

ANDOVER TOWNSHIP COMMITTEE MEETING MINUTES

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

**SEPTEMBER 14, 2009
5:30 P.M.**

REGULAR MEETING BEGINS AT 7:30 P.M.

The regular meeting of the Andover Township Committee was called to order at 5:35 P.M. by Mayor Smith, followed by a salute to the flag.

***MOMENT OF SILENCE IN REMEMBRANCE OF THE
EIGHTH ANNIVERSARY OF THE TERRORIST ATTACKS ON AMERICA***

ROLL CALL: Present: Mr. Boyce, Mr. Lensak, Mr. Walsh,
Ms. Phoebus, Mayor Smith
Also present: Administrator Alfano, Attorney Semrau

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

EXECUTIVE SESSION: Mr. Walsh moved to go into Executive Session, seconded by Mr. Boyce. Attorney Semrau stated for clarification, Under Personnel Matters: J. Alfano, Township Administrator. He stated that the Township Committee may very well have a discussion with regard to Personnel, but it also says Contract Negotiations, and for this Ms. Alfano may be invited in for a portion of the discussion. The motion was carried unanimously to discuss the following items.

Personnel Matters:

1. ***J. Alfano, Township Administrator - Contract Negotiations***
2. ***J. Cutler, Construction Official/Zoning Officer***
3. ***K. Reed, Animal Control Officer/Assistant to Tax & Construction***
4. ***L. Paolucci, Land Use Board Secretary***
5. ***Shauna Tillotson, Temporary Clerk-Typist for the Municipal Court***
6. ***Tim Day, Chief Financial Officer***

Contract Negotiations:

1. ***COAH Update***

There will be continued discussion regarding the due diligence process.

2. ***St. Paul's Abbey Due Diligence***

There will be discussion regarding the Request for Proposals to Build and Manage a COAH facility.

Attorney-Client Privilege:

Potential Litigation

Pending Litigation

(See Insert Attached to These Minutes)

The Committee went into executive session at 5:37 P.M. Mr. Walsh moved to adjourn executive session at 7:25 P.M., seconded by Mr. Lensak and carried unanimously.

APPROVAL OF THE GENERAL 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 Resolution #R2009-149 be removed for discussion. Ms. de Vries from the public made the same request.

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 Inserts Attached to These Minutes)

ACCEPTANCE OF TAX COLLECTOR'S AUGUST 2009 REPORT - \$4,850,327.39

RECREATION COMMITTEE APPOINTMENTS

- A. TO MOVE DICK LAGG FROM REGULAR MEMBER, TERM TO EXPIRE DECEMBER 2011 TO ALTERNATE NO. 2 MEMBER, TERM TO EXPIRE DECEMBER 2009
- B. MOVE JANET BARDELLO FROM ALTERNATE NO. 2 MEMBER, TERM TO EXPIRE DECEMBER 2009 TO ALTERNATE NO. 1 TERM TO EXPIRE DECEMBER 2009
- C. APPOINT BRIAN ROBINSON TO REGULAR MEMBER, TERM TO EXPIRE DECEMBER 2011

RELEASE OF SOIL EROSION, GRASS GROWTH & DRAINAGE PIPE CASH BOND TO JEFF MCWILLIAMS - ESCROW #T-13-56-717-264 - BLOCK 144/LOT 1 \$1,300.00 - IRVING PLACE

APPROVAL OF ON PREMISE RAFFLE LICENSES #R.L. 885 - ANDOVER REGIONAL PTA TO BE HELD AT LONG POND SCHOOL ON OCTOBER 16, NOVEMBER 14, 2009, MARCH 05, JUNE 04, 2010

***RESOLUTIONS:**

#R2009-144 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY TO DIRECT THE DEPARTMENT OF PUBLIC WORKS TO PREPARE CERTAIN SURPLUS MUNICIPAL EQUIPMENT THAT IS CONSIDERED UNREASONABLY EXPENSIVE TO REPAIR FOR SALE AT THE SUSSEX COUNTY COOPERATIVE SURPLUS AUCTION 2009

***CONSENT AGENDA: (CONTINUED)**

***RESOLUTIONS: (CONTINUED)**

#R2009-145 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY TO AUTHORIZE THE ANNUAL SICK LEAVE BUYBACK OPTION TO SUPERVISOR OF PUBLIC WORKS DARREN DICKINSON FOR 2009

#R2009-146 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 \$20,401.21 FEMA GRANT IN THE 2009 MUNICIPAL BUDGET

#R2009-147 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY TO AUTHORIZE THE ISSUANCE OF A FIREWORKS DISPLAY PERMIT TO APPLICANT "CELEBRATION FIREWORKS" OF EMMAUS PENNSYLVANIA, ON THE PERONA FARMS PROPERTY FOR FRIDAY, OCTOBER 23, 2009

#R2009-148 A RESOLUTION OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY AUTHORIZING AN AMENDMENT TO THE PROFESSIONAL SERVICES CONTRACT WITH HAROLD E. PELLOW & ASSOCIATES, INC. FOR ENGINEERING SERVICES ASSOCIATED WITH THE PRELIMINARY ASSESSMENT OF THE ST. PAUL'S ABBEY PROJECT

#R2009-150 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY TO FORMALLY ADOPT THE TOWNSHIP'S MUNICIPAL REPORT ON SERVICE ELECTRIC CABLE TELEVISION ISSUED PURSUANT TO N.J.S.A. 14:18-13.2(C)

#R2009-151 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 JEFFREY WILLIAMS, PART-TIME PUBLIC SAFETY TELECOMMUNICATOR

(See Inserts Attached to These Minutes)

***APPROVAL OF MINUTES**

JULY 17, 2009 SPECIAL MEETING

RESOLUTION REMOVED FROM THE CONSENT AGENDA**#R2009-149 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY AWARDING THE CONTRACT FOR DETENTION BASIN MAINTENANCE TO APS FOREST SOLUTIONS, LLC.**

Ms. de Vries, Environmental Commission Chair questioned why no one spoke to her about this pending contract. She stated that the Township has a Detention Basin program going on with certain basins, not all with a 10 year contract with the Partners in Wildlife. Mr. Walsh stated that was also his question. Ms. de Vries stated the contract stipulates that we will not undo anything that has been done few years for a total of 10 years. Mayor Smith asked who placed this item on the agenda. Clerk Thompson explained that there was a Request for Proposals by Engineer Golden, proposals were received and he recommended this vendor be awarded the contract. She further explained that this project is in conjunction with Stormwater Management regulations.

Following a short discussion it was decided that Engineer Golden would be contacted to explain the purpose of this contract. Ms. Phoebus moved to table this matter until the next meeting, seconded by Mr. Walsh and carried unanimously.

APPROVAL OF MINUTES:**JULY 13, 2009 REGULAR MEETING**

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

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

JULY 13, 2009 EXECUTIVE SESSION

Mr. Boyce asked that under Approval of Agenda, second paragraph, he asked that Mayor Walsh be changed to Mayor Smith. Mr. Boyce moved to approve the minutes as amended, seconded by Mr. Walsh. Roll call vote:

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

MAYORAL APPOINTMENTS - ENVIRONMENTAL COMMISSION

Mayor Smith reassigned Kathryn Richardson from the position of Regular member to Alternate No.1. The Environmental Commission recommended Eric Olsen to the position of Regular member. Following an interview with this candidate, Mayor Smith concurs with the recommendation and appointed him to this position.

REGULAR AGENDA

REPORT FROM THE FIRE CHIEF Chief Garrigan reported for the month of August there were 7 activated fire alarms, one brush fire, two special firematic drills, one liquid propane incident, one assist with EMS, one landing zone, three mutual aid out of town calls, two motor vehicle accidents, two special work drills, one smoke condition, three traffic details, and five downed power line calls. There were a total 30 calls for 316.4 man hours. Year to date totals 219 calls and 3,744.7 man hours. He reported on the annual golf outing which was a huge success.

REPORT FROM THE RESCUE SQUAD CHIEF Chief Reidmiller reported for the month of August Lakeland Emergency Squad responded to a total of 100 calls, 50 in Andover Township. There was one fly out, no AED applications for a total man hours of 274.7. They traveled almost 2,000 miles. Year to date, there is a total 863 calls, 357 in Andover Township. There were 13 flyouts, for a total of almost 3,000 man hours and 18,000 miles.

REPORT FROM THE CHIEF OF POLICE Chief Coleman reported 11,519 calls to dispatch, a decrease from this time last year. The department completed their Drunk Driving Enforcement detail provided through a grant. There were five DWI arrests, a total of 93 summonses and six fugitives were apprehended. There were three felony arrests. This information was made available through a report filed by Traffic Safety Officer Murrell. He stated that the speed sensor was deployed on Skytop Road and that report was included in the monthly print out available to the Township Committee. Mr. Lensak asked if the report is available to the public and he replied yes.

REPORT FROM THE EMERGENCY MANAGEMENT COORDINATOR EMC Danielson reported on the new Outbound 9-1-1 System, the Community Alerting System. He advised everyone to visit the Andover Township Police Department website for detailed information. It explains the system which is long overdue by the County. It allows our 9-1-1 center to be able to alert people to certain situations that may arise. Anyone that has a land line whether published or unpublished, you will receive a reverse 9-1-1 call to alert you to any situation that arises. People must also register their cell phones and business numbers in the event you are not home to receive these alerts. The dispatchers have been trained on this system. The important thing to remember is the system will not work if the power is out so he stressed the importance of a non-portable phone.

He then reported on a new program called Registerready.nj.gov which is an informative support system for 9-1-1 pertaining to those with special needs. These people would be in a system which would be brought up by a computer and show public safety the specific residents that cannot get out of their homes on their own. Pamphlets are available and those who have no computer access they can contact 2-1-1 or the County Office of Emergency Management. He then stated that the other issue is the H1N1 virus and the recommended website to visit is the Sussex County Health Department site and they have a great deal of official information on this topic.

OPEN TO THE PUBLIC

Mayor Smith opened the public portion of the meeting.

Lois de Vries, 85 Lawrence Road questioned why the Township Committee meeting minutes have not been available on the website since March. Attorney Semrau commented that the minutes are up to date to July 17, 2009 are they are available in the Clerk's office. There is no requirement that they be on the website. Following a short discussion, this matter will be reviewed and remedied.

OPEN TO THE PUBLIC (CONTINUED) She then referred to her a recent 9-1-1 call she made and when the dispatcher asked her about injuries and then when she said he didn't know it seemed to her as if the dispatcher pressed a button and then there was an automated phone call telling her how her 9-1-1 call was not a legitimate 9-1-1 call.

Chief Coleman explained that the process is regulated by the State of New Jersey and there is an electronic message that is sent and the purpose is because sometimes the calls that are received are not classified as emergency 9-1-1 calls. There is then a message played to that caller advising them of such. If there are multiple calls there is no time to answer a non-emergency. She stated her complaint was over the manner of the automated message.

Lastly, Ms. de Vries stated that she understands the Township Committee is considering the position of the Township Administrator this evening. She said she feels she has said it all. She stated that she is upset and that personal feelings should not be used in eliminating a position or eliminating her from her position without grounds, evaluation, and warning or time period to address the issues that they may have. She added that she feels Ms. Alfano was not given the opportunity to correct any deficiencies that there may be in an evaluation.

Seeing no other comments, Mayor Smith closed the public portion.

ORDINANCES: INTRODUCTION

NO. 2009-32 TO REPEAL CHAPTER 86 "LOITERING"

"AN ORDINANCE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY REPEALING CHAPTER 86 "LOITERING" OF THE REVISED GENERAL ORDINANCES"

BE IT RESOLVED by the Mayor and Committee of the Township of Andover, that Ordinance #2009-32, entitled as above, be passed on first reading, to be published in the New Jersey Herald and the public hearing to be held on September 28, 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. Lensak - yes
Ms. Phoebus - yes	Mr. Walsh - yes
Mayor Smith - yes	

NO. 2009-33 TO AMEND CHAPTER 107 "PEACE AND GOOD ORDER"

"AN ORDINANCE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX, AND STATE OF NEW JERSEY REPEALING CHAPTER 107, "PEACE AND GOOD ORDER", SECTION 107-10, "INDECENT BEHAVIOR", SUBSECTION (B), "INDECENT LANGUAGE" OF THE REVISED GENERAL ORDINANCES"

BE IT RESOLVED by the Mayor and Committee of the Township of Andover, that Ordinance #2009-33, entitled as above, be passed on first reading, to be published in the New Jersey Herald and the public hearing to be held on September 28, 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. Lensak - yes
Ms. Phoebus - yes	Mr. Walsh - yes
Mayor Smith - yes	

RESOLUTIONS

#R2009-152 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY AWARDING THE CONTRACT FOR IMPROVEMENTS TO THE MUNICIPAL BUILDING UPPER PARKING LOT RETAINING WALL PROJECT TO MITSCHLE EXCAVATING

Mr. Walsh moved to adopt the foregoing Resolution as presented, seconded by Mr. Boyce and carried unanimously. Mayor Smith explained that he was reminded he had to abstain on this resolution due to a conflict.

Mr. Lensak moved to invalidate the last vote and approve the foregoing Resolution as presented, seconded by Mr. Boyce. Roll call vote:

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

(See Insert Attached to These Minutes)

#R2009-153 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY ENDORSING THE "GREEN ACRES, WATER SUPPLY AND FLOODPLAIN PROTECTION, AND FARMLAND AND HISTORIC PRESERVATION ACT OF 2009"

Mr. Walsh moved to adopt the foregoing Resolution as presented, seconded by Mr. Boyce and carried unanimously.

(See Insert Attached to These Minutes)

OLD BUSINESS

EMAIL POLICY FOR ELECTED OFFICIALS

Attorney Semrau explained that public officials are engaging in email exchange and in doing so these emails are subject to the Open Public Records requests. He stated that Andover Township has set up a municipal email account system for all elected and appointed officials so that all emails are maintained by the Township and the Clerk has access to such information. He stated he decided to draft a policy for all individuals so they understand what is involved. He gave an example such as an email addressed to all members of the Township Committee and those members began engaging in a discussion on such matter. That would be a violation of the Open Public Meetings Act. He then explained that there could be an OPRA request and if someone wasn't abiding by this policy, you could go into someone's personal computer to gather emails regarding township information.

Mayor Smith stated that in his personal opinion we should spend more time pushing against legislators for better definitions for some of these mandates. He said there are simple rules for email and don't put anything into an email that you are not prepared to defend on a witness stand. He stated that to go as far as to not copy each Committee member on a topic he finds ridiculous because the question could be as simple as sharing an article. In terms of retention, he stated his mailbox fills up due to keeping every document.

Attorney Semrau explained that if there is going to be correspondence to the entire Committee it should go through the Clerk's office because without email that would have been the procedure. She would then have the record on file in the event anyone requested it. By doing this we don't get into dialogue between members that the public doesn't necessarily ever become privy to. If the Clerk has the emails, the individuals do not have to retain the documents, the Clerk does.

NEW BUSINESS**DISCUSSION AND CONSIDERATION OF RESOLUTION FOR THE RENEWAL OF LIQUOR LICENSE #1902-33-012-007 IN THE NAME OF RAY C. INC. T/A RAY'S INN FOR THE 2009/2010 PERIOD**

Ms. Phoebus has recused herself from this discussion and stepped down from the dais. Attorney Semrau explained that this is an application for renewal for license. He stated he, Chief Coleman and Clerk Thompson routinely go through the license applications to present to the Township Committee for renewal. This license was timely filed however there was some concerns and issues raised by the Chief of Police so in effect the license is on extension on an Interim permit until September 29 with the ABC. At this point in time he would like to present information relevant to the license by way of having Chief Coleman in a sense testifying. Once the Committee has this information a recommendation will be made as to whether the license should be renewed or whether there should be conditions imposed. Following this discussion, direction would be given to the Attorney and Clerk for a resolution on the next agenda.

Chief Coleman came forward. Attorney Semrau announced though it is not required the licenseholder was provided by certified mail notice that this evening there will be discussion regarding his renewal application. The licenseholder and his attorney are present this evening. Attorney LaVigne appearing on behalf of Ray C. Inc. Attorney Semrau stated he spoke to Mr. LaVigne to advise him again as to what will transpire this evening. He added that it is the licenseholder's burden to demonstrate to the Committee that everything is in satisfactory order for their license to be renewed and it is the Committee's discretion to review the testimony and make a determination in the interest of the Township as to whether or not the license should be renewed or any conditions should be imposed.

Chief Coleman stated he has been Chief of this department going on six years. Attorney Semrau asked if in 2006 the Chief recalled having a discussion regarding this license application, which he replied yes. There were certain conditions and restrictions placed on this application. Attorney Semrau passed out Resolution #R2008-132 pertaining to this particular licenseholder. He asked if it was correct that certain conditions were placed on this license last year. Chief Coleman replied yes. Chief summarized the conditions as they are listed in the Resolution. Chief Coleman testified that these conditions were imposed in 2006 and carried forward in renewal years 2007 and 2008. For the 2006 year there was only one letter Chief Coleman received from Rossi Investigations. There was a requirement that on a bi-monthly basis there would be an outside agency that would submit compliance reports to the Chief's attention. For 2008-2009 license period the applicant did not comply with the restrictions. No compliance reports for 2007 and 2008.

Regarding the cameras by the door and parking area the licenseholder was not in compliance with this condition. Chief Coleman explained that one of his officers went to investigate an incident in the parking lot and he asked to review the video system. He was told the system was inoperable. With respect to the upstairs apartment he believes that condition has been met, the apartment has not been used. Chief Coleman compiled reports of incidents from this establishment and he read them into the record. He then read into the record DWI apprehensions that stated the last drinking establishment was Ray's Inn.

Chief Coleman stated that it is his recommendation that this license be revoked. Attorney Semrau asked if the conditions been complied with from the last Resolution would the Chief have had an opportunity to have some of these instances mitigated. Chief responded yes. Attorney Semrau asked if in the event the Township Committee for perhaps a legal reason feels the license can not be denied or revoked, there are any conditions the Chief would recommend from a public safety standpoint. Chief Coleman stated he feels the live adult entertainment should be removed.

NEW BUSINESS (CONTINUED)**DISCUSSION AND CONSIDERATION OF RESOLUTION FOR THE RENEWAL OF LIQUOR LICENSE #1902-33-012-007 IN THE NAME OF RAY C. INC. T/A RAY'S INN FOR THE 2009/2010 PERIOD**

Mayor Smith asked the Chief why he thinks limiting the entertainment would remediate the situations. Chief Coleman stated the combination of the dancing and alcohol creates most of the issues the police department deals with. Mayor Smith stated that if the dancing were removed there would no longer be an issue with prostitution and drug dealing. Chief responded yes. Mayor Smith asked how the entertainment would be restricted. Attorney Semrau explained that the restriction would be against all adult entertainment.

Mr. Boyce referred to the restriction regarding cameras by the door. It doesn't specify video equipment and he wants to make sure video equipment is what was meant. Chief Coleman stated the video equipment and cameras were installed but never maintained.

Attorney Semrau stated there are pending State violations filed by the ABC that have not yet been disposed of. He also suggested the condition could read "no live entertainment, including but not limited to exotic dancing, nude dancing, near-nude dancing, go-go dancing of any kind upon the licensed premises" as an example. Any restriction imposed could be subject to an appeal.

Mr. Cerasoli said he has been in this location for 17 years and he stated it isn't like he hasn't done anything to prohibit the activities in the establishment. Two months prior to the raid he fired one employee dealing drugs, fired a disc jockey, and a bartender who delivered. He said he has worked with the police department on one case with a biker gang who threatened his safety. One mentioned that the amount of drugs that was confiscated was minuscule. He said he and his brother do their jobs. He wants to run a clean show and not cause trouble for the township. He explained that when you own a bar on a highway you can be victim to any type of illegal activity.

Mr. Walsh asked why he wouldn't change the atmosphere of the bar. Mr. Cerasoli said he would be signing his death warrant. He said if the State and Township find he can no longer hold a liquor license he would be out of business. He can no longer afford to defend himself. He said that he tries not to call the police each time, trying to handle the situation on his own. Mr. Walsh remarked on the Board of Health violations. Mr. Cerasoli stated they found six items to remedy and they did so. The six items then turned into 76 violations.

Mr. Walsh stated there are other establishments with this type of entertainment and they don't have these types of problems, which Mr. Cerasoli took exception to. There was discussion regarding the DWIs coming from his establishment. Mr. Boyce stated there were six that were picked up in Andover Township. He spoke about his attempts to remove keys from inebriated customers and call them a cab.

Attorney Semrau asked Mr. LaVigne to confirm for the record there is a Notice of Charges issued in 2009 by the State of New Jersey, Alcoholic Beverage Control that there are presently pending. Mr. LaVigne stated the charges are pending, his client filed a Not Guilty appearance and requested a hearing. They have requested discovery and have yet to receive it. There are many, many issues.

Mr. Lensak asked if Mr. Cerasoli is truly concerned about his bar, why it took the Health Department to file violations for him to clean the establishment. He outlined the remedies he made to the bar.

Attorney Semrau stated the State is seeking suspension of the license for 750 days and he outlined the options available to the Township Committee.

NEW BUSINESS (CONTINUED)**DISCUSSION AND CONSIDERATION OF RESOLUTION FOR THE RENEWAL OF LIQUOR LICENSE #1902-33-012-007 IN THE NAME OF RAY C. INC. T/A RAY'S INN FOR THE 2009/2010 PERIOD**

Chief's recommendation is a denial which will place the license without permission to operate. The license holder has the option to file an appeal and seek for a temporary order to remain open. He then stated he would have to concur with the State that there may be certain issues right now that the State is prosecuting. With that in mind, the Township Committee may not be able to proceed with a denial. If that is the case, the Township Committee would be looking at restrictions.

Mr. Boyce stated it is a tough decision, he is not looking to put anyone out of business but he thinks it is obvious we can not continue to allow this business to do what they are doing. He is not sure the owners would want to either. In looking for what is best for the residents of Andover Township he recommended approving with the restriction that no longer we would allow adult entertainment. He thought about not renewing the license but until the ABC has ruled on that he does not think we can.

Mr. Walsh stated his first impulse would be to reject the license renewal, but in agreeing with Mr. Boyce we need to wait for the ABC to make their decision. He also recommends very strong restrictions.

Mayor Smith asked since there is an issue with the ABC action; he asked if something can be done temporarily to postpone a permanent decision. Attorney Semrau stated this is a renewal and if you place restrictions as in the past, it is also a test to see if the applicant complies. He said the ABC matter will not be resolved anytime soon based on what Mr. LaVigne said. The town for the decision would expire on midnight September 28. It would then become the State's jurisdiction and lose any discretion in the renewal process.

Mr. Lensak stated in reading the last resolution outlining the conditions, an effort was made for him to remain in operation and obviously these conditions were not adhered to. He agreed with Mr. Boyce and Mr. Walsh, he also does not want to put anyone out of business but with that said, it has to be a good business. He recommended renewing the license with the restrictions.

Mayor Smith stated his own feeling is if we were to restrict what's to assure they would comply with those restrictions because he hadn't complied in the past. His recommendation is to suspend the license. Mr. Boyce stated if we approve with the restriction of no adult entertainment, he assumes a periodic visit by the police department would reveal whether there was a violation of these restrictions. Attorney Semrau stated if there was a violation of the restriction and there would be move for a suspension or revocation of the license. The other restrictions from the prior years are more difficult to monitor. Chief agrees this would be a simply restriction to monitor.

Attorney Semrau will draft a resolution for the Township Committee consideration at the next meeting. Mr. Lensak asked Attorney Semrau that if the Committee members were to have said no to the renewal, that might be a moot point anyway because it depends on the actions of the ABC. Attorney Semrau stated yes. If everything agreed to not renew that may not be a clear cut option at this time.

MUNICIPAL COURT CHANGE FUND Mayor Smith stated a memo was received from Court Administrator Tina Sugar informing the Finance Department that the Change Fund of \$100 has been short by \$40. This discrepancy was noted by Acting Court Clerk Pat Lobar to Ms. Sugar. The Administrative Office of the Courts mandates that this shortage be corrected. CFO Day spoke with Auditor Ray Sarinelli and he advises that the \$40.00 be taken from the Court O/E Budget Line Item. The Township Committee agreed that the funds should be transferred to correct this deficient.

NEW BUSINESS (CONTINUED)

APPOINTMENT OF COAH ADMINISTRATIVE AGENT Ms. Phoebus explained COAH requires that this position needs to be filled in order to receive Substantive Certification. She hopes the Township can be able to convert 10 Market Units to Affordable Units. If there is an existing apartment house in which the owner is willing to deed restrict, COAH rules dictate that the Township has to pay the owner approximately \$20,000 to \$25,000 for low and \$25,000 to \$30,000 for moderate. These funds go towards maintenance of the complex. COAH asks that an agent be appointed to manage this process. The funding is set aside for this purpose. Planner McGroarty recommended and provided a proposal for review by the Township Committee.

Attorney Semrau stated this should not cost the taxpayers anything; this fee is to make sure any transfer of title is effectuated in accordance with Affordable Housing guidelines. Without appropriate administration, when a property is sold the necessary deed restrictions, prices and qualifications of buyers is not made. This proposal is to demonstrate to COAH that if there are those Market to Affordable Units, there will be an administrator who will comply with the necessary requirements. The fee paid to this administrator will come out of the transfer of title.

Mayor Smith questioned the timing of this appointment, calling it premature. COAH is demanding this be done. Mayor Smith stated we constantly comply with these demands, never questioning the sanity of the demands. Ms. Phoebus stated you could question the demands and may decide not to go with those demands and in that case you do not have certification and then there will be a developers' remedy lawsuit. Ms. Phoebus stated that this is what is owed from Rounds 1 and 2, not anticipated growth. Ms. Phoebus gave a brief overview of COAH.

Attorney Semrau asked for a consensus to place this matter on the agenda for the September 28 meeting for Committee consideration. The consensus was unanimous.

PROPOSAL FOR REPAIRS TO THE MEETING ROOM AUDIO SYSTEM Mayor Smith received a proposal \$2,464 from Premier Home Theater which includes rechecking all the audio system wiring, to put in a sound conditioning to overcome the buzzing which has to do with other activity in the building. The quote also includes a wireless microphone and a secure cabinet. CFO Day had given the Clerk a verbal availability of funds for this project.

Mr. Walsh moved to approve accept this proposal subject to a written availability of funds by the CFO, seconded by Mr. Boyce and carried unanimously.

DISCUSSION REGARDING PROPOSED ORDINANCE AMENDMENT CONCERNING PUBLIC REPORTING OF CIVIL JUDGMENTS AND SETTLEMENTS

Attorney Semrau stated the Clerk received a request for consideration of an Ordinance whereby if the Township settles any type of litigation or lawsuit that there would be a resolution and the amount and the terms would be publically announced at the next regular meeting. A copy of the order would be on file as a matter of public record. He stated that the aside from publically announcing the terms, Andover Township has always done a resolution, there is an agreement on file. Some municipalities have taken exception to placing settlements on the record. A recent decision was handed down in May by the Appellate Division saying the agreement is public record. This ordinance request is to codify the action. He stated to publically announce the terms can be done by way of a resolution, so that no one forgets to make a public announcement. This ordinance consideration will be tabled for 2010.

NEW BUSINESS (CONTINUED)**DISCUSSION AND CONSIDERATION OF RIGHT TO FARM ORDINANCE
AMENDMENTS AS RECOMMENDED BY THE COUNTY DIVISION OF PLANNING AND
FARMLAND PRESERVATION**

Ms. Alfano stated she received fax from the Division of Planning and Farmland Preservation regarding the Right to Farm ordinance. They are asking municipalities to update this ordinance and use Fredon Township's as a template. Following a short discussion Attorney Semrau asked if he could have Planner McGroarty review this amendment for Master Plan consistency.

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

Mayor Smith explained this ordinance was amended last year to prohibit retail sales in this zone, the area of Newton-Sparta Road before Drake's Pond. He stated that it was determined that this area was not the appropriate zone for retail. He added to include Retail Sales in this area would be inconsistent with the Master Plan. He said an applicant could always make application to the Land Use Board and ask for a variance.

Mr. Boyce stated this was brought to the Township Committee by Economic Development Chair Rick Melfi because someone was interested in opening a rubber stamp store where the AAA Travel was located. He said he can't see any reason why such a business would not be allowed in this area. He supports a change to allow retail sales in this area. Mayor Smith if you do so it applies to everyone in that zone including the houses behind.

Mr. Lensak stated he sat on the Land Use Board when this change was recommended and made and he is upset to hear that action precluded the rubber stamp store from coming in. He said it is a lesson to him as well as to others as to the ramifications as what an ordinance can do. He stressed how we should all work carefully to make certain we are doing what is right for the Township. He believes the rubber stamp store would have been a good fit for this location.

Mayor Smith stated a change in this ordinance would provide for store after store at this location. He added there is a vehicle for application for a variance and then each case could be reviewed on its own merit. He added that the Master Plan Committee had even stated and believes it is not consistent to have retail in this location. Mr. Boyce remarked he hasn't seen a report from the Master Plan Committee is a really long time. Mayor Smith replied it is because of budget issues. Mr. Walsh stated the Master Plan Committee has spent \$112,000 on this process.

Attorney Semrau stated there was a great deal of input on this ordinance to make this a transition area. It came before the Township Committee for action due to its consistency with the Master Plan. The Economic Development Committee has made a suggestion for the Township Committee to revisit this matter. Following further discussion Attorney Semrau stated he would like to get some feedback from Planner McGroarty on this matter so that we can make sure we are within the goals that they are seeking to achieve. Attorney Semrau added that following his discussion with Mr. McGroarty he would have the Ordinance back on the agenda for the Township Committee's consideration for introduction at the next meeting. This review by Mr. McGroarty will be charged under the Township Committee's budget.

Land Use Board Chair Christodlous stated he believes this is a waste of money because Mr. McGroarty along with the other Planner are the two who recommended this amendment. This area is attached to a residential zone. Mayor Smith added how many residents are going to be discontented by this change and will it affect property values. Attorney Semrau stated in conferring with Mr. McGroarty he will be able to answer these concerns. Ms. de Vries added her opinion regarding this issue.

OTHER BUSINESS**APPROVAL OF RAFFLE LICENSES - NORTHWEST JERSEY READING COUNCIL
TO BE HELD AT FARMSTEAD GOLF & COUNTRY CLUB ON DECEMBER 1, 2009**

- A. R.L. #883 - ON PREMISE 50/50 RAFFLE
- B. R.L. #884 - ON PREMISE MERCHANDISE

Mr. Walsh moved to approve these licenses as presented, seconded by Mr. Lensak and carried unanimously. Roll call vote:

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

COMMITTEE REPORTS

MR. LENSAK. He reported on the Town Hall meeting with the candidates for Governors he attended. The only candidate present was Chris Daggett, the Independent. This meeting was regarding energy and he found it to be a colossal waste of time because none gave a point as to exactly where they stood on any of the issues. They spoke about the coal fire plant in Linden pumping CO2 into the ocean. He said he learned about shale drilling on the Delaware that will be pumping chemicals into the river. The public officials present had no comment on these issues.

He met with officials from Stop the Lines on the PSE&G project. They met with Senator Oroho and Assemblywoman McHose and Chiusano. They said their position was to act as mediators. Nothing transpired to report.

Stop the Lines representatives are in the process of putting together a U-tube video. He saw pictures that are scale drawings and when you put these towers next to a house, the only thing that he can equate it to is a bad Godzilla movie. He stated these towers are humongous. He wanted everyone to visit the site to see this for themselves.

Mr. Lensak stated he received correspondence from Tim White, the public relations officer hired by the Municipal Coalition. They put together a mailing list of affected property owners within 200 feet of the PSE&G right of way. A recommendation was made that each municipality send these letters. Mayor Smith read the letter into the record. The Township Committee agreed to have this letter sent. Mr. Lensak requested that Attorney Semrau review the letter prior to its mailing.

MS. PHOEBUS. She began her report commending the Fire Department for welcoming her as their liaison the past two years. They have made her truly feel at home and she thanked them. She reported on their recent golf outing which was a huge success. They are also planning other events such as the Rib Fest. Tickets will be available shortly. The next meeting of the Economic Development Committee is scheduled for this Friday.

She then reported briefly on COAH with a copy of a publication in a recent newspaper entitled "COAH is a four letter word in the suburbs. She read the paragraph about Bloomingdale and the Builders' Remedy lawsuit which they fought and lost. She remarked that Bloomingdale is a Highlands protected municipality. She informed everyone don't believe it can't happen here, don't think you can preserve your properties by environmental preservation because if you do not meet your COAH obligation, you will be open to such litigation. She provided a short dissertation on the COAH communications with Raymond Joseph from the State.

COMMITTEE REPORTS: (CONTINUED)

MR. BOYCE. He reported the Board of Education will be meeting tomorrow evening at 7:00 p.m. They will have a training session on School Ethics. He reported on his regular communication with Superintendent Bernie Baggs regarding cooperation and communication between the School Board and this Committee. He will meet with him again on Wednesday and they have talked about setting up a Joint Work Shop in perhaps the School Library at Long Pond School. He asked if anyone agrees to such a meeting to discuss common issues.

Mayor Smith requested a better definition of the meeting's agenda, specifically of the goals and thoughts would be. Mr. Walsh, Mr. Lensak and Ms. Phoebus agreed this meeting would be a good idea. Ms. Phoebus stated she spoke to an educator over the weekend about COAH and its impact on the school system, including Newton and Green. She feels we need to foster good communication because eventually this will be built and there will be an impact.

Mr. Boyce stated he will speak with Mr. Baggs again, they will agree on an agenda and pick a time when we all interested can meet. Mayor Smith stated he had conversations with Mr. Baggs in the past on the same topic and his impression was what could the Township do for the School Board and that should not be the topic.

MR. WALSH. He reported the Hillside skating rink and basketball courts needed some warranty work. He stated the rink was closed for a few days. Mr. Walsh remarked that a few years ago when he played ball on these fields they were like concrete. When he played recently with the Fire Department he said it's like playing on Yankee Stadium. He applauded the Road Department for doing a fine job manicuring the field.

He then reported that the Recreation Committee has their Senior Luncheon this Sunday at 1:00 p.m. There is a Halloween Costume Parade scheduled on October 31. The Teen Dance is November 13 and the Bus Trip to New York City is December 5. The Children's Holiday Party is December 6 and the Adult Party is scheduled for December 11.

Reporting on the Finance Committee, Mr. Walsh stated they have begun working on next year's budget, which is beginning to look a bit scary. The 2009 Budget was tough but next year may prove to be a bit tougher.

The Board of Health meeting is this Wednesday.

MAYOR SMITH. He reported that you do not have to be a member of the Senior Club to participate, simply 55 or older will qualify you. Reservations are recommended. He added that the Recreation Committee does a phenomenal job with this luncheon and the food is really delicious. There is also a sing-along scheduled for entertainment.

He reported on Open Space stating there has been a lot of activity of the acquisition that they have been involved with. They thought it was a good idea to reach out to Lafayette since they have the adjoining property to Andover's which is the sister project. There was a meeting with officials from Lafayette and Sandy Urgo from the New Jersey Land Conservancy. They discussed how the two towns can cooperate so there is no duplication of efforts. Conservations with them will continue.

COMMITTEE REPORTS: (CONTINUED)

MAYOR SMITH. On September 24th there will be a final presentation before the County where a portion of the funding will be coming from. Additional funding would come from the Green Acres grant and the local Open Space Trust Fund. They walked the property and it appears the County is quite favorable and based on the questions they asked, there seem to be no show-stoppers.

Mayor Smith did receive a question from a taxpayer asking how much will be lost on the tax roles by deeding this property Open Space. He stated the current tax is \$1,648.00 a year.

He stated Elizabethtown Gas contacted us informing us of their intention in increasing the gas supply line by connecting at Mulford and O'Brien and proceed down to Limecrest Road, travel along into the Borough. It will require a permit for the piece within our borders that is not County. He believes this is a good venture for the township. Attorney Semrau stated the Township does have rights to object if there are any concerns. Mayor Smith stated that spoke about three to four weeks of disruption while they place the pipes.

He mentioned the Mayor's e-newsletter which goes out every Friday and if anyone wishes to receive these emails, they should contact him.

REPORT FROM THE TOWNSHIP ADMINISTRATOR Due to the fact that Administrator Alfano she asked if Mayor Smith will read it into the record on her behalf. He stated most topics had been covered with the exception of the following:

She asked Attorney Semrau to look into the random drug testing for employees who drive municipal vehicles or their own on town time. Mr. Boyce stated part of her report references employees showing an interest in attending the League convention. It was decided that no one would attend unless they are willing to pay their own way. Some employees asked if they could go if there is money available in their education line items. She mentioned that DPW and Court are two that had asked and both would receive CEU credits. Mr. Walsh stated that the DPW does have funds for education because of his license and certification. Regarding the Court Administrator, she is not certified and does not receive CEUs. Ms. Phoebus stated she will attend on her own. They agreed the Clerk should attend for her CEUs. Mr. Boyce agreed that if people want to pay their way in light of the township's financial situation. It was decided that Clerk and DPW Supervisor attend.

Her report also included that Rolling Hills Condominium Association has been requesting a meeting with the Administrator, Attorney and DPW Supervisor because there is no contract in place and they want to know who is responsible for road maintenance. The meeting is scheduled for September 30th at 2:30.

REPORT FROM THE MUNICIPAL ATTORNEY He reported on the COAH Committee meeting earlier this evening discussing the various issues with respect to the Third Round Plan. A follow meeting date has been set. They also discussed where they are with the due diligence with respect to St. Paul's Abbey. They are working through information they received that will be shared with the Township Committee and representatives from the Abbey as they continue to proceed. He then outlined the outstanding matters from the Executive Session that need to be discussed in a second session this evening.

NEXT SCHEDULED MEETINGS: September 28, 2009
October 26, 2009

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

EXECUTIVE SESSION: Mr. Walsh moved to go into Executive Session, seconded by Ms. Phoebus. Attorney Semrau stated that formal action will be taken after Executive Session. The motion was carried unanimously to discuss the following items.

Personnel Matters:

1. ***J. Alfano, Township Administrator - Contract Negotiations***
4. ***L. Paolucci, Land Use Board Secretary***

Contract Negotiations:

1. ***COAH Update***

There will be continued discussion regarding the due diligence process.

2. ***St. Paul's Abbey Due Diligence***

There will be discussion regarding the Request for Proposals to Build and Manage a COAH facility.

Attorney-Client Privilege:

Potential Litigation

Pending Litigation

(See Insert Attached to These Minutes)

The Committee went into executive session at 10:29 P.M.

RECESS WAS CALLED AT THIS TIME

EXECUTIVE SESSION RESUMED AT 10:40 P.M.

Ms. Phoebus moved to adjourn executive session at 11:15 P.M., seconded by Mayor Smith and carried unanimously.

Mayor Smith stated that two issues were discussed in executive session just concluded one of which was a personnel I issue with Linda Paolucci and the other was a contract issue with Township Administrator, Jayme Alfano. He then turned the meeting over to Township Attorney, Fred Semrau.

Attorney Semrau stated that the Administrator and the Township Committee had some discussions under contract negotiations and have reached an agreement subject to formal action and consideration by the Mayor and Township Committee. Attorney Semrau further stated that it is his understanding that the agreement calls for the Administrator electing to resign effective December 1, 2009. She will stay on board with the township until such date. Material terms are that she will then be compensated for just under two months pay and will receive payment for her unused vacation and sick time effective December 1, 2009. She may seek other employment during such time that she is employed with the township and if something were to change she would have to give the township two week's notice otherwise the township would expect her to remain in her position as Administrator until December 1, 2009.

Those are the material terms of the agreement that is before the Township Committee for consideration. Mr. Semrau further stated that it is his understanding that the Administrator has agreed to such terms. Mr. Semrau placed before the Committee a resolution of the Township of Andover accepting the resignation of Jayme Alfano and authorizing the execution of a separation agreement with terms just outlined which the Committee and Ms. Alfano have discussed.

RESOLUTION

#R2009-154 RESOLUTION OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY ACCEPTING THE RESIGNATION OF JAYME ALFANO AND AUTHORIZING A SEPARATION AGREEMENT

The resolution effectively states that her resignation is for December 1st and the Mayor will be authorized to execute a separation agreement based on the terms he just summarized. The Clerk has listed this as resolution 2009-154. The attorney at this time read the resolution into the record.

After the reading of the resolution, Mayor Smith asked for a motion to adopt Resolution 2009-154. Tom Walsh made the motion, Phil Boyce seconded the motion.

Roll call vote - Boyce, Lensak, Phoebus, Walsh voted yes, Mayor Smith voted no stating that he wants to go down on the record that he does not want to see her go.

(See Insert Attached to These Minutes)

ADJOURNMENT No further business appearing before the Committee at this time, Mr. Walsh moved the meeting be adjourned at 11:19 P.M., seconded by Mr. Boyce and carried unanimously.

Respectfully submitted,

Robert O. Smith, Mayor

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

EXECUTIVE SESSION

Personnel Matters:

1. **J. Alfano.** Ms. Alfano was RICED and had requested Executive Session discussion.
2. **J. Cutler.** Mr. Cutler was RICED and he requested Executive Session discussion. This discussion is regarding the Personnel Matter concerning Karen Reed and either the elimination of her position or the possible reduction of staff hours for his office. Mr. Cutler will be present.
3. **K. Reed.** Ms. Reed was RICED and there was discussion on August 10th regarding her positions with the Township and the possibility of reduction of hours or elimination of position. This is a continuation of that discussion and the request to hear from her immediate supervisor Mr. Cutler. Ms. Reed was RICED and she requested Executive Session. She will be present.
4. **L. Paolucci.** Ms. Paolucci has been RICED and requested closed session. There will be discussion regarding the title of Department Head and issues surrounding her last performance review. This is also a continuation of the discussion held at the August 10th meeting.
5. **Shauna Tillotson.** Ms. Tillotson has been RICED. She has requested closed session and will be present. Her position as a temporary Clerk-Typist has expired September 2nd. The Township Committee discussed in March the possibility of making this position permanent part time at 25 hours per week.
6. **Tim Day.** Mr. Day has been RICED and he has requested closed session and will be present. Attached to his RICE is a breakdown regarding the banking deposits' current procedure and proposed procedure in which he outlines the benefits.

Contract Negotiations:

1. **COAH UPDATE.** The Request for Proposals for St. Paul's Abbey was set to be received on September 9th by 4:00 p.m. There will be discussion regarding this project and its due diligence in addition to the Rannou project which is before the Land Use Board. This application was tabled from the September 1st meeting to October 6th.
2. **ST. PAUL'S ABBEY.**

Potential Litigation:

Pending Litigation:

TOWNSHIP OF ANDOVER

MOTION FOR EXECUTIVE SESSION

BE IT RESOLVED by the Township Committee of the Township of Andover on the 14th day of September, 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. ***COAH Update***
- 2. ***St. Paul's Abbey - Receipt of Proposals***

Attorney-Client Privilege:

Potential Litigation

Pending Litigation

(X) a. (8) Personnel matters.

- 1. ***J. Alfano, Township Administrator - Contract Negotiations***
- 2. ***J. Cutler, Construction Official/Zoning Officer***
- 3. ***K. Reed, Animal Control Officer/Assistant to Tax & Construction***
- 4. ***L. Paolucci, Land Use Board Secretary***
- 5. ***Sauna Tillotson, Temporary Clerk-Typist for the Municipal Court***
- 6. ***Tim Day, Chief Financial Officer***

() 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: September 14, 2009

Moved:

Seconded:

Voted Aye:

Voted Nay: None

Abstained:

Resolution adopted. September 14, 2009
