

**ANDOVER TOWNSHIP COMMITTEE MEETING MINUTES**

**THOMAS D. WALSH, MAYOR  
CHARLES GROTYOHANN, DEPUTY MAYOR  
GAIL PHOEBUS  
ALEX GILSENAN  
BOB SMITH**

**JULY 23, 2007  
6:30 P.M.**

**REGULAR MEETING BEGINS AT 7:30 P.M.**

The regular meeting of the Andover Township Committee was called to order at 6:42 P.M. by Mayor Walsh, followed by a salute to the flag.

**ROLL CALL:** Present: Mr. Gilsenan, Ms. Phoebus,  
Mr. Smith, Mayor Walsh  
Also present: Attorney Semrau  
Those absent: Mr. Grotyohann, Administrator Padula

**OPEN PUBLIC MEETING STATEMENT** Statement of compliance with Chapter 231, P. L. 1975 was made by Mayor Walsh.

**EXECUTIVE SESSION:** On a motion by Ms. Phoebus, seconded by Mr. Smith, the resolution to go into executive session to discuss the following, as amended, was carried unanimously.

**Personnel Matters:**

1. ***Special Counsel***

**Contract Negotiations:**

1. ***Department of Public Works***
2. ***9-1-1 Consolidation Study & Shared Services***
3. ***Fire Department Truck Negotiations***
4. ***Police Department – FOP #177***

**Attorney-Client Privilege:**

1. ***Lakeview Ridge at Andover***
2. ***COAH Issues***

**Possible Litigation**

1. ***Possible Violation of the Law***

**Pending Litigation**

, was carried unanimously.  
(See Insert Attached to These Minutes)

Ms. Phoebus moved to adjourn executive session at 7:44 P.M., seconded by Mr. Smith and carried unanimously.

**REGULAR MEETING**

**APPROVAL OF AGENDA** Mayor Walsh asked that the agenda be amended as follows:

**UNDER EXECUTIVE SESSION**

**Personnel Matters:**

- 1. *Special Counsel*

**Contract Negotiations:**

- 3. *Fire Department Truck Negotiations*
- 4. *Police Department – FOP #177*

**Attorney-Client Privilege:**

- 2. *COAH Issues*

**Possible Litigation**

- 1. *Possible Violation of the Law*

**\*UNDER CONSENT AGENDA**

**\*UNDER OTHER BUSINESS**

1. APPROVAL OF VOUCHERS

TO INCLUDE THE FOLLOWING

\$	84.02	EMBARQ
\$	733.71	JCP&L
\$	18,500.00	DIMILIA SPORT
\$	3,247.27	UNUM LIFE INSURANCE – LONG TERM DISABILITY

**\*UNDER RESOLUTIONS**

- 6. **#R2007-114 RESOLUTION OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY AUTHORIZING THE AWARD OF A PROFESSIONAL SERVICES CONTRACT WITHOUT COMPETITIVE BIDDING TO RICHARD P. CUSHING, ESQ., FOR PROFESSIONAL LEGAL SERVICES**

Mayor Walsh asked that Resolution #R2007-110 be removed from the Consent Agenda for separate discussion.

Mr. Gilsenan moved to approve the agenda, as amended, seconded by Ms. Phoebus and carried unanimously.

**APPROVAL OF CONSENT AGENDA ITEMS** Mr. Smith moved the following consent items be approved, as amended, seconded by Ms. Phoebus and carried unanimously.

**APPROVAL OF CONSENT AGENDA ITEMS (CONTINUED)**

**Resolution #R2007-108 – Authorizing Passage of the Consent Agenda**

**\*CONSENT AGENDA:**

**\*OTHER BUSINESS:**

**APPROVAL OF VOUCHERS FOR PAYMENT**

(See Insert Attached to These Minutes)

**ACCEPTANCE OF THE TAX COLLECTOR’S JUNE REPORT - \$60,496.74**

**\*RESOLUTIONS:**

**#R2007-109 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY TO ISSUE A TAX REFUND TO WACHOVIA CUST/SASS MUNI, DTR IN REGARDS TO THE REDEMPTION OF TAX SALE CERTIFICATE #05-001 SOLD FOR DELINQUENT TAXES FOR BLOCK 7/LOT 2.06, IN THE AMOUNT OF \$24,156.42**

**#R2007-111 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY TO ACCEPT THE LETTER OF RESIGNATION FROM MARY BETH KAIS, CLERK-TYPIST FOR THE CONSTRUCTION OFFICE EFFECTIVE AUGUST 01, 2007**

**#R2007-112 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY TO AUTHORIZE CHANGE ORDER NO. 1 TO THE EXISTING 2006 CONTRACT BETWEEN THE TOWNSHIP OF ANDOVER AND SALMON BROTHERS, INC. FOR THE SKYTOP ROAD PHASE III DRAINAGE IMPROVEMENTS PROJECT FOR AN INCREASE IN THE CONTRACT AMOUNT OF \$76,258.04 FOR A TOTAL OF \$208,899.14**

**#R2007-113 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY SUPPORTING SUBMISSION OF A YEAR 2007 SUSSEX COUNTY OPEN SPACE & FARMLAND PRESERVATION TRUST FUND APPLICATION PERTAINING TO THE TOWNSHIP’S PROPOSAL TO ACQUIRE LOT 22.02 IN BLOCK 74 (13.5 ACRES) AS SET FORTH ON THE TAX MAP OF THE TOWNSHIP OF ANDOVER FOR OPEN SPACE PRESERVATION TO BE DESIGNATED AS THE “LAKE ILIFF ACCESS” PROJECT**

(See Inserts Attached to these Minutes)

**RESOLUTION**

**#R2007-110 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY AUTHORIZING THE RENEWAL OF PLENARY RETAIL CONSUMPTION LICENSE #1902-33-012-007 FOR RAY C. INC. T/A RAY'S INN FOR THE TERM AUGUST 1, 2007 THROUGH JUNE 30, 2008 WITH CERTAIN CONDITIONS**

Mr. Smith moved to adopt this resolution as presented, seconded by Mr. Gilseman. Roll call vote:

Mr. Gilseman – yes	Mr. Grotyohann – absent
Ms. Phoebus – abstain	Mr. Smith – yes
Mayor Walsh – yes	

(See Insert Attached to These Minutes)

**APPROVAL OF MINUTES**

**JUNE 11, 2007 REGULAR MEETING  
JUNE 11, 2007 EXECUTIVE SESSIONS A & B**

Ms. Phoebus moved to adopt these minutes as presented, seconded by Mr. Smith. Roll call vote:

Mr. Gilseman – abstain	Mr. Grotyohann – absent
Ms. Phoebus – yes	Mr. Smith – yes
Mayor Walsh – yes	

**JUNE 25, 2007 REGULAR MEETING  
JUNE 25, 2007 EXECUTIVE SESSION**

Mayor Walsh moved to adopt these minutes as presented, seconded by Mr. Smith. Roll call vote:

Mr. Gilseman – yes	Mr. Grotyohann – absent
Ms. Phoebus – abstain	Mr. Smith – yes
Mayor Walsh – yes	

**REPORT FROM THE FIRE CHIEF** Chief Danielson reported for the month of June there were 7 activated fire alarms, 1 carbon monoxide alarm, 1 special firematic drill, 1 regular monthly meeting, 1 mutual aid, out of town, 9 motor vehicle accidents, 1 with entrapment, 2 special work drills, 1 smoke condition, 1 standby out of town and 4 down power lines. 31 calls for the month, 311.5 hours, Year to date 195 calls at 3,292.7 hours.

Chief Danielson stated he and members of the truck committee traveled to Wisconsin to view the new truck for final inspection. It is expected within the next two weeks. August 18<sup>th</sup> is the date for the official wetdown. Tickets are also available for the Chicken BBQ this Saturday. Mayor Walsh asked Chief Danielson to provide a report on the motor vehicle accident in Lafayette, with entrapment. Our public safety officials were the first on the scene and the driver walked away from the accident with few injuries.

## PRESENTATIONS

### **MUNICIPAL ENGINEER GOLDEN ON THE C-1 STREAM DESIGNATION**

Bill Moran was present on behalf of Joe Golden to conduct a presentation on the C-1 Stream Designation in order to provide an insight on the proposed amendments. He showed a diagram outlining the township's streams and how these changes will affect development in this area.

He stated that the category one designation is determined by acceptable geological significance, fishery significance, basically, if the stream has the capability to support trout, it has a high water quality level then it is automatically designated as C-1. He added that if it is suitable habitat for threatened or endangered species, which would also be classified as C-1. He listed all the streams and tributaries of these streams in the Andover Township area that are considered C-1.

The NJDEP is purposing to regulate the C-1 streams by the Flood Hazard Area Control Act which is currently up for modification. There is a comment period which has been extended until August 21, 2007. This Act is going to regulate two different aspects of the streams; one is flood plain area (floodway) and two regulation of the buffer. The modifications proposed are for a 300 foot buffer.

Mr. Gilsean asked if an applicant has received approval prior to the amendments being enacted would they be affected. Mr. Moran stated that as long as they have a permit in the State that has been deemed complete, the changes will not affect them. He provided information on the website for anyone to make comments regarding the proposed changes to the regulations. Mr. Smith stated he will place the web address on our site for the public's convenience.

Mayor Walsh announced that at the next meeting, August 13<sup>th</sup>, the Township Planner will be present in order to provide further explanation on C-1 Designation and how it will impact the municipality.

## REGULAR AGENDA

**OPEN TO THE PUBLIC** Resident Fred Gillespie of Andover-Mohawk Road commented to the governing body his understanding of the Township Committee form of government, whereby the Mayor is selected by a majority of the governing body and has no more power than any other member. Saying this, he expressed his deep concern regarding what he sees as the Land Use Board's ability to effectively reject applications that come before it along with an apparent attempt to isolate or remove certain members. He continued to state that the Land Use Board meeting of June 27<sup>th</sup> 2007 during Dobson application, Mayor Walsh requested a vote be taken by the Board to remove member Lois de Vries from hearing the application.

*Mr. Gillespie then quoted, "Tom, excuse me. I think you're putting us in a position of being sued if this thing is turned down, if she doesn't recuse herself." Attorney Germinario then responded "Well, I'll take that risk." Mayor's response "I'm not going to ...I'm not sure if we want to take that risk as a Township." Germinario's response was "Well, it's my legal ruling." Mayor Walsh "It's our money." Germinario "It's a rule". Mayor Walsh "Will you do it for free, Tom?" Germinario responded "No." Mayor Walsh then stated "Well, then I think we better vote on it as a Board whether we think she should recuse herself or not." Germinario then commented "you don't have the power to do that." Mayor Walsh then replied "I have the power of the pocketbook though." Germinario "Then you exercise that power then." Mayor Walsh "I will." Germinario then stated "I'm advising Ms. de Vries that she doesn't have to step down on this application and as far as the photos are concerned Ms. de Vries why don't you state when you took the photos and give the response to the questions.*

**OPEN TO THE PUBLIC (CONTINUED)** Mr. Gillespie then stated to Mayor Walsh that he appears to him that injecting his role as the mayor when he makes reference to the power of the pocketbook. He added that there had been an act of impropriety when speaking as a member of the Land Use Board. He stated that after listening to and reading the discourse of June 27<sup>th</sup>, 2006 and noting that the Land Use Board has been provided \$3,000. for legal fees, he concluded, the Land Use Board's ability to fairly judge an application before them can be seriously compromised and that applicants who come before that board, those whose applications are pending and those who appear in the future are fully aware that the possibility of a suit against the board or its mere mention would not receive the Township Committee's blessing, financial or otherwise. He added that in his opinion, an alert has been issued to all applicants and their attorneys that the board is a weakened entity. He further stated that he hopes the board members will continue to judge cases on their merit. He then remarked, in his opinion, it has become more difficult for them to do so. He then asked Mayor Walsh to prove him wrong.

Mayor Walsh remarked that he said what he did in defense of this municipality. He confirmed his responsibility to every tax payer in this town, not only to a certain few. Mayor Walsh stated that he feels Attorney Germinario ruling that evening was wrong, which he states is his opinion and he is entitled to that, as any other member has theirs.

Attorney Semrau commented that he saw the transcript and spoke to Attorney Germinario. With respect to the comments made, he stated that the Township Committee, by statute, has two members on the Land Use Board in order to get a viewpoint from members who serve on the Township Committee. He stated that if the Mayor and anyone else from the Township Committee who sits on the Planning Board should state that something would not be funded; there is case law that says a Committee can not necessarily stop the funding of certain litigation involving the Planning Board. Another issue, the comments made by Mr. Walsh are perhaps his viewpoint and he has a right to that as he has stated, but that does not mean that is what would happen. Attorney Semrau stated that no where is the Mayor bound or constrained from making these types of statements.

Mr. Gillespie then referenced that the township has a "cash cow" with their residents in the Ballantine Road area. There are six houses on Ballantine Road; five of them have never sent a child to school. There are 13 homes on Andover-Mohawk Road between Ballantine Road and Kilroy and 11 homes have never sent a child to school. If they have, they haven't done so in quite some time. He then referenced a recent article in the Star Ledger that there are certain parts of a community where people who run the town out to be very thankful because these residents demand no services but provide tremendous amount of funding.

Ms. Phoebus stated that she understands that the Ballantine Road area is an area that does not have a lot of students in the school district, but she added that on the entire length of Lawrence Road, there is only one family sending children to school. This area also houses one of your largest contributors to taxes in this township. There is another restaurant, plus office buildings on this end of the municipality that contribute greatly to the tax base without demand of services. She added there are other areas of this town that have residents and business owners who also feel this way.

Attorney Semrau explained he spoke when a question was directed to the Mayor and he did so because members of the Planning Board sit on a quasi-judicial type function and he stated he is very uncomfortable and he is certain that Land Use Attorney Germinario would agree, to have anyone on the Township Committee start to explain, either statements or opinions, in cases before them. He explained that he did answer on Mayor Walsh's behalf because otherwise we are creating bias or prejudice to anybody who comes before the board. In working with Attorney Germinario, he knows he would not want members of the Planning Board who sit on the Township Committee to explain statements that they made on the record based on their opinion. He explained he did what he needed to do in order to protect the process and remain impartial.

**OPEN TO THE PUBLIC (CONTINUED)** Mayor Walsh replied that he has an opinion and he respects that and he began to explain that the \$3,000. put aside for the litigation which is part of a larger amount under the Attorneys' fees line item, which exceeded the \$10,500 budget and was paid. Mayor Walsh explained that he is responsible for the budget and for putting so much in each department. He further explained that if every department exceeds the amount budgeted, there will be a financial issue leading to the increase in property taxes.

Resident, Jeff Wolk stated that we should not be concerned with what is budgeted, but with what is being spent. He added that he has found that if the Township is faced with a need to go into litigation, they will proceed and fight an issue. He stated he was at the Land Use meeting being discussed and during the course of the meeting, Environmental Commission member Diane Gillespie was attempting to provide evidence based on an inspection that had been conducted by the commission and during the cross-examination, she was unable to present that evidence, she was not there and did not take the photographs and there were a number of items raised that should have disqualified her from her ability to make the presentation. He added that no one at this meeting decided to follow Roberts Rules. He continued to explain that Environmental Commission Chair de Vries was sitting on the Planning Board and because she conducted the investigation, and if anyone is going to present evidence, they should be sworn in and therefore, remove yourself from the Board in order to offer that testimony. The information should be provided to the applicants and the Land Use Board prior to the meeting, thereby eliminating surprise and ambush. There was an attempt to correct the problem, but it wasn't corrected.

Lois de Vries stated that Mr. Wolk has provided the Board with gross misinformation, adding he is not a Land Use Attorney. She stated that the Environmental Commission does afford every applicant a packet of information. She said that the pictures were presented to the applicant's attorney, engineer, Board engineer and Land Use Board members, all have seen the photographs prior to the meeting. She added that she feels abused and at the last meeting she remarked that the Township Committee does not treat their volunteers well and by that she stated, a lack of respect, attempts at intimidation and interference in the performance of her official duties. She stated that the Environmental Commission has a written process for generating and presenting reports. The process has been reviewed by Attorney Semrau, making changes per his suggestion. She stated that they are not ambushing any applicant. The whole point in having the Environmental Commission liaison on the Planning Board is for the Commission to report its findings.

Attorney Semrau explained that Ms. de Vries is a member of the Planning Board and he is uncomfortable with members of the Planning Board discussing actual applications and what transpired at the meetings.

Ms. de Vries stated that at the June 27<sup>th</sup> Board meeting, the Mayor attempted to interfere with the execution of her official duties as Environmental Commission liaison by insisting that she recuse herself from a certain hearing when he had no basis for his remarks, thereby attempting to diminish her credibility. She added that it is not any board member's place to make such a request. She stated there are two reasons for a Land Use Board member to step down, when he/she owns property within 200 feet of the applicant's property and when there is a financial interest in the application. Members are also asked to step down if they themselves feel they can not make an unbiased decision. She added that none of these reasons apply to her.

Attorney Semrau stated that this type of discussion he is sure was raised at the point during the hearing and it is very difficult to have a quasi planning board hearing tonight. He stated it appears that all that was mentioned this evening took place at the Planning Board meeting, during the actual hearing. Attorney Germinario was present and if there was a problem he would have raised the issue about a comment or request. He stressed again that the hearing that took place that evening should not come back before the Township Committee and he added that he does not think that the Planning Board would appreciate it if we have a hearing about a hearing.

**OPEN TO THE PUBLIC (CONTINUED)** He explained that the public portion is for members of the public to voice their concerns and not for members of the Planning Board to respond to what transpired at a Board meeting. He also stated in response to a comment made that the Planning Board is going to decide cases based on potential litigation, he assured everyone that he believes that and it has been made clear that based on comments this evening, if the Planning Board goes over budget, he has never seen where litigation has not been funded. Mayor Walsh responded to Ms. de Vries' comments stating that evening he and many present were concerned about perception, he added that if her presentation of the evidence was that important to get across that, in order on the side of caution, she should have recused herself, have faith in the other members of the Board of sitting on the dais. He stated that his feeling at that time was perception of conflict. He added that if she had stepped down, she could have conducted the presentation and shown the evidence and remove any perception of conflict.

Ms. de Vries commented that she agrees with Attorney Semrau that this is not the place for this discussion and she intends to continue discussion at the Land Use Board meeting. She addressed Mayor Walsh's comments that he is entitled to his opinion but stressed she will never step down for his convenience or idea of perception.

Ms. Phoebus remarked that she is very uncomfortable with this discussion and that it should be directed to the Planning Board.

Dan Freed, 85 Lawrence Road thanked the Township Committee for earlier this evening adopting Resolution #R2007-113, the first Open Space Application. Attorney Semrau asked Mr. Freed to give a short synopsis on the application and how it is being funded. He explained that the County provides an opportunity to apply for Open Space grant monies and they have worked diligently to complete the application. The application is to purchase property known as "Access to Lake Iliff" with a potential easement to the railroad bed. Total project cost is \$105,000, Morris Land Conservancy is making a donation of their own, with the County Open Space Committee and local Open Space contributing. The application is due by August 15<sup>th</sup>.

Ms. de Vries then spoke regarding the need of a Carbonate Rock Ordinance, adding that for the past four years she has attempted to do so.

Mr. Wolk spoke of the power interruption problem in his neighborhood, citing a total of 11 times for the year, three times today. He has called JCP&L and their affiliates with no response to the ongoing problems. Mayor Walsh stated that over a year ago the new substation was approved. There was discussion regarding its status. Chief Coleman explained the loop has a problem and improvements have been made to increase efficiency in this location. The status of the substation construction will be investigated and a report will be provided.

Hearing nothing more at this time, Mayor Walsh closed the public portion of the meeting.

### **ORDINANCES: PUBLIC HEARING**

#### **#2007-11 AMENDING CHAPTER 74 "LAND USE PROCEDURES"**

***"AN ORDINANCE AMENDING CHAPTER 74 "LAND USE PROCEDURES,"  
ARTICLE III, "PROVISIONS APPLICABLE TO PLANNING BOARD  
AND ZONING BOARD OF ADJUSTMENT," SECTION 74-37  
"COMPLETE APPLICATION; DECISIONS," OF THE REVISED  
ORDINANCES OF THE TOWNSHIP OF ANDOVER"***



**ORDINANCES: PUBLIC HEARING (CONTINUED)**

**#2007-11 AMENDING CHAPTER 74 "LAND USE PROCEDURES"**

Ms. Phoebus moved to open the public hearing for this Ordinance, seconded by Mr. Gilsenan and carried unanimously.

Hearing no comments from the public, Ms. Phoebus moved to close the public hearing, seconded by Mr. Smith and carried unanimously.

An ordinance of which the foregoing is the title was introduced and passed on first reading at the regular meeting of the Andover Township Committee on June 25, 2007, was advertised according to the law and was brought before the public for final consideration. There being no objections, Mr. Gilsenan moved the adoption of the above entitled ordinance, seconded by Ms. Phoebus. Roll call vote:

- |                    |                         |
|--------------------|-------------------------|
| Mr. Gilsenan – yes | Mr. Grotyohann – absent |
| Ms. Phoebus – yes  | Mr. Smith – yes         |
| Mayor Walsh - yes  |                         |

**ORDINANCES: INTRODUCTION**

**#2007-13 BOND ORDINANCE**

***"BOND ORDINANCE PROVIDING FOR VARIOUS CAPITAL IMPROVEMENTS OF THE TOWNSHIP OF ANDOVER, IN THE COUNTY OF SUSSEX, NEW JERSEY, APPROPRIATING THE AGGREGATE AMOUNT OF \$525,250 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$498,820 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COST THEREOF"***

**BE IT RESOLVED** by the Mayor and Committee of the Township of Andover, that Ordinance #2007-13, entitled as above, be passed on first reading, to be published in the New Jersey Herald and the public hearing to be held on August 13, 2007 at 7:30 P.M. local prevailing time, or as soon thereafter as the matter can be reached in the Municipal Building, 134 Newton-Sparta Road, Roll call vote:

- |                    |                         |
|--------------------|-------------------------|
| Mr. Gilsenan – yes | Mr. Grotyohann – absent |
| Ms. Phoebus – yes  | Mr. Smith – yes         |
| Mayor Walsh - yes  |                         |

**#2007-14 TO AMEND CHAPTER 10 "VEHICLES AND TRAFFIC"  
**"SPEED LIMITS" – DRAKE MANOR****

***"AN ORDINANCE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY AMENDING CHAPTER 10, "VEHICLES AND TRAFFIC," SECTION 19, "SPEED LIMITS" OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF ANDOVER TO REDUCE THE SPEED LIMIT ON CERTAIN ROADWAYS"***

**ORDINANCES: INTRODUCTION (CONTINUED)**

**#2007-14 TO AMEND CHAPTER 10 "VEHICLES AND TRAFFIC"  
"SPEED LIMITS" – DRAKE MANOR**

Due to a conflict, Mayor Walsh recused himself from the action held regarding this Ordinance. Mayor Walsh resides on Country Club Lane, a road affected by this Ordinance. Ms. Phoebus moved to appoint Mr. Smith to chair the meeting during this portion. Motion was seconded by Mr. Gilsenan. Roll call vote:

Mr. Gilsenan – yes	Mr. Grotyohann – absent
Ms. Phoebus – yes	Mr. Smith – yes
Mayor Walsh – abstain	

Mayor Walsh stepped down from the dais. Mr. Smith read the Ordinance by title for introduction.

Attorney Semrau explained the drafting of this Ordinance if introduced

**BE IT RESOLVED** by the Mr. Smith serving as Chair and Committee of the Township of Andover, that Ordinance #2007-14, entitled as above, be passed on first reading, to be published in the New Jersey Herald and the public hearing to be held on August 13, 2007 at 7:30 P.M. local prevailing time, or as soon thereafter as the matter can be reached in the Municipal Building, 134 Newton-Sparta Road, Roll call vote:

Mr. Gilsenan – yes	Mr. Grotyohann – absent
Ms. Phoebus – yes	Mr. Smith – yes

At this time, Mayor Walsh took his seat on the dais.

**COMMITTEE REPORTS**

**MR. GILSEMAN.** He reported that Municipal Court Security plan was rejected by Judge Bozenelis on two minor issues, which have since been addressed and reapplication has been made.

On the Open Space Committee, Sandy Urgo of the Morris Land Conservancy will be attending their next meeting and assist in developing a list of sites. She will then contact the property owner to determine their interest in preserving the land. She will also help determine which properties should be first priority.

The Detention Basin Subcommittee discussed options including the Federal Program and Partners in Wildlife. They will supply the planting material and the Township will provide the volunteers. They also discussed corporate donations, master gardeners and partnerships. They felt that the detention basin at the municipal building could be the first demonstration.

In reference to the Tree Ordinance, he reached out to officials from Fredon and Green and they advised him that they use conservation easements in their planning to control clear-cutting. He will meet with the Deputy Mayor from Green on July 30<sup>th</sup> to discuss possible options.

He attended the History of Andover Seminar at Kittatinny State Park which he found very interesting. He gave a brief synopsis of the items discussed including how Andover received its name, the ore used in Revolutionary War weapons and Mansur type architecture from the French/Indian War. He thought we could incorporate our history into the Town Center plans.

**COMMITTEE REPORTS (CONTINUED)**

**MR. SMITH.** He reported on the website, not knowing of the exact number of visits until month's end, but it appears we will be target. The new additions on the website are from the Miss/Little Miss/Mr. Contests along with the Talent Contests. One new addition to the email list is Tina Sugar, Court Administrator. The last maintenance was done on July 2<sup>nd</sup> and no major issues were found. He has found folders from employees who have not been here in quite some time.

On sanitation, there is a log being kept on calls and complaints, trying to ascertain an assessment of the collections. Most of the inquiries are misunderstandings and confusions, but some are indeed problems being forwarded to Waste Management for resolution.

He has been working on a new computerized time reporting system. The current system is paper intensive and difficult to track information. This new system will make it easier to track vacation, sick and personnel leaves and create an accurate accounting basis.

The Senior Citizens have asked for assistance in obtaining a banner for their organization. Chief Coleman provided a contact person; the banner was ordered and will be delivered shortly. At their next meeting, Chief Coleman has volunteered to address the group regarding safety.

**MS. PHOEBUS.** She reported that the Recreation Committee, the equipment for maintenance of the fields has arrived and it's quite impressive. The equipment has cut labor costs in the maintenance of the fields. The DPW have a new tractor and the old one will be maintained and used to pull the park maintenance equipment. The playground equipment has been installed. The tennis courts were resurfaced. Maintenance on the hockey rink is scheduled.

Saturday was Miss Andover contest along with Little Miss and Mr. and Talent Show. The Recreation Committee discussed the possibility of a summer bus trip to New York City for a dinner cruise around Manhattan. All seem interested in this trip. They are getting ready for Andover Township Day on September 22, 2007.

The Fire Department is hosting their annual Chicken BBQ on July 28<sup>th</sup>. They have set a date for the Wetdown for the new trucks, August 18<sup>th</sup>, 5:00 p.m.

Mayor Walsh added that at Andover Township Day, Mr. Grotyohann is sponsoring the first Business Expo. He added that bids were received for the diesel truck.

**REPORT FROM THE CHIEF OF POLICE** He reported that to date there have been 8,885 calls to dispatch, 5,608 for Andover Township, 179 for Andover Borough, 2,783 for Hamburg and 315 for Green Township. There is an increase of 862 calls for Andover Township. Chief Coleman stated that a resident was present several months ago to address a pending investigation and he reported that investigation has been closed and the party has been referred to the court system.

He reported there have been 46 calls from the nursing home from January to present, the breakdown is available for review. Mayor Walsh asked if the new police officer has begun training and he has. Chief Coleman stated that Brian Kithcart has started the academy and Brian Kern is in the remedial training program.

He then reported that the new patrol vehicle which should have been ready for delivery by August 1<sup>st</sup> is delayed.

**REPORT FROM THE MUNICIPAL ATTORNEY** He reported that in the matter of Andover Township vs. Hook there is a Summary Judgment motion filed but in the meantime, the developer is in the process of completing the necessary repairs and improvements to the roadway under the supervision of Engineer Golden. All expenses are covered by the contractor through his escrow account. If all goes well, this action will be concluded and the residents of Brecia Court and the Township will no longer be burdened with this matter.

Attorney Semrau then stated that Mayor Walsh had contacted him regarding Verizon Wireless for the cell tower on township property. He heard from Richard Steiner, attorney for Verizon and they would like an opportunity to bid on a co-locating opportunity to have space on the tower as well as a storage area at the base of the tower. In order to proceed with this matter, he requested authorization to prepare the bid specifications and send it out for bid. He stated that historically the range for such a bid is somewhere between \$15,000 and \$25,000 annually to the township.

Ms. Phoebus moved to authorize Attorney Semrau to proceed with the bid process on this matter, seconded by Mr. Smith and carried unanimously.

In the Lakeview Ridge matter, there have been issues regarding the completion of the roadway and some sink holes that have appeared. We have attempted to have the developer make the necessary repairs but to no avail over the last 30 days. He asked for authorization to initiate litigation to enforce completion of these improvements by the developer as well as the surety company.

Mr. Smith moved to direct Attorney Semrau to initiate litigation against Lakeview Ridge developer and its bonding company, seconded by Ms. Phoebus and carried unanimously.

Attorney Semrau stated a question came up regarding restoration at the Mews property and he had been in touch with Engineer Golden. There should be a restoration plan and when he returns from vacation, he will speak to him.

He stated that he believes there is another decision in the courts regarding a Tree Ordinance. He stated that a Tree Ordinance was struck down in Jackson Township last week by the Appellate Division. He will have more information on this matter in the coming weeks. He stated that this is the third decision issued on this type of ordinance. Attorney Semrau explained that he feels the issue lies on how the monies are collected and spent in these cases. The courts have found ways where towns have attempted to legislate this matter and in the process, tripped themselves up. We as a township should be mindful of this. Mayor Walsh asked if it is possible to draft a simple, no clear-cut ordinance. Mr. Gilsean asked if the conservation easements are holding up in court. He responded that about a month ago there were two decisions issued by Superior Court about towns imposing conservation easements and one ruling was in favor and another against it. There are articles attempting to sort which is the right direction.

Attorney Semrau explained after seeing one decision after another striking down Tree Ordinances, and he cant find anything that has been successful in the courts. He suggested exercising extreme caution.

**NEXT SCHEDULED MEETINGS:** August 13, 2007 Cancelled  
Due to Summer Schedule

August 27, 2007 6:30 p.m.  
Regular Meeting 7:30 p.m.

**ADJOURNMENT** No further business appearing before the Committee at this time, Ms. Phoebus moved the meeting be adjourned at 9:30 P.M., seconded by Mr. Gilsean and carried unanimously.

Respectfully submitted,

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Tom Walsh, Mayor

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Vita Thompson, R.M.C.  
Municipal Clerk