

A REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY WAS HELD ON MONDAY, JANUARY 14th, 2019 AT THE BOROUGH HALL BEGINNING AT 7:00 P.M.

PRESENT: Mayor Morgan, Council Members: Hoag, Pearson, Smith and Delfing.

ABSENT: Mr. Dennison and Mr. Figueiredo (7:30 p.m.)

Mayor Morgan called the meeting to order with a salute to the flag and in accordance with the Open Public Meetings Act by advertising notice of meeting in the N.J. Herald and posting copy of notice in the Borough Hall.

Oaths of Office:

Mr. Dennison was absent – no oath administered.

Beth Brothman, Municipal Clerk administered the oath of office to the following members of the Andover Borough Fire Department

Jessica Casella - Chief
Brian Stang – Assistant Chief
Steve Masnaghetti – Captain
Nicholas Santomartino - Lieutenant
Fire Police Captain – Lou Casella

John Hoag - President
Steven Meshefsky- Vice President
Nicholas Santomartino – Secretary
David Hergert - Treasurer

The Municipal Clerk administered the Oath of Office to members of the Fire Police:

James Halbig

OFFICIALS REPORTS: *No reports*

MINUTES:

A MOTION was made by Mr. Hoag, seconded by Mr. Pearson to approve the minutes of the meeting held on November 7th, 2018. A correction was made to standing committees under public safety showing Mrs. Delfing as absent. Upon roll call the following votes were cast: AYES: Hoag, Pearson, Delfing. NAYS: None. ABSTAIN: Smith. Motion carried.

A MOTION was made by Mr. Hoag, seconded by Mr. Pearson to approve the minutes of the meeting held on December 10th, 2018. Upon roll call the following votes were cast: AYES: Hoag, Pearson, Delfing, Smith. NAYS: None. Motion carried.

A MOTION was made by Mr. Hoag, seconded by Mr. Pearson to approve the minutes of the reorganization meeting held on January 2, 2019. Upon roll call the following votes were cast: AYES: Hoag, Pearson, Delfing, Smith. NAYS: None. Motion carried.

REPORTS:

A MOTION was made by Mrs. Delfing, seconded by Mr. Pearson to approve the following reports and place on file: Joint Court Report for November, Lakeland Emergency Squad Reports for November / YTD and December / YTD, Final NJDEP Recycling Tonnage Grant Payout for Sussex County Municipalities, ABFD Report for December Upon roll call the following votes were cast: AYES: Hoag, Pearson, Delfing, Smith. NAYS: None. Motion carried.

CORRESPONDENCE: The following letters were presented to the governing body and placed on file:

Letter from Andover Township re: 2% increase as per the Joint Court agreement. New assessment for 2019 \$26530.20, reflects \$520.20 increase.

Letter from New Jersey Dept of State re: Center of Place extension to 6/30/19

Letter from M. Vogel County Sheriff's Office re: OEM appointment

Letter from NJDEP Compliance & Enforcement re: Andover Borough Water Dept compliance inspection 10/18/2018– facility determined to be in compliance.

Letter from NJ Senate – Addison B. Hinrichs, Senate Majority Office re: Resolution in support of **Path to Progress** Recommendations made by New Jersey Economic and Fiscal Policy Workgroup.

A MOTION was made by Mr. Smith, seconded by Mr. Pearson to approve the following resolution. Upon roll call the following votes were cast:

RESOLUTION IN SUPPORT OF “PATH TO PROGRESS” RECOMMENDATIONS MADE BY NEW JERSEY ECONOMIC AND FISCAL POLICY WORKSHOP

WHEREAS, New Jersey faces a daunting fiscal crisis; and

WHEREAS, for two decades, while county and municipal governments made the proper pension payments, New Jersey governors from both parties severely underfunded the pension system for teachers and State government workers; and

WHEREAS, while local government pension systems are funded at the national average, the State's unfunded liability for pensions and retiree health benefits now tops \$150 billion – four times the size of the State budget; and

WHEREAS, actuaries project the State will have to increase the pension contribution from \$3.2 billion in this year's budget to \$6.7 billion to reach the Actuarially Required Contribution (ARC) by FY 2023; and

WHEREAS, health care costs continue to rise, and New Jersey and its local governments cannot sustain the unparalleled platinum-level benefits that they provide to their employees; and

WHEREAS, municipalities cannot address other major cost drivers, such as career-end sick leave payouts in excess of \$100,000, without relief from State government; and

WHEREAS, the State must bring pension and health care costs under control before they crowd out all other important spending needs, such as reinvestment in NJ Transit, making higher education more affordable and properly funding state aid to school districts to hold down property taxes.

NOW, THEREFORE BE IT RESOLVED the Governing Body of the Borough of Andover hereby expresses its support for the recommendations of the "Path to Progress" report issued by the New Jersey Economic and Fiscal Policy Workshop; and

BE IT FURTHER RESOLVED, that a copy of this Resolution is forwarded to Governor Phil Murphy, State House, PO Box 001, Trenton, NJ 08625; Honorable Steven V. Oroho, Honorable Parker Space and Honorable Harold J. Wirths, One Wilson Drive, Suite 2B, Sparta, NJ 07871; Senate President Stephen M. Sweeney, 935 Kings Highway, Suite 400, West Deptford, NJ 08086; Assembly Speaker Craig J. Coughlin, 569 Rahway Ave., Woodbridge, NJ 07095; Senator Paul A. Sarlo, 496 Columbia Boulevard, 1st Floor, Wood-Ridge, NJ 07075; Assembly Majority Leader Louis D. Greenwald, 1101 Laurel Oak Rd., Suite 150, Voorhees, NJ 08043; Assemblywoman Eliana Pintor-Marin, 263 Lafayette St., 1st Floor, Newark, NJ 07015; Senator Anthony R. Bucco, 75 Bloomfield Avenue, Suite 302, 3rd Floor, Denville, NJ 07834; Senator Troy Singleton, 400 North Church St., Suite 260, Moorestown, NJ 08057; Senator Dawn Addiego, 176 Route 70, Suite 13, Medford, NJ 08055; New Jersey Association of Counties, 150 W. State Street, Trenton, NJ 08608; New Jersey State League of Municipalities, 222 West State Street, Trenton, NJ 08608; Sussex County Board of Chosen Freeholders, One Spring Street, Newton, NJ 07860 and each municipality in Sussex County.

AUDIENCE PARTICIPATION:

The Fire Department requested a picture with the governing body.

REPORTS OF SPECIAL COMMITTEE: Mr. Landrith was absent. No report.

REPORTS OF STANDING COMMITTEES:

Administrative & Executive: Mr. Pearson working on purchasing policy and personnel policy. One of the changes that is being suggested is to raise the mileage reimbursement to IRS rate. One thing to look at may be to purchase the Adobe software to convert the pdf to a workable copy.

Celebration of Public Events: Mrs. Figueiredo was absent. Mrs. Delfing reported that the next event will be the Easter Egg Hunt.

Finance: Mr. Dennison was absent. A budget workshop is scheduled for 1/23/19.

Parks & Playgrounds: Mr. Figueiredo was absent. Mr. Smith reported that the cans by the park have been removed so there is no need to have someone empty the one can. The park chairman will empty the garbage can when necessary.

Public Bldgs. & Grounds: Mr. Smith reported that the park building is fully converted to natural gas. Borough Hall will be converted next week. The matter of mold in the park building basement was mentioned. The clerk confirmed that the insurance company was notified and is waiting for more information.

*****Mr. Figueiredo entered into discussion at 7:30 p.m.*****

Public Safety: Mrs. Delfing had no report.

Streets & Roads: Mr. Hoag reported that the sink hole on Railroad has been looked at by the County they will fill with cold patch for the winter and will provide an estimate for repair in the warmer weather. He continued to report that an estimate has been sought for catch basin clean out. This work will be discussed further during budget workshops. Lastly, the light at the intersection is flashing. The clerk reported that matter to the County Road Department.

Water Utility: Mr. Smith reported that the water usage is where it is supposed to be. There was some discussion as to water usage in a possible vacant building. The Clerk will contact the owner to ask if there is an issue to help.

OLD BUSINESS:

The Mayor discussed forming a committee to discuss the future of the In-Rem properties. Mrs. Delfing, Mr. Figueiredo, Mr. Hoag volunteered to be on the committee. The CFO explained that any costs can be paid through Public Buildings and Grounds and later a line item for liquidation of tax title liens can be created after the budget is approved.

Joint Court – Meeting should be scheduled with Wantage and with Andover Township to discuss how we will proceed with our Joint Court needs after December 2019. Mrs. Delfing and Mr. Pearson will continue to be a part of the committee.

Dispatch Agreement is also ending in December 2019. Mr. Hoag explained that he will meet with County and Andover to ensure that we have the system that is most beneficial to the Borough.

NEW BUSINESS: None.

PROCLAMATION: **James R. Watson – Eagle Scout**

The reading of proclamation was moved to the workshop meeting to be held on 1/23/19

RESOLUTIONS:

Hepatitis B Vaccination

A MOTION was made by Mrs. Delfing, seconded by Mr. Figueiredo approve a Resolution approving the Hepatitis B Vaccination agreement for 2019 with Sussex County (\$45 per). Upon roll call the following votes were cast: AYES: Hoag, Smith, Pearson, Figueiredo, Delfing. NAYS: None. Motion carried

Tax Collector:

A MOTION was made by Mr. Figueiredo, seconded by Mrs. Delfing to approve a resolution for tax refund overpayment for block 24 lot 24 in the amount of \$3791.33 to MTAG Cust. for Empire VII NJ Portfolio. Upon roll call the following votes were cast: AYES: Hoag, Smith, Pearson, Figueiredo, Delfing. NAYS: None. Motion carried

Lakeland Emergency Squad: Review of amended Lakeland Emergency Squad Agreement

A MOTION was made by Mr. Pearson, seconded by Mr. Smith to approve and authorize signature of the amended Lakeland Emergency Squad Agreement with Byram Township, Andover Township & Andover Borough. For clarification, this is the third approval granted by the Borough as changes/corrections were suggested by Andover Township and Byram Township after the prior two approvals were granted. Upon roll call the following votes were cast: AYES: Hoag, Smith, Pearson, Figueiredo, Delfing. NAYS: None. Motion carried.

Escrow Reimbursement:

A MOTION was made by Mr. Figueiredo, seconded by Mrs. Delfing to approve the reimbursement of rental escrow fees to Dana Conrads. Upon roll call the following votes were cast: AYES: Hoag, Smith, Pearson, Figueiredo, Delfing. NAYS: None. Motion carried.

ORDINANCE:

A MOTION was made by Mr. Figueiredo, seconded by Mrs. Delfing to approve the first reading and publication of "AN ORDINANCE TO AMEND CHAPTER 117, ENTITLED "STREETS AND SIDEWALKS", OF THE CODE OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY TO ADD NEW ARTICLE III, ENTITLED "ROAD EXCAVATIONS". This ordinance is being re-read and advertised from a 2018 reading to meet the requirement of publication of ordinance. Upon roll call the following votes were cast: AYES: Hoag, Smith, Pearson, Figueiredo, Delfing. NAYS: None. Motion carried.

AN ORDINANCE TO AMEND CHAPTER 117, ENTITLED "STREETS AND SIDEWALKS", OF THE CODE OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY TO ADD NEW ARTICLE III, ENTITLED "ROAD EXCAVATIONS".

BE IT ORDAINED by the Borough Council of the Borough of Andover, County of Sussex, State of New Jersey, as follows:

SECTION 1. Chapter 117, entitled "Streets and Sidewalks", of the Code of the Borough of Andover is amended to add Article III, entitled "Road Excavations", which shall read as follows:

ARTICLE III ROAD EXCAVATIONS

Section 117-13 Permit required

No person shall open, excavate, tunnel under or replace the pavement of any road under the jurisdiction or control of the Borough without first securing a written road opening permit.

Section 117-14 Application

Written application for road opening permit shall be submitted to the Borough Clerk. The application shall contain the following information: name and address of the applicant; name of the road where the opening is to be made and the street number, if any, of the abutting property; the Borough Tax Map block and lot numbers of the property for the benefit of which the opening is to be made; the nature of the surface in which the opening is to be made; the number of both lineal and square feet of road surface reasonably estimated to be required to be opened; the character and purpose of the work proposed; the time when the work is to be commenced and completed; the names and addresses of the persons or contractors to perform the work; a statement that the applicant agrees to replace at his own cost and expense, the street, curb, gutter and sidewalk in the same state and condition in all things as they were at the time of the commencement of the work, within 48 hours after the commencement of same; and detailed description of the traffic safety arrangements for the project. Each application shall be accompanied by a set of plans (two copies) showing the exact location and dimension of all proposed openings.

Section 117-15 Insurance requirements; indemnification and hold harmless

A. No applicant shall be granted a permit to open any road unless the applicant shall furnish a certificate of insurance from a responsible insurance company authorized to do business in New Jersey, to be filed with the Borough Clerk, showing that the applicant is adequately insured against liability and property damage claims. The minimum amount of such comprehensive public liability insurance shall be for one million (\$1,000,000.00) dollars for each claim for bodily injury, three million (\$3,000,000.00) dollars multiple claims for bodily injury arising from a single accident and five hundred thousand (\$500,000.00) dollars property

damage for a single accident. Such insurance shall remain in full force and effect throughout the effective period of the permit as well as any authorized extensions thereof; all such insurance shall carry an endorsement to the effect that the insurance company will provide at least ten (10) days written notice to the Borough prior to any modification or policy cancellation. The Borough shall be named as additional insured on all such insurance certificates or the certificate shall contain adequate cross-indemnification provisions in favor of the Borough. The certificate of insurance shall be in legal form satisfactory to the Borough Attorney.

B. In lieu of filing a certificate of insurance as provided herein, a public utility or governmental agency may file with the Borough Clerk a proper certification that it is qualified as a self-insurer pursuant to law.

C. Upon being granted a permit, the permittee agrees that the permittee shall hold harmless and indemnify the Borough, its employees, agents and representatives from and against all damage, harm, injury, death, expense, cost, loss, claim, dispute, suit and attorney's fees resulting from the negligence, acts and/or omissions of permittee, its contractors, subcontractors, employees, agents and/or representatives in connection with or in the course of designing, planning, performing and concluding the project in question.

Section 117-16 Fees.

Fees shall be paid when the application is made, as set forth in Section 66-1.

Section 117-17 Performance guarantees

A. No permits shall be issued until the applicant has furnished a performance guarantee in favor of the Borough in a form and an amount determined to be sufficient by the Borough. The Borough may waive the requirements of this section in the case of public utilities, upon the presentation of satisfactory proof that it is capable of meeting any claims against it up to the amount of the performance guarantee which would otherwise be required. The performance guarantee shall be executed by the applicant as principal and, when applicable, a surety company licensed to do business in the State of New Jersey as surety, and shall be conditioned as follows:

- (1) To indemnify and hold harmless the Borough from all loss, damage, claim or expense, including expenses incurred in the defense of any litigation arising out of injury to any person or property resulting from any work done by the applicant under the permit.
- (2) To indemnify the Borough from any expense incurred in enforcing any of the provisions of this article, including but not limited to reasonable professional fees.
- (3) To indemnify any person who shall sustain personal injuries or damage to his property as a result of any act or omission of the applicant, his agents, employees or subcontractors, in the course of any work done under the permit.

B. The performance guarantee shall also be conditioned upon the applicant's restoring the surface and foundation of the road in accord with Borough specifications for which the permit is granted in a manner acceptable to the Borough.

C. One performance guarantee may be accepted to cover a number of excavations by the same applicant.

D. Performance guarantees or a portion thereof in an amount not less than \$500 shall remain in full force and continue in effect for a period not to exceed 12 months after acceptance by the Borough, or for such longer period as is determined by the Borough in order to guarantee the restoring of the foundation and surface of the street.

E. The permittee shall be responsible for and guarantee all such work and replacement thereof against all defects of workmanship and materials for a period of three (3) years from the date of permanent replacement. If a permittee shall fail to perform any corrective or restorative work on demand of the Borough, the Borough may perform the work at the cost and expense of the permittee.

Section 117-18 Issuance of permit; contents; filing

Permits shall be issued by the Borough in accordance with the provisions of this Article and the regulations which the Borough Council may establish by resolution. Each permit shall state the identity and address of the applicant, the name of the street and the location where the excavation or tunnel is to be made, the dimensions of the opening and the period during which the permit shall be valid. The original of each permit shall remain on file with the Borough Clerk.

Section 117-19 Expiration of Permit; Extensions

Every permit shall expire at the end of the period of time which shall be stated in the permit. If the permittee shall be unable to complete the work within the specified time, the permittee shall, before expiration of the permit, present in writing to the Borough Clerk a request for an extension of time, setting forth therein the reasons for the requested extension. If the Borough determines such an extension is necessary and not contrary to the public interest, the permittee may be granted additional time for the completion of the work.

Section 117-20 Denial of permit

Without limitation, the Borough may refuse the issuance of a permit if such refusal is in the interest of public safety, public convenience or public health.

Section 117-21 Requirements; backfilling.

All permits issued under this article shall be subject to the following requirements:

- A. All excavations shall be kept properly barricaded at all times and during the hours of darkness, shall be provided with proper warning lights. This requirement shall not excuse the permittee from taking any other precaution reasonably necessary for the protection of persons or property.
- B. All work shall be done in such a manner as to cause a minimum of interference with travel on the street affected. No street shall be closed to traffic unless the closing is approved by the Borough. The Borough Clerk shall be informed of all street closings at least 24 hours in advance, except where the work is of an emergency nature, in which case notice shall be given to the Borough Clerk when work commences.
- C. Upon application by the permittee, the Borough may extend the time limit during which the permit shall be valid.
- D. All refuse and material shall be removed within 48 hours.

E. All excavations shall be completely backfilled by the permittee, and shall be compacted by tamping or other suitable means by the permittee in a manner prescribed by the Borough. Where the Borough determines that the excavated material is unsuitable for backfill, the permittee shall backfill the excavation with sand, soft coal, cinders or other suitable material which shall be placed in layers not exceeding six inches in depth and thoroughly compacted in the manner prescribed by the Borough. Upon completion of the work, the permittee shall remove any excess material and leave the premises in a clean condition. If the Borough determines that any backfilled excavation has settled or caved in, it shall so notify the permittee who shall promptly continue backfilling until the Borough determines that settlement is complete.

F. If tunneling operations are required, the tunnel shall be backfilled in accordance with the requirements of the Borough or Borough Engineer.

G. If blasting is required to be done in the course of any excavation, it shall be done in strict compliance with all applicable state laws and regulations.

H. If the work is not completed within the time specified in the permit or any extension granted by the Borough, or is not performed in accordance with the requirements set forth in this Article and otherwise by the Borough, then the Borough may have the work completed and the surface of the street restored. The cost of completing the work and restoring the street shall be charged to the permittee and may be deducted from the deposit and/or recovered by an action in any court of competent jurisdiction.

Section 117-22 Requirements for restoration of surface

In all cases, the permittee shall restore the surface of the street in accordance with the following requirements:

- A. No permittee shall commence the restoration of any street foundation or surface until the Borough has determined that settlement of the subsurface is complete and the area properly prepared for restoration. During the settlement period, the permittee shall keep the trench filled to the level of pavement.
- B. The permittee shall be required to replace the permanent pavement when ordered to do so by the Borough within a period of six months following the completion of construction, should any additional settlement occur. If the permittee does not replace the permanent pavement to the satisfaction of the Borough, the permittee shall be required to pay the Borough the cost of making said repair, but not less than \$50 for each time such repair is made. If payment to the Borough is not made at the time of repair by the Borough, the Borough may satisfy payment plus any additional fees through the provisions of Section 117-16.
- C. The street surface shall be restored so as to extend six inches beyond the excavation on all sides.
- D. The street surface shall be restored to the satisfaction of the Borough.

Section 117-23 Permit conditions and regulations.

- A. Transferability. Every permit shall apply only to the person to whom it is issued and shall not be transferable.
- B. Commencement of work. Work under a permit shall commence within 45 days from the date of issuance of the permit. If work is not commenced within that time, the permit shall automatically terminate, unless extended in writing by the Borough Clerk.
- C. Possession of permit. A copy of the permit together with a copy of the plan endorsed with the approval of the Borough shall be kept in possession of the person actually performing the work and shall be exhibited on demand for the Borough and its representatives and agents.
- D. Revocation of permit.
 - (1) The Borough may revoke a permit for any of the following reasons:
 - (a) Violation of any provision of this section or any other applicable rules, regulations, laws or ordinances.
 - (b) Violation of any condition of the permit issued.

- (c) Carrying on work under the permit in a manner which endangers life or property, or which creates any condition which is unhealthy, unsanitary or declared by any provision of this Code to constitute a nuisance.
- E. Modification of permit conditions. In a special case the Council may, by resolution, impose special conditions to which the issuance of the permit may be subject, or may decide that any provision of this article shall not apply or shall be altered.

Section 117-24 Exemptions

Road excavations required under contracts with the Borough and/or performed by municipal departments are exempt from the requirements of this Article.

Section 117-25 liability for damages; violations and penalties

- A. Liability for damages. Any person violating a provision of this Article which results in damage to or obstruction of any public road, gutter, storm drain, ditch, basin, inlet or culvert shall be responsible for all expenses incurred by the Borough in repairing such damage or removing the construction, in addition to the penalties herein provided.
- B. Violations and penalties. Any person violating any of the provisions of this Article shall, upon conviction thereof, be subject to the penalties provided for in Chapter 1, General Provisions, § 1-15.

- SECTION 2. All ordinances or parts of ordinances of the Borough of Andover inconsistent herewith are repealed to the extent of such inconsistency.
- SECTION 3. If any section, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect the remaining portion of this ordinance.
- SECTION 4. This ordinance shall take effect immediately on final passage and publication as required by law.

A MOTION was made by Mrs. Delfing, seconded by Mr. Hoag to approve the first reading and publication of "AN ORDINANCE TO AMEND CHAPTER 66, ENTITLED "FEES", OF THE CODE OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY". This ordinance is being re-read and advertised from a 2018 reading to meet the requirement of publication of ordinance. Upon roll call the following votes were cast: AYES: Hoag, Smith, Pearson, Figueiredo, Delfing. NAYS: None. Motion carried.

**AN ORDINANCE TO AMEND CHAPTER 66, ENTITLED "FEES",
OF THE CODE OF THE BOROUGH OF ANDOVER,
COUNTY OF SUSSEX, STATE OF NEW JERSEY**

BE IT ORDAINED by the Borough Council of the Borough of Andover, County of Sussex, State of New Jersey, that Chapter 66 of the Code of the Borough of Andover, entitled "Fees", be and is hereby amended as follows:

Section 1. Section 66-1, entitled "Fees", is hereby amended to add a new subsection pertaining to "Chapter 117, Peddling and Soliciting" as follows:

"Chapter 117, Streets and Sidewalks	
Road opening permit	\$100.00"

Section 2. Severability.

If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the remainder of this Ordinance shall not be affected thereby but shall remain in full force and effect.

Section 3. Repealer.

All ordinances or parts of ordinances or resolutions inconsistent with or contrary to the provisions of this Ordinance are hereby repealed to the extent of such inconsistency or contrariness. All provisions of Chapter 66 of the Code of the Borough of Andover, entitled "Fees", not amended hereby shall remain in full force and effect.

Section 4. This Ordinance shall take effect immediately on its final passage and publication as required by law.

ANY OTHER BUSINESS: Mr. Smith invited Council to a dinner he will be hosting.

MOTION TO PAY THE FINAL BILLS FOR 2019 AS SUBMITTED: No bills list.

AUDIENCE PARTICIPATION: None.

MOTION TO ADJOURN:

A MOTION was made by Mr. Hoag, seconded by Mr. Pearson to adjourn the meeting. Upon roll call the following vote was cast: **AYES:** All in favor. **NAYS:** None. Motion carried.

Beth Brothman
Municipal Clerk