

A REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY WAS HELD ON MONDAY, FEBRUARY 13TH, 2023 AT THE BOROUGH HALL BEGINNING AT 7:00 P.M.

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

ABSENT: Messrs. Hoag and Mallon.

ALSO PRESENT: Frank McGovern, Borough of 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, posting copy of notice in the Borough Hall and on the Borough website.

Borough Attorney Frank McGovern, of McGovern & Roseman, appeared before the governing body at the Mayor's request to discuss the current status of cannabis licensing. Mr. McGovern explained the differences between the application requirements for annual and conditional licensing. He also informed them that resolutions of support are being sought. Each requestor is at a different point in their process, some having applied to the planning board and some have not. He asked them how they would like to proceed to review these requests and consider a resolution of support. He explained that the applicants are under pressure from the State for time to complete application. He recommended that the Council form a committee to review these requests. This committee would set a standard for review. There was some discussion how to proceed, but in the end the following determination was made:

A MOTION was made by Mr. Dennison, seconded by Mr. Smith to form a Cannabis Review Committee comprised of the Mayor, Council persons Lynn Delfing and Jason Lane. Upon roll call the following votes were cast: AYES: Dennison, Smith, Lane, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

The conversation turned to the Land Sale scheduled for March 9th. The Mayor asked about retainers necessary for purchasing land and what buyers should expect.

A MOTION was made by Mr. Smith, seconded by Mr. Dennison to adopt Resolution to adjourn into Executive Session to discuss matters which are exempted from the public. Upon roll call the following votes were cast: AYES: Dennison, Smith, Lane and Delfing. NAYS: None. ABSTAIN: 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

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Andover will go into closed session for reasons of: Contract Agreements (8:01 p.m.)

A MOTION was made by Mr. Dennison, seconded by Mr. Lane to resume the public portion of the meeting. Upon roll call the following vote was cast: AYES: Dennison, Smith, Lane, Delfing. NAYS: None. Motion carried. (8:03 p.m.)

MINUTES:

A MOTION was made by Mr. Smith, seconded by Mrs. Delfing to approve the minutes of the meeting held on 01/04/2023. Upon roll call the following votes were cast: AYES: Smith, Lane, and Delfing. NAYS: None. ABSTAIN: Dennison. Motion carried.

A MOTION was made by Mr. Smith, seconded by Mrs. Delfing to approve the minutes of the meeting held on 01/09/2023. Upon roll call the following votes were cast: AYES: Dennison, Smith, Lane, 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 meeting held on 01/25/2023. Upon roll call the following votes were cast: AYES: Smith, Lane, and Mallon. NAYS: None. ABSTAIN: Dennison. Motion carried.

OFFICIALS REPORTS:

CFO: No report.

A MOTION was made by Mr. Dennison, seconded by Mr. Lane to accept the following reports as listed below with the addition of Water Reports. Upon roll call the following votes were cast: AYES: Dennison, Smith, Lane, Delfing. NAYS: None. ABSTAIN: None. Motion carried.

BOH Covid rate from 2020 – 12/31/22, BOH report period 12/1/22 – 12/31/22 & 1/01/2023 - 1/31/2023, GenServe Generator Maintenance reports for Boro Hall, Park Building and Pump house for services on 1/16/23, Joint court report for December 2022, Zoning Officer summary report Sept 2022 – Jan 2023, ABFD report for January.

Water Department Reports: Laboratory reports for invoices#144973 & 144865, Jan 2023 water reports for Well 1 & 2, CCR for 2022,

- The Mayor requested the Zoning Officer to include an appropriate header for their report.

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

NJDEP Water System Operations Element dated 12/21/22 re: Notice of Non-Compliance – Failure to submit service line documentation.

Sussex County Engineering & Planning dated 1/19/23 re: Municipal Appointment to Sussex County Water Quality PAC

NJ State BPU dated 1/11/23 re: In the Matter of the Petition of Service Electric Cable TV of New Jersey, Inc. for Renewal of Its Certificate of Approval to Own, Operate, Extend and Maintain a Cable Television System in the Borough of Andover, County of Sussex, State of New Jersey

H.E. Pellow dated 01/23/23 re: FY2023 NJDOT Trust Fund Grant for Maple Street. The Council asked why the engineering wasn't included in the initial bid. An email will be sent to inquire.

Careaga Engineering dated 1/13/23 re: Amaducci Septic Repair – block 27 lot 3 – Fresh Water Wetlands permit #324 to be submitted to NJDEP.

Altice dated 1/12/23 re: Franchise fee payment equal to 2% of gross revenues

State of New Jersey Div. State Police dated 2/3/23 re: Emergency Operation Plan approved recertification due by 2/3/2027

Stormwater Compliance Solutions LLC dated 02/8/2023 re: Tier B to Tier A Transition

Sussex County Public Health dated 02/10/2023 re: Health Department Information Session. The Mayor is available on 3/21 at 1 p.m.

AUDIENCE PARTICIPATION: None.

REPORTS OF SPECIAL COMMITTEES:

SWAC & SC Water Quality Management: Vacancy in office. Minutes from 7/7/22 meeting

Open Space Report: Vacancy in office. No report. This will be removed from future reports.

Borough Property Management: Land Sale ordinance conclusion within this meeting. Auction set for 3/9/23

REPORTS OF STANDING COMMITTEES:

Administrative & Executive:

Mrs. Delfing reported that she is ready to present a salary ordinance for the budget but can do at the next meeting. She noted that she has a conflict on 2/22/23 and will not be able to attend that workshop. The CFO may also have a conflict. The Mayor suggested moving the workshop to Tuesday 2/28. Mr. Dennison asked if the IT estimate for Nerd to Go is in. The Clerk confirmed that she will provide some more information on the IT search at the next workshop or regular meeting.

A MOTION was made by Mrs. Delfing, seconded by Mr. Lane to approve rescheduling the February workshop to 2/28. Upon roll call the following votes were cast: AYES: Dennison, Smith, Lane, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

Celebration of Public Events:

Mr. Lane reported that the next event will be the Easter Egg Hunt. This will be held on April 1st at 10 a.m. This will be updated in the Spring Newsletter and supplies are in process of order. He stated he needed an amount not to exceed \$200 to purchase the supplies for the Easter Egg Hunt. Mr. Lane also updated the municipal signs.

A MOTION was made by Mr. Smith, seconded by Mrs. Delfing to approve the purchase up to \$200. Upon roll call the following votes were cast: AYES: Dennison, Smith, Lane, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

Finance:

Mr. Dennison reported that the budget workshop is coming up.

Parks & Playgrounds:

Mr. Hoag was absent. Mr. Lane reported that kids were reported as trying to cause some park damage by tipping the port of potty. They were stopped by a good Samaritan before they were successful. Mr. Lane also reported that the park rules could not be easily seen and would work on a new park sign.

Public Bldgs. & Grounds:

Mr. Smith reported that a new lock box has been installed at the park building basement level to replace the one that broke last month. He confirmed that Chris Daschko will be doing winter maintenance on the equipment.

Public Safety:

Mrs. Delfing reported that she attended the Lakeland Emergency Squad Award and they brought home an administration award. There was a brief discussion over which equipment would be sold through auction.

Streets & Roads:

Mr. Hoag was absent. Mr. Smith had asked if we were doing well with plowing and salt. The reported salt cost from Northern Irrigation seemed higher than necessary to some.

Water Utility:

Mr. Smith reported that the daily water monitor was let go. He should be paid only for the dates 2/4&5 in this month. A new person, Sam Brothman, has been hired starting 2/6/23 to take that role until it is then turned over or shared with Dick Mooney over the summer. Mr. Smith reviewed the generator maintenance report as provide by GenServe for all three locations. A recommendation for work needed to replace batteries at the borough hall and park building was not approved. The conversation turned to lead line replacement. Mr. Smith reported that there was an inquiry from a home identified as needed a lead line replacement as to when the work can be completed and who is going to pay for the work. Mr. Smith stated it is the homeowner responsibility and Mayor Morgan concurred it was the homeowner’s responsibility. The Municipal Clerk inquired if there is a grant or loan fund to help offset the cost or to provide a repay program. None is known.

A MOTION was made by Mr. Smith, seconded by Mr. Lane to hire Samuel Brothman as daily water monitor for the Andover Water Department. Upon roll call the following votes were cast: AYES: Dennison, Smith, Lane, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

OLD BUSINESS:

The Mayor asked when the lead inspection ordinance will be ready. The Clerk confirmed it is being worked on.

NEW BUSINESS:

The Mayor reported on the following:

He asked the Municipal Clerk if she knew where the chlorinator and injector parts were purchased by the former Water Operator. The Clerk will look into her files.

The Mayor reported that a new assistant water operator will be coming on starting 3/1. He asked the Municipal Clerk if she received this information from the Water Operator. She did not. Appointment will take place at the next meeting on 2/28/23.

RESOLUTIONS:

R -10 - 2023 EEO Compliance:

A MOTION was made by Mr. Smith, seconded by Mr. Dennison to approve the following Resolution “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: AYES: Dennison, Smith, Lane, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

WHEREAS, N.J.S.A. 40A:4-5 as amended by P.L. 2017, c.183 requires the governing body of each municipality and county to certify that their local unit’s hiring practices comply 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,” *as amended*, 42

U.S.C. § 2000e *et seq.*, (April 25, 2012) before submitting its approved annual budget to the Division of Local Government Services in the New Jersey Department of Community Affairs; and

WHEREAS, the members of the governing body have familiarized themselves with the contents of the above-referenced enforcement guidance and with their local unit's hiring practices as they pertain to the consideration of an individual's criminal history, as evidenced by the group affidavit form of the governing body attached hereto.

NOW, THEREFORE BE IT RESOLVED, That the Mayor and Council of the Borough of Andover, hereby states that it has complied with N.J.S.A. 40A:4-5, as amended by P.L. 2017, c.183, by certifying that the local unit's hiring practices comply with the above-referenced enforcement guidance and hereby directs the Clerk to cause to be maintained and available for inspection a certified copy of this resolution and the required affidavit to show evidence of said compliance.

R -11 -2023 Tax Sale Redemption:

A MOTION was made by Mrs. Delfing, seconded by Mr. Dennison to approve a resolution to refund lienholder for redemption of tax sale certificate #2022-004 for block 23 lot 6.01 in the amount of \$9449.00. Upon roll call the following votes were cast: AYES: Dennison, Smith, Lane, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

WHEREAS, the Tax Collector recommends the Mayor and Council of the Borough of Andover reimburse funds for the redemption of Certificate # 2022-004.

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Andover, County of Sussex, State of New Jersey does hereby authorize the refund of

\$9,449.00 to Dan Faber (redemption)

R -12 -2023 Escrow Reimbursement

A MOTION was made by Mr. Dennison, seconded by Mrs. Delfing to approve a resolution to reimburse the planning board application escrow funds held for Anthony Amaducci, block 27 lot 3, for canceled application #PZ-06-2020 in the amount of \$225.30. Upon roll call the following votes were cast: AYES: Dennison, Smith, Lane, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

WHEREAS, the Construction Official recommends the Mayor and Council of the Borough of Andover reimburse funds for an planning board escrow for Application #PZ06-2020,
NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Andover, County of Sussex, does hereby authorize the refund of \$225.30 to Anthony Amaducci.

ORDINANCE:

Liquor License Fee Ordinance

Ordinance #2023-7

A MOTION was made by Mrs. Delfing, 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 33, ALCOHOLIC BEVERAGES”, OF THE CODE OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY (Amendment to increase fee from \$891.88 to \$1070.00).** A review and discussion took place regarding the updated to the Vacant Property Ordinance which would reflect fee changes according to Bill 2877 Upon roll call the following votes were cast: AYES: Dennison, Smith, Lane, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

“AN ORDINANCE TO AMEND SECTION 66-1, ENTITLED “FEES”, OF CHAPTER 66, ENTITLED “FEES”, AS TO “CHAPTER 33, ALCOHOLIC BEVERAGES”, 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. The portion of Section 66-1, entitled “Fees”, which reads:

Chapter 33, Alcoholic Beverages

Plenary retail consumption license, per year	\$891.88
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Is amended to read:
Chapter 33, Alcoholic Beverages

Plenary retail consumption license, per year	\$1,070.00
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Section 2. 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 3. 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 4. This Ordinance shall take effect immediately on its final passage and publication as required by law.

Vacant Property Registration Ordinances

A review and discussion took place regarding the updated to the Vacant Property Ordinance which would reflect changes to law according to Bill 2877

Ordinance #2023-5

A MOTION was made by Mrs. Delfing, seconded by Mr. Lane to approve the first reading and introduction of **“AN ORDINANCE TO AMEND SECTION 14, ENTITLED “VACANT AND ABANDONED PROPERTIES”, OF CHAPTER 104, ENTITLED “PROPERTY**

MAINTENANCE” AND ADD SECTION 15, ENTITLED “REGISTRATION OF VACANT AND ABANDONED PROPERTY FOR WHICH A COMPLAINT IN AN ACTION TO FORECLOSE ON A MORTGAGE HAS BEEN FILED” 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, Smith, Lane, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

“AN ORDINANCE TO AMEND SECTION 14, ENTITLED “VACANT AND ABANDONED PROPERTIES”, OF CHAPTER 104, ENTITLED “PROPERTY MAINTENANCE” AND ADD SECTION 15, ENTITLED “REGISTRATION OF VACANT AND ABANDONED PROPERTY FOR WHICH A COMPLAINT IN AN ACTION TO FORECLOSE ON A MORTGAGE HAS BEEN FILED” 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 104-14, entitled “Vacant and abandoned properties”, of Chapter 104, entitled “Property Maintenance”, of the Code of the Borough of Andover, County of Sussex, State of New Jersey, is amended to be retitled “Registration and Maintenance of Vacant and Abandoned Properties.”

SECTION 2. Paragraph A entitled “Definitions.” of Section 104-14, entitled “Vacant and abandoned properties”, of Chapter 104, entitled “Property Maintenance” of the Code of the Borough of Andover, County of Sussex, State of New Jersey is amended to delete the following definition:

CREDITOR

A creditor who files a summons and complaint in an action to foreclose.

SECTION 3. Paragraph E, entitled “Responsibilities of creditors; violations and fines”, of Section 104-14, entitled “Vacant and abandoned properties”, of Chapter 104, entitled “Property Maintenance”, of the Code of the Borough of Andover, County of Sussex, State of New Jersey, is deleted and replaced with the following:

E. Responsibilities of creditors; violations and fines. **See Section 104-15.**

SECTION 4. Paragraph G, entitled “Public officer” of Section 104-14, entitled “Vacant and abandoned properties”, of Chapter 104, entitled “Property Maintenance”, of the Code of the Borough of Andover, County of Sussex, State of New Jersey, is amended to read as follows:

G. Public officer. The public officer is responsible for enforcing the provisions of §104-14. All enforcement of the provisions of §104-14, unless expressly stated to the contrary, shall be under his/her direction and supervision.

SECTION 5. A new Section 104-15, entitled “Registration of Vacant and Abandoned Property for Which a Complaint in an Action to Foreclose on a Mortgage Has Been Filed” shall be added to Chapter 104, entitled “Property Maintenance”, of the Code of the Borough of Andover, County of Sussex, State of New Jersey, and shall read as follows:

Section 104-15. Registration of Vacant and Abandoned Property for Which a Complaint in an Action to Foreclose on a Mortgage Has Been Filed

A. Definitions.

CREDITOR

Mortgagee or an agent or assignee of a mortgagee, such as the servicer, who has filed a complaint in the Superior Court seeking to foreclose upon a residential or commercial mortgage. If the entity seeking to foreclose upon the residential or commercial mortgage changes as a result of an assignment, transfer, or otherwise after the filing of the foreclosure complaint in the Superior Court, the new entity shall be deemed the creditor for purposes of this section. For purposes of this section, a creditor shall not include the State, a political subdivision of the State, a State, county, or local government entity, or their agent or assignee, such as the servicer.

PROPERTY

Any building or structure or portion thereof and the land appurtenant thereto.

PUBLIC OFFICER

The Code Enforcement Officer of Andover Borough.

B. Vacant and Abandoned Property. For the purposes of this section, a property shall be considered vacant and abandoned if it is not legally occupied by a mortgagor or tenant, which is in such condition that it cannot be legally reoccupied, because of the presence or finding of at least two of the following:

1. overgrown or neglected vegetation;
2. the accumulation of newspapers, circulars, flyers, or mail on the property;
3. disconnected gas, electric, or water utility services to the property;
4. the accumulation of hazardous, noxious, or unhealthy substances or materials on the property;
5. the accumulation of junk, litter, trash, or debris on the property;
6. the absence of window treatments such as blinds, curtains, or shutters;
7. the absence of furnishings and personal items;
8. statements of neighbors, delivery persons, or government employees indicating that the property is vacant and abandoned;
9. windows or entrances to the property that are boarded up or closed off, or multiple windowpanes that are damaged, broken, and unrepaired;
10. doors to the property that are smashed through, broken off, unhinged, or continuously unlocked;
11. a risk to the health, safety, or welfare of the public or any adjoining or adjacent property owners due to acts of vandalism, loitering, criminal conduct, or the physical destruction or deterioration of the property;
12. an uncorrected violation of a municipal building, housing, or similar code during the preceding year, or an order by municipal authorities declaring the property to be unfit for occupancy and to remain vacant and unoccupied;
13. the mortgagee or other authorized party has secured or winterized the property due to the property being deemed vacant and unprotected or in danger of freezing;
14. a written statement issued by a mortgagor expressing the clear intent of all mortgagors to abandon the property; or
15. any other reasonable indicia of abandonment.

C. Duties of creditors with regard to vacant and abandoned property.

(1) A creditor shall, in addition to the notice provided to the Borough of Andover pursuant to section 17 of N.J.S.A 46:10B-51 or section 2 of N.J.S.A. 40:48-2.12s2 register the residential or commercial property with the municipality's property registration program as a property in foreclosure and, as part of that registration: (a) provide the municipality with the information regarding the creditor required by paragraph (1) of subsection a. of section 17 of N.J.S.A 46:10B-51 or paragraph (1) of subsection a. of section 2 of N.J.S.A 40:48-2.12s2 (b) identify the date the complaint in an action to foreclose on a mortgage was filed against the subject property, the court in which it was filed, and the docket number of the filing; and (c) identify whether the property is vacant and abandoned in accordance with paragraph (B) of Section 104-15.

(2) If there is any change in the name, address, or telephone number for a representative, agent, or individual authorized to accept service on behalf of a creditor required to register pursuant to the property registration requirements following the filing of the complaint, the creditor shall update the property registration with the Borough within 10 days of the change in that information.

(3) The creditor shall, if the registered property becomes vacant and abandoned in accordance with paragraph (B) of Section 104-15 after the property is initially registered with the municipality, update the property registration with the Borough to reflect the change in the property's status.

(4) The creditor shall be responsible for the care, maintenance, security, and upkeep of the exterior of the property if the property is vacant and abandoned at any time while the property is registered with the Borough and shall specifically, but without limitation, comply with the duties applicable to owners of vacant and abandoned property as set forth in Section 104-14(C).

(5) A creditor located out-of-State shall be responsible for appointing an in-State representative or agent to act for the foreclosing creditor.

(6) A creditor shall comply with the requirements of Section 104-14(C) relating to the care, maintenance, security, and upkeep of the exterior of the property, and post a sign affixed to the inside of the property and visible to the public indicating the name, address, and telephone number of the creditor or an out-of-State creditor's in-State representative or agent for the purpose of receiving service of process, or acquire and otherwise maintain liability insurance by procuring a vacancy policy, covering any damage to any person or any property caused by any physical condition of the property while registered with the Borough.

(7) A creditor shall pay fees as required by Section 104-15 in accordance with Section 66-4(G).

D. Enforcement.

1. The public officer or other authorized municipal official is authorized to issue a notice to the creditor if the public officer or other authorized municipal official determines that the creditor has violated any requirements of Section 104-15.
2. In the case of a violation for failure to provide care, maintenance, security, and upkeep of the exterior of vacant and abandoned property, such notice shall require the creditor to correct the violation within 30 days of receipt of the notice, or within 10 days of receipt of the notice if the violation presents an imminent threat to public health and safety. The notice issued shall include a description of the conditions which give rise to the violation.

If the creditor fails to remedy the violation within that time period, the creditor shall be subject to the penalties set forth in Paragraph G of Section 104-15.

3. If the Borough expends public funds in order to abate a nuisance or correct a violation on a commercial property in situations in which the creditor was given notice pursuant to the provisions of Section 104-15(D) but failed to abate the nuisance or correct the violation as directed, the municipality shall have the same recourse against the creditor as it would have against the title owner of the property, including, but not limited to, the recourse provided under section 23 of P.L.2003, C. 210 (C.55:19-100).
- E. In its discretion, the Borough of Andover to contract with and set the compensation of a private entity, pursuant to the "Local Public Contracts Law," N.J.S.A. 40A: 11-1 et seq., to assist the Borough in the implementation and administration of the property registration program.
- F. Creditors shall pay annual fees in accordance with the provisions of Section 66-4(G) of the Code of the Borough of Andover.
- G. Violations; penalties.
- (1) An out-of-State creditor subject to Section 104-15 found by the municipal court, or by any other court of competent jurisdiction, to be in violation of the requirement to appoint an in-State representative or agent shall be subject to a fine of \$2,500 for each day of the violation. Any fines imposed on a creditor for the failure to appoint an in-State representative or agent shall commence on the day after the 10-day period set forth in paragraph (1) of subsection a. of section 17 of N.J.S.A. 46:10B-51 or paragraph (1) of subsection a. of section 2 of N.J.S.A. 40:48-2. 1 2s2 for providing notice to the Borough clerk that a summons and complaint in an action to foreclose on a mortgage has been served.
 - (2) A creditor subject to Section 104-15 found by the municipal court or by any other court of competent jurisdiction, to be in violation, excluding only a violation addressed by paragraph (1) of this Subsection G of Section 104-15 shall be subject to a fine of \$1,500 for each day of the violation. Any fines imposed pursuant to this paragraph shall commence 31 days following receipt of the notice of violation, except if the violation presents an imminent risk to public health and safety, in which case any fines shall commence 11 days following receipt of the notice.
 - (3) Fines assessed under Section 104-15 shall be a lien on the property.
- H. No less than 20 percent of any money collected pursuant to Section 104-15 shall be used for municipal code enforcement purposes.
- I. Compliance with other provisions. Nothing in Section 104-15 is intended to nor shall be read to conflict or prevent the Borough of Andover from taking action regarding buildings found to be unfit for human habitation or unsafe structures as provided in applicable provisions of the Code of the Borough of Andover and/or the Uniform Construction Code. Further, any action taken under any such code provision shall not relieve an owner or creditor from his, her or its obligations under Section 104-15.
- J. Interpretation. All references in Section 104-15 to statutes include all amendments thereto. References to particular sections of enabling statutes are for ease of reference but may

not be exhaustive and are not meant to be exclusive of other applicable statutory provisions contained in enabling statutes or elsewhere in New Jersey statutes.

SECTION 5. 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 6. 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 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).

Vacant Property Registration FEE Ordinances

A review and discussion took place regarding the updated to the Vacant Property Ordinance which would reflect fee changes according to Bill 2877

Ordinance #2023-6 A MOTION was made by Mrs. Delfing, seconded by Mr. Smith to approve the first reading and introduction of **“AN ORDINANCE TO AMEND SECTION 66-4, ENTITLED “MISCELLANOUS 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: AYES: Dennison, Smith, Lane, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

“AN ORDINANCE TO AMEND SECTION 66-4, ENTITLED “MISCELLANOUS 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 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. Paragraph G of 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 read as follows:

G. Registration fees for vacant and abandoned properties.

1. Registration and registration renewal fees for vacant property chargeable per Section 104-14. The initial registration fee for each vacant property under the provisions of § 104-14B shall be \$500. The fee for the first annual renewal shall be \$1,500; and the fee for the second annual renewal shall be \$3,000. The fee for each subsequent annual renewal beyond the second annual renewal shall be \$5,000.
2. Registration and registration renewal fees for vacant and abandoned properties chargeable per Section 104-15. The initial registration fee shall be \$500 per property annually for any property that is required to be registered per Section 104-15; and (2) an additional \$2,000 per property annually if the property is determined

by the Borough to be vacant and abandoned per Section 104-15(B) at any time during the pendency of the mortgage foreclosure action.

Section 2. 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 3. 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 4. This Ordinance shall take effect immediately on its final passage and publication as required by law.

Land Sale Date Change:

Ordinance #2023-3

A MOTION was made by Mrs. Delfing, seconded by Mr. Dennison to approve the second reading and adoption of "**AN ORDINANCE AMENDING ORDINANCE NOS. 2022-16, 2022-18, 2022-19 & 2022-20** – (*amending land sale date to 3/9/23*). Upon roll call the following votes were cast: AYES: Dennison, Smith, Lane, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

"AN ORDINANCE AMENDING ORDINANCE NOS. 2022-16, 2022-18, 2022-19 & 2022-20"

BE IT ORDAINED by the Mayor and Council of the Borough of Andover, Sussex County, New Jersey that Ordinance Nos. 2022-16, 2022-18, 2022-19 and 2022-20, which were adopted on December 28, 2022, are each amended so as to replace Paragraph (a) with the following:

- (a) Bids shall be presented on Thursday, March 9, 2023, starting at 10:00 A.M. in the manner of a public auction in accordance with procedures to be announced by the Borough Clerk. The date and time for presenting bids may be adjourned or rescheduled by resolution of the Andover Borough Mayor and Council subject to applicable advertising requirements.

BE IT FURTHER RESOLVED that all other terms and provisions of the Ordinances amended hereby remain in full force and effect as so modified. This Ordinance shall take effect upon final passage, approval and publication as required by law.

Ordinance #2023-4

A MOTION was made by Mr. Smith, seconded by Mr. Dennison to approve the second reading and adoption of "**AN ORDINANCE AMENDING ORDINANCE NO. 2022-17**" (*amending land sale date to 3/9/23 and 50-foot boundary of block 24 lots 34 & 35*). Upon roll call the following votes were cast: AYES:

Dennison, Smith, Lane, and Delfing. NAYS: None.
ABSTAIN: None. Motion carried.

“AN ORDINANCE AMENDING ORDINANCE NO. 2022-17”

BE IT ORDAINED by the Mayor and Council of the Borough of Andover, Sussex County, New Jersey that Ordinance No. 2022-17 which was adopted on December 28, 2022, is amended as follows:

1. Paragraph (a) is hereby replaced with the following:

(b) Bids shall be presented on Thursday, March 9, 2023, starting at 10:00 A.M. in the manner of a public auction in accordance with procedures to be announced by the Borough Clerk. The date and time for presenting bids may be adjourned or rescheduled by resolution of the Andover Borough Mayor and Council subject to applicable advertising requirements.

2. Paragraph (g) is hereby replaced with the following:

(g) Excluded from or subject to the sale are the lands that lie within 50 feet of the boundaries of Block 24, Lots 34 and 35 (“buffer area”). Before and as a condition of closing, the Borough shall cause either a lot line adjustment, subdivision or perfection of an exclusive easement to be completed for the purpose of separating the buffer area from or impressing an easement for the buffer area over and in Block 24, Lot 36.03. The successful bidder will have no right, title or interest in the buffer area if a lot line adjustment or subdivision is completed. The Borough shall have sole discretion regarding the method to be used to preserve the buffer; i.e., lot line adjustment, subdivision or easement.

BE IT FURTHER RESOLVED that all other terms and provisions of the Ordinances amended hereby remain in full force and effect as so modified. This Ordinance shall take effect upon final passage, approval and publication as required by law.

Cannabis Manufacturing in IP Zone:

Ordinance #2023-1

A MOTION was made by Mr. Smith, seconded by Mr. Dennison to approve the second reading and adoption 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, Smith, Lane, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

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 second reading and adoption 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, Smith, Lane, and 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: None.

MOTION TO PAY THE BILLS:

A MOTION was made by Mr. Smith, seconded by Mr. Lane to approve the following Resolution: BE IT RESOLVED by the Governing Body to approve the payment of all vouchers on the bill listed February 13, 2023, submitted by the Chief Financial Officer for payment. Upon roll call the following votes were cast: AYES: Dennison, Smith, Lane, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

MOTION TO ADJOURN:

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

Beth Brothman
Municipal Clerk