

APRIL 23, 2015

Regular Meeting of the Township Committee of the Township of Hanover, County of Morris and State of New Jersey was held on Thursday, April 23, 2015, at 7:30 o'clock in the evening, prevailing time, at the Municipal Building, 1000 Route 10, in said Township.

PRESENT: Mayor Francioli, Members Gallagher,
Ferramosca, Brueno, Coppola

ABSENT: None

STATEMENT BY PRESIDING OFFICER:

Adequate notice of this meeting has been provided in accordance with the Open Public Meetings Act by posting written notices and agenda of the meeting on the bulletin board in the Municipal Building, 1000 Route 10, Township of Hanover and by hand delivering, mailing or faxing such notice and agenda to the following newspapers:

**HANOVER EAGLE
MORRIS COUNTY'S DAILY RECORD
THE STAR LEDGER**

and by filing same with the Township Clerk.

(Signed) Ronald F. Francioli, Mayor

PLEDGE OF ALLEGIANCE TO THE FLAG

**CONTINUATION OF MARCH 12, 2015 PUBLIC HEARING ON THE FOLLOWING
ALCOHOLIC BEVERAGE CONTROL LICENSES:**

APPLICATION FOR PERSON-TO-PERSON AND PLACE-TO-PLACE TRANSFER OF
PLENARY RETAIL CONSUMPTION LICENSE 1412-33- 006-004 FROM FENWAY,
INC. T/A THE HALF POINT PUB TO VILLAGE SUPERMARKET T/A THE VILLAGE
LIQUOR STORE LOCATED AT THE SHOP RITE SUPERMARKET AT 178 EAST
HANOVER AVENUE IN THE CEDAR KNOLLS SECTION OF THE TOWNSHIP; AND

APPLICATION FOR A PLACE-TO-PLACE TRANSFER OF PLENARY RETAIL
DISTRIBUTION LICENSE NO. 1412-44-009-007 REQUESTING TO DE-LICENSE A
PORTION OF THE EXISTING DISTRIBUTION LICENSE AT THE SHOP RITE
SUPERMARKET REFERENCED ABOVE ALL IN ACCORDANCE WITH N.J.A.C.13:2-
7.2(d).

Mayor: At the last hearing the Township had it's Planner, Mr. Blais Brancheau testify before us, he is still available to you if you want to continue your questioning on that line, if not we are going to present other additional testimony tonight.

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Mr. Scrivo: I have no additional questions for Mr. Brancheau.

Mayor: At this time, Peter King representing the Township, Peter.

Mr. King: Yes, Mayor in conclusion of the last meeting we reserved the right to call Mr. Brancheau, we also provided transcript copies of November and January transcripts of the Planning Board to counsel in regards to some testimony that was given at the last meeting. So I would like to talk to Mr. Brancheau about that, and I have a few more questions.

Mr. Giorgio: Mr. King, just to correct the record, for both yourself and Mr. Scrivo, it is Brancheau ~ B-R-A-N-C-H-E-A-U and not Brancheau that is a common mistake and I want to show that the record is correct, and secondly if you would please speak into the microphone I would appreciate it.

Mayor: It's not Blais Brancheau? Laughter.

Mr. King: With regard to your position you are still the Planner for Hanover Township?

Mr. Brancheau: That is correct.

Mr. King: And at the last meeting you gave some testimony with regard to the Planning Board Hearing in this matter with respect to a specific issue and that issue was alcohol, do you remember that?

Mr. Brancheau: Yes I do.

Mr. King: And did you have a chance to revisit that transcript?

Mr. Brancheau: Yes I did.

Mr. King: Did that refresh your recollection as to what transpired at that hearing?

Mr. Brancheau: Yes it did.

Mr. King: With regard to the consumption of alcohol, and after reviewing the transcript, what is your understanding of that testimony on that matter?

Mr. Brancheau: At the last hearing, I had testified that alcohol was going to be served at the bistro, (interrupted)

Mr. Giorgio: Can you please speak up.

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Mr. Brancheau: It had been my recollection based on my review of the minutes that that was the case, however in reviewing the transcript, particularly the November 2, 2011 transcript and the January 17, 2012 transcript, it was stated on more than one occasion in response to questions by myself and by members of the board that there was no intent to serve alcohol anywhere in the vicinity.

Mr. Semrau: Mayor, perhaps Mr. Brancheau would want to switch with Mr. Esposito, maybe that microphone will pick him up better if we were to do that.

Mr. King: I want to show you what has been marked as H2. Is H2 the document that you are referring to?

Mr. Brancheau: January 17, 2012 (inaudible)

Mr. King: That is not the full transcript, is that correct?

Mr. Brueno: Do you want to try here please, he can't hear you Blais.

Mr. King: I showed you what was marked at H2

Mr. Brancheau: Yes,

Mr. King: It's not the full transcript of the January 17, 2012 meeting or the November

Mr. Brancheau: It does not appear to be the full transcript, no.

Mr. King: But it has specific pages, is that correct?

Mr. Brancheau: Yes

Mr. King: And those are the pages in which you refer to that there was testimony in regard to consumption of alcohol at the premises is that correct?

Mr. Brancheau: Let me look, yes it is.

Mr. King: And, specifically, with regards to the November 2, 2011 transcript page 32 line 16 you asked a question, with regards to consumption on the premises is that correct?

Mr. Brancheau: Yes.

Mr. King: What was the response?

Mr. Brancheau: Do you want me to read it?

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Mr. King: You can read it.

Mr. Brancheau: Ok, the question was, is the Bistro Café, does that serve liquor or is that (that's an incomplete sentence) but the response was No it's not our intention to serve liquor. This is, I believe its questions of Mr. Pavese. Again the Bistro Café area, the sit down area, inside is for the product that you purchase in the store, specifically in prepared food area, the salad bars the fruit bar and you can consume it either on site at the sit down area in the bistro café area or take it home.

Mr. King: And, that was the theme throughout the presentation of the applicant, no alcohol was going to be consumed or served in the bistro or in the supermarket area, is that correct?

Mr. Brancheau: Yes.

Mr. King: With regard to the plans itself, is it important from a planning perspective that you are provided with as much information so you can evaluate appropriate protocols?

Mr. Brancheau: yes.

Mr. King: And, with regard to the plan that was submitted to the Planning Board that were approved have you reviewed that and also the as built plans?

Mr. Brancheau: I reviewed the plan, specifically the floor plan that was approved by the board. I reviewed the plans approved by the building department and reviewed the plans that are currently proposed as part of this application.

Mr. King: And, with regard to those plans, were there deviations?

Mr. Brancheau: Yes there were.

Mr. King: Can you explain some of those?

Mr. Brancheau: Well, of course, the oyster bar is a deviation; the oyster bar currently exists in the sense of selling oysters and not the sense of selling alcohol for consumption. Some of the other deviations are the Planning Board's approval did not include the yoga fitness facility it did not include the child care center it did not include what is currently proposed the bar area in the outdoor seating area or I say the bistro area which can be outdoor can be enclosed, at this time of year. It did not include some of the other things in the bistro area like the fireplace and some things like that, the bathrooms in the facility in the area of the bistro had been increased in size, the cooking areas in the bistro area were relocated from another location in the store the seating arrangement and the locations had changed and a number of other changes.

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Mr. King: And based upon _____ those changes, you did not have the benefit of testimony for any experts is that correct?

Mr. Brancheau: Yes, that is correct.

Mr. King: And it is important from the Planning Board perspective to have that testimony isn't it.

Mr. Brancheau: Well I think so, one of the issues at the site plan application was which parking standards should apply to the bistro area, and based on the testimony at the site plan it was incidental to the primary shopping center use. The changes that have been proposed raise I think an issue of the effect of parking demand, we all know the answer to the question but it raises an issue in that in particularly in the court appeal on review of the transcript of the court appeal there is a fair amount of discussion where the plaintiff challenged the board's approval on the basis that the bistro area was really a separate restaurant and that the parking calculations for the bistro area should have been based upon restaurant requirements which would have resulted in a parking variance requirement. The board felt otherwise based on the testimony before, but since that time these changes raised a question as to whether in fact the parking requirement should be a restaurant or if it should continue to be part of the shopping center. Again, I don't have the facts to offer opinion as to whether it is or whether it is not but it is something that I think in the review of these plans and permits for these plans that potential of change of use from accessory to a separate use be evaluated.

Mr. King: And, the reason why you can't offer that, is because you haven't had the ability to review the plans, certain types of data that usually would have been presented at the Planning Board, is that correct?

Mr. Brancheau: Yes, you need to look at not just floor plans but you need the facts relating to the nature of the use what type of activities. I've been to the site, I've noticed that in the bistro area there is a television where it advertises scheduled events, like cooking classes.

Mr. King: What report does that have with regard to the application site zone?

Mr. Brancheau: Well, in the representation that the bistro I read from Mr. Pavese's testimony that someone going to the Bistro area would already be at the supermarket buying prepared foods and then consuming them on site; if someone were now to go to the supermarket say for a scheduled yoga class or a scheduled cooking class or for some other scheduled event that is there it starts to take on a separate use characteristic, it's not incidental anymore to your going grocery shopping it now almost takes on a life of its own.

Mr. King: Destination?

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Mr. Brancheau: A destination type thing, now it's not to say that it's 100% destinations it's probably a blend of the two where some people, I went to the store and bought some food and I did eat it there and I have done that on other occasions where I combined trips, but sometimes for example the Farmtastic, I've gone there at lunch time just to go to the salad bar and get a salad for lunch, I didn't do any grocery shopping, so I went there and did it. So that was a destination for me, separate from buying groceries. So in the same way that going to a yoga class going to a cooking class going to something else, someone can conceivably do that as not related to grocery shopping and now it starts to take on a character of a principal use with its own parking requirements and not as an ancillary use that's assumed by the larger grocery function.

Mr. King: You have had a chance to visit this site?

Mr. Brancheau: Yes.

Mr. King: Did you make any other observations with regard to the potential destinations?

Mr. Brancheau: It's quite impressive food court area, it's larger ones that I'm accustomed to seeing quite a range of food product something that I think would invite more people to go for the food court itself. I went into the bistro area, there were televisions and a fireplace and it, I frankly bought a salad there and ate it myself, but tends to with the fireplace and the comfortable chairs and all the televisions it's sort of encourages you to linger and stay and I could understand why a retailer would do that, they want people to stay and the longer they stay in the store the more likely they are to buy things in the store.

Mr. King: Can that impact on parking?

Mr. Brancheau: Well it certainly could affect the turnover of parking in a sense that most grocery stores, people go to the store for an hour, hour and a half do their shopping and leave, if I'm going to the store now and doing my shopping and I'm getting things to eat and staying to eat or watch the game or television show then I may stay longer, less turnover parking can lead to increased parking utilization, and also from going there as a destination, say I go there on my lunch hour just for the food court, now my estimates of parking are low and it may have an affect on parking demand. Agree, I cannot give an opinion without more information.

Mr. King: I want to show you what I've marked as H2, H2 is a copy, I don't think it was marked before, it is a copy of Hanover Ordinance 39-14.

Mr. Semrau: Mr. King, with respect to the last document, the transcript of the proceedings, do you want to bring that forward into evidence at this point?

Mr. King: I will at the end, I will bring each one H2 and H3, I have given a copy to _____.

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Mayor: What did we mark that?

Mr. Brancheau: H2 is the transcript, H3 is the Ordinance 39.

Mr. King: At the last meeting, we had testimony H1 was the Judge's decision document, and Judge also relied on the fact that no alcohol was going to be served at this site or for consumption. I think that is, you have that Mr. Giorgio in the file? The H1 which was the Judge's Order? I have a copy I can give you a copy of it.

Mr. Giorgio: I don't recall which Judge's Order you're talking about?

Mr. King: Judge Weisenbeck's Order?

Mr. Brancheau: I think it was on the appeal of the Planning Board decision to approve the site plan.

Mr. Giorgio: Oh yes, we have that.

Mr. Semrau: Mr. Scrivo you have that as well?

Mr. Scrivo: Yes.

Mr. Semrau: H2 is actually, you said it was the transcript, but it's this ordinance?

Mr. Scrivo: It's the transcript.

Mr. King: It's the pages of the January and November transcript, it's about 8 pages.

Mr. Semrau: Ok

Mr. King: With regard to H3 that is the ordinance itself.

Mr. Semrau: Ok, thank you.

Mr. King: With regard to the Ordinance, are you familiar with that ordinance?

Mr. Semrau: Yes

Mr. King: Now, that ordinance doesn't prohibit a restaurant or bar in this location?

Mr. Brancheau: No it does not.

Mr. King: And this location is not a single, it's a shopping center, correct?

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Mr. Brancheau: Correct.

Mr. King: It's not one building, it's comprised of an area?

Mr. Brancheau: The site is three buildings on the site, and the ordinance allows for buildings to be portioned amongst different uses.

Mr. King: At the last meeting you were present, and believe the Town Council read a portion of NJSA 33:1-12 Class C licenses in it, it talked about what was approved, or where a plenary retail consumption can be and one of those exemptions was in a supermarket. Have you had occasion to review that section of the law?

Mr. Brancheau: Yes I have.

Mr. King: And in your review of that, is it your testimony that the ordinance as we marked at H3 appropriately reflects what the state law is?

Mr. Brancheau: It appears to me to be consistent with that law.

Mr. King: And with regard to issues with regarding to health safety and welfare are there issues, is that ordinance part and mending in protect the health, welfare and safety of the municipalities citizens?

Mr. Brancheau: Yes it is.

Mr. King: And in your opinion as a professional planner, how does it do that?

Mr. Brancheau: I think the intent of both the ABC law and this ordinance is to ensure that alcoholic consumption and service occurs within an environment where there is a high degree of control and where there is the expectation of that occurring and not in a unexpected situation where one might not take the proper safeguards or not be aware or familiar with.

Mr. King: At this time, I am done with the witness, I move H1, 2 and 3 into evidence.

Mr. Scrivo: No objection.

Mayor: Do you have, counselor do you have, you referred to copies of H1 of Judge Weisenbeck's decision, do we have that H1?

Mr. King: There should be a copy, we made copies at the last meeting. I have other copies if you need.

Mayor: Why don't you enter that into us again?

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Mr. Scrivo: No questions.

Mayor: No questions of this witness?

Mr. Scrivo: No.

Mr. Ferramosca: Mr. Brancheau, I just want to make sure I heard this right, could a restaurant/bar be located in the new stores being built at that shopping center with the new ordinance.

Mr. Brancheau: Yes it could.

Mr. Ferramosca: Thank you.

Mr. Brancheau: Subject to the parking requirements being met.

Mr. King: The next witness I would call would be Chief Gallagher.

Mr. King: Chief Gallagher, can you state your name for the record please.

Mr. Gallagher: Stephen W. Gallagher.

Mr. King: Who are you employed by?

Mr. Gallagher: Township of Hanover.

Mr. King: In what capacity?

Mr. Gallagher: Chief of Police.

Mr. King: How many years (interrupted)

Mr. Semrau: Mr. King, can you swear him in?

Mr. King: Yes, Can you raise your right hand; do you swear that the testimony you are about to give before this board is the truth, so help you God?

Mr. Gallagher: Yes.

Mr. King: And, for the record, he stated that he is Chief Gallagher, and you have been employed by Hanover Township, and how many years have you been employed by Hanover Township?

Mr. Gallagher: 33

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Mr. King: And for those 33 years, you had dealing with regards to liquor license and with bars, restaurants?

Mr. Gallagher: Yes,

Mr. King: And you are familiar with this application?

Mr. Gallagher: Yes.

Mr. King: Did you have a chance to review this application?

Mr. Gallagher: Yes.

Mr. King: And, in your review of the application, did you make a visit to this site?

Mr. Gallagher: I have been to the store,

Mr. Giorgio: Can you move the microphone.

Mr. Gallagher: I have been to the store numerous times, before during and after.

Mr. King: And, you have been hearing at these various hearings and you currently heard testimony of the applicant?

Mr. Gallagher: Yes I have.

Mr. King: And, based upon that testimony and based upon your visits to the stores, do you have any concerns as the Chief of Police with regarding to health, safety and welfare?

Mr. Gallagher: The concerns I have I put in a memo early on and I don't think many of them have changed any, if I can refer to them I hope that's fine?

Mr. King: I'll make the memo as H4. Are you familiar with that document? Can you tell us what that document is?

Mr. Gallagher: It's a memo from me to Mr. Giorgio about my concerns of the possibilities of Shop Rite serving alcohol in their store.

Mr. King: And, that is your signature at the bottom?

Mr. Gallagher: Yes it is.

Mr. King: And, with regard to your first concern, can you tell us what that first concern is?

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Mr. Gallagher: The first concern I had put down was a mix of bar patrons and the children in the store, I just thought it was odd combination of people drinking and children, it just seemed odd to me.

Mr. King: And, what is your concern based upon your trainings experience about that?

Mr. Gallagher: My main concern was the interaction with people that are drinking and children.

Mr. King: Well, in any regular _____ there is a restaurant a bar and families and children what is the different about those situations?

Mr. Gallagher: The difference to me is that you don't expect to be in a bar, but if you go to Shop Rite you just expect to go food shopping.

Mr. King: When you were there, did you get a chance to see how the rest rooms were set up?

Mr. Gallagher: Yes, I did notice where they were.

Mr. King: And, in the areas that are proposed where alcohol will be served, are their separate rest rooms?

Mr. Gallagher: No you would have to leave the designated area to get to the rest rooms.

Mr. King: Is that a controlled bath room, or is it in a general area?

Mr. Gallagher: It's in a general area.

Mr. King: Does that raise concerns for you?

Mr. Gallagher: I had not thought of that, but since you brought it up, it might be a concern.

Mr. King: And, with regard to your second concern in your memo, can you explain why that is a concern?

Mr. Gallagher: Again, that would be the mix between the people that are drinking and people aren't drinking in the middle of the store, I know they proposed I think they referred to it as the oyster bar which in the middle of the store, between the food and the regular grocery store, I just thought that people drinking in the middle of the store, maybe some noise or improper language would be a distraction.

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Mr. King: And, with regard to that Oyster area that is in the center of the store, what was proposed a half wall?

Mr. Gallagher: Since I've done this memo, I think I did see a proposal for a half wall with glass on top.

Mr. King: And, would that fully enclose that area?

Mr. Gallagher: It may stop you from seeing what is in that area, but I don't think it will stop you from hearing what's in there.

Mr. King: So could a child get into that area?

Mr. Gallagher: I don't believe so.

Mr. King: What would stop a child from getting into that area?

Mr. Gallagher: A door, I'm assuming they will have a door to get into that area that I don't know for sure.

Mr. King: But with regard to noise, can noise come over those walls?

Mr. Gallagher: Yes.

Mr. King: And is it based upon your training experience are bars and bar patrons a little bit more noisy than....

Mr. Gallagher: They certainly could be.

Mr. King: With regard to your next concern, your third concern. Tell us why you were concerned about potential parking issues?

Mr. Gallagher: It's a very busy store, the parking lot is congested on a regular day, then to mix people that are drinking and again with the children, and old people and carts just seems like a safety issue to me is above and beyond what it is now.

Mr. King: And, in the State of New Jersey are you familiar with any supermarkets that serve alcohol?

Mr. Gallagher: I am not aware of any.

Mr. King: And, with regard to your next concern, number 4, can you tell us why you are concerned with what's in your report number 4.

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Mr. Gallagher: We are talking about the co-mingling of shoppers and drinkers, when you get done drinking are they going to wander in the store, and talk to old children and old people and the carts and that's what was a concern.

Mr. King: Your next concern?

Mr. Gallagher: The child care thing, I think at one of the hearings that I was at, they weren't positive what they were going to do with that. I didn't know it at the time but it appeared that in the beginning that you can drop your children off and go have some drinks and then maybe food shop and then pick up your child and drive home and that was my concern.

Mr. King: And, why would that concern?

Mr. Gallagher: A drunk driver.

Mr. King: With a child in the vehicle.

Mr. Gallagher: Yes, with a child in the vehicle

Mr. King: Ok, with regard to your next concern.

Mr. Gallagher: Increased criminal activities, well sometimes bars, not all bars, will attract criminal element that wouldn't necessarily be in the food store if there wasn't a bar there. We also have a homeless population and it might attract them.

Mr. King: And, with regard to persons who are under the influence of alcohol, maybe three drinks, is based on your training experience is there a deviation their ability, their physical ability to have understood and physical dexterity?

Mr. Gallagher: Yes, obviously with drinking there comes many problems, including dexterity, behavior.

Mr. King: And, in the breakdown of, I don't want to say there normal behavior,

Mr. Gallagher: Social behavior

Mr. King: That causes concern for you today?

Mr. Gallagher: Yes, it does.

Mr. King: And, would that potentially, your problems interactions where you have shoppers, and persons who (interrupted)

Mr. Gallagher: I think it could be a problem for some guests

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Mr. King: And, the citizens in general?

Mr. Gallagher: Yes.

Mr. King: With regard to your next concern, your sixth concern, can you explain that 6th concern why you have that?

Mr. Gallagher: Again, that's similar to the previous one, _____, weekends and evenings, people maybe going to do food shopping, _____ some other challenges that are _____

Mr. King: And maybe people coming in this way, and continuing bad behavior, is that correct?

Mr. Gallagher: That is always a possibility.

Mr. King: And then people consume too much and they leave that store and are on the roads in Hanover and the County as well as the State.

Mr. Gallagher: Correct.

Mr. King: With regard to your last concern in your memo; can you tell us your concerns in regard to that.

Mr. Gallagher: That is pretty much what I was just talking about, the bar may attract again at nights, during the day it could be _____.

Mr. King: And you don't know what kind of person or what type of crowd this bar or supposed area where alcohol will be served or consumed will or will tend to generate?

Mr. Gallagher: I have no idea actually.

Mr. King: It would be very helpful to have had that testimony.

Mr. Gallagher: Yes.

Mr. King: There was no testimony provided to regard to that?

Mr. Gallagher: Not that I saw.

Mr. King: You say that you did go to the site, you visited the site, both inside and outside is that correct?

Mr. Gallagher: Yes, I've been there, I did not go to the site because of this reason, my wife shops there and I will go there with her occasionally.

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Mr. King: And, with regards to those visits and observations, are there any other concerns other than what you put down in this memo that you have in regard to this application.

Mr. Gallagher: I could not think of any other, otherwise I would have written them down.

Mr. King: At this point of time, I am done with this testimony of this witness.

Mr. Ferramosca: Chief, do you regularly review application which are presented to the Planning Board as part of a process?

Mr. Gallagher: Yes I do.

Mr. Ferramosca: Chief, did you review the original plans for the now Shop Rite?

Mr. Gallagher: Yes it did.

Mr. Ferramosca: If you saw on those original plans that there was a bar or a place where alcohol was being served, would you have made comment to the Planning Board chair, expressing your thoughts about the matter?

Mr. Gallagher: I'm sure I would have, especially that interior oyster bar, seems to be a bad idea. The separate patio bar maybe with an exterior entrance and exit would not be so much but when you start, my concerns are usually there for the mingling the co-mingling with the people that are drinking and the people that aren't drinking. And people might not be familiar with the store, then they walk in and there is possibly a party going on and I thought that was a possible problem for us.

Mr. Ferramosca: From a protecting the public safety, if there are two places of business that serves alcohol, one has approximately 100-200 visitors a day, the other one has approximately 1200 -1800 visitors a day, would the one having the 1200-1800 visitors a day present a greater public safety security issues?

Mr. Gallagher: Yes yes it would.

Mr. Ferramosca: Lastly Chief, if a restaurant bar were located in the shopping center but apart from the primary Shop Rite store, in one of these new stores, in your opinion would that restaurant/bar sever apart from the Shop Rite Supermarket be easier to manage from a perspective of protecting public safety?

Mr. Gallagher: Yes, it does, because of the lack of the comingling in the store, we may still have the issue in the parking lot and people that are drinking and shoppers and children, but as far as the interior problems I think it would be okay.

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Mayor: Mr. Scrivo do you have Page 4, the Chief's memo of October 9, 2014?

Mr. Scrivo: Yes I do.

Mayor: I just wanted to make sure you had it.

Member Gallagher: Chief, with all of your experience and expertise you did say that you believe people conduct themselves differently after two or three drinks?

Mr. Gallagher: Yes.

Member Gallagher: In what way, would they conduct themselves differently?

Mr. Gallagher: They become more animated, louder, more like _____

Member Gallagher: You also referred to mingling and mingling with the children, and you don't think that would be a good mix right?

Mr. Gallagher: _____ inaudible.

Mr. Coppola: I don't know, I guess it's a concern that I have and I don't know how to address this, I happen to work right in that area and during the latter spring months and through the summer months, right across the street there are all kinds of sports activities, does that ultimately could lead to that to a destination after a game?

Mr. Gallagher: It might be possible after a soccer game?

Mr. Coppola: The food and the bar, if they did not use the cross walk.

Mayor: The Chief in the overall, just one question, and I think that I'm gathering most of it from your testimony and will give Mr. Scrivo an opportunity in a second here. But it seems to be an overriding concern here that the additional service of alcohol on these premises will give away to other additional issues from your department is that what you are saying?

Mr. Gallagher: It is certainly is possible. Yes.

Mayor: It would invite additional, kind of saying, what you are saying. At this time counselor

Mr. Semrau: Mayor, may I just ask, Chief one of the standards that the Governing Body has to consider is whether the transfer would negatively impact the public welfare. In your opinion, based on the testimony that you have given and your investigation your experience as chief would this application negatively impact the public welfare of Hanover Township?

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Mr. Gallagher: I cannot say for absolute sure yes or no, but I would take it as a potential of doing that yes.

Mr. Semrau: Thank you.

Mr. Scrivo: Thank you Mayor, good evening Chief.

Mr. Gallagher: How are you?

Mr. Scrivo: Good how are you, Chief I think you were questioned before about your fairly standard review liquor transfer applications within the Township, is that correct?

Mr. Gallagher: Yes.

Mr. Scrivo: Is that one of the functions of the Police Department?

Mr. Gallagher: Yes.

Mr. Scrivo: And the process of doing that includes your review is that right?

Mr. Gallagher: Yes.

Mr. Scrivo: Now, in the past say 15 or so years how many of those have you personally done?

Mr. Gallagher: Personally done? I don't personally do them I have a Detective that usually spends a lot of time on the background portion of this and I personally do not do the investigations.

Mr. Scrivo: And I believe I have seen some of the applications in the past that have been reviewed and they have been reviewed by a Detective Quirk at times?

Mr. Gallagher: He has since retired, but yes, and now Detective Thompson usually does them.

Mr. Scrivo: Detective Seeley at one time or another, so it's been your practice policy and custom to delegate the review of liquor transfer applications to the Detectives, is that correct?

Mr. Gallagher: That is true.

Mr. Scrivo: Have you authored any specific reports related to the transfer of liquor license applications?

Mr. Gallagher: Not that I can remember any no; other than this one.

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Mr. Scrivo: Other than this one; would you, we took the liberty of looking at all of the Township's transfer applications over the last 18 years, would you agree with me that you have not authored any reports in the last 18 years except for this one?

Mr. Gallagher: I think I just said that, yes. Oral or written?

Mr. Scrivo: Authored written reports. I think he answered that, that is what I meant. Did you understand my question Chief?

Mr. Gallagher: Yes.

Mr. Scrivo: Now, have you ever testified before the Governing Body regarding any ABC transfer in the Township?

Mr. Gallagher: I have not.

Mr. Scrivo: Do you know any of your Detectives have testified before the Governing Body with regard to any ABC transfer applications in this town?

Mr. Gallagher: Not that I am aware of.

Mr. Scrivo: Do you recall having the Prosecutor being brought in to question witnesses on any ABC Transfer application in the history of your serving as Chief?

Mr. Semrau: Mr. Scrivo, when you say the Prosecutor, what Prosecutor are you referring to?

Mr. Scrivo: Mr. King or the Township Prosecutor.

Mr. Semrau: Mr. King is not here as the Township Prosecutor tonight, he is here as Special Counsel.

Mr. Scrivo: Ok, thank you. Do you recall any Special Counsel being retained to represent the Township with regard to any liquor license transfer applications during your tenure as Chief?

Mr. Gallagher: No sir.

Mr. Scrivo: Now is there something about Village that you are aware that is causing you to testify here tonight?

Mr. Gallagher: Other than I think this is an out of the ordinary transfer no.

Mr. Scrivo: And you testified a couple of things that you observed with regard to the use of the supermarket as odd, did you find it odd that you were going to be called to be testified here this evening with respect to this application?

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Mr. Gallagher: Well actually I think the whole thing is a little odd, the application is odd and the fact that I'm writing a memo is odd and the fact that I'm here testifying is odd lots of things are odd.

Mr. Scrivo: Now, I'm going to show you, actually I want to ask you how the process of the Police Departments review of liquor license transfer applications typically occurs. Do you typically get a memo from Mr. Giorgio when an application comes in seeking for you to conduct the review?

Mr. Gallagher: No.

Mr. Scrivo: How is it triggered?

Mr. Gallagher: Usually by me delegating it to Detective that is doing it.

Mr. Scrivo: No, what I'm saying is before it gets to you, how do you become aware that it is coming in? Something from the Township?

Mr. Gallagher: I would get something from Mr. Giorgio.

Mr. Scrivo: I'm going to show you a series of memos that we can mark as P10; up to P10.

Mayor: What are you marking these as?

Mr. Scrivo: We can use one just the one number it a series of letters/memos from Mr. Giorgio.

Mr. Scrivo: Now Chief, showing you what has been marked as P10 there is a series of memos here that have come from Mr. Giorgio to the Police Department over the years with regards to certain requests to review liquor license application transfers. Would you agree with me that there are a series of such memos contained within P10?

Mr. Gallagher: They are memos, some come to the Police Department some don't.

Mr. Scrivo: And would characterize these as ones that you have seen or ones that you familiar with, or look familiar to you with respect to Mr. Giorgio's request for the Police Department conduct a review?

Mr. Gallagher: Yes.

Mr. Scrivo: And would you typically say that these come to you and that you simply delegate them to one of your Detectives?

Mr. Gallagher: Yes.

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Mr. Scrivo: And would you agree with me that they are fairly straight forward requests of the Township Administrator to ask you to conduct the Police review of the liquor license transfer?

Mr. Gallagher: Yes.

Mr. Scrivo: I show you what has been marked as P11. Chief showing you what has been marked P11 this is a memo from the Business Administrator/Township Clerk Mr. Giorgio to you dated September 25, 2014 and it's regarding a liquor license application submitted by Village Supermarket of New Jersey LP, do you see that?

Mr. Gallagher: Yes I do.

Mr. Scrivo: Now this does not appear in substance or in form like P10 the series of memo's that you, I had just showed you with regard to Mr. Giorgio's request for you to review liquor license transfer applications does it?

Mr. Gallagher: Actually, not sure what you mean by form?

Mr. Scrivo: Let me ask you a more specific question, does it appear longer in length than a typical memo that I showed you with regard to P10?

Mr. Gallagher: Yes it does.

Mr. Scrivo: Now in the memo Mr. Giorgio goes into some detail with regard what your assignment is with regard to this application, do you see that?

Mr. Gallagher: Yes.

Mr. Scrivo: Do you see the second paragraph on the first page where Mr. Giorgio says to you "these applications raise a number of issues related to the health, safety and welfare of the public," do you see that?

Mr. Gallagher: Yes I do.

Mr. Scrivo: Is Mr. Giorgio in any way having any authority over the Police Department?

Mr. Gallagher: He does not.

Mr. Scrivo: Are you the appropriate authority in this Municipality?

Mr. Gallagher: I am not.

Mr. Scrivo: Is Mr. Giorgio?

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Mr. Gallagher: He is not.

Mr. Scrivo: He writes further, "in this regard it is important for you as the Chief Law Enforcement Officer of the Township to provide your professional opinion to the Governing Body concerning these applications and whether the proposal to permit the serving and consumption of liquor in a grocery store even if separated by walls where individuals of all groups are present is in the best interest of the Township and the public in general." Have you ever seen a request from Mr. Giorgio like this before?

Mr. Gallagher: Not in regards to alcohol, no.

Mr. Scrivo: And I'm limiting my questions to you with regard to his request for you to review any liquor license transfer applications. Did he ever direct you in this way with regard to your review?

Mr. Gallagher: Probably not.

Mr. Scrivo: Now turning to page two, he suggests to you "perhaps you can focus on those situations that could arise with the serving and consumption of alcoholic beverages within the same confines of a store where people are shopping, thereby potentially posing a risk to the safety of those individuals." Did you ever see Mr. Giorgio provide you with this suggestion with regard to any of your police duties?

Mr. Gallagher: Probably not.

Mr. Scrivo: Did you ever have, do you know if Mr. Giorgio ever provided you or any members of the Detective Bureau with any such directive during any of your prior reviews of liquor license transfer applications?

Mr. Gallagher: I think directive is a little strong.

Mr. Scrivo: Suggestion

Mr. Gallagher: No.

Mr. Scrivo: Now he asked you to submit your opinion to him by no later than October 8, 2014, do you know that the significance of that date was?

Mr. Gallagher: I have no idea?

Mr. Scrivo: Did you ever see Mr. Giorgio provide you with a deadline in any prior memos?

Mr. Gallagher: Yes, I have had plenty of deadlines from Mr. Giorgio.

Mr. Scrivo: Well showing you P10 I don't see any deadlines with respect to the Police review.

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Mr. Gallagher: There are lots of memos between Mr. Giorgio and myself that have deadlines on them.

Mayor: Good answer Chief.

Mr. Scrivo: I know Chief that Mr. Giorgio asks you to provide your report to him in a sealed envelope marked personal and confidential. Is that typical?

Mr. Gallagher: Well there are a lot of envelopes that go between Mr. Giorgio and myself that are signed personal and confidential.

Mr. Scrivo: Well have you ever seen him make that request with respect to the Police Department's review of any liquor license transfer applications?

Mr. Gallagher: I have not.

Mr. Scrivo: Did you ask him why?

Mr. Gallagher: I did not.

Mr. Scrivo: Now Chief you did make a report and I believe that what H4 and I believe Mr. King asked you a few questions about that, I have a few questions as well.

Mr. Semrau: Why don't we put the report into evidence at this point, so the Governing Body can following along, if there is no objection.

Mr. Scrivo: No objection.

Mr. Semrau: Do you have a copy at this point Mr. King that you can distribute?

Mr. King: I provided it Mr. Giorgio.

Mr. Scrivo: I have additional copies.

Mr. Semrau: Does everybody have a copy of the Chief's report?

Mr. Giorgio: We gave it out a while ago. If Mr. Scrivo has additional may we have them?

Mr. Scrivo: Now Chief in your first paragraph I think Mr. King went through these numbers for you and the first things you raised that you say "you have several concerns" I'm pointing to the last sentence of you first paragraph where it says "as the Chief Law Enforcement Officer I have several concerns regarding the change of license." Do you see that?

Mr. Gallagher: Yes, I do.

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Mr. Scrivo: Now, the first concern that you raised was a mix of bar patrons with children in the store, is that correct?

Mr. Gallagher: Yes, it is.

Mr. Scrivo: Now, you said you have been to the store, correct?

Mr. Gallagher: Yes numerous times.

Mr. Scrivo: And, are you aware of any unattended children roaming throughout the store?

Mr. Gallagher: I honestly have no idea,

Mr. Scrivo: Well someone who is the Chief Law Enforcement of the Town who has raised a concern with regard to the mix with bar patrons and children, I just want to know what you meant by children in the store.

Mr. King: It just has to time I don't think the Chief is there all the time, but he has alluded to the times that he was at the store that he saw children.

Mr. Scrivo: I want to know what he based his knowledge on, so.

Mr. King: Besides his training experience?

Mr. Scrivo: You can answer for him, if you like, but I would like him to answer. Chief, what do you base your statement that there are children in the store?

Mr. Gallagher: There are children in the store.

Mr. Scrivo: And, are there unattended children in the store?

Mr. Gallagher: I'm sure there is.

Mr. Scrivo: Do you think it's typical that parents drop off their children and let them roam throughout the store and if so what ages?

Mr. Gallagher: I don't think dropping off is what I meant, I meant like Junior go get a box of corn flakes and meet me back here, I don't mean drop them off in the parking lot unattended.

Mr. Scrivo: And, under your scenario how long does Junior take to go get a box of corn flakes?

Mr. Gallagher: _____

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Mr. Scivo: As someone who is trained Law Enforcement Officer do you believe or have you had any reason to observe children being unattended from their parents looking for corn flakes for any substantial period of time, thereby being unattended?

Mr. Semrau: I think you already asked that question and he answered it.

Mr. Scivo: I don't think I did, I think this is the first corn flake question so Chief, I would like to have the question answered if okay Mayor.

Mr. Gallagher: I have no idea how long a child would be away from their parent but how I have seen the children in this store not standing next to their parents, yes.

Mr. Scivo: Do you believe that supermarkets are a destination for children?

Mr. Gallagher: I think it's a destination for the parents, when they are with their parents.

Mr. Scivo: So you believe that children are typically accompanied by parents when they visit the supermarket not dropped off.

Mr. Gallagher: Yes.

Mr. Scivo: Do you have any data to rely on that the service of alcohol at either an oyster bar would transform this supermarket into a destination?

Mr. Gallagher: I do not.

Mr. Scivo: Now, you said before that you are aware that there is a kind of a drop off, as you get later in your report you said that there is a drop off day care type drop off for children, is that correct?

Mr. Gallagher: Yes, as least there was I don't know if it is still there.

Mr. Scivo: Okay and that may actually take children out of the aisles of the grocery store and put them into the daycare, correct?

Mr. Gallagher: It could.

Mr. Scivo: You were asked questions before about the location and soccer and walking across the street, what is the nearest school to this supermarket.

Mr. Gallagher: There is a day care center down the Horse Hill Road.

Mr. Scivo: Where people drop off their children I assume, children don't escape from that daycare, I'm asking you, what is the nearest school?

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Mr. Gallagher: I don't know the nearest?

Mr. Scivo: Would you disagree with me if I said to you that Morristown Beard School is 1.3 miles from this supermarket?

Mr. Gallagher: I think there is a school in Morristown that is closer on Martin Luther King,

Mr. Scivo: Talking about the High School?

Mr. Gallagher: No there is another school down there.

Mr. Scivo: Now are you aware that the current operator of this license?

Mr. Gallagher: I'm sorry.

Mr. Scivo: Do you know the current operator of license is?

Mr. Gallagher: I think it was Half Point Pub.

Mr. Scivo: And, the Half Point, and are you aware that the Memorial Junior Middle School is 500 feet from the Half Point Pub to the Middle School?

Mr. Gallagher: Yes.

Mr. Scivo: And that's a lot closer than any school in relation to this supermarket, is that correct?

Mr. Gallagher: Yes.

Mr. Scivo: Do you think that children are walking to this supermarket to head there from any school?

Mr. Gallagher: I have no idea.

Mr. Scivo: And in addition to the Memorial Junior Middle School, are you aware that there is not only school facility there but there are 6 fields at that complex?

Mr. Gallagher: Yes.

Mr. Scivo: And children play there?

Mr. Gallagher: Yes,

Mr. Scivo: Soccer being played there?

Mr. Gallagher: Yes, I would assume so.

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Mr. Scrivo: And a lot of other sports in this town?

Mr. Gallagher: Yes.

Mr. Scrivo: Now you said that the Oyster Bar would be segregated with a wall, correct?

Mr. Gallagher: I did see a plan of that, yes.

Mr. Scrivo: And you are aware there is a door?

Mr. Gallagher: Yes,

Mr. Scrivo: And there is a wall about 4 feet high and glass that goes up 6 feet high.

Mr. Gallagher: I have seen the plan

Mr. Scrivo: So you are not really concerned over how that is segregated from the store with respect as whether anyone can access that?

Mr. Gallagher: Well actually when I wrote this memo, I knew nothing of that I don't know if that was proposed or not my experience is there were _____

Mr. Scrivo: But you are aware that the applicant has proposed a wall with a door.

Mr. Gallagher: Yes.

Mr. Scrivo: A single door so that people would have to go in the door and come out the door in order to access the oyster bar.

Mr. Gallagher: Yes.

Mr. Scrivo: And, there would be a bartender on staff that would be estimate 5 feet from that door.

Mr. Gallagher: If you say so.

Mr. Scrivo: You are aware that bar patrons would not be able to take drinks outside that oyster bar.

Mr. Gallagher: I've heard that since I've been here for some hearings, I also didn't know that at the time.

Mr. Scrivo: Now, you also raised an issue with respect to the parking.

Mr. Gallagher: Yes.

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Mr. Scrivo: Are you aware what the security is with the supermarket?

Mr. Gallagher: I've seen security at the supermarket.

Mr. Scrivo: And, are you aware of the testimony that there are two security guards in the store at all times, one armed and one unarmed?

Mr. Gallagher: I've seen it, yes.

Mr. Scrivo: And, are you aware that there is a roaming security guard in the parking lot everyday from 3:00 pm until closing?

Mr. Gallagher: Yes.

Mr. Scrivo: Now you raised an issue, I think someone asked you a question with regard to whether you had an issue of whether within a shopping center you have the same objections for restaurants and bars in the same shopping center as supermarkets, and I think you said no because there is more control at those restaurants and bars have, is that generally.

Mr. Gallagher: Separated, I know there are a couple buildings; I call them help buildings, if they are talking about opening a restaurant there, the concerns are about the same as having a bar in _____

Mr. Scrivo: So you wouldn't have a problem with a restaurant being on a separate pad away from the supermarket

Mr. Gallagher: I still think there is a parking lot issue, but I think it solves all the interior issues.

Mr. Scrivo: Well we are really limited to the parking lot issues right now, because the third item you said was with regard to parking lot issues and you raised the issue children, as you said old people, elderly people, and shopping carts, correct?

Mr. Gallagher: Yes.

Mr. Scrivo: I think you did also respond to one of the questions that that would be, you would not have the same level of concern if the shopping center had a shopping center had a restaurant that was separate and apart from the supermarket?

Mr. Gallagher: Because of how that parking lot is designed its already separated out of sorts so there is less shoppers over by where the new buildings are as opposed to right in front of the food stores it's a separated by the parking lot itself, that design of the parking lot.

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Mr. Scrivo: Let's assume though that this shopping center had a restaurant was in the same location as the Shop Rite but not necessarily in the shop rite, would you still have the same concerns?

Mr. Gallagher: Same but less.

Mr. Scrivo: Because, why would you have less?

Mr. Gallagher: Because of the separation.

Mr. Scrivo: What does the separation give you?

Mr. Gallagher: Like I said if you have those stores open and there is a restaurant over there and it's separated by the curbing there is going to be less shoppers in that area and the shoppers are going to be over in front of the store, cause nobody wants to walk, so everybody tries to get as close as possible, it's a destination so people who are going to the restaurant are going to park by the restaurant, people by the store are going to park by the store.

Mr. Scrivo: But there is nothing prohibiting someone who is parking by the restaurant and having a few drinks to going in the restaurant and doing some shopping?

Mr. Gallagher: There is not.

Mr. Scrivo: And you would have no control over that what so over?

Mr. Gallagher: No.

Mr. Scrivo: So if someone for example at Pine Plaza went to visited Scaloppini let's say and have a few drinks in there and walk into Farmtastic, correct?

Mr. Gallagher: Yes they could.

Mr. Scrivo: And Farmtastic would have no control over that?

Mr. Gallagher: Not that I'm aware of.

Mr. Scrivo: And someone could go to Scaloppini and have a few drinks and walk over to the Melting Pot and have a few drinks and walk into Farmtastic do some shopping and take their car into the parking lot, and nobody will have any control over that?

Mr. Gallagher: Yes.

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Mr. Scrivo: Now in the Pine Plaza shopping center, there are two consumption license establishments, the Melting Pot and Scaloppini is that correct?

Mr. Gallagher: Yes.

Mr. Scrivo: In Scaloppini would agree with me that there are about 10 seats in the bar and about 10 seats in the bar area?

Mr. Gallagher: Actually, I'm not familiar with that.

Mr. Scrivo: Would you take my word for it that there are about 20 seats in the bar area?

Mr. Gallagher: Okay

Mr. Scrivo: And another 150 seats in the place.

Mr. Gallagher: yes.

Mr. Scrivo: In the Melting Pot there are about 20 seats in the bar area as well, and 165 seats inside the restaurant.

Mr. Gallagher: Again, I believe you.

Mr. Scrivo: That's about 375 people who are potentially patronizing two consumption licensed establishment in a shopping center, in Hanover, is that right?

Mr. Gallagher: Yes.

Mr. Scrivo: And there is a supermarket in that shopping center, correct?

Mr. Gallagher: Just recently there is.

Mr. Scrivo: There was one a long time ago too right, it was a Pathmark.

Mr. Gallagher: That was there for a while part of the original application and approvals for that shopping center, and you did not prepare any in any of your review or your Police Department's review of either Scaloppini the Melting Pot or Bensi or any other consumption license establishment at a shopping center you didn't raise any issues in any of those reports neither you or nor your detective with regards to carts elderly people, or children or the mix of consumption and supermarkets, correct?

Mr. Scrivo: Now there are other establishments in the shopping center, Pine Plaza, as well, correct?

Mr. Gallagher: Yes.

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Mr. Scrivo: And, there are establishments that children go to, correct? Like a frozen yogurt place.

Mr. Gallagher: Inaudible

Mr. Scrivo: There is a Planet Fitness, a gym there too right?

Mr. Gallagher: Yes

Mr. Scrivo: Some can go to the gym go to the bar go to the supermarket go into the parking lot ride their cart out there, correct

Mr. Gallagher: Yes

Mr. Scrivo: There is actually even a gun store in there?

Mr. Gallagher: In the basement yes.

Mr. Scrivo: So someone could go to one bar and go to another bar and then go shopping and then go potentially buy a gun if they pass all the appropriate

Mr. Gallagher: I know there is no shooting, there are simulators, I know there is storage, I don't know if there is purchase.

Mayor: More of like a locker thank you.

Mr. Gallagher: I don't think you can buy a gun in there or not.

Mr. Scrivo: I checked online today, and it looks like you can buy a shot gun.

Mr. Gallagher: There is a simulator, and there is storage.

Mr. Scrivo: And, none of those issues raised concern for you as the Chief Law enforcement officer with respect to having two licensed establishment in a shopping center correct?

Mr. Gallagher: No.

Mr. Scrivo: Now you say number 4 is how will the supermarket deal with bar patrons with store shoppers and how the noise level associated with the bar atmosphere, have you reached a conclusion as to whether this is going to have a bar atmosphere?

Mr. Gallagher: Have I reached a conclusion, if the bar is going to have a bar atmosphere?

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Mr. Scrivo: The serving of alcohol in the supermarket, have you reached a conclusion as to whether that is going to be a bar atmosphere?

Mr. Gallagher: Yes.

Mr. Scrivo: And, what is your conclusion?

Mr. Gallagher: It is a bar.

Mr. Scrivo: And other than the fact that it is a bar what do you consider a bar atmosphere?

Mr. Gallagher: People standing around the bar drinking alcohol.

Mr. Scrivo: And, what do you think that is going to do visa vie the noise level?

Mr. Gallagher: I think it usually raises the noise level; most bars are noisier than a restaurant.

Mr. Scrivo: You would agree that there are some bars that are noisier than other bars, Correct?

Mr. Gallagher: Yes.

Mr. Scrivo: You would believe that this bar is in the middle of a supermarket, correct?

Mr. Gallagher: Yes,

Mr. Scrivo: And, have you reached a conclusion as to the noise level, the difference between a noise levels in a supermarket verses the noise level in a bar?

Mr. Gallagher: Is there concern?

Mr. Scrivo: Do you think that the noise level, if the consumption of alcohol is permitted that the noise level is going to increase beyond what the already exists in the supermarket?

Mr. Gallagher: I think it's entirely possible.

Mr. Scrivo: And, you base that on the fact that people will be at a bar?

Mr. Gallagher: Yes.

Mr. Scrivo: In a supermarket?

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Mr. Gallagher: Yes

Mr. Scrivo: And, nothing else?

Mr. Gallagher: Yes

Mr. Scrivo: Do you believe that the supermarket is loud already?

Mr. Gallagher: Yes,. I guess.

Mr. Scrivo: Now, you raised an issue with respect to bar patrons being allowed to drop their children off, go for drinks and pick their children up and drive them home?

Mr. Gallagher: Yes.

Mr. Scrivo: Were you here for any testimony with respect to the restriction that Shop Rite would place on the ability to be served at the bar while their children...

Mr. Gallagher: One of the first two meetings I heard something about banding people and if you were banned you were not be able to drink alcohol.

Mr. Scrivo: Understood Chief, but you did your testimony with respect to addressing that issue I just want make sure you are aware that Shop Rite did attempt to address that issue that concern you raised in your report. Now, you said the presence of bar does offer the potential of increased criminal activity, do you see that? And you say that the bar is more likely to be robbed. What do you base that on?

Mr. Gallagher: I do believe that, I think the cliental that a food store draws in, the cliental that a bar draws in are two different things.

Mr. Scrivo: Were you here for the testimony with respect to the service of alcohol being an amenity to the existing supermarket?

Mr. Gallagher: I'm not sure, it doesn't sound familiar.

Mr. Scrivo: You don't know anything about the service of alcohol from Village's standpoint to be considered an amenity to the shopping experience?

Mr. Gallagher: I may have been here but I'm not sure.

Mr. Scrivo: Were you here for the testimony that there are 200 cameras security cameras now.

Mr. Gallagher: I know that Shop Rite has a very good security system, because we work together with them on some problems that they had so yes.

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Mr. Scrivo: Do you think the presence of 200 cameras in a supermarket might be a deterrent to the increased criminal activity?

Mr. Gallagher: It was known but I've been in the store and I've never come up with 200 cameras, so as a deterrent I say no, I saw who did what, -

Mr. Scrivo: And you are aware that Shop Rite currently has a distribution license that they sell packaged goods?

Mr. Gallagher: Yes

Mr. Scrivo: Have you encountered any issue with regard to Shop Rites having a distribution license?

Mr. Gallagher: Just the shop lifter we had once for stealing beer but other than that no.

Mr. Scrivo: I mean as to the Shop Rite's performance, has there been in any violations that Shop Rite has had.

Mr. Gallagher: No.

Mr. Scrivo: Now during your tenure as Chief did you have an opportunity to review any of the application either initial applications or renewal for JR Tobacco?

Mr. Gallagher: I don't think I was Chief then.

Mr. Scrivo: Are you aware that JR Tobacco holds a consumption license in the Township?

Mr. Gallagher: Yes.

Mr. Scrivo: Have you been involved in any of the alleged, violations involving that facility?

Mr. Gallagher: I don't remember violations,

Mr. Scrivo: So during your tenure as Chief you don't recall having any issues, having any involvement with respect to any violations?

Mr. Gallagher: They were having some problems with inspections that is the best I'm aware of.

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Mr. Scrivo: Now with regard to any of the either expansions or renewals as it related to JR Tobacco did you personally have any involvement or did you delegate that?

Mr. Gallagher: I probably delegated it out.

Mr. Scrivo: I have a last couple of questions then I'm done Mayor. Chief just showing you what has been marked P12 this is a memo from Mr. Giorgio to Police Department and others with respect to Person-To-Person Transfer of Plenary Retail Consumption License do you see this?

Mr. Gallagher: Yes I do.

Mr. Scrivo: This is from Lalo Inc., to Mack Cali.

Mr. Gallagher: I see that.

Mr. Scrivo: Did you have any involvement in the review of this transfer?

Mr. Gallagher: Little

Mr. Scrivo: I know Mr. Giorgio writes in here "appears from the application that the license will be transferred c/o Mack Cali and probably intended for the proposed Wegman's site, do you see that?"

Mr. Gallagher: I do.

Mr. Scrivo: Did you have any discussions with regard to this matter license potentially being used at the Wegman's site?

Mr. Semrau: Is this just the Person-To-Person? Or Place-To-Place?

Mr. Scrivo: It is, Person-To-Person. I don't believe there has been a Place-To-Place.

Mr. Gallagher: I don't remember.

Mr. Scrivo: Mayor that is all I have.

Mayor: Chief have you been in the restaurant Scaloppini?

Mr. Gallagher: I have not.

Mayor: No, good food. Have you been in the Half Point Pub?

Mr. Gallagher: A long time ago, yes.

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Mayor: Have you been in Farmfresh?

Mr. Gallagher: No I have not.

Mr. King: You mean Farmtastic, the grocery store?

Mayor: Do you know if I could buy groceries in the Half Point Pub?

Mr. Gallagher: No you can't.

Mayor: I cannot?

Mr. Gallagher: No.

Mayor: The memo's from the Administrator Mr. Giorgio to you poses some unique questions of you and brings to your attention a unique use of the license, do you agree?

Mr. Gallagher: Yes I would.

Mayor: Is it far more unique than any other license of liquor store, restaurant, to restaurant any other type of conventional what I would determine to be conventional use of licenses is it more unique?

Mr. Gallagher: Yes it is.

Mr. Ferramosca: Do children attend the YMCA?

Mr. Gallagher: Yes.

Mr. Ferramosca: Does the Y operate a summer camp for children?

Mr. Gallagher: Yes they do.

Mr. Ferramosca: Is the Y within close walking distance to Shop Rite?

Mr. Gallagher: Yes it is.

Mr. Ferramosca: Is it conceivable that a parent could say to the child walk over to the shop rite I'll meet you there because I need to do some shopping?

Mr. Gallagher: Sure, I don't know the rules of the Y are if they are allowed to leave like that.

Member Gallagher: The Mayor used the term unique a couple of times, and it is a different set of circumstance because as we discovered through testimony there is not

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at this point a grocery store in New Jersey that serves liquor. So that is why it is unique, correct?

Mr. Gallagher: Yes.

Mr. Semrau: Mr. King has some redirect questions.

Mr. King: You did cover some of what I was going to redirect on, Chief with regard to the memos that were part of P10 from Mr. Giorgio to you did any of them involve a Place-To-Place transfer into a supermarket?

Mr. Gallagher: They did not.

Mr. King: And based upon your 30 years in Hanover Township, has there ever been a request of a liquor license Place-To-Place for a supermarket?

Mr. Gallagher: Not that I'm aware of.

Mr. King: Other than the current application, and are you familiar with NJSA 33:1-12 Class C License?

Mr. Gallagher: I did read that this morning, yes.

Mr. King: And in there does, is a liquor license permissible in a grocery store?

Mr. Gallagher: It says no.

Mr. King: And based upon that, did you have concerns with this license being transferred to this site as proposed Person-To-Person Place-To-Place as proposed?

Mr. Gallagher: Yes, I do. With that all being there and being found I'm sure why we spent all this time on this.

Mr. King: Well question does it raise your concerns?

Mr. Gallagher: Yes.

Mr. King: And with regard to the Melting Pot Scaloppini and the Bensi are they located inside a supermarket?

Mr. Gallagher: No

Mr. King: I have no further questions.

Mr. Semrau: Mayor what happens now as long as Mr. Scrivo doesn't have any re-cross the matter would be open to the public with respect to this witness and if there is no objection by counsel I think what we can also do is open it to the public for any

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general comments that they may have. It would be the last public portion of the hearing if there is no other witnesses that are called.

Mayor: I will hold it to that.

Mr. Semrau: If you are to do that, I just bring to the public's attention and to the Governing Body that one of the standards is Community sentiment, regarding this application. Unlike Planning Board applications and other things that the governing body hears certainly they want to know what members of the public opinions is but with respect to this particular application one of the standards that the governing body takes into consideration is the public sentiment. So with that Mayor if you want to open it to the public to respect of this witness and any public comments this would be the last public hearing with respect to this application.

Mayor: I think we would, counsel make a motion to open.

Motion to open to the public made by Member Ferramosca and seconded by Member Brueno and unanimously passed.

Carol Fomchenko, Malapardis Road, Whippany: I just also bring to your attention that the Board of Adjustment approved a Youth Center to be built for the YMCA for children youth activities, especially in the summer to be built on Saddle Road. They were given this approval within the past 6 months, so there is another facility that there will be children after school and during the summer and they will be outside the building there is a yard for them to do some activities. As I stated I think it was two meetings ago, I think this a terrible idea. I had said that the alcohol it just adds to the culture of substance abuse and I can't help but think that if marijuana ever becomes legalized in New Jersey does that mean that Shop Rite is going to want to have a little stand next to their flower shop to indulge the public in this particular substance? I think it is very dangerous in the parking lot, not only for the elderly for anyone that is driving. If someone comes out even slightly inebriated, their reflects are slower, their thought process isn't as fast and there is a potential for many accidents in the parking lot. Children do run around the store, get boxes of cereal or whatever for their parents, I've seen it in other grocery stores as well. So my personnel opinion that this is a terrible idea, it's a supermarket, it's not a place where someone needs go and have a drink. There are so many bars and saloons and social clubs in the area for this particular purpose, I don't think it is necessary. Thank you.

Mayor: Thank you.

Ted Knauss, 23 David Drive, Whippany: I can't tell you that I've followed this case very closely, but I can tell you that 1984 the Sumas Family hired as a cart boy in Livingston Shop Rite. I can further tell you that many people who I come across on a daily basis in business work for the Sumas family. Just on Monday night, at Governor's Kane's 80th Birthday party, who is there Billy Sumas. Supporting the Arts in Newark, supporting the community food bank, the list just goes on and on and on. Choose New

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Jersey, New Jersey Chamber of Commerce, but yet we continue to focus on alcohol and children. Mr. Sumas would come in the office and say "where you going to college" the drum beat went on, he cared about us, we were 16 15 year old kids, but yet for 31 years Village Supermarket has operated a business successfully not only having it live to the standards of every community that they serve but in addition to the standards of Wake Firm Corporations sets for them. But yet we continue to focus on children being in a supermarket and liquor being there. Tomorrow night many kids from this town go to a Yankee Game, PTA is running it from Bee Meadow, how many Yankee games are played there a year, 81. All of us have been there probably, liquor is served, children go. Think about that, use that, because otherwise we are going to have to do a pyridine shift as how we view our social activities. Look, if someone makes a decision to do something poorly, they are going to set forth doing that no matter what, whether you serve it in a liquor store, I'm sorry, in a food store, or whether you serve it at the town bar, someone is going to make a poor decision. And so, my statement is not so much about whether this is right or wrong, we never focused on the character of the people who are actually supporting this transfer. When drawing pyridine shifts that are conclusions without factual evidence. Thank you.

Mr. Semrau: Mr. Knauss, just for the record, the statements that you are making regarding the character of the applicant, are you familiar with them first hand?

Mr. Knauss: I work for the Sumas Family, I mean I see them from time to time, as I travel the State, I can't say I'm close friend by any strips of the imagination, but what I can say that is that I saw Billy Sumas on Monday night I saw him about 9 months earlier at Governor Byrnes' 90th. So these are people that are active in the community. That is my knowledge purely working as a child and he obviously he has since passed obviously, Mr. Sumas Sr., but as a business person, the community sees the Sumas family.

Mr. Semrau: Thank you.

Jim Neidhardt 3414 Appleton Way, Whippany: I have been at all of these hearings, I believe all three of them and I used to shop at the old Shop Rite on Route 10, the predecessor to this store for many years, and I have gotten to know several of the employees there and as well as some other people that have worked for the Sumas Family and I've actually talked highly of the family at this podium. Long before the store opened probably around the time of the ground breaking or shortly after, some of those employees in the old store and some other folks that worked for Village were talking up the new store, very highly and they talked about all the great amenities that they were going to have, they told us that there was going to be a day care center, yoga or exercise center, dieticians, outdoor patio, oyster bar and that they were hoping to serve alcohol. I find it kind of odd tonight to hear that so many of those amenities were not part of the site plan that members of the committee and member I believe of the Planning Board were not made aware of this when as a member of the public I was hearing this from employees WAY prior to the store opening. When one of the people testified here John Sumas he kind of at least my take any way I don't know if this is

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what he was trying to do, but my take away, that they were making decision on adding some of these things as the store was being constructed. I just find that extremely disingenuous, when we are hearing from employees of the store, well before the store, the frame of the store was up what was planned in the store.

I worked in the supermarket industry for over 25 years 5 at store level, the idea of serving alcohol in the store is a foreign concept to me, but I came to these hearings as a resident to hear and to be open minded, I'm far from a prude, I've been known to indulge in an alcoholic beverage here or there on a Friday or Saturday night, and at first I said oh this doesn't sound that bad of an idea, let me go and have an open mind and listen. But I have to tell you that after hearing all the testimony and visiting the store and looking at the locations where it is being proposed, I have some major major concerns as a resident of the Town. Both the Oyster Bar and the patio area, the idea of a store of this size I don't know the square footage is but it is a good size store, to put this right smack in the middle of the store in the highest traffic areas, and I think one of the employees called it the power aisle. It just seems to me like the oddest thing and I know that there are many places that serve alcohol but 98% of the patrons are fine, they consume alcohol but there are occasions where there are problems and the idea of that being right smack in the middle of the supermarket environment, of all the places you can do it that just doesn't seem right. The other area, the patio area I didn't realize this at first because of the way it was described, I got the idea that this was within the store perimeter and it was just a separate entrance to this place, but I was there on Sunday afternoon and I actually bought food and went in the patio area and sat there. It was about 60 65 degrees out and part of the wall and ceiling were opened, they talked here about having a retractable wall, but actually being in there I counted 12 sections 10 of which moved and it's the whole entire front wall and almost 1/2 of the entire ceiling area, kind of like an L shaped unit, and only 2 the 2 center ones were opened. I was sitting inside and I felt like I was outside in the parking lot. It just seemed totally different than what was described as take your food and move over into the food court. When these 10 sections are open, you feel like you are virtually in the parking lot and I took some pictures and I would like to submit them for you, there are 6 pictures here numbered and dated and I would ask you to pass them along. Five of the picture are from the outside and one of them is from the inside and although I know many of the people here that have to make this decision have shopped in this store, I don't know if they ever been there when these partition are opened, even though I haven't been there with the partition fully opened just having two of the ten movable sections opened it is shocking how you feel like you're in the parking lot. If you look at the photographs the only barrier that separates this open beer garden type patio is several maybe 10 12 inch red poles that are designed to stop a car from coming through and impacting and a couple of planters and I as a citizen I respect the Chief at being an expert on security and safety but as a citizen I can't image how an area like that could ever be controlled with one bartender or one bartender and a security agent in the area it is just too wide open. It seems to me like there were 12 six foot panels there making it a sixty foot linear frontage that is wide open to the parking lot and while I was sitting there I noticed adults and children and sometimes just what I would call older children, older aged teenagers maybe 16 or 17 alone traversing in and out of the patio area. Some patrons after did

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their supermarket shopping and came into the patio area with food when they finished they just exited out into the open parking lot through the two partitions that were opened, but also several patrons that parked in the parking lot came directly in the patio area and then used that as egress into the supermarket, so I know there has been testimony and I know some of you have shopped in the store, but I just wanted you have the pictures there so you can get a little bit of a taste of what this would be like when the whole entire area is opened. I have a concern of flow of customers and the ability to control, all of that being said with the idea that Village Supermarkets do a very nice job, they have been around a long time they have a successful operation, they have loads of security it's all been testified and we can see that, but when you have an area as large as this patio area and you open up all of those wall and ceiling partitions and 40-50% of the area is open with egress real easy right across that whole 60-50 foot frontage I just don't know how when it's crowded and you have people coming and going how that could ever be controlled.

The last thing I want to say is that I said it already I'm not a prude and I do enjoy an alcoholic beverage here and there, they are environments that you expect it, when I'm at home and open the refrigerator that's a perfect acceptable area, if I want to go to a place like the former Half Point Pub, I go there and I expect alcohol to be served there, I expect the behavior that comes with the consumption of alcohol, people to be loud and I actually enjoy that sometimes, but that is the environment I go there for. When I go to a Bennigan's on Friday's even though it is a family atmosphere with children and older people like me, you know what you are getting it's about expectations, you go into a Friday's or Bennigan's and you go in at certain times of the night, the later you go the crowd changes to a younger crowd it gets louder, it gets rowdy the police are there little more often than they are often during the day. But in the pubs and the restaurants with bars and the typical places where alcohol is served, bought and consumed the customer the patron has an expectation, this is a unique potential transfer and I don't believe that the overwhelming majority of the patrons many of whom are our residents have the expectation that there are going to be people there consuming alcohol and potentially exhibiting and I'm sure on occasion the behaviors that associated with the consumption of two and three and perhaps more alcoholic beverages the loud, the little bit or rowdiness, just the display that they display themselves but also the potential for interaction which the Chief and other people have talked about. So even though I came to this with a very open mind, actually thinking this is an interesting idea, I've been in supermarket business 25 let's try something new, it's great, after hearing and seeing all of this, I really hope you deny this application, there is no reason for us as a community to take this risk, let some other community try it and see what happens. Thank you.

STARTED TALKING AT 9:00 and FINISHED 9:11

Mr. Semrau: We will just mark those photos P1 for public.

Mr. Scrivo: Public 1

Mr. Semrau: Public 1 because there is a P already.

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Bill Cantor, 26 Hamilton Court, Whippany: Just a question, I have not seen the patio area, but are there plans in the future to rent that out for group functions for periods of time maybe two or three hours? Has that been approved if they were planning on doing that was that an approved utilization of that facility? I'm thinking of like groups having meetings there and deciding to go in and buy some liquors and come out and enjoying the rest of their food at that location, I'm just thinking of like large groups maybe 60-100 people occupying that thing at one time for a specific purpose, so has that been approved for the patio area?

Mayor: Peter do you want to answer that?

Mr. King: I know that there was testimony from the applicate that they were thinking of holding events but I don't know if that was approved and I would ask (interrupted)

Mayor: I think our Planning Board hearing was clear in the fact, the Planning Board did not approve a catering facility here, let's be clear about that.

Mr. King: Absolutely.

Mr. Cantor: But if they were to rent it out to a large group and set aside an area of half of the space, say you come at 2:00 and stay until 5:00 is that catering or is an approved functionality of the area?

Mayor: It's a very good question and it would have to be reviewed by our Planning Board and by Counsel to see whether or not but I would say that if the license was in place and approved I'm having a difficult time thinking of what would prevent them from renting it to or contracting to or providing parties for organization and the like.

Mr. King: My memory and my notes also reflect that was the testimony of the applicant that they would consider it.

Mayor: Then there is your answer; it is a consideration by Shop Rite.

Mr. Cantor: But is it approved by the Planning Board?

Mayor: I think there is a lot of questions that have come out of this, regarding the planning aspect of it, that

Mr. Cantor: I have not attended all the meetings, but what I have attended seems that this functionality that they are proposing keeps growing by leaps and bounds the longer you listen to the story. I just wanted to issue a warning of caution as to prevent future growth in areas that weren't specified. Thank you.

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Mayor: Going forward I would think that counsel approved this kind of a use that it would be remanded back for another review before the Planning Board, I think the Planner would have to look at this and make a determination as to whether or not it should go back to planning for any significant changes in the plan design, I would think.

Judy Iradi: I have said in the past that I love the store, I just love shopping there, I am a long time grocery shopper, for many many years, when the store first opened I loved going there, they have everything you need. But I try to think to myself, they said this would be an amenity, now I'm thinking about first the oyster bar, and I try and as hard as try to think, how would this be an amenity to me the average shopper? And as hard as I thought, I couldn't think of why it would be an amenity to me, why I need a drink before or after I went grocery shopping, so that discounted the oyster bar, and I also think it would be a destination and according to Chief Gallagher there are many draw backs if it is destination about the traffic congested parking lots some more, so the oyster bar is a destination and it is not an amenity. Then I thought surely outside if you had that atrium area, and the people didn't have to, the alcohol did not have to come through, and believe me I enjoy a drink also, but the drinkers don't have to actually come through the shopping center with the children the families they can come in through the outside. I have also dined in the outside area and unlike the previous person up here, when they open those glass doors and the ceiling it is beautiful, I love it. If the weather is beautiful you're sitting out there, but also there are a lot of children sitting out there too. So when they proposed having a bar area in that section and there will be half and half would be mix of people not coming in from the parking lot, but the actual people where there I didn't actually agree with that; it is really not separate from the shoppers. So in that sense since you can't separate the children and I've seen on a Saturday night or Friday night early in the evening young adults might get some food from the food court and sit out there while their parents are shopping in the store, I'm talking about 14-16 not little children, for if they are sitting out there by the fireplace, which is beautiful, enjoying their meal while their parents are doing the grocery shopping because I can't see having a bar right there with patrons drinking, that's my opinion. I would be opposed to the granting of the liquor license, the store has everything you would want right now. It's beautiful I think that having a sell of liquor within the store might even perhaps residents not shop at that store, or maybe not shop at the store at night because it would attract more people that were going to the oyster bar.

Also I have eaten in the atrium area where they had a section that was a birthday party for a child. So I don't know, they had presents and everything so I don't know if the store is aware of it or they just came in and took that section for them themselves or if the store did set that aside for them for a young child's birthday party. I don't think that would be a great mix if you had a bar on the other side. Thank you.

Seeing None.

Motion to close made by Member Brueno and seconded by Member Ferramosca

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Mayor: Counsel would want the opportunity to comment on any statements or questions that you opposed to at this dais?

Mr. Scrivo: Not on anything that was said.

Mayor: Just one statement here, regarding the two segments of this case that we are very concerned with, and one involved Planning and the other certainly and a more critical point, the most important point, public safety. I think people bring up their concerns with planning that the Township, I'll use the word "snookered" in that we didn't see this in plans from the beginning and therefore why is it? I think it is Shop Rite's prerogative to change their plans and come back in before the Planning Board, come back and plan review at any time they want, amended site plans are not uncommon in any situation, whether or not Shop Rite came back in for an amended plan on this or whether or not our planner after seeing the results of this hearing were to approve or disapprove brought it back into planning is not the case, I think anything having to do with site plan can be dealt with, so the issue before this counsel at this point is one clearly of public safety the intermingling of the spirits and alcohol in a grocery type public environment in a grocery store. Through the comparison of going into a bar or restaurant and buying your groceries and vice versa is this. I heard comment in the community an informal fashion are we going to dinner tonight is it dinner or shop rite? Well that has come to my attention a couple of times, so that says to me what that Shop Rite is going to be a destination for someone to have dinner and drinks, etc., if it were available there. Having said all of that, I think the Township rests at this point.

Mr. Semrau: Is there anything else Mr. King?

Mr. King: No, the Town rests.

Mr. Semrau: Mr. Scrivo, nothing else right?

Mr. Scrivo: Nothing else unless you want to provide some commentary to some of the issues that could be highlighted?

Mr. Semrau: Well I think in order for me to advise the governing body, I think I really, I raised this issued at the last hearing and it's the actual statute that the way it is written would seem to preclude having a consumption license on a premise in which grocery, and it goes on to give other examples would be carried on. I think that is something that I am going to have to give some direction to as to the governing body so I think if you want to be heard on that it may be helpful for us to try and understand your client's position to respect of that.

Mr. Scrivo: I would be happy to be heard on that, and Mayor with regard to what the Township Attorney has said, he has directed my attention to NJSA 33:1-12 there was some questions with regard to both witnesses tonight with respect to whether that actually prohibits the consumption license operating in a grocery store. Now what that statue says is that the license shall not be issued to permit the sale of alcoholic

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beverages in or upon any premises that the key word premises in which a grocery, deli, drug store, or any mercantile business is carried out with certain exceptions. So the issue with regard to that, what is the definition of premises in this statute? It says forth in a definition what the definition of a premise is and the definition of premise the legislature of this State uses the definition of premises as the physical place at which the license is or maybe license to conduct the sale of alcoholic beverages. Now that can be contrasted with another definition the legislature sought fit to include in this statute which is licensed building. The legislature could have but didn't use the words licensed building with respect to the prohibition in a grocery store, it only used the word premises, and as the statute says the premises are the actual location where the license is going to occur. So here, the premises as defined by the statute are either the oyster bar cause that what we are applying for or the patio area, and so in those two premises no mercantile activity could occur, therefore nor grocery shopping could occur in those premises and only those premises, the legislature wanted to say that it could not occur i.e., the sale of grocery in mercantile in the license building it used that definition it set forth the definition of the statute but it did not use that definition to prohibit the sale of groceries. I would submit to you Mayor and the Governing Body that the case that counsel brought up as an example of this the North Central case that was decided in 1961, confronted the same issue, and so what the court did in that case was, it was an Appellate division case, 54 years old now, but it's all we have to go on, what the court did in that case it analyzed this statute and it analyzed this statute with regard to a Bamberger's in the Menlo Park Mall and in that case, looking at the same statute where it prohibited mercantile activity in the license premise, if the Court took the interpretation that the Township seeks to be advancing it would have prohibited the sale of alcoholic beverages in that store entirely, it would have said that in a Bamberger's you cannot have a bar. But that is not what the court said in that case, in fact the court used two extremes, the court said that clearly a line of chalk in the ground would not be enough to set up a physical barrier contemplated by the legislature, clearly it said on the other extreme, that because the bar was on the second floor of that Bamberger's and there was an escalator there that if there was sale of goods, Bamberger's goods on the first floor and only the bar on the second floor separated by an escalator that that would be okay. And what the court said specifically was somewhere in between there is a requirement that there has to be those boundaries, and we submit and I point to page 5 of that case, "plaintiff does not argue, plaintiff in that case was ABC Director and the Attorney General" rather plaintiff was the objector the ABC and Attorney General was arguing in advance of the license premises. Plaintiff does not argue nor do the administrative ruling hold that licensed plenary retail consumption premises may not lawfully exist in a building in which other merchandized is sold even by the same owner of both businesses. So it contemplates that that is going to happen, but what it seeks to do is corner off those premises from the rest of the mercantile premises that is occurring on site. And that is what we tried to do here, we heard what the Township raised with regard to the Oyster Bar so the wall is up and the door is there, and you heard testimony about how with respect to Mr. Lindenmayor who is going to be the Bar Manager how that is going to be gaged. We submitted the same issue exists with respect to the patio area because that is also separated. You don't have to walk through the mercantile area when you come in the store, to go to that patio bar either.

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Now, with respect to the area in between those two, that's not even arguably mercantile, because it is not grocery aisles in between those areas, they are delicensed premise for sure, because we are seeking to license only those two premises, but we would submit that you cannot take the extreme reading of that statute and say that it can't be in a grocery store that would be improper. What the statute says is that it can't be in the same premises and the way the ABC defines premises is that area that it is license for consumption. So yes, we couldn't have a kiosk with paper towels or diapers in the oyster bar or in the patio bar, we agree it is not in the plan we don't propose it that way, but I think that the issue with respect to this is prohibited by statute is not only bedeviled by the interpretation and what the legislature said, but also what the court said in that case decided on some years ago.

Mr. Semrau: Again, I'm just really just trying to gather, this is helpful for the Governing Body, really this all turns on the definition of premise then, because what you are saying is if it is said building, then you would say this application wouldn't be permitted, correct?

Mr. Scrivo: It doesn't say building, so I can't say I would or wouldn't, but it doesn't say it.

Mr. Semrau: You are relying on the definition of premises and one of the things that I had taken from what I'll call the Bamberger's cases, these two quotes from the court "having in mind the stringent public policy of the state, evidence in both in many other legislator provisions in Title 33 toward the tight control of the liquor business, to prevent it's impairing the general health welfare and morality, we discern sound justification for the construction of the statute reflected by the foregoing rulings." It goes on to say, "clearly of course, liquor is not to be dispensed for consumption in a grocery store, nor grocery sold over a bar," that's right from the case and that's where it creates a conflict for me to advise the governing body without hearing you and your argument. It says, "Bamberger's in this case makes a concerted effort to influence those of its patrons who come to the store to buy general merchandise to also patronize its liquor department and bar. As the business in its integrity is here conducted there is no far escape from the conclusion that the whole physical enterprise and the structure are single premises, and both the letter and spirit of the act are being violated." So I understand your argument but I'm still having a hard time to be able to advise the Governing Body otherwise. This is a just an issue of law, the facts are in and that is something that the Governing Body has to apply to the standards that we both agree are set. But from, you know the way this law is written your argument what you are really saying to me is it all turns on the definition of premises, the only case that we both agree, we haven't found any other cases, and I've been asked that question, are there any other cases, at least we agree, this is the only one that is out there, but this one really goes on to call the Bamberger's one single enterprise or premise, so I really think perhaps we have to look a little bit further or give you an opportunity if you want if you want to brief that issue but the way I see it right now, is that I see it that the application itself would not be permitted to be approved pursuant to the ABC law 33:1-12; I don't know if that was taken into consideration at the time of the application, but when you

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talk about the premises and marking it and how this premise is separate from what is going on in the store, I think from a legal perspective wouldn't your argument be a little bit more clear if one of the suggestions was to keep just the part of the establishment that is serving alcohol separate from the grocery, where you couldn't go back in? It almost lends itself to that suggestion that that would be a separate premise as opposed to all of this being on the same floor. Do you understand what I'm trying to say? I'm trying to get to the bottom of this interpretation of the law and one of the suggestions that I heard and I'm not trying to encourage to amend your application, but I find that in the application of this case if I think, would you say your argument would be different if there wasn't return access from the restaurant?

Mr. Scrivo: No I wouldn't say it would be because under the Bamberger's case, they said that you can go up the escalator and it would be okay if there were no other mercantile business on that second floor, and there is really no escape unless you are going to jump off the second floor from the Bamberger's or jump back up the second floor and take some kind of entrance to a second floor bar, so what they said in that case it would be okay, if it was on the second floor, they didn't tell you how you would get there, they said you can go from the store and the escalator to the Bamberger's. So they didn't look at it to the bar, so they didn't look at it as one premise with respect to prohibition, they said it could be done, what they relied on was the Township Attorney correctly pointed out, that it was integrated and what they used to say it was integrated were they pointed to the examples of the large signs that directed the shoppers to the bar area, none of which has been testified to as here as a common premises. So what they said was because of that and because of the area between where the religious books were in that case and where the bar was there was no separation at all; here you have doors separating those two uses, what you had there was a 30 foot expanse between the religious books area and the bar and they said because there was no barrier, no separation, no separate premise that's what influenced the court's decision. I would also point out that at 54 years ago, I don't believe that the Judge's, none of them, are with us anymore, but the Judges could have envisioned the supermarket that is grocery in 1961 is much different today there was no pharmacy, no bakery, no prepared foods.

Mayor: True.

Mr. Semrau: Let me ask you, would you say that the patio is more of a separate premise than that of the Oyster bar based on this definition? I'm asking you what you think is more separate?

Mr. Scrivo: I think what we have attempted to do and which we know because this was the original burden we encountered when we first came into this, was to ensure which is what the ABC wants to ensure which at the end of the day your Police Chief has enforcement ability over anything that happens anyway, but what we attempted to do is to create this separation necessary between the license premises and the non or delicensed,

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Mr. Semrau: But I'm trying to ask you if you have a position as which is more integrated and which is more separate, do you see them the same or do you see the actual patio physically from a stand point of it being more separate from the grocery function?

Mr. Scrivo: Mayor to answer to question I think, I don't have a qualitative difference between the two, what I will say, is that I believe that we have met the threshold under the law to provide the appropriate separation between the license and the no license premises and so each of them met the criteria whether we can qualitatively say which is more or less I don't think I can do that, I don't think I'm in a position to do that. (interrupted)

Mr. Semrau: Mr. Scrivo:

Mr. Scrivo: I'm getting interrupted for the third time, but what I did was attempt to present testimony to the Township Committee to address that burden.

Mr. Semrau: My question to you is asked because if the governing body is of the opinion, for example, that if the interpretation that this is all one entity and therefore does not, from this governing body stand point, it would not be permissible application, that's why I'm asking you if you feel any differently or if you would make a more compelling argument whether it would be the patio or the oyster bar, I mean they are different,

Mr. Scrivo: They are different, 100%.

Mr. Semrau: I'm only looking for some, your position or your thoughts with respect to the two structures because if the governing body were to say that the Oyster Bar is integrated it's not on a separate floor it's just separated by you know these glass panels and things of that nature and it's integrated than, that's why I'm asking you if there is a distinguishing factors to the patio?

Mr. Scrivo: Mayor and again, I don't necessarily, I know they are different, we agree they are different we agree there are different locations, but what we have attempted to show through the testimony and the protections and controls that are going to take place in the store, that they are separate. That's what I've been attempting to show, the governing body very well may disagree with that, but we think we met that burden.

Mayor: I think the early part of this hearing, I posed a question to you and got my answer then, but I pose it again, I think we are focusing on that, and that is are both requests the Oyster Bar and the Patio Bar necessary for shop rite and this approval, because I see what we really come down to here is this integration aspect of it, now I can't deny the fact that the Oyster Bar is surrounded by grocery, you come into a grocery market and walk through a grocery environment to the Oyster Bar, and all four sides of it other than one which is liquor service, packaging etc., is a grocer. What I

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don't make that distinction when I look at the patio area, I'm speaking for this member of the Governing Body not for all my council members, I see the patio area as different in that at least three sides of it are not surrounded by grocer and while there is access to grocery store that could be controlled. You've made argument for what the controls would be around the Oyster Bar, in the panels and how it would be used, etc., and I understand from a marketing standpoint it is an attractive amenity, to some it would be, to others you would lose patrons as well, customers as well. But having said that, I just again, I just want to bring attention to the distinction between the Oyster Bar and the Patio area, for my Governing Body, and I think they want to consider how to best address the safety and protection of those two areas.

Mr. Semrau: And from a legal stand point, I just want to give Mr. Scrivo the opportunities to flush these legal issues out, your saying there' s really two different premises, you are saying that patio is one premise and the oyster bar is another?

Mr. Scrivo: Yes.

Mr. Semrau: But you are only asking for one license to share two premises.

Mr. Scrivo: We are asking for it to be in two locations within the building obviously, and that is what we believe consistent with the statue.

Mr. Semrau: I'm not trying to make a case against you, I'm trying

Mr. Scrivo: You are doing a good job of it.

Mr. Semrau: I'm trying to make it very clear for you because if you are saying it's two premise and one license but then you turn around and saying that it is all under one roof, so I don't, how do you have it essentially both ways, you want one license for two premises? But this is just one application, trying to understand.

Mr. Scrivo: The application again to delicense those two areas, right now those areas are licensed for distribution, because we licensed, we asked for it and you permitted the licensing for the entire store, for distribution so it could be in various areas even though it's centrally located to one area for the distribution license, which is frankly is adjacent to the oyster bar. We simply delicense those two areas within a licensed building and to license it for consumption, and we believe that is consistent with the statute, we asked for both, it's up to the Governing Body they can do what it wishes to do with the application obviously.

Mr. Semrau: Were you asking for the application to be either granted in total or in part in other words, since you are saying it is two premises would you want a separate vote on the Oyster Bar and a separate vote on the patio?

Mr. Scrivo: I'm not in the game of telling the governing body what to do, I think it is within the real discretion of the Governing Body as to how it wishes to handle the

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application, I understand that the Governing Body as separated the two obviously and may have different feelings on each of them and I don't de vein to know what that is, long ago I've given up foreshadow what might occur either in court or before a Governing Body or a Planning Board, so I don't want to be in that position to do that, and I don't think that is my prerogative to do that, but I do believe that the Governing Body is free to address that in either way that the Governing Body wishes to do.

Mayor: Understood, would it be your expectation out of the decision of the Governing Body to provide one or the other or none each would be acceptable to you, in other words, if in fact that the decisions boarded by testimony etc., to allow service of liquor in particular area of "premises" one of two or not that would or wouldn't be acceptable to your client?

Mr. Scrivo: I think it is up to the Governing Body as to what it wishes to do, we have asked for both, so obviously we want both, what the Governing Body does with that.

Mayor: Deja vu

Mr. Scrivo: We have and you are going to get the same answer.

Mayor: Understood.

Mr. Ferramosca: Is it still your intention to have us vote either up or down on the person-to-person and place-to-place collectively? Together.

Mr. Scrivo: It is, I'm hoping that the Governing Body would do that tonight, but I don't know what your timing is, so to answer your question, yes, if you do that tonight, or soon, because we obviously have issues with the seller, which we need to address, and so they have been patiently waiting as you know and they have been very cooperative here tonight and I know they have an interest in seeing the Governing Body voting this way.

Mr. Ferramosca: I have a question for Mr. Semrau, I wasn't there during that 1961 case, however I am going to bring you to a real life situation and I want to get your interpretation on it, really I'm trying to look at woods, buildings and premises, let's say we all go together and we bought this four walled area, all of this own this little bit area now and we are going to call it Hanover Township Supermarket, four walled area, is this room a premise?

Mr. Semrau: I would say this room is a premise.

Mr. Ferramosca: And if we erected glass surround walls around a 3x6 table where the chief is seated at, would I interpret that as a separate room within this premise?

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Mr. Semrau: See that is where Mr. Scrivo is saying you should, and he believes that the law says that that is the case, and I'm not convinced at this point, and yet, I'll take into counsel what he said and take a look at this, but I believe the premises is one; and it's would be this room. But in fairness to what has been presented, I think it is important after all the time that has been put into this that perhaps the Governing Body give the parties an opportunity to provide a short brief as to what their position is not only to this legal issue, because it doesn't successes and pass the test and the statute then the application can't be granted if that is your ruling, if it does then you still have to decide based on the standards that we have discussed whether or not you want to prove this application or part thereof. I think it may be helpful for the Governing Body because you are going to deliberate right here in public and you can certainly ask questions, but I think you afforded an opportunity to have a summation from the parties in particular the applicant as to what their position is I think then you would be in a position to make a determination.

Mr. Ferramosca: Thank you.

Mr. Giorgio: Mr. Scrivo, we really dealt with the person-to-person and place-to-place transfer, but my question is focused on the delicensing of a portion of the building, does that mean less packaged goods will be sold if the license is granted for consumption? In other words is there going to be a reduction in stock with the delicensing of the premises?

Mr. Scrivo: I don't believe there would be, I don't believe there has to be I don't believe stock is in anything that the ABC looks at with respect to as the premises, the premise that permits the sales of distribution, the packages would continue to be what it is, obviously there would be no sale of distribution goods in any of the consumption license areas.

Mayor: At this juncture and given the hour, Counsel that concluded your presentation of the committee at this time.

Mr. Scrivo: Subject to anything that the attorney was looking for with respect to our, I know there was something floated by the Township Attorney I don't know whether that was something the Governing Body was looking to accomplish either by way of additional material.

Mr. Semrau: My suggestion is in fairness to all of the Governing Body and this issue and the interpretation I think it would help Mayor if there is a date set for a submission by the applicant and if I think it would be helpful if Mr. King would submit any other information in the form of a summation, just the legal interpretation and then a summary of the facts. This is gone on for months and the Governing Body has dedicated so much time to it, but I think it might be helpful in your decision making process to have your recollection refreshed and to give the applicant the opportunity to summarize or highlight their position as well as anything that Mr. King would like to submit, I think it would be a helpful aid to you in making your decision.

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Mayor: Fine, is that understood? What is the position of the Township Committee on that, do you want the counsel for Shop Rite to provide a summary along with legal interpretations?

Mr. Semrau: I think it would also help and I don't want to speak for the Governing Body and you are not bound by this, but I think, I just want to make sure Mr. Scrivo hears this, I think it is important that you also set forth if you have any position with respect, to what I would just call, bifurcating this, if you want a decision based on the, just separate decision or just one resolution and the other thing is in consideration of the applicant would you want the place-to-place transfer first considered and then the person-to-person thereafter. I'll give you an example, if the application is granted I would think you would want the person-to-person application granted as well, but once the person-to-person license is transferred that's immediate, so I'm saying to you if the Governing Body were to deny the application but grant the person-to-person thereafter I don't know if you want that done on the same, I would think you may want to consider asking for that to be second on the same evening, the first the

Mr. Scrivo: No, when it is decided we are okay with the Governing Body deciding the person-to-person first and the place-to-place second.

Mr. Semrau: You don't need to address that it's on the record.

Mr. Giorgio: What would the date be for the submission?

Mr. Scrivo: Mayor, may I just jump in, we can turn things around very quickly, we obviously have a seller that is very interested and has been very patient so we would like the earliest opportunity possible to get something if not tomorrow, but something very soon and to be on the earliest possible agenda for final consideration and vote, obviously we are looking for a vote tonight we understand that's not going to happen and the Governing Body is looking for additional information but we have a very patient seller that may be running out of patience.

Mayor: How much time do you need to provide such a summary?

Mr. Scrivo: One week at most.

Mayor: One week and giving my counsel an opportunity to review it and go over any discussions in questions they might have public as it may be, the next given would be May 1st.

Mr. Giorgio: May 1st

Mr. Semrau: Mr. King are you okay with one week?

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Mr. King: I would like to go for two weeks if I could, since your meeting is after about three weeks from now, it would give the Mayor and council opportunity to review both submissions

Mr. Giorgio: Are you saying you want submission by May 8th?

Mr. King: That would be better for me, yes

Mayor: I need to give my counsel opportunity with that submission, so I'm going to need the week, the additional week beyond that which I'm saying would throw us to the meeting of the 28th of May.

Mr. King: I will get something to you by May 1st

Mayor: Is that your decision?

Mr. King: That is fine.

Mayor: 14th meeting;

Mr. Scrivo: No meeting on the 8th Mayor, I thought there was.

Mr. Giorgio: 2nd and 4th it's the 14th and the 28th

Mr. Semrau: I would need a motion from the Governing Body based on the deliberations, but I won't have enough facts to draft a resolution, very similar to a Planning Board process, I would listen to the Governing Body and then there would be motion and by the 28th I'll have a formal resolution on the reasons and bases for it.

Mr. Scrivo: I understand that.

Mr. Semrau: Do you have the transcripts already available at this point? Do you have the transcripts?

Mr. Scrivo: We have paid for the transcripts we have all of them.

Mr. Semrau: Mr. King Do you want to see these transcripts?

Mr. King: It would be helpful; I would be very appreciative if I could have copies from Mr. Scrivo.

Mr. Semrau: You weren't here for some of the hearing in the beginning, you just came when it was the town witnesses. Would you be able to share them with Mr. King Mr. Scrivo?

Mr. Scrivo: I can ask, I don't see any issue? Yes we will supply the transcripts.

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Mr. Semrau: I think deliberation on the 14th and a formal resolution on the 28th based on the direction I receive.

Mr. Scrivo: Deliberation with a direction, so we will know where the Governing Body stands on the 14th.

Mayor: Is that acceptable?

Mr. Giorgio: When is the pleasure of the Township Committee when that will happen at the regular 8:30 pm or 7:30?

Mayor: Well let me tell you as my counsel knows we have gone overboard in extending ourselves with these early meeting which has put my counsel to bed at 1:00 in the morning most of these nights, I'm not going to continue that, so that would be at our regular scheduled time, 8:30.

Mr. Giorgio: 8:30 okay.

Motion to close hearing made by Member Brueno and seconded by Member Coppola and unanimously passed.

Regular Portion of the Meeting started at 10:00pm

Motion to open meeting made by Member Ferramosca and seconded by Member Gallagher and unanimously passed.

OPEN TO THE PUBLIC:

Hearing None, Seeing None.

Motion to close made by Member Coppola and seconded by Member Brueno and unanimously passed.

APPROVAL OF MINUTES:

The Minutes of the Regular Meeting of April 9, 2015 had been presented to the members of the Committee prior to this meeting by the Township Clerk.

Member Brueno moved that the Minutes of the Regular Meeting of April 9, 2015 be accepted and approved as presented by the Township Clerk. The motion was seconded by Member Gallagher and was unanimously passed

COMMUNICATIONS:

Submission of letter of retirement from Recreation and Park Administration Department Senior Account Clerk Mary Colton effective December 31, 2015.

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Resignation of longtime Member of Board of Environmental Commission and The Green Team, Mr. Edward Shultz effective May 21, 2015.

Motion to accept the retirement and the resignation made by Member Ferramosca and seconded by Member Gallagher and unanimously passed.

DEPARTMENTAL REPORTS

All department reports for the past two months, we did not have the reports on the agenda because of the Liquor License Transfer Hearings, we will just note for the record that all of the Departmental Reports are available for public inspection in the Administrator's Office.

ADOPTION OF ORDINANCE:

ORDINANCE NO. 12-15

AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HANOVER AMENDING AND SUPPLEMENTING SECTION 125-5. ENTITLED "CODE ENFORCEMENT FEES" UNDER CHAPTER 125 OF THE CODE OF THE TOWNSHIP OF HANOVER ENTITLED FEES WITH THE INCLUSION OF AN ENTIRELY NEW FEE SCHEDULE FOR THE BUILDING DEPARTMENT

Proof of Publication that the Ordinance and the Notice of Introduction for Ordinance 12-15 appeared in full in the April 16, 2015 issue of the Daily Record in accordance with the law.

Motion to convene a public hearing was made by Member Brueno and seconded by Member Coppola and unanimously passed.

Is there anyone present wishing to be heard at this time?

Motion to close public hearing was made by Member Brueno and seconded by Member Coppola and unanimously passed.

Now on Adoption, Be it resolved, that an Ordinance entitled "**AMENDING AND SUPPLEMENTING SECTION 125-5. ENTITLED "CODE ENFORCEMENT FEES" UNDER CHAPTER 125 OF THE CODE ENTITLED FEES WITH THE INCLUSION OF AN ENTIRELY NEW FEE SCHEDULE FOR THE BUILDING DEPARTMENT,**" be passed on final reading and that a Notice of the final passage of the Ordinance be published in the April 30th, 2015 issue of the Daily Record in accordance with law.

Motion on Adoption made by Member Coppola and seconded by Member Brueno and unanimously passed.

So Adopted.

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INTRODUCTION OF ORDINANCE

ORDINANCE NO. 13-15

AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HANOVER IN THE COUNTY OF MORRIS AUTHORIZING THE PURCHASE OF ONE (1) NEW YEAR 2015 CHEVROLET FOUR DOOR, FOUR WHEEL DRIVE EQUINOX SPORT UTILITY VEHICLE FOR THE TOWNSHIP'S BUILDING DEPARTMENT THROUGH THE MORRIS COUNTY COOPERATIVE PRICING COUNCIL AND APPROPRIATING THE SUM OF \$24,000.00 FROM THE 2015 CAPITAL IMPROVEMENT FUND AND ALL PRIOR YEARS FOR FINANCING THE PURCHASE OF THE SPORT UTILITY VEHICLE

WHEREAS, the Township's Construction Official has advised the governing body that the Building Department's 2008 Dodge Durango has suffered multiple malfunctions including the motor which is beyond repair; and

WHEREAS, because it is cost prohibitive to repair, including a concern for the safe operation of the vehicle by its users, the Township Committee believes that it is in the best interest of the safety and welfare of its employees that the 2008 Dodge Durango be replaced; and

WHEREAS, it is the intention of the governing body to authorize the replacement of the 2008 sport utility vehicle with one (1) new year 2015 Chevrolet Equinox Sport Utility Vehicle which is available through a Morris County Cooperative Pricing Council contract as award by the Township of Randolph.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Hanover in the County of Morris and State of New Jersey as follows:

Section 1. There is hereby authorized the purchase and acquisition of one (1) new, year 2015 Chevrolet, four door, four wheel drive Equinox Sport Utility Vehicle which vehicle shall be assigned to the Township's Building Department. The vehicle shall be purchased through Route 46 Chevrolet located at 412 Route 46 in Budd Lake, New Jersey 07828, all in accordance with the Morris County Cooperative Pricing Council's Contract No. 15-C (Item No. 2) as awarded by the Township Council of the Township of Randolph.

Section 2. There is hereby appropriated from the Capital Improvement Fund of 2015 and all prior years, the sum of \$24,000.00 for the purchase of the new Chevrolet Equinox Sport Utility vehicle described in **Section 1.** of this Ordinance.

Section 3. This Ordinance shall take effect in accordance with law.

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Mr. Giorgio: Unfortunately the Dodge Durango, which the Department had the motor blew completely there are other mechanical problems with that vehicle, so because of that we have to replace the Dodge Durango.

The Ordinance will be further considered for Public Hearing and Final Passage at the May 14th, 2015 meeting of the governing body and at time any person wishing to be heard will be given the opportunity to speak. The Ordinance and the Notice of Introduction will be published in full in the, April 30th, 2015 issue of the Daily Record.

Motion on introduction made by Member Coppola and seconded by Member Ferramosca and unanimously passed.

So Introduced.

ORDINANCE NO. 14-15

AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HANOVER AMENDING AND SUPPLEMENTING CHAPTER 166 OF THE CODE OF THE TOWNSHIP ENTITLED LAND USE AND DEVELOPMENT LEGISLATION BY CHANGING THE DEVELOPMENT REGULATIONS FOR RETAIL SALES AND SERVICE USES IN THE I-B3 ZONE DISTRICT

WHEREAS, the I-B3 zone district is located along Hanover Avenue, Horsehill Road and Ridgedale Avenue; and

WHEREAS, the I-B3 zone district was formerly an area that was used and zoned primarily for industrial, laboratory, warehouse, office and related uses; and

WHEREAS, after an analysis by the Planning Board, the I-B3 was created in 2010 in order to recognize the decline of industry and office development in the region, the under-utilization of certain properties, and the need for the Township's land use policies to accommodate a broader range of uses in the area of the zone; and

WHEREAS, the I-B3 zone currently permits a range of industrial, laboratory, office, retail sales and service, and other uses; and

WHEREAS, the current standards for retail sales and service uses are intended to ensure large-scale, coordinated development of such uses, and to discourage small, isolated and uncoordinated retail sales and services development; and

WHEREAS, the Planning Board has recently conducted further study and has recommended that the standards for development of retail sales and service uses be amended to permit such development on smaller lots in certain cases; and

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WHEREAS, the Planning Board's recommendation is consistent with the I-B3 zone's original goal to encourage large-scale, coordinated retail sales and service use development.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Hanover in the County of Morris and State of New Jersey, as follows:

Section 1. Subsections A. and B. in Section 166-203.9., *Lot, bulk and intensity of use standards*, in Article XXXVIB, *I-B3 Industrial and Business District*, are hereby amended and supplemented to read as follows:

A. Minimum lot/tract area.

(1) Retail sales, banks, personal services, rental and leasing establishments, eating and drinking establishments and conference centers: 10 acres minimum net developable area, except as provided otherwise herein. Within said tract, developments involving multiple buildings or uses that are part of a single overall development, and which demonstrate a permanent right to shared access, parking, utilities and/or other improvements, as appropriate, may be permitted individual lots for buildings or uses, with no minimum area or width requirement, and said lots shall not be considered "lots" for purposes of administering setbacks, coverage, ratios or other requirements. Notwithstanding the minimum 10 acre lot/tract area requirement above, the minimum lot/tract area shall be 3 acres of net developable area for properties that meet all of the following requirements:

(a) Such properties shall either substantially abut or be located directly across the street from and substantially share the same street frontage with an existing development in the Township containing at least 10 acres net developable area and comprised of retail sales, banks, personal services, rental and leasing establishments, eating and drinking establishments and/or conference centers. For the purpose of administering this requirement, the following shall apply:

[1] "Substantially abut" shall mean having a shared contiguous property boundary at least 300 feet in length.

[2] "Located directly across the street from and substantially share the same street frontage" shall mean having a shared contiguous property frontage of at least 300 feet length for each tract and located on opposite sides of the same street in the same location.

(b) Such properties shall have at least 300 feet of contiguous frontage on Hanover Avenue or Ridgedale Avenue.

(c) Such properties shall be located in the I-B3 zone district.

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- (d) The access driveways for any development on such properties shall be coordinated with the access driveways serving the abutting/opposite 10 acre minimum commercial development, in order to provide improved traffic flow and safety, as determined by the Planning Board at the time of site plan review.
 - (e) The architectural design of the facades and roofs of buildings for any development on such properties shall be compatible with the facades and roofs of the buildings in the abutting/opposite 10 acre minimum commercial development, as determined by the Planning Board at the time of site plan review. The foregoing shall not be construed to require the same or similar design between the developments, but only to ensure a coordinated visual appearance of the buildings in the developments.
- (2) Uses other than retail sales, banks, personal services, rental and leasing establishments, eating and drinking establishments and conference centers: 60,000 square feet net developable area.
 - (3) For purposes of administering the foregoing lot/tract area provisions, "net developable area" shall be construed to the gross lot/tract area, excluding the area of all water bodies, floodways, wetlands, required wetland transition areas and conservation easements.
- B. Minimum average lot/tract width. The average lot width shall be measured parallel to the front lot line and within 300 feet of the front lot line. For corner lots, the required width need only be complied with for one street frontage, not both frontages.
- (1) Retail sales, banks, personal services, rental and leasing establishments, eating and drinking establishments and conference centers: 600 feet; provided, however that the minimum average lot/tract width shall be 300 feet for properties permitted to contain less than 10 acres of net developable area pursuant to §166-203.9.A.(1) above.
 - (2) Other than retail sales, banks, personal services, rental and leasing establishments, eating and drinking establishments and conference centers: 200 feet.

Section 2. Subsection N. in Section 166-203.9., *Lot, bulk and intensity of use standards*, in Article XXXVIB, *I-B3 Industrial and Business District*, is hereby amended and supplemented to read as follows:

- N. Minimum floor area. The minimum total floor area of all buildings within any development containing retail sales, banks, personal services, rental and leasing establishments, eating and drinking establishments and conference centers shall be 75,000 square feet; provided, however that the minimum floor area shall be

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15,000 square feet for properties permitted to contain less than 10 acres of net developable area pursuant to §166-203.9.A.(1) above.

Section 3. In case, for any reason, any section or provision of this Ordinance shall be held to be unconstitutional or invalid, the same shall not affect any other section or provision of this Ordinance, except so far as the section or provision so declared unconstitutional or invalid shall be severed from the remainder or any portion thereof.

Section 4. All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are, to the extent of such inconsistency, hereby repealed.

Section 5. This ordinance shall take effect in accordance with the law.

The Ordinance will be further considered for Public Hearing and Final Passage at the May 14th, 2015 meeting of the governing body and at time any person wishing to be heard will be given the opportunity to speak. The Ordinance and the Notice of Introduction will be published in full in the April 30th, 2015 issue of the Daily Record.

Motion on introduction made by Member Coppola and seconded by Member Ferramosca and unanimously passed.

So Introduced.

RESOLUTIONS AS A CONSENT AGENDA:

RESOLUTION NO. 72-2015

A RESOLUTION APPROVING THE APPOINTMENT OF MICHAEL MARANO TO SERVE AS A FULL-TIME, TEMPORARY, SEASONAL INTERN ASSIGNED TO THE BUILDING DEPARTMENT AND ESTABLISHING HIS COMPENSATION AT \$14.25 PER HOUR AS SET FORTH UNDER SCHEDULE "B" AND SALARY RANGE GUIDE "C" OF SALARY ORDINANCE NO. 10-15

WHEREAS, the Building Department, has for several years, provided college students with the opportunity to gain hands on experience and an understanding of the functions and responsibilities of the Department and the various duties and assignments performed by the sub-code officials and inspectors; and

WHEREAS, it is the recommendation of the Construction Official that **Michael Marano** who served as the full-time intern assigned to the Building Department during the summer of 2014, be rehired for the period commencing May 11, 2015 and ending on August 28, 2015.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Hanover, in the County of Morris and State of New Jersey as follows:

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1. That **Michael Marano** residing at 34 Valley Forge Drive in the Whippany Section of Hanover Township is hereby appointed to serve as a full-time, temporary, seasonal intern assigned to the Building Department commencing May 11, 2015 and ending August 28, 2015.

2. **Mr. Marano** shall be compensated at the rate of \$14.25 per hour as set forth under Job Group I as listed under Schedule "B" and Salary Range Guide "C" of Salary Ordinance No. 10-15.

3. Irrespective of the Building Department assignment, the Business Administrator/ Township Clerk reserves the right to assign **Mr. Marano** to any other Department based on the work load needs of other departments.

4. Except for disciplinary removal, all appointment as a seasonal employee shall terminate on or before August 28, 2015.

5. That a certified copy of this resolution be transmitted to the Construction Official and the Township's Chief Municipal Finance Officer for reference and information purposes.

RESOLUTION NO. 73-2015

A RESOLUTION APPROVING THE APPOINTMENT OF FULL-TIME, SEASONAL PERSONNEL TO BE EMPLOYED AS PUBLIC WORKS DEPARTMENT LABORERS AND PARK MAINTENANCE WORKERS, ALL IN ACCORDANCE WITH SECTION 14. OF SALARY ORDINANCE NO. 10-2015

WHEREAS, the Superintendent of the Public Works, Buildings and Grounds and Park Maintenance Department recommends the employment of the individuals listed below to work as full-time, seasonal employees assigned to the Public Works Department under the following categories:

**DPW Laborers
Park Maintenance Workers**

WHEREAS, it is the recommendation of the Business Administrator that the Township Committee approve the individuals listed below under paragraph one (1), who shall be compensated at the rates set forth in accordance with the salary ranges established in Section 14. of Salary Ordinance No. 10-2015.

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NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Hanover, in the County of Morris and State of New Jersey as follows:

1. In accordance with Section 14. of Salary Ordinance No. 10-2015, the rates of compensation for the following seasonal employees mentioned below shall be as follows:

PUBLIC WORKS, BUILDINGS & GROUNDS & PARK MAINTENANCE:

The following individuals shall be assigned to work as Roads, Sanitation and/or Park Maintenance Division Workers:

<u>NAME & ADDRESS:</u>	<u>START DATE</u>	<u>RATE OF PAY:</u>
1. Mark Prosicki, 7 Emerson Drive, Whippany	5/4/15	\$ 9.25/hr.
2. Joseph Stefanelli, 6 Emerson Drive, Whippany	5/4/15	9.00/hr.
3. Ryan Cahill, 25 Polhemus Terrace, Whippany	5/11/15	8.75/hr.
4. Nicholas Didow, 18 Legion Place, Whippany	5/4/15	8.75/hr.
5. Dominic DeVito, 4 Mt. Vernon Way, Whippany	5/4/15	8.75/hr.
6. Matthew Mastobuono, 25 Summit Avenue, Cedar Knolls	5/27/15	8.75/hr.
7. Tyler Passero, 25 Hamilton Court, Whippany	5/11/15	8.75/hr.
8. Ryan Pirl, 27 Woodcrest Road, Whippany	5/27/15	8.75/hr.

2. Irrespective of the assignment of the individuals listed above, the Superintendent reserves the right to assign any of the summer seasonal personnel to any of the Department's Divisions based on work load needs.

3. Except for disciplinary removal, all appointments (with the exception of the all year round Teen Coordinators) as seasonal employees shall terminate on or before September 15, 2015.

4. That a certified copy of this resolution be transmitted to the Superintendent of the Public Works, Buildings and Grounds and Park Maintenance Department, the Superintendent of the Recreation and Park Administration Department and the Township's Chief Municipal Finance Officer for their reference and action.

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RESOLUTION NO. 74-2015

A RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HANOVER AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH GORDON METH, P.E., P.P., AND THE FIRM OF THE RBA GROUP, INC. FOR THE PURPOSE OF PERFORMING CONSTRUCTION OBSERVATION SERVICES RELATED TO THE CONSTRUCTION OF SIDEWALK ON THE EASTERLY SIDE OF REYNOLDS AVENUE FROM HIGHLAND AVENUE TO PARSIPPANY ROAD AND ON THE EASTERLY SIDE OF PARSIPPANY ROAD FROM REYNOLDS AVENUE TO MOUNT PLEASANT AVENUE IN AN AMOUNT NOT TO EXCEED \$23,340.00, ALL IN ACCORDANCE WITH THE LOCAL PUBLIC CONTRACTS LAW AND PAY-TO-PLAY LAWS AT N.J.S.A. 40A:11-5.(1)(a)(i) AND N.J.S.A. 19:44A-20.5 AND 19:44A-20.26 ET SEQ. AND FURTHER AUTHORIZING THE MAYOR AND TOWNSHIP CLERK TO EXECUTE AN AGREEMENT WITH GORDON METH AND THE RBA GROUP, INC.

WHEREAS, pursuant to the provisions of the Local Public Contracts Law at N.J.S.A. 40A:11-5.(1)(a)(i) and the Pay-to-Play regulations at N.J.S.A. 19:44A-20.5 and 19:44A-20.26, the Township Committee needs to retain the services of a professional engineering firm as a non-fair and open contract in order to perform construction observation services by a resident engineer, construction inspector and designer as it relates to the construction of sidewalk on the easterly side of Reynolds Avenue from Highland Avenue to Parsippany Road and on the easterly of Parsippany Road from Reynolds Avenue to Mount Pleasant Avenue in the Whippany Section of Hanover Township; and

WHEREAS, the Township utilized the services of **The RBA Group, Inc.** for the purpose of preparing the Phase I surveying and engineering plans and a stormwater management analysis and report related to the Parsippany Road and Reynolds Avenue sidewalk project; and

WHEREAS, because **The RBA Group, Inc.** is intimately familiar with all of the construction details and the specification, the Township Engineer believes that it is in the best interest of the Township to retain the services of **The RBA Group, Inc.** to provide construction observation services during all phases of the construction project; and

WHEREAS, at the request of the Township Engineer, **Gordon Meth** submitted a proposal and quotation dated April 1, 2015 outlining the scope of activities to provide construction observation services to the Township to make certain that the sidewalk construction project is completed in conformance with the Township's plans and specifications; and

WHEREAS, the Township Engineer has reviewed the proposal submitted by **The RBA Group, Inc.** and believes that **Gordon Meth** and **The RBA Group, Inc.**, whose members are professional engineers licensed by the State of New Jersey, have

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the necessary expertise and field experience to perform the construction observation services; and

WHEREAS, in accordance **The RBA Group's** April 1, 2015 letter proposal and quotation, a copy of which is attached hereto and made a part of this resolution as if set forth in full, **The RBA Group, Inc.** will perform the construction observation services in an amount not to exceed \$23,340.00 based on the estimated hours required for the project in accordance with the firm's hourly rate schedule described below:

POSITION	HOURLY RATE	ESTIMATED HOURS	COST
Professional Engineer	\$195.00	38	\$ 7,410.00
Inspector	\$ 78.00	180	\$14,040.00
Designer	\$105.00	18	\$ 1,890.00
TOTAL NOT TO EXCEED:		236	\$23,340.00; and

WHEREAS, in keeping with the requirements of the Non-Fair and Open Process of the Pay-to-Play Legislation at N.J.S.A. 19:44A-20.5 and N.J.S.A. 19:44A-20.26 et seq., the Township's Business Administrator in his capacity as the Qualified Purchasing Agent, has prepared a "Value Determination and Certification", (a copy of which is attached hereto and made a part of this resolution), that the estimated contract for the performance of professional planning consultant services has an estimated value in excess of \$17,500.00; and

WHEREAS, **The RBA Group, Inc.** has completed and submitted a Business Entity Disclosure Certification which certifies that **The RBA Group, Inc.** has not made any reportable contributions to a political candidate or candidate committee in the Township of Hanover in the previous one (1) year and that the contract with the Township will prohibit **The RBA Group, Inc.** from making any reportable contributions during the term of the professional services agreement; and

WHEREAS, in accordance with N.J.S.A. 19:44A-20.26, **The RBA Group, Inc.** has also filed a Chapter 271 Political Contribution Disclosure Form and a Stockholder Disclosure Certification; and

WHEREAS, it is the intention of the Township Committee to retain the services of **Gordon Meth, P.E., P.P.** and the firm of **The RBA Group, Inc.** for the purpose of performing construction observation services related to the construction of new sidewalk on the easterly side of Reynolds Avenue from Highland Avenue to Parsippany Road and on the easterly side of Parsippany Road from Reynolds Avenue to Mount Pleasant Avenue; and

WHEREAS, the total contract amount with **Gordon Meth, P.E., P.P.** and the firm of **The RBA Group, Inc.** shall not exceed \$23,340.00 and said compensation shall be based on the Firm's hourly rate schedule, all in accordance the April 1, 2015

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proposal and quotation, a copy of which is attached hereto and made a part of this resolution as if set forth in full; and

WHEREAS, the Local Public Contracts Law at N.J.S.A. 40A:11-5.(1)(a)(i) et seq. requires that the resolution authorizing the award of contracts for “Professional Services” without competitive bids, and the contract itself must be available for public inspection.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Hanover in the County of Morris and State of New Jersey as follows:

1. That **Gordon Meth, P.E., P.P.**, a profession engineer and professional planner, licensed by the State of New Jersey, and the firm of **The RBA Group, Inc.** located at 7 Campus Drive, Suite 300 in Parsippany, New Jersey 07054-4495 are hereby retained for the purpose of performing construction observation services related to the construction of new sidewalk on the easterly side of Reynolds Avenue from Highland Avenue to Parsippany Road and on the easterly side of Parsippany Road from Reynolds Avenue to Mount Pleasant Avenue in the Whippany Section of the Township.

The scope of services shall be performed in accordance with the April 1, 2015 proposal and quotation submitted by **The RBA Group, Inc.** which proposal and quotation is attached hereto and made a part of this resolution as if set forth in full.

2. Based on the Firm’s 2015 schedule of hourly rates and direct expenses, the total contract amount for the construction observation services shall not exceed \$23,340.00.
3. The Mayor and Township Clerk are hereby authorized to execute a professional services agreement with **Gordon Meth, P.E., P.P.** as a principal of **The RBA Group, Inc.**
4. This appointment is awarded without competitive bidding as a “Professional Service” under the provision of the Local Public contracts Law at N.J.S.A. 40A:11-5.(1)(a)(i) because the services to be performed are by a person authorized by law to practice a recognized profession as a professional engineer and professional planner licensed by the State of New Jersey and such services are not subject to competitive bid.
5. That a brief notice of this award shall be published in the Daily Record as required by law within ten (10) days of its passage.

RESOLUTION NO. 75-2015

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A RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HANOVER SUBMITTING A GREEN ACRES PROJECT AGREEMENT FOR FUNDING TO THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION'S GREEN ACRES PROGRAM AND FURTHER AUTHORIZING THE MAYOR OF HANOVER TOWNSHIP TO EXECUTE ANY PROJECT AGREEMENTS OR PROJECT AMENDATORY AGREEMENTS

**STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
GREEN ACRES ENABLING RESOLUTION**

WHEREAS, the New Jersey Department of Environmental Protection, Green Acres Program ("State"), provides loans and/or grants to municipal and county governments and grants to nonprofit organizations for assistance in the acquisition and development of lands for outdoor recreation and conservation purposes; and

WHEREAS, the Township of Hanover in the County of Morris has previously obtained a Grant in the amount of **\$2,907,676.55** from the State and has expended the entirety of the Grant to fund the following project.

Project Number 1412-99-009
Open Space Acquisition; and

WHEREAS, the State and Hanover Township intend to increase Green Acres funding by \$325,000.00; and

WHEREAS, the applicant is willing to use the State's funds in accordance with its rules, regulations and applicable statutes, and is willing to enter into an amendment of the Agreement with the State for the above-named project.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Hanover in the County of Morris and State of New Jersey as follows:

1. The Mayor of the above named body is hereby authorized to execute an agreement and any amendment thereto with the State known as Project Number 1412-99-009 Open Space Acquisition.
2. The applicant has its matching share of the Project, if a match is required, in the amount of \$325,000.00.
3. In the event the State's funds are less than the total Project cost specified above, the applicant has the balance of funding necessary to complete the Project; and

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4. The applicant agrees to comply with all applicable federal, State and local laws, rules and regulations in its performance of the Project.
5. This resolution shall take effect immediately.

RESOLUTION NO. 76-2015

A RESOLUTION AUTHORIZING THE EXECUTION OF A DEVELOPER'S AGREEMENT BY AND BETWEEN HANOVER 3201 REALTY, LLC AND THE TOWNSHIP IN THE DEVELOPMENT OF A DESIGNED SHOPPING CENTER AS PHASE I CONSISTING OF A NEW WEGMANS SUPERMARKET BUILDING, STORMWATER MANAGEMENT FACILITIES, PARKING, LANDSCAPING AND RELATED IMPROVEMENTS TO BE LOCATED ON PROPERTY AT THE INTERSECTION OF SYLVAN WAY AND RIDGEDALE AVENUE IN THE WHIPPANY SECTION OF THE TOWNSHIP AND DESIGNATED AS LOTS 1 AND 2 IN BLOCK 3201, AS SET FORTH ON THE TAX MAP OF THE TOWNSHIP OF HANOVER WHICH EXECUTION OF THE AGREEMENT IS SUBJECT TO THE RECEIPT OF THE CASH AND SURETY PERFORMANCE BONDS, AND ANY OTHER INSTRUMENTS AS DESCRIBED IN THE DEVELOPER'S AGREEMENT

WHEREAS, on June 18, 2013, the Planning Board, by resolution adopted on the same night, granted preliminary and final site plan approval and variance approval to **Hanover 3201 Realty, LLC (c/o Mack-Cali Realty, Corp.)** as Applicant and Property Owner, for Phase I of a designed shopping center consisting of the construction of a new Wegmans Supermarket building, stormwater management facilities, parking, landscaping and related site improvements; and preliminary site plan approval for a Phase II consisting of three (3) restaurant buildings, a drive-in-bank building, stormwater management facilities, parking, landscaping and related site improvements including a tree removal permit on property located at the intersection of Sylvan Way and Ridgedale Avenue in the Whippany Section of the Township and designated as Lots 1 and 2 in Block 3201 as set forth on the Tax Map of the Township of Hanover and situated in the OB-DS Office Building-Designed Shopping Center Zone District; and

WHEREAS, under State law, Township Ordinances, and Planning Board rules, regulations and requirements, the granting of final approval to said site plan is contingent upon the Developer having completed all such improvements within and without Block 3201, Lots 1 and 2, in accordance with the requirements of said preliminary and final approvals or furnishing performance guarantees in lieu thereof to be approved by the Township and conditioned upon satisfactory completion by the Developer of all such improvements as provided in N.J.S.A. 40:55D-53 and the execution of this Agreement; and

WHEREAS, the Developer desires to improve said Site in accordance with all applicable requirements, including those set forth in this agreement.

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NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Hanover in the County of Morris and State of New Jersey as follows:

1. The Mayor and Township Clerk are hereby authorized and directed to execute a Developer's Agreement by and between the Township of Hanover and **Hanover 3201 Realty, LLC (c/o Mack-Cali Realty Corp.)**, the Applicant/Property Owner, concerning the development of a designed shopping center as Phase I consisting of the construction of a new Wegmans Supermarket building, stormwater management facilities, parking, landscaping and related site improvements on property located at the intersection of Sylvan Way and Ridgedale Avenue in the Whippany Section of the Township and designated as Lots 1 and 2 in Block 3201 as set forth on the Tax Map of the Township of Hanover and situated in the OB-DS Office Building-Designed Shopping Center Zone District. However, the Mayor and Township Clerk shall not execute the Developer's Agreement until the following instruments and guarantees are first submitted to the Township, and only after the Township Engineer has reviewed and accepted all of the pertinent documents and plans required for approval before construction activities commence, including but not limited to any other State or County approvals that may be required. In addition, where an approval of a site plan or a variance is subject to certain stated conditions, or where the approval was made subject to the approval of other governmental units, N.J.A.C. 5:23-2.15(a)(5) requires that the applicant for a building permit must furnish a "statement that all required State, County and local prior approvals have been given:"

A. The Developer shall be responsible in submitting a total performance guarantee of \$5,325,327.00 which includes submission to the Township Clerk of a certified check or cash in the amount of \$532,533.00 representing the cash performance guarantee as required pursuant to the Township's Ordinance and paragraph 5(a) of the Developer's Agreement. And, submission to the Township Clerk of a Surety Performance Bond or Irrevocable Standby Letter of Credit in the amount of \$4,792,794.00 as a performance guarantee for completion of the improvements provided for in Schedule "A" attached to the Developer's Agreement, and all in accordance with paragraph 5(a) of said Agreement.

B. In accordance with paragraph 5(b) of the Developer's Agreement, and the Township Engineer's Schedule "A", the Developer shall pay to the Township the sum of \$266,266.00 to compensate the Township for all Township engineering review, inspection and supervision of all the improvements as required to be installed by the Developer. However, in accordance with N.J.S.A. 40:55D-53.h. the Developer, has the option to pay the \$266,266.00 in four (4) installments. The first installment will be \$66,566.50, thereafter, when the balance on deposit drops to 10% of the required amount, the Developer shall make an additional installment deposit.

C. The Developer shall also be required to pay to the Township the sum of \$25,000.00 to cover the cost of the Hanover Sewerage Authority's engineering review, inspection and supervision of the sanitary sewer facilities and improvements required for this project subject to the provisions of N.J.S.A. 40:14A-40.

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D. Submission of a Certificate of Insurance to the Township Clerk naming the Township of Hanover as "an additional insured", all in accordance with paragraph 14 of the Developer's Agreement.

E. Pursuant to paragraph 20 of the Developer's Agreement, the developer shall be responsible to pay a Mandatory Development Fee for Affordable Housing in accordance with N.J.S.A. 40:55D-8.1-8.7 by paying a development fee of 2 1/2% of the equalized assessed value of any residential property as determined by the Municipal Tax Assessor.

F. In accordance with paragraph 22 of the Developer's Agreement, the Developer is subject to the terms of the Township's tree regulations as described in full in the Township's Code. In this regard, the Developer shall pay the total sum of \$419,600.00 based on the calculations of the Township Engineer pursuant to tree regulations.

G. Furthermore, the Developer shall comply with all the requirements and conditions more specifically outlined in full in the attached Developer's Agreement and Schedule "A".

H. The Developer's Agreement shall not be signed by the Mayor and Township Clerk until the Township Engineer has received all of the cash and surety performance bonds, any other fees as required at the time of signing, and the conveyance of any applicable deeds of dedication, conservation easements or any other pertinent documents, drawings and plans needed for approval prior to the commencement of any construction activities.

2. That certified copies of this resolution shall be transmitted to the Township Engineer, the Construction Official, the Township's Chief Municipal Finance Officer, the HSA Executive Director and the Executive Director of the **Hanover 3201 Realty, LLC** for reference and action purposes.

RESOLUTION NO. 77-2015

A RESOLUTION AUTHORIZING THE EXECUTION OF A DEVELOPER'S AGREEMENT BY AND BETWEEN GREATER MORRISTOWN YMCA AND THE TOWNSHIP CONCERNING THE CONSTRUCTION OF YOUTH ANNEX BUILDING TO BE LOCATED ON PROPERTY AT 25 SADDLE ROAD IN THE CEDAR KNOLLS SECTION OF THE TOWNSHIP AND DESIGNATED AS LOT 9 IN BLOCK 701, AS SET FORTH ON THE TAX MAP OF THE TOWNSHIP OF HANOVER WHICH EXECUTION OF THE AGREEMENT IS SUBJECT TO THE RECEIPT OF THE CASH AND SURETY PERFORMANCE BONDS, AND ANY OTHER INSTRUMENTS AS DESCRIBED IN THE DEVELOPER'S AGREEMENT

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WHEREAS, on January 6, 2015, the Board of Adjustment, by resolution adopted on the same night, granted preliminary and final site plan approval including use and bulk variances to **Greater Morristown YMCA** as Applicant and Developer, for the construction of a youth annex building, including other site improvements on the property located at 25 Saddle Road in the Cedar Knolls Section of the Township and designated as Lot 9 in Block 701 as set forth on the Tax Map of the Township of Hanover in the I Industrial Zone District; and

WHEREAS, under State law, Township Ordinances, and Board of Adjustment rules, regulations and requirements, the granting of final approval to said site plan is contingent upon the Developer having completed all such improvements within and without Block 701, Lot 9, in accordance with the requirements of said preliminary and final approvals or furnishing performance guarantees in lieu thereof to be approved by the Township and conditioned upon satisfactory completion by the Developer of all such improvements as provided in N.J.S.A. 40:55D-53 and the execution of this Agreement; and

WHEREAS, the Developer desires to improve said Site in accordance with all applicable requirements, including those set forth in this agreement.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Hanover in the County of Morris and State of New Jersey as follows:

1. The Mayor and Township Clerk are hereby authorized and directed to execute a Developer's Agreement by and between the Township of Hanover and **Greater Morristown YMCA**, the Developer, concerning the construction of a youth annex building to be located at 25 Saddle Road in the Cedar Knolls Section of the Township including other site improvements as set forth in the Developer's Agreement on the property described above and designated as Lot 9 in Block 701, as set forth on the Tax Map of the Township of Hanover. However, the Mayor and Township Clerk shall not execute the Developer's Agreement until the following instruments and guarantees are first submitted to the Township, and only after the Township Engineer has reviewed and accepted all of the pertinent documents and plans required for approval before construction activities commence, including but not limited to any other State or County approvals that may be required. In addition, where an approval of a site plan or a variance is subject to certain stated conditions, or where the approval was made subject to the approval of other governmental units, N.J.A.C. 5:23-2.15(a)(5) requires that the applicant for a building permit must furnish a "statement that all required State, County and local prior approvals have been given:"

A.. The Developer shall be responsible in submitting a total performance guarantee of \$235,709.00 which includes submission to the Township Clerk of a certified check or cash in the amount of \$23,571.00 representing the cash performance guarantee as required pursuant to the Township's Ordinance and paragraph 5(a) of the Developer's Agreement. And, submission to the Township Clerk of a Surety Performance Bond or Irrevocable Standby Letter of Credit in the amount of \$212,138.00 as a performance guarantee for completion of the improvements provided

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for in Schedule "A" attached to the Developer's Agreement, and all in accordance with paragraph 5(a) of said Agreement.

B. In accordance with paragraph 5(b) of the Developer's Agreement, and the Township Engineer's Schedule "A", the Developer shall pay to the Township the sum of \$11,785.00 to compensate the Township for all Township engineering review, inspection and supervision of all the improvements as required to be installed by the Developer.

C. The Developer shall also be required to pay to the Township the sum of \$5,000.00 to cover the cost of the Hanover Sewerage Authority's engineering review, inspection and supervision of the sanitary sewer facilities and improvements required for this project subject to the provisions of N.J.S.A. 40:14A-40.

D. Submission of a Certificate of Insurance to the Township Clerk naming the Township of Hanover as "an additional insured", all in accordance with paragraph 14 of the Developer's Agreement.

E. Pursuant to paragraph 21 of the Developer's Agreement, the developer shall be responsible to pay a Mandatory Development Fee for Affordable Housing in accordance with N.J.S.A. 40:55D-8.1-8.7 by paying a development fee of 2 1/2% of the equalized assessed value of any residential property as determined by the Municipal Tax Assessor.

F. In accordance with paragraph 18 of the Developer's Agreement, the Developer is subject to the terms of the Township's tree regulations as described in full in the Township's Code. In accordance with the tree replacement requirements, the Board of Adjustment estimated an approximate fee of \$28,000.00 to be paid into the Township's Tree Fund. However, the Board granted relief to the Developer by reducing the payment to \$12,500.00.

G. Furthermore, the Developer shall comply with all the requirements and conditions more specifically outlined in full in the attached Developer's Agreement and Schedule "A".

H. The Developer's Agreement shall not be signed by the Mayor and Township Clerk until the Township Engineer has received all of the cash and surety performance bonds, any other fees as required at the time of signing, and the conveyance of any applicable deeds of dedication, conservation easements or any other pertinent documents, drawings and plans needed for approval prior to the commencement of any construction activities.

2. That certified copies of this resolution shall be transmitted to the Township Engineer, the Construction Official, the Township's Chief Municipal Finance Officer, the HSA Executive Director and the Executive Director of the **Greater**

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Morristown YMCA for reference and action purposes.

RESOLUTION NO. 78-2015

A RESOLUTION OF THE TOWNSHIP COMMITTEE AUTHORIZING THE PURCHASE OF ONE (1) 2015 ODB MODEL SCL800TM, 25 CUBIC YARD TRAILER-MOUNTED SELF-CONTAINED BELT DRIVEN VACUUM LEAF COLLECTOR, IN THE TOTAL AMOUNT NOT TO EXCEED \$44,941.00 FROM OLD DOMINION BRUSH COMPANY, INC. AND FURTHER AUTHORIZING THE MAYOR AND TOWNSHIP CLERK TO EXECUTE A CONTRACT WITH OLD DOMINION BRUSH COMPANY, INC.

WHEREAS, in order to augment the Public Works Department's capability to collect leaves during autumn, the Township Committee, during its February 7, 2015 budget work session, approved the purchase of funds for the purchase of one (1) replacement trailer mounted self-contained vacuum leaf collector; and

WHEREAS, the Township of Hanover, acting in conformity with N.J.S.A. 40A:11-1 et seq., publicly advertised for the receipt of competitive bids on April 7 and 10, 2015 for the purchase of one (1) 2015 ODB, Model SCL800TM, 25 cubic yard trailer- mounted self-contained belt driven vacuum leaf collector or approved equal for the Public Works, Buildings and Grounds and Park Maintenance Department; and

WHEREAS, on April 21, 2015, pursuant to public advertisement, the Township's Bid Reception Committee, received and opened one (1) sealed competitive bid; and

WHEREAS, the Township Engineer, in accordance with N.J.S.A. 40A:11-1 et seq., has carefully examined the one (1) bid document, and determined that the competitive bid submitted by **Old Dominion Brush Company, Inc.** to furnish one (1) 2015 ODB, Model No. SCL800TM, 25 cubic yard self-contained vacuum leaf collector with a John Deere 4045T, IT4, 74hp, Turbo Diesel Engine, belt driven blower with a heavy duty hydraulic parking jack is in conformance with the Township's Specification and Supplementary Specification and does not include any deviations, exceptions or deficiencies; and

WHEREAS, pursuant to his review, the Township Engineer, in a letter dated April 21, 2015 to the Township Committee recommends the award of a contract to **Old Dominion Brush Company, Inc.** located at 5118 Glen Alden Drive in Richmond, Virginia 23231 for the purchase of the one (1) 2015 Model SCL800TM, 25 cubic yard trailer-mounted self-contained vacuum leaf collector plus options.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Hanover in the County of Morris and State of New Jersey as follows:

1. That a contract is awarded to:
Old Dominion Brush Company, Inc.

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**5118 Glen Alden Drive
Richmond, Virginia 23231**

the only responsive and responsible competitive bidder for the purchase of one 2015, Model No. SCL800TM, 25 cubic yard self-contained vacuum leaf collector with a John Deere 4045T, IT4, 74hp, Turbo Diesel Engine with a heavy duty hydraulic parking jack in the total amount not to exceed \$44,941.00 as follows:

- A. 2015 Model SCL800TM, 25 Cubic Yard Trailer-Mounted Self-Contained Vacuum Leaf Collector.....\$39,941.00
- B. Option 1 – Belt Driven Blower Feature.....\$ 3,500.00
- C. Option 2. – Heavy-Duty Hydraulic Parking Jack.....\$ 1,500.00

The letter recommendation of the Township Engineer is attached hereto and made a part of this resolution as if set forth in full.

2. The Township's Chief Municipal Finance Officer has certified that sufficient funds have been appropriated and are available through the Reserve For Recycling – Grant Account, Line Item No. 190-0120-050 for the purchase set forth in this resolution, all in accordance with requirements of the Local Budget Law, N.J.S.A. 40A:4-1 et seq.

3. The Mayor and Township Clerk are hereby authorized to execute a contract with **Old Dominion Brush Company, Inc.** on behalf of the Township, in the total amount not to exceed \$44,941.00.

4. Certified copies of this resolution shall be transmitted to **Old Dominion Brush Company, Inc.**, the Superintendent of the Public Works Department, the Township Engineer and the Chief Municipal Finance Officer for reference and information purposes.

RESOLUTION NO. 79-2015

A RESOLUTION OF THE TOWNSHIP COMMITTEE AUTHORIZING THE TOWNSHIP'S CHIEF MUNICIPAL FINANCE OFFICER TO RETURN A 2015 IN LIEU OF TAX DONATION IN THE AMOUNT OF \$2,288.25 TO THE ASSOCIATION FOR RETARDED CITIZENS, MORRIS UNIT

WHEREAS, the Morris Unit of the Association for Retarded Citizens (ARC) presently operates four (4) group homes in Hanover Township for the developmentally disabled; and

WHEREAS, it is the policy of the ARC Morris Unit to provide the municipality in which the group home is located with the equivalent of tax revenue it would normally pay if ARC were not a private not for profit tax exempt organization; and

WHEREAS, in accordance with this policy, ARC submitted a check to the Township of Hanover dated April 10, 2015 in the amount of \$2,288.25 as an in lieu of

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taxes donation to the Township; and

WHEREAS, because of the important humanitarian role and community service that ARC plays in the Township and the County, it is the desire of the Township Committee to return the full amount of the in lieu of taxes donation to the Morris Unit.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Hanover in the County of Morris and State of New Jersey as follows:

1. That the governing body has determined to return the \$2,288.25 donation of the Association for Retarded Citizens, Morris Unit, which donation served as an in lieu of taxes contribution to the Township.
2. That the Township's Chief Municipal Finance Officer is hereby authorized to issue a check in the amount of \$2,288.25 to the Association for Retarded Citizens, Morris Unit, as reimbursement in full for its in lieu of taxes donation which was deposited with the Township on April 16, 2015.
3. That a certified copy of this Resolution along with the reimbursement check shall be transmitted to the Township's Chief Municipal Finance Officer and the Executive Director of the Morris Unit ARC for their reference and information.

Motion made to approve Resolutions as a Consent Agenda by Member Ferramosca and seconded by Member Coppola and unanimously passed.

RAFFLE APPLICATIONS:

RL-2835 – Hackettstown Community Hospital Foundation – 50/50 off premise

Motion made to approve the Raffle Applications made by Member Coppola and seconded by Member Brueno and unanimously passed.

OTHER BUSINESS

Mr. Brueno: Recreation Department June 1, 2015 the Senior Golf Outing returns one member of each foursome should be 55 of years of age or older so we want to encourage everybody to come out and play but it is geared more towards the seniors.

Wednesday, June 10, 2015 we have another show, the last trip to Broadway went over very well, so if you missed out the next trip will be to see Everafter, at the Papermill Playhouse.

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Saturday, June 20, 2015 bus trip to Yankee Stadium, that will be Old Timers Day, followed by the regular game, should be a great day, looks like Derek Jeter will be making his first appearance as an Old Timer, there are still tickets remaining. Please contact Mr. Quirk in Recreation.

July 1, 2015 Fireworks, right across the street at Veteran's Field followed by the 6th, 13th, 20th and 27th we will be having our concerts at Brickyard field. And a fifth bonus concert this year August 3rd.

Mr. Coppola: I met with the Veteran's Alliance obviously on Memorial Day, breakfast at the Community Center from 7-8:15; Memorial Service is at 8:30 and the bus will leave around 9:00. Unfortunately this year, our dear friend Joe Mihalko is really not feeling that well, so Ben Link will be doing what Joe has done in the past.

I spoke with the Chief this morning, the deer hunt, they are going to start advertising in June the hunt will go from September – February. Some of the areas containment areas have shrunk because of certain development that have taken place. And also notably on Forest Avenue by Trailwoods, that one section where they put up all those houses, kind of limits the containment where they can hunt. But the Chief doesn't see it as a problem; letters will be going out informing people of what is taking place.

The other thing is Landmark on May 3rd will be having a dedication over at the Burial Yard, I encourage people to stop down, it really is a nice affair. The Landmark had done a wonderful job with turning that facility around and putting it on the historical presence within the township and the County.

Lastly, with the Knights on Little League Opening Day, I thank the Recreation Department, Public Works, all of the groups that Little League itself and everyone that participated in that function was a great day, my brother Knights cooked about 900 hot dogs which disappeared in about 10 minutes, but all and all it was a great day.

Mr. Ferramosca: Mayor, I want to officially welcome Metropolitan Life to our Community, that's been mysterious office building that we have been talking about for the past several months, so it's MetLife everybody, so you know it on Whippany Life, it is great to have them here.

Secondly, I want to make sure that everybody knows that Community Shred Day is Saturday, May 2nd from 8am-11:00am at Employment Horizons it's a great opportunity to get all of those tax files that you no longer need and bring them over there and confidentially have them destroyed. Also, those who have paper shredders and those who shred things in their home, they will accept paper shredded already and put it into their containers.

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Lastly, I would like to comment upon the program that Mr. Brueno just spoke about, in terms of the Dinner Theater Program that Recreation just ran last week to see Gigi in Manhattan it was a great success, it was very well done; and I would encourage people who are interested in that to check the Hanover Township Website and to participate in it, it was a great night, so I want to give a shout out to Denise Brennan for her work in bringing that back to Hanover Township.

Mr. Gallagher: Two weeks ago, I said that the DPW is very busy and that what I would like to do is every two weeks I would like to bring you up to date on a couple of the biggest things that they have done since the last meeting, a few of us talked about street sweeping and all the debris on the street and what I would like to report tonight is that the west side of Whippany Road and all the Countrywood section of Cedar Knolls they picked up over 200 tons of debris. They have been very busy, now they are working on the east side of the Whippany Road area. They also dragged all the lines in the fields in town to get ready for baseball and soccer and also set up and broke down all the material for the parade last Saturday.

They patched up quite a bit in the Countrywood area and made major repairs on Countrywood Drive and they patched major holes on Forest Way. DPW also set up all the furniture at the pool and they were also in the process of painting the pool. They cleaned the basins on the east and west side of Whippany Road and they have been picking up brush and grass since the beginning of April and the last thing I would like to share, is Saturday, May 9th, we are having a very big event at Whippany Park High School with the Recreation Department and the Substance Awareness Council it's Ogoing to be a volleyball family picnic, we have a lot of big groups in town that would like to participate, George mentioned the hot dogs, how well they go over at the opening day celebration, the Knights of Columbus offered to bring their skills and prepare hot dogs and serve to all of our families. We will be sharing more information shortly.

Mayor: A couple quickies, congratulations to Committeeman Gallagher and congratulations to Deputy Mayor Ferramosca for receiving the Knights of Columbus Award Ceremonial 4th Degree, that's quiet achievement and Sir Knights we are very proud of you.

Lastly, just to remind our public that on May 7th which is a Thursday, off Thursday evening for the Township Committee, but it's the first Thursday in May, we will be giving the annual State of Hanover Address, that takes into consideration all of your questions regarding budget, where our taxes are going, how they are being spent, from Fire Districts to School Districts to our Municipal Side, goes into Planning issues, recreational and all of our departments for that matter will be discussed. EDAC under the direction of Hanover Township will share a great many visual aids with you at that time and will be a portion of the evening for the public to ask their questions of us on things that they learned that evening or questions that they might have, so we will have an opportunity for everyone to be heard at that time. May 7th hope you can all join us on that very important date. Time is 7:30

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OPEN TO THE PUBLIC

Motion made to Open to the Public by Member Ferramosca and seconded by Member Brueno and unanimously passed.

Jim Neidhardt: Appleton Way, Whippany: I think it is great all the new activities that the Recreation Department is putting out there, I think George was nice enough to forward it, I really appreciate that. I was especially impressed by how many activities and the different target groups from seniors to children to everybody in-between. Being a season ticket holder of Paper Mill Playhouse I will encourage everybody to go and see Ever After, it's a little different than most of the ones they have there, but it sounds interesting; I'm looking forward to it. I just say Hunch Back of Nt. Dame, that was the best that I've ever seen there, it rivalled any production on Broadway in terms of the staging the production of the stage the directing the casting, the acting, it was just phenomenal. So if anyone is kind of on the fence, I would really encourage you to take advantage, you don't have to drive.

The other thing I'm very happy to see us have some audio visual here, I don't know if you are ready to use but.

Mayor: We are going to talk about it tonight and we are ready to make a commitment to a company that is going to assist us, a company named Property Pilot, but the Township Committee has not discussed it yet, you see one screen here and now Jim you probably see a second on this wall right here, the screens buy the way, pivot, so both Planning Board and other boards, Boards of Adjustments etc. will have use of it, all of your files while given to the members as electronic files that they can print out those same electronic files will be shown up on this, as a matter of fact we will probably debut this system on May 7th when we have charts and files and reports and renderings of all the various buildings that we want to show you so we are excited to use it.

Mr. Neidhardt: One suggestion, I'm assuming that's the latest and greatest in HD and has every kind of gizmo and attachment that you can possibly plug into there; there is a devise out there called a widi and you can get it on amazon for \$35 it's a little adaptors that you stick in the USB of your laptop and it blue tooth's to the machine there.

Mayor: We have it on our pads now.

Mr. Neidhardt: So you don't need the wires

Mayor: That's exactly where we are going to control it from, from blue tooth to the pads to the stream. We are getting on board fast. Getting into the electronic generation here I'm pulling these guys along with me.

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Mr. Neidhardt: I'm glad to hear, I remember a year ago I made a suggestion about some AV and going paperless and I know you're working on it.

Mayor: The funny thing is about it is that you are probably aware and we are aware not to labor the point is that all the paper documents in the future are going to be achieved electronically and that is going to make retrieval so much easier under these OPRA laws which are inundating Municipalities right now, we will be able to retrieve documents, minutes etc., at a touch of a key, but going forward the ties to all the documents is not a big issue but for Towns like ours going backwards to digitize all the documents that we have we are talking hundreds of thousands of dollars, but we are starting on the road, and happy to see it, I think it's going to be exciting I think there are so many opportunities with these companies that we interviewed for how we can use these modules of information from everything about property management to information and data background on all sites in our township, cad systems for HSA and sewer systems that we can monitor and so forth, absolutely incredible, even down to dog license. So it is phenomenal.

Mr. Neidhardt: Having this topic of archiving come up with a lot of my clients, and the groups that I run, they are challenged with the same thing, in terms of the cost of archiving and it's a mammoth undertaking, and one of the conclusions that some of the management groups have come up with is that you don't have to do everything, if you look at what you are asked to retrieve most often it's the most recent history so if you start archiving today backwards there is a certain breakoff point where the requests are so slim you mine as well just keep the hardcopy in storage someplace because the retrieval request are so small so you just might want to select a date like we are not going to go beyond a date back three year five years.

Mayor: That's one way to manage it.

Mr. Neidhardt: Just start with today and digitize it going backwards on a specific schedule until you get there, you don't need to do it all at once, the biggest benefit comes from where most of the requests are and most of the requests are within the last year followed by last two, three.

Mayor: There is a whole process to this and the company that we have been talking to are going to provide assisted hand held for us, to hold our hand through the system they have been managing Morris Town and other surrounding like municipalities, who to my surprise our well ahead in this area of this electronic documents, so we will be depending on them to give us an idea on phasing, how to phase etc., everything of that aspect. We are probably going to talk about it a little later with these guys, give these guys a lot of information and make a decision as to how we want to get our feet wet, cause the dollar and cents are the issue it's not cheap, but there has to be a beginning and that is part of it.

Mr. Jim Neidhardt: Glad to see your moving in the right direction, thank you.

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Mr. Brueno: One other thing I neglected to mention the cultural arts commissions is having their Cabaret Night on Saturday, 2nd annual. Last year was such a big hit they made it an annual event. Tickets are still available.

Bill, 26 Hamilton: Based on his comments, one up type of situation, several years ago I had my organization do an analysis of data storage, electronic storage, I'll start with the worst case scenario; national _____ space administration has warehouse of data that they no longer can access. The current storage systems the life span is about 3 to 5 years and data storage on paper if you match the paper and the ink is about 125 years so the point that I'm getting to, when you go to electronic storage you have two things that you must keep in mind 1) the updating of the software and the updating of the hardware. Because in the 3 – 5 year period both change. So if you store your data under one set of software/hardware 3 to 5 years later it's not accessible.

Mayor: It's true; on that.

Bill: I just wanted to make a comment everyone says that electronic storage is great, but it is, but if it is used properly and maintained.

Mayor: The beauty of the manner in which we will go about it is that the responsibility for updating the hardware and the software is going to be from the provider that we choose. That will be their responsibility, this is what they do. Obviously cloud is going to play a significant role in being a data backup.

Bill: It makes it easier for some of us that used to be in the business to access all of the information.

Mayor: It's going to be a learning experience.

Motion to close made by Member Ferramosca and seconded by Member Brueno unanimously passed.

ADJOURNMENT

Motion to adjourn made by Member Ferramosca and seconded by Member Brueno and unanimously passed.

TOWNSHIP COMMITTEE
TOWNSHIP OF HANOVER
COUNTY OF MORRIS
STATE OF NEW JERSEY

APRIL 23, 2015

Joseph A. Giorgio, Township Clerk