

## ANDOVER TOWNSHIP COMMITTEE MEETING MINUTES

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

APRIL 26, 2010

EXECUTIVE SESSION – 6:30 P.M.

REGULAR MEETING – 7:00 P.M.

The regular meeting of the Andover Township Committee was called to order at 6:30 P.M. by Mayor Walsh, followed by a salute to the flag.

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

**A MOMENT OF SILENCE IN HONOR AND MEMORY OF  
POLICE OFFICER BRIAN KERN  
OF THE ANDOVER TOWNSHIP POLICE DEPARTMENT**

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

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

**Personnel Matters:**

1. ***R. Smith, Police Sergeant***
2. ***Police Department Staffing***

**Contract Negotiations:**

1. ***Life Care Mews***

**Attorney-Client Privilege:**

**Potential Litigation**

**Pending Litigation**

And was carried unanimously. Mayor Walsh asked that the Executive Session be amended to include under Contract Negotiations: P. Coleman, Chief of Police. Ms. Phoebus moved to approve the Executive Session as amended, seconded by Mr. Smith and carried unanimously.  
(See Insert Attached to These Minutes)

The Committee went into executive session at 6:31 P.M. Mr. Lensak moved to adjourn executive session at 7:08 P.M., seconded by Ms. Phoebus and carried unanimously.

## REGULAR MEETING

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

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

**\*CONSENT AGENDA:**

**\*OTHER BUSINESS:**

**APPROVAL OF VOUCHERS FOR PAYMENT**

**\*RESOLUTIONS:**

**#R2010-78 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY AUTHORIZING THE CANCELLATION OF OUTSTANDING CHECKS**

**#R2010-79 RESOLUTION OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY TO CANCEL CAPITAL APPROPRIATION BALANCES - \$67,384.58**

**#R2010-80 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY ENDORSING THE SUBMISSION OF THE 2009 RECYCLING TONNAGE GRANT APPLICATION TO THE NJ DEPARTMENT OF ENVIRONMENTAL PROTECTION**

(See Inserts Attached to These Minutes)

**\*APPROVAL OF MINUTES**

**MARCH 29, 2010 REGULAR MEETING**

**REGULAR AGENDA**

**OPEN TO THE PUBLIC** Diane Gillespie of Andover-Mohawk Road asked when the municipal budget will be available to the public. Mayor Walsh replied after the introduction copies will be made available to the public.

Stan Christodlous of Wisteria Road asked if the public will have an opportunity once the budget is introduced and before the budget's approval to review it and raise questions. Mayor Walsh said absolutely, the public hearing will be scheduled for June 14<sup>th</sup> with plenty of time for questions and answers.

**ORDINANCES: INTRODUCTION**

**NO. 2010-06 TO EXCEED CAP BANK FOR CALENDAR YEAR 2010**

***“AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX, AND STATE OF NEW JERSEY TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK FOR THE CALENDAR YEAR 2010 PURSUANT TO N.J.S.A. 40A:4-45.14”***

**BE IT RESOLVED** by the Mayor and Committee of the Township of Andover, that Ordinance #2009-06, entitled as above, be passed on first reading, to be published in the New Jersey Herald and the public hearing to be held on June 14, 2010 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. Smith – yes  |
| Mayor Walsh – yes |                  |

**NO. 2010-07 BOND ORDINANCE**

***“BOND ORDINANCE PROVIDING FOR VARIOUS CAPITAL IMPROVEMENTS OF THE TOWNSHIP OF ANDOVER, IN THE COUNTY OF SUSSEX, NEW JERSEY, APPROPRIATING THE AGGREGATE AMOUNT OF \$629,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$447,550 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COST THEREOF”***

**BE IT RESOLVED** by the Mayor and Committee of the Township of Andover, that Ordinance #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 May 10, 2010 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. Smith – yes  |
| Mayor Walsh – yes |                  |

**RESOLUTIONS**

**#R2010-81 A RESOLUTION OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY IN OPPOSITION TO SENATE BILL 458**

Mayor Smith explained there is a public referendum being introduced suggesting that the functions of the tax collector, tax assessor, animal control and health officer be consolidated into a shared service. This resolution opposes that action. He stated that he does not want to be in a position of opposing a public referendum.

Mayor Walsh asked for a motion to adopt this resolution. There was no motion and therefore the resolution cannot be addressed and it dies.

**RESOLUTIONS (CONTINUED)****#R2010-82 RESOLUTION OF THE ANDOVER TOWNSHIP COMMITTEE TO  
INTRODUCE THE 2010 MUNICIPAL BUDGET AS PRESENTED**

Ms. Phoebus moved to adopt this resolution, seconded by Mr. Lensak. Mayor Walsh explained the tax increase will be 1.2 cents meaning that a home assessed at \$250,000 will be a \$30 a year increase. He stated that they asked the bargaining units for a pay freeze and they did one better by offering give-backs. The police department gave back over \$40,000, the DPW over \$20,000 and the dispatchers were in the neighborhood of \$9,000. He thanked all the bargaining units for their efforts. Mayor Walsh said everyone worked very hard on this budget and we didn't have to tap into the reserves.

CFO Day was present and he explained the expenditures on this budget were down as well as revenues. He said this was one of the most difficult budgets we have had in a long time. He spoke about the reduction in State Aid. Mr. Smith asked what is the proposed percentage increase for non-contractual employees. He replied that amount is 1.5%. Mayor Walsh explained that increase was given to those employees not covered by a contract to offset the health benefits costs by them effective this year. This was done in an attempt to keep things even and be fair to all employees. Mr. Boyce stated the non-contractual employees should also be commended for foregoing a cost of living increase in addition to dealing with staff cuts which have created additional responsibilities to the remaining staff.

Mr. Smith asked if we could find \$66,000, there would be a zero increase. That is correct. CFO Day stated this budget is very tight the way it is presented. Mr. Smith asked about the Capital Budget and there is \$41,000 there. Mr. Boyce remarked on steps the Township Committee took in combing the Administrator and Clerk positions and by doing so there is a recognized savings of \$80,000.

Mr. Lensak questioned the interest rate stating the lower rate is based on what we received in 2009 not what is anticipated. There will be more money coming in for 2010 but we just cannot put that in the budget. You can only budget what was received in the prior year. Mr. Lensak stated that it appears we are going to get about \$25,000 more in 2010.

Mayor Walsh stated he spoke to the auditor about a zero increase and his belief is that we would be foolish to do a flat budget. CFO Day agreed by saying this move negatively affects surplus and it is harder in the coming years to increase the expenditures because of the spike.

Hearing a motion and second, Mayor Walsh called for a roll call. The motion carried unanimously.

**#R2010-83 RESOLUTION OF THE TOWNSHIP OF ANDOVER, COUNTY  
OF SUSSEX AND STATE OF NEW JERSEY TO ACCEPT THE  
LETTER OF INTENT TO RETIRE FROM CHIEF OF POLICE  
PHILLIP A. COLEMAN EFFECTIVE APRIL 30, 2010**

Mr. Smith moved to adopt the foregoing resolution, seconded by Mr. Boyce. Attorney Semrau explained that the copy of the agreement before the Committee does not include the language regarding him retaining possession of his duty weapon pursuant to the agreement signed May 24, 2005. He added that the Committee would look into certain language regarding health benefits with labor counsel. All the other terms of compensation have been reviewed by the CFO as well as Chief Coleman on the administration. Mayor Walsh read Chief Coleman's letter of retirement into the record. A round of applause followed.

Following the motion and second, Mayor Walsh asked for a roll call and this motion was carried unanimously.

(See Inserts Attached to These Minutes)

**ORDINANCES: PUBLIC HEARING****NO. 2010-04 BOND ORDINANCE – SOLAR PROJECT**

***“BOND ORDINANCE PROVIDING FOR THE SOLAR PHOTOVOLTAIC) PROJECT IN AND BY THE TOWNSHIP OF ANDOVER, IN THE COUNTY OF SUSSEX, NEW JERSEY, APPROPRIATING \$250,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$237,500 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COST THEREOF”***

Ms. Phoebus moved to open the public hearing, seconded by Mr. Boyce and carried unanimously.

Diane Gillespie of Andover-Mohawk Road asked Mr. Lensak to explain what this project is all about. She added that reading what she has regarding the amount of grants available for solar technology, she is very surprised to see the amount of money that we have to expend on this. He replied that the DPW building has a south facing roof, 12 degrees off of perfect. The roof is enough to do a 32 kilowatt system which would be enough electricity for the DPW building and the town hall. He said they reviewed a lot of the grants and many have been cut. They did look at all options. He explained that if you use grants, we gave up certain flexibility. They figured a 7% bond which it will much less at 2%, but even at 7%, with the energy savings and solar renewal energy credits (srecs) which we will get from the State, we will be operating in the black the very first year and paying it off in 7 years. If we take that equation and use 2%, it will mean a quicker payback. There is no downside for us funding the project ourselves. After 5 to 6 years, all that money will come in as revenue.

Ms. Gillespie asked if we receive extra funding from this project, can we use this money to pay down the debt. Attorney Semrau explained we cannot because this is a bond ordinance and you have to make a certain conditions. There will be contract with the provider and the actual construction of the project. There will be ways that the Committee can keep tabs on where the dollars are going. Due to the fact that this is a bond ordinance so it has to be dedicated for specific purpose. All future Committees will have the option to say where did that money go and do we want to pay it off early. Mr. Lensak suggested that if there is extras money coming in perhaps it can be used to fund the next solar project having one feed off the last. By doing this we could be a zero net impact town.

Mr. Smith said that Mr. Lensak indicated that if we had an excess production we would not be credited for that. He asked Mr. Lensak if on sunny days do we not get credit for the excess that is applied to those days were there is less production. Mr. Lensak explained that way the State sets up the srecs credits, we cannot become a manufacturer of electricity and sell it. It is set up were up put an array that it used and if we put up a larger array, we own multiple buildings and even though the array is not on the school, what we produce, we want a credit at the school. The system is based on an average of what we are going to produce for these two buildings. Mr. Smith added that with the payback, this seems to be a no-brainer.

Ms. Phoebus moved to close the public hearing, 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 March 29, 2010, 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. Boyce. Roll call vote:

Mr. Boyce – yes

Mr. Lensak – yes

Ms. Phoebus – yes

Mr. Smith – yes

Mayor Walsh – yes

**ORDINANCES: PUBLIC HEARING (CONTINUED)****NO. 2010-05 TO AMEND CHAPTER 190 "ZONING"  
GENERAL INDUSTRIAL ZONE DISTRICT*****"AN ORDINANCE AMENDING CHAPTER 190 ENTITLED  
"ZONING" OF THE TOWNSHIP OF ANDOVER, COUNTY  
OF SUSSEX, STATE OF NEW JERSEY TO ESTABLISH A  
NEW ZONE DISTRICT TO BE KNOWN AS THE "GENERAL  
INDUSTRIAL" ZONE DISTRICT AND TO REVISE CERTAIN  
DEVELOPMENT STANDARDS IN CHAPTER 131 ENTITLED  
"SITE PLAN REVIEW" AND IN CHAPTER 190 IN REGARD  
TO THE NEW GENERAL INDUSTRIAL ZONE DISTRICT"***

Ms. Phoebus indicated that she has recused from this hearing and has left the meeting room for this discussion. Mr. Smith moved to open the public hearing, seconded by Mr. Lensak and carried unanimously.

Mayor Walsh stated those interested in making a comment to come forward and give their name and address. After they have completed the comment period, Planner McGroarty will be given the floor to answer any questions. Mr. McGroarty at this time provided a short overview of this ordinance and the public hearing process.

The public hearing began at 7:49 PM with an overview by Planner Chuck McGroarty. He stated the new district would allow the same uses that the Industrial District today allows. What this ordinance would do is introduce a new category, a conditional use and therefore would have to meet certain specific performance standards. This conditional use would be to allow concrete and asphalt product and production facilities. The standards to be established minimum tract of 20 acres.

There would be very specific setbacks for the principal building, 300 feet from the street and 200 feet from other side and rear lines. The principal building would have a maximum height of 75 feet, accessory buildings/structures are proposed at 125 feet and those structures would not be permitted in a front yard setback and they would have a two and half times the height requirement for a setbacks to either side or rear lot lines. The site coverage would be limited to 15% and the maximum perfuse coverage would be limited to 40%. Those standards are lower than the current industrial zone district.

This ordinance would also require various specific buffer standards. There would be no activity permitted within 50 feet of the front lot line and the first 40 feet in depth would have to be landscaped, according to the ordinance standards that have been introduced. There are currently no buffer standards in today's ordinance. It would require a combination of existing and new landscaping and topographic changes in the like in order to shield any activities such as outdoor storage that would not be permitted within 50 feet of the front lot line.

As asked by Mr. Boyce, Mr. McGroarty stated these properties are on Limecrest Road and they are in the vicinity of the quarry. He then indicated on the maps where the affected properties are located.

Mr. Boyce then stated that this area is a confluence of three towns, Sparta, Lafayette and Andover. He asked if the property that adjoins Andover, are they also zoned industrial in that area. Mr. McGroarty stated the property in Lafayette is zoned for a quarrying type of use. The property in Sparta is low-density residential but that even the quarry itself is zoned that way, which of course is a pre-existing condition.

The discussion has now been opened to the public, at 7:58 PM.

**ORDINANCES: PUBLIC HEARING (CONTINUED)****NO. 2010-05 TO AMEND CHAPTER 190 "ZONING"**  
**GENERAL INDUSTRIAL ZONE DISTRICT**

Stan Christdlous of 6 Wisteria Road stated that he feels this is a bad ordinance. He asked why we would have an ordinance that revalidates our height ordinance only for this one kind of operation. Mr. McGroarty answered that the height in this case recognizes a different type of use, which would be permitted, but only as a conditional use. If the township feels it wishes to allow the option to have these type of uses in the township, then it doesn't make sense to create zoning which would be incompatible with the operations itself. If we are going to allow concrete or asphalt plants, you do have to recognize what the industry standards are. He added that they try to design the ordinance to enhance the setbacks as earlier mentioned. But if we are going to keep it at the 30 or 45 foot height, it will not work and therefore no sense in doing it.

Mr. Christdlous stated he doesn't believe the issue is whether this area should be zoned industrial, it is whether it should allow heavy industry. He added that perhaps we should have some kind of ordinance that prevents 24 hour a day/seven day a week operations. He asked if it would be possible to add a prohibition on 24/7. Attorney Semrau reminded Mr. Christdlous, this is not the application for any kind of plant and at the time of an application for development, the Land Use Board can and may impose hours of operation restrictions. Mr. Christdlous asked if the Township Committee for just this ordinance would include a 24/7 operation prohibition.

Mr. McGroarty stated that in the ordinances today, some ordinances have restrictions like this and some leave that issue to the general police power in town. He said he has seen ordinances with controls in them, but he would have to defer to counsel for their thoughts. Attorney Semrau stated to put a label on an ordinance for hours of operation without understanding what it would entail and what certain hours are preferable to anyone that is impacted, the Land Use Board can do that if there is an application. It can be a certain condition for approval, which would give the opportunity for residents that are in any way concerned to be heard, an opportunity for the applicant to explain how in fact that actual application could or could not impact them and what the intensity of the use would be.

Mr. Smith asked if the Land Use Board impose any restriction that is not supported by law. Attorney Semrau stated that with respect to the hours of operation he believes the Land Use Board can make restrictions as a condition of approval. The ordinance is silent on this topic. Mr. Semrau stated that the Land Use Board can make hours of operation a condition of approval as they can with many other items for many different applications. He has seen conditions listed for pages in a resolution.

Mr. Christdlous then asked if this is a good ordinance why was not it recommended by the Planner prior to it being recommended by an applicant. Mr. Christdlous stated that this was started because Cambridge Pavers asked for an ordinance amendment. Attorney Semrau added that anyone can ask for a zoning change.

Louis Coppolino of Macintosh Drive spoke of the property in question as a place where he used to fish and he stated it has all been back-filled by the quarry and because of that, nothing should be built on that site. He said people in this town do not want to look at 16 silos at 125 feet high. Mr. McGroarty said he did not say that because there is no site plan filed. He doesn't know how many silos there may be. Mr. Coppolino said there was a concrete plant in this town years ago and we got rid of it because it was a big problem.

Mayor Walsh asked Mr. McGroarty if the silos can be lower and he responded yes we can. There was some concern about them, and he believes 110 feet would probably work. Attorney Semrau suggested waiting until the end of the public hearing to discuss if there is a way to do this in the ordinance.

Mr. Coppolino said this idea would be a bad thing for the town. He suggested senior housing instead because we would not have to worry about increasing the school size.

**ORDINANCES: PUBLIC HEARING (CONTINUED)****NO. 2010-05 TO AMEND CHAPTER 190 "ZONING"  
GENERAL INDUSTRIAL ZONE DISTRICT**

Anthony Massaro of Current Drive stated that this zoning change was made to accommodate Cambridge Pavers and he added that it is obvious it is spot zoning. He spoke about the Riverbank-Sparta project, which was proposed to run 24/7, and we were opposed to this. He said that it appears this operation would be similar. He spoke about the concrete plant operation itself. He suggested that this company should come in for a variance application.

Bill Stern of Sparta stated no one has said anything about sound. He lives behind the quarry and when the jack brake goes on you can wake you out of your sleep. He said it is not fair. He added he attended a meeting in Andover months ago and he said the board agreed against this project. He said he does not understand the change. Mayor Walsh stated he believes Mr. Stern is confusing us with the Land Use Board meeting. Mr. McGroarty stated the town has an ordinance and there are State sound standards.

Mr. Boyce stated he lives very close to Limecrest Road and he has the same concern regarding sound. He said if an application were to come to the Land Use Board, he believes the Board can say they want the trucks to turn left to Route 15 and exit the back way out of town. Mr. Stern said this travels past his house. Mr. Boyce stated he has to worry about the residents of Andover first.

Mr. Stern asked if notification could be extended beyond the 200 foot requirement because there are no homes that close to the property. Mayor Walsh asked if he was notified when Sparta put in the asphalt or concrete plant in the same area. Mr. Stern wasn't aware of this. Mayor Walsh replied it was done the past couple of months. Mr. Boyce added it is a great idea to notify as many as possible but the newspapers have done a great job publicizing this and if an application comes forth, the Land Use Board will also do their job notifying any kind of public hearing.

Eunice Howley of Cherokee Road opposes the ordinance and she thought Andover Township has a rule against asphalt plants. Mr. McGroarty states this ordinance would permit concrete and asphalt products and production. Today's ordinance does have a prohibition against these plants and crushers. Zoning is meant to change and what was done here follows the correct procedures are that there is a foundation established in the Master Plan by way of this amendment. This creates the basis for an ordinance change and it must be consistent with the Master Plan. There was a decision in 1962 by that Committee that this type of use was desirable. At some point they changed their minds. She also questioned the truck traffic and hours of operation. Mr. McGroarty reiterated that there is no application at this time to be heard. With regard to truck traffic, Limecrest Road is a collector road that is designed to draw traffic from the local streets and channel it.

There were comments regarding the amount of ratable a concrete plant would bring in. Mayor Walsh explained that if a plant were to go in that location and brought in \$500,000 in taxes, 25% would come to the municipality, 50% would go to schools and 25% would go to the County.

Several residents questioned the possible 24/7 operation and Mayor Walsh made it clear that this ordinance is not allowing that type of operation but only rezoning that area. Mayor Walsh added that if an applicant came in today with our existing ordinance, without a variance, they could put in warehousing and they could ask for 24/7. That does not mean the Land Use Board will grant that.

Teresa Grady of Macintosh Drive asked about possible air pollution from the concrete and asphalt. Mr. McGroarty stated he has looked into it and the DEP has stringent air quality standards as they do stormwater controls. There is a very specific permit that is required for concrete for these plants. Any applicant would have to demonstrate to the Land Use Board and be subject to the DEP to State standards.



**ORDINANCES: PUBLIC HEARING (CONTINUED)****NO. 2010-05 TO AMEND CHAPTER 190 "ZONING"**  
**GENERAL INDUSTRIAL ZONE DISTRICT**

A Sparta resident stated it seems to him that the Planner had the opportunity to know exactly what the potential applicant needed to make a commitment to Andover Township. Mr. Boyce said a ratable is probably the number one motivating factor that any town would look at to make an ordinance change. He stated you do have to consider all the negative impacts but have to consider the benefits as well. We have lost ratable in this municipality so we have to consider any opportunity that comes along that can help our residents. Mr. Semrau added that ratable are valuable but only after proper planning procedures as satisfied.

Mr. Boyce added that we don't have an application before the Township Committee. Attorney Semrau stated this ordinance is to provide proper planning technique. It has been reviewed with respect to the Master Plan reexamination report, it was an amendment to the Land Use Plan Element. This ordinance is so that if there is an application Mr. McGroarty has recommended, based on his review, certain standards in the ordinance so that the Township and its residents are aware and protected with various standards. If it goes to Sparta, this Township has no say as to setbacks.

Mr. Semrau stated that this Committee has taken a pro-active approach by asking Mr. McGroarty to look and develop proper planning techniques. The work that went into this was to develop the appropriate standards and techniques. He visits various plants and did his research then looked at Andover Township as to what would be consistent with the goals and objectives of this town. The Land Use Board agreed. Mr. McGroarty stated that if the town wants this kind of use, there should be proper ordinances in place.

Sean Maroney of Sparta says he finds it hard to believe that as a Committee they looked at the municipality and said we need an asphalt plant. Mr. Boyce replied that is not true. He then asked if Mr. Maroney was aware of an asphalt or concrete plant proposed for Lafayette and Sparta. He replied yes. Mr. Boyce asked if he also protested to those municipalities. He said he did and he also protested Riverbank's proposal as well. Mr. Semrau stated that if something is prohibited and if its not reasonable to prohibit, and there is a place in the Township that is suitable for a particular use, a Court can come in and make a decision for this township and its residents and not go through some of the planning steps that have gone on here. This would give an applicant and property owner much greater rights. This township is trying to go through the proper planning measures and channels.

Mayor Walsh stated the plant is a concrete paver plant and they are involved here, yes they, and have they withdrawn their application, yes they have. He added that he doesn't want to violate someone else's rights and speak about them in a way he may be responsible for later. He stated he has a duty to this town and that is why we are what Mr. Maroney has been calling a cat and mouse game. We have to be responsible to this town. Mr. Boyce added that he does not believe that Sparta prohibits concrete byproducts. Mr. Semrau stated this would make a great argument for anyone who owns property in that area that seeks to develop it. He added to say why is it that all the other communities in this region do permit this but Andover Township prohibits. This is arbitrary and capricious.

Diane Gillespie of Andover-Mohawk Road stated several weeks back the Environmental Commission and the Land Use Board had a joint meeting with the Hydrogeologist to present his report. He had said that the one area in Andover that we should be very careful about developing, concerning water, is this area. She asked if Mr. McGroarty considered those findings. Mr. McGroarty stated he spoke with Mr. Mulhall, and read his report. Mr. Mulhall had said the area by the quarry has a very productive aquifer as opposed to other areas in the township. He added that there was no concern in this particular area for water. The type of pumping is minuscule compared to what's coming out of the quarry today. She suggested getting something in writing from Mr. Mulhall.

**ORDINANCES: PUBLIC HEARING (CONTINUED)****NO. 2010-05 TO AMEND CHAPTER 190 "ZONING"  
GENERAL INDUSTRIAL ZONE DISTRICT**

Ms. Gillespie asked if an asphalt/concrete plant only go on three pieces of property, lots 4.01, 4.02 in block 108 and lot 1 in block 108.01. Mc McGroarty stated that these type of facilities would not be permitted in the other "I" zones. He added that the permitted uses in the "I" zones today remain. In closing, she reiterated her concerns about the hydrology report in that area.

Victor Capo of 23 Victoria-Pines Lane stated he disagrees with opening this Township to asphalt production. He understands the neighboring towns have allowed this but he feels it isn't right for Andover Township. He strongly urged the Township Committee to mitigate this. Mr. Capo then asked a legal question regarding a possible 24/7 operation. Mr. Semrau replied that at this time they would have the right to a 24/7 operation. If there was a condition or restriction of the approval they could challenge that approval. The Township Committee could at a later date, if there is a reasonable basis for it, could adopt its own hours of operation. If the ordinance is silent, it does not preclude the Township, the Committee or the Land Use Board from imposing such restrictions.

Mr. McGroarty then addressed Mr. Capo's questions regarding conditional use standards. He stated the question of setbacks and buffers are regulated and if an applicant deviates from it then the Board has the right to either grant or reject the variance depending on the quality of the rationale offered. He added that this ordinance is silent on the hours of operation because Andover doesn't have any standards for that. The Township can do it independently of zoning or it could be imposed in certain areas.

Mayor Walsh asked the governing body if this ordinance were to go further this evening, would they be agreeable to ask the Planner to look into a possible ordinance to regulate hours of operation. Mr. Semrau added that if the ordinance is silent we might want to look at that with the assistance of the Police Department, Health Department, Land Use Board and Administration. Mr. Semrau suggested if the issue of hours of operation is a concern, the Planner could be directed to look into this and report with some recommendations. Mr. Smith said it is something that needs to be looked into but he doesn't believe it has anything to do with this particular ordinance. There was a consensus for Planner McGroarty to investigate this issue.

Mr. Capo then asked about the outside products storage. Mr. McGroarty stated the product storage outside is not enclosed and that is not to say you can require it. It would be a massive size series of buildings. The current ordinance does have a limit on building area and if there would be a requirement for outside products storage to be enclosed, then the building footprint area would have to be expanded. Mayor Walsh added that particular area has had outside storage for as long as he can remember. Mr. Capo stated now we have the possibility of trucks running at all hours of the day and night causing additional sound to the area.

Mr. Capo stated that he believes, with due respect, this ordinance is inadequate and he urged the governing body to consider some of these points made this evening.

Resident Kathryn Richardson stated she was upset when she read that this ordinance and its research was funded by the paver company. Mr. Boyce explained that the funding was made available through an escrow account, which is common procedure. He explained that Mr. McGroarty was able to do an outstanding review of all our industrial acres and we didn't ask the taxpayers to pay a dime. Mr. Semrau added there is no condition on this. Mr. McGroarty had no instruction as to what to do. The Committee asked for a recommendation to see if something from a planning technique could be developed.

Ms. Richardson recommended going out to other communities where the same type of zoning is and find out what type of impact it has in their area.

**ORDINANCES: PUBLIC HEARING (CONTINUED)****NO. 2010-05 TO AMEND CHAPTER 190 "ZONING"**  
**GENERAL INDUSTRIAL ZONE DISTRICT**

Mayor Walsh replied that he believes that everyone goes through the community and ask questions receiving pros and cons. He said he is always asking people their thoughts and ideas. Ms. Richardson asked for a survey of those who have the most impact to find out if they are even aware of this zoning change. Mr. McGroarty stated it is not uncommon where the entrance and exit points are designed such that the trucks have to turn left in this case. She then requested that someone visit the Lyndhurst plant to check the operations there.

Linda Golonski asked if this piece of property is presently zoned industrial. That is correct. She said this ordinance would change it to general industrial. She said about two years ago there was a problem with cell towers in certain areas, that if you have one, you can never deny another. She asked if there is a rule that this change could someone come in and request a change. Mr. McGroarty stated cell towers are federally regulated and they would show area of service and licensed requirements. Someone would have a difficult time arguing that they should get relief and put a facility like this any were else in town because we already have a zone for it and has decided so its Master Plan.

She then voiced her concern regarding a facility running 24/7. She stated we need to look into the hydrology report but also she wouldn't want this to turn around and if Andover says no, a neighboring town could say yes and we would have no control over the operations. Louis Coppolino stated he spoke to Sparta Township and that they indicated to him they have no interest in this project.

Donna Erem Attorney for Ronald Krueger whose address is Sparta Township. She stated he appeared before the Planning Board regarding the application that had been filed by Cambridge Pavers. Mr. Krueger had stated to the Board that he is the owner of Concrete Stone and Tile which makes stones similar to Cambridge. He appeared before the Planning Board as an expert witness and in the course of his testimony he stated he draws business from South Jersey and New York State. From a business standpoint, he is here because he is concerned about quality of life in this area.

She introduced the Traffic Engineer Shropshire and he has reviewed the site plan for Cambridge Pavers as to what type of traffic would be generated with this kind of use. The second presentation would be from a professional Planner and he will review this ordinance and make some comments. She distributed documentation from both professionals.

Mr. Shropshire made remarks on the Cambridge application concerning noise and traffic. He stated their study showed that during a typical peak hour there would be 153 new trips and of those 52 of those trips would be truck trips. Mayor Walsh wanted to clarify that these numbers also represent trips back and forth from the quarry in addition to trips on Limecrest Road and he agreed. He stated there are 334 trips on Limecrest today with 52 are truck trips. He stated this shows a significant increase of traffic. The quarry has two approvals and the ability to expand without any rezoning.

Mr. Shropshire stated that based on his experience you could do a lot more intensity underneath that building footprint, needing somewhere in the range of 35,000 to 40,000 square feet. They are proposing two. He stated the traffic could increase because you could put more equipment in the square footage permitted. He also mentioned the potential of a change in character of the roadway. He spoke about the truck impacts that he foresees. He spoke about the warning signs along this roadway adding in his opinion it is not built for this type of situation. He also believes at the intersection of Limecrest and Newton-Sparta Road, if there is not a truck restriction in the routing, they will be a need for improvements there.

**ORDINANCES: PUBLIC HEARING (CONTINUED)****NO. 2010-05 TO AMEND CHAPTER 190 "ZONING"**  
**GENERAL INDUSTRIAL ZONE DISTRICT**

In the report that was submitted by Cambridge Pavers, he stated it was clear from the Township consultant that operations between 10PM and 7AM would not meet the noise criteria. The operations should be limited solely for the noise conditions. It has to be 50 decibels at the property line. He stated the hours of operation is also critical for the noise in addition to the plant criteria. Mayor Walsh stated these issues would be before the Land Use Board if and when an application comes in. Mr. Shropshire stated that if you leave it to the Land Use Board and hours of operation are not in there, he doesn't know why they would have to meet a new condition.

Mr. Semrau asked if he performed any kind of traffic study in where vehicles were surveyed and counted. He replied that he reviewed the Cambridge Pavers studies and did not use his own count. Mayor Walsh reiterated that Lentini and Lafayette Asphalt are not in Andover Township and he wanted to make certain Mr. Shropshire was aware of that. Mr. Boyce asked who placed restrictions on those operations, the Land Use Board and he responded yes. Mr. Boyce commented that we have a Land Use Board also.

Mr. McGroarty stated none of those recommendations are points that we would object. He stated he doesn't know if they are essential to make the ordinance work. He added that the Township engineer should take a look at some of the information. The site distance is a function of site plan review and the County will look at that as well.

Mr. Lensak stated he heard that a distribution facility is a permitted use right now. He asked what would be the flow of trucks coming out of distribution versus what the report is showing. Mr. Shropshire stated he didn't study that however, a distribution center is not what is before the governing body. The Township Committee quickly responded there is nothing before them. Mr. Lensak stated Mr. Shropshire's comments were how this production plant would impact the road. He stated how would a distribution center's truck activity impact the road. He replied it would be very similar and therefore it would be prudent to take the same measures.

Mr. Boyce asked since he looked at the approvals for Lentini and the asphalt plant, did they require the trucks to turn in a certain direction. He said they are coming out of an existing access that has no control. He stated there is a site distance problem coming out of the quarry site which he believes is a critical issue and if the idea is that there will be internal trips between the quarry across Limecrest Road, there should certainly be conditions related to improved site distance to accommodate those internal trips. Mr. Boyce said his question was do these trucks have to turn left or right. Mr. Shropshire said he has observed vehicles turning both directions. Mr. Boyce said these trucks will be seen coming into Andover.

Ms. Erem remarked that when those trucks come down the road they are loaded and when they unload and the lift gates bang in the middle of the night. When they are finished dumping their load, they will fly back from where they come from. She said it is not so much traffic as it is the noise and nuisance. Mr. McGroarty stated he has been involved in two applications for a regional distribution facility and they were far from at least in the public perception, denied.

Steve Lyndon professional Planner for Attorney Erem addressed a letter to the Township Committee and the Land Use Board. He stated that the Township Committee should reject this ordinance because he said this is a textbook example of spot zoning rather than in the public interest. He proceeded to explain. He stated there are only two streams classified as c-1 and they are on the Limecrest property. He continued to speak of the environmental impacts of this area including wetlands and streams on the property and he added that the property has also been identified as providing habitat for threatened and endangered species. He said he was also present for the balloon test. Again he commented on this ordinance being spot zoning.

**ORDINANCES: PUBLIC HEARING (CONTINUED)****NO. 2010-05 TO AMEND CHAPTER 190 "ZONING"**  
**GENERAL INDUSTRIAL ZONE DISTRICT**

Attorney Semrau responded to Mr. Lyndon's comment stating he never heard of a re-examination report or a Land Use Plan update being invalid because it is not even the subject of a challenge, that is the opinion of the Land Use Board. He added before there are any further statements he asked Mr. McGroarty to respond to some of the comments regarding spot zoning.

He said the bottom line to spot zoning is ultimately a decision that a court of competent jurisdiction makes. He mentioned case law that goes back to 1956. He referenced a court opinion that read an ordinance enacted to advance the general welfare by means of a comprehensive plan is unobjectionable even if private parties initially purposed the ordinance and these parties are in fact its ultimate beneficiaries. He added the Supreme Court stated it is not spot zoning just because it benefited a particular developer and that developer requested it. The Court went on to cite the fact that it was the outgrowth of a re-examination report and a Master Plan amendment. With regard to the NRI, Mr. McGroarty stated his office wrote that document and he participated. He is very aware of what it says and he said to comments made as to filling in of wetlands, all this is subject to DEP review and approval.

He also stated that the area is a combination of a moonscape and undisturbed areas that probably provide habitat but again they would be areas that would have to be left undisturbed if they are affected by c-1 streams and wetlands.

Attorney Erem asked about the 24/7 restriction and she stated if the Committee would be able to complete that task as quickly as you completed this ordinance. Mr. Semrau commented that when someone says spot zoning you are saying something is illegal and he takes great exception to that. The case law fully supports the actions that have been taken by the Planner, the Land Use Board, and what is before the Committee. The borders of the zone are not being changed and it is the same zone that has existed. He added that Mr. Lyndon was the Planner in Denville and Mr. Semrau stated it probably wouldn't take him long to find a zone change for a lot less than 90 acres. Ms. Erem remarked that a court of law would determine whether this is spot zoning. She said she will have their own case law that will support their position at the appropriate time. She asked for an answer to her question regarding review of the 24/7 operation.

She then stated what the Committee is considering for approval this evening is to accommodate Cambridge Pavers so they can come in with a variance free application. She added in that circumstance they could either do what they did before and come in with a 160,000 square foot building which is an over-engineered building. With that they could put in more production lines and the town wouldn't know anything about until we see the equivalent of 600 truck trips per day double. She then said they could come in with an 80,000 square foot building that would just contain the two machines and there go half the ratables. She also stated they could come in with an application for an 80,000 square foot building in two phases; one production area of 40,000 square feet. The ratable are now down to a quarter of what the town had expected or they could negotiate with another user and that would change even more the environmental concerns that people have. She asked the Township Committee to use their legislative powers wisely and responsibly when deciding what you will do with this ordinance. She said everyone here is very environmentally concerned and this ordinance is not good for anyone here.

Mr. Lensak asked Mr. Krueger what type of protections he offers at his facility for his neighbors. He said he has three locations and the Branchville site is at an industrial location. Mayor Walsh stated that location is actually 50 feet from a nearest house. Mr. Lensak asked as an expert in this field does he believe he pollutes by dust, noise or truck traffic. His response was he has very specific hours of operation so not to offend the neighbors. He stated they went through a lengthy process and they were upset with them so they tailored their facility and scaled back; their expansion is in a different, non-residential area.

**ORDINANCES: PUBLIC HEARING (CONTINUED)****NO. 2010-05 TO AMEND CHAPTER 190 "ZONING"**  
**GENERAL INDUSTRIAL ZONE DISTRICT**

Mr. Smith moved to close the public hearing, 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 March 29, 2010, was advertised according to the law and was brought before the public for final consideration.

Mr. Boyce moved the adoption of the above entitled ordinance, seconded by Mayor Walsh. Mr. Boyce stated his appreciation for everyone attending this evening. He said we have a very good town committee in Andover, a group that works closely together, working hard and doing our homework. He said we have nothing to gain by making our decisions other than trying to do the right thing for our residents. He appreciated everyone expressing their opinion and even those in attendance from Sparta, he cant worry as much for those residents as for Andover residents, he still cares about their concerns.

Mr. Boyce said he has heard very good things about Mr. Krueger and he as a businessman. He pointed out his house is twice as close to this proposed area as his. Someone made a comment earlier this evening, "not in my backyard". Mr. Boyce remarked it is not in his backyard but in his front yard. He said he cant vote on matters because of "nimby". He said he has to vote based on what is best for all residents of Andover Township. He said it pains him to hear some concerns because he has some of the same concerns. He said he and some of his neighbors here tonight sat in the audience for four years because they wanted to protect the rural characteristic of Andover Township and he still does. He said that cant be done if the tax base is collapsing around us. Businesses, schools, townships and his residents are all hurting. We hear it every meeting to please do something to hold our property taxes down. He spoke about the failed school budget.

Mr. Boyce said we have an opportunity tonight to make a change in our ordinance to allow something that many may not be comfortable with but brings a ratable that could be the highest in the history of Andover Township. If this was a \$1 million ratable, the school budget that failed last week may have passed because they could have said, we have a zero increase in taxes. He spoke about the cut in State Aid and the Seniors telling us they cannot afford to live here. He spoke about new businesses opening in the municipality and how a \$27,000 ratable in Lentini's Market was almost loss.

Mr. Boyce then spoke about Sparta's purchase of land around the quarry reservoir a couple of years back. He mentioned the Riverbank-Sparta project and how Sparta was to receive \$5 million a year from hydroelectric power. He then proceeded to tell the history as to how this idea came to be. It was not for someone recruiting it but for them to come to the Township. He believes if we say no tonight, there is interest in this facility and it will be built in that vicinity in Sparta. They will get the ratable and we will get nothing except all the negative impact.

Mr. Smith had no comment.

Mr. Lensak stated this is not an easy job; we analyze everything as to how it impacts the municipality as a whole. He appreciated all concerns. He stated the Land Use Board would be better suited to protect the citizens of this town than to have it go someplace else and we will end up with the noise, dust and we will have no control over it. The Land Use Board can put restrictions on and we will work on the 24/7 issue. He said he came to Andover Township for the same reasons as everyone else. He also mentioned the Riverbank project adding we have the capability to protect our citizens. Mr. Lensak added that he respects everyone on this Board. He said he has not been contacted, spoken to, he has not been tried to be swayed. This comes from our hearts and we will all make our own decisions. He thanked everyone.

**ORDINANCES: PUBLIC HEARING (CONTINUED)****NO. 2010-05 TO AMEND CHAPTER 190 "ZONING"  
GENERAL INDUSTRIAL ZONE DISTRICT**

Mayor Walsh stated he has lived in this town since 1962. He did fish on that property when it was once beautiful, before they starting tearing it down. There were nice ponds back there on that property. If the DEP says this location is not an option, then so be it and nothing gets done there. He said he watched this whole area grow the way it has. Some of the past planning has not been the greatest. This will give us tools to control some of the growth and get a ratable. He stated we are looking out for the benefit of our citizens. We are not here to hurt anyone.

Roll call vote:

Mr. Boyce – yes	Mr. Lensak – yes
Mr. Smith – before voting no, he explained his rationale for the record	Mayor Walsh – yes

Ms. Phoebus came back to the meeting at this time – 10:52PM

**OLD BUSINESS****DISCUSSION REGARDING THE 9-1-1 COUNTY CONSOLIDATION STUDY  
AND PROPOSED RESOLUTION IN SUPPORT**

Mr. Smith moved to table the 9-1-1 discussion, seconded by Mr. Lensak and carried unanimously.

**NEW BUSINESS**

Ms. Phoebus moved to transfer Police Officer George Laoudis from Stillwater Township to Andover Township Police Department, seconded by Mr. Lensak and carried unanimously.

**APPROVAL OF RAFFLE LICENSE**

**RL #912 – Hilltop Country Day School - On Premise 50/50  
Newton Country Club on May 18, 2010**

**RL #913 – Lafayette Amateur Athletics, Inc. – On premise 50/50  
Farmstead Golf & Country Club – May 27, 2010**

**RL #914 – Pass It Along – On premise 50/50  
Farmstead Golf & Country Club – June 30, 2010**

**RL #915 – Pass It Along – On premise merchandise  
Farmstead Golf & Country Club – June 30, 2010**

Mr. Lensak moved to approve the foregoing licenses as presented, seconded by Mr. Smith. Roll call vote:

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

**COMMITTEE REPORTS**

**REPORT FROM THE CLERK/ADMINISTRATOR**

**REPORT FROM THE MUNICIPAL ATTORNEY**

Reports were waived due to the late hour.

**DEFEATED SCHOOL BUDGET DISCUSSION**

A recommendation was made to interview a particular consultant. Mr. Smith stated today he and Ms. Thompson interviewed Matt and Joe Luongo. Joe Luongo has many years of experience in the Board of Education field and he is currently the Superintendent of a large district with a budget of \$24 million. Following a short discussion a recommendation was made to appoint ML Associates subject to certification of funds. Mr. Lensak suggested that 50% of the cost be covered by Andover Borough.

**RESOLUTION:**

**#R2010-84 A 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 MTG MANAGEMENT LLC FOR CONSULTING SERVICES WITH RESPECT TO THE DEFEATED SCHOOL BOARD BUDGET**

Ms. Phoebus moved to approve the foregoing resolution as presented, seconded by Mr. Smith and carried unanimously.  
(See Insert Attached to These Minutes)

Mr. Smith stated there was some discussion regarding Wednesday night's meeting and Mr. Luongo expressed an ability to proceed with that meeting. Mr. Smith wants to confirm that with them. His recommendation was that he and his son meet independently with the Superintendent and Business Administrator before meeting in a public meeting. All agreed with this process.

**NEXT SCHEDULED MEETINGS: May 10, 2010 & May 24, 2010**

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

**ADJOURNMENT** No further business appearing before the Committee at this time, Mr. Smith moved the meeting be adjourned at 11:03 P.M., seconded by Mr. Boyce and carried unanimously.

Respectfully submitted,

\_\_\_\_\_  
Tom Walsh, Mayor

\_\_\_\_\_  
Vita Thompson, R.M.C.  
Clerk/Administrator



**TOWNSHIP OF ANDOVER**

**MOTION FOR EXECUTIVE SESSION**

**BE IT RESOLVED** by the Township Committee of the Township of Andover on the 26<sup>th</sup> day of April 2010, 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. ***Life Care Mews***
- 2. ***P. Coleman, Chief of Police***

**Attorney-Client Privilege:**

**Potential Litigation**

**Pending Litigation**

- ( X ) a. (8) Personnel matters.
  - 1. ***R. Smith, Police Sergeant***
  - 2. ***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: April 26, 2010

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Moved: Phoebus      Seconded: Smith  
Voted Aye: Boyce, Lensak, Phoebus, Smith, Walsh  
Voted Nay: None  
Abstained: None  
Absent: None  
Resolution adopted. April 26, 2010

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