening which ran late and you had it at last meeting as well. You stated that the matters were personnel issue. What was a CFO doing in a room on personnel matters?

MAYOR COCCHIOLA: Assisting the board with information.

MR. MOORE: As far as personnel?

She's a financial officer.

MAYOR COCCHIOLA: As far as personnel, Mr. Moore.

MR. MOORE: I'm sorry, I can't hear
MAYOR COCCHIOLA: As far as personnel, she was assisting the board with information.

MR. MOORE: She's a CFO; she doesn't do personnel.

MAYOR COCCHIOLA: Mr. Moore --

MR. MOORE: I'd like an answer --

MAYOR COCCHIOLA: -- it's an executive session matter that we're not at liberty to talk to you about.

MR. MOORE: I didn't ask you to.

MAYOR COCCHIOLA: Do you have any other questions?

MR. MOORE: Yes, I asked you why the CFO was in the room.

MAYOR COCCHIOLA: CFO was in the room to assist the board with personnel matters.

MR. MOORE: And she is in charge of finance.

MAYOR COCCHIOLA: I'm not answering any more of your questions.

MR. MOORE: Okay. All right.
MAYOR COCCHIOLA: I just answered it. Do you have any other questions?

MR. MOORE: Absolutely. Mr. Tucci, I believe on the agenda this evening you had or did -- I believe you were waiting for Commissioner Scarpelli for the -- the four percent increase to the one year extension.

COMMISSIONER TUCCI: That's correct.

MR. MOORE: Where's the paperwork that goes along with it, the salaries, money, who was it for?

COMMISSIONER TUCCI: There's an ordinance. A copy of the ordinance is available from the clerk.

MR. MOORE: The only reason I'm asking, I'll be very honest with you --

COMMISSIONER TUCCI: Yeah.

MR. MOORE: -- because Commissioner Petracco has everything attached to his.

COMMISSIONER TUCCI: Um-hum.

MR. MOORE: And he just read them into ordinance. You didn't have to ask the question because they're here.
COMMISSIONER TUCCI: Well, I don't know what Commissioner Petracco attached, but this was only an ordinance introduction that legally I have to read into the record by title, all right, and announce when the hearing is going to be.

MR. MOORE: No, the only reason I'm saying is this is your ordinance --

COMMISSIONER TUCCI: Um-hum.

MR. MOORE: -- here, one sheet.

COMMISSIONER TUCCI: Sure, right.

MR. MOORE: Nothing's here. And Commissioner Petracco and also Commissioner Scarpelli, also, it's -- they're here, the ordinance is attached --

COMMISSIONER TUCCI: Um-hum.

MR. MOORE: Everything is here so you could read it. Because under the presentation, everybody gets a free copy. And I'd just like to know why the salaries weren't attached.

COMMISSIONER EVANS: It's referencing the ordinance. It's salary
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ordinance 2961 --

COMMISSIONER TUCCI: Yeah.

MR. MOORE: Yes, but I --

COMMISSIONER TUCCI: -- which is obviously available.

COMMISSIONER TUCCI: Yeah.

MR. MOORE: -- it says four percent. For who?

COMMISSIONER TUCCI: It's four percent for teamsters' union personnel. I believe that information is available through the clerk's office.

MADAM CLERK: I do have the contract in my office.

COMMISSIONER EVANS: Or just get a copy of the ordinance.

COMMISSIONER TUCCI: And the contract is there. You're welcome to it.

MR. MOORE: No, the reason I was asking --

COMMISSIONER TUCCI: Um-hum.

MR. MOORE: -- is -- maybe Mr. Evans could -- is there any standards? Maybe that should be part of the audit, why
some go out without information and some
go out with information. Shouldn't there
be some consistency so at least everybody
could see how much? Because you say four
percent, for who?

MAYOR COCCHIOLA: Mr. Harkins, does
the format of the ordinance comply with
the law?

MR. MOORE: I'm sorry, I'm speaking
with Mr. Tucci.

MR. HARKINS: Yeah, the ordinance
complies --

MAYOR COCCHIOLA: Mr. Harkins --

MR. HARKINS: And I -- I think what
we'll do is we'll -- for a public
hearing, we'll attach Ordinance 2991.
It'll be available.

COMMISSIONER TUCCI: Yeah, we have
no problem -- we have no problem doing
that. If this was a new contract and a
new ordinance, we were introducing, we'd
attach all of that information just as a
general practice. But being that this is
only a one-year extension following the
lead of a public safety department, it's a one-pager. But all of the backup information is available.

MR. MOORE: But under the ordinance title --

COMMISSIONER TUCCI: There isn't any requirement that we absolutely -- that I'm aware of that we --

MR. MOORE: There is.

COMMISSIONER TUCCI: -- absolutely have to attach all of that, too. Just that it needs to be available, and it is.

MR. MOORE: So moving forward, can we say that everybody will attach a copy of the ordinance so that we can read it?

COMMISSIONER TUCCI: Yeah, you're welcome to.

MR. MOORE: Commissioner Petracco, I hate to broach the subject; I realize that you're not responsible, you share no responsibility for it is for Mr. Pesci. And I conducted my research, and the last time I was here, I said that the only peaceful conversation I had with Frank
Cocchiola was this -- I said it was an ordinance. It's a state law. And that included -- this is the employee handbook. A copy of the original letter from the then town -- the council, Mr. Genitempo, was to comply with insurance, as far as the state was concerned, that all employees had to review this. All employees had to sign a waiver which is in front of the book, and all waivers had to be posted. In there, it specifically addresses drug abuse. It specifically addresses the use -- the nonlegal use of town property. When Pesci used the town truck to reconnect the cable, Mr. Orechio and Mr. Scalera were well aware of this. I'd like to know what's going to be done. Since this is the law and is covered by the insurance of the town, what steps are going to be taken to prevent this from happening again?

COMMISSIONER PETRACCO: Well, we are actively seeking a drug policy in our
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fire department for the upcoming contract. But as of right now, to my knowledge, there is no drug policy through the town.

MR. MOORE: There is a drug policy, here. This is -- was -- I'm not trying to be argumentative. It was through Mr. Genitempo.

COMMISSIONER EVANS: He did -- I think the difference is, though, commissioner, you're talking about firemen who are subject to collective bargaining, whereas this personnel manual, employee manual, although it does include a drug policy, obviously, which sounds to me like a support with respect to the firefighters, that's subject to collective bargaining and we're going to see what we can do.

MR. MOORE: No, that's incorrect. It's not. Because I just did a case study on this one.

COMMISSIONER PETRACCO: And Rory --

MR. MOORE: What?
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COMMISSIONER PETRACCO: -- maybe the short and long of this is also when I decided to reinstate Pesci, there were stipulations in that procedure to take him back that he would be randomly drug tested. Now, if we negotiate into our contract with the firemen in their upcoming contract whichever is greater, if it's our demeanor that we put on him or the contractual agreement, whichever is greater, that's what he'll be subject to.

MR. MOORE: Actually, it already is part of as the New Jersey state law for a drug-free workplace. And there were several cases --

COMMISSIONER PETRACCO: Well, I can't answer why he wasn't drug-tested before. I wasn't there.

MR. MOORE: No, no, no, I'm not trying to -- I'm not trying to belittle (sic) a point to say why wasn't it done before. We know that Scalera and Orechio allowed it to happenede Moving
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forward --

MR. HARKINS: Mr. Moore, I think you're confusing, though, with the drug-free workplace versus, you know, mandatory testing and those types of issues.

MR. MOORE: It's right here in the work -- this is a book that was signed by Genitempo. There's no confusion.

MR. HARKINS: I'm talking about the state's statute and what they do with collective bargaining.

MR. MOORE: No, no, this has nothing to do with collective bargaining.

MR. HARKINS: No, it has everything to do with it when you're talking about police and fire.

COMMISSIONER PETRACCO: Well, are you saying that through that state law, everyone in the township is supposed to be drug tested?

MR. MOORE: Yes, under the state law -- actually it's -- not to be verbose but it's Rollins v. Jersey City police --
that it’s covered by public safety, in which public safety is anybody who interacts in an emergency situation with the public, that has to be drug-tested. Now, that's very concise, that's very clear. And that's also under their -- it's been amended since -- this is 1997, but there have been amendments to it to include alcohol and drugs. Now, there's plenty of case law for it.

MR. HARKINS: I think we have very able labor counsel who we can address that with him. And, you know, moving forward, we're going to be taking a look at the --

MR. MOORE: Who's your legal counsel?

COMMISSIONER PETRACCO: Actually, if you don't mind, I do have my chief of the fire department -- maybe he can explain it to us.

MR. MOORE: I'd be happy to.

COMMISSIONER PETRACCO: He's here.

MR. GUILIANO: Mark Guiliano, Deputy
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Fire Chief in Nutley. To my knowledge, and I'm along the lines of a new commissioner. I'm the chief for about eight months now, and fire departments statewide either do or do not have random drug tests or drug policies. We're in the process, with the new commissioner, of instituting, through collective bargaining, a drug policy. I'm a fireman here for twenty-six years. We never did have an alcohol or drug policy, but when there was due cause, we would react. And that's what we've done in the past and we plan on expanding on that in the future in our contract.

This I haven't seen yet, so I really can't comment on it.

MAYOR COCCHIOLA: Thank you, Chief. Any questions? Mr. Tucci?

COMMISSIONER TUCCI: I have a question to Mr. Harkins about bringing up public employees at a public meeting without them being notified. Any restrictions to that?
MRe HARKINS: You mean in terms of whether or not Mr. Guiliano --

COMMISSIONER TUCCI: I mean, when we talk about policies, it's one thing. When we start talking about employees --

MR. HARKINS: No, no --

COMMISSIONER TUCCI: -- individuals.

MR. HARKINS: -- I agree with you. When you start talking about personnel matters of specific personnel, no, that's not supposed to be something that we talk about. If you want to talk more generically about drug policies in the fire department or police department or anywhere else, that's okay.

MAYOR COCCHIOLA: Have you discussed --

MR. HARKINS: But I agree, I think we should refrain from addressing any specific personnel.

MAYOR COCCHIOLA: If you discuss specific personnel, they have to be noticed.

MR. HARKINS: That's right.
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MRe GUILIANO: And just for the record, I've seen this -- I saw this years ago, but I don't think -- I think at the time when it came out, this employee manual, it wasn't carried out completely. I think the unions got involved and it was stalled. And I don't think, you know, Mr. Harkins --

MR. HARKINS: I don't -- I haven't -- I don't know what you're looking at, what version it is or, you know.

MRe GUILIANO: Yeah, I remember this from twenty years ago. Twenty years ago. And I don't think -- I think this was proposed, but I don't think it was carried through on the local level. So maybe you can check into that.

MR. HARKINS: I'll have to check with whoever -- Mr. Genitempo, I guess.

MR. MOORE: Thank you.

MAYOR COCEHIOILA: Thanks, Mr. Harkins. Thanks, Chief.

MR. MOORE: The letter of
Mr. Genitempo, he was counsel for the Suburban Essex Joint Insurance Fund. So if the insurance fund -- I remember Mr. Cocchiola talking because he was the one who was very knowledgeable in this, we're not covered unless this is addressed. Mr. Genitempo did, in the language of his letter, state the only difference is at will versus the union employee. They wanted to clear that language up. And that he suggested that that language be added to the waiver that should have been signed. There was no -- did we enforce this, did we adopt it? There's no discretion on that. It was adopted, whether we liked it or not.

MR. HARKINS: Well I'll follow up with Mr. Genitempo and see exactly what the issue is.

MR. MOORE: Because under here, it says -- it clearly states the drug policy. It's -- I don't see where we're going to get into an issue, but then I went further because I figured you were
going to argue the point and I looked up --

MR. HARKINS: I'm not arguing with you. I just -- I'm -- you're asking me questions about a document that I'm not reading, I don't see, I don't know whether it was implemented or not.

MR. MOORE: Under Rollins v. Jersey City --

MR. HARKINS: The Deputy Chief said he doesn't know whether it's been implemented.

MAYOR COCCHIOLA: Mr. Moore, Mr. Harkins is going to --

MR. HARKINS: So I sort of --

MAYOR COCCHIOLA: -- check with Mr. Genitempo and get back to us and advise us as to what the status of that employee manual is.

MR. MOORE: I already spoke to Mr. Genitempo on the records when Mr. Harkins was here -- he was absent one evening and Mr. Genitempo --

MAYOR COCCHIOLA: Mr. Harkins will
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get back to us on your specific questions.

MR. MOORE: I'd like to answer -- finish my answer without being interrupted. Mr. Genitempo was here, and I did ask on the record about the validity of this document.

MAYOR COCCHIOLA: Excuse me. I just told you that he said he would check into it and get back to us and answer any of your questions after he speaks to Mr. Genitempo.

MR. MOORE: Mr. Genitempo already stated this position. It was already done on the public record.

MAYOR COCCHIOLA: He will get back and he will speak to you on the record after he speaks to Mr. Genitempo.

MR. MOORE: And it's very clearly stated under case law where under public safety there is no discretion on this issue.

MAYOR COCCHIOLA: Mr. Moore, I just told you he would get back --
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MR. MOORE: I'm sorry --

MAYOR COCCHIOLA: -- enough, okay?

MR. MOORE: -- I wasn't talking to you. I was talking to Mr. Harkins.

MAYOR COCCHIOLA: You can move on to your next question. You can speak to Mr. Harkins through me.

MR. MOORE: No, I don't. I speak to Mr. Harkins right there.

MAYOR COCCHIOLA: No. I chair the meeting; you speak to him through me.

MR. MOORE: No, you're just the mayor. Under commissioner form of

MAYOR COCCHIOLA: Mr. Moore, any other questions?

MR. MOORE: -- whatever department you have.

MR. HARKINS: Mr. Moore, we're not going to spar. Please, next question.

MR. MOORE: I'd like to know when I can get an answer on that.

MR. HARKINS: I'll talk to Mr. Genitempo as soon as I can reach him.
and then I'll report back to the mayor and board of commissioners. That's who I report to.

MAYOR COCCHIOLA: Any other questions, Mr. Moore?

MR. MOORE: Yes, absolutely.

Mr. Evans, I spoke to Mr. Harkins prior to the meeting. I went through the book, and I found out when Mr. Barry was -- his position was created under two separate ordinances: 258\(a\) and 258\(b\). In here, it clearly states that he reports to the traffic safety coordinator for the code enforcement. However, he directly reports to the director of public safety. That's a point that you left out, originally.

MR. HARKINS: Yeah, no, you're -- he's accurate, and I think we've had this discussion before that there's an inconsistency, largely because when that coordinator position was created, it was in public safety. Recently, it was moved over to revenue and finance, so it wasn't
clarified. It's a housekeeping matter that we do need to address, and we'll just amend the ordinance to provide that it falls under the direction of -- I think probably the best thing which is whatever department it's assigned to, as opposed to a specific --

COMMISSIONER EVANS: Ultimately, yes. So to answer your question, we will be introducing an ordinance modification to correct the language, given the change in structure of the department.

MR. MOORE: Shouldn't there be an immediate resolution to say that he's temporarily transferred over because you still have an ordinance that it's outstanding where he does report to the director of public safety. Very clear.

COMMISSIONER EVANS: Thank you for your comment.

MR. MOORE: Now, my other question is under his title, since Mr. Harkins had indicated that he was going to do housecleaning on this one, what is -- are
you going to list his duties? Because it says he reports to the director of public safety. And as I had mentioned to you before, Jack Barry was working with the television cameras downstairs, and when I went to a library board meeting, he was involved in a real estate transaction. So if he's a traffic coordinator in the state under code enforcement, what's he doing in television cameras and real estate?

COMMISSIONER EVANS: Again, Mr. Moore, I think Commissioner Scarpelli raised the issue, really, we're not going to address specific personnel, whether he's at the library or not, I have no idea. But --

MR. MOORE: It had -- it had to do with the expansion of the library and the transfer of property.

COMMISSIONER EVANS: I don't know the answer to that question.

MR. MOORE: No, no, my question is very specific. Mr. Barry was involved
because his name was brought up by the library board as being the person who's transferring the title with the county.

COMMISSIONER EVANS: I have no knowledge of that. I will follow up.

MR. MOORE: Then to simply -- to try to -- to resolve this, can you put language in the ordinance to say that -- what his duties are specifically?

COMMISSIONER EVANS: Thank you for your comment.

MR. MOORE: I didn't ask you to comment. I said can you put language in.

COMMISSIONER EVANS: I said thank you for your comment.

MAYOR COCCHIOLA: Mr. Moore, any other questions?

COMMISSIONER EVANS: I'll decide what I need to do.

MR. MOORE: Yes, I want to know why we can't put specific language in there when you transfer him over as to what he actually does.

MR. HARKINS: I think his duties,
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are by ordinance --

MR. MOORE: Yes, they are, right here, to the director of public safety.

MR. HARKINS: Right, and whatever those duties are as assigned by the director of the department that he's assigned to --

MR. MOORE: It doesn't say that.

MR. HARKINS: -- like many of the other positions, if you take a look at the ordinance.

MR. MOORE: It doesn't say that. It says the director of public safety.

MR. HARKINS: That's exactly what we're going to amend.

MR. MOORE: Yes, but there's all -- and his salary, what's his current salary? Under the ordinance, the original one was fifty thousand dollars.

MR. HARKINS: I'll tell you, I don't know what his current salary is.

COMMISSIONER SCARPELLI: I think if you look at our reorganization ordinances, it kind of clarifies where
there are some inconsistencies. It says
that, you know, in those ordinances --

MR. HARKINS: Yes.

COMMISSIONER SCARPELLI: -- it's
supposed to clarify everything that
wasn't consistent with it.

MR. HARKINS: Well --

MR. MOORE: Yes, but that would
require a change in the ordinance.

MR. HARKINS: In the reorg -- I
agree with you, Commissioner. It
established the clarity of the reporting
relationship there. What Mr. Moore is
referring to is the original ordinance
that just hasn't been updated. It's just
part of the housekeeping that we have to
do.

MAYOR COCCHIOLA: It needs
modification, which you said,
Commissioner Evans, you're going to take
care of.

MR. HARKINS: Right.

COMMISSIONER EVANS: Yes.

MAYOR COCCHIOLA: Thank you.
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MR. MOORE: Under ordinance,
Mr. Evans, 24@6, which I obtained through
OPRA, it has to do with residency
requirements for people who work in the
Township of Nutley. And you just hired
that individual, Dade. Now according to
the individual that you hired, he doesn't
comply with the ordinance. And you've
done this before with your executive
assistant.

COMMISSIONER EVANS: Which ordinance
are you referring to?

MR. MOORE: It's 24@6.

COMMISSIONER EVANS: And what's the
date of that ordinance?

MR. MOORE: 19 -- it's February 6,
1996. Would you like a copy of it?

COMMISSIONER EVANS: No, I know the
ordinance. It's been modified since
then.

MR. MOORE: It was modified for EMTs
from Mr. Orechio.

COMMISSIONER EVANS: No, it was not.
It was modified for -- I don't know the
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exact language; Mr. Harkins, I don't know if you remember it, but --

MR. HARKINS: I, yeah, it was amended.

COMMISSIONER EVANS: It did get modified.

MR. MOORE: It was modified for the four EMTs, yes.

COMMISSIONER EVANS: It was not modified just for the EMTs. It was modified as a residency modification.

MR. MOORE: If there's a modification, I'd like to see it.

MR. HARKINS: It's an ordinance, it's on the book.

MAYOR COCCHIOLA: It was modified to permit --

MR. HARKINS: It's across the board.

COMMISSIONER EVANS: It's on the book, OPRA it.

MAYOR COCCHIOLA: It was modified to permit discretion of the individual director of the department.
MR. MOORE: Under the four EMTs that was -- it was done.

COMMISSIONER EVANS: No, that's not correct. That's not correct.

MR. MOORE: Then I'd like to see it because I'd like to see that language.

COMMISSIONER EVANS: Then OPRA it.

MR. MOORE: I will. Thank you.

MAYOR COCCHIOLA: Is there anyone else that would like to address the board this evening?

MR. NEGRA: Dave Negraé 649 Bloomfield Avenue. Commissioner Tuccié my request is for you. Obviously, we've created a playground again.

COMMISSIONER TUCCI: Um-hum.

MR. NEGRA: I've been waiting for four weeks for a call as far as public involvement in an issue about the playground. Supposed to get a third party involved. Just wondering if there's any more --

COMMISSIONER TUCCI: Actually the third party was involved. The third
party conducted an investigation. I received the report late yesterday. Quite frankly, I haven't had a chance to go through it yet. But once I do, we will make it available to everyone and share with everyone what the recommendations are.

MR. NEGRA: Okay. I had thought that public involvement meant going to the park and being involved with that issue, as far as the actual report, also, and talking to the person involved.

COMMISSIONER TUCCI: We had attempted that, and we will try to schedule that, but what we felt --

MR. NEGRA: You attempted? How did you attempt? The report is done already. It wasn't attempted prior to that third party inspecting the properties.

COMMISSIONER TUCCI: We will attempt to give everyone a chance to ask a question of the gentleman that conducted the third inspection, all right? The fellow was only able to come at 10
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o'clock in the morning, which I did not believe was a convenient time for most of our residents. So I'm going to share --

MR. NEGRA: It would have been convenient for me.

COMMISSIONER TUCCI: Well, you're not all of our residents, are you? You're one.

MR. NEGRA: But I'm the public involved with this project.

COMMISSIONER TUCCI: Well, you'll be afforded the opportunity to look at it; you'll be afforded the opportunity to contact the gentleman, and if I can --

MR. NEGRA: When will this fellow be available for our questions?

COMMISSIONER TUCCI: -- let me finish speaking; if I can get him here to walk through the project with everyone, I will be happy to do that.

MR. NEGRA: because this is the third time that you publicly stated that you would be --

COMMISSIONER TUCCI: Um-hum.
MR. NEGRA: -- getting public involved --

COMMISSIONER TUCCI: Um-hum.

MR. NEGRA: -- with this project,

which you have not.

COMMISSIONER TUCCI: Right.

MR. NEGRA: I've been waiting for a call, now, for two and a half months to be involved with this project, and I have not received the call.

COMMISSIONER TUCCI: Well,

Mr. Negra, there's no involvement for you at this point other than to review the recommendations of the inspectors.

MR. NEGRA: Well, you know what, I think this is a high-profile type --

COMMISSIONER TUCCI: Um-hum.

MR. NEGRA: -- playground. It's a landmark playground. The public did work on this, we raised money for this project, it was a public project from the beginning, we put it in, that playground. We put it in, that park, and we gave it over to the town. And now if you don't
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have the courtesy to get the public
involved in something --

COMMISSIONER TUCCI: Um-hum.

MR. NEGRA: -- that they donated and
they raised money for and they did hard
work for, then there's something wrong
with that.

COMMISSIONER TUCCI: Well,
Mr. Negra, I don't think anyone's saying
that we're not going to get the public
involved. What I'm saying is --

MR. NEGRA: Well, we haven't been
involved.

COMMISSIONER TUCCI: -- we have --
because the time is inappropriate for the
public to be involved. Everyone --

MR. NEGRA: When can I expect your
phone call?

COMMISSIONER TUCCI: -- everyone --
let me finish -- everyone who worked on
the playground, who had an interest in
the playground, or donated to the
playground is welcome to review all of
the reports. And as I said before, I
wild see if we can get the gentleman here, and if I can't get the fellow who did all -- the fellow who did the last inspection as well as the first two, all right, we will get someone here to walk through so that everyone can understand exactly what the recommendations are.

MR. NEGRA: And when can I expect your phone call this time?

COMMISSIONER TUCCI: Well, I will contact him once I read the report and digest the report -- and the report will be made available, just as the other two were -- all right, and then we will try to schedule something that's convenient for everyone that wants to come and see it.

MR. NEGRA: And do you know when you're going to review the report?

COMMISSIONER TUCCI: Well, I haven't called him. I will start looking at the report tomorrow, all right, and we will move accordingly.

MR. NEGRA: Thank you.
MAYOR COCCHIOLA: Thank you, Mr. Negra. You can come forward.

MS. AIELLO: Hi. I'm Katie Aiello. I live at 121 Walnut Street. I'm responding to Mr. Magnifico's claim that my garage is on AMVETS property. We have our original deed surveys done. I've lived at that property for thirty years, and it's never been a problem. We have all of our land designated, lined up, so if I could just present that to you so you can see all that?

MR. HARKINS: Yeah, sure.

MS. AIELLO: There's copies of it.

MR. HARKINS: Thank you. Is there one set here, or is there -- oh, great, that's very helpful. Thank you.

MAYOR COCCHIOLA: Thank you, Katie.

MS. AIELLO: We also -- excuse me, I'm also here -- all of the neighbors from Walnut Street from between Park and Grant Avenue. We definitely are very against having any kind of parking lot put behind our homes on that street. And
we're all here to support that claim. I know that Mr. Magnifico is saying that they want to put in a parking lot just for their own. We heard that school buses were going to be put back there. I don't know if that's true.

MAYOR COCCHIOLA: No, actually, I also spoke with your husband --

MS. AIELLO: Yes.

MAYOR COCCHIOLA: -- Ms. Aiello, and I -- his concern, also, was that there was -- I think someone entered your property --

MS. AIELLO: Yes.

MAYOR COCCHIOLA: -- and told you that the township was building a parking lot to park buses. The township is not building a parking lot to park buses. I think Mr. Magnifico indicated that the AMVEES is -- on their own is looking to expand their parking into that area. I don't know how far along they are in that process, but the township is not involved in that at all.
MS. AIELLO: Okay.

COMMISSIONER TUCCI: Mayor, I'd like to comment on that, also --

MAYOR COCCHIOLA: Commissioner Tucci?

COMMISSIONER TUCCI: -- because I received an e-mail from someone who was very upset that we were allowing a parking lot to be built. Just to echo what the mayor has said, this is private property owned by the AMVETS. They took two trees down, and when I learned of it, I enquired immediately, and our ordinance states that if they remove dead trees or diseased trees, they don't need a permit. I sent the forester there just to clarify Mr. Magnifico's comment, just to assure our department that the trees were, in fact, dead trees. So the Parks Department nor any other department, to my knowledge, is doing anything on that property because it's not public property. It's private property.

MR. NEGRA: Okay. Okay, thank you.
MAYOR COCCHIOLA: You're welcome. Thank you. Is there anyone else that would like to address the board this evening? Good evening, Mr. Molkenthin.

MR. MOLKENTHIN: Good evening, Mayor. Ken Molkenthin, 44 Chestnut Street. I would like to retouch on the drug testing. I would like you all to consider expanding whatever law, ordinance you wish to put in to include not only the word employee, but to include volunteer, to include part-time, to include contractual. In other words, any person who is representing the town of Nutley should also be included in the random drug testing or substance abuse drug testing. I spent thirty-eight years as a volunteer for this town. I drove tractor trailers; I borrowed equipment from the Public Works Department as all my other people did. We are duly licensed. But at the same time, we were never subject to a drug testing. We could have an accident in one of these
vehicles, and the town could still be liable. So therefore, anyone having contact, position, borrowing, using, interaction should also be underneath this ordinance. Because the first time somebody crashes a fire truck or a town truck or a volunteer truck, whatever the cost of the drug testing, it's going to be miniscule compared to the lawsuits.

So please, I don't understand why the fire department has been exempt. I've spoken to our police department. It amazes me that we have our police department go through drug testing, but for some reason, the fire department or the rest of the town workers, are not included in this. I know, Mr. Petracco, this is not something that you did.

COMMISSIONER PETRACCO: No, like I have been saying, that we are coming into new negotiations and contracts this year, and it's no secret that we are definitely looking to implicate something on the fire side.
MRe MOLKENTHIN: Well, my suggestion is that you start on that now. You start a plan as soon as possible, and then you include your negotiations with the police department. You include your negotiations with the fire department, and you include the negotiations with public works. Put it in place now. Let's prevent any more problems that are going to occur here.

And once again, as a volunteer, and I'm using myself as an example, if I don't want to go by those rules, then you don't need me as a volunteer. Because there's a lot of substance abuse going on throughout the town in our departments, in past and present.

Thank you.

MAYOR COCCHIOLA: Your point is well taken. Thank you, Mr. Molkenthin. Is there anyone else that would like to address the board this evening?

MR. MOORE: Rory Moore, 462. I didn't mean to get up and speak a second
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Time, but you're incorrect on that tree ordinance. Under the ordinance that you wrote the last time, if it was a dead tree, they had to go to the forester. The forester has to declare it a dead tree, so if you had put a permit in to have that, the money would have been returned. But that's very clear in the language of your ordinance.

COMMISSIONER TUCCI: No, if you look under the exceptions, it reads differently. I originally thought exactly what you're stating, but that is not correct.

MR. MOORE: Because in that case --

COMMISSIONER TUCCI: Check the exceptions. There's not a permit fee.

MR. MOORE: The exception stated that in order to have a tree declared dead -- I don't have it in front of me --

COMMISSIONER TUCCI: Right.

MR. MOORE: -- but I specifically remember the language. In order to have a tree declared dead, you had to have it
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by a certification.

COMMISSIONER TUCCI: Right. And the
forester visited the site and certified
it. He did.

MR. MOORE: But he cut the tree
down.

COMMISSIONER TUCCI: The forester
was there.

MR. MOORE: But under the rules that
you wrote --

COMMISSIONER TUCCI: Right, under my
tree ordinance, that's right.

MR. MOORE: -- they would have to
apply for the permit --

COMMISSIONER TUCCI: No.

MR. MOORE: -- the forester would
have certified it, and then the money
would have been returned.

COMMISSIONER TUCCI: Not correct.

I --

MR. MOORE: Okay, then I'm going to
get it, I'm going to challenge you on
this one.

COMMISSIONER TUCCI: -- I
investigated the same point that you're bringing up because I understood it to be that way, and it was pointed out to me that that was not the way it is, that under the exceptions, they don't need a tree permit. Only when a tree is taken down, all right, or proposed to be taken down, should an individual take out a tree permit. And then once that tree is removed, if one is planted in its place, the fifty dollar permit fee is, in fact, refunded.

MR. MOORE: Yeah, no, I understand that.

COMMISSIONER TUCCI: Yeah.

MR. MOORE: That's not the point. Because you said the tree was dead.

COMMISSIONER TUCCI: Um-hum.

MR. MOORE: And according to the ordinance --

COMMISSIONER TUCCI: Two trees, I said, were dead.

MR. MOORE: -- the tree has to be -- two trees -- but the tree has to be
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certified that it was dead.

COMMISSIONER TUCCI: Right. And it was. I mean, I don't have -- I don't have the authority or the expertise to do that, so that's why we sent out the forester. And he did that, and there were only two trees that were removed, and they were both dead.

MR. MOORE: Mr. Evans, also I believe you stand corrected because Ms. Shuster has a very similar problem with encroachment. And Mr. Harkins and Mr. Orechio, he kept telling him it was a civil action. And I'd like to know if this is between two individuals, why is the township not taking the position. Can we have some consistency? Are you going to take a position with this two private entities and ignore Ms. Shuster and her neighbor?

MR. HARKINS: I can speak to that because I've been dealing with this issue for a good many years, and the determination was that it was a purely
private matter, but at the suggestion of
the board -- and some of these members
weren't even board members at that
time -- he asked me to intercede to see
if I could help work out a resolution.
That may well be the case here. I'm
going to take a look at what they have.

MR. MOORE: So if this is a purely
private matter, that becomes a civil
action that the two individuals have to
address?

MR. HARKINS: I think, you know
what, I haven't even been to the
property, I haven't looked at the survey,
I haven't looked at what this --

MR. MOORE: I'm not trying to put
you on the spot.

MR. HARKINS: -- woman presented
tonight.

MR. MOORE: I'm not trying to put
you on the spot.

MR. HARKINS: We're going to take a
look at it. And if it's a private
action, we're going to tell them that,
but if we can help resolve the issue
among them with just some ideas, we'd be
happy to do that, as well.

MR. MOORE: Okay, so that -- but as
far as, if it becomes a private issue,
then the township has no standing in that
case at all.

MR. HARKINS: If it's a private
issue, then we're going to tell them
that.

MR. MOORE: Okay.

MAYOR COCCHIOLA: Is there anyone
else would like to address the board this
evening?

MR. DOWNIN: Yeah, I'm Gene Downin;
I'm with all my neighbors from Walnut
Street. And we came here not knowing the
plans of the AMVEWS and why they were
bulldozing the property. We came here
confused, and now I guess the gentleman
from the AMVEWS said they want to put a
parking lot. What's involved and what is
the process, and what can we do, we don't
know.
MAYOR COCCHIOLA: I think --
MRe DOWNIN: What's the process go by and is that zoned for a parking lot?
Can they have -- I mean, they hold weddings down there and --
MAYOR COCCHIOLA: Commissioner Evans, I believe there's --
MRe DOWNIN: -- it's late night parking.
COMMISSIONER EVANS: Yeah.
MAYOR COCCHIOLA: -- there could be a code issue here.
COMMISSIONER EVANS: Right, there could be. I just don't -- I heard the plan tonight for the first time, so I need some time to, you know, investigate it, just like I got this information tonight on whether or not there's a property line issue or not. So please, I can talk to you after the meeting, but I need to get more information myself before I can decide whether or not there's a code issue or there's a code needs to be involvede.
But barring that, it's private property, and if it complies with code, and it complies with respecting what his rights are as a private citizen, you know, private property, then he's well within his rights to do with his property as he wishes. So we have to -- but I don't have enough information to actually answer your question tonight.

MR. DOWNIN: Okay.

COMMISSIONER EVANS: I need to gather more information. I'd be happy to meet with you and figure out how to reach you and I'll come out and meet you so we all understand what's going on there at the same time.

MR. DOWNIN: Okay.

MAYOR COCCHIOLA: Thank you.

COMMISSIONER TUCCI: Mayor, if I might, just during the normal course of business, though, when one goes for permits, there are plans that need to be submitted that need to be reviewed by --

COMMISSIONER EVANS: Absolutely.
COMMISSIONER TUCCI: -- the building department to make sure that they're in compliance with all of the codes that are on the books. And if there's something that doesn't comply and there are variances that are needed -- and I don't know that there are or there aren't -- but in the event that there are, people would have to be noticed within two hundred feet, so you can come out and have your say.

COMMISSIONER EVANS: Right.

COMMISSIONER TUCCI: But again, we got this tonight. We're hearing about this at the same time that you are, officially. We hear little rumblings here and there from all different corners of the town, but now that we have this, I'm sure Commissioner Evans and his department are going to look into it as well as the rest of it because we have an interest in preserving our neighborhood as well as you do.

MR. DOWNIN: Thank you.
MAYOR COCCHIO: Thank you. Is there anyone else that would like to address the board this evening?

COMMISSIONER TUCCI: Move to adjourn.

MAYOR COCCHIO: No, we're not going to adjourn. This meeting's going to be continued until Friday morning at 10:15 a.m. Thank you.

(End of proceedings)
CERTIFICATION

I, Dena Page, 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 in the matter of the: PUBLIC MEETING OF THE TOWNSHIP OF NUTLEY BOARD OF COMMISSIONERS.

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 12, 2009

Dena Page
A continued meeting of September 16, 2008 was held on Friday, September 19, 2008 at 12:00 P.M.

ROLL CALL:
Commissioner Scarpelli - Present (via telephone conference)
Commissioner Petracco - Present
Commissioner Evans - Present (via telephone conference)
Commissioner Tucci - Present (via telephone conference)
Mayor Cocchiola - Present

The following resolution was adopted:

Resolution No. 275-08
WHEREAS, the Township of Nutley received sealed bid proposals for collection, removal and disposal of all ashes, offal, garbage, debris, and other refuse waste matter in the Township of Nutley on August 27, 2008; and
WHEREAS, the Township of Nutley received bid proposals from the following contractors:
1. Scuffy Carting, LLC
   80 Liberty Street, Passaic, NJ 07055
2. Waste Management of NJ, Inc.
   107 Sylvia Street, Ewing, NJ 08628
   155 Michigan Avenue, Paterson, NJ 07503
4. Omni Waste Services
   507 East 35th Street, Paterson, NJ 07504
WHEREAS, the Township of Nutley desires to award a contract for a term of three (3) years with a one (1) year option at the discretion of the municipality wherein said contractor will be obligated to provide collection services to include all residential township condominiums, and multi-family units and pick up bulky waste one time per week;
WHEREAS, Scuffy Carting, LLC submitted the lowest responsible bid proposal for said services in the amount of $2,017,565.00.
NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Township of Nutley, that Scuffy Carting, LLC whose principal place of business is 80 Liberty Street, Passaic, NJ 07055, be awarded a contract for the collection, removal, disposal of all ashes, offal, garbage, debris and other refuse waste matter in the Township of Nutley, including condominiums and multi-family units to pick up bulky waste one (1) time per week, for a period of three (3) years with a one (1) year option at the discretion of the municipality to begin October 1, 2008.
BE IT FURTHER RESOLVED that the Mayor of Public Affairs and the Township Clerk are authorized to sign such contract on behalf of the Township of Nutley.

Introduced by Commissioner Mayor Cocchiola, seconded by Commissioner Petracco. All ayes.

Bill List Item:
The following item was submitted for approval “EMTECH ASSOCIATES”, $4,695.00 (Dept. of Public Safety)

Introduced by Mayor Cocchiola, seconded by Commissioner Petracco. All Ayes on a roll call vote.
*This bill list item will be listed on the October 7, 2008 complete bill list.
ADJOURNMENT:
Motion to adjourn by Mayor Cocchiola, seconded by Commissioner Petracco. All ayes. Meeting adjourned at 12:20 P.M.

ATTEST:
Evelyn Rosario, RMC
Municipal Clerk

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