

A REGULAR / WORKSHOP MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY WAS HELD ON WEDNESDAY, MARCH 29th, 2023 AT THE BOROUGH HALL BEGINNING AT 7:00 P.M.

PRESENT: Mayor Morgan, Council Members: Dennison (7:19 p.m.), Hoag, Smith, Lane and Delfing.

ABSENT: Mallon.

ALSO, PRESENT: Frank McGovern, Borough Attorney

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.

AUDIENCE PARTICIPATION: None.

PREPARATION OF THE 2023 MUNICIPAL BUDGET:

- Continued review
- Annual Financial Statement review

The CFO presented the several budget reports covering Tax/Cap Impact, Cap Bank Calculation, 2023 Open Space Trust Fund, 2023 Current Fund, 2023 Water Operating Utility, and Levy Cap Calculations to provide a broad understanding of the current year budget. The Mayor and Council reviewed all reports thoroughly making some calculation changes where necessary. Budgetary items such as IT support were discussed as the inclusion is a line item needing attention. The CFO advised of the CAP calculations within the CAP and out of the CAP.

It was reported that the collection rate is up over 97% after similar decreases in prior years. The CFO reviewed the Tax impact report. He explained that a strict 2% increase calculations to a \$58 increase on the municipal portion side. He recommends going to the full budget cap. There was some open space tax conversation as to how the amount collected by this time has not paid off the total owed.

Tax/CAP Impact report reflected 2022 budget appropriations to be \$740,611.53 a net change of \$21,285.35. Budget Cap is \$12,901.41 under CAP. Tax Levy Cap is \$8,496.00 under CAP. Average House assessment \$238,300.00 causing an average municipal increase \$2.38 Open Space & \$41.59 Municipal for a total of \$43.97. This is a three-cent full increase per average household. An Impact adding \$10,000 to maximize budget cap reflect municipal \$76.82 and open space \$2.38 for a total of \$79.20. Could be used to increase computer services. The CFO was provided direction to prepare for 4/10 introduction.

ANY OTHER BUSINESS:

The Mayor and Council reviewed Chapter 66 Water Fee Ordinances as provided. Councilman Smith had additional concerns pertaining to fees for fire suppression.

Ordinance #2023-14 **Ordinance – Water Fee** Review Chapter 66 Fee - Amendment for Water Utility Chapter 130 - Chapter 66 – amendment increasing water utility fees

A MOTION was made by Mr. Smith, seconded by Mr. Lane to approve the first reading and introduction of “**AN ORDINANCE TO AMEND SECTION 66-1, ENTITLED “FEES”, OF CHAPTER 66, ENTITLED “FEES”, AS TO “CHAPTER 130, WATER”, OF THE CODE OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY.**”

Upon roll call the following votes were cast: AYES: Dennison, Hoag, Smith, Lane, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

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

Section 1. The portions of Section 66-1, entitled "Fees", pertaining to "Chapter 130, Water", which read:

Water rental for each residential user, as defined in Chapter 130, Water. A residential user who applies for and qualifies, pursuant to N.J.S.A. 54:4-8.40 et seq., for a senior citizen, disabled or surviving spouse tax deduction shall be entitled to a 10% reduction of the water rental.	\$300 per year (\$75 per quarter), plus \$1.25 for each 1,000 gallons over 50,000
Water rental for each nonresidential user, not including water rental for a hotel, as the foregoing are defined in Chapter 130, Water	\$420 per year (\$105 per quarter), plus \$1.25 for each 1,000 gallons over 50,000
Water rental for each user using water for a hotel, as the foregoing are defined in Chapter 130, Water	\$420 per year (\$105 per quarter), plus \$1.25 for each 1,000 gallons over 50,000, plus \$80 per year (\$20 per quarter) for each hotel room regardless of occupancy
Fire-suppression system annual rent	\$200.00 per annum or \$0.01 per square foot per annum, whichever is greater. Square footage shall be determined with reference to tax assessment records.

are amended to read:

Water rental for each residential user, as defined in Chapter 130, Water. A residential user who applies for and qualifies, pursuant to N.J.S.A. 54:4-8.40 et seq., for a senior citizen, disabled or surviving spouse tax deduction shall be entitled to a 10% reduction of the water rental.	\$400 per year (\$100 per quarter), plus \$12.50 for each 1,000 gallons over 50,000
Water rental for each nonresidential user, not including water rental for a hotel, as the foregoing are defined in Chapter 130, Water	\$600 per year (\$150 per quarter), plus \$12.50 for each 1,000 gallons over 50,000
Water rental for each user using water for a hotel, as the foregoing are defined in Chapter 130, Water	\$600 per year (\$150 per quarter), plus \$12.50 for each 1,000 gallons over 50,000, plus \$100 per year (\$25 per quarter) for each hotel room regardless of occupancy

Fire-suppression system annual rent	\$300.00 per annum or \$0.01 per square foot per annum, whichever is greater. Square footage shall be determined with reference to tax assessment records.
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Section 2. The portion of Section 66-1, entitled “Fees”, pertaining to “Chapter 130, Water”, which reads:

Hydrant rental	\$200
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is amended to read:

Hydrant rental	\$200 per load
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Section 3. The portion of Section 66-1, entitled “Fees”, pertaining to “Chapter 130, Water”, which reads:

Fire-protection service	\$60.00 per annum
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is hereby deleted.

Section 4. The portion of Section 66-1, entitled “Fees”, pertaining to “Chapter 130, Water”, which reads:

Pools or bodies of water	
10,000 gallons	\$100.00/fill
Over 10,000 gallons	\$10.00 per 1,000 gallons/fill

is amended to read:

Pools or bodies of water (fills allowed within Borough boundaries only)	
10,000 gallons	\$100.00/fill
Over 10,000 gallons	\$10.00 per 1,000 gallons/fill

Section 5. Section 66-1, entitled “Fees”, pertaining to “Chapter 130, Water”, is amended to add the following:

Water rental for each Church user	\$52 per year (\$14 per quarter), plus \$12.50 for each 1,000 gallons over 50,000.
Water rental for each manufacturing facility (must be metered)	\$12.50 for each 1,000 gallons.

Section 6. Section 66-1, entitled “Fees”, pertaining to “Chapter 130, Water”, is amended to add the following at the end of the Section:

Notwithstanding any inconsistent terms in this chapter of Chapter 130, Water, the fire department shall be exempted from any of the foregoing fees.

Section 7. 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 8. 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 9. This Ordinance shall take effect immediately on its final passage and publication as required by law.

Ordinance #2023-15 **Ordinance – Water Fee** Repeal of Fire Protection Service Fee
Chapter 66 – amendment to repeal section 130-7B (2) -

A MOTION was made by Mr. Smith, seconded by Mr. Lane to approve the first reading and introduction of "**AN ORDINANCE TO AMEND SECTION 130-7, ENTITLED "METERED AND UNMETERED CONSUMPTION FEES", OF CHAPTER 130, ENTITLED "WATER", OF THE CODE OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY."** Upon roll call the following votes were cast: AYES: Dennison, Hoag, Smith, Lane, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

BE IT ORDAINED, by the Borough Council of the Borough of Andover, County of Sussex, State of New Jersey, that Section 130-7, entitled "Metered and Unmetered Consumption Fees", of Chapter 130, entitled "Water", of the Code of the Borough of Andover, be and is hereby amended as follows:

SECTION 1. Subparagraph (2) of Paragraph B of Section 130-7 is hereby amended to read as follows:

(2) *Intentionally omitted.*

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 20-day period after adoption, as set forth in N.J.S.A. 40:69A-181(b).

Water Dept. Administration:

Water Maintenance Agreement – The water utility will seek renewal of its Water Utility Maintenance Service Agreement with Marksmen Enterprises, LLC. Water Administrator will be notified to procure new agreement for renewal approval.

Borough Land Sale: Land Sale - Parcels #3 & 6 Award

It was noted that there was no reply from surrounding property owners by the deadline of 3/27/23.

Parcel #3 BLOCK 24 LOT 37

Resolution R-2023-20

A MOTION was made by Mr. Smith, seconded by Mr. Lane to approve a Resolution Accepting the Bid for Sale of Public Land – Block 24 Lot 37 – Parcel #3. Upon roll call the following votes were cast: AYES: Dennison, Hoag, Smith, Lane, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

(BLOCK 24, LOT 37, ANDOVER BOROUGH)

WHEREAS, the Borough of Andover held a Public Land Sale of Block 24, Lot 37, Andover Borough, in accordance with Ordinance #2022-19 as amended by Ordinance #2023-3, on March 9, 2023, and

WHEREAS, the highest bid was received from Roadway Trucking LLC, whose address is 34 Willow Street, Bloomfield, NJ 07003, that being for the bid price of \$15,000 with a 10 percent buyer premium of \$1,500 for a total price of \$16,500;

WHEREAS, in accordance with NJSA 40A:12-13.2, the owners of contiguous lots were accorded the right of first refusal but declined to exercise said right;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Sussex that the aforesaid bid submitted by Roadway Trucking LLC is accepted and that the Contract for Sale of Real Estate for said bid shall be executed by the Mayor and Clerk of Andover Borough; and

IT IS FURTHER RESOLVED that the Borough Attorney is authorized to prepare the documentation in accordance with the bid requirements to complete the transaction, and that the Clerk and Mayor are authorized to execute such documents as deemed appropriate to complete the transaction, subject to the terms of the bid requirements.

Parcel #6 BLOCK 26 LOT 25

Resolution R-2023-21

A MOTION was made by Mr. Hoag, seconded by Mr. Dennison to approve a Resolution Accepting the Bid for Sale of Public Land – Block 26 Lot 25 – Parcel #6. Upon roll call the following votes were cast: AYES: Dennison, Hoag, Smith, Lane, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

(BLOCK 26, LOT 25, ANDOVER BOROUGH)

WHEREAS, the Borough of Andover held a Public Land Sale of Block 26, Lot 25, Andover Borough, in accordance with Ordinance #2022-19 as amended by Ordinance #2023-3, on March 9, 2023, and

WHEREAS, the highest bid was received from James Fetcho, whose address is 18 Old Creamery Road, Newton, NJ 07860, that being for the bid price of \$2,000 with a 10 percent buyer premium of \$200 for a total price of \$2,200;

WHEREAS, in accordance with NJSA 40A:12-13.2, the owners of contiguous lots were accorded the right of first refusal but declined to exercise said right;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Sussex that the aforesaid bid submitted by James Fetcho is accepted and that the Contract for Sale of Real Estate for said bid shall be executed by the Mayor and Clerk of Andover Borough; and

IT IS FURTHER RESOLVED that the Borough Attorney is authorized to prepare the documentation in accordance with the bid requirements to complete the transaction, and that the Clerk and Mayor are authorized to execute such documents as deemed appropriate to complete the transaction, subject to the terms of the bid requirements.

Cannabis Review Committee:

The Cannabis Committee met on Monday 3/27 to review the request for Buddy's Dispensary. Concerns were had in two areas. The property itself has extra equipment on the property and the signage reflecting "High Over Andover" slogan. Mr. Bryan Jannuzzi, business owner of Buddy's Dispensary, was present for this meeting. Having knowledge of concerns by the cannabis committee he called upon the property owners to attend this meeting to address concerns. On the subject of the signage slogan, Mr. Jannuzzi agreed that it was no necessary and should be considered "gone". At most signage may have address or phone number. On the subject of equipment on the property, the Borough Attorney addressed Tom and Anne Keegan explaining that there is concern that other equipment could be used as or considered to be a third principal use. Mr. Keegan stated that he was staging his larger equipment and trailer to move to a different location. He continued to state that the VW bus was a project that he could not complete and it would also be removed. He indicated that equipment for the property will be kept in the garage and that everything will be removed in the next couple of weeks.

A MOTION was made by Mrs. Delfing, seconded by Mr. Lane to approve a **RESOLUTION IN SUPPORT OF APPLICATION FOR A CLASS 5 CANNABIS RETAIL FACILITY WITHIN THE C-1 ZONE OF THE BOROUGH OF ANDOVER (BUDDY'S DISPENSARY LLC)**. Upon roll call the following votes were cast: AYES: Dennison, Hoag, Smith, Lane, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

RESOLUTION R-2023-22

RESOLUTION IN SUPPORT OF APPLICATION FOR A CLASS 5 CANNABIS RETAIL FACILITY WITHIN THE C-1 ZONE OF THE BOROUGH OF ANDOVER (BUDDY'S DISPENSARY LLC)

WHEREAS, pursuant to P.L. 2021, c. 16, known as the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act" (the "Act"), which legalizes the recreational use of marijuana by adults 21 years of age or older, the Borough of Andover adopted ordinances now codified in Section 134-67, et seq., of the Borough Code, which allows for a limited number of cannabis establishments to be located in the C-1 Zone; and

WHEREAS, the Act established the Cannabis Regulatory Commission (“CRC”) to oversee and regulate the cannabis industry in New Jersey, and the CRC promulgated Personal Use Cannabis Rules, N.J.A.C. 17:30-1.1, et seq.; and

WHEREAS, the Governing Body created a Cannabis Review Committee to review proposed cannabis businesses seeking to obtain an annual license from the State to operate establishments within the Borough and make recommendations to the Governing Body as to whether proposed cannabis businesses and locations should be supported at the local level; and

WHEREAS, N.J.A.C. 17:30-5-1 requires that a municipality with a governing body express its support for a cannabis license applicant and proposed location by resolution of the governing body; and

WHEREAS, pursuant to N.J.A.C. 17:30-5.1(g), the support resolution should indicate that the proposed cannabis business location is appropriately located or otherwise suitable for activities related to the operations of the proposed cannabis business; and

WHEREAS, the Cannabis Review Committee conducted a review of Buddy’s Dispensary LLC for whom an approval of conditional license application for Class 5 Cannabis Retailer was issued by the New Jersey Cannabis Regulatory Commission on July 29, 2022 and which seeks to operate its business on the first floor of 203 Main Street, Block 23, Lot 20, Andover Borough and for whose proposed location site plan approval was granted by the Andover Borough Planning/Zoning Board by resolution memorialized on February 27, 2023; and

WHEREAS, the Cannabis Review Committee recommends that the Governing Body adopt a resolution in support of Buddy’s Dispensary LLC and its proposed location;

NOW, THEREFORE BE IT RESOLVED by the Governing Body of the Borough of Andover, Sussex County, New Jersey, that:

1. The aforesaid recitals are incorporated herein as though fully set forth at length.
2. The Borough recognizes that Buddy’s Dispensary LLC will be operating a Class 5 cannabis retail business involved in the sale of cannabis products to consumers and that the Class 5 cannabis retail location will be located on the first floor of 203 Main Street, Block 23, Lot 20, Andover Borough, New Jersey if approved by the State of New Jersey Cannabis Regulatory Commission.
3. It is confirmed that issuance to Buddy’s Dispensary LLC of a Class 5 cannabis retail annual license will not exceed the limit established by the Borough for two (2) Class 5 cannabis retail license to be located in the Borough’s C-1 Zone.
4. Buddy’s Dispensary LLC’s proposed Class 5 cannabis retail use at the aforesaid location will satisfy the Borough’s zoning ordinances.
5. Buddy’s Dispensary LLC shall continuously comply with the Borough’s ordinances governing cannabis operations and any future applicable changes that may be made thereto.
6. Buddy’s Dispensary LLC shall continuously comply with the provisions of Memorializing Resolution of the Andover Borough Planning/Zoning Board memorialized on February 27, 2023 (Application #PZ-05-2022) and any future amendments (if any) made thereto.

7. If Buddy's Dispensary LLC is not in compliance at any time with the Borough's ordinances, the provisions of Memorializing Resolution of the Andover Borough Planning/Zoning Board memorialized on February 27, 2023 (Application #PZ-05-2022) and any future applicable changes thereto, the Borough reserves the right to withdraw its support for Buddy's Dispensary LLC operations/location and take such actions as may apply.
8. The Borough supports Buddy's Dispensary LLC's application to be submitted to the CRC for a Class 5 annual cannabis retail license at the location in the Borough as set forth above, which location is appropriate and suitable for a Class 5 cannabis retail business.
9. The Mayor, Clerk and any other necessary official, officer or employee of the Borough be and are hereby authorized to execute any and all documents and to make any and all actions necessary to complete and realize the intent and purpose of this Resolution.
10. This Resolution shall take effect immediately.

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 29, 2023, submitted by the Chief Financial Officer for payment. Upon roll call the following votes were cast: YES: Dennison, Hoag, Smith, Lane and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

MOTION TO ADJOURN:

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

REMINDER:

The March regular meeting is scheduled for Monday, April 10, 2023 at 7 p.m.