

## ANDOVER TOWNSHIP COMMITTEE MEETING MINUTES

BOB SMITH, MAYOR  
GAIL PHOEBUS, DEPUTY MAYOR  
PHIL BOYCE  
ALEX GILSENAN  
THOMAS WALSH

FEBRUARY 23, 2009  
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 6:30 P.M. by Mayor Smith, followed by a salute to the flag.

**ROLL CALL:** Present: Mr. Boyce, Mr. Walsh,  
Ms. Phoebus, Mayor Smith  
Also present: Administrator Alfano, Attorney Semrau  
Those absent: Mr. Gilsenan arrived at 6:33

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

**EXECUTIVE SESSION:** Attorney Semrau asked that Quist Matter be placed under Contract Negotiations and Hudson Farm West under Attorney-Client Privilege. On a motion by Mr. Walsh, seconded by Mr. Boyce, the resolution to go into executive session to discuss

#### **Personnel Matters:**

1. ***P. Coleman, Chief of Police***  
Discussion regarding public safety type issues.
2. ***J. Alfano, Township Administrator***  
Ms. Alfano has requested a discussion with the Township Committee.

#### **Contract Negotiations:**

1. ***Quist Matter***

#### **Attorney-Client Privilege:**

1. ***Hudson Farm West***

#### **Potential Litigation**

1. ***Leenstra Tort Claim Notice***  
The Township is in receipt of a Tort Claim Notice from legal counsel.
2. ***Sparta Pumped Storage Project***  
Environmental Chair de Vries will be present to provide information on the status of this application.
3. ***Farmer's Market - Block 151/Lot 19***  
There is an issue before the zoning office regarding a notice of violation.

#### **Pending Litigation**

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

The Committee went into executive session at 6:35 P.M. Mr. Walsh moved to adjourn executive session at 7:32 P.M., seconded by Mr. Boyce and carried unanimously.

**REGULAR MEETING**

**APPROVAL OF AGENDA** Mr. Gilsenan moved the following consent items be approved, seconded by Mr. Boyce and carried unanimously.

**APPROVAL OF CONSENT AGENDA ITEMS** Mr. Walsh asked that the Consent Agenda be amended to include **#R2009-55 A RESOLUTION OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY TO ACCEPT A RELEASE FROM WILFRED AND CHRISTINA QUIST IN EXCHANGE FOR THE REMEDIATION OUTLINED IN THE RELEASE NOT TO EXCEED \$3,000.** Attorney Semrau read the entire resolution into the record.

Mr. Walsh moved to approve the following consent agenda as amended, seconded by Mr. Boyce and carried unanimously.

**\*CONSENT AGENDA:**

**\*OTHER BUSINESS:**

**AUTHORIZATION TO RELEASE SOIL EROSION & SEDIMENT CONTROL BOND  
OUTLAW OUTFITTERS - 530 ROUTE 206 - BLOCK 157/LOT 8.02  
\$1,725.00 - ESCROW #T-13-56-717-198**

**ACCEPTANCE OF THE 2008 ENVIRONMENTAL COMMISSION ANNUAL REPORT**

**\*RESOLUTIONS:**

**#R2009-43 RESOLUTION OF THE TOWNSHIP COMMITTEE 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 HAROLD E. PELLOW & ASSOCIATES, INC. FOR ENGINEERING SERVICES ASSOCIATED WITH THE PRELIMINARY ASSESSMENT OF THE ST. PAUL'S ABBEY PROJECT**

**#R2009-44 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP COUNTY OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY TO EXTEND THE APPOINTMENT OF SHAUNA L. TILLOTSON, TEMPORARY CLERK-TYPIST FOR THE MUNICIPAL COURT FOR AN ADDITIONAL THREE MONTHS FROM MARCH 02, 2009**

**#R2009-45 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY TO AUTHORIZE THE TAX COLLECTOR TO ISSUE A REFUND TO THERESA & GERARDO CUCCOLO IN THE AMOUNT OF \$286.78 FOR AN OVERPAYMENT IN THE FIRST QUARTER 2009 TAXES FOR BLOCK 116.01/LOT 4**

**\*CONSENT AGENDA: (CONTINUED)****\*RESOLUTIONS: (CONTINUED)**

**#R2009-46 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY TO AUTHORIZE THE TAX COLLECTOR TO ISSUE A REFUND TO BARBARA & WILLIAM BECK IN THE AMOUNT OF \$2,000.00 FOR AN OVERPAYMENT IN THE FIRST QUARTER 2009 TAXES FOR BLOCK 106.02/LOT 8.09**

**#R2009-47 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY TO AUTHORIZE THE TAX COLLECTOR TO ISSUE A REFUND TO STEPHANIE & JOSEPH CATALIOTTI IN THE AMOUNT OF \$956.89 FOR AN OVERPAYMENT IN THE FIRST QUARTER 2009 TAXES FOR BLOCK 109/LOT 4.01, C0323**

**#R2009-48 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY AUTHORIZING ANDOVER TOWNSHIP TO PARTICIPATE IN THE PARIS GRANT RECORDS PURGING PROJECT TO BE SPONSORED BY THE COUNTY OF SUSSEX**

**#R2009-49 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY SUPPORTING THE FARMLAND PRESERVATION PROGRAM AND GIVES FINAL APPROVAL OF THE APPLICATION FOR THE 2008 FUNDING ROUND OF THE STATE AGRICULTURE DEVELOPMENT COMMITTEE**

**#R2009-50 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY TO ENDORSE THE PETITION TO THE UNITED STATES POST MASTER GENERAL FOR THE ESTABLISHMENT OF A UNITED STATES POST OFFICE IN ANDOVER TOWNSHIP**

**#R2009-51 2008 BUDGET APPROPRIATIONS RESERVE TRANSFER - \$800.00**

**#R2009-52 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 YANNACCONE, VILLA & ALDRICH, LLC FOR LAND SURVEYING SERVICES ASSOCIATED WITH THE LAKE ILIFF ACQUISITION**

(See Inserts Attached To These Minutes)

**\*CONSENT AGENDA: (CONTINUED)****\*APPROVAL OF MINUTES:****JANUARY 26, 2009 REGULAR MEETING****PRESENTATION****LIFE CARE MEWS**

Attorney Semrau stated that Deputy Mayor Phoebus will step down from the dais for this discussion.

Joel Kobert, from Courter, Kobert and Cohen attorney for Life Care Mews was present. He explained that this presentation is a follow up to a letter written to Attorney Semrau regarding the wastewater treatment facility located on the Mews property. He then provided a brief background on this property. He stated that this plant has the capacity for approximately 60,000 gallons at this time based upon a NJPDES permit from the State of New Jersey. He added that it can also be expanded to 250,000 gallons per day. The problem with the plant is it needs disposal beds which need to be constructed. The client has invested upwards of five to six million dollars. The discussion this evening is regarding what the township use for this plant may be. Attorney Kobert spoke about the possibility of a town center. He also mentioned the schools and nursing centers that may have systems that need a backup.

Mayor Smith asked about proper jurisdiction; is this Land Use Board/Master Plan or Township Committee issue. Attorney Semrau stated at this stage it is for the Township Committee because ultimately there may be a discussion of cost. One of the questions raised is if they sold the facility to the township what would happen to the land, which would be a land use issue. Mr. Boyce asked how far does Mr. Kobert feel this plant could reach. Mr. Kobert stated that this is an engineering question, but the construction of pipes would make this option possible. When expanding the gallonage they would be covering a wider area. Mr. Boyce asked what the cost would be to expand from 60,000 to 250,000 gallons. Mr. Kobert did not have that answer. Mr. Boyce then asked how large of an area of disposal beds are they proposing would be needed to expand to that capacity. Mr. Kobert replied that he has heard anywhere from two to six acres. He added that the Mews property is within the 208 Master Plan. Mr. Kobert stated that not only do his clients want to sell the plant to the township but if in fact the township needs the Mews property for the disposal beds, that property could also be acquired.

Mr. Walsh asked if the owners of the failing system have been approached. Mr. Kobert does not know if anyone has been approached. There are a number of adjoining property owners who have an interested in taking gallonage from this system. Mr. Boyce asked if Mr. Kobert is aware that Andover has a plan in place to fulfill the COAH obligation. Mr. Kobert stated he is aware. Mr. Gilsenan spoke about the water table in the Mews location and asked if any studies have been done. Mr. Kobert stated that one of the reasons why this particular plant had difficulties is because it was originally approved based on the water table and the quarry was pumping. When the pumping stopped that defeated the whole issue of the disposal area and why new disposal beds are needed.

**PRESENTATION (CONTINUED)****LIFE CARE MEWS**

Mayor Smith asked if the Township Committee has any desire in pursuing the conversations in another format. Mr. Gilsenan stated he has no interest to continue conversations at this time. Mr. Boyce suggested that they take this under advisement and there is no need to form a sub committee. He recommended seeing their proposal in writing but besides that he agrees with Mr. Gilsenan. Mr. Walsh also agreed and felt the Township Committee would discuss it further amongst themselves once the proposal is received.

Attorney Semrau commented on the discussion regarding a restoration plan. He asked if there is someone who is overseeing that property and are there plans to restore. Mr. Kobert stated Dykstra Engineering was supposedly working on a restoration plan. Attorney Semrau asked that when the proposal is sent could he also send the plan they have been working on.

Ms. Phoebus joined the Committee on the dais.

**PROCLAMATION****READ ACROSS AMERICA DAY - MARCH 02, 2009**

Mayor Smith read the Proclamation into the record.

**REGULAR AGENDA**

**OPEN TO THE PUBLIC** Mr. Walsh moved to open the public portion seconded by Mr., Boyce and carried unanimously.

Lois de Vries, Environmental Chair thanked Attorney Semrau for mentioning the remediation plan. She reminded the Township Committee that they agreed not to hear any proposals from this applicant until such this site is remediated. She stated that the reason there is no disposal bed at this time is because it is not possible for them to construct one that would fit on their property. She also reminded the Committee that Sussex County has changed the Storage service area. The current area for Life Care Mews is owned by Sussex and Warren Holding which does not include the schools or any other properties in the township. In her opinion she stated there is no reason for the township to enter into any sort of understanding with this applicant. She added that the disposal beds cannot physically be constructed on their own property at this time.

Robert Maglio, hearing only this afternoon about this meeting, stated he prepared a letter. He stated his clients do not agree to what the trustees through his attorney are proposing regarding Life Care Mews. He added that he and his clients have never been advised of this proposal regarding the waste treatment plant or any of the other properties that Sussex and Warren Holding are beneficial owners of. He stated that the trustees should have notified the beneficiaries, who are his clients, what they are attempting to do. He added that he does not believe the town should entertain the proposal at this time until the beneficiaries have some say as to what is going on with that property. Mr. Maglio provided Attorney Semrau with his letter.

Rich Goldberg was present stating he was present two weeks ago and spoke about the power lines. He stated that the BPU hearing is in a few days. Mayor Smith stated that there is an item on the agenda for later in the meeting on this very topic.

**OPEN TO THE PUBLIC (CONTINUED)** Anthony Massaro of Current Drive stated his concerns regarding the aquifer. Mayor Smith stated that there are some very serious issues here and we need to be careful to take one step at a time.

Marion Harris with the Mt. Hope Historical Conservancy. She stated that if she had an opportunity to ask officials from Riverbank questions, one she would ask is the identity of their investors. She stated that Blackrock is 49 percent owned by Bank of America. She is curious to know whether the firm of Tilcon is involved in anyway in the rest of this investment or perhaps through another investor in Riverbank. Another question is whether they are aware that there is a site in Rockaway Township for a pumped storage plant where the approvals have already been given by FERC. It is not in a quarry but in a mine site and there is no excavation needed in order to take advantage of the water there. She stated she would appreciate it if Mayor Smith could bring these questions up when speaking with Riverbank. Mayor Smith stated that Environmental Chair de Vries has done a nice job on this topic and she will speak later in the meeting on this matter. Mr. Boyce stated that the Township Committee has had no communication with Riverbank.

Andrew Mulvihill of 12 Perona Road and he is not with Riverbank but he is with one of the owners of a portion of the quarry. Sparta purchased the remaining portions about six months ago. He stated he is familiar with the Riverbank deal. He stated he would like to encourage Riverbank to do some public presentations on this project. Mr. Mulvihill remarked on some misinformation that is in the memo from the Environmental Commission. He said that it can be very difficult to look at a project like this without hearing all sides. He added that a resident of Andover he feels it's a great project that will bring in thousands of jobs and when all is said and done all that is left on the surface is a little building of a couple thousand feet. There will be no emissions or dust. Mr. Mulvihill stated its green energy and it will replace the pole plants. He then explained the process of the pumped storage facility. Mayor Smith stated that judgment will be reserved until all information has been heard.

Mayor Smith added that there is some urgency with regard to a comment period and we are being forced into a situation that we must make some kind of a comment by a date certain. He added that this project is not totally green, only partially. Mr. Gilsenan asked if who is paying for the studies needed and Mr. Mulvihill said Riverbank will only do the project based on the studies.

Mr. Boyce stated Sparta will receive about \$5 million dollars on this project and Andover Township will receive nothing. There is a cost of the infrastructure because you can't get to the project without going through Andover Township. For four years there will be 1,000 employees traveling Limecrest Road and creating a great deal of traffic. Mr. Mulvihill stated that the stone excavated and the production plan for this stone will be in Andover Township so there will be a benefit of a big ratable. Not all stone pulled from the site needs to be trucked, some will be stored.

Attorney Semrau stated this matter was listed under potential litigation because an application has been filed with FERC and if the Township were to get involved, it is a legal type maneuver to get involved in such a case. The consensus of the Committee during the discussion is to make sure there is an opportunity for all the facts at this stage to come forward. He added that the Township Committee wants to hear from the Environmental Commission and they will give the opportunity for Riverbank to answer questions. Mr. Mulvihill stated he was not aware that the township had the FERC application and being put under pressure to respond to that which he finds a difficult position. Attorney Semrau stated that on January 21<sup>st</sup> an application for preliminary permit was filed with FERC.

**OPEN TO THE PUBLIC (CONTINUED)** Scott Frauenpreis asked how this project is connected to the electrical grid. If power lines run parallel to the existing Roseland-Susquehanna right of way that would mean the lines would run through his house. Mayor Smith stated that Mr. Frauenpreis's question is something to really think about, adding to the list of questions.

Resident Dave White provided a map from a packet of proposed transmission lines from the quarry. Mr. White began by describing areas on the map. He stated he called PSE&G and they told him and he quotes Riverbank project and the Roseland-Susquehanna project are separate and they can not put this power on the existing grid because they are maxed out. They have to run a parallel 200 foot wide easement, buy or condemn the land, and run this line the entire distance to the switching station. Mr. White stated that Sparta purchased the quarry with Green Acres funding and now they are building a power plant. There was discussion regarding alternative routes to run the lines which will mean running them through Sparta. Mayor Smith stated that we have to listen to both sides on this matter.

Mayor Smith stated that the issue of the Sparta Pumped Storage Facility is on the agenda and if there is no objection, he would like to begin discussion of that topic as soon as all public comments aside from the pumped storage facility are heard.

Scott Olsen, Byram Township resident and Councilman is present to invite the Township Committee and residents of Andover Township to a screening on March 4<sup>th</sup> of a movie called "Till What Hours". It is basically a fundamental understanding of what happens when the light switch is flipped. It contains a study of what's being done nationwide both energy conservation for demand side management and other issues that are becoming hot topics because of the need for expansion of the infrastructure and how it is imposing on people. It begins at 7:30 at the Sparta Theatre and posters will be made available for posting around the Township. There will also be a panel discussion by speakers from the environmental community.

Vic Capo, 23 Victoria Pines Lane stated he had made some observations on the wastewater situation. The first thing he noticed was that the gentleman referred to a \$5 to \$6 million investment, which to him is plus or minus 20 percent and if he was in a loss position, he should know exactly what the losses were. He then stated that any equipment that has been installed, and if he had done something similar and wanted to recoup his losses, he would disassemble and start elsewhere. Since it hasn't been put in service, is relatively new equipment which could be done. Mr. Capo then mentioned the possibility of the township selling the service if we acquired the plant and recoup the costs. He compels the township to consider that we have no interest in becoming a sewer service community.

Tom Hill of Fredon Township spoke about his concerns on the Roseland-Susquehanna project. He stated he saw the resolution with reference to joining the municipal coalition. Mayor Smith stated that this resolution will be addressed later in the meeting.

Stan Christodlous, 6 Wisteria Road stated there is no town center in the COAH plan and assuming our plan is approved, there is no need for a sewer plant or a town center.

Hearing nothing further from the public, Ms. Phoebus moved to close the public portion, seconded by Mr. Walsh and carried unanimously.

Mayor Smith asked at this time the issue of SPARTA PUMPED STORAGE, item #2 under Old Business be heard.

**OLD BUSINESS****2. SPARTA PUMPED STORAGE PROJECT**

Lois de Vries began by saying the biggest piece of misinformation heard tonight is that nuclear power is somehow green. She reported that the application for this project was forwarded to her by Attorney Semrau and her remarks reflect the consensus of what the Environmental Commission wished her to convey to the Township Committee.

She asked to picture Lake Aeroflex covered by a block of solid rock, 63 feet high. This represents the volume of rock spoils that will be excavated to create this facility. The two gentlemen who assisted in this calculation are present and they were given a range of figures, taken from the applicant's application, that they believe are reasonably accurate, depending of the type of rock found beneath the surface and in what manner it is handled. There will be six tunnels, each as long as Lake Iliff and 14 stories tall by 90 feet wide, which is the worst case scenario. A more conservative scenario, a block of rock covering Lake Aeroflex would only be 44 feet high. The rock can not be removed in a single block, it must be crushed and carried away. The number of dump truck loads could be as many 635,857 over the proposed four year construction period operating 24 hours per day, as many as 435 trucks per day of 18 trucks per hour if they are small. If they are large the number of trucks could 86 trucks per day or four trucks per hour. At the higher rate, each truck will have a total turn around time of three minutes, which the commission contends is not at all possible. At the lower rate, 15 minutes. In either case, the impact on Andover Township is of a magnitude that is simply unacceptable.

Removing the spoils by rail would require somewhere between 36 gondolas and 97 per day depending on what kind is use. Chief Coleman had informed Ms. de Vries before the meeting that Limecrest Road was undermined in the last flood and a solution was simply that the County put in more riprap under the washed out portions of the roadway. The road may not have the appropriate capacity for the load it may have to carry.

Ms. de Vries reported that an operation of this magnitude would also require major earth moving equipment to do the excavations and move the spoils. These spoils have to be stored, washed and fueled on sight, which are State regulations. Any time of spill holds the potential for major pollution both at the quarry and nearby water beds.

Contrary to what the applicant stated, Ms. de Vries stated you can not run a 500 kW line on the existing 90 foot towers. There must be a 190 foot tower and regardless of the configuration of the tower, they will be 190 feet tall and she thanked Mr. Wright for bringing the map because she used it to get her point across. She stated the lines go over a small portion of Lafayette, behind the Phoebus horse stable, across Pierce Road to Newton. Then it will go down Route 206 through Andover Township and enter and come across at Stickle Pond Road where the Pattisons and others on Caitlin Court. Then it would come across Kittatinny Valley State Park and completely across town and back to Sparta. The application never says that they will use any existing rights of way and in her experience, when you say there are other entities involved, you must show documentation to that effect. She stated this application contains no paperwork of any kind from either of the power companies doing business with Andover Township. There are many homes in the township in that right of way. Once the permit process is over and the licensing process begins, the powers of eminent domain go to the applicant, a private company, if an owner refuses to sell to them.

She then stated her concerns regarding the water table which is an important issue. The last time she visited the observation well at the Mews property, late 2006, the water table was at 18 inches below the ground. She stated she is very concerned that there will be an enormous dewatering project necessary to do the excavation. Mr. Boyce asked Ms. de Vries to provide a history as to what happened at this location in 2005.



## **OLD BUSINESS (CONTINUED)**

### **2. SPARTA PUMPED STORAGE PROJECT**

She explained how she contacted Laura Nicholson at the DEP and she created a computer model that would predict what would happen to the water table in the entirety of the Limestone Valley not just in Andover Township at different rates of pumping at the quarry.

She added that FERC has oversight of this project and on their website they say they have the authority to combine or eliminate required steps and comment periods at any point in the process from the preliminary permit application, throughout the study period and the licensing process.

Ms. de Vries stated when visiting you can provide comments only by using Project Number P-13353-000. She has explained on her handout how to access the site. She stated the Environmental Commission has already posted comments. The Environmental Commission recommends that other interested citizens do the same. Aside from traffic and potential water table issues, there are many environmental concerns; some are well know and common knowledge in Sparta Township. She pointed out that Sparta's planner was our planner during the time the water level was rising. She stated that he is also aware that our township and Sparta is in State Planning Area Five, Environmentally Sensitive. She stated she is more than distressed that Sparta has made no overture to Andover Township. Across from Planning Area Five is Area Four which is designated rural, and this is not a project for such an area. The quarry also lies within the boundary planning area and she is not aware of any application.

Behind the quarry in Sparta are two natural heritage priority sites; one is immediately on Sussex Mills Road. She stated bog turtles are across in Lafayette.

She stated she did a Google search and to her knowledge there are no hydroelectric plants that have ever been built using a quarry by Riverbank Power or anyone else in the United States. There is one in Europe which produces 5 megawatts of power and the water from the quarry is not actually used. There is a river that runs adjacent. Riverbank has never built a single power plant and operates no power companies of its own. She explained that they are an investment company financed by capitalists and Riverbank Sparta is a subsidiary of Riverbank Power.

Mayor Smith thanked Ms. de Vries for the tremendous amount of research and investigation she has done on this presentation.

Mr. Walsh moved to open the public portion on the topic of the Sparta Pumped Storage Facility, seconded by Mr. Gilsenan and carried unanimously.

Julia Somers from the NJ Highlands Coalition stated that this project might have been an energy producer if you didn't have to take the energy off site. She thanked Mr. White for bringing the map and the effects of the project are not in the Highlands. The project starts in the Highlands and it proposes to expand a existing utility corridor that PSE&G proposes to use for a 500 kw energy project that will build 200 foot towers. They are not only widening the easement but these towers, which may be as many as two additional in either direction, are 200 feet tall. There will be a huge scenic impact.

Ms. Somers stated that this issue is before the Highlands Council. She also stated that Riverbank is aware of the schedule they have put in motion before FERC and the fact that they did not include Andover Township in that notification and give advance notice and information about this project is a clear intent of what they think Andover's reaction to this project is likely to be. She added that this project had to go before the NJDEP for a Highlands applicability determination.

**OLD BUSINESS (CONTINUED)****2. SPARTA PUMPED STORAGE PROJECT**

This is before the NJDEP at this time and they expect them to make a finding soon. The DEP is waiting for the Highlands Council to make a recommendation and she stated that have prepared a finding and it has not yet been debated by the Council. The first opportunity will be February 26<sup>th</sup>. Fifty-two examples were found of inconsistencies with the Highlands Regional Master Plan which suggests that this proposal by PSE&G is likely to run into trouble with the Council. She asked that the Township Committee try to respond to FERC and comment in a timely way. She added that she recognizes the Township is at a disadvantage because of the little information received.

Scott Olsen, Byram Township Committee thanked Ms. de Vries for doing a thorough research and he also did not hear from Sparta but he did receive a copy of the application in his council packet on February 2<sup>nd</sup>. Although Mr. Mulvihill stated there is quite a bit of misinformation, he found most of what's been discussed in the press and comments elsewhere is contained in the application. He stated that there are about 100 to 125 homes in Lake Mohawk that would be immediately impacted by adding a second corridor there. He had asked his Manager to invite Sparta and Riverbank Sparta to come before Byram Council to do a more thorough explanation so an informed decision can be made. Mr. Olsen stated he has been called out by Sparta for sticking his nose in their business and when it affects your community everyone should do the same.

Carmine Androsiglio, 155 Stickles Pond Road and he stated that his property is within 100 feet of the base of the existing tower. What this would mean to him and others along this line is that if the corridor is increased, that second tower would end up in his driveway, adjacent to his house.

Daniel Moore of Jefferson Township stated he is here because he is involved in the Roseland-Susquehanna Project. They want to take a tower that is in his backyard and move it half the distance closer to his house. He added that the only thing green about this project is the money that is driving it.

Scott Frauenpreis asked what private citizens could do about this project. Mayor Smith stated that everyone coming out this evening and speaking out and the other is to visit the FERC website and make your comments knew. Mr. Frauenpreis asked if they should attend Sparta's meetings and the Committee was in total agreement.

Vic Capo, 23 Victoria Pines Road asked if anyone from the Committee or any sub-Committees been in discussions regarding this matter until tonight. Mayor Smith stated he is not aware of any discussions. He then asked what resources the township has in order to steer this in the proper direction. Mayor Smith stated the Committee will speak to that in a moment.

David White stated there are about 12 people he informed of this that are not available this evening, but they will be available at the next meeting.

Scott Olsen stated this is a 1000 megawatt plant generating that amount over six hours and it will take eight hours or more to pump the water out. The testimony in the application states it is at 78 percent efficiency which means it will take about 1300 megawatts to pump it out. He stated the Oyster Creek Nuclear Plant in South Jersey is 619 megawatts so we would have the equivalent of two Oyster Creek Plants to pump water out and generate 1000 megawatts during peak hours.

Mayor Smith stated we have heard almost a 100 percent one-sided story and in fairness he would like to hear responses and hope that Riverbank will do just that. Mr. Mulvihill was asked to contact Riverbank regarding this request. Mr. Gilseman asked if Administrator Alfano be directed to contact Sparta on this matter, Mr. Boyce supported this directive and request a meeting on this project. A consensus of the Committee was given.

**OLD BUSINESS (CONTINUED)****2. SPARTA PUMPED STORAGE PROJECT**

Ms. Phoebus asked that we contact Sparta and demand a meeting. She reminded everyone that she personally asked Sparta representatives over a year ago what their intentions were with the quarry and she was told they had no plans. Mr. Walsh moved to close this public portion, seconded by Mr. Gilseman and carried unanimously.

**RESOLUTIONS****#R2009-54 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY OF INTENT TO JOIN A COALITION OF CONCERNED MUNICIPALITIES IMPACTED AND AFFECTED BY PSE&G'S PROPOSED SUSQUEHANNA-ROSELAND 500 KV TRANSMISSION LINE PROJECT**

Mr. Walsh moved to adopt the foregoing resolution as presented, seconded by Mr. Boyce and carried unanimously.  
(See Insert Attached to These Minutes)

Attorney Semrau stated that the Resolution calls for the Township to appoint a representative(s) in meetings. Mr. Gilseman volunteered to represent the Township. Mayor Smith asked if the Township has a financial responsibility now that we joined the coalition. Mr. Gilseman will report back to the Township Committee on these meetings.

Attorney Semrau also stated there are entities that have asked to intervene on the application before the Board of Public Utilities. He spoke with attorneys representing other municipalities and intervening is making sure you have a say and concerns are addressed. He suggested that the Township representative to the first coalition meeting ask what is the coalition's position in respect to getting involved in the BPU application.

Mayor Smith asked that the Constraints Ordinance discussion be held at this time.

**NEW BUSINESS****CONSTRAINTS ORDINANCE DISCUSSION**

Mr. Gilseman suggested that this Ordinance be considered for re-introduction. He explained that in reference to the township's Master Plan, Andover Township's plan recommended and identified 15 goals and objectives specific to environmental concerns including protecting environmentally sensitive areas and establishes a density related to site specific development constraints. He further stated that the Master Plan determined a 75 percent of township land is categorized by moderate to severe development constraints and this was stated in the 1989 Master Plan as well as its amendments in 1998, 2000, 2005 and the creation of this Ordinance is based upon recommendation of this Plan.

Mr. Walsh asked if we are currently in the process of revising the Master Plan. Mayor Smith replied yes. Mr. Walsh suggested that the Plan revision should first be done and let the Ordinances follow which the attorneys have stated is the proper procedure. Mayor Smith remarked that the Master Plan and the Land Use Board have endorsed this Ordinance and can not imagine how revisions to the Master Plan could affect it.

**NEW BUSINESS (CONTINUED)****CONSTRAINTS ORDINANCE DISCUSSION**

Attorney Semrau stated that conventionally the township does proceed through a Master Plan Re-examination and then that is the guide and game plan for future Ordinances. He added that along the lines of what Mr. Gilsenan stated, this has come up in prior Master Plans dating back to 1989 in various forms. He can understand both stand both points that we have been there and now we are in the process of doing it and in a legal process we can do it either way.

Mayor Smith said as far as he is concerned, in order to resolve the issue he would like to see it reintroduced again, discussed and either approved or denied and be done with it. He stated he does not see any point in continuing to delay it and no harm in introducing it. Mr. Walsh suggested that a vote be taken on whether or not we should proceed with an introduction because he would rather not introduce something that might fail and then we have wasted money on advertising, time and energy of the people in the town hall.

Mr. Boyce interjected and asked about the new state water quality control standards that are being proposed and supposedly are going to be approved as soon as May. He stated that those standards might require us to change this ordinance to comply. He stated that he wished that Engineer Golden was here this evening to give his opinion on this. Land Use Board Chair Christodlous interjected from the audience and stated there was no connection here. Mr. Boyce replied that might be so but he would like to hear that from Engineer Golden. He added that the information he received on these new water quality standards were from him and he would like Engineer Golden to comment.

Mayor Smith stated that he felt that if anything those standards would require us to strengthen this ordinance because it certainly would not want us to loosen the requirements on the water quality. Mr. Boyce remarked that his point is such that why would we invest in an ordinance now if in a few months we may have to change it, adding that it would not make much sense since we have been going years without this ordinance. If we have to change it in May when those new standards are implemented to make sure our constraints ordinance complies then why don't we just wait until then to see what these requirements are. Mr. Gilsenan stated he would like to hear from the engineer if this is an issue that may hold up the process. Mr. Boyce agreed.

Attorney Semrau stated that many times with a constraints ordinance you will hear questions similar to those Mr. Boyce just posed to make sure that there is no overlap with other regulations. He then stated with respect to the constraints ordinance, work was done on this dating back to 2006. It started then with Engineer Golden, Special Engineer Ferriero, as well as Planner McGroarty, and himself when they worked on this ordinance with Land Use Board Attorney Germinario. It was basically to take the position that it was for those lands that were not developable. He added that you have to almost have to take it on a case by case basis. This would be a thick standard that you would apply across the board to make sure. If you had good land this really would not apply. If you had a lake, wetlands or steep slopes this would apply. He then stated from that standpoint you almost have to look at this with blinders on those other regulations are when you get past the constraints ordinance and you make sure the good land is utilized and the not so good or undevelopable land you don't get credit for where you have essentially over development.

Attorney Semrau stated he does not know if that helps, but it is to separate it from the other constraints that are out there. Many times you have land use cases where there have been concerns raised as to where you have different wetlands buffers, stream encroachment and all kinds of regulations, even the Highlands in some communities. But for this, the way it was written, was to make sure it just talks about lot by lot basis where it's good or not so good so essentially you don't get credit for land where you have 10 acres of property and 3 acres is a body of water that doesn't factor into the development yield of your property.

**NEW BUSINESS (CONTINUED)****CONSTRAINTS ORDINANCE DISCUSSION**

Mayor Smith stated that he thought that there a lot of confusion and misunderstanding as to the intent of this ordinance. He added that his initial reaction was he was not in favor of it. He thought that it might be taking away people's rights but the more he thought about it, it is one of our opportunities to help protect and control the rural character of our township. He stated that we all profess that this is so important and all this ordinance stated is do not build on land that is not buildable. Now he has heard people say that this is going to devalue property and he argues that is probably not true and if anything it is going to increase the value of your property. He stated the economic position of supply and demand. He then stated that if we protect and preserve our land it he would think that the value would go up and not down.

Mayor Smith continued to state that New Jersey is in a terrible situation because it is overdeveloped and overpopulated. There are too many people in too small an area. He asked if the township wants to continue in that direction. He added that he thinks the value of our property is in what we have, the rural quality and he thinks that should protect those who follow, children, grandchildren and their children to protect the land and not to let it get overdeveloped, which is simply his opinion.

Mr. Gilsenan stated that the ordinance is not an anti-development ordinance, just a responsible development ordinance. Mr. Gilsenan continued to speak regarding his opinions on overdevelopment in this state and country and the crisis the economy is in at this time.

Mr. Walsh stated that he both agreed and disagreed with Mr. Smith and Mr. Gilsenan. He agreed that we are looking to preserve the rural character of this township. He stated there are a few issues in this ordinance that he continued to disagree with and wants to negotiate this item in order to pass the ordinance. He then stated he can not seem to change his mind on that. He does agree that it is not an anti-development ordinance but he feels it can be seen as an anti-land owner ordinance in certain aspects of it.

Mayor Smith stated that concessions have been made, many concessions, so that there are very few bones left in this ordinance now. He was not sure what it is that Mr. Walsh was still concerned with or would want to be negotiated and asked him to be more specific. Mr. Walsh stated that one concern is the 10 x 10 rock outcropping which he feels is too small and he recalled that he had many go rounds with the attorney about the 300 ft. buffer. He stated that he does understand that you can not build on certain restricted areas but he doesn't understand how it can not be a part of an acreage calculation of the entire building lot. That is the hardest part he has with this whole issue.

Mr. Walsh stated that we are talking about putting eminent domain on pieces of property that if it wasn't for the buffer would be buildable. He understands that the state has put buffers on the land and that's all well and good but he just doesn't see how we can take the land and say it's not worth anything.

Mr. Gilsenan then stated that this town should have been in the Highlands and Mr. Walsh replied that that is not what we here to argue now and has nothing to do with what we are talking about now. Mr. Gilsenan stated that the township is an environmentally sensitive area and should have been in the Highlands. Mr. Walsh agreed that there are areas that are environmentally sensitive but he stated that we should not just discount the buffered areas of lots that he is sure property owners are taxes on. He then stated that there is a possibly that tax appeals could be filed by three of the largest pieces of property in town that are zoned residential.

**NEW BUSINESS (CONTINUED)****CONSTRAINTS ORDINANCE DISCUSSION**

At this time Mr. Gilsenan stated his opinion of the condition of the economy, including a substantial decrease in home and property values and increased property taxes. He added that some have tied in that taxes will go up with this ordinance. Mr. Walsh stated that the loss of tax revenue is not from foreclosures, but from lack of businesses moving into the township. Mr. Walsh stated that he understood that overdevelopment of the township has occurred.

Mayor Smith then stated that he spoke his piece and that overdevelopment or inappropriate development is the cause of our problems. Mr. Smith asked for a motion and Mr. Gilsenan stated he would make a motion to reintroduce the constraints ordinance and Mr. Smith seconded the motion. Mr. Semrau asked the Deputy Clerk if there was a number for this ordinance. The prior number was 2008-12 and now it was given a number for 2009. Mr. Semrau stated that introduction tonight will not make it law until it has been published and the public hearing and vote for adoption would be at the second meeting in March

Mr. Smith stated that he did not see any harm in reintroducing it, hearing from the public and discussing it. Mr. Gilsenan moved to re-introduce the Constraints Ordinance, seconded by Mayor Smith. Attorney Semrau asked what number ordinance this would be and Deputy Clerk Huelbig replied #2009-06. Mr. Semrau stated that introduction tonight will not make it law until it has been published and the public hearing and vote for adoption would be at the second meeting in March

Land Use Board Chair Christodlous asked to be heard. Mr. Christodlous stated to Mr. Boyce that his earlier question and concern regarding the information he was given by Mr. Golden on the new state regulations on septic coming out in the spring will have no bearing on this ordinance. Mr. Boyce again stated that he would have liked to have Mr. Golden here tonight to tell him that himself. Mayor Smith added that is why it is good to reintroduce it and bring it out and have discussion. Mr. Walsh interjected that the introduction will cost the township hundreds of dollars. Mr. Smith did not agree he said all it would cost would be money to advertise and Mr. Walsh said yes that is so and we also have to send it out to the surrounding towns and that is costly too. Mr. Smith said that price is small compared to what we have already invested.

Mr. Gilsenan stated that he wanted to go over a list of things. The town council approved the hiring of professionals to create this ordinance at a huge cost to the tax payers. The ordinance was created and was fully vetted by the land use attorney, township attorney, township engineer, special engineer, town planner, special planner and township environmental commission at a huge cost to the tax payer. The land use board members voted unanimously for the passage of the constraints ordinance on no less than three separate occasions and the land use board members desired unanimously that the constraints ordinance be approved by the town council. Over 60% of the tax payers voted for open space to be taxed to keep Andover rural which is amazing. Constraints ordinance is in sync with the objectives of Open Space.

Mr. Gilsenan continued to say that every committee person now seated on the dais ran on the platform of preserving the rural character of Andover Township. The township routinely addresses problems related to water management, storm water run off often caused by overdevelopment or improper development at a huge cost to the tax payer and our town engineer. He stressed that costs associated with remediation are huge and born by the tax payers. The constraints ordinance will prevent these type problems in the future. So the town is spending a lot of money by not having a constraints ordinance.

Mayor Smith stated that he would hate to see us not open this up to discussion again. He added that this motion is asking that it be reintroduced and it will be discussed and open to public comment to make sure that we are doing the right thing.

**NEW BUSINESS (CONTINUED)**

**CONSTRAINTS ORDINANCE DISCUSSION**

Mayor Smith stated with a motion and second on the floor, he called for a roll call.

Mr. Boyce - yes

Mr. Gilseman - yes

Mr. Walsh - no

Mayor Smith - yes

Ms. Phoebus has recused herself from this discussion.

**ORDINANCES: INTRODUCTION**

**#2009-03 TO AMEND CHAPTER 74 - SECTION 74-50**  
**"LOT LINE ADJUSTMENT APPROVAL"**

***"AN ORDINANCE TO AMEND THE GENERAL ORDINANCES OF THE TOWNSHIP OF ANDOVER, CHAPTER 74, LAND USE PROCEDURES, ARTICLE V, GENERAL PROVISIONS, BY DELETING SECTION 74-50, "PENDING APPLICATIONS" AND REPLACING IT WITH A NEW SECTION 74-50, ENTITLED "LOT LINE ADJUSTMENT APPROVAL"***

The motion was moved by Mr. Gilseman and seconded by Mayor Smith. Attorney Semrau stated that one of things that he has raised before in other municipalities is regarding whether notice is required to adjacent property owners. He suggested if the Land Use Board could be asked if they have an opinion on whether or not a notice provision included in this Ordinance. Mayor Smith remarked which was confirmed by the Land Use Board Chair that when there is a minor subdivision, there is no requirement of a notice to neighbors.

**BE IT RESOLVED** by the Mayor and Committee of the Township of Andover, that Ordinance #2009-03 entitled as above, be passed on first reading, to be published in the New Jersey Herald and the public hearing to be held on March 23, 2009 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. Boyce - yes

Mr. Gilseman - yes

Ms. Phoebus - yes

Mr. Walsh - yes

Mayor Smith - yes

**RESOLUTIONS**

**#R2009-53 2009 SALARY RESOLUTION**

Mr. Walsh moved to adopt the foregoing resolution, as presented, seconded by Ms. Phoebus. Mayor Smith stated even though there is a salary listed under Mayor, he asked that everyone take notice, he is not collecting a salary. This amount is for the position, not the person. The motion was carried unanimously. (See Insert Attached to These Minutes)

**OLD BUSINESS**

**REVIEW AND DISCUSSION REGARDING THE AMENDED ECONOMIC DEVELOPMENT  
ADVISORY COMMISSION ORDINANCE FOR POSSIBLE INTRODUCTION**

Mayor Smith stated this Ordinance was resurrected in an attempt to encourage ratables. In reviewing the current ordinances it was found to be based on the State Statute and quite antiquated. Attorney Semrau drafted a revision naming the commission "Advisory" and removed all the State standards.

**ORDINANCES: INTRODUCTION**

**#2009-07 ECONOMIC DEVELOPMENT ADVISORY COMMITTEE**

***AN ORDINANCE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX,  
AND STATE OF NEW JERSEY REPEALING CHAPTER 3, "ADMINISTRATION  
OF GOVERNMENT", SECTION 3-70 ET SEQ, "ECONOMIC DEVELOPMENT  
COMMITTEE" OF THE REVISED GENERAL ORDINANCES IN ITS ENTIRETY  
AND REPLACING SAME WITH NEWLY CREATED SECTION 3-70 ENTITLED,  
"ECONOMIC DEVELOPMENT ADVISORY COMMITTEE"***

**BE IT RESOLVED** by the Mayor and Committee of the Township of Andover, that Ordinance #2009-07 entitled as above, be passed on first reading, to be published in the New Jersey Herald and the public hearing to be held on March 23, 2009 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. Boyce - yes   | Mr. Gilsenan - yes |
| Ms. Phoebus - yes | Mr. Walsh - yes    |
| Mayor Smith - yes |                    |

**OLD BUSINESS (CONTINUED)**

**FINANCE COMMITTEE REPORT**

CFO Tim Day was present in order to provide a budget update report. He state that the Finance Committee is in agreement with the Auditor and a draft budget has been prepared. At this point, based on the fact that the State Budget has not yet been announced, the township is not aware what the municipal aid funding is at this time. The Department of Community Affairs has informed us to utilize the numbers from 2008. Mr. Walsh stated he will be meeting with Mayor Smith tomorrow to review the budget and he has some ideas where cuts can be made. CFO Day stated the budget is currently at 5 percent which has reduced greatly from 9 per cent.

Mayor Smith then stated that the bargaining units traditionally receive their pay increases on January 1<sup>st</sup> where the non contractual employees' increases have always been held until after the budget adoption. We can release these funds prior to the adoption and the resolution was approved earlier.



**OLD BUSINESS (CONTINUED)****MARTIN STREET**

Attorney Semrau stated that Mr. Walsh and Engineer Golden visited this roadway and they had some suggestions. He stated that he drafted a Road Assessment Proposal which will mean the necessary improvements are done to bring the roadway up to standards. The property owners of the roadway are then assessed for the cost of these repairs over a certain amount of time. The cost would be \$1500 per year over a ten year period.

Resident Gerald Huelbig was asked his thoughts and he stated that for the past seven years he has paid for plowing and sanding in addition to paying full taxes in which he should have received these services which were not credited to his assessment. He stated there is one neighbor who is adamant about seeking legal representation. Mr. Huelbig stated he pays \$10,000 in taxes and now he may be asked to pay another \$1,500 for the next 10 years when in reality he has been paying for full services and not receiving same. Mr. Huelbig stated in his maintenance contract the township maintenance director is named as the mediator. Having this done by the township it may be realized that this is not a huge undertaking, and not a costly factor. He added that over a period of time, the town could make small improvements each year. Again he stressed, there are other township roads that are in worse shape than Martin Street.

Mr. Walsh questioned tar and chipping the road with Engineer Golden and he said it could be done, not the best, but the entire roadway could be done at \$7000. He stated there were other issues he had concerns with. A suggestion was made to form a meeting with the residents of the road with the Township Engineer and Attorney. Deputy Mayor asked to attend this meeting. Perhaps a solution can then be reached.

**OTHER BUSINESS****APPROVAL OF VOUCHER NO. 09-00229 IN THE AMOUNT OF \$495.00 TO RUSSELL STERN FOR PROFESSIONAL PLANNING SERVICES - MEETING PREPARATION AND LAND USE BOARD HEARING ATTENDANCE FOR NJ ATHLETIC TRAINING LLC APPLICATION**

Mayor Smith stated that this is a payment to our Planner where escrow was not collected. There were some issues with the Land Use Board that have been corrected. Mayor Smith stated the professionals should not be penalized for the fact that the township failed to collect appropriate escrow fees. Mr. Walsh stated he was the one that fought the payment of this bill and as it turns out the contractor paid the outstanding invoice today. No further action needs to be taken since this matter was previously approved.

**COMMITTEE REPORTS:**

**MR. GILSENAN.** He reported on SWAC stating we are under contract with Waste Management at a cost of \$582,408.00. The contract runs January 1, 2006 through December 31, 2010. He and Administrator will have monthly meetings to do a cost analysis which will be ready by year's end.

He received notice from Attorney Semrau stating that after speaking with the US Post Master General's Office, the suggested approach with respect to the petition; it should be circulated and signed by as many residents within a certain number of days. They also recommend a meeting with Jack Belicki who is the local postmaster for the region. He asked that Administrator Alfano, Attorney Semrau and he meet with Mr. Belicki. Once the petition is complete, a letter requesting a post office should be sent to the Post Master General who in turn will forward same to Washington DC with a recommendation.

**COMMITTEE REPORTS (CONTINUED)**

**MR. BOYCE.** Because of a business commitment, he was unable to attend the Board of Education meeting. Ms. Phoebus attended in his absence and she will provide a COAH update during her report.

**MR. WALSH.** He reported on the Finance Committee meetings as CFO Day reported earlier. Eric Danielson was in attendance at the Recreation meeting and he gave a report on the dugouts that the FOP is planning to build at the Hillside Park ball fields. There will be two dugouts for two fields. They are working on getting materials donated with the balance of funds to come from the FOP. At this time the installation plans are to be determined. Mr. Danielson stated that this project will be worked in conjunction with an Eagle Scout Project.

Mr. Walsh then reported that Andover Township Day is scheduled for Saturday, May 30<sup>th</sup> at the Park. There was discussion regarding the possible cancellation of this event. Mayor Smith stated that this event was reviewed like others as a possible way to save money and reduce taxes. A backup plan may be available.

He then reported on the Board of Health, the problem with containing the solid waste bulk and recyclables at Rolling Hills seems to be moving in a position direction. The Association representatives are working with the Court and Land Use Board in order to obtain the proper permits and approvals to have an enclosure built to keep all items contained.

**MS. PHOEBUS.** She provided a COAH update stating she attended the recent Board of Education meeting which is a part of what needs to be done in this process. She stated that we must demonstrate to COAH that we are reaching out to the community and providing them with information on the plan and make them aware of what will be happening. She added that she feels the Board of Education should have the long term plan of the surrounding municipalities. Andover Township's COAH will be settled without a town center with approximately 44 units at St. Paul's Abbey which has a wastewater treatment plant with the capacity to handle this project. It can also accommodate another building if the need arises. She then mentioned the Rannou property which will provide an additional 33 units on individual septic. Attorney Semrau stated that this past Friday, the plan was deemed complete. Ms. Phoebus then provided the statistics for the surrounding municipalities which will be a huge impact on Newton High School.

**MAYOR SMITH.** He reported on the Seniors stated that they completed the first audit of the books. There will be a special St. Patrick's Day trip to Fernwood Pa. There will also be a trip to Atlantic City to see Dolly Parton and Kenny Rogers impersonators at the Tropicana for \$35.00.

He then reported that Sergeant Tagliatela completed his Supervision Leadership Certification. A letter about Police Officer Kithcart was received. Mayor Smith stated that the police and he will be reading to the students on March 2<sup>nd</sup>. Three new camcorders for the police cars have been installed.

He stated that he will meet with Mr. Walsh tomorrow to discuss the budget. He then suggested making the engineer's report part of the meeting agenda. Following a short discussion it was decided to have the engineer attend on an as needed basis.

Mayor Smith announced that resident David White has a meeting with JCP&L tomorrow to discuss some of the landscaping issues on his property. He asked if Mayor Smith would join him and the Committee all agreed that he should attend.

He then reference public relations and mentioned resident Ms. Gillespie and her point that the township does many good things without recognition. He stated that Ms. Gillespie worked with the schools to find out how we could advertise these programs.

**REPORT FROM THE MUNICIPAL ATTORNEY** He reported that Mr. Gilsean asked him to review the procedure for the petition for a post office. When doing the petition, a phone call should be placed and a meeting should be scheduled with the district post master is over Andover Township who is located in Newton. The next step is to have the meeting, and try to get the Newton post master's endorsement to this concept. When the petitions are completed they will be send to him along with his endorsement, they would be sent to Washington DC.

With respect to Mr. and Mrs. Rannou, present this evening, he stressed how important it is for them to file their application. If it doesn't happen, other avenues need to be explored. With respect to St. Paul's Abbey and the due diligence process, there was a resolution adopted this evening, where Engineer Pellow will move forward as to the infrastructure, specifically, water and sewer capabilities.

Regarding the property that was known as Westby Farms, a shooting preserve permit issued by the DEP, he stated he looked at this matter, spoke to Land Use Board Attorney Germinario and spoke to the Township Committee. He stated that the permit was issued without any input from residents or the Township of Andover. There is currently a challenge to this permit and the law as to whether or not the law has any standards to public good to the issuance of this permit. He stated that if the actual commercial shooting begins on the property, that can not happen without the property owner going before the Andover Township Land Use Board. The Township Committee's position was at this point in time they would elect not to get involved in the ongoing litigation but to definitely be aware and if there is an application that would be the opportunity for residents and all interested parties to be heard before the Land Use Board.

**REPORT FROM THE TOWNSHIP ADMINISTRATOR** She reported on the Read Across America Program and asked if the Township Committee was willing to donate a book to the school. They all agreed. She then spoke about the proposed tree policy which the Committee had decided to handle the complaints on a case by case basis. She stated that it is becoming very problematic. She and DPW Supervisor Dickinson recommended that the Township Committee draft an actual policy. Mayor Smith stated he attended a conference at the League entitled Hazardous Trees and they recommended towns to be proactive and look for trees that could be hazardous. If this is done on an ongoing basis, it could eliminate some of the complaints. Attorney Semrau stated that whatever policy is decided, prior to finalization, he suggested running it by the Morris County Joint Insurance Fund.

**EXECUTIVE SESSION:** On a motion by Mr. Walsh, seconded by Ms. Phoebus, the resolution to go into executive session to discuss

**Potential Litigation**

2. ***Sparta Pumped Storage Project*** was carried unanimously.

(See Insert Attached to These Minutes)

The Committee went into executive session at 11:10 P.M. Ms. Phoebus moved to adjourn executive session at 11:59 P.M., seconded by Mr. Walsh and carried unanimously.

**NEXT SCHEDULED MEETINGS:**

**Monday, March 09, 2009**  
**Monday, March 23, 2009**  
**Executive Session - 6:30 p.m.**  
**Regular Meeting - 7:30 p.m.**

**ADJOURNMENT** No further business appearing before the Committee at this time, Mr. Walsh moved the meeting be adjourned at 11:59 P.M., seconded by Mr. Boyce and carried unanimously.

Respectfully submitted,

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**Robert O. Smith, Mayor**

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**Vita Thompson, R.M.C.**  
**Municipal Clerk**

**TOWNSHIP OF ANDOVER**

**MOTION FOR EXECUTIVE SESSION "A"**

**BE IT RESOLVED** by the Township Committee of the Township of Andover on the 23<sup>rd</sup> day of February 2009, that:

**1. Prior to the commencement of this Regular Meeting, the Township Council shall meet in Executive Session, from which the public shall be excluded, to discuss matters as permitted pursuant to N.J.S.A. 10:4-12, sub-section (s):**

- ( ) b. (1) Confidential or excluded matters, by express provision of Federal law or State statute or rule of court.
- ( ) b. (2) A matter in which the release of information would impair a right to receive funds from the Government of the United States.
- ( ) b. (3) Material the disclosure of which constitutes an unwarranted invasion of individual privacy.
- ( ) b. (4) A collective bargaining agreement including negotiations.
- ( ) b. (5) Purchase, lease or acquisition of real property, setting of banking rates or investment of public funds, where it could adversely affect the public interest if disclosed.
- ( ) b. (6) Tactics and techniques utilized in protecting the safety and property of the public, if disclosure could impair such protection. Investigation of violations of the law.
- (X) b. (7) Pending or anticipated litigation or contract negotiations other than in subsection b. (4) herein or matters falling within the attorney-client privilege.

**Contract Negotiations:**

- 1. *Quist Matter***

**Attorney-Client Privilege:**

- 1. *Hudson Farm West***

**Pending Litigation**

**Potential Litigation**

- 1. *Leenstra Tort Claim Notice***
- 2. *Sparta Pumped Storage***
- 3. *Farmer's Market - Block 15/Lot 19***

- ( X ) b. (8) Personnel matters.
  - 1. *P. Coleman, Chief of Police***
  - 2. *J. Alfano, Township Administrator***
- ( ) b. (9) Deliberations after a public hearing that may result in penalties.
  - 1. The time when the matter(s) discussed pursuant to Paragraph 1 hereof can be disclosed to the public is as soon as practicable after final resolution of the aforesaid matter(s).

Adopted: February 23, 2009

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Moved: Walsh      Seconded: Boyce  
Voted Aye: Boyce, Gilsenan (arrived at 6:33), Phoebus, Walsh, Smith  
Voted Nay: None  
Absent:  
Resolution adopted. February 23, 2009

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**EXECUTIVE SESSION:** On a motion by Mr. Walsh, seconded by Mr. Boyce, the resolution to go into executive session at 6:35 P.M. to discuss the following was carried unanimously.

**Personnel Matters:**

P. COLEMAN, CHIEF OF POLICE. Chief Coleman was given a RICE Notice for this evening's discussion in which he requested closed session. He was present for this discussion.

J. ALFANO, TOWNSHIP ADMINISTRATOR. Ms. Alfano was given a RICE Notice which she returned requesting Executive Session discussion. She was present for this discussion.

**Contract Negotiations:**

QUIST MATTER Attorney Semrau provided the Township Committee with a draft Release and Resolution for their consideration. There has been an ongoing flooding issue on this property. Following numerous discussions, a remediation plan has been provided to the property owners in an amount not to exceed \$3,000. The plan calls for a water pump to be provided to the property owners.

**Attorney-Client Privilege:**

HUDSON FARM WEST

**Potential Litigation**

LEENSTRA TORT CLAIM NOTICE The Township was served with a Tort Claim Notice by this plaintiff and her attorney against the police department with regard to an incident that occurred on November 14, 2008. The Tort Claim Notice has been sent to the Morris County Joint Insurance Fund for proper fling and representation.

FARMERS' MARKET - BLOCK 15/LOT 19 A violation letter was sent from the zoning office to the property owner regarding the parking lot currently being used for overnight parking of numerous tractor trailers, contractors' equipment and other vehicles. The violation notice states that these vehicles are not associated with the market building because it is no longer being used as a retail establishment. Ms. Alfano and Mr. Gilsenan met with Mr. Jump and they reported to the Township Committee on their meeting.

SPARTA PUMPED STORAGE Environmental Commission Chair Lois de Vries was present for this discussion. She reported to the Township Committee on the data she gathered on this project and the information she received from the Federal Energy Regulatory Commission. There will be continued discussion in the open session on this matter. There will be an additional Executive Session after the regular meeting due to time constraints.

**ADJOURNMENT:** No further business appearing, Mr. Walsh moved to adjourn executive session at 7:32 P.M., seconded by Mr. Boyce and carried unanimously.

*Respectfully submitted,*

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**Robert O. Smith, Mayor**

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**Jackie Huelbig, Deputy Clerk**

**TOWNSHIP OF ANDOVER**

**MOTION FOR EXECUTIVE SESSION "B"**

**BE IT RESOLVED** by the Township Committee of the Township of Andover on the 23<sup>rd</sup> day of February 2009, that:

**2. Prior to the commencement of this Regular Meeting, the Township Council shall meet in Executive Session, from which the public shall be excluded, to discuss matters as permitted pursuant to N.J.S.A. 10:4-12, sub-section (s):**

- ( ) b. (1) Confidential or excluded matters, by express provision of Federal law or State statute or rule of court.
- ( ) b. (2) A matter in which the release of information would impair a right to receive funds from the Government of the United States.
- ( ) b. (3) Material the disclosure of which constitutes an unwarranted invasion of individual privacy.
- ( ) b. (4) A collective bargaining agreement including negotiations.
- ( ) b. (5) Purchase, lease or acquisition of real property, setting of banking rates or investment of public funds, where it could adversely affect the public interest if disclosed.
- ( ) b. (6) Tactics and techniques utilized in protecting the safety and property of the public, if disclosure could impair such protection. Investigation of violations of the law.
- (X) b. (7) Pending or anticipated litigation or contract negotiations other than in subsection b. (4) herein or matters falling within the attorney-client privilege.

**Contract Negotiations:**

**Attorney-Client Privilege:**

**Pending Litigation**

**Potential Litigation**

**2. Sparta Pumped Storage Project**

- ( ) b. (8) Personnel matters.
- ( ) b. (9) Deliberations after a public hearing that may result in penalties.
  - 2. The time when the matter(s) discussed pursuant to Paragraph 1 hereof can be disclosed to the public is as soon as practicable after final resolution of the aforesaid matter(s).

Adopted: February 23, 2009

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Moved: Walsh      Seconded: Phoebus  
Voted Aye: Boyce, Gilsenan, Phoebus, Walsh, Smith  
Voted Nay: None  
Abstained: None  
Resolution adopted. February 23, 2009

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**EXECUTIVE SESSION:** On a motion by Mr. Walsh, seconded by Mr. Boyce, the resolution to go into executive session at 6:35 P.M. to discuss the following was carried unanimously.

**Potential Litigation**

**SPARTA PUMPED STORAGE** Environmental Commission Chair Lois de Vries was present for the continued discussion regarding this project.

**ADJOURNMENT:** No further business appearing, Mr. Walsh moved to adjourn executive session at 7:32 P.M., seconded by Mr. Boyce and carried unanimously.

*Respectfully submitted,*

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**Robert O. Smith, Mayor**

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**Jackie Huelbig, Deputy Clerk**