

A REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY WAS HELD ON TUESDAY, DECEMBER 9th, 2019 AT THE BOROUGH HALL BEGINNING AT 7:00 P.M.

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

ABSENT: Council Member Figueiredo

The Mayor 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.

EXECUTIVE SESSION:

A MOTION was made by Mr. Smith, seconded by Mr. Hoag to adopt the following Resolution. Upon roll call the following vote was cast: AYES: All in favor. NAYS: None. Motion carried

WHEREAS, the Open Public Meetings Act, P.L. 1975, Chapter 231 permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist; and

WHEREAS, the Governing Body wishes to discuss: Any material which would constitute an unwarranted invasion of individual privacy if disclosed

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Andover will go into closed session: 8:05 p.m. for reasons of: potential litigation

A MOTION was made by Mr. Hoag, seconded by Mr. Smith to resume the public portion of the meeting. Upon roll call the following vote was cast: AYES: All in favor. NAYS: None. Motion carried: 7:16 p.m.

MINUTES: None.

OFFICIALS REPORTS:

CFO's Office:

A MOTION was made by Mr. Smith, seconded by Mr. Dennison to approve the Treasurer's report as presented. Upon roll call the following votes were cast: AYES: Dennison, Hoag, Smith, Pearson and Delfing. NAYS: None. Motion carried.

A MOTION was made by Mr. Dennison, seconded by Mrs. Delfing to approve a transfer resolution in the amount of \$1981.00. Upon roll call the following votes were cast: AYES: Dennison, Hoag, Smith, Pearson and Delfing. NAYS: None. Motion carried.

A MOTION was made by Mr. Pearson, seconded by Mr. Hoag to accept the following reports and place on file: ACO report June-Sept, Lakeland Emergency Squad November and YTD, ABFD report for November. Upon roll call the following votes were cast: AYES: Dennison, Hoag, Smith, Pearson, and Delfing. NAYS: None. Motion carried.

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

Letter from Statewide Insurance re: Domestic Violence Policy for Public Employers

Letter from NJDOT re: Approved for Old Creamery Municipal Aid Grant in the amount of \$200,000.00

Letter from SCMUA re: FY2020 Rate Scheduled

Letter from H.E. Pellow re: Engineer's End of Year Report

AUDIENCE PARTICIPATION:

Jeff Vincent spoke with the governing body seeking "help" to repair major potholes that he considered a hazardous situation at the entrance to Forest Lakes Road. He stated that he believed that these potholes are on a road that is Andover Borough property. He asked for help repairing them as there have been accidents and that the signage has been damaged a number of times. He felt that there could be potentially a major accident there.

Mark LeFurge also spoke the governing body and indicated he has damaged his tires twice as the holes are not filled properly. He indicated some of the holes have traffic cones within them and that the problem has been going on for years. Mayor Morgan asked "who has been patching the holes?" Mr. LeFurge had no idea. It was indicated by Mr. Vincent that "people have been taking it upon themselves to do it". Councilman Robert Smith asked "who put the cones there?". Mr. Vincent and Mr. LeFurge did not know to which Councilman Smith indicated that the Borough did not know either. Mr. LeFurge also requested help by the Borough to fill the holes and make it a permanent solution as the weather continues to worsen the condition of the holes.

Councilman Robert Smith stated that the road is a private road on private property owned by Peter Kellogg and not owned by the Borough.

Mr. LeFurge asked why are there signs indicating that you are entering and leaving Andover Borough. It was explained that those signs indicate a municipal boundary, but does not indicate ownership. It was further clarified by Councilman Smith that the Borough does not have a DPW at all and that repairs to borough owned roads are contracted or performed via a shared service with the County.

Mr. Vincent spoke again indicating that he is on the board of Forest Lakes and stated that they have talked to everyone concerned being Andover Township, Byram Township and the State and all have indicated that it is not their problem. He continued to state that those entities stated that it was owned by the Borough. It was clarified again by the governing body that the borough does not own that property.

Mr. Vincent. asked how much extra money does it require to repair these potholes as these are neighboring communities. Councilman Smith specified that once the repair is done it will indicate who is responsible for the roadway. Councilman Smith continued to explain that the governing body does not wish to argue the point and he understands the issue.

Councilman Peter Pearson stated that if one were to look at the tax maps they could see that the property is taxed to and paid for by Peter Kellogg and that the matter should be addressed to him.

Frank McGovern, Borough Attorney, stated that this concern has been around for a long time and there has been much discussion over the years about this. He continued to explain that after ample research this property owned by IAT Reinsurance Syndicate, Inc. there has been no record found to show an easement has been granted for this lane that traverses across this property. He further stated that the Borough has also communicated with the owner of the property, Forest Lakes Association, Andover Township, Byram Township and the State regarding the matter and that the Borough would like the issue solved as well. The problem comes down to who takes on the responsibility for this long stretch of road which is an expensive undertaking considering that the road is not up to par with public roads and has never been accepted by the Borough in the first place. He continued to state that it is the Borough's understanding that up until about 2011 that road was maintained by either Byram Township or Andover Township, not by the Borough. Mr. Vincent stated that the road is plowed by Byram Township. Mr. McGovern stated that the Borough doesn't understand why the Forest Lakes Association isn't the one taking responsibility with the property owner to make sure that that road is maintained for the community which is what an Association usually will do. He further stated that the Borough has no ownership to the road and there is no

reason for the Borough to maintain it as it simply has never been accepted by the Borough. The road is used mainly for that community and would reasonably be the solution.

Councilman Smith stated that for the Borough to even consider accepting that as a road it would have to come up to today's standard for municipal roads.

Mr. Vincent confirmed that he understood the position and that the Forest Lakes Club has also questioned if they could do the repair, but they also understood that they would be responsible for everything that went on that road.

Ms. Fran Losonsky stated she was trying to understand when the road was developed if the community was supposed to do something to establish an easement. Mr. McGovern stated that that is the question and they should have done that, but the problem is that no one can locate an easement on record.

Greg Smith stated that the corner lot known as block 5 lot 8, 76 Main Street, pays their taxes to Andover Borough. No one disagreed. Greg Smith stated that the most recent deed on file with the Sussex County Clerk's Office with regard to that property shows a sale of that roadway from Forest Lakes Water Company who purchased an easement to install a water system and Andover Borough purchased the roadway back. The Mayor clarified that those mains are in the portion of Andover Township, not the Borough part of it. That the wells for the Forest Lakes Water company are in Andover Township and the mains for it go toward the Forest Lakes Community, not in the other direction toward the Borough.

The Mayor of Byram Township, Alex Rubenstein was also present in this meeting and when asked where Byram stands he stated that it was in Andover Borough and they could not send their DPW to do work in Andover Borough on a property that is private.

Ms. Fran Losonsky again spoke asking for clarification of the entrance from a driving standpoint. It was clarified that the entrance is on the right or the "bad side" of the entrance. She continued that the road entrance is dangerous. There was some discussion regarding a light on a pole which the Forest Lakes Club pays to illuminate the signage. It was also mentioned that the signage for Forest Lakes Club is likely a non-conforming sign.

The Mayor of Byram Township, Alex Rubenstein, stated that Byram's communication with the State indicated that they saw it as a driveway, not a road.

Byram Township Councilman, Peter Rosett, reiterated the situation of the complexity of the property owned by Mr. Kellogg and asked if the road was brought up to standard what the Borough stance would be. Councilman Robert Smith stated that if the road was brought up to standard the Borough would consider accepting the road.

There was some communication about the building there at block 5 lot 8 being formerly a sales office for the Forest Lakes Community. Mr. Vincent stated that when he moved to the community a few decades ago the roadway was dirt and that Andover Township assessed a fee to have the road paved. He personally paid \$3000 to Andover Township and they paved all the way to Route 206.

There was some discussion that the Borough has in the past indicated to the owner that if that driveway was brought to municipal road standards that they would consider taking it over. The offer was refused. The Mayor of Byram asked what precipitated that conversation to which Mayor Morgan indicated it was the same complaint of potholes.

Ms. Losonsky stated that there would presumably need to be a vote by the Andover Borough Council to accept the road if it were brought up to standards. She asked if that improvement took place would the Borough follow through with that. Councilman Smith agreed they would still consider accepting it if brought up to standard.

Mr. Vincent thanked the governing body for their time.

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

Grant Update Discussions:

Fire Department Equipment Report – Mr. Pearson reported that the application opens in early to mid-December. The requirement to complete a FEMA webinar is done and registration for grants has also been completed. Information is still being gathered on the fire truck specs, etc.

Open Space Report – No report.

Borough Land Report – The Borough Attorney will look into possible surveys of the land.

REPORTS OF STANDING COMMITTEES:

Administrative & Executive: Mr. Pearson reported in the beginning of the year the Clerk will be updating the website information and he is still working on the phone issue. The Mayor reported that the phones did not work in the Borough Hall when the power went out because we use Service Electric for the service.

Celebration of Public Events: Mr. Figueiredo was absent. It was reported that the Holiday Breakfast was a big success. The next event will be the Easter Egg Hunt.

Finance: Mr. Dennison had no report.

Parks & Playgrounds: Mr. Figueiredo was absent. It was clarified for all Council members that a landmark sign for the Lackawanna Cutoff would be paid for by the County Historical Committee and installed by the County near the entrance to the Park facing the soccer field.

Public Bldgs. & Grounds: Mr. Smith reported that he is anticipating the quotes for the lights in the Borough Hall to be replaced by LED and that 4 buckets (1 barrel) of salt needs to be ordered for the sidewalks. There was some conversation regarding replacing the chairs in the park building. No estimates have been provided as of yet, but will be looked into.

Public Safety: Mrs. Delfing reported on the request by the Fire Dept to acquire a new pressure gauge for hydrant testing which can be used while performing the scheduled flushings. A MOTION was made by Mr. Hoag, seconded by Mrs. Delfing to approve the purchase of a pressure gauge. Estimated cost is around \$150 dollars. Upon roll call the following votes were cast: Dennison, Hoag, Smith, Pearson, Delfing. NAYS: None. Motion carried. Mr. Smith stated that the amount can be out of Water.

Streets & Roads: Mr. Hoag reported that the catch basin repair on Maple Street has been completed and that the roads are open. There was a conversation regarding the need for brush/branch pickup after the recent storm. A motion was not needed and clarified to members. The final determination was that all branches must be curbside by February 1st. Estimates for this service will be sought. A letter will be sent out to residents.

Water Utility: Mr. Smith reported that the water utility did not lose power after the storm and that the propane is at about 50%.

OLD BUSINESS: There was a brief discussion regarding seeking information from State Police regarding responses in the Borough. Mr. Dennison, who is charged with seeking this information, has reach out, but no has not received an answer yet.

There was also a discussion regarding estimates for chairs for the park building. They are still being sought.

NEW BUSINESS: None.

ORDINANCES:

Zoning Permits:

A MOTION was made by Mr. Dennison, seconded by Mrs. Delfing to approve the second reading and adoption of “**AN ORDINANCE TO AMEND SUBSECTION 134-4(E), ENTITLED “ZONING PERMITS AND CERTIFICATES OF OCCUPANCY”, OF CHAPTER 134, ENTITLED “ZONING”, OF THE CODE OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, NEW JERSEY.**” Upon roll call the following votes were cast: AYES: Dennison, Hoag, Smith, Pearson, Delfing. NAYS: None. ABSTAIN: None. Motion carried.

Zoning Permit Fees:

A MOTION was made by Mr. Hoag, seconded by Mr. Dennison to approve the second reading and adoption of “**AN ORDINANCE TO AMEND CHAPTER 66, ENTITLED “FEES”, OF THE CODE OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY, ESTABLISHING FEE FOR ZONING PERMIT APPLICATIONS**”. Upon roll call the following votes were cast: AYES: Dennison, Hoag, Smith, Pearson, Delfing. NAYS: None. ABSTAIN: None. Motion carried.

RESOLUTIONS:

Action Alliance:

A MOTION was made by Mr. Delfing, seconded by Mr. Pearson to approve a resolution for Action Alliance - Fiscal Grant Cycle July 2021-June 2025. Upon roll call the following votes were cast: AYES: Dennison, Hoag, Smith, Pearson, Delfing. NAYS: None. ABSTAIN: None. Motion carried.

Escrow Reimbursement:

A MOTION was made by Mr. Pearson, seconded by Mrs. Delfing to approve a refund of remaining escrow to E. Luna application #PZ-WSP-14-2019-Luna Chimney-196 Main. Upon roll call the following votes were cast: AYES: Dennison, Hoag, Smith, Pearson, Delfing. NAYS: None. ABSTAIN: None. Motion carried.

A MOTION was made by Mr. Dennison, seconded by Mr. Smith to approve a refund of remaining escrow to Daniel Weldon application #139 Main – Road Escrow. Upon roll call the following votes were cast: AYES: Dennison, Hoag, Smith, Pearson, Delfing. NAYS: None. ABSTAIN: None. Motion carried.

AUDIENCE PARTICIPATION: Mr. Dick Mooney reported from the audience that he would be leaving for Florida by the end of the week. He was asked to leave the socket for the water repair sleeves.

MOTION TO PAY THE BILLS:

A MOTION was made by Mr. Hoag, seconded by Mr. Pearson to pass the following Resolution: **BE IT RESOLVED** by the Governing Body to approve the payment of all vouchers on the bill listed December 9, 2019, submitted by the Chief Financial Officer for payment. Upon roll call the following votes were cast: AYES: Dennison, Hoag, Smith, Pearson, Delfing. NAYS: None. ABSTAIN: None. Motion carried.

MOTION TO ADJOURN:

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

Beth Brothman
Municipal Clerk