

A REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY WAS HELD ON MONDAY, MAY 13th, 2019 AT THE BOROUGH HALL BEGINNING AT 7:00 P.M.

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

ABSENT: Councilman Hoag

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.

The meeting began with a moment of silence for Alexis Faye, a Newton High School student who was killed in a car accident on Saturday, the day after the Newton High School Junior / Senior prom.

2019 Budget Public Hearing:

Mr. Tom Ferry appeared before the board and reviewed the 2019 Municipal Budget with the governing body. Mr. Ferry explained that as we are not self-exam this year we require the approval of the State and they are behind this year. After a review of the prepared budget information packet presented by Mr. Ferry the Mayor opened the hearing to the public.

The public hearing was opened to the public. Mr. Richard Mooney commented that everything is "too high". When asked what he meant specifically he replied "everything". The public portion of the budget hearing was closed to the public.

Adoption of the budget is expected upon approved review by the State at the next scheduled meeting.

MINUTES:

A MOTION was made by Mr. Figueiredo seconded by, Mrs. Delfing to approve the minutes of the meeting held on April 8th, 2019. Upon roll call the following votes were cast: YES: Dennison, Smith, Pearson, Figueiredo, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

A MOTION was made by Mr. Figueiredo seconded by, Mrs. Delfing to approve the executive session minutes of the meeting held on April 8th, 2019. Upon roll call the following votes were cast: YES: Dennison, Smith, Pearson, Figueiredo, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

OFFICIALS REPORTS:

A MOTION was made by Mr. Smith, seconded by Mr. Figueiredo to approve the Treasurer's report for February 2019. Upon roll call the following votes were cast: YES: Dennison, Smith, Pearson, Figueiredo, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

A MOTION was made by Mr. Dennison, seconded by Mr. Figueiredo to accept the following reports and place on file: Lakeland Emergency Squad April & YTD report, ABFD report for April, Animal Control Report for March & April, Joint Court report for April. Upon roll call the following votes were cast: YES: Dennison, Smith, Pearson, Figueiredo, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

CORRESPONDENCE: The following reports were presented to the governing body:

County Board of Taxation re: Resolution passed establishing 100% as ratio if assessed value to true value of real property within Sussex County.

State of New Jersey Dept. of Education re: 2019-2020 Municipal Percentage Shares for Tax Levies for Regional School Districts

County Board of Freeholders re: Resolution in support of legislation to apply same regulations and oversight to all persons and businesses concerning soil and fill recycling services as applies to solid waste industry was reviewed. The following motion was made in support of this resolution.

A MOTION was made by Mr. Pearson, seconded by Mrs. Delfing to approve a resolution in support of this presented legislation. Upon roll call the following votes were cast: YES: Dennison, Smith, Pearson, Figueiredo, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

Andover Reg. BOE re: 2019-2020 School Year Tax Payments & Tax Levy Certification Form A

County Dept. of Engineering & Planning re: Sussex County Water Quality Management Municipal Appointment.

County Dept. of Engineering & Planning re: Sussex County Solid Waste Advisory Council Municipal Appointment.

******* Mr. Hoag joined the meeting at 7:11 p.m. *******

NJ DOT re: Municipal Aid Grant application deadline 7/19/19.

A MOTION was made by Mr. Smith, seconded by Mr. Pearson to approve Harold E. Pellow to submit Old Creamery Road for the next round of Municipal Aid Grant applications. Upon roll call the following votes were cast: YES: Dennison, Smith, Hoag, Pearson, Figueiredo, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

****The Engineer will be made aware of the major grading/elevation issue where the road intersects with County Route 517.**

A letter from H.E. Pellow & Associates, Inc. re: Prospect Avenue – Section II was reviewed by the Mayor and Council. There was no approval to go out to bid. Furthermore, to understand the scope of the work and cost, the Mayor will be reviewing the submission.

AUDIENCE PARTICIPATION: Jackie Espinoza of JCPL appeared before the board to announce that the Board of Public Utilities approve the reliability plus program which we supported by resolution back in 2015. Less funding was approved, but the monies that were approved will improve the reliability of electric service to its customers by improving infrastructure work. Another round of funding will be sought. The Mayor asked the potential of moving the first disconnect across the street from the pump house because when that trips is cuts off service to the pump house. He said moving down the road 300 feet would increase the likelihood of a power supply to the pump house when outages occur.

She also reported that the SCLOM meeting this month is on the 23rd. There will be an interactive session on school safety.

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

REPORTS OF STANDING COMMITTEES:

Administrative & Executive: Mr. Pearson reported that the municipal code has been codified and the final draft of the personnel policy and procedures manual has been updated. A purchasing flow chart is being worked on. Mr. Pearson also explained that the Municipal Clerk will need coverage for her duties administering the primary election.

A MOTION was made by Mr. Pearson, seconded by Mrs. Delfing to appoint Terry Casella as deputy municipal clerk for the duties of elections only for the date of 6/4/19. Upon roll call the following votes were cast: AYES: Dennison, Hoag, Smith, Pearson, Figueiredo, Delfing. NAYS: None. Motion carried. The Municipal Clerk will prepare polling location, helpful phone numbers and various procedures for Mrs. Casella and administration as well as advise the Board of Elections of any information they need.

Celebration of Public Events: Mr. Figueiredo reported that the Easter Egg Hunt went well. He thanked Mr. Smith for helping, Mayor Morgan for speaking and Emily Brothman for volunteering to fill the eggs. The next event is Memorial Day at 9 a.m. Flowers are ordered for it and flags will be ready. Mr. Figueiredo then reported that the flag in the mini park still needs to be repaired. He provided days he is available (5/21-23) and sought help with that repair which will require the rental of a lift as well as other materials. The Mayor will likely be there to help.

Finance: Mr. Dennison had no report. The budget hearing is scheduled for this evening.

Parks & Playgrounds: Mr. Figueiredo reported that there is a wire down in the park very close to the pond. It was explained that it is not a live wire. The tree limb that fell on it needs to be removed in order to remove the wire. The request from Mr. Conrads to have the lower soccer field to be "rolled out" with an asphalt roller to remove the ruts in the field was reported. After some conversation, there was no action taken although the soccer club may repair it if they wish. The matter of the fence in the park was mentioned again to establish that a mark out is still needed in order to begin the quote process. Mr. Smith mentioned that he has received a verbal estimate from Bob Cahill of Cahill Farms in the amount of \$400 for landscaping in Memorial Park. The Mayor mentioned that "No Overnight Parking" and "Carry In – Carry Out" signs need to be installed. **A MOTION** was made by Mr. Figueiredo, seconded by Mr. Hoag to approve an amount not to exceed \$500 for the landscaping work in Memorial Park. Upon roll call the following votes were cast: YES: Dennison, Hoag, Smith, Pearson, Figueiredo, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

Public Bldgs. & Grounds: Mr. Smith reported that the work the senior building is complete. He is still considering power washing and window cleaning. He continued to report that the cages in the basement have been divided by Committee use. There was a brief discussion regarding the grass brought in by the person mowing. He stated that he brought in another carpet installer for the borough hall who determined that the unlevelled nature of the floor will require a roll out carpet. There are no structural problems, but moving the furniture will be more complicated. He also mentioned replacing all the lighting fixtures with LED and obtaining a quote for that.

Public Safety: Mrs. Delfing reported that the loss control letter has been obtained from Ivan Cohen of Statewide. She continued to report that the equipment needs to be labeled for the age groups that are appropriate. Mulch may also be needed. She also reported that we should look into replacing the pedestrian walkway sign with a "stop for pedestrian" sign as the current one states "yield for pedestrian". There has been no estimate submitted yet for the fire truck tires. Mr. Hoag reported that he is still waiting on it.

Streets & Roads: Mr. Hoag reported that the Sussex County road department has notified us that we need to address two different locations where water main repairs took place. One in the southbound lane of the tunnel on Route 517 near the park and the other is approximately in front of 27 Lenape Road which is also on Route 517. The Municipal Clerk will contact Marksmen Enterprises regarding this repair.

Water Utility: Mr. Smith reported that a valve by Exxon was repaired on Mother's Day. The repair was challenging, but went well. He also reported that overgrowth around the pump house will need to be addressed. He spoke with Mr. Mooney who agreed to excavate the area for \$1000. He also mentioned that the hydrant at the corner of Lakeview and Smith street needs to be replaced as well as the repair by HR Drilling at the pump house is scheduled for the 27th of May.

A MOTION was made by Mr. Smith, seconded by Mr. Figueiredo to approve an amount not to exceed \$1000 for the excavation work by Mr. Mooney. Upon roll call the following votes were cast: YES: Dennison, Smith, Hoag, Pearson, Figueiredo, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

OLD BUSINESS:

Grant Update Discussions

Fire Department Equipment: Mr. Pearson reported that he is still working on the fire department grant but there is no new progress.

Open Space: Mr. Figueiredo reported that he recently spent the afternoon with the Municipal Clerk in the Borough Hall researching the information needed. He is concerned that there will be limitations and restrictions to the grant making it cost prohibitive. For example, the scope of the grant is only for half of the cost or a loan at 2%. The next round is Spring/Fall and he will continue to review.

Joint Court

The Council addressed a request from Andover Township for input on the Joint Court renewal duration during this time as Andover Township proposed a 10-year agreement among those in the joint court system. After a very brief conversation Mayor Morgan proposed a letter be sent to the Andover Township Administrator requesting a meeting of the municipalities involved for the purpose of reviewing the operation over the past four years to determine if there are any issues that need to be addressed or changes to the agreement. He would personally like to discuss the financial aspects of the operation of the court and would be requesting the case load by municipality and the costs being borne by each municipality for the past two years. The letter will be prepared and also sent to the municipalities involved.

Food Truck

A review of the Model Food Truck Ordinance continued from the April meeting. The concerns of the duration were discussed as well as how it would apply to the businesses in town. The ordinance as well as the Chapter on fees were introduced and published as indicated below under title "Ordinance".

NEW BUSINESS:

There was a review of the Soil Importation & Fee Ordinance. The ordinance as well as the Chapter on fees were introduced and published as indicated below under title "Ordinance".

The Council reviewed the County of Sussex request for certification for **Emergency Rescue Squad Contribution**. A MOTION was made by Mr. Figueiredo, seconded by Mr. Pearson to approve this request. Upon roll call the following votes were cast: YES: Dennison, Hoag, Smith, Pearson, Figueiredo and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

The Council was presented the Rain Tax resolution draft as provided by the office of Legislative District 24. A MOTION was made by Mr. Smith, seconded by Mr. Hoag to discontinue the review and discussion. No formal action was taken on this resolution. Upon roll call the following votes were cast: YES: Dennison, Hoag, Smith, Pearson, Figueiredo and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

PROCLAMATION: Child Abuse Prevention – Ginnie’s House

Child Abuse Prevention Month Proclamation

WHEREAS, child abuse and neglect is a complex and ongoing problem in our society, affecting many children in Sussex County; and
WHEREAS, every child is entitled to be loved, cared for, nurtured, feel secure and be free from verbal, sexual, emotional and physical abuse, and neglect; and

WHEREAS, child abuse and neglect not only directly harm children, but also increase the likelihood of criminal behavior, substance abuse, health problems, and risky behavior;

WHEREAS the effects of child abuse are felt by communities as a whole, and need to be addressed by the entire community;

WHEREAS, effective child abuse prevention programs succeed because of partnerships among families, social service agencies, schools, religious and civic organizations, law enforcement agencies and the business community;

NOW THEREFORE, be it resolved that the Sussex County Board of Chosen Freeholders does proclaim April as Child Abuse Prevention Month, and calls upon all citizens, community agencies, faith groups, medical facilities, and businesses to increase their participation in our efforts to support families, thereby preventing child abuse and strengthening the communities in which we live.

ANY OTHER BUSINESS:

Centers of Place update – The Mayor and Council again discussed the matter of renewing their Centers of Place. The nature of which may require Plan Endorsement. Extension is only valid through June 30th. A letter needs to be sent to the State stating that we may like to pursue plan endorsement and would need more information on how to proceed.

The Mayor reported that a generator maintenance agreement needs to be looked into. The Morris County Coop, EM Electric and Innovative Electric will be called.

It was discussed that an inventory of the storm drains needs to be done in order to explore the cost of having them cleaned out and it should be done soon. Mr. Hoag agreed that needs to be done.

The Mayor reported that the water operator manual for lead & copper sampling is ready for the final approval of Mr. Olivo and Mr. Smith.

A letter from Gottheimer’s office regarding grants was discussed. The Mayor stated that this could be very useful and we should explore those opportunities.

The Mayor mentioned that a local municipality is utilizing their CAP Bank to increase their taxes by 10 percent. You can bank the cap you don’t use for three years but it seems the residents pay the price.

The Mayor continued to report that the route 206 tunnel closure is of interest to the offices of Gottheimer, Oroho, Space and Wirth, as well as Tammy Horsfield of the Sussex County Chamber of Commerce because it will affect tourism and commerce in Sussex County. There will be some communication to determine what can and cannot be done in this issue. Perhaps there is a work around that can be done.

Upon an inquiry by the Fire Chief, the Municipal Clerk asked the governing body if the ABFD could hold movie nights in the park this summer. Mr. Smith stated that they would have to arrange for

that use like other would. Mrs. Delfing confirmed that the deferment of any fee for the use is addressed in the fee ordinance. At this time, no dates have been requested.

Regarding a letter sent by the Wantage Township OEM about a request for concurrence from the Borough to utilize a similar frequency for radios, the Municipal Clerk asked Mr. Hoag, OEM, if he would need to address this matter with the governing body as there seems to be a timeline. Mr. Hoag stated that the ABFD is the owner of that frequency and the directive would have to come from them. The Municipal Clerk will advise the Wantage Township OEM that the ABFD has the authority for that approval.

The Municipal Clerk asked if movie nights in the park would be a possibility for the ABFD to use as a fundraiser. The Council would have to approve any dates that they would like to use. This would include use of the park building.

The Municipal Clerk also asked if the OEM, Mr. Hoag, would like the council to address the letter sent to the office by the Wantage Township OEM regarding the use of radio bands. Mr. Hoag explained that those bands are owned by the ABFD. The Municipal Clerk will send an email to the Wantage OEM to advise him of that.

ORDINANCE:

Food Truck:

A MOTION was made by Mrs. Delfing, seconded by Mr. Pearson to introduce and publish “**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY TO ADD NEW CHAPTER ENTITLED “FOOD TRUCK”**”. Upon roll call the following votes were cast: YES: Dennison, Hoag, Smith, Pearson, Figueiredo and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

Food Truck Fee:

A MOTION was made by Mrs. Delfing, seconded by Mr. Pearson to introduce and publish “**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY TO ADD NEW CHAPTER ENTITLED “FOOD TRUCK”**”. Upon roll call the following votes were cast: YES: Dennison, Hoag, Smith, Pearson, Figueiredo and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

Soil Importation and Fees:

A MOTION was made by Mr. Smith, seconded by Mr. Dennison to introduce and publish “**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY TO ADD NEW CHAPTER 114, ENTITLED “SOIL IMPORTATION”**”. Upon roll call the following votes were cast: YES: Dennison, Hoag, Smith, Pearson, Figueiredo and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY TO ADD NEW CHAPTER 114, ENTITLED “SOIL IMPORTATION”

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

SECTION 1. The Code of the Borough of Andover is amended to add Chapter 114, entitled “Soil Importation”, which shall read as follows:

Chapter 114. Soil Importation.

Section 114-1. Permit Required.

No person or entity shall cause or authorize the placement of any soil as defined in Section 113-3 on any premises in the Borough of Andover whether such soil be for sale, gift or otherwise, unless a permit therefor is first secured from the Borough Engineer or the Borough Planning/Zoning Board as hereinafter provided.

Section 114-2. Exceptions and Exemptions.

A permit shall not be required when any of the following exceptions/exemptions are applicable:

- A. Soil moved from any property located within the Borough of Andover to another property also located within the Borough.
- B. Soil imported from any licensed quarry.
- C. Fill for septic tanks or sanitary installations provided a permit has been issued by the Construction Official and/or Department of Health as required by law.
- D. The placement of soil in and upon lands enrolled in the Soil Conservation Program of the Sussex County Soil Conservation District, Department of Agriculture Soil Conservation Service and for which lands an approved farm plan has been established by said agency.
- E. The placement of any soil undertaken in furtherance of a subdivision or site plan approval issued by the Borough Planning/Zoning Board.
- F. The placement of any soil in furtherance of an environmental site remediation that is supervised by a licensed site remediation professional.
- G. The storage of sand, soil, stone, topsoil, mulch or other similar materials on lawfully existing landscaping and contractor yards.
- H. Soil imported from any non-commercial, non-industrial, residential or agricultural property within the County of Sussex.
- I. Soil imported for recreational facilities, including but not limited to, ball parks, recreational and sports fields, bathing beaches, and equestrian facilities.
- J. The Borough and any of its commissions and boards are exempt from the terms of this chapter.
- K. The Mayor and Borough Council shall have the right, upon written request to grant partial or complete waivers from the requirements of this chapter for any volunteer or non-profit group or charitable/religious organization.

Section 114-3. Application for Minor Permit.

- A. Application for a soil importing permit up to but not exceeding 500 cubic yards shall be filed with the Borough Engineer who shall issue the permit based upon finding substantial compliance with the provisions of this chapter; provided, however, the Borough Engineer shall have the authority to deny a permit if it is determined that the placement of soil would be detrimental to the health, safety or welfare of the general public. The approval or denial shall be provided to the applicant within ten (10) business days after the Borough Engineer's receipt of the application. In the event the Borough Engineer has not responded within that time frame, the application shall be deemed denied.
- B. Application for a soil importing permit shall be accompanied by a fee and deposits as set forth in section 66-1.
- C. The application shall set forth the following:

1. Name and address of the applicant.
2. Name and address of the owner, if other than the applicant.
3. The description and location of the land in question, including the tax map block and lot numbers.
4. The purpose or reason for placement of soil/fill.
5. The nature and quantity, in cubic yards, of soil/fill to be imported.
6. The source of material to be used as soil/fill and certification that the soil/fill can be considered "clean fill" as regulated by local and state regulations.
7. Source from where the soil/fill is coming from to be shown on the plans, including tax lot and block
8. The location to which the soil/fill is to be placed.
9. The proposed date of completion of the soil/fill.
10. Other supporting documentation as required to adequately address and comply with the purpose and the provisions of this chapter.
11. An approved soil erosion and sediment control permit (if applicable).

Section 114-4. Major Soil Importing Application Referral to Planning/Zoning Board.

- A. The application for a major soil/fill importing placement permit, defined as any application to import in excess of 500 cubic yards, shall be referred to the Planning/Zoning Board for site plan approval. In addition to complying with the requirements of section 114-3, and any such application shall also be accompanied by a topographic map or maps prepared and certified by a professional engineer or land surveyor. The scale of said map shall not be more than 100 feet to the inch and shall include the following:
 1. Key map.
 2. Existing contour lines at five-foot intervals.
 3. Proposed contour lines at five-foot intervals after the soil/fill is placed on the parcel.
 4. All existing structures, all existing roads and drainage within 200 feet of the property.
 5. Location of all property lines.
 6. Location of any wetlands, streams, or other environmentally sensitive areas on the property.
 7. Source from where the soil/fill is coming from shall be shown on the plans, including tax lot and block; owner's name and municipality.
 8. Location of any topsoil or fill storage areas.
 9. Soil erosion and sediment control measures.
 10. Cross sections of the soil/fill areas at fifty-foot intervals.
- B. The Planning/Zoning Board shall schedule a public hearing and shall notify the applicant of the date of such hearing. The applicant shall provide notice in accordance with Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. Five (5) days prior to the hearing, the applicant shall present to the Borough Planning/Zoning Board Secretary the following: (1) Certification, in the form of an affidavit, signed and sworn by the applicant, affirming that he or she has notified all property owners within 200 feet, including certified notice receipts; and (2) Proof of publication in the official newspaper of the Borough at least ten (10) days prior to the hearing.

- C. The Planning/Zoning Board shall require an applicant to post the application fees and deposits as set forth in section 66-1.

Section 114-5. Factors to Be Considered in Approving Permits.

The Borough Engineer (minor permit) and the Borough Planning/Zoning Board (major permit) shall be guided by and take into consideration the public health, safety and general welfare and the general purposes of municipal planning. Particular consideration shall be given to the following factors:

- A. Soil erosion by water and sand.
- B. Surface water drainage.
- C. Soil fertility.
- D. Lateral support of abutting streets and lands.
- E. Public health and safety.
- F. Land values and uses.
- G. Existing contours and topographic character of the land prior to the placement of any soil/fill and proposed contours which will result subsequent to the placement of soil/fill in accordance with the soil fill application.
- H. Whether the proposed placement of soil is necessary and incidental to the development of the property for its intended use or whether the proposed placement of soil/fill constitutes primarily a commercial activity.

Section 114-6. Issuance of Permit and Operating Requirements.

- A. A permit shall be issued after the approval of the application by the Borough Engineer (minor permit) or by the Borough Planning/Zoning Board (major permit). The approval shall specifically list the total number of cubic yards of soil/fill authorized to be placed on the property.
- B. If a permit is issued for the placement of soil/fill, the owner or person in charge shall conduct the operations to ensure there are no sharp declivities, pits or depressions, and in such a manner that the area shall be properly leveled off, cleared of debris, and graded to conform with the contour lines and grades as required and shown on the approved plan.
- C. Soil/fill shall not be deposited or in any way placed upon adjoining property or public roads. Any soil/fill or material resulting from any such operation accumulating on any adjoining property or public road shall be removed immediately upon notice to the permittee of such accumulation.
- D. Upon completion of any operation delineated on the approved plan, said area shall be properly leveled off, cleared of debris, and graded to conform to the contours and grades as approved by the Borough Engineer. A final map for all major soil/fill permits shall be submitted containing and complying with all requirements as set forth in this chapter.
- E. Any soil/fill material temporarily stored shall not exceed a height of 20 feet, and the maximum storage slope shall be 45 degrees.

- F. Permits may be issued with reasonable conditions by the Borough Engineer and/or Borough Planning/Zoning Board to meet address concerns pertaining to public health, safety and welfare and as set forth in section 114-5.
- G. All such permits issued hereunder shall be valid for the period of no more than one (1) year from the date of its issuance. A permit must be renewed by the Borough annually to remain in effect.
- H. Before any work is done for which a major permit is required, and during the period covered by a permit, the applicant shall file and maintain a bond in form and with surety acceptable to the Borough Attorney in such amount as in the opinion of the Borough Engineer shall be sufficient to insure the faithful performance of the work to be undertaken pursuant to the conditions of the permit and the terms thereof. The bond shall be in an amount of not less than three thousand (\$3,000.00) dollars per acre of land to be affected to cover the cost of conforming with Borough requirements, restoring the land, re-seeding and the cost of repairing public roads which may be damaged by the transportation of materials or equipment. To the overall amount thereof, there shall be added fifteen (15%) percent to cover legal and engineering fees which may be incurred in the event of default.

Section 114-7. Certain materials prohibited.

- A. For purposes of this section, the following definitions apply:
 - 1. CONTAMINANT -- Any hazardous substance, hazardous constituent, hazardous waste or pollutant.
 - 2. CONTAMINATED MATERIAL -- Any soil or other material containing contaminants exceeding the present requirements for residential direct contact pursuant to N.J.A.C. 7:26E-1.1 et seq., technical requirements for site remediation, as may be amended.
 - 3. RECYCLED ASPHALT PAVEMENT -- Asphalt millings (material produced from milling of roads before repaving) and pieces of asphaltic roadway pavement removed from roadway surface or subbase or other asphalt-paved surfaces such as parking lots or driveways.
 - 4. SOIL -- All unconsolidated mineral and organic matter of any origin, including sand and/or gravel.
- B. Notwithstanding any contrary term in this chapter, importation, use and/or placement of recycled asphalt pavement to or on property in the Borough is prohibited unless permitted by and used in accordance with applicable regulations promulgated by the New Jersey Department of Environmental Protection; however, in no case shall the material be placed within the boundaries of a public road. This paragraph shall not apply to road maintenance, repair and/or replacement conducted by the Borough, county or State.
- C. Notwithstanding any contrary term in this chapter, importation of contaminated material, construction debris, trash or vegetative debris or of solid waste as defined by N.J.A.C. 7:26-1.6 to a property for deposit within the Borough is prohibited.

Section 114-8. Violations and penalties; Enforcement.

- A. Any person or entity who violates this chapter or any director, officer, manager or member of a corporation, limited liability company or partnership who participates in a violation of this chapter shall, upon conviction thereof, be subject to a minimum fine of \$2,000.00, or imprisonment for a period not to exceed 90 days, or both. Each and every day that such violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense.
- B. The Zoning Officer or other official designated by the Borough Mayor and Council shall have the authority to enforce the provisions of this chapter and to issue Summonses to any person importing soil without a permit or violating a provision of this chapter.
- C. The Borough Engineer is designated as the official whose duty it shall be to enforce the provisions of this chapter with respect to persons importing soil with a permit. The Borough Engineer shall, from time to time, upon their own initiative, and whenever directed by the Borough, inspect the premises for which permits have been granted to ensure compliance with the terms of the permit and of this chapter. The Borough Engineer shall have the right to enter upon any lands for the purpose of examination and inspection of the operation without advance notice.
- D. After notice and an opportunity to be heard before the Borough Engineer the permit of any person may be revoked or suspended for such period as may be determined for any violation of the terms hereof or the terms and conditions of any permit granted hereunder.
- E. In addition to the penalties set forth herein, the Borough shall have the right, but not the obligation, to pursue injunctive relief in the Superior Court of New Jersey, Sussex County, including but not limited to, requiring the removal of any soil imported without a permit, testing to ensure no presence of contaminated soil, and site restoration.
- F. In the case of any violation of this chapter or in the case of any storage, placement or importation being conducted or having been conducted without the required permit, the Borough, through the Zoning Officer, may issue a notice to stop work until the proper permits are obtained and this chapter is complied with and take such action as the Zoning Officer deems appropriate to enforce such stop work order.

Section 114-9. Permit and Inspection Fees.

- A. Applications for permits for minor and major soil permits shall be accompanied by permit fees and deposits as set forth in section 66-1.
- B. The applicant shall be responsible for all fees of the Borough Engineer incurred in reviewing applications and making inspections prior or subsequent to the issuance of a permit of any kind.

SECTION 2. 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. 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.

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

A MOTION was made by Mr. Smith, seconded by Mr. Dennison to introduce and publish **“AN ORDINANCE TO AMEND CHAPTER 66, ENTITLED “FEES”, OF THE CODE OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY”**.

Upon roll call the following votes were cast: YES: Dennison, Hoag, Smith, Pearson, Figueiredo and Delfing. NAYS: None. ABSTAIN: 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 114, Soil Importation” as follows:

“Chapter 114, Soil Importation

Application fee for minor soil permit	\$150.00
Deposit for Borough Engineer review of minor soil permit application	\$500.00
Application fee for a major soil permit	\$500.00
Deposit with the Borough Planning/Zoning Board for professional review of major soil permit application	\$3,000.00
Renewal application fee for minor soil permit	\$150.00
Renewal application fee for major soil permit	\$500.00
Deposit for inspection fees to be submitted with each application	\$500.00

Any unused portions of deposits shall be returned to the applicant. The Borough Engineer (minor soil permit application) and Planning/Zoning Board (major soil permit application) shall have the right to require additional deposits to be paid by the applicant, from time to time, to ensure review and inspection fees are adequately provided for.”

Section 2. 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. 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.

RESOLUTIONS:

Rental Escrow Reimbursement:

A MOTION was made by Mr. Dennison, seconded by Mr. Figueiredo to approve a resolution authorizing the reimbursement of rental escrow deposit for Greame. Upon roll call the following votes were cast: YES: Dennison, Hoag, Smith, Pearson, Figueiredo and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

A MOTION was made by Mr. Dennison, seconded by Mr. Figueiredo to approve a resolution entitled "**GOVERNING BODY CERTIFICATION OF COMPLIANCE WITH THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION'S "Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964"**". Upon roll call the following votes were cast: YES: Dennison, Hoag, Smith, Pearson, Figueiredo and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

AUDIENCE PARTICIPATION: None.

MOTION TO PAY THE BILLS:

A MOTION was made by Mr. Figueiredo, seconded by Mr. Hoag to pass the following Resolution: BE IT RESOLVED by the Governing Body to approve the payment of all vouchers on the bill listed May 13th, 2019, submitted by the Chief Financial Officer for payment. Upon roll call the following votes were cast: YES: Dennison, Hoag, Smith, Pearson, Figueiredo and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

MOTION TO ADJOURN:

A MOTION was made by Mr. Pearson, seconded by Mr. Dennison to adjourn the meeting. AYES: All in favor. NAYS: None. Motion carried.

Beth Brothman
Municipal Clerk