

**ANDOVER TOWNSHIP COMMITTEE MEETING MINUTES**

**BOB SMITH, MAYOR  
GAIL PHOEBUS, DEPUTY MAYOR  
PHIL BOYCE  
MICHAEL LENSAK  
THOMAS WALSH**

**OCTOBER 26, 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. Lensak, Mr. Walsh,  
Ms. Phoebus, Mayor Smith  
Also present: Attorney Semrau

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

**EXECUTIVE SESSION:** Attorney Semrau requested that Under Contract Negotiations to include The Old Creamery Property. On a motion by Ms. Phoebus, seconded by Mr. Walsh, the resolution to go into executive session to discuss

**Personnel Matters:**

1. ***K. Reed, Senior Clerk-Typist***
2. ***T. Day, Chief Financial Officer***
3. ***Police Department Staffing***

**Contract Negotiations:**

1. ***Block 151 /Lot 21 (+Q0028) & Block 134/Lot 32 (Q0028)  
(Jump Property)***
2. ***St. Paul's Abbey - Agreement Extension***

**Attorney-Client Privilege:**

**Potential Litigation**

**Pending Litigation**

1. ***Testa vs. Andover Township***

Attorney Semrau will report on the status of this matter.

2. ***Ray's Inn***

There will be a status report on the status of this matter.

, was carried unanimously.

(See Insert Attached to These Minutes)

The Committee went into executive session at 6:31 P.M. Mr. Walsh moved to adjourn executive session at 7:32 P.M., seconded by Mr. Boyce and carried unanimously.

Attorney Semrau explained that under Contract Negotiations the Committee discussed the Jump property as well as the Old Creamery property. The Old Creamery property is presently under a foreclosure action by the Township. There was discussion regarding the status of those properties.

With regard to St. Paul's Abbey there is a request by the Township to extend the due diligence period so that the Township can continue the process as to the project.

Under Pending Litigation the Township has been named as a defendant in the action Testa vs. Andover Township. This relates to the development application in connection with the Rannou project. There was discussion regarding the status of that litigation.

Ray's Inn discussion, there was a request to Stay the conditions imposed by the Township Committee as to their liquor license and there was a status report given. Ms. Phoebus recused from that discussion and left the room.

## **REGULAR MEETING**

**APPROVAL OF AGENDA** Mr. Walsh moved to approve the agenda as presented, seconded by Mr. Boyce and carried unanimously.

**APPROVAL OF CONSENT AGENDA ITEMS** Mr. Walsh asked that Bills item #09-01381 and #09-01392 be removed for further discussion. Mr. Walsh moved the following consent items be approved, seconded by Mr. Boyce and carried unanimously.

### **\*CONSENT AGENDA:**

### **\*OTHER BUSINESS:**

#### **APPROVAL OF VOUCHERS FOR PAYMENT**

(See Insert Attached to These Minutes)

#### **ACCEPTANCE OF TAX COLLECTOR'S SEPTEMBER REPORT - \$171,266.44**

#### **APPROVAL OF RAFFLE LICENSES - ANDOVER REGIONAL PTA NOVEMBER 14, 2009 AT LONG POND SCHOOL FROM 9:00 AM TO 4:00 PM**

- A. #R.L 890 - ON PREMISE MERCHANDISE
- B. #R.L 891 - ON PREMISE 50/50

#### **TO ACCEPT THE LETTER OF RESIGNATION FROM LOIS DE VRIES AS LAND USE BOARD CLASS II MEMBER & LAND USE BOARD REPRESENTATIVE TO THE OPEN SPACE COMMITTEE**

### **\*RESOLUTIONS:**

**#R2009-169 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 JONATHAN  
E. ARLT, PART-TIME PUBLIC SAFETY TELECOMMUNICATOR  
TRAINEE**

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

**\*RESOLUTIONS: (CONTINUED)**

**#R2009-170 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY TO AUTHORIZE THE AWARD OF CONTRACTS FOR BITUMINOUS CONCRETE FOR THE TOWNSHIP OF ANDOVER DEPARTMENT PUBLIC WORKS FOR 2009/2010**

**#R2009-171 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY TO REQUEST THE DIRECTOR OF THE DIVISION OF LOCAL GOVERNMENT SERVICES TO APPROVE THE INSERTION OF A \$15,126.00 CLEAN ENERGY AUDIT PROGRAM GRANT IN THE 2009 MUNICIPAL BUDGET**

**#R2009-172 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY TO REQUEST THE DIRECTOR OF THE DIVISION OF LOCAL GOVERNMENT SERVICES TO APPROVE THE INSERTION OF A \$6,000.00 OVER THE LIMIT - UNDER ARREST GRANT IN THE 2009 MUNICIPAL BUDGET**

**#R2009-173 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY AUTHORIZING THE AWARD OF A PROFESSIONAL SERVICES CONTRACT WITHOUT COMPETITIVE BIDDING TO PIAZZA & ASSOCIATES FOR THE ADMINISTRATION OF THE MARKET TO AFFORDABLE & OTHER AFFORDABLE HOUSING PROGRAMS**

**#R2009-174 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY AWARDDING THE BID FOR THE PURCHASE OF ONE (1) NEW EMERGENCY MEDICAL VEHICLE WITH ASSOCIATED EQUIPMENT AND ACCESSORIES TO BAY HEAD INVESTMENTS, INC. IN THE AMOUNT OF \$177,000.00**

**#R2009-175 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY AUTHORIZING THE USE OF COOPERATIVES FOR THE PERONA ROAD RECONSTRUCTION PROJECT - PHASE I**

(See Inserts Attached to These Minutes)

**\*CONSENT AGENDA: (CONTINUED)****\*APPROVAL OF MINUTES****AUGUST 10, 2009 EXECUTIVE SESSIONS "A" & "B"****BILLS #09-01381 and #09-01392**

Mr. Walsh stated these bills are in regards to the Master Plan. He stated we just received another \$4,000 bill for this project. From his conversation with Planner McGroarty some of the work he has done does not need to be done at this time. Mr. Walsh asked the Township Committee for a Joint Meeting with the Land Use Board to ask them questions with regard to the Master Plan process. No one had any objection to this meeting. These bills will remain tabled until such time. Municipal Clerk Thompson will schedule a Joint Meeting for either November 9<sup>th</sup> or November 23, 2009. It was suggested that Joint Meeting to begin at 6:30 and Executive Session will follow the Regular Meeting.

**APPROVAL OF MINUTES****SEPTEMBER 28, 2009 REGULAR MEETING**

Mr. Walsh moved to approve the minutes as presented, seconded by Mr. Boyce. Roll call vote:

Mr. Boyce - yes

Mr. Lensak - yes

Ms. Phoebus - abstain

Mr. Walsh - yes

Mayor Smith - yes

**MAYORAL APPOINTMENTS****LAND USE BOARD****PAUL MESSERSCHMIDT, ALTERNATE II**

Mayor Smith stated to fill the vacancy for Alternate II on the Land Use Board, he suggested Mr. Messerschmidt who is present in the audience this evening. He added that Paul will bring some good insight to the Land Use Board.

Mayor Smith then stated due to Ms. de Vries resignation as Environmental Commission representative to the Land Use Board and this resignation also affected her representation on the Open Space Committee from the Land Use Board. The Township Committee must make a recommendation to appoint a representative from the Land Use Board to the Open Space Committee.

Mr. Walsh nominated Gerald Huelbig to fill this position, seconded by Mr. Boyce. Attorney Semrau added that if the nomination is for Mr. Huelbig, then is it included in this nomination that he is a Class IV member of the Land Use Board and then by doing this he will then become the Township's Class II member of the Land Use Board by virtue of the position vacated by the resignation of Ms. de Vries.

Mr. Walsh amended his motion as so, seconded by Mr. Boyce and carried unanimously.

**TOWNSHIP COMMITTEE APPOINTMENTS****OPEN SPACE, RECREATION AND FARMLAND AND HISTORIC PRESERVATION  
COMMITTEE****LAND USE BOARD REPRESENTATIVE****GERALD HUELBIG-CLASS II MEMBER  
TERM TO EXPIRE 12/31/2009**

Mayor Smith thanked Lois de Vries for her dedication and years of work in her position on the Land Use Board and Open Space Committee. He stated that he is sure she will be greatly missed. To replace Ms. de Vries on the Land Use Board would be Peter Spinney who is the current Vice-Chair of the Environmental Commission. Mr. Spinney would take Mr. Huelbig's position as the Class IV member with the unexpired term of December 31, 2009.

**PETER SPINNEY, CLASS IV MEMBERSHIP****REGULAR AGENDA**

**OPEN TO THE PUBLIC** Greg Lwowski, 1 Knox Road is here representing Drake Manor residents. He stated that residents have heard that the Township is thinking about a change to the zoning ordinance on Newton-Sparta Road behind these residences to include retail instead of professional offices. He stated these residents are quite concerned about this. He also mentioned that he has dealings with the Township from time to time, having to deal with the Township Administrator on occasion. He urged the Township Committee when selecting another administrator to fill the vacancy, perhaps the Committee should look in house for someone from town or close by. He added that choosing someone from a big municipality doesn't work in a small town because they don't seem to have the time for the residents.

Mr. Walsh stated this Ordinance discussion is later under Old Business. He stated that this year we have hit our limited with expenses and he recommended that further discussion or professional evaluation on this ordinance be carried until 2010. He also suggested having a Work Session to discuss this Ordinance. Mayor Smith stated he received an email from another concerned resident of Drake Manor and later in the evening when this item is discussed he will read this email into the record. Mr. Boyce explained the history surrounding why the Township Committee is reviewing the amendment to this Ordinance. There was discussion regarding why the residents do not want food establishments in the area behind their homes.

John Carafello, Eileen's Way stated that his new tenants who opened their businesses recently remarked that these municipal employees are the greatest they have ever worked with. He stated that the personnel have been so nice and the inspectors are great and helpful. Mayor Smith stated he has heard the same from some of the new businesses in his area.

Stan Christodlous, 6 Wisteria Road stated he hopes there is a better other than someone wanted to put a stamp shop in one location. He stated that would be an example of spot zoning. He added that this Committee pretty much agreed that because of the residential neighborhood adjacent on the south side of Newton-Sparta Road they wanted to curtail retail establishments. He then asked why the same theory did not apply to the residents on the north side.

**OPEN TO THE PUBLIC (CONTINUED)** Mr. Walsh stated that there has always been retail on the north side of Newton-Sparta Road before the Ordinance was amended. Mr. Christodlous stated the Yates Avenue side has more residents than the other. It was stated that the zoning was known as Community-Business. Mr. Walsh stated the Committee was approached by the Economic Development Committee. Mr. Boyce then stated that Andover Township needs to be more business friendly and willing to open the door to business. If we don't do that our ratables will continue to decline. Mr. Christodlous asked why the residents on one side of the road are considered more important than the other side. Mayor Smith stated we are a long way from any conclusion in this matter. Mr. Christodlous stated he resents the suggestion by Mr. Boyce that he is interested in reducing taxes and no one else is. He stated proper planning is a way to reduce taxes and this can not be done at the expense of planning. Mr. Boyce then referenced his concern over the empty offices along Newton-Sparta Road.

Rick Melfi, Chair of the Economic Planning Committee spoke about the five buildings along Newton-Sparta Road with each having separate parking lots. Those five buildings were for the longest time considered Community-Business Zone. There was never a problem with this area being zoned in such a manner. He stated two of the buildings are pretty much fully occupied with offices. The other three have vacancies. At one point one of the buildings housed a day care center. He stated what the Economic Planning Committee is looking for is businesses that would be a good fit in these buildings. He stated since they are adjacent to a doctor's office, perhaps a good fit would be a drug store, or anything else relative to the medical field, if this area was allowed to be retail.

Attorney Semrau explained when you have a business, from a tax prospective it is the highest and best use of a business as to how it is valued. The Township's job is not necessarily make a business profitable but if in the course of planning, a certain business develops, the assessor values that business based on the rent, less the vacancy, less expenses, and then that number is capitalized on an annual basis. That is how you get the value. He then stated if you have a business that demands a higher rent or higher type of income, that's going to change on an upward basis the value of a property. The income approach to value is the number one appraisal methodology that's applied to commercial property.

Los de Vries stated that bringing in more retail isn't going to necessarily bring in anymore money than is already being paid on the value on the improvements on the lake. Mayor Smith added that we should be more concerned over losing our residents than our businesses.

Ben Bensley of Mountainside Drive suggested speaking to the tenants of these buildings to ask them what they think about a possible change in the zoning. He then asked when the trash/recycling contract expires because he believes we have been stuck with this contract for quite some time. Mr. Walsh stated we have a five year contract which Mr. Bensley stated was too long. Mr. Walsh stated this contract was a very good deal but at first it looked very bad but through the years it became a great deal. The contract expires 2010. When the fuel and tipping fees increased, our contract amount remained the same. If we signed a three year deal, these increases would have affected us greatly. Mayor Smith added that we have to look at every possibility from not providing any service, to having our own trucks, to going out for bid again.

Mr. Bensley then asked about the pending litigation matter regarding Testa vs. Andover Township. Attorney Semrau stated that because he did not hear what he stated earlier, he mentioned the Township Committee discussed this matter in Executive Session. This lawsuit is regarding the Rannou application and he discussed what the lawsuit is about and some issues pertaining to the suit.

Alex Dunlop of 5 Squirrel Road asked about the status of the vacation of Squirrel Road. Mayor Smith stated he recalls this matter was in the hands of the Township Engineer. There were some issues with septic on adjoining properties. Mr. Dunlop stated he has two days to vacate this road because he has two days to remove the horse from his property.

**OPEN TO THE PUBLIC (CONTINUED)** Attorney Semrau explained that the Township did have its engineer look at the proposal to vacate the roadway and he communicated with Mr. Dunlop's legal counsel as to some concerns he had. He added there were some follow up points the engineer sent to his attorney. Mr. Dunlop stated the engineer is waiting for me to do a survey and he said he won't do one. Attorney Semrau stated that is where this issue now lays. Attorney Semrau stated there is no action scheduled or is there any action the Township Committee could take this evening. He then stated that if this matter is pending in Municipal Court all that can be done is have the administrator check. Mr. Dunlop stated that by Wednesday, by order of the Judge, the horse has to be off the property. Attorney Semrau explained the Township Committee has no jurisdiction over this over. He added we could ask Mr. Cutler for the status of the matter.

Hearing nothing further, Mayor Smith closed the public portion of the meeting.

### **ORDINANCES: PUBLIC HEARING**

#### **NO. 2009-34 TO AMEND CHAPTER 136 "SOIL EROSION"**

***"AN ORDINANCE AMENDING CHAPTER 136 "SOIL EROSION" SECTIONS 136-4, "PERMIT REQUIRED", 136-7(D) "ISSUANCE OF PERMIT", 136-10 "EXEMPTIONS", 136-11 "FEES" & 136-17 "JURISDICTION" OF THE REVISED ORDINANCES OF THE TOWNSHIP OF ANDOVER"***

Mr. Walsh moved to open the public hearing, seconded by Mr. Boyce and carried unanimously. Hearing nothing from the public, Mr. Walsh moved to close to the public, seconded by Mr. Boyce 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 September 28, 2009, was advertised according to the law and was brought before the public for final consideration. There being no objections, Ms. Phoebus moved the adoption of the above entitled ordinance, seconded by Mr. Walsh. Roll call vote:

|                   |                  |
|-------------------|------------------|
| Mr. Boyce - yes   | Mr. Lensak - yes |
| Ms. Phoebus - yes | Mr. Walsh - yes  |
| Mayor Smith - yes |                  |

### **OLD BUSINESS**

#### **DISCUSSION REGARDING CARBONATE ROCK ORDINANCE**

Mayor Smith stated this matter was brought to the attention of the Township Committee at the last meeting. Attorney Semrau stated it was suggested we speak to Hydrogeologist Matt Mulhall who is familiar with the municipality. He also has expertise in developing ordinances. Mr. Mulhall provided this sample ordinance from Union Township that he finds to be effective. This ordinance has the municipality creating a Carbonate Rock Area District. For any type of application or site plan approval in a carbonate rock district, it requires various due diligence by an applicant. There is a check list provided in the ordinance which summarizes the process. That information would be evaluated by a Hydrogeologist and whereby they make appropriate recommendations and evaluations of the studies of what can happen after these developments go forward. Mayor Smith asked what may be the magnitude of work in proceeding ahead. Attorney Semrau explained this may require additional evaluation from Mr. Mulhall. Following a brief discussion and consensus of the Township Committee, it was decided to table further work on this ordinance until 2010 for budgetary reasons.

**OLD BUSINESS (CONTINUED)****CONTINUED DISCUSSION REGARDING PROPOSED AMENDMENTS TO  
CHAPTER 190 ZONING "PRINCIPAL PERMITTED USES" TO INCLUDE  
"RETAIL SALES" IN THE PO/R ZONE**

As a result of discussion held earlier this evening during the public portion it was decided by consensus this matter also be carried until 2010 for budgetary reasons.

**NEW BUSINESS****NEW JERSEY DEP 2009 RECREATIONAL TRAILS PROGRAM GRANT APPROVAL**

Mr. Walsh stated the funding for this project can be taken from the Open Space Fund. Ms. Phoebus stated she wants to take advantage of this opportunity. She added that the easements are all in place and Engineer Golden spoke to Park Superintendent Rocky Gott and he is thrilled over this prospect. Mr. Gott also offered the Township the gate and will do whatever he can to assist. Engineer Golden also informed Ms. Phoebus that he is trying to get a volunteer base to assist on this project. Mr. Boyce stated he met with Superintendent Baggs with regard to this project and they were very supportive of this project. They added that this can be used in a variety of ways because of its connection of the two schools. Following comments from Open Space Chair Dan Freed and Chief of Police Coleman action was taken to use Open Space funding to support this grant from the State.

Mr. Walsh moved to pursue the grant application with the matching funds of \$15,300 from the Open Space Trust Fund, seconded by Ms. Phoebus and carried unanimously. A resolution supporting this action will be on the November 9<sup>th</sup> agenda.

**COMMITTEE REPORTS:**

**MR. LENSAK.** He reported on his meeting with a representative from Waste Management with regard to the current trash and recycling contract. He asked what can be done regard new technology options that may be available concerning waste and recycling pick up. Mr. Lensak stated he has a full report on the municipality doing their own pick up. He also stated there was discussion regarding the residents handling their own private contracts for this service which was not looked on favorably because it would lead to a great deal of dumping throughout the municipality. He then stated the greatest cost is the tonnage fees and stressing the more that is recycled, less tonnage fees and waste in the land fills.

With regard to the solar energy process review, things are moving ahead and approval was received to draft a RFP for this contract. Mr. Lensak commended Engineer Golden on his assistance on this project stating he has been absolutely fantastic, dedicating a lot of time, at no cost to the township. Once there is a definitive number we can move forward on the grant application process.

He then reported on Stop the Lines mentioning that November 16<sup>th</sup> is the deadline for objections to the PSE&G project. He urged everyone to contact their representatives. He stated that the balloon float was held on October 10<sup>th</sup> which was a semi-success. The wind had the balloons at an angle at one point. Mr. Lensak stated Mayor Smith was kind enough to have coffee available on his tab which was great. Mayor Smith stated that 98 letters were sent to property owners directly affected by the lines advising them of their rights and what actions could be taken. He stated out of 98 letters sent he received only 6 responses to this letter.



**COMMITTEE REPORTS (CONTINUED)**

**MS. PHOEBUS.** She reported that she had the pleasure of going to Trenton this morning with Municipal Clerk/Interim Administrator Thompson to accept from the Council on Affordable Housing a plaque reading as follows: The Council on Affordable Housing in accordance with the provisions of the Fair Housing Act, hereby grants Third Round Substantive Certification to certify Andover Township - Sussex County - December 29, 2008 through December 29, 2018, Charles A Richman, Acting Chair and Lucy Vandenberg, Executive Director, Department of Community Affairs, COAH of NJ. A round of applause followed. She presented the plaque to the Mayor. She then proceeded to thank everyone, beginning with the governing body for their support through this process. She thanked the COAH Committee members, Stan Christodlous, Fred Semrau, Joe Golden, Check McGroarty, Tom Germinario, Vita Thompson, Jayme Alfano, Linda Paolucci, the Fire Department, herself and especially her husband and all who have listened patiently as she pounded COAH regulations. There are only 48 municipalities who have reached this level of certification.

She then thanked COAH Planner Ramond Joseph because his services were invaluable. She then stressed that the work is not done. She stated we owe Rounds I and II, approximately 88 units and they want to see them built. They will give the township a timeline which needs to be followed. There will be a meeting this week to determine how to move forward.

She then reported on the Annual Rib Fest and thanked the Fire Department for another job well done. The Fire Department will work on reducing their waste and begin recycling.

**MR. BOYCE.** He thanked and congratulated Ms. Phoebus on a phenomenal job with the COAH plan which she worked on for two long years. He then stated he stopped in the new Dollar Store and welcomed the owners to the township. They informed him they are doing well and business is growing by word of mouth. They are very well organized and its type of store is something not near by at all.

He then reported on his meeting with Superintendent Bernie Baggs and discussed a solution to the Hazardous Bus Route dilemma and they were fine and appreciative with Attorney Semrau's plan. They will follow this plan. They were also appreciative of Chief Coleman being willing to assist them in identifying bus stop locations.

**MR. WALSH.** He reported on Recreation stating that the rating of playgrounds book is available and it lists Hillside Park with a 5-Star rating, calling Hillside Park one of eight that were called the Best of the Best. The book is for sale in the Newton Book Store and a copy can be viewed in the Recreation Office. He thanked Ms. Phoebus on all the work she did in using the funds to allow for the park's upgrades and the Department of Public Works for working as hard as they do. He also thanked the Recreation Department for their efforts.

He then reported on the Halloween Party scheduled for this Saturday. Prizes will be given for various categories and the members put together glow in the dark bags and a flashlight for their safety. He remarked that the Recreation Committee works very hard in making events such as this one possible for the children.

Mr. Walsh stated November 13<sup>th</sup> is the Annual Teen Dance for 7<sup>th</sup> and 8<sup>th</sup> graders with a DJ provided by the generous contribution of Ms. Josephine Gregori. Pizza and drinks are also available. December 5<sup>th</sup> is the annual bus trip to New York City that leaves FMB School at 8:00 am and leaves New York City at 6:00 pm. Seats are \$10.00 for residents and \$20.00 for non-residents which are still available. December 6<sup>th</sup> is the annual Children's' Holiday Party and doors open at 1:15 pm and Santa arrives at 2:00. Refreshments are included. December 11<sup>th</sup> is the Holiday Party for employees, volunteers and their guests at the Barn.

**COMMITTEE REPORTS (CONTINUED)**

**MR. WALSH.** With regard to Board of Health, he reported that Sussex County has received their first shipment of H1N1 vaccine in the form of a nasal spray available for healthy children between the ages of 2 and 24. Appointments can be made online and vaccinations will begin November 1<sup>st</sup> at the Community College.

Reporting on the Finance Committee, the DPW needed two mason dumps but what they've done is just replaced the bodies and saved about \$50,000. Stainless bodies were purchased and they were put on the existing cab and chassis. These new bodies will be transferred to new cab and chassis down the road when needed. This was the idea of the DPW.

**MAYOR SMITH.** He reported that next Sunday is November 1<sup>st</sup> when taxes are due for the fourth quarter. The Senior Citizens will be meeting on November 2<sup>nd</sup>. On Tuesday, November 3<sup>rd</sup> is Election Day. There are six districts in Andover Township with two polling places, Hillside Park Barn and the Municipal Building. If you do not know your district, contact the Clerks office. In his newsletter, Mayor Smith included a map showing the districts.

**REPORT FROM THE CLERK/INTERIM ADMINISTRATOR** She first thanked the Township Committee for the opportunity to serve in this capacity for the next three months. She wishes to support this community and the Township Committee in achieving their goals and objectives. We have all been working very hard the past several weeks trying to get through the transition period and we will accommodate the change and continue the excellent service that the residents of Andover Township have come to be accustomed to. In addition, with regard to the election, there is a new Vote by Mail process that is available to all voters. It replaces the absentee voting process. We are running out of time to apply by mail, the application needs to be received by the County Clerks office seven days prior to the election. The option to vote in person is available until 3 pm the day before the election. Applications are available on line, in the Clerks office and at the County Clerks office. Mr. Boyce added that the Clerk has taken on a tremendous amount of work and she has done it cheerfully and she is doing a fabulous job. He thanked her for taking on this responsibility. All agreed.

**REPORT FROM THE MUNICIPAL ATTORNEY** Attorney Semrau stated he spoke to Tax Assessor Marchione about the pending tax appeals. He also spoke to CFO Day from a budgetary standpoint and he asked if the Tax Appeals could be listed on the Executive Session for the next meeting.

He also spoke about COAH and he stated that what was accomplished was not easy. He stated that if you look at the situation this municipality was in about three years ago and what it had in front of it to obtain substantive certification, he stated a lot of those who worked on this project were not sure if this would get done. He added that there were plenty of times we were told we may not make it. There was no money in the Affordable Housing Trust Fund and no real affordable units that were in sight. We put together a third round plan with no market units, all affordable housing. He stated everyone was so supported in achieving this goal and everyone in this community should take credit for it because had someone or a group really taken a different position, this would have never been done. He then remarked that in fear of being one of the last municipalities to reach this level, we are now one of the first. He also stated the process now has just begun. He applauds Planner McGroarty in guiding everyone in this process.

**NEXT SCHEDULED MEETINGS:**

November 09, 2009  
November 23, 2009

Executive Session - 6:30 p.m.  
Regular Meeting - 7:30 p.m.

**EXECUTIVE SESSION:** Mayor Smith stated we will be going into a second Executive Session and there is a good chance action will be taken. On a motion by Mr. Walsh, seconded by Mr. Boyce, the resolution to go into executive session to discuss

**Personnel Matters:**

2. ***T. Day, Chief Financial Officer***
3. ***Police Department Staffing***

(See Insert Attached to These Minutes)

The Committee went into executive session at 9:10 P.M. Mr. Walsh moved to adjourn executive session at 9:51 P.M., seconded by Mr. Boyce and carried unanimously.

**ADJOURNMENT** No further business appearing before the Committee at this time, Mr. Walsh moved the meeting be adjourned at 9:52 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

## **EXECUTIVE SESSION**

### **Personnel Matters:**

1. **Karen Reed, Senior Clerk-Typist.** She has been RICED for this meeting for the purpose of Staff Reduction, a continuation of past discussions. Ms. Reed sent a memo to the Township Committee with alternative options in order to maintain on full time status. Another copy of this memo is enclosed in your packet.

2. **Tim Day, CFO.** He was RICED and requested Executive Session. The purpose of this discussion is staff reduction. Application was sent to Branchville in response to their request for a part time CFO. It appears Newton has also responded. Branchville is looking for a CFO for 4 hours per week.

3. **Police Department Staffing.** Chief Coleman spoke to his liaison Mayor Smith about coming to the Executive Session to discuss proceeding with the Intergovernmental Transfer with Stillwater Township for a police officer.

### **Contract Negotiations:**

1. **Block 151 /Lot 21 (+Q0028) & Block 134/Lot 32 (Q0028)** Attorney Semrau and I had a conference call with a real estate agent for sellers RRL Group (Jump property). He informed us that PSE&G contacted him with regard to buying this property to put 35 to 45 foot towers as a part of phase II for the power boost coming from PA. At first they wanted to lease 5 acres of this property for their need. PSE&G informed the agent that they are not in the business of being property owners and therefore the property, once their need was completed, would be turned over to the municipality, but there would be some cost involved.

Because of FAA rules these towers will make the airport useless. This project should take about 1 1/2 years to complete. The Jumps are looking for \$3.5 million for this property. Realtor Martin Schupert will keep us informed of the status of this matter.

2. **St. Paul's Abbey.** There will be discussion regarding the agreement extension regarding the COAH plan with the Abbey.

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

### **Potential Litigation:**

### **Pending Litigation:**

1. **Testa vs. Andover Township.** Attorney Semrau asked that this matter be placed on the Executive Session in order for him to provide a status report. As you know this matter is in opposition to the COAH application filed and approved by the Land Use Board in the area off Stickles Pond Road. Mr. Testa's property is adjacent to the COAH housing project.

2. **Ray's Inn.** Attorney Semrau will report on the status of this matter.

**TOWNSHIP OF ANDOVER**

**MOTION FOR EXECUTIVE SESSION "A"**

**BE IT RESOLVED** by the Township Committee of the Township of Andover on the 26<sup>th</sup> day of October, 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. ***Block 151 /Lot 21 (+Q0028) & Block 134/Lot 32 (Q0028)***
- 2. ***St. Paul's Abbey - Agreement Extension***
- 3. ***Old Creamery Road Property***

**Attorney-Client Privilege:**

**Potential Litigation**

**Pending Litigation**

- 1. ***Testa vs. Andover Township***
- 2. ***Ray's Inn***

- ( X ) a. (8) Personnel matters.

**Personnel Matters:**

- 1. ***Karen Reed, Senior Clerk-Typist***
- 2. ***Tim Day, Chief Financial Officer***
- 3. ***Police Department Staffing***

- ( ) 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: October 26, 2009

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Moved: Phoebus      Seconded: Walsh  
Voted Aye: Boyce, Lensak, Phoebus, Walsh, Smith  
Voted Nay: None  
Abstained: None  
Resolution adopted. October 26, 2009

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**TOWNSHIP OF ANDOVER**

**MOTION FOR EXECUTIVE SESSION "B"**

**BE IT RESOLVED** by the Township Committee of the Township of Andover on the 26<sup>th</sup> day of October, 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.
  
- ( X ) a. (8) Personnel matters.

**Personnel Matters:**

- 2. *Tim Day, Chief Financial Officer***
- 3. *Police Department Staffing***

- ( ) 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: October 26, 2009

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Moved: Walsh      Seconded: Boyce  
Voted Aye: Boyce, Lensak, Phoebus, Walsh, Smith  
Voted Nay: None  
Abstained: None  
Resolution adopted. October 26, 2009

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