

A REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY WAS HELD ON MONDAY, MARCH 14th, 2022 AT THE BOROUGH HALL BEGINNING AT 7:00 P.M.

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

ABSENT: Dennison

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, posting copy of notice in the Borough Hall and on the Borough website.

MINUTES:

A MOTION was made by Mr. Smith, seconded by Mrs. Delfing to approve the minutes of the meeting held on February 14th, 2022 as presented. Upon roll call the following votes were cast: AYES: Hoag Smith, Mallon, Walter and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

A MOTION was made by Mr. Smith, seconded by Mrs. Delfing to approve the minutes of the workshop meeting held on February 23rd, 2022 as presented. Upon roll call the following votes were cast: AYES: Hoag Smith, Mallon, Walter and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

OFFICIALS REPORTS:

CFO: No Treasurer's report this meeting. The CFO reported that the 2021 Annual Financial Statement has been completed and is in process of being placed on the website.

A MOTION was made by Mr. Hoag, seconded by Mrs. Delfing to approve an appropriation transfer in the amount of \$950.00. Upon roll call the following votes were cast: AYES: Hoag Smith, Mallon, Walter and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

WHEREAS, N.J.S.A. 40A:4-58 permits appropriation transfers to be made during the last two months of the fiscal year and the subsequent three months, and **WHEREAS**, it is necessary to transfer appropriations between line items presently located in the 2021 Budget Year, and **NOW, THEREFORE, BE IT RESOLVED**, by the governing body of the Borough of Andover, County of Sussex, State of New Jersey that the following transfers be made:

CURRENT FUND

<u>FROM:</u>		<u>TO:</u>	
Streets & Roads OE	950.00	Clerk OE	200.00
		Recycling OE	500.00
		Electricity OE	<u>250.00</u>
TOTAL TRANSFERS	950.00	TOTAL TRANSFERS	950.00

Reports:

A MOTION was made by Mr. Smith, seconded by Mrs. Walter to accept the following reports and place on file: ACO report for Oct-Dec 2021, ABFD Report for February, LES Report for February 2022. Upon roll call the following votes were cast: AYES: Hoag Smith, Mallon, Walter and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

CORRESPONDENCE: The following was presented to the Council and placed on file.

NJ DOT to H. E. Pellow re: Mid-Block Crosswalk Improvements – North – Route 206, Milepost 104.33 – Andover Borough, Sussex County. The Clerk will contact the Municipal Engineer to complete the form accordingly and include the cost of his services.

County of Sussex Dept. of Health re: Hepatitis B Vaccination Letter of Understanding 2022

AUDIENCE PARTICIPATION: None.

REPORTS OF SPECIAL COMMITTEES: No reports.

REPORTS OF STANDING COMMITTEES:

Administrative & Executive: Mrs. Delfing has no report.

Celebration of Public Events: Mrs. Walter reported that Easter Eggs are stuffed and we are ready for the egg hunt scheduled for 04/09/22 at 9 a.m.

Finance: Mr. Dennison was absent. Mrs. Delfing reported that the Annual Financial Statements will be due to be filed by April 30th.

Parks & Playgrounds: Mr. Hoag reported that Clarence did show some interest in mowing again, but not the additional responsibilities that are needed. The newsletter is still out with the advertisement in it and there has been some interest. The merry-go-round needs to be checked out for the crack in the base that the insurance inspection revealed. Mr. Mallon will go. The park will need mulch and a new flag before Memorial Day.

Public Bldgs. & Grounds: Mr. Smith reported that there is some work to consider on the municipal building this year and that the park building is looking good. It was also reported that the election equipment will increase in volume and need to be locked up in the park building. It will also need to be delivered to this polling location by the Board of Elections as we do not have a DPW to transport.

Public Safety: Mrs. Delfing reported that the ABFD installation dinner is scheduled for 4/23/22.

Streets & Roads: Mr. Hoag reported the catch basin on Prospect Avenue was finally repaired by the contractor. He also noted that a gas line will be installed on lower Maple Street which is already not in the best shape. He inquired about getting crack sealing done to preserve some of the roads that need it and reported that the street signs in the borough hall should be installed by an employee this year.

Water Utility: Mr. Smith reported that the tunnel water line is no longer frozen. Councilman Mallon and Mayor Morgan were there to lay down the fire hose to bypass the system while it was needed. He continued to report that the water department is still interviewing for the replacement of the daily water operator. There was a brief discussion regarding low pressure and that a new chlorine vendor was secured by the water operator, Bob Olivo.

OLD BUSINESS: None.

2022 Municipal Budget Discussion: The CFO reported that the Annual Financial Statement for 2021 was completed and posted to the website.

NEW BUSINESS:

Cannabis Fees:

The governing body reviewed an ordinance entitled “**AN ORDINANCE TO AMEND SECTION 66-4, ENTITLED “MISCELLANEOUS FEES AND CHARGES”, OF CHAPTER 66, ENTITLED “FEES”, OF THE CODE OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY**” amending the code pertaining to Cannabis licensing to create the amount of \$2500. *The ordinance was introduced see below ordinance #2022-5.*

Planning Board Ordinance Amendment Recommendation:

The governing body reviewed an ordinance entitled “**AN ORDINANCE AMENDING ARTICLE 104 (PROPERTY MAINTENANCE) OF THE CODE OF BOROUGH OF ANDOVER TO PROHIBIT THE DEPOSITING OF MATERIALS ON ANY STREET OR HIGHWAY**” amending the code pertaining to Property Maintenance regarding leaves. *The ordinance was introduced see below ordinance #2022-6.*

Farm Lease Agreement Renewal:

A MOTION was made by Mr. Smith, seconded by Mr. Hoag to approve a renewal of the farm lease agreement with Tranquility Farms LLC. Upon roll call the following votes were cast: YES: Hoag, Smith, Mallon, Walter and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

Shared Service – Renewal of County Fire Marshal LEA agreement

A MOTION was made by Mrs. Delfing, seconded by Mrs. Walter to approve a renewal of a Shared Service Agreement with the Sussex County Sheriff’s Office for the services of Fire Marshal inspections from 4/1/22 – 6/30/23. Upon roll call the following votes were cast: YES: Hoag, Smith, Mallon, Walter and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

RESOLUTIONS:

Water System Service Agreement:

There was some discussion to change the subject name.

A MOTION was made by Mr. Hoag, seconded by Mrs. Delfing to authorize the approval and execution of the 2022 Water System Service Agreement Renewal (5/1/22 – 4/30/23) with Marksmen Enterprises. Upon roll call the following votes were cast: YES: Hoag, Smith, Mallon, Walter and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

ORDINANCE:

Ordinance #2022-1 Smoke Inspection Fee:

The governing body reviewed Ordinance #2022-1 increasing fees for fire and smoke inspection permitting fees.

A MOTION was made by Mr. Smith, seconded by Mrs. Delfing to approve the second reading and adoption of “**AN ORDINANCE TO AMEND SECTION 66-4, ENTITLED “MISCELLANEOUS FEES AND CHARGES”, OF 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: Hoag, Smith, Mallon, Walter and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

Ordinance #2022-1

BOROUGH OF ANDOVER SUSSEX COUNTY, NEW JERSEY

AN ORDINANCE TO AMEND SECTION 66-4, ENTITLED “MISCELLANEOUS FEES AND CHARGES”, OF CHAPTER 66, ENTITLED “FEES”, OF THE CODE OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY.

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

SECTION 1. Section 66-4, entitled "Miscellaneous Fees and Charges", of Chapter 66, entitled "Fees", of the Code of the Borough of Andover, County of Sussex, State of New Jersey, is amended to add paragraph H, which shall read as follows:

- H. CSACMAPFEC fee. The fees for the issuance of a certificate of smoke alarm, carbon monoxide alarm and portable fire extinguisher compliance (CSACMAPFEC) pursuant to N.J.A.C. 5:70-2.3 shall be as follows:
- | | | |
|-------|--|-------|
| (i) | Application received more than 10 business days before change of occupant: | \$50 |
| (ii) | Application received four to 10 business days before change of occupant: | \$80 |
| (iii) | Application received less than four business days before change of occupant: | \$125 |
| (iv) | Reinspection fee (for each reinspection): | \$40 |

The property owner is responsible for applying for each reinspection.

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 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 upon final passage and publication in accordance with the laws of the State of New Jersey following the required twenty-day period after adoption, as set forth in N.J.S.A. 40:69A-181(b).

Ordinance #2022-2 Driveway Application Fee:

The governing body reviewed Ordinance #2022-2 to set a fee for Driveway permit applications.

A MOTION was made by Mr. Smith, seconded by Mrs. Delfing to approve the second reading and publication of "**AN ORDINANCE TO AMEND SECTION 66-1, ENTITLED "FEES", OF CHAPTER 66, ENTITLED "FEES", AND SECTION 117-8 ENTITLED "PERMITS; FEE" OF CHAPTER 117, ENTITLED "STREETS AND SIDEWALKS", OF THE CODE OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY.**" Upon roll call the following votes were cast: YES: Hoag, Smith, Mallon, Walter and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

Ordinance #2022-2

**BOROUGH OF ANDOVER
SUSSEX COUNTY, NEW JERSEY**

AN ORDINANCE TO AMEND SECTION 66-1, ENTITLED "FEES", OF CHAPTER 66, ENTITLED "FEES", AND SECTION 117-8 ENTITLED "PERMITS; FEE" OF CHAPTER 117, ENTITLED "STREETS AND SIDEWALKS", OF THE CODE OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY.

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

SECTION 1. Section 66-1, entitled "Fees", of Chapter 66, entitled "Fees", of the Code of the Borough of Andover, County of Sussex, State of New Jersey, is amended to replace the portion thereof which reads:

Chapter 117, Streets and Sidewalks	
Road opening permit	\$100

With the following:

Chapter 117, Streets and Sidewalks	
Road opening permit	\$100
Driveway permit	\$ 50

SECTION 2. Paragraph D of Section 117-8 entitled "Permits; Fee" of Chapter 117, entitled "Streets and Sidewalks" of the Code of the Borough of Andover, County of Sussex, State of New Jersey, is amended to read as follows:

D. Application fee. The permit fee shall, pursuant to the provisions of this Article, be included as part of the building permit fee, except where an alteration is being made on an existing driveway, which shall then require a fee of \$50. In cases where an engineer's inspection is needed, the applicant shall pay the fee.

SECTION 3. 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 4. All ordinances or parts of ordinances inconsistent with or contrary to the provisions of this Ordinance are hereby repealed to the extent of such inconsistency or contrariness.

SECTION 5. This Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey following the required twenty-day period after adoption, as set forth in N.J.S.A. 40:69A-181(b).

**Ordinance #2022-3 Cannabis amendment:
Cannabis – amended:**

The governing body reviewed Ordinance #2022-3 to correct a classification error in Ordinance # 2021-2 adopted 7/12/21 pertaining to the permitting of Cannabis licensing. During this discussion the matter of permitting the classification of "Delivery" was entertained. The Mayor requested that the Borough Attorney begin the preparation of that ordinance amendment to be reviewed at the next available meeting.

A MOTION was made by Mrs. Delfing, seconded by Mrs. Walter to approve the second reading and publication of **"AN ORDINANCE TO AMEND SECTION 134-67.3, ENTITLED "CANNABIS CULTIVATORS, MANUFACTURERS AND DELIVERERS PROHIBITED", OF CHAPTER 134-67, ENTITLED "CANNABIS, WHOLESALERS AND DISTRIBUTORS", OF THE CODE OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY.**

Upon roll call the following votes were cast: YES: Hoag, Mallon, Walter and Delfing. NAYS: Smith. ABSTAIN: None. Motion carried.

Ordinance #2022-3

BOROUGH OF ANDOVER

SUSSEX COUNTY, NEW JERSEY

AN ORDINANCE TO AMEND SECTION 134-67.3, ENTITLED “CANNABIS CULTIVATORS, MANUFACTURERS AND DELIVERERS PROHIBITED”, OF CHAPTER 134-67, ENTITLED “CANNABIS, WHOLESALERS AND DISTRIBUTORS”, OF THE CODE OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY.

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

SECTION 1. Section 134-67.3, entitled “Cannabis Cultivators, Manufacturers and Deliverers Prohibited” of Chapter 134-67, entitled “Cannabis, Wholesalers and Distributors”, of the Code of the Borough of Andover, County of Sussex, State of New Jersey, is hereby amended to read as follows:

Section 134-67.3 Cannabis Cultivators, Manufacturers and Deliverers Prohibited.

Cannabis Class 1 (Cultivators), Class 2 (Manufacturers) and Class 6 (Delivery) are prohibited from operating anywhere in the Borough, except for the delivery of cannabis items and related supplies by a delivery service.

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 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 upon final passage and publication in accordance with the laws of the State of New Jersey following the required twenty-day period after adoption, as set forth in N.J.S.A. 40:69A-181(b).

Ordinance #2022-4 Cap Bank:

The governing body reviewed Ordinance #2022-4 to Exceed the Municipal Budget Appropriation Limits and **Establish a Cap Bank for Calendar Year 2022.**

A MOTION was made by Mrs. Delfing, seconded by Mr. Hoag to approve the second reading and publication of **“ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK FOR CALENDAR YEAR 2022 (N.J.S.A. 40A: 4-45.14)”**.

Upon roll call the following votes were cast: YES: Hoag, Mallon, Walter and Delfing. NAYS: Smith. ABSTAIN: None. Motion carried.

Ordinance #2022-4

ANDOVER BOROUGH, SUSSEX COUNTY

ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK FOR CALENDAR YEAR 2022 (N.J.S.A. 40A: 4-45.14)

WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget up to 2.5% unless authorized by ordinance to increase it to 3.5% over the previous year’s final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the

3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the Mayor and Council of the Borough of Andover in the County of Sussex finds it advisable and necessary to increase its CY 2022 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the Mayor and Council hereby determines that a 3.5% increase in the budget for said year, amounting to \$3,861.46 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

WHEREAS the Mayor and Council hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the Mayor and Council of the Borough of Andover, in the County of Sussex, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2022 budget year, the final appropriations of the Borough of Andover shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5%, amounting to \$3,861.46, and that the CY 2022 municipal budget for the Borough of Andover be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

Ordinance #2022-5 Cannabis Licensing Fee:

A MOTION was made by Mrs. Delfing, seconded by Mrs. Walter to approve the first reading and introduction of **“AN ORDINANCE TO AMEND SECTION 66-4, ENTITLED “MISCELLANEOUS FEES AND CHARGES”, OF 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: Hoag, Mallon, Walter and Delfing. NAYS: Smith. ABSTAIN: None. Motion carried.

Ordinance #2022-5

**BOROUGH OF ANDOVER
SUSSEX COUNTY, NEW JERSEY**

AN ORDINANCE TO AMEND SECTION 66-4, ENTITLED “MISCELLANEOUS FEES AND CHARGES”, OF CHAPTER 66, ENTITLED “FEES”, OF THE CODE OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY.

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

SECTION 1. Section 66-4, entitled “Miscellaneous fees and charges”, of Chapter 66, entitled “Fees”, of the Code of the Borough of Andover, County of Sussex, State of New Jersey, is

amended to add new Paragraph H, entitled "Cannabis application and license review fee", which shall read as follows:

- H. Cannabis application and license review fee. Any person applying to be Permitted to operate a cannabis business under the laws of New Jersey and the provisions of this Code shall pay an annual fee of \$2,500 to have the Borough and its professionals review said application and license annually in order to operate a cannabis business in the Borough of Andover. Said annual fee shall apply to all permitted marketplace classes of licenses.

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 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 upon final passage and publication in accordance with the laws of the State of New Jersey following the required twenty-day period after adoption, as set forth in N.J.S.A. 40:69A-181(b).

Ordinance #2022-6 Property Maintenance Amendment:

A MOTION was made by Mrs. Delfing, seconded by Mrs. Walter to approve the first reading and introduction of "**AN ORDINANCE AMENDING CHAPTER 104 (PROPERTY MAINTENANCE) OF THE CODE OF BOROUGH OF ANDOVER TO PROHIBIT THE DEPOSITING OF MATERIALS ON ANY STREET OR HIGHWAY.**" Upon roll call the following votes were cast: YES: Hoag, Smith, Mallon, Walter and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

Ordinance #2022-6

**ANDOVER BOROUGH
SUSSEX COUNTY, NEW JERSEY**

**AN ORDINANCE AMENDING CHAPTER 104 (PROPERTY MAINTENANCE) OF THE
CODE OF BOROUGH OF ANDOVER TO PROHIBIT THE DEPOSITING OF MATERIALS
ON ANY STREET OR HIGHWAY**

WHEREAS, N.J.S.A. 40:67-1(g) authorizes the governing body of every municipality may make, amend, repeal and enforce ordinances to prevent persons from depositing, material upon any street or highway or portion thereof, or causing or permitting the same to be done; and

WHEREAS, the Borough of Andover has determined that passing the within ordinance would more clearly reflect the needs and values of the Borough community; and

NOW THEREFORE BE IT RESOLVED THAT Section 7 (Duties and responsibilities of owners and operators) and Section 8 (Duties and responsibilities of non-owner occupants) of Chapter 104 (Property Maintenance) of the Code of the Borough of Andover shall be amended and supplemented to add new Subsections 104-7(U) and 104-8(B) as follows:

SECTION 1.

§ 104-7(U)

Deposits upon streets and highways. An owner or operator shall not deposit dirt, ashes, leaves or other material upon any street or highway or portion thereof or cause or permit the same to be done.

§ 104-8(B)

Deposits upon streets and highways. A non-owner occupant shall not deposit dirt, ashes, leaves or other material upon any street or highway or portion thereof or cause or permit the same to be done.

SECTION 2.

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SECTION 3.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 4.

This Ordinance shall take effect after publication and passage according to law.

AUDIENCE PARTICIPATION: None.

MOTION TO PAY THE BILLS:

A MOTION was made by Mrs. Delfing, 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 March 14, 2022, submitted by the Chief Financial Officer for payment. Upon roll call the following votes were cast: YES: Hoag, Smith, Mallon, Walter and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

MOTION TO ADJOURN:

A MOTION was made by Mr. Hoag, seconded by Mrs. Delfing to adjourn the meeting. Upon roll call the following votes were cast: AYES: All in favor. NAYS: None. ABSTAIN: None. Motion carried.

Beth Brothman
Municipal Clerk