

**A REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY WAS HELD ON MONDAY, JANUARY 9<sup>TH</sup>, 2023 AT THE BOROUGH HALL BEGINNING AT 7:00 P.M.**

**PRESENT:** Mayor Morgan, Council Members: Dennison, Hoag, Smith, Mallon, Lane and Delfing.

**ABSENT:** None.

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 Mr. Hoag to approve the minutes of the meeting held on 09/12/2022. Upon roll call the following votes were cast: AYES: Hoag, Smith, Mallon, and Delfing. NAYS: None. ABSTAIN: Dennison and Lane. Motion carried.

A MOTION was made by Mr. Smith, seconded by Mr. Hoag to approve the minutes of the workshop held on 09/22/2022. Upon roll call the following votes were cast: AYES: Hoag, Smith, and Delfing. NAYS: None. ABSTAIN: Dennison, Mallon and Lane. Motion carried.

A MOTION was made by Mr. Smith, seconded by Mr. Hoag, to approve the regular & executive session minutes of the meeting held on 10/11/2022. Upon roll call the following votes were cast: AYES: Dennison, Smith, and Mallon. NAYS: None. ABSTAIN: Hoag, Delfing and Lane. Motion carried.

A MOTION was made by Mr. Smith, seconded by Mr. Hoag to approve the minutes of the meeting held on 11/14/2022. Upon roll call the following votes were cast: AYES: Hoag, Smith, and Delfing. NAYS: None. ABSTAIN: Dennison, Mallon and Lane. Motion carried.

A MOTION was made by Mr. Smith, seconded by Mr. Hoag to approve the minutes of the meeting held on 12/12/2022. Upon roll call the following votes were cast: AYES: Dennison, Smith, and Delfing. NAYS: None. ABSTAIN: Hoag, Mallon and Lane. Motion carried.

A MOTION was made by Mr. Smith, seconded by Mr. Hoag to approve the minutes of the year end meeting held on 12/25/2022. Upon roll call the following votes were cast: AYES: Hoag, Smith, Mallon and Delfing. NAYS: None. ABSTAIN: Dennison and Lane. Motion carried.

**OFFICIALS REPORTS:**

*CFO:* No report.

A MOTION was made by Mr. Smith, seconded by Mr. Dennison to accept the following reports and place on file: Board of Health report 11/1-11/30/22, ABFD report for December 2022, *and Water Department Reports:* Water Operator Dec 22 report, December Well 1&2 report, 12/19 & 12/30 AGRA lab results. Upon roll call the following votes were cast: AYES: Dennison, Hoag, Smith, Lane, Mallon, Delfing. NAYS: None. ABSTAIN: None. Motion carried.

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

Planet Network dated 12/13/22 re: Quote

A MOTION was made by Mr. Smith, seconded by Mr. Lane to switch services to Planet Network from Optimum when we are able. Upon roll call the following votes were cast: AYES: Dennison, Hoag, Smith, Lane, Mallon, Delfing. NAYS: None. ABSTAIN: None. Motion carried.

NJDEP Stormwater dated 12/20/22 re: Stormwater Discharge General Permit Authorization Renewal

NJDEP Div. Water Quality dated 01/03/23 re: FY2023 Annual Fee Report and Assessment of Fees

Statewide Insurance re: 2023 Safety and Loss Control Grant Program – safety committee to review.

#### **AUDIENCE PARTICIPATION:**

Mr. Joe Vandermoere of Rock Ridge Farm asked about the land auction pending in February. He asked about farmland preservation on block 1 lot 1. He was told it was the IP or Industrial Park Zone and that the town was interested in selling it as such.

#### **REPORTS OF SPECIAL COMMITTEES:**

**SWAC & SC Water Quality Management:** Vacancy in office. No report.

**Open Space Report:** Vacancy in office. No report.

**Borough Property Management:** Land Sale scheduled for 2/9/23.

**Recreation Grant Progress:** Final report of completed by Mr. Lane. Filed online and waiting for confirmation of completeness.

#### **REPORTS OF STANDING COMMITTEES:**

##### **Administrative & Executive:**

Mrs. Delfing reported the computer issues that occurred this past week. Microsoft updates are causing issues with Kyocera printer as well as password changes. Clerk locked out of some programs for 5 business days. A computer person from Nerd to Go has called again after not responding last month, They will provide an estimate for IT work.

##### **Celebration of Public Events:**

Mr. Lane reported that the next event will be the Easter Egg Hunt. This will be held on April 1<sup>st</sup> at 10 a.m. This will be updated in the Spring Newsletter and the sign board. The Clerk provided the key to the park signs kiosks.

##### **Finance:**

Mr. Dennison reported that all street lights are mostly back on.

##### **Parks & Playgrounds:**

Mr. Hoag reported that he would like to put a gazebo in Sunset Vista Park. He will get a quote for 10-12-foot size or a similar pavilion. The Mayor stated that the gazebo in the mini park needs to be stained again and that when Tom Smith comes back he can do that.

##### **Public Bldgs. & Grounds:**

turnout gear will be provided to CFO and paid from the turnout gear Mr. Smith reported that the parking lot at the park still needs to be repaired. MCCP has oil and stone that he would like to consider. There is no news on the roof upstairs.

### **Public Safety:**

Mrs. Delfing reported that the fire department will need to make the following repairs and purchases for turnout gear. They will need two new coats and pants from FF1 for \$403424 each as well as \$900 for helmets, boots and gloves to be purchased by ABFD and reimbursed. They will also need to clean and repair 5 sets of gear. Quotation for this clean and repair of reserve.

**A MOTION** was made by Mrs. Delfing, seconded by Mr. Dennison to approve this purchase. Upon roll call the following votes were cast: AYES: Dennison, Smith, Lane, Mallon, Delfing. NAYS: None. ABSTAIN: Hoag. Motion carried.

She continued to report that the ABFD help with a flooded basement at 8 Brighton Avenue.

### **Streets & Roads:**

Mr. Hoag reported that there is a report/letter from H.E. Pellow regarding solutions to the issues at Morris Sussex Turnpike with large trucks causing property damage. This work should be followed up to make sure it's done.

### **Water Utility:**

Mr. Smith reported that water use is down. He mentioned that the lead line replacement survey did result in some locations with "lead" or "galvanized pipe". While he does not know how the lead line replacement will be funded, he is focus is on doing an onsite inspection of these locations. Another letter will be going out and verification is required by the homeowner. He also reported that a water fee ordinance is in the works.

### **OLD BUSINESS:**

Statewide Insurance - The Council reviewed the property schedule & CAB coverage. The pump house generator should be listed at \$45,000.

H.E. Pellow & Assoc. dated 12/21/22 re: Morris Sussex Tpk. Tunnel Signage report was reviewed. Engineer Harold Pellow is working on signage.

Genova Burns / Altice email dated 12/15/22 re: Altice USA, Inc./Andover Borough – Fiber to the Home Project request was reviewed. Council would like them to a regular meeting.

### **NEW BUSINESS:**

The Mayor reported on the following:

- We need an ordinance for lead inspection. The Clerk advised one is being prepared.
- We need an ordinance for renter business registration. The Clerk advised one is being prepared.
- He is considering sending a letter to Northern Rain Irrigation who plows the parking lot at Memorial Park regarding the overuse of salt.
- He wants a Code Enforcement report for the next meeting
- The Generators at the park building and borough hall have blinking lights on.
- He asked if any letter regarding the speed limit of Route 206 has been sent.
- He asked if there a summons on 165 Main Street for hazardous conditions.
- He mentioned an updated OEM Operations Plan is due by 2/7/23.

### **RESOLUTIONS:**

#### ***R-06-2023 Public Works Exemption***

A MOTION was made by Mr. Smith, seconded by Mr. Hoag to approve a Resolution authorizing application to the NJDCA Division of Local Government Services for an exemption from the requirement

to appoint a Principal Public Works Manager. Upon roll call the following votes were cast: AYES: Dennison, Hoag, Smith, Lane, Mallon, Delfing. NAYS: None. ABSTAIN: None. Motion carried.

WHEREAS, the Borough of Andover, County of Sussex, State of New Jersey, is a small rural community with a population of 596 and conducts minimal public works activity;

BE IT RESOLVED, that the Borough of Andover is requesting that the Director of the Division of Local Government Services allow an exemption from the requirement to appoint a principal public works manager.

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**R-07-2023 Tax Appeals**

A MOTION was made by Mrs. Delfing, seconded by Mr. Hoag to approve a Resolution authorizing the municipal assessor and municipal attorney to represent the Borough before the Sussex County Board of Taxation for the purpose of defending tax appeals, rollbacks, etc. Upon roll call the following votes were cast: AYES: Dennison, Hoag, Smith, Lane, Mallon, Delfing. NAYS: None. ABSTAIN: None. Motion carried.

BE IT RESOLVED by the governing body of the Borough of Andover, that the Municipal Assessor and Municipal Attorney be and they are hereby authorized to defend before the Sussex County Board of Taxation and Tax Court of the State of New Jersey all contested appeals and to initiate municipal appeals to correct the Borough of Andover tax list including but not limited to rollback complaints, added and omitted assessment complaints, and such other appeals as are necessary to correct the assessments for the Borough of Andover; and

BE IT FURTHER RESOLVED that the Municipal Assessor and Municipal Attorney be and are hereby designated as the agents of the Borough of Andover for the purpose of signing settlements of the foregoing matters by stipulation.

**ORDINANCE:**

**Ordinance #2023-1**

A Motion was made by Mrs. Delfing, seconded by Mr. Smith to approve the first reading and introduction of **“AN ORDINANCE TO AMEND SECTION 134-66.4, ENTITLED “CANNABIS”, OF CHAPTER 134, ENTITLED “ZONING”, OF THE CODE OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY.” – Permitting Class 2**

**in IP Zone.** Upon roll call the following votes were cast: AYES: Dennison, Hoag, Smith, Lane, Mallon, Delfing. NAYS: None. ABSTAIN: None. Motion carried.

**BOROUGH OF ANDOVER  
SUSSEX COUNTY, NEW JERSEY  
ORDINANCE #2023-01**

**AN ORDINANCE TO AMEND SECTION 134-66.4, ENTITLED “CANNABIS”, OF CHAPTER 134, ENTITLED “ZONING”, 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, that Chapter 134, entitled “Zoning”, of the Code of the Borough of Andover, County of Sussex, State of New Jersey, be and is hereby amended as follows:

SECTION 1. Subsection A, entitled "Definitions", of Section 134-66.4, entitled "Cannabis", is amended to delete the following:

#### MANUFACTURE

The drying, processing, compounding, or conversion of usable cannabis into cannabis products or cannabis resins. "Manufacture" does not include packaging or labeling.

SECTION 2. Subsection D, entitled "Cannabis cultivators, manufacturers and delivers prohibited", of Section 134-66.4, entitled "Cannabis", is deleted and replaced with the following:

D. Manufacturers permitted. Cannabis Class 2 (manufacturers) shall only be permitted in the IP Industrial Park Zone and shall be subject to the following:

(1) Only pre-manufactured cannabis product may be used by the manufacturer in combination with non-cannabis products and/or ingredients. The pre-manufactured cannabis product used by the manufacturer must be received by the manufacturer from another cannabis manufacturer or from another manufacturing facility of the manufacturer.

(2) The manufacturer may package and label the final cannabis product if and as permitted by law.

(3) In addition, the following zoning restrictions and conditions shall apply:

- a. Eligible locations. Facilities shall be at least 50 feet from any residential zone, 50 feet from any parks or trails and 100 feet from any schools.
- b. Setback. The minimum front yard setback is 50 feet.
- c. Buildings. All facilities shall be enclosed in heated/air-conditioned buildings, not in greenhouses, hoop houses or outdoors.
- d. Odor control. The facility shall provide an air treatment system with sufficient odor-absorbing ventilation and exhaust systems such that any odor generated inside and/or outside the facility shall not be detectable by a person of reasonable sensitivity at the property line of the subject property. Any and all odor control devices, needs and systems shall be paid for by the facility owner and/or the facility tenant and shall not be the financial responsibility of the Borough. Odor from the facility shall be monitored on at least an annual basis and more often if the Borough shall require in the Borough's discretion, by a qualified contractor chosen by the Borough at a cost that shall be paid for by the facility owner and/or the facility tenant and shall not be the financial responsibility of the Borough. The qualified contractor chosen by the Borough shall report its findings to the Borough Clerk.
- e. Signage. Signs shall be limited to the address, name of the company and emergency contact information located on one ground sign not to exceed 24 square feet.
- f. Site plan approval. Site plan approval is required as per § 109-3 of the Borough Code. With its site plan application, the applicant shall submit a safety and security plan, emergency services access plan, hazardous materials inventory, environmental impact statement, waste control plan and odor control plan, together with such other documents and information as shall otherwise be required to comply with the Borough's ordinances pertaining to site plan applications.
- g. State license. The facility must have a valid license to operate from the State of New Jersey.
- h. Any cannabis facility is subject to compliance with all state laws, regulations and guidelines with respect to cannabis licenses issued by the State of NJ.

- (4) Number of licenses. No more than one cannabis manufacturer shall be permitted to operate within the Borough of Andover at any time.
- (5) All other applicable zoning restrictions and conditions shall apply.
- (6) Hours of operation: Cannabis manufacturers may open no earlier than 8 am and close no later than 9 pm and shall not operate on Sundays. The foregoing shall not prohibit a cannabis manufacturer from conducting normal maintenance on its equipment and facility outside that timeframe.

SECTION 3. Section 134-66.4, entitled “Cannabis” is amended to add Subsection E which shall read as follows:

E. Cannabis cultivators and deliverers prohibited. Cannabis Class 1 (cultivators) 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 4. 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 5. 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 6. The Borough Clerk is directed to give notice at least ten days prior to the hearing on the adoption of this Ordinance to the County Planning Board and to all others entitled pursuant to the provisions of N.J.S.A. 40:55D-15. Upon the adoption of this Ordinance, after public hearing, the Borough Clerk is further directed to publish notice of the passage and to file a copy of this Ordinance, as finally adopted, with the Sussex County Planning Board, as required by N.J.S.A. 40:55D-16.

SECTION 7. 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 #2023-2**

A Motion was made by Mr. Dennison, seconded by Mr. Lane to approve the first reading and introduction of “**AN ORDINANCE AMENDING SECTION 66-5, ENTITLED “CANNABIS TAX” OF CHAPTER 66, ENTITLED “FEES” OF THE CODE OF THE BOROUGH OF ANDOVER, SUSSEX COUNTY, NEW JERSEY” – Cannabis Manufacturing Tax.** Upon roll call the following votes were cast: AYES: Dennison, Hoag, Smith, Lane, Mallon, Delfing. NAYS: None. ABSTAIN: None. Motion carried.

#### **AN ORDINANCE AMENDING SECTION 66-5, ENTITLED “CANNABIS TAX” OF CHAPTER 66, ENTITLED “FEES” OF THE CODE OF THE BOROUGH OF ANDOVER, SUSSEX COUNTY, NEW JERSEY**

BE IT ORDAINED by the Mayor and Council of the Borough of Andover, County of Sussex and State of New Jersey that Section 66-5, entitled “Cannabis Tax” of Chapter 66, entitled “Fees”, of the Code of the Borough of Andover, County of Sussex, State of New Jersey, be and is hereby amended as follows:

SECTION 1. Subsection B, entitled “Definitions” of Section 66-5, entitled “Cannabis tax” is amended to add subparagraph (8) which shall read as follows:

- (8) “Cannabis manufacturer” means the same as that term is defined in N.J.S.A. 24:6I-33.

SECTION 2. Paragraph (2) of subsection C, entitled “Transfer Tax” of Section 66-5, entitled “Cannabis tax” is amended to read as follows:

- (2) The following rates apply to the transfer tax: (a) one percent of the receipts from each sale by a cannabis wholesaler; (b) two percent of the receipts from each sale by a cannabis retailer; (c) two percent of the receipts from each sale by a cannabis manufacturer.

SECTION 3. Paragraph (2) of subsection D, entitled “User Tax” of Section 66-5, entitled “Cannabis tax” is amended to add subparagraph (c) which shall read as follows:

- (c) Two percent on the value of each transfer or use of cannabis or cannabis items not otherwise subject to the transfer tax imposed pursuant to Section 66-5C by a cannabis manufacturer.

SECTION 4. 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 5. 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 6. This Ordinance shall take effect immediately after final passage and publication.

**AUDIENCE PARTICIPATION:**

Mr. Tim Van Wingerden told the governing body that he would appreciate their moving the cannabis manufacturing ordinance along. He discussed his interest in the property for cannabis beverage manufacturing and offered his opinion that while laws are stricter on edibles, he expects them to change soon.

**MOTION TO PAY THE BILLS:**

A MOTION was made by Mr. Lane, seconded by Mr. Mallon to approve the following Resolution: BE IT RESOLVED by the Governing Body to approve the payment of all vouchers on the bill listed January 9, 2023, submitted by the Chief Financial Officer for payment. Upon roll call the following votes were cast: AYES: Dennison, Hoag, Smith, Lane, Mallon, 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.

Beth Brothman  
Municipal Clerk