

A REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY WAS HELD ON MONDAY, SEPTEMBER 9th, 2019 AT THE BOROUGH HALL BEGINNING AT 7:00 P.M.

PRESENT: Mayor Morgan, Council Members: Hoag, Smith, Pearson, Figueiredo and Delfing.

ABSENT: Mr. Dennison

The Mayor called the meeting to order with a salute to the flag and in accordance with the Open Public Meetings Act by advertising notice of meeting in the N.J. Herald and posting copy of notice in the Borough Hall.

Tom Ferry – Ferraioli, Wielkocz, Cerullo, & Cuva, PA was present and reviewed the 2018 Audit in detail with the governing body. After his presentation the governing body reviewed and took action on the resolutions and corrective action plan.

MINUTES:

A MOTION was made by Mr. Figueiredo, seconded by Mrs. Delfing to approve the minutes of the meeting held on August 12th, 2019. Upon roll call the following votes were cast: AYES: Pearson, Figueiredo and Delfing. NAYS: None. ABSTAIN: Hoag and Smith. Motion carried.

OFFICIALS REPORTS:

A MOTION was made by Mr. Figueiredo, seconded by Mrs. Delfing to approve the Treasurer's report for April as presented. Upon roll call the following votes were cast: AYES: Hoag, Smith, Pearson, Figueiredo and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

A MOTION was made by Mr. Figueiredo, seconded by Mrs. Delfing to accept the following reports and place on file: ABFD report for August. Upon roll call the following votes were cast: AYES: Hoag, Smith, Pearson, Figueiredo and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

CORRESPONDENCE: The following was presented to the governing body and placed on file:

A letter from Newton Twp re: Action Alliance grant program cash match.

A letter from J. Brazill re: recognizing Mrs. Brothman's help with a Registrar matter.

A letter from NJDOT to Legislators re: Route 206 Bridge Closure and the measures being explored to address the repairs. – a meeting with commissioners took place today to look at alternatives.

AUDIENCE PARTICIPATION:

Cora Figueiredo, age 6 who resides at 36 High Street, requested that the Borough hold another Halloween party in the park. There was a bit of confusion as the Fire Department was considering holding a town party as per the report from Celebrations last month. Colleen Figueiredo, her mother, clarified that she and Jamie Stowe of Brighton Avenue would like to volunteer their time to hold the town party at the park building on 10/25/19. It was revealed at that time that the ABFD will be having a trunk-or-treat hosted by a local business on Halloween and also anticipated doing a town parade and party on Halloween 10/31. Mr. Smith suggested that \$200 be provided toward each of the parties and approval granted to use of the park building on 10/25.

A MOTION was made by Mr. Smith, seconded by Mrs. Delfing to approve \$200 each to both the cost for the 10/25 party in the park building and toward the cost of the party held by the ABFD on 10/31. Upon roll call the following votes were cast: AYES: Hoag, Smith, Pearson, Delfing. NAYS: None. ABSTAIN: Figueiredo. Motion carried.

Mr. Mooney also spoke and reported that the catch basin on Lenape Road across from 42 Lenape is clogged. He reported that the County was working in front of 42 Lenape and thought perhaps the work was related. He also reported that vehicles do not stop at the stop sign at the intersection in front of the Presbyterian Church. He wanted to know what it would take to get a trooper to sit there. It was mentioned that at times police do sit there and that vehicles rolling through that area without stopping is an ongoing problem.

Colleen Figueiredo, of 36 High Street, also reported that mulch is needed in the playground in the park. Mulch is anticipated to be ordered for that area next Spring.

REPORTS OF SPECIAL COMMITTEES: Mr. Landrith was absent. No report.

Grant Update Discussions:

Fire Department Equipment Report – Mr. Pearson reported that the process is coming along. It was clarified that this is not the USDA grant.

Open Space Report – Mr. Figueiredo reported that per his research there are no towns in Sussex County which qualify for this grant. The Mayor reported that he and Mr. Smith have seen a type of seating area that may work and can be further discussed in Spring.

Borough Land Report – The Mayor is investigating the hazardous discharge remediation grant to perform core sampling to better understand how viable the land is. There was a brief conversation regarding the land along Limecrest Road.

REPORTS OF STANDING COMMITTEES:

Administrative & Executive: Mr. Pearson reported that at this time we are okay with all inspectors and that the clerk needs a new chair for her desk. It was also reported that the furniture warehouse in Newton donated office furniture to Andover Borough on the last days before closing their doors. The furniture included (3) chairs, (2) lateral file cabinets, (1) fire proof lateral cabinet, (1) map file cabinet, (2) adjustable tables.

Celebration of Public Events: Mr. Figueiredo reported that Sussex County Day is on Sunday and that Halloween events have been settled.

Finance: Mr. Dennison was absent. No report.

Parks & Playgrounds: Mr. Figueiredo reported the fencing estimates were in and reviewed. The location, size and number of gates and the differential in cost of the gates were discussed. Mr. Figueiredo recommended the estimate provided by Fences Unlimited.

A MOTION was made by Mr. Hoag, seconded by Mr. Pearson to approve the estimate submitted by Fences Unlimited in the amount of \$5250. The fence portion without gates is \$4500. Upon roll call the following votes were cast: AYES: Hoag, Smith, Pearson, Figueiredo, Pearson. NAYS: None. ABSTAIN: Delfing. Motion carried.

Public Bldgs. & Grounds: Mr. Smith reported that we have one estimate for snow plowing. The matter was discussed with Mrs. Delfing making a motion to approve the single estimate, seconded by Mr. Hoag. Since the workshop is scheduled for the 18th and the matter can be addressed again then, the motions were withdrawn.

Public Safety: Mrs. Delfing started her report by addressing the outstanding invoice from Morris County Public Safety Training Academy dated 5/9/2014. The fire department submitted this as soon as they were notified by the facility that it was unpaid. There was some discussion regarding the payment of training costs and if they are expected to be within the total amount donated to the fire department annually. Mrs. Delfing stated that the trainings don't happen often, but that we have paid them in prior years.

A MOTION was made by Mrs. Delfing, seconded by Mr. Pearson to approve this invoice for payment. Upon roll call the following votes were cast: AYES: Pearson, Figueiredo, Delfing. NAYS: Smith. ABSTAIN: Hoag. Motion carried.

Mrs. Delfing continued to report that the fire department needs to purchase foam and if they find a good price they would like to buy it during their Fire Convention in Wildwood next week. There was an approval in May in the amount of \$500 for Pennsylvania Trade Show which they did not use and would like to use it during this convention.

A MOTION was made by Mrs. Delfing, seconded by Mr. Pearson to approve this amount of \$500 to purchase foam. Upon roll call the following votes were cast: AYES: Smith, Pearson, Figueiredo, Delfing. NAYS: None. ABSTAIN: Hoag. Motion carried.

Mrs. Delfing also reported that an invoice from the ABFD for CPR training was submitted in the amount of \$480.

A MOTION was made by Mr. Pearson, seconded by Mrs. Delfing to approve this amount of \$480 for payment. Upon roll call the following votes were cast: AYES: Smith, Pearson, Figueiredo, Delfing. NAYS: None. ABSTAIN: Hoag. Motion carried.

An invoice to repair the jaws of life equipment was also submitted by the ABFD for payment. Cost of this repair is \$635 and it was reported that this component is not part of the maintenance of the item, but rather eventually wears out to be replaced.

A MOTION was made by Mrs. Delfing, seconded by Mr. Pearson to approve this amount of \$635 for payment. Upon roll call the following votes were cast: AYES: Smith, Pearson, Figueiredo, Delfing. NAYS: None. ABSTAIN: Hoag. Motion carried.

Mr. Smith asked where the fire department is at with regard to flushing the hydrants. There was no information to report. Mr. Hoag established that the function of that duty is the responsibility of the water department, not the fire department. He maintained that the fire department may coordinate with the water department, but the fire department should not be expected to be responsible for the work to be done, nor will they schedule do it on their own without help from the water department. Mr. Smith replied that Mr. Hoag is on the water department and asked if they wanted to be paid. Mr. Hoag said "no" and reiterated that the responsibility is that of the town and water department, not the fire department. He continued by stating that he didn't want the fire department "thrown under the bus" for work that is not their responsibility. Mrs. Delfing finished the conversation by establishing that coordinating the flushing is this objective.

Mrs. Delfing reported that the SCBA flowing testing for the fire extinguishers is coming up and that the ABFD will be holding a Fish & Chip dinner on Sunday October 13th. Lastly, it was reported that the ABFD will be in the Hope 250th anniversary parade as well as the Annual SCFP in October.

Streets & Roads: The Clerk provided the update on the matter of the water flowing down Smith Street from #7 Smith. After an investigation it was determined that the flow was from a pipe/hose connected to the sump pump in the basement. A letter is going out from Mr. Hoag notifying property owner that he must cease this practice and move the pipe/hose. The Clerk asked if the

water department wanted to also investigate the flow to be sure that it is not town water, before that letter is sent. Mr. Smith confirmed that the water department would investigate it.

Mr. Hoag reported that he completed the catch basin inventory and found there to be 38 total. He completed the mapping and will be providing the work to the Clerk to create a report mapping the areas by GPS location, mapping and spreadsheet. He continued to report that the one on lower Maple is in very bad condition and needing to be fixed as soon as possible. An estimate was sought this year for maintenance of all the catch basins and will be presented at a future meeting.

Water Utility: Mr. Smith reported that he cleaned up the pump house building and emptied the trailer. There was also a brief discussion regarding the water being turned on at 39 Lenape Road by the owner. The owner of the property was advised that could not be done and Mr. Mooney will go look at the sight to make sure it's on properly.

OLD BUSINESS:

Joint Court:

The Joint Court Agreement as forwarded by Andover Township was reviewed.

A MOTION was made by Mr. Smith, seconded by Mr. Pearson to approve the authorization and signing of the Joint Court Agreement. Upon roll call the following votes were cast: **AYES:** Hoag, Smith, Pearson, Figueiredo and Delfing. **NAYS:** None. **ABSTAIN:** None. Motion carried

NEW BUSINESS:

ABFD Membership:

A MOTION was made by Mrs. Delfing, seconded by Mr. Pearson to approve the ABFD membership application of Thomas P. Sexton. Upon roll call the following votes were cast: **AYES:** Hoag, Smith, Pearson, Figueiredo and Delfing. **NAYS:** None. **ABSTAIN:** None. Motion carried.

ANY OTHER BUSINESS: None.

ORDINANCE: Food Truck

A MOTION was made by Mr. Figueiredo, seconded by Mrs. Delfing to approve the second reading and adoption of the "**AN ORDINANCE TO AMEND CHAPTER 66, ENTITLED "FEES", OF THE CODE OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY"**". Upon roll call the following votes were cast: **AYES:** Hoag, Smith, Pearson, Figueiredo and Delfing. **NAYS:** None. **ABSTAIN:** None. Motion carried.

A MOTION was made by Mrs. Delfing, seconded by Mr. Figueiredo to approve the second reading and adoption of the "**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY TO ADD NEW CHAPTER 114, ENTITLED "SOIL IMPORTATION"**". Upon roll call the following votes were cast: **AYES:** Hoag, Smith, Pearson, Figueiredo and Delfing. **NAYS:** None. **ABSTAIN:** None. Motion carried.

Animal Control:

A MOTION was made by Mrs. Delfing, seconded by Mr. Figueiredo to approve the first reading and publication of "**AN ORDINANCE AMENDING CHAPTER 60, ENTITLED "DOMESTIC ANIMALS", OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, NEW JERSEY, TO ADDRESS LIVESTOCK."** Upon roll call the following votes were cast: **AYES:** Hoag, Smith, Pearson, Figueiredo and Delfing. **NAYS:** None. **ABSTAIN:** None. Motion carried.

ORDINANCE AMENDING CHAPTER 60, ENTITLED “DOMESTIC ANIMALS”, OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, NEW JERSEY, TO ADDRESS LIVESTOCK.

BE IT ORDAINED by the Mayor and Council of the Borough of Andover, County of Sussex, New Jersey, as follows:

SECTION 1: The portion of Section 60-1, entitled “Definitions”, of Chapter 60, entitled “Domestic Animals”, of the Revised General Ordinances of the Borough of Andover, which reads:

“DOMESTIC ANIMAL

Any cat, dog or livestock including poultry.”

is amended to read:

“DOMESTIC ANIMAL

Any cat, dog or livestock.”

SECTION 2. The portion of Section 60-1, entitled “Definitions”, of Chapter 60, entitled “Domestic Animals”, of the Revised General Ordinances of the Borough of Andover, which reads:

“OWNER

When applied to the proprietorship of a dog, includes every person having a right of property in such dog and every person who has such dog in his keeping.”

is amended to read:

“OWNER

When applied to the proprietorship of a domestic animal, includes every person having a right of property in such domestic animal and every person who has such domestic animal in his or her keeping.”

SECTION 3: Section 60-1, entitled “Definitions”, of Chapter 60, entitled “Domestic Animals”, of the Revised General Ordinances of the Borough of Andover, is amended to add the following definitions:

LIVESTOCK

All horses, ponies, donkeys, mules, miniature breeds and all other equine; all domestic and exotic pigs, hogs, and other swine; all cattle, goats, sheep, and all other bovine; all llamas, alpacas, camels, and all other camelids; all chickens, ducks, geese, guinea hens, peacocks, turkeys, emus, rheas, and all other poultry and fowl; domestic rabbits, and all other animals traditionally raised for food, fiber, fur, or production means; as well as any exotic animals or reptiles.

RUNNING AT LARGE

- (a) The straying or wandering of livestock on a public street, park or other public place without being under the control of the livestock’s owner or owner’s

(b) representative; or (b) the location of livestock on private property while not restrained by a sufficient fence, enclosure or tether and not attended by the livestock's owner or the owner's representative.

SUFFICIENT FENCE

When applied to livestock, means a fence which complies with Agriculture Management Practices (AMP) adopted by the State Agriculture Development Committee if the AMP applies to the property or operation in question and, if not, with applicable laws and ordinances; and is sufficiently enclosed and strong enough to prevent livestock from escaping. If livestock escape(s) from a fenced area, the fence shall be presumed not to be a "sufficient fence".

SECTION 4: Section 60-28, entitled "Violations and penalties", of Chapter 60, entitled "Domestic Animals", of the Revised General Ordinances of the Borough of Andover, is amended to add paragraph H, entitled "Control of livestock", which shall read as follows:

- H. Control of livestock (Section 60-31):
- | | |
|-------------------------------|---|
| First offense: | \$100.00 mandatory fine |
| Second offense: | \$250.00 mandatory fine |
| Third offense: | \$500.00 mandatory minimum fine |
| Fourth & subsequent offenses: | \$1,000 mandatory fine for each offense |

Each day a violation of Section 60-31 occurs constitutes a separate offense.

Plus restitution for damage done by livestock and for costs of care, feeding and retention of livestock per Section 60-31.

SECTION 5: Chapter 60, entitled "Domestic Animals", of the Revised General Ordinances of the Borough of Andover, is amended to add Section 60-31, entitled "Control of livestock", which shall read as follows:

Section 60-31 Control of livestock.

- A. The owner of and every person or persons, firm, partnership, corporation or entity having responsibility for the care, control, custody or management of livestock shall prohibit and prevent such livestock from running at large within the limits of the Borough of Andover.
- B. Owners and lessees of land where livestock is kept shall maintain a sufficient fence to contain and protect the livestock.
- C. The Animal Control Officer is authorized to impound livestock running at large and to furnish the impounded livestock with suitable food and water so long as they are detained. The impounded livestock may be returned to its owner on delivery of reimbursement by the owner to the Animal Control Officer for the costs of care, feeding and retention of the livestock and of satisfactory proof of ownership of the livestock.

D. In the event the Animal Control Officer shall determine corrective action is needed with regard to the fencing, retention and/or care of livestock or damage caused by livestock running at large, the following shall apply:

i. The Animal Control Officer shall cause a notice to be issued to an owner of the livestock and/or owner or lessee of the land on which the livestock is kept.

ii. Such notice shall be deemed to be properly served if sent by first-class mail, express mail, overnight carrier or certified mail to the last known address of an owner of the livestock and/or the owner or lessee of the land on which the livestock is kept

iii. Such notice shall be in writing; include the identity or description of the livestock and a statement of when, where and what damage was done, if any; include an order stating the amount of damages, restitution and costs to be paid and corrective action to be performed and setting forth a deadline for the payment and completion of corrective action; and inform the person being noticed of the right to appeal the order to the governing body of the Borough by delivering written request for appeal to the Borough Clerk no later than 20 calendar days after the service of the notice.

iv. After timely delivery of the notice of appeal to the Clerk, the appeal shall be scheduled for consideration by the governing body who shall issue its determination in writing.

v. Failure to comply with an order issued per this section shall constitute a violation.

E. Fines and penalties for violations of this section are set forth in Section 60-28(H).

SECTION 6: Severability. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the remainder of this Ordinance shall not be affected thereby but shall remain in full force and effect.

SECTION 7: Repealer. All ordinances or parts of ordinances or resolutions inconsistent with or contrary to the provisions of this Ordinance are hereby repealed to the extent of such inconsistency or contrariness.

SECTION 8: This Ordinance shall take effect immediately on its final passage and publication as required by law.

RESOLUTIONS:

AUDIT:

A MOTION Mr. Smith, seconded by Mr. Figueiredo to approve the publication of Summary or Synopsis of Audit Report. Upon roll call the following votes were cast: AYES: Hoag, Smith, Pearson, Figueiredo and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

A MOTION was made by Mr. Pearson, seconded by Mr. Figueiredo to pass Resolution to submit a certified copy of Resolution and required Affidavit showing evidence of compliance. Upon roll call the following votes were cast: AYES: Hoag, Smith, Pearson, Figueiredo and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

A MOTION Mr. Hoag, seconded by Mr. Smith to accept the Corrective Action Plan as submitted by the CFO. Upon roll call the following votes were cast: AYES: Hoag, Smith, Pearson, Figueiredo and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

Water Tax Collection:

A MOTION Mr. Figueiredo, seconded by Mr. Hoag to approve a resolution adjusting water bill for block 27 lot 6 for 3rd and 4th quarter to correct computer error in calculation in the amount of \$270.00. Upon roll call the following votes were cast: AYES: Hoag, Smith, Pearson, Figueiredo and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

WHEREAS, the referenced property was renovated and an increase in water service from \$300 annual to \$820 annual was determined,

WHEREAS, the water tax system incorrectly increased the amount due to both 3rd and 4th quarter 2019 to compensate for lesser amount paid on 1st and 2nd Quarter 2019,

WHEREAS, the Mayor and Council of the Borough of Andover approved an adjustment of a portion of 2019 water taxes on referenced property in the amount of \$270 (\$135 each for 3rd and 4th quarter) and to establish 3rd quarter as the start point for increased water service billing.

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Andover, County of Sussex, State of New Jersey does hereby authorize this adjustment

A MOTION was made by Mr. Hoag, seconded by Mr. Figueiredo to approve the cancellation of water bill for block 12 lot 1.02 Qual: C02, C03, C04, C05 to reestablish a prior cancellation and to correct computer error activating these services for billing. Upon roll call the following votes were cast: AYES: Hoag, Smith, Pearson, Figueiredo and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

WHEREAS, the referenced water services were previously approved for cancellation of services from billing; and

WHEREAS, the water tax system incorrectly added them back onto the billing system for 2019; and

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Andover, County of Sussex, State of New Jersey does hereby authorize these locations to be cancelled from the water billing system until further notice.