

MAY 28, 2015

Regular Meeting of the Township Committee of the Township of Hanover, County of Morris and State of New Jersey was held on Thursday, May 28, 2015, at 8:30 o'clock in the evening, prevailing time, at the Municipal Building, 1000 Route 10, in said Township.

PRESENT: Mayor Francioli, Members Gallagher,
Ferramosca, Brueno

ABSENT: Member Coppola

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

COMMENT BY MAYOR FRANCIOLI: Township Committee discussed from our last meeting a procedure that we had put in place at that meeting of opening the session only one time during the meeting and that decision made by the Township Committee was one to try and not fort the Township public from comment not to try and silence anyone who wanted to make public comment, not to anyway impede the public's ability to talk to Township Committee, there was only one reason for doing that and that was to try and move our meeting along in a more expeditious fashion, and why do I say that, for the last several meetings in fairness to the Township Committee this Township Committee has not gone out of these chambers before Friday morning and its becomes a little taxing on the Township Committee Members, I'm happy to sit here until the wee hours of Friday morning if that's what we want but the Township Committee thought that this might move things along, that's being said I want to remind you that every ordinance that we read and finalize is open to the public for discussion and comment that never changes, we will open the meeting once again in the beginning, I'm about to open it shortly and we will open it again at the end because you will hear comments during the course of the meeting that you might want to come back to us for answers on and that's fine, but in fairness to the Township Committee they have elected to use a five minute rule and yours truly, the Chairman is not going to be keeping of the time

MAY 28, 2015

clock, the Administrator next to me will be the monitor to the five minute rule, I hope you find that acceptable. I want to make a comment in general that Hanover Township has been more transparent in my opinion than most of our sister towns around us, not just by the fact that we open our meeting twice, but we have our meetings televised, not only on regular TV and cable TV but we also have it on web as you know, all of these videos are available to our public, all of our published meetings are published in proper publications as I claimed to you with the newspapers of record, etc., we have made every effort to be transparent to our community, we are doing more, we are also going to be instituting very shortly something called an E-Blast, and an E-Blast will go out on as needed basis hopefully every month, maybe even more, and that will give you the immediate events of the month, your immediate activities of the Township Committee, the immediate news that you need to act on, so we will have that in place and we are going to be marrying that up with improvements with our Economic Development Committee is looking at for the home page website. Having said all of that....

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

OPEN TO THE PUBLIC

Jim Neidhart, 3414 Appleton Way, Whippany: In regard to your statement I attend other Township Committee meetings, I interact with a lot of people in other towns, particularly when I go to the Morris County Freeholders Meeting, which I go to regularly in recent months, I not only observe but I tell people from other towns how transparent this town is and I want to commend you for that, and in addition to commending you for the late hours that you put in I think you guys do a great job and by comparison to other Governmental Entities you are very transparent as far as I can see and you also give the public more time to talk and give their views, their comments, their inputs and answer their questions than most other governmental entities, and I commend you on that. I was a bit shocked at the last meeting, I came in five minutes late and we were already into the hearing and at the end of the meeting.

Mayor: We should have forewarned and instituted it at the second meeting, that's what we should have done.

Mr. Neidhart: There are lots of reasons to open it both times, because a lot of times you hear things during the meeting and you want to ask a question, or make a comment and then you have to wait to the next meeting, so I think it's good that you are going back to it and I do understand when there are special circumstances as there has been with the hearings at the last couple of meetings, we have the work session after it, we might need to do that, there are times when you might have to limit people to 5 minutes, that's all fine and good, some people have a three minute rule, 5 minutes is good.

Mayor: If there is dialog going on, and I'll be the first one to break the 5 minute rule, because if there is dialogue that's progressive and we are accomplishing

MAY 28, 2015

something we want to accomplish something, so on that basis... I'll give you back those 22 seconds by the way....

Mr. Neidhart: The reason for the 5 minutes or the 3 minute rule is to stop people from going on and as nausea not only taking unnecessary time but stopping from other people sometimes you have a full room and everybody wants to comment and you need to allocate the time. So I commend you on rethinking the decision and going to open it up.

On a similar vein, on a similar note, I have noticed looking at the work session agenda that there seems to be four parts to the work session agenda, typically, tonight there was a legal closed session that I believe started at 7:30 then a conference which I believe is supposed to be open to the public then a closed session for personnel then an open to the public for comment, so you kind of alternative back and forth and people that don't get here at 7:30 to advise you that we want to potentially sit in on the conference session don't really have the opportunity, if you get here 10 minutes the doors are closed and it's just give the appearance that you don't want anybody sitting in when policy discussions are taking place in the conference, I'm not saying that that is the case, but if it were possible, I know you have legal people, that have to be there.

Mayor: There are several fair ways to handle that, the conference session is usually reiterated in a public session of something that has been accomplished out there, if it can be, legal session as you know and personal sessions we can disclose certain amounts of information to you but are prohibited from a great deal of it, but one of the things that we did do early on going back a few years is we used to come out at 9:00 after a longer conference session, we brought this to 8:30, but if we want to discuss more of the conference components of the meeting in the public session and by the way, I have no problem with that either, then we can convene at 8:00 if that's the case for the public's benefit.

Mr. Neidhart: My only suggestion was to the extent that you are able to do it, because I know you have legal representative and you are paying people to be here for certain times and all of that, to the extent that you can have the two closed portions of the meeting the personal and the legal together ideally first so that people of the public can come, but either way that would make it more possible if they want to attend it.

Mr. Giorgio: You have thirty seconds, Jim.

Mr. Neidhart: It's a suggestion.

Mayor: It's a good suggestion and Jim you know you have sat in some of the meetings, what I try to do too is if I have public in the conference session I will try to move the conference portion up forward and I will hold back on the legal and personnel even if they are there so they get the benefit of hearing of what those issues are before we close for legal and personnel. I continue to do that, try and do that.

MAY 28, 2015

Mr. Giorgio: Time is up.

Mr. Neidhart: it was just a suggestion, if you can put those two together that would make it easier. Thank you.

Robert Steiger, 13 Korda Place, Cedar Knolls: I want to say hello to the Mayor and the Members of the Committee and Joe Giorgio and hello to Annette Luger, Annette has been here for so many years, it's always good to see you here, it really and truly is.

Two items, one that house in Cedar Knolls, that I've begged you for the last three years to please stop it from looking like a slum. Well, you don't have to worry about it, I painted everything that I could, that I could reach, so it doesn't look like a slum, so I'm really not here to thank you probably basically for nothing, cause for three years you couldn't do a thing, and that's very sad and I really mean that. Because that house looked like a mess.

Mayor: Before you start,

Mr. Steiger: You told me before, you're wasting my time now, I want to get into why I'm here.

Mr. Giorgio: I will give you your time back, but for the benefit for the public Bob, you should not make that statement without the public hearing the true story, the true story is when a house goes into foreclosure sometimes it is very difficult for the Township to locate not only the bank that is responsible for the foreclosure but actually now under the law they also have in some cases organizations which take on property maintenance, and up to recently, and only about a month ago we were not able to pinpoint the organization that was responsible for the foreclosure and the property maintenance, and I believe that case was in court about a month ago.

Mr. Steiger: The Township used to go in and clean up properties and charge people for it.

Mr. Giorgio: Under the law today, you take on responsibilities and there is liability and exposure and sometimes you cannot do that. I don't want to get into the

Mr. Steiger: I understand, you told me that story before. Now you can start my time on this one.

Mayor: We are going to start you at 4:00 again.

Mr. Steiger: This is a happy and sad one, I'm happy to see that one of our residents Mary Esposito finally got justice. I'm sorry it wasn't from you gentleman. The Township turned a simple complaint into a vendetta to almost destroy a family, what did it cost our tax payers to sue Mary Esposito? It cost her \$90,000.00 to defend herself

MAY 28, 2015

against something she was found not guilty of. I sat through all 7 hours of that trial, all 7 hours of it and not one Committeeman ever poked his head in the door, and yet two weeks before that Judge rendered his decision you people sent out a flyer saying she had violated ordinances, how did you know that? What do you have a crystal ball? You didn't attend any hearings, if the Committee found her guilty publically what else could our Judge do? Thankfully she found an independent Judge and she got her not guilty, not guilty, so that really made your flyer a lire gentleman, that's really what it was. At the trial I learned that the Township went through 60 years of records, 60 years of records to find something that they could build a case against this woman, why? Over a noise complaint? They took dozens and dozens of pictures over a two year period once a week for over two years; they went to that site and took pictures, why? Over a noise complaint? Who wants that property? It doesn't make sense? The prosecution forced her attorney to spend many, many hours rebutting pictures and accusations that had nothing to do with the case. You can't take away the trauma that you caused this woman but you could make up for some of the wrong you did by paying her legal fees. She has a lien against her home, she could lose her home, and her little shop because of how many potatoes and tomatoes do you have to sell to make \$90,000.00? If you refuse to cover them and you may I would probably start petitions in every district in this town and put them in stores and put them in churches everyplace to get support for you to help these poor women. You put her in this mess, she didn't do it herself, and she has been there before some of you guys were even born. This is what you did to this woman and I will also, I might advise her that she should sue the town for faulty judgment, I really mean that. And the 53 years that I have been involved in local government in this town and I've been active every year for 53 years this is the worst case of government injustice I have ever witness gentleman. Thank you for your time; it has not been a pleasure.

Joe Esposito: (He Applause) F--- all of you.

Oh Joe.

Joe Esposito: I don't care; they're all a bunch of f---ing assholes, every one of them. Thank you for the speech. You don't know how mad I am at all of you for that? You have no idea what you guys have done. (Escorted out)

Mayor: The floor is still open ladies and gentleman. Anyone else who would like to be heard at this time, they can do so from the podium giving us your name and address for the record.

Gary Keyser, 16 Lynn Terrance, Whippany: I am here on a few things, Sandy came through our Township a few years ago and had a lot of distraction, I was out of power for nine days, and driving through town, if you go to the South Jefferson Road and Cedar Knolls Road you are going to see two utilities poles, pole number JC7746HR and JC7785HR which is Jersey Central on Hanover the way they are leaning is unbelievable. Also at Ridgedale Avenue and Route 10 pole number JC8083 and the other one does not have a tag on it. I think JCPL should be notified they should be

MAY 28, 2015

more proactive than reactive when something happens, I looked at it, it has a lot of work, to replace those poles, I understand that but I think they should be more proactive for the residents here in Hanover Township especially on Cedar Knolls side, a lot of people are going to lose power.

I was going through some records, my parents have passed on a while ago, and I was going through some boxes and I came across an annual missive. It's the member of inner county baseball league for the Cedar Knolls Athletic Club, April 21, 1938, playing field George Hilde Memorial Park. George Hilde was the first Fire Chief in Cedar Knolls, Cedar Knolls Fire Department was organized September 11, 1919, he was the first Fire Chief he served through 1933, and Hillsdale Park Presbyterian Park was named after him. The field playing field, George Hilde Memorial Park I don't know where that is, I lived in this Township all my life, I think I don't know for sure, but where the jug handle is over coming off Route 10 off Jefferson Road, there used to be a ball field there many years ago, and maybe that was it. I'm asking for the Township Committee if they can, I would like to present this to you for your Historical Society, if you make a copy of it for me I'd appreciate it, if we could find out where this George Hilde Memorial Field was, maybe it was renamed or put a monument there or something recognizing this gentleman, cause in the earlier days it looks like he was recognized.

Mayor: It's conceivable that before they put the circle by the bank that it was there.

Mr. Ferramosca: Great condition.

Mayor: You know what we will do Gary, we will give this to our Landmark Commission, and

Mr. Keyser: Gerry will look it up.

Mayor: We will make some copies to preserve this and give you back the original.

Mr. Keyser: I will donate this to the Township for their case, or whatever they want to do with it. Don't throw it away, I'll take it back.

Mayor: Billy Mikus has a great ad in here, groceries, fresh fruits and vegetable, etc., boy look at that, with a telephone number that only has 4 digits. This is a treasure of itself. We will have the Administrator give it over to Landmark Commission.

Mr. Ferramosca: Hold it up, and turn it around so the camera can get it.

Mayor: Can you zoom in on that one? You have to see the ads on this.

MAY 28, 2015

Mr. Keyser: One more thing, it seems like our economy is starting to turn around a little bit; people are starting to build, my main concern not just for Hanover Township but for Morris County and the other residents, is our water infrastructure. Where are we getting our water from, how are our wells, do we have enough wells to support this building going on? Do we have what can we do, we have been building I think we are in the same _____ for some time, The Water Authority, South East Morris County, do they give you updates periodically on our water situation, our infrastructure and things in that nature?

Mayor: We meet periodically with South East Water Utilities, but to answer the first part of your question, the wing wells, the Todd wells which by the way being air-rated, we blend those well waters because we are now part of different consortium, and it has worked to our benefit by the way over the years, because we have not been put in a position where we had to conserve water not that we shouldn't conserve water, but we haven't been put into a position that we had to conserve water, but that has been blended, those well waters have been blended with Passaic River Valley Water that goes up to the Pequannock and comes back to us, but yes we have two representatives on the Water Authority, still have them, we are still the only town that has two and they do meet periodically and we do get reports on the condition of the system. So that's where we are.

Mr. Keyser: Thank you.

Mayor: Anyone else like to be heard at this time?

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

***Comment by Fred Semrau regarding Public Comments.**

Mr. Semrau: When a matter is in litigation it is very difficult for the Township Committee to say anything, but I want to say a few facts and one is there was a statement made as to whether the Township Committee was in the Court Room, and always the opinion is when there is a trial going on the Township Committee should not be in the Municipal Court. So there wasn't even the ability for anyone from this Governing body to attend that. Secondly, one thing we can say is there, it wasn't the Township Committee's decision necessarily to file any kind of action, what happened was over a period of many years right in this meeting room, at public meetings this property owner came and asked for time to address certain conditions on their property. The Governing body over a course of many years told the Construction and Zoning Office to please hold off on taking any action because the property owner in good faith wants to make some changes to the property. That didn't happen, so what happens there is not a matter of the Township Committee, it's not the matter of one particular property owner being a target, it's a matter of case the state verses a particular property owner. The Township and the department of the Township have an obligation to take the reaction that they feel is necessary. And, while one particular court felt that there

MAY 28, 2015

were violations another court didn't. One could argue it was based on a technicality one could also argue that the conditions still remain on the property and the reason for the action was in the interest from the standpoint of issuing any kind of charges wasn't the Township Committee that was a decision made by the issuing of the summons by in this case the Zoning Department and that's in the interest of all the residents not against any particular property owner. But the most important thing is that I know over the past five years there was also meetings with tenants of that property with the Administration to say is there some way certain conditions could be remedied on that property and that did not happen. So no matter what the outcome is of the case right now, I think it is important to note that there wasn't anything done vindictively. What was done over a course of many years where efforts from the Administration, I sat in those meetings, the Mayor sat in those meetings, the property owner sat in those meetings, the tenants sat in those meetings, where the question was just can certain modifications be made to just help address the overall character of the property? That didn't happen. So I don't know if the comments that were made were endorsing the condition of the property because one speaker spoke about a particular home and the condition of the home and then chastised the Township Committee and I think it's misplaced because those are professional decisions made all the way down to the prosecution of a matter. But in the same breath criticizes that, and also as I mentioned the tenants, we spoke to the tenants in an effort to try to coordinate some type of addressing the character of the property and you know those summons that were issued they weren't dismissed for lack of any type of probable cause, they were dismissed based on the findings of the court and certainly the Township has to stand by that decision, but it wasn't meant to target that is an effort made by the Construction and Zoning Office who I will say over a course of about 10 years tried many different ways short of going to any type of court to see if they could resolve, and also I want to say it was in recognition of the fact that it's always been sort of the character of that department when there are long standing businesses and residents to try every which way even to contact family members and talk to them about trying to resolve matters, so I just think it is important that the rest of the public knows because you also have a lot of members of the public who will say many times to each one of you, you have all these laws on the books do you enforce them, and you say yes, yes we do, and there are sometimes when you enforce them and it's hard to have to do that, but that's left to your department and to the prosecutor to do that. Not necessarily this Governing body that is not your jurisdiction to do that, and whatever the outcome is not the result of this governing body and it certainly is based on all of these efforts that have been made over the years to embrace businesses and retain business and different properties within the township, that has not been something this Governing body and I can just finally say that it was two years ago where the meeting with the zoning and construction officials the concern was for many years this is something that we tried to get some kind of effort to try and change things there, and it didn't happen, so for anything else the record should speak for itself but I think those facts are just important for the general public to understand.

Mayor: Thank you Fred, and we are not happy any of us on the Township Committee with the whole matter, we are not saying that we agree or disagree with John Minklewitz's decision on this thing, the Township Committee never took a position

MAY 28, 2015

against Mary and farm stand where we wanted to cause her harm or close the farm stand we all knew that that business has been there in perpetuity and we all wish it would stay in perpetuity, that was not the matter, it certainly is clear that the Township Committee or should have been clear that the Township Committee does not want Mary's money. Not in the way of fines, etc., although the fines were levied by the Court, and not this body and the fines were only associated with what was considered to be issues with the use of residential property. Some of the statements that were made here tonight and I think the Township Committee sat quietly through them, were extremely out of order and extremely erroneous and but you know in the court of public opinion it's these five positions right here take the shots and that's where we are, I think at this particular point my concern for our Township is the preservation and the integrity of the zoning laws of the Township. I don't know how to comment over allowing these deviations to continue or not continue, I don't know what that will do to other similar challenges that we may have in the Township, but once again, I fully personally and I know the Committee fully appreciates the pain and anguish that the Esposito Family has gone through, there is no question about that, if that was avoidable we made every effort as you say it, I can't tell you how many particular meetings I alone sat in on, and tried to resolve this over a period of over a year, maybe two years. But having said that, we are where we are with the decision of the Court and the Township Committee will have to resign itself to accept that, that's it. Thank you.

APPROVAL OF TOWNSHIP COMMITTEE MINUTES

The Minutes of the Regular Meeting of May 14, 2015 and Bid Meeting Minutes of May 19, 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 May 15, 2015 and Bid Meeting Minutes of May 19, 2015 be accepted and approved as presented by the Township Clerk. The motion was seconded by Member Gallagher and was unanimously passed.

PUBLIC HEARING AND ADOPTION OF ORDINANCES

ORDINANCE NO. 13-15

AUTHORIZING THE PURCHASE OF ONE (1) NEW 2015 CHEVROLET EQUINOX FOUR DOOR, FOUR WHEEL DRIVE SPORT UTILITY VEHICLE FOR THE TOWNSHIP'S BUILDING DEPARTMENT THROUGH THE MORRIS COUNTY COOPERATIVE PRICING COUNCIL AND APPROPRIATING THE SUM OF \$22,500.00 FROM THE 2015 CAPITAL IMPROVEMENT FUND AND ALL PRIOR YEARS FOR FINANCING THE PURCHASE OF THE SPORTS UTILITY VEHICLE

MAY 28, 2015

Proof of Publication that the Ordinance and the Notice of Introduction for Ordinance 13-15 appeared in full in the May 15th, 2015 issue of the Daily Record in accordance with the law.

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

Motion to close a public hearing made by Member Ferramosca and seconded by Member Gallagher and unanimously passed.

Anyone present wishing to be heard concerning Ordinance No. 13-15?

Now on Adoption, Be it resolved, that an Ordinance entitled "**AUTHORIZING THE PURCHASE OF ONE (1) NEW 2015 CHEVROLET EQUINOX FOUR DOOR, FOUR WHEEL DRIVE SPORT UTILITY VEHICLE FOR THE TOWNSHIP'S BUILDING DEPARTMENT THROUGH THE MORRIS COUNTY COOPERATIVE PRICING COUNCIL AND APPROPRIATING THE SUM OF \$22,500.00 FROM THE 2015 CAPITAL IMPROVEMENT FUND AND ALL PRIOR YEARS FOR FINANCING THE PURCHASE OF THE SPORTS UTILITY VEHICLE**" be passed on final reading and that a Notice of the final passage of the Ordinance be published in the June 4th, 2015 issue of the Daily Record.

Motion on Adoption made by Member Gallagher and seconded by Member Ferramosca and unanimously passed.

So Adopted.

ORDINANCE NO. 14-15

AMENDING AND SUPPLEMENTING CHAPTER 166 OF THE CODE OF THE TOWNSHIP ENTITLED LAND USE AND DEVELOPMENT LEGISLATION WITH THE INCLUSION OF NEW REGULATIONS FOR THE I-B3 ZONE DISTRICT

In accordance with the Municipal Land Use Law, we provided written notification to the contiguous municipalities and also the Morris County Planning Board and we received notice that the Ordinance was filed in accordance with the Municipal Land Use Law and the Ordinance was also referred to the Morris County Planning Board for review and recommendation.

Proof of Publication that the Ordinance and the Notice of Introduction for Ordinance 14-15 appeared in full in the May 15th, 2015 issue of the Daily Record in accordance with the law.

With regard to the referrals to the Hanover Township Planning Board we have the following letter that was submitted to me from Robert Nardone,

MAY 28, 2015

Chairman of the Planning Board and it references Ordinance No 14-15; and it reads as follows:

“Dear Mr. Giorgio: At its May 12, 2015 meeting, The Planning Board reviewed and discussed Ordinance No. 14-15 which had been referred by the Township Committee as required by the municipal Land Use Law at N.J.S.A. 40:55D-26A. Ordinance No. 14-15 would amend Chapter 166 of the Code by revising the IB3 zone regulations to permit smaller scale retail sales at a later development under certain circumstances. The Planning Board has determined that Ordinance 14-15 is consistent with the overall intent of the Master Plan but contains one inconsistency with the Land Use Element of the Master Plan; the existing land use plan recommends that a minimum lot area of 10 acres be required for retail sales and related uses, whereas Ordinance 14-15 would permit development of retail sales and related uses with a minimum lot area of 3 acres. Although the Ordinance is technically inconsistent with the lot area recommendation of the Master Plan the Board none the less believe that the Ordinance is consistent with the intent of the IB3 zone district and regulations to ensure larger scale coordinated development of retail uses and to discover small isolated and uncoordinated retail sales in services development. This is achieved by the Ordinances other provisions that A)require the smaller lot retail to be adjacent to or across the street from an existing large sale retail development, and, B) require coordinated access architecture and other design elements between the retail developments. For the foregoing reasons, the Board recommends adoption of the Ordinance as introduced. Thank you for the opportunity to comment on Ordinance No. 14-15. Very Truly Yours, Robert Nardone, on behalf of the Hanover Township Planning Board.”

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

Anyone present wishing to be heard concerning Ordinance No. 14-15?

Judy Iradi, 42 Locust Drive, Cedar Knolls: Just some clarifications, the IB3 zone would be spread throughout Town or in a certain area of Town?

Mr. Brancheau: Judy this is for Hanover Avenue.

MAY 28, 2015

Mr. Ferramosca: This is referring to the IB3 Zone so we all have an understanding of the location, if we are on Hanover Avenue that is the zone we are referring to.

Ms. Iradi: Okay thank you.

Mr. Giorgio: Motion to close a public hearing made by Member Ferramosca and seconded by Member Gallagher and unanimously passed.

Now on Adoption, Be it resolved, that an Ordinance entitled "**AMENDING AND SUPPLEMENTING CHAPTER 166 OF THE CODE OF THE TOWNSHIP ENTITLED LAND USE AND DEVELOPMENT LEGISLATION WITH THE INCLUSION OF NEW REGULATIONS FOR THE I-B3 ZONE DISTRICT,**" be passed on final reading and that a Notice of the final passage of the Ordinance be published in the June 4th, 2015 issue of the Daily Record in accordance with the law.

Motion on Adoption made by Member Gallagher and seconded by Member Ferramosca and unanimously passed.

So Adopted.

INTRODUCTION OF ORDINANCE

ORDINANCE NO. 15-15

AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HANOVER SUPPLEMENTING PART II THE GENERAL LEGISLATION OF THE CODE OF THE TOWNSHIP OF HANOVER WITH THE INCLUSION OF A NEW CHAPTER 194 ENTITLED REGULATIONS GOVERNING UNATTENDED CHILDREN AND ANIMALS IN MOTOR VEHICLES

WHEREAS, the Township Committee is aware of incidents around the nation in which helpless children and/or animals have been left in motor vehicles unattended with dire consequence; and

WHEREAS, the Township Committee is also aware of the numerous reports regarding the dangers associated with leaving children and/or animals unattended in motor vehicles; and

WHEREAS, these dangers stem from weather conditions, the fact that the children and/or animals are vulnerable and unable to help themselves, as well as potential outside influences; and

MAY 28, 2015

WHEREAS, it is the intention of the Township Committee to ensure the safety of children and animals within the Township and prohibit leaving either unattended in a motor vehicle at any time.

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:

Part II of the General Legislation of the Code of the Township of Hanover is hereby supplemented with the establishment of a new Chapter 194 entitled **Regulations Governing Unattended Children and Animals in Motor Vehicles** as follows:

Section 1.

§194-1A. Unattended Children

a. As used in this section:

"Child" means a person under six (6) years of age.

"Unattended" refers to a child who has been left in a motor vehicle by a parent, guardian or other person responsible for that child, when that parent, guardian or other person is unable to continuously observe the child.

"Unsupervised" refers to an unattended child when a person 14 years of age or older is not present in the motor vehicle.

b. (1) A parent, guardian or other responsible person who leaves a child younger than six (6) years of age unattended and unsupervised in a motor vehicle shall be a petty disorderly person and subject to a fine of not less than \$1,000.

(2) If the child suffers bodily injury as a direct or indirect result of being left unattended and unsupervised, the parent, guardian or other responsible person may be subject to criminal charges.

(3) If the child suffers serious bodily injury or dies as a direct or indirect result of being left unattended and unsupervised, the parent, guardian or other responsible person shall be referred to the prosecutor's office for the consideration of pressing criminal charges.

c. (1) A law enforcement officer who observes a child left unattended and unsupervised in a motor vehicle in violation of this section may use whatever means are reasonably necessary to protect the child and remove the child from the motor vehicle.

(2) If the child is removed from the immediate area by the law enforcement officer pursuant to subparagraph (1) of this subsection, notification shall be placed on the motor vehicle. A child removed from a motor vehicle pursuant to this subsection shall be referred to the supervision of the Division of Child Protection and Permanency if the law enforcement officer is unable to locate the parent, guardian or other person responsible for the child.

MAY 28, 2015

(3) A law enforcement officer shall not be liable in any civil action by any party for any act or omission performed in good faith under this act.

d. All owners of shopping malls, strip malls or other shopping facilities with contiguous parking areas are hereby required to post signs in the parking areas noting that, pursuant to this Ordinance, they may be subject to punishment for leaving children unattended in vehicles.

Section 2.

§194-2B. Unattended Animals

a. As used in this section:

“Animal” or “creature” includes the whole brute creation.

“Bodily injury” means physical pain, illness or any impairment of physical condition.

“Necessary care” means care sufficient to preserve the health and well-being of an animal, and includes, but is not limited to: food of sufficient quantity and quality to allow for normal growth or maintenance of body weight; adequate access to water in sufficient quantity and quality to satisfy the animal's needs; access to adequate protection from the weather; and veterinary care to alleviate suffering and maintain health.

“Owner” or “person” includes a corporation, and the knowledge and acts of an agent or employee of a corporation in regard to animals transported, owned, employed, or in the custody of the corporation shall be assigned to the corporation.

“Serious bodily injury” means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

b. (1) It shall be unlawful to leave a live animal or creature unattended in a motor vehicle under inhumane conditions adverse to the health or welfare of the living animal or creature.

(2) Any owner leaving such animal or creature unattended is a petty disorderly person and subject to a fine of not less than \$1,000 for every conviction of said offense.

c. All owners of shopping malls, strip malls or other shopping facilities with contiguous parking areas are hereby required to post signs in the parking areas noting that, pursuant to this Ordinance, they may be subject to punishment for leaving pets unattended in vehicles.

MAY 28, 2015

Section 3. All ordinances or parts of ordinances in conflict or inconsistent with the provisions of this ordinance are, to the extent of such inconsistency, hereby repealed.

Section 4. If 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 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 June 11th, 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 June 6th, 2015 issue of the Daily Record.

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

So Introduced.

ORDINANCE NO. 16-15

AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HANOVER AUTHORIZING THE RESURFACING OF A PORTION OF EDEN LANE FROM BOULEVARD ROAD TO A POINT 625' EAST OF SOUTH JEFFERSON ROAD IN THE CEDAR KNOLLS SECTION OF THE TOWNSHIP AND APPROPRIATING THE SUM OF \$625,000.00 FROM THE NEW JERSEY DEPARTMENT OF TRANSPORTATION'S 2014 MUNICIPAL AID PROGRAM AND THE TOWNSHIP'S 2015 CURRENT FUND BUDGET

WHEREAS, it is the intention of the Township of Hanover to resurface a portion of Eden Lane from Boulevard Road to a point of 625' east of South Jefferson Road in the Cedar Knolls Section of the Township; and

WHEREAS, due to its deteriorating condition to ensure the safety of motorists and pedestrians, the Township Committee desires to authorize this improvement project; and

WHEREAS, funds for the resurfacing for a portion of Eden Lane will be made available through the Road Construction and Reconstruction Account of the Township's Calendar Year 2015 Current Fund Budget and a grant from the New Jersey Department of Transportation's Fiscal Year 2014 Municipal Aid Program; and

WHEREAS, the resurfacing of a portion of Eden Lane will include milling, a new asphalt riding surface, drainage modifications and other related improvements to

MAY 28, 2015

be specified in the Township's Construction Plan, Specification and Supplementary Specification.

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. The governing body hereby authorizes the resurfacing of a portion of Eden Lane from Boulevard Road to a point 625' east of South Jefferson Road in the Cedar Knolls Section of the Township. The resurfacing project shall include milling, a new asphalt riding surface, curb and sidewalk, drainage modifications and other related improvements.

Section 2. The Township Engineer and Assistant Township Engineer are further authorized and directed to prepare the construction plan, specification and supplementary specification to be utilized in connection with the resurfacing of a portion of Eden Lane as described in **Section 1.** above and to publicly advertise and receive sealed competitive bids all in accordance with the Local Public Contracts Law at N.J.S.A. 40A:11-1. et seq.

Section 3. There is hereby appropriated the sum of \$625,000.00 to undertake the resurfacing of a portion of Eden Lane as described in **Section 1.** Of this Ordinance from the following accounts:

- 1. Year 2015 Current Fund Budget
Road Construction & Reconstruction
Account, Account No. 048.....\$425,000.00
- 2. The New Jersey Department of
Transportation Fiscal Year 2014
Municipal Aid Program.....\$200,000.00
- TOTAL.....\$625,000.00**

Section 4. This Ordinance shall take effect in accordance with law.

The Ordinance will be further considered for Public Hearing and Final Passage at the June 11th, 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 June 4th, 2015 issue of the Daily Record.

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

So Introduced.

RESOLUTIONS AS A CONSENT AGENDA

RESOLUTION NO. 86-2015

A RESOLUTION APPROVING THE APPOINTMENT OF FULL-TIME, SEASONAL PERSONNEL FOR THE BEE MEADOW POOL IN ACCORDANCE WITH SECTION 13., ITEMS 5, 6, 9, 12 and 15 OF SALARY ORDINANCE NO. 10-2015

MAY 28, 2015

WHEREAS, the Board of Recreation Commissioners recommends the employment of the various individuals listed below to work as full-time, seasonal employees assigned to the Recreation and Park Administration Department under the following categories:

**Bee Meadow Pool
Summer Playground**

WHEREAS, it is the recommendation of the Board of Recreation Commissioners 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 13., Items 5, 6, 9, 12 and 15 of Salary Ordinance No. 10-2015.

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:

1. In accordance with Section 13, Items 5, 6, 9, 12 and 15 of Salary Ordinance No. 10-2015, the rates of compensation for the following seasonal employees mentioned below shall be as follows:

PARKS & RECREATION - SUMMER

Bee Meadow Pool:

Start Date

Lifeguard - Part Time:

Alexander Yandoli.....	\$9.50/hr.	05/30/15
Kate Bernauer.....	8.50/hr.	05/30/15
Zachary Vazquez.....	8.50/hr.	05/30/15
Joseph Gigantino.....	8.50/hr.	06/05/15
Alex Zhang.....	8.50/hr.	07/01/15
William Zhang.....	8.50/hr.	07/01/15
Hannah Shoshan.....	8.50/hr.	07/01/15
Tom Geannakakes.....	8.50/hr.	07/01/15

Mascot:

Thomas Quirk, III.....	10.00/hr.	05/30/15
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Badge Checker:

Nicolas Yasko.....	9.00/hr.	05/30/15
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Travelling Teens Adult Counselor:

Michael J. London.....	13.50/hr.	07/06/15
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Activities Coordinator:

Connor Devine.....	14.00/hr	05/30/15
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Summer Plus Staff: Counselors:

Kevin Coiley.....	8.75/hr.	06/29/15
Griffin Connolly.....	8.75/hr.	“ “ “

MAY 28, 2015

Nicholas Coppola.....	8.75/hr.	“	“	“
Danielle Cozzarelli.....	8.75/hr.	“	“	“
Joseph DeCandia.....	9.00/hr.	“	“	“
Michael DeCandia.....	8.75/hr.	“	“	“
Carman DelloRusso.....	8.50/hr.	“	“	“
Ashley Donohue.....	8.75/hr.	“	“	“
Daniel Gallagher.....	8.50/hr.	“	“	“
Bryan Gibbs.....	8.50/hr.	“	“	“
Jamie Kruse.....	8.75/hr.	“	“	“
Nicole Malzone.....	8.50/hr.	“	“	“
Jessica Mellen.....	8.75/hr.	“	“	“
Thomas Siino.....	8.50/hr.	“	“	“
Eric Jones.....	8.40/hr.	“	“	“
Cara Schanz.....	8.40/hr.	“	“	“
Zachary Struble.....	8.40/hr.	“	“	“
Kristin Zonin.....	8.40/hr.	“	“	“

Travelling Teens Asst/ Director:

Christopher Becker.....	15.00/hr.	“	“	“
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Directors/Instructors:

Colin Feeney (Physical Education Instructor).....	15.00/hr.	“	“	“
Matthew Foran (Sports Clinic Director).....	14.00/hr.	“	“	“
Lee Kirby (Art Instructor).....	12.00/hr.	“	“	“
Diane Smith (Summer Plus Asst Director).....	17.68/hr.	“	“	“

2. 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 1, 2015

3. That a certified copy of this resolution be transmitted to the Superintendent of the Recreation and Park Administration Department and the Township's Chief Municipal Finance Officer for their reference and action.

RESOLUTION NO. 87-2015

A RESOLUTION OF THE TOWNSHIP COMMITTEE AUTHORIZING THE AWARD OF A CONTRACT TO TOP LINE CONSTRUCTION CORPORATION, THE LOWEST RESPONSIBLE AND RESPONSIVE BIDDER, IN AN AMOUNT NOT TO EXCEED \$248,150.16 FOR THE RESURFACING OF THE ENTIRE LENGTH OF GRIFFITH DRIVE IN WHIPPANY, AND FURTHER AUTHORIZING THE MAYOR AND TOWNSHIP CLERK TO EXECUTE A CONTRACT WITH THE COMPANY

MAY 28, 2015

WHEREAS, it is the intention of the Township of Hanover to resurface the entire length of Griffith Drive in the Whippany Section of the Township; and

WHEREAS, due to its deteriorating condition, and in order to ensure the safety of motorists and pedestrians traveling the road, it is the desire of the Township Committee to resurface the entire length of Griffith Drive as described above; and

WHEREAS, the Township of Hanover, acting in conformity with N.J.S.A. 40A:11-1 et seq., publicly advertised for bids on April 29, 2015 for the above referenced resurfacing project; and

WHEREAS, the resurfacing project will include but not be limited to a hot mix asphalt riding surface 2" thick, granite block curb, asphalt driveway repairs, resetting of existing sanitary manhole rims and covers, concrete sidewalk 4" thick and concrete aprons 6" thick and additional improvements as set forth in the Township's Specification and Supplementary Specification; and

WHEREAS, on May 19, 2015, pursuant to public advertising, the Township's Bid Reception Committee received and opened a total of four (4) sealed competitive bids out of six (6) prospective bidders; and

WHEREAS, the Township Engineer, acting within his authority and in conformity with N.J.S.A. 40A:11-1 et seq. has carefully examined all the bid documents for this resurfacing project and has determined that the lowest competitive bid submitted by **Top Line Construction Corporation** for the resurfacing of the entire length of Griffith Drive is in total conformance with the Township's Specification and Supplementary Specification and does not include any exceptions, deviations or deficiencies, and is therefore deemed the lowest responsible and responsive bidder; and

WHEREAS, in a letter dated May 26, 2015 to the Township Committee, the Township Engineer recommended that the governing body award a contract for the resurfacing project described herein to **Top Line Construction Corporation** which bidder submitted the lowest competitive bid for this project in the amount of \$248,150.16; and

WHEREAS, sufficient funds have been appropriated and are available for the resurfacing project through the 2015 Current Fund Budget, Road Construction & Reconstruction, Line Item #125-0048-449, all in accordance with requirements of the Local Budget Law, N.J.S.A. 40A:4-1 et seq.

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. A contract is hereby awarded to:

Top Line Construction Corporation
22 Fifth Street

MAY 28, 2015

Somerville, New Jersey 08876

for the resurfacing of the entire length of Griffith Drive in the Whippany Section of the Township, all in accordance with the Specification and Supplementary Specification which were utilized by the Township in connection with the bidding process as set forth in the advertisement for bids, said contract being awarded on the basis that it shall not exceed \$248,150.16.

2. Upon commencement of the work, **Top Line Construction Corporation** shall be responsible in providing sufficient personnel, and to continue in completing the project in an expeditious fashion, all in accordance with requirements of the Township's Specifications. In addition, **Top Line Construction Corporation** shall be required to submit a satisfactory work or progress schedule to the Township Engineer.

3. The Township's Chief Municipal Finance Officer has certified that sufficient funds have been appropriated and are available through the 2015 Current Fund Budget, Road Construction & Reconstruction, Line Item No. 125-0048-449 in the amount of \$248,150.16 for the resurfacing project set forth in this resolution.

4. The Mayor and Township Clerk are hereby authorized to execute a contract on behalf of the Township of Hanover with **Top Line Construction Corporation** in an amount not to exceed \$248,150.16.

5. A certified copy of this resolution shall be transmitted to the Township Engineer, the Chief Municipal Finance Officer and **Top Line Construction Corporation** for their reference and information.

RESOLUTION NO. 88-2015

A RESOLUTION OF THE TOWNSHIP COMMITTEE AUTHORIZING THE AWARD OF A CONTRACT TO D.L.S. CONTRACTING, INC., THE LOWEST RESPONSIBLE AND RESPONSIVE BIDDER, IN AN AMOUNT NOT TO EXCEED \$158,536.00 FOR THE RESURFACING OF THE ENTIRE LENGTH OF HAMILTON COURT IN WHIPPANY, AND FURTHER AUTHORIZING THE MAYOR AND TOWNSHIP CLERK TO EXECUTE A CONTRACT WITH THE COMPANY

WHEREAS, it is the intention of the Township of Hanover to resurface the entire length of Hamilton Court in the Whippany Section of the Township; and

WHEREAS, due to its deteriorating condition, and in order to ensure the safety of motorists and pedestrians traveling the road, it is the desire of the Township Committee to resurface the entire length of Hamilton Court as described above; and

WHEREAS, the Township of Hanover, acting in conformity with N.J.S.A. 40A:11-1 et seq., publicly advertised for bids on April 29, 2015 for the above referenced resurfacing project; and

MAY 28, 2015

WHEREAS, the resurfacing project will include but not be limited to a hot mix asphalt riding surface 2" thick, granite block curb, asphalt driveway repairs, resetting of existing sanitary manhole rims and covers, installation of concrete channels in type "B" inlets and additional improvements as set forth in the Township's Specification and Supplementary Specification; and

WHEREAS, on May 19, 2015, pursuant to public advertising, the Township's Bid Reception Committee received and opened a total of four (4) sealed competitive bids out of six (6) prospective bidders; and

WHEREAS, the Township Engineer, acting within his authority and in conformity with N.J.S.A. 40A:11-1 et seq. has carefully examined all the bid documents for this resurfacing project and has determined that the lowest competitive bid submitted by **D.L.S. Contracting, Inc.** for the resurfacing of the entire length of Hamilton Court is in total conformance with the Township's Specification and Supplementary Specification and does not include any exceptions, deviations or deficiencies, and is therefore deemed the lowest responsible and responsive bidder; and

WHEREAS, in a letter dated May 26, 2015 to the Township Committee, the Township Engineer recommended that the governing body award a contract for the resurfacing project described herein to **D.L.S. Contracting, Inc.** which bidder submitted the lowest competitive bid for this project in the amount of \$158,536.00; and

WHEREAS, sufficient funds have been appropriated and are available for the resurfacing project through the 2015 Current Fund Budget, Road Construction & Reconstruction, Line Item #125-0048-756, all in accordance with requirements of the Local Budget Law, N.J.S.A. 40A:4-1 et seq.

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. A contract is hereby awarded to:

D.L.S. Contracting, Inc.
633 Franklin Avenue, Suite 170
Nutley, New Jersey 07110-1209

for the resurfacing of the entire length of Hamilton Court in the Whippany Section of the Township, all in accordance with the Specification and Supplementary Specification which were utilized by the Township in connection with the bidding process as set forth in the advertisement for bids, said contract being awarded on the basis that it shall not exceed \$158,536.00.

2. Upon commencement of the work, **D.L.S. Contracting, Inc.** shall be responsible in providing sufficient personnel, and to continue in completing the project in

MAY 28, 2015

an expeditious fashion, all in accordance with requirements of the Township's Specifications. In addition, **D.L.S. Contracting, Inc.** shall be required to submit a satisfactory work or progress schedule to the Township Engineer.

3. The Township's Chief Municipal Finance Officer has certified that sufficient funds have been appropriated and are available through the 2015 Current Fund Budget, Road Construction & Reconstruction, Line Item No. 125-0048-756 in the amount of \$158,536.00 for the resurfacing project set forth in this resolution.

4. The Mayor and Township Clerk are hereby authorized to execute a contract on behalf of the Township of Hanover with **D.L.S. Contracting, Inc.** in an amount not to exceed \$158,536.00.

5. A certified copy of this resolution shall be transmitted to the Township Engineer, the Chief Municipal Finance Officer and **D.L.S. Contracting, Inc.** for their reference and information.

RESOLUTION NO. 89-2015

A RESOLUTION OF THE TOWNSHIP COMMITTEE AUTHORIZING THE AWARD OF A CONTRACT TO D.L.S. CONTRACTING, INC., THE LOWEST RESPONSIBLE AND RESPONSIVE BIDDER, IN AN AMOUNT NOT TO EXCEED \$143,234.00 FOR THE RESURFACING OF THE ENTIRE LENGTH OF HENDRICKS DRIVE IN CEDAR KNOLLS, AND FURTHER AUTHORIZING THE MAYOR AND TOWNSHIP CLERK TO EXECUTE A CONTRACT WITH THE COMPANY

WHEREAS, it is the intention of the Township of Hanover to resurface the entire length of Hendricks Drive in the Cedar Knolls Section of the Township; and

WHEREAS, due to its deteriorating condition, and in order to ensure the safety of motorists and pedestrians traveling the road, it is the desire of the Township Committee to resurface the entire length of Hendricks Drive as described above; and

WHEREAS, the Township of Hanover, acting in conformity with N.J.S.A. 40A:11-1 et seq., publicly advertised for bids on April 29, 2015 for the above referenced resurfacing project; and

WHEREAS, the resurfacing project will include but not be limited to a hot mix asphalt riding surface 2" thick, granite block and concrete vertical curb, asphalt driveway repairs, concrete sidewalk, 4" thick and additional improvements as set forth in the Township's Specification and Supplementary Specification; and

WHEREAS, on May 19, 2015, pursuant to public advertising, the Township's Bid Reception Committee received and opened a total of four (4) sealed competitive bids out of six (6) prospective bidders; and

MAY 28, 2015

WHEREAS, the Township Engineer, acting within his authority and in conformity with N.J.S.A. 40A:11-1 et seq. has carefully examined all the bid documents for this resurfacing project and has determined that the lowest competitive bid submitted by **D.L.S. Contracting, Inc.** for the resurfacing of the entire length of Hendricks Drive is in total conformance with the Township's Specification and Supplementary Specification and does not include any exceptions, deviations or deficiencies, and is therefore deemed the lowest responsible and responsive bidder; and

WHEREAS, in a letter dated May 26, 2015 to the Township Committee, the Township Engineer recommended that the governing body award a contract for the resurfacing project described herein to **D.L.S. Contracting, Inc.** which bidder submitted the lowest competitive bid for this project in the amount of \$143,234.00; and

WHEREAS, sufficient funds have been appropriated and are available for the resurfacing project through the 2015 Current Fund Budget, Road Construction & Reconstruction, Line Item #125-0048-113, all in accordance with requirements of the Local Budget Law, N.J.S.A. 40A:4-1 et seq.

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. A contract is hereby awarded to:

D.L.S. Contracting, Inc.
633 Franklin Avenue, Suite 170
Nutley, New Jersey 07110-1209

for the resurfacing of the entire length of Hendricks Drive in the Cedar Knolls Section of the Township, all in accordance with the Specification and Supplementary Specification which were utilized by the Township in connection with the bidding process as set forth in the advertisement for bids, said contract being awarded on the basis that it shall not exceed \$143,234.00.

2. Upon commencement of the work, **D.L.S. Contracting, Inc.** shall be responsible in providing sufficient personnel, and to continue in completing the project in an expeditious fashion, all in accordance with requirements of the Township's Specifications. In addition, **D.L.S. Contracting, Inc.** shall be required to submit a satisfactory work or progress schedule to the Township Engineer.

3. The Township's Chief Municipal Finance Officer has certified that sufficient funds have been appropriated and are available through the 2015 Current Fund Budget, Road Construction & Reconstruction, Line Item No. 125-0048-113 in the amount of \$143,234.00 for the resurfacing project set forth in this resolution.

MAY 28, 2015

4. The Mayor and Township Clerk are hereby authorized to execute a contract on behalf of the Township of Hanover with **D.L.S. Contracting, Inc.** in an amount not to exceed \$143,234.00.

5. A certified copy of this resolution shall be transmitted to the Township Engineer, the Chief Municipal Finance Officer and **D.L.S. Contracting, Inc.** for their reference and information.

RESOLUTION NO. 90-2015

A RESOLUTION AUTHORIZING THE EXECUTION OF A DEVELOPER'S AGREEMENT BY AND BETWEEN 67 WHIPPANY INVESTORS, LLC AND THE TOWNSHIP FOR THE CONSTRUCTION OF A FOUR (4) STORY OFFICE BUILDING, PARKING DECK, STORM WATER MANAGEMENT FACILITIES AND RELATED IMPROVEMENTS ON PROPERTY LOCATED AT 67 WHIPPANY ROAD IN THE WHIPPANY SECTION OF THE TOWNSHIP AND DESIGNATED AS LOTS 1.02 AND 1.03 IN BLOCK 5801, 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 February 17, 2015, the Planning Board, adopted a resolution granting preliminary and final site plan, minor subdivision and variance and exception approval to **67 Whippany Investors, LLC (c/o Vision Real Estate Partners, LLC)** as Applicant and Developer, for the construction of a four (4) story office building consisting of 184,960 square feet with fifty (50) parking spaces beneath the building, a 424 space parking deck, 359 surface parking spaces, storm water management facilities and related improvements on property located at 67 Whippany Road in the Whippany Section of the Township and designated as Lots 1.02 and 1.03 in Block 5801 as set forth on the Tax Map of the Township of Hanover and situated in the OB-RL3 Office Building and Research Laboratory 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 5801, Lots 1.02 and 1.03, and proposed lots 1.05 and 1.06 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:

MAY 28, 2015

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 **67 Whippany Investors, LLC (c/o Vision Real Estate Partners, LLC)**, the Applicant/Developer, concerning the construction of a four (4) story office building consisting of 184,960 square feet with fifty (50) parking spaces beneath the building, a 424 space parking deck, 359 surface parking spaces, storm water management facilities and related improvements on property located at 67 Whippany Road in the Whippany Section of the Township and designated as Lots 1.02 and 1.03 in Block 5801 as set forth on the Tax Map of the Township of Hanover and situated in the OB-RL3 Office Building and Research Laboratory 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 \$1,558,701.00 which includes submission to the Township Clerk of a certified check or cash in the amount of \$155,870.00 representing the cash performance guarantee as required pursuant to the Township's Ordinance and paragraph 3(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 \$1,402,831.00 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 3(a) of said Agreement.
- B. In accordance with paragraph 3(b) of the Developer's Agreement, and the Township Engineer's Schedule "A", the Developer shall pay to the Township the sum of \$77,935.00 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 \$77,935.00 in four (4) installments. The first installment will be \$19,484.00, thereafter, when the balance on deposit drops to 10% of the required amount, the Developer shall make an additional installment deposit.
- C. Pursuant to paragraph 5 of the Developer's Agreement, the Developer shall contribute the sum of \$50,000.00 to assist the Township with the construction of Phase I of the Township's Pedestrian Connectivity Plan.

MAY 28, 2015

- 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 12 of the Developer's Agreement.
- E. Pursuant to paragraph 17 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. 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".
- G. 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 **67 Whippany Investors, LLC** for reference and action purposes.

RESOLUTION NO. 91-2015

RESOLUTION PROVIDING FOR THE INSERTION OF ANY SPECIAL ITEM OF REVENUE IN THE BUDGET OF ANY COUNTY OR MUNICIPALITY PURSUANT TO N.J.S.A. 40A:4-87 (CHAPTER 159, P.L. 1948)

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the Budget of the county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of an item of appropriation for equal amount.

Section I.

NOW, THEREFORE, BE IT RESOLVED, that the Township Committee of the

MAY 28, 2015

Township of Hanover hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2015, which item is now available as a revenue from:

State of New Jersey:	\$33,325.98
Clean Communities Grant Program	

Section 2.

BE IT FURTHER RESOLVED, that a like sum of \$33,325.98 and the same is hereby appropriated under the caption of:

Other Operations Excluded from "CAPS":	
State and Federal Programs Offset by Revenues:	\$33,325.98
Clean Environmental Grant Program: OE	

BE IT FURTHER RESOLVED, that two certified copies of this resolution be forwarded to the Director of the Division of Local Government Services.

RESOLUTION NO. 92-2015

A RESOLUTION AUTHORIZING THE REFUND OF REDEMPTION MONE YS TO AN OUTSIDE LIENHOLDER

WHEREAS, at the Township of Hanover Municipal Tax Sale held on December 1, 2009, a lien was sold on Block 1502, Lot 21, Qualifier C0118, also known as 218 Vista Drive, Cedar Knolls, New Jersey 07927, for 2008 delinquent taxes; and

WHEREAS, this lien, known as Tax Sale Certificate 09-04, was sold to Park Finance LLC for an 18% redemption fee; and,

WHEREAS, Ricardo Luna, owner has affected redemption of Certificate 09-04 in the amount of \$4,075.22.

NOW, THEREFORE, BE IT RESOLVED, that the Certified Municipal Finance Officer be authorized to issue a check in the amount of \$4,075.22, payable to Park Finance LLC, P.O. Box 109, Cedar Knolls, New Jersey 07927 for the redemption of Tax Sale Certificate 09-04.

RESOLUTION NO. 93-2015

A RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HANOVER AUTHORIZING THE APPROVAL OF THE APPLICATION FOR A PERSON-TO-PERSON TRANSFER OF PLENARY RETAIL CONSUMPTION LICENSE, LICENSE NO. 1412-33-006-004 FROM FENWAY, INC. T/A THE HALF POINT PUB TO VILLAGE SUPERMARKET OF NEW JERSEY, L.P. T/A THE VILLAGE LIQUOR STORE WITH PREMISES LOCATED AT 178 EAST HANOVER AVENUE IN THE CEDAR KNOLLS SECTION OF HANOVER TOWNSHIP

MAY 28, 2015

WHEREAS, the Township Committee of the Township of Hanover is authorized and charged by State law to act as the issuing authority of all Plenary Retail Consumption, Plenary Retail Distribution and Club Licenses within the jurisdiction of the Township of Hanover; and

WHEREAS, Village Super Market of NJ, L.P. trading as “The Village Liquor Store” has made application to the Township Committee for a Person-to-Person transfer of Plenary Retail Consumption License No. 1412-33-006-004 to be utilized at premises located at 178 East Hanover Avenue in the Cedar Knolls Section of the Township; and

WHEREAS, on August 27, 2014, **Village Super Market of NJ, LP** submitted its application to the Township for the Person-to-Person Transfer along with the applicable fees made payable to the Township and the Division of Alcoholic Beverage Control; and

WHEREAS, in accordance with N.J.A.C. 13:2-2.5, **Village Super Market of NJ, LP** submitted an Affidavit of Publication stating that the Notice of the Person-to-Person Transfer appeared in full in the November 17, 2014 and November 24, 2014 issues of the Daily Record; and

WHEREAS, N.J.S.A. 33:1-25 obligates the local issuing authority to conduct a thorough and complete investigation into the fitness of an applicant and requires a license holder, and an applicant for a license, to cooperate fully with the issuing authority; and

WHEREAS, the Hanover Township Police Department completed the required background investigation of Village Super Market of New Jersey, LP and found that no reason exists to deny the application for a Person-to-Person transfer from Fenway, Inc. to Village Super Market of New Jersey, LP; and

WHEREAS, the governing body has deemed the application to be in order and complete; and

WHEREAS, on December 11, 2014, January 8, 2015, March 12, 2015, April 9, 2015 and April 23, 2015, public hearings were convened before the governing body concerning the application of **Village Super Market of NJ, LP** for the activation of a Person-to-Person Transfer of the above referenced Plenary Retail Consumption License.

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 application of **Village Super Market of NJ, L.P.**, a Limited Partnership, trading as “The Village Liquor Store” for a Person-to-Person Transfer of

MAY 28, 2015

Plenary Retail Consumption License Number 1412-33-006-004 for premises located at 178 East Hanover Avenue in the Cedar Knolls Section of the Township is hereby approved.

2. That certified copies of this resolution shall be transmitted to **Village Super Market of NJ, LP**, the New Jersey Division of Alcoholic Beverage Control, the Township's Construction Official and the Hanover Township Police Department for reference and information purposes.

POSSIBLE CONSIDERATION OF ADDITIONAL RESOLUTIONS

Mr. Ferramosca: Mr. Giorgio, I would ask that we eliminate I from the Consent Agenda and vote on that independently.

Mr. Giorgio: We have a request and a motion by Member Ferramosca to bifurcate item I and take a separate vote on that, is there a second on that?

Member Gallagher made the second and unanimously agreed.

Motion made to approve Resolutions as a Consent Agenda A-H by Member Brueno and seconded by Member Ferramosca and unanimously passed.

RESOLUTION NO. 94-2015

A RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HANOVER DENYING THE APPLICATION FOR A PLACE-TO-PLACE TRANSFER OF PLENARY RETAIL CONSUMPTION LICENSE, LICENSE NO. 1412-33-006-004 FROM FENWAY, INC. T/A THE HALF POINT PUB TO VILLAGE SUPERMARKET OF NEW JERSEY, L.P. T/A THE VILLAGE LIQUOR STORE WITH PREMISES LOCATED AT 178 EAST HANOVER AVENUE IN THE CEDAR KNOLLS SECTION OF HANOVER TOWNSHIP

WHEREAS, the Township Committee of the Township of Hanover is authorized and charged by State law to act as the issuing authority of all Plenary Retail Consumption, Plenary Retail Distribution and Club Licenses within the jurisdiction of Hanover Township; and;

PROCEDURAL HISTORY

WHEREAS, **Village Super Market of NJ, L.P.** trading as "The Village Liquor Store" has made application to the Township Committee for a Place-to-Place transfer of Plenary Retail Consumption License No. 1412-33-006-004 to be utilized at premises located at 178 East Hanover Avenue in the Cedar Knolls Section of the Township; and

MAY 28, 2015

WHEREAS, on August 27, 2014, **Village Super Market of NJ, LP** submitted its application to the Township for the Place-to-Place Transfer along with the applicable fees made payable to the Township and the Division of Alcoholic Beverage Control, a copy of which application is part of this resolution and on file with the Township Clerk's Office; and

WHEREAS, in accordance with N.J.A.C. 13:2-2.5, **Village Super Market of NJ, LP** submitted an Affidavit of Publication stating that the Notice of the Place-to-Place Transfer appeared in full in the November 17, 2014 and November 24, 2014 issues of the Daily Record; and

WHEREAS, N.J.S.A. 33:1-24, 33:1-25 and 33:1-35 obligates and permits the local issuing authority to conduct a thorough and complete investigation into the fitness of an applicant, inspect the premises to be licensed, conduct public hearings on the applications, as well as the proposed use of the license and requires a license holder, and an applicant for a license, to cooperate fully with the issuing authority; and

WHEREAS, the governing body has deemed the application to be in order and complete; and

WHEREAS, on December 11, 2014, January 8, 2015, March 12, 2015, April 9, 2015 and April 23, 2015, public hearings were convened before the governing body concerning the application of **Village Super Market of NJ, LP** for the activation of a Place-to-Place Transfer of the above referenced Plenary Retail Consumption License; and

WHEREAS, the Township Committee, after hearing all testimony and evidence of the applicant and considered briefs submitted in this matter, as well as testimony from Township staff, deliberated on May 14, 2015 during the public portion of the Township Committee meeting; and

WHEREAS, Thomas Scrivo, Esq. appeared on behalf of the applicant; and

FINDINGS OF FACTS AND CONCLUSIONS

WHEREAS, as part of the deliberation, some of the following comments and conclusions were made by the governing body; and

WHEREAS, the governing body is of the opinion that the Plenary Retail Consumption License application does not comply with State statute N.J.S.A. 33:1-12, which precludes the sale of alcoholic beverages in or upon premises in which a grocery, delicatessen or other mercantile business is carried on and in the instant matter the application seeks the sale of alcohol for consumption at two locations within a grocery store; and

MAY 28, 2015

WHEREAS, the governing body also took into consideration that the applicant was seeking to have “one consumption license” for essentially the Oyster Bar and Patio area despite the fact that “two areas” are being presented by the applicant claiming they are physically separate and distinct from one another and accordingly this would require in itself multiple licenses which is not part of the application in question; and

WHEREAS, the governing body has considered the applicant’s “public’s interest” with respect to the following standards:

- A. Fitness of the applicant: The governing body determines it has no issues with respect to the qualifications of the applicant.
- B. Community sentiment: The governing body concluded that there was no widespread community sentiment for the license to be approved. In fact a number of the residents who were not affiliated with the applicant were against the issuance of the license. For example, William Eames indicated that there were traffic concerns and that the expectation of a grocery store is to be a grocery store.
- C. Violations of other municipal ordinances: The governing body heard testimony by the Township Planner, Blais Brancheau, that granting of this application would violate Township Ordinance 39-14. There was also discussion that the granting of this application would violate State Statute N.J.S.A. 33:1-12 which precludes a consumption license upon any premises which a grocery business is carried on.
- D. Impact on public health and welfare: The governing body indicated that the testimony of the applicant by way of Mr. Lindenmayer, who explained his special training and discussed management and operations of a consumption license, did not address the responsibility of the Township to protect the public health and welfare with respect to the issuance of such license. Mr. Pavese, testified that he has no training or experience as an architect with regard to the design of a grocery store with a consumption license or bar. The governing body did not find the experience of either witness to be relevant or comparable to the application in hand.
- E. Public Interest. The Township Committee finds that the Chief’s report as set forth below and testimony, and the concerns about the family shopping experience, the lack of separation between the grocery store and the bars, comments of the public, the lack of appropriate design or planning for this type of consumption license and all of the other reasons stated in this resolution and on the record concludes that this application is not in the public interest.

WHEREAS, the governing body considered the Chief’s report of October 9, 2014 (Exhibit H-4) as well as his testimony and cross-examination and found it to be most credible and influential. Amongst his testimony, the Chief, as Chief Law Enforcement Officer of Hanover Township, concluded that there were several concerns regarding the proposed use of the license, including but not limited to:

MAY 28, 2015

- The mix of bar patrons with children in the store.
- The parking lot could be an issue.
- There are many senior citizens and children in the supermarket and therefore in the parking lot and now adding drinking, possibly intoxicated adults.
- How would the supermarket deal with bar patrons mingling with store shoppers and also the noise associated with a bar atmosphere.
- The supermarket provides child care for shoppers – will bar patrons be allowed to drop their child, goes for drinks, pick their children up and drive them home.
- The presence of the bar does offer the potential of increased criminal activity.
- It should consider the element that the bar will bring, this element may not be conducive to the supermarket shopper.
- The Chief testified that the granting of the consumption license would create a health, welfare and safety issue that would negatively affect Hanover Township.

WHEREAS, the governing body also finds that the concerns raised by the Chief were not refuted by the applicant in a manner that would change the conclusions and opinions of the Chief and the conclusions drawn by the Chief; and

WHEREAS, the governing body also discussed the fact that cross-examination of the Chief indicated that the drafting of such report was the first time the Chief was required to do so. However, it was pointed out in deliberations that this was a unique, one of a kind application and accordingly the Committee felt that it was reasonable to request reports and testimony of all parties based on the uniqueness of this application; and

WHEREAS, the record notes that the applicant was asked on a number of occasions if it sought to amend its application in order to address concerns regarding “separation” of the proposed use to the store in question such as separate entranceways or even the elimination of the Oyster Bar location to which the applicant did not amend their application in any way or form. (For Example, see Transcript of March 12, 2015 at Pages 75-77); and

WHEREAS, there was considerable discussion regarding the store serving as a destination by the Committee and questions of witnesses regarding children in the supermarket that were left unattended to shop in the store and the Committee concluded that such concerns were not addressed; and

WHEREAS, there was testimony regarding the various uses for the premises such as a day care facility, a workout/gym, the existence of packaged alcoholic goods and beverages, the area of the store that contains hot food or café,

MAY 28, 2015

pharmacy all of which would co-exist with the proposed application which demonstrates more comingling in regards to the proposed license, as well as a need for site plan approval for those uses not contemplated at the time of development approval; and

WHEREAS, evidence was presented that the application for development by the applicant Village Supermarket of New Jersey for this facility indicated that “liquor would not be served at the Bistro Café” (see Transcript of April 9, 2015 at Page 21, referencing the Superior Court matter entitled Stop & Shop Supermarket Company, LLC v Planning Board of Township of Hanover, Docket No. MRS-L-2480, at Page 11 of the Court’s decision dated July 11, 2013; and

WHEREAS, Mr. Pavese, at the time of the development application for the premises, characterized the Bistro Café as an open area within a supermarket where prepared foods, salad bar, fruit bar and other like products are sold (see Transcript of April 23, 2015 at Page 8, Lines 1-11) ; and

WHEREAS, the record and testimony indicates that at the time of the development application the facility was not designed or constructed for a bar or a consumption license type use; and

WHEREAS, whereas testimony in the record indicates that if the proposed license was granted, it would deviate from the approval that which the property owner received from the Hanover Township Planning Board, which was void of including the ability to provide for alcoholic consumption on the premises, either in the Bistro Café or in the Oyster Bar; and

WHEREAS, over the course of those public hearings, numerous concerns were raised as to the application; and

WHEREAS, a chief concern as to the application was the separation between the proposed licensed and unlicensed areas within the premises with Committeeman Ferramosca stating at the May 14, 2015 Township Meeting that “to me it is integrated so the oyster bar serving alcohol . . . that is integrated. The bistro area to me is integrated” and Committeeman Coppola echoing his sentiments that, “my concern from right from the beginning is commingling food shopping with consumption of alcohol really has me quite concerned” and he went on to stress concerns as to how the applicant could control a crammed bar 36’ long or a patio bar area 2400’ square feet in size; and

WHEREAS, approving the plenary retail consumption license presents a “risk of mixing children with adults who have been drinking”; and

WHEREAS, per the applicant’s Chief Operating Officer’s own admission, “it’s all under one roof” (see generally Transcript of March 12, 2015 at Page 39, Lines 14-15); and

MAY 28, 2015

WHEREAS, the applicant attempts to establish a separation between the licensed Oyster Bar and the unlicensed area by the erection of a six foot wall, which does not fully alleviate the Township's concerns as the Township's Chief of Police testified that the wall "may stop you from seeing what's in there, but I don't think it would stop you from hearing what's in there" (see generally Transcript of April 23, 2015 at Page 24, Lines 16-18); and

WHEREAS, upon a patron exiting the licensed area known as the Oyster Bar, that the patron is required to pass through the store where other mercantile business is conducted in order to exit the premises, thus demonstrating a lack of separation between the licensed and unlicensed areas; and

WHEREAS, this lack of separation was confirmed by the applicant's architect who testified that, "once you pass the floral department, there's all the packaged goods area. Right in front of the oyster bar there is a beer cooler. On the opposite side there's the bread bar, with the olive bar, and the cheese bar adjacent to it. There's some chest cases, with the fish department. The deli department is on the opposite side. And then all the prepared foods is slightly beyond that, with our kitchen area and our coffee shop in the area" (see generally Transcript of December 11, 2014 at Page 31, Lines 13-22); and

WHEREAS, there is also a lack of separation between the licensed Patio area and the unlicensed grocery store as demonstrated in the following exchange occurred during the architect's testimony (see generally Transcript of December 11, 2014 at Pages 52-53):

Committeeman Brueno: But if they're finished with their drink [on the Patio], and now they want to eat, and now they – and then they want to come back in and get another drink.

Mr. Pavese (Architect): They can come back and get food in this area, check out, go back in, and, you know, eat the food and get a drink. ; and

WHEREAS, there was a lack of testimony from the applicant as to other stores in the State that hold a plenary retail consumption license as follows (see generally Transcript of January 8, 2015 at Pages 15-16):

Committeeman Gallagher: My question was: In your research, how many other supermarkets have you found in New Jersey that currently serve alcohol?

Mr. Pavese: The Whole Foods is really the only one that I – that I've looked at in New Jersey.

* * *

MAY 28, 2015

Mr. Gallagher: But you don't know how many they currently have in New Jersey?

Mr. Pavese: I do not. ; and

WHEREAS, in addition, the Chief Operating Officer of the applicant testified as well that, "In the State of New Jersey itself, I'm not sure what other supermarket retailers [beside for the Whole Foods in Millburn] there are; and

WHEREAS, the Township of Hanover has an expressed concern regarding the sale of alcohol for consumption within a grocery store, which is prohibited by state statute, N.J.S.A. 33:1-12; and

WHEREAS, there is an additional concern as to congestion in the parking lot at the Shop Rite; and

WHEREAS, the Township Committee does not find as a credible basis for approval of the place-to-place license transfer that the license is currently located at an establishment near to a school as Committeeman Gallagher summed up that, "the students get out at 3:00 . . . the bar patrons probably come in after work when the children were already out of school for 2-3 hours. I think it would be more likely for a child to interact with somebody consuming alcohol in a grocery store than somebody leaving a restaurant that serves spirting and going over to an empty school at 10:30 at night"; and

WHEREAS, Mayor Francioli "didn't hear overwhelming community sentiment from people that got up at that podium cheering the serving of alcohol at the store" and community sentiment is one factor to be considered by the governing body when approving or denying a liquor license application; and

WHEREAS, there were numerous public comments against the liquor license, including the following:

Robert Steiger: And, please, for the sake of the people at Cedar Knolls, please don't approve it. I beg of you, please don't. (see generally Transcript of January 8, 2015 at Page 112, Lines 1-8) .

Carol Fomchenko: I think this is a terrible idea. (see generally Transcript of April 23, 2015 at Page 75, Lines 1-3).

Jim Neidhardt: And at first I said, oh, you know, [the liquor license application] 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's being proposed, it's just – I got some major, major concerns as a – as a resident of the town, both the oyster bar and

MAY 28, 2015

the Patio area . (see generally Transcript of April 23, 2015 at Page 79-80); and

WHEREAS, at the conclusion of all of the discussion, the governing body had consulted the record, testimony, evidence, exhibits and public comments, as well as its own deliberations and concluded that the application for the place to place transfer should be denied.

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 application of **Village Super Market of NJ, L.P.**, a Limited Partnership, trading as "The Village Liquor Store" for a Place-to-Place Transfer of Plenary Retail Consumption License Number 1412-33-006-004 for premises located at 178 East Hanover Avenue in the Cedar Knolls Section of the Township is hereby denied for the reasons set forth herein this Resolution above and based upon the record that was provided to the governing body as well as its deliberation at the May 14, 2015 Hanover Township Committee meeting, in summary for the following reasons:
2. The application is in violation of N.J.S.A. 33:1-12 in that it is a premises which a grocery store business is carried on and such consumption license is prohibited;
3. Lack of Separation. This issue described in the case of North Central Counties Retail Liquor Stores Association v. Municipal Council of Edison, 68 NJ 351 (App. Div. 1961), where applicant sought to maintain a bar and restaurant in its department store in Edison, NJ. The Court held that "there is no fair escape from the conclusion that while the whole physical enterprise and structure is a single "premises" and that both the letter and spirit of the Act are being contravened." Id at 362. The case went on to state that "clearly of course, liquor is not to be dispensed for consumption in a grocery store nor a grocery sold over a bar." Id. At 359. The Court also said that "the licensed premises and a grocery store cannot be operated as a single place of business with free standing access to the public from one to the other." Accordingly, the Hanover Township Committee finds that for the reasons stated on the record, and in this Resolution of denial, that there is not sufficient separation between the Oyster Bar, the Patio and the grocery shopping area and consistent with the standards set forth in the decision of North Central Counties Retail Liquor Stores Association v. Municipal Council of Edison, 68 NJ 351 (App. Div. 1961).
4. The Application Fails to Meet the Public Interest Criteria. The Township evaluated the criteria with respect to the "public interest" and found that, for the reasons stated in the record, the deliberations and

MAY 28, 2015

this Resolution, that the applicant does not meet or fails to satisfy the criteria with regard to public interest in the following specific areas: community sentiment, violation of other municipal ordinances or State statute, impact on public health and welfare and as such, the application should not be approved based on the failure to satisfy the “public interest” criteria.

5. The applicant cannot have one liquor license for two licensed premises. N.J.S.A. 33:1-12 states that a plenary retail consumption license shall not be issued to permit the sale of alcoholic beverages in or upon any premises in which a grocery or other business is carried on. The applicant proposes that it needs one license for both the Oyster Bar and Patio area while it represents that the two areas are physically separate and distinct from one another. Accordingly, this would result in two separate premises and two separate consumption licenses. Notwithstanding any other issues and basis for denial, the application cannot be granted for two premises under one license.
6. The Mayor and Township Committee continuously inquired as to the wellbeing of children, families, separation, public safety, traffic, land use considerations and the overall concerns raised as to the general public. The applicant did not answer these inquiries in a manner to demonstrate by way of credible evidence or testimony that same was addressed. It is for all of these reasons that the Mayor and the Township Committee of the Township of Hanover hereby deny the aforementioned application.
7. That certified copies of this resolution shall be transmitted to **Village Super Market of NJ, L.P.**, the New Jersey Division of Alcoholic Beverage Control, the Township’s Construction Official and the Hanover Township Police Department for reference and information purposes.

Mr. Semrau: Mayor, this is a result obviously of all the public hearings with respect to this application, in particular there were public hearings, December 11th, January 8th, March 12th, April 9th and April 23rd and then on May 14th this Governing body deliberated in public regarding this application based on those deliberations and comments the governing body then directed me to draft this Resolution which is a denial of the Place-To-Place Transfer and by way of summary, the first part of the Resolution goes over some of the highlights or facts that in conclusions that the Governing body drew from the testimony and it’s deliberations. The second part of the resolution is the conclusion and I had an opportunity to distribute this to the Administration who distributed it separately to each member of the Governing body so you would have the opportunity to read same, I did hear from Mr. Coppola who is not here tonight, he is not going to vote on the Resolution but he told me as far as the facts where concerned and the direction that was given he was in accord. The Resolution speaks for itself as far as the facts as to the findings, things such as the public interest standard that was discussed regarding the fitness of the applicant, the governing body had no issue with that, the Community sentiment there were examples given in the resolution about

MAY 28, 2015

Community sentiment against this application and there certainly as the Mayor is quoted as saying "there wasn't anything overwhelming support for the application at least from individuals who were not affiliated with the actual applicant." Violations of Municipal Ordinances, there were testimony by the Township Planner that the granting of the application would violate Township Ordinance 39-14 and that granting of the application could very well violate N.J.S.A. 33.1-12 which essentially precludes a grocery store in the same premises from having a consumption license. The impact on health and welfare, there are references made to the testimony to Mr. Lindenmayor who was going to be the operations type manager, and conclusions drawn to the lack of training or management of such a similar consumption license. The architect, Mr. Pavese didn't have any training or experience with respect to the design of a grocery store with a consumption license and the Governing body did not find either such witness testimony to be relevant or comparable to the application. The governing body did consider the Chief's Report and after cross examination found it to be credible and influential to the decision and agreed that there were issues regarding the mix of bar patrons, the parking lot issues, seniors and children in the supermarket and how would the supermarket deal with bar patrons mingling with shoppers. The resolution goes on to indicate such things as the separation issue, which was discussed because the applicant felt that although the statute as a standalone basis precludes a shopping center or a food store from having a consumption license the applicant felt that there was sufficient separation then in fact there was support for this being a legal operation, and the governing body had discussion regarding the fact that they didn't feel there was separation based on the entrance way to the patio area, the proximity of the Oyster Bar the oversight and the discussion regarding the destination and children in the supermarket that were left unattended, the other uses in the supermarket that weren't necessarily included on the site plan, representations that were made regarding the development application and how the project was to be developed without the serving of alcohol and how it was designed, and then the overall conclusions of the governing body, at your direction I went back and took various quotes from members of the governing body in support of this and then the conclusion, this was all part of the record and the resolution that you are voting on is that the application is in violation of N.J.S.A. 33(1)-12 and that the premises in which a grocery store business is carried on and such the existence of a consumption license is prohibited. Secondly, there is a lack of separation as discussed and that the case law indicates clearly that the license premises in a grocery store cannot be operated at a single place of business with free standing access to the public from one to the other; and the Committee finds that for the reasons stated on the record and this resolution there is not sufficient separation between the Oyster Bar Patio and the grocery shopping area consistent with the standards set forth in the case that was cited by all parties involved in this application. The application fails to meet the public interest criteria and that specifically the impact of health and welfare and the failure to satisfy the public interest criteria based primarily on the testimony of the Chief of Police and the Director of Public Safety regarding concerns with this type of application.

And, also the governing body discussed whether the applicant, concluded that the applicant cannot have one license for two license premises. The application in itself

MAY 28, 2015

the applicant proposed one license for the Oyster Bar and the Patio area, but it represents too that they are two separate areas, and they were physically distinct and separate from each other, that's the way it was presented, but that would result in two separate premises and two separate consumption licenses, this is for one license. Then I took the summary from all of the discussion of the Governing body to the conclusion that the Mayor and the Township Committee continuously inquired as to the wellbeing of children families, separation, public safety, traffic, land use considerations and the overall concerns raised to the general public. The applicant did not answer these inquiries in a manner to demonstrate by way of credible evidence or testimony that these issues were addressed, and therefore it's for all of these reasons that the Mayor and the Township Committee of the Township of Hanover hereby deny the application for the Place-To-Place Transfer of this license. That record, the briefs that you were provided with, the resolution, your deliberations and so if you vote for this it is in acknowledgment that you are in agreement with this resolution and the facts contained therein.

Mayor: I think all of the Members of the Township Committee had an opportunity to review the resolution that was presented to us Fred you summarized them in great detail, they are accurate, the concern regarding the Oyster Bar seemed to be the central most issue but certainly supported by all of the other concerns that the community had for the sale or the consumption of alcoholic beverages here, Oyster Bar is completely surrounded by grocery product, you are going through a grocery store even to get to it, it's not separated in any way shape or form, it is not separated by a second floor, or separated within the building itself.

Mr. Semrau: And, to that end Mayor, you indicated at the last meeting about in the deliberations about separation, and one of the things also that is in the resolution based on the direction of the governing body is that you also asked the applicant at the close of their application, and this is in the resolution, whether they wanted to amend any part of the application, with respect to entrance, with respect to separation, or removal perhaps of a certain aspect, like the oyster bar, and just have the patio bar be separate entrance to the facility, and that opportunity was given to the applicant if they so choose and they declined, they wanted a decision based on the application as it was.

Mayor: Thank you Fred, at this time I'm going to call for a motion.

Separate Roll Call on Item I
Yes vote is to deny

Member Ferramosca: Support the resolution the denial of the Place-To-Place Transfer as being factual, and an accurate account of the findings of the evaluation of the place-to-place application request. I am giving this applicant at the same time is well qualified for the Person-To-Person aspect but this has no prejudice towards a potential Place-To-Place transfer for a different location in that shopping center.

MAY 28, 2015

Motion made by Member Ferramosca and seconded jointly by Member Gallagher and Brueno.

Member Ferramosca: I

Member Gallagher: I

Member Brueno: I

Member Francioli: I

RAFFLE APPLICATIONS:

RL- 2841 – Whippany Fire Company – 50/50 off premise

Motion made by Member Ferramosca and second made by Member Gallagher and unanimously passed.

OTHER BUSINESS

Mr. Ferramosca: Some good news, the Hanover Sewerage Authority was recognized by the Commissioner of Labor and Work Force the Development of the State of New Jersey for a safety achievement award. They accumulated successfully 112,119 hours consecutive hours of work without a disabling injury from the period of January 1, 2012 to December 31, 2014, and that is quite an accomplishment, and safety doesn't come without proper management and they work hard to ensure that the employment conditions at that facility are properly adhere to.

In addition to that speaking about Public Safety, earlier tonight Mr. Keyser spoke about street poles, JCP&L, public safety job number one it is getting warmer out for once, people are out walking, that is a good thing, I'm making an appeal to the members of the public, as you walk your local neighborhoods or as you drive by and if you see a street lamp that is out please make note of the numbers and letters that are on that pole as Mr. Keyser did earlier tonight and either take that information and key it in on the website of JCP&L so that it is recorded or if you feel more inclined to call up the police dispatcher's office and report that information again the pole number and the address is what is needed, and I think you will help do the job of helping promoting public safety and we thank you for it.

Mayor: The two options on that if it is difficult for you to go through JCP&L and report it please call our dispatcher we do try to monitor Police do on their patrols what lights are out but if you do see something that is wrong, if you have the pole number you can give it to our dispatcher and they will then refer it on to JCP&L. Thanks for that John.

Mr. Brueno: Things from the Recreation Commission Bee Meadow Pool opened last Friday and we are going to have a ribbon cutting tomorrow Friday at 6:00 to christen the new playground area, it has a basketball court, and four square, and also commemorating our new diving board, it was a long time in coming and the pool will be open weekends through the month of June until it starts to open on a daily basis right before the 4th of July.

MAY 28, 2015

Once again the Fireworks will not be at the High School, I have said it a few times, but as we get closer we just want to reinforce the fact they will be held across the street at Veteran's Field. That will be July 1, 2015 rain date of July 2nd. Festivities will get underway at 6:30 with a family dance party and a DJ and a parade, The Hanover Wind Symphony will go on at 8:00, fireworks at 9:15. Parking will encourage everyone to get to Halo Pharmaceuticals for parking or the Ukrainian Church, we will be running shuttle buses from Memorial Junior School, and the Brickyard Field, we want to try and make this as orderly as possible with this new venue, we just don't have the parking and the accommodations that we used to have at the High School, so please plan to arrive early there is a lot going on, we are going to have food trucks this year, so if you want to have dinner and enjoy the show and then enjoy the wind symphony, so July 1 we have a lot going on across the street.

Resurrected the Senior Golf Outing will take place on Monday in Newton we have 38 golfers and there are still some availability, so call the Rec Department tomorrow if you would like to play golf.

Ever-After will be at Paper Mill Playhouse on June 10th, there are only 4 tickets remaining, so if you want to get out and see a Broadway like show at about half the price, contact the Recreation Center.

Last but not least on June 20th there is a bus going to the Yankee Game including the Old Timers Game, still a few tickets remaining, once again contact the Rec Center if you are interested in any of those activities.

Mr. Gallagher: Speaking of the Bee Meadow Pool I do want to say that we have four Hanover Youth Nights at the Bee Meadow Pool this summer, 4 Sundays the pool closes at 7:30. We will have the pool from 8-10 shortly we will be announcing what we will have down there, we have a lot of local businesses, we will have a DJ, in the pool volleyball which is the Substance Awareness Council purchased last year.

I just also want to thank Committeeman Brueno and the Recreation Commissioners and the Rec Department in a way I want to thank them but in a way I want to talk to them after the meeting because in the last ten years I spent a small fortune in my backyard creating my own oasis and my own little paradise, but once again the Bee Meadow Pool is the place to be from what my daughter and all of her friends are saying so we are going to be joining the Bee Meadow Pool, I understand that Chief Bolcar has a smile under an umbrella where he kind of hides until he has to go to the snack bar, so Bob great job we are going to join. It is the place to be. Thank you.

Mayor: We had a wonderful outing on Memorial Day, thanks to the Veteran's Alliance who did a fantastic job. They do every year, lovely parade well attended, even though the public was somewhat inconvenienced by some of the construction on Whippany Road they all managed to come out on the center island and take in the parade and it went really really well, we thank them all for all of their hard work, so

MAY 28, 2015

having said that.

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

OPEN TO PUBLIC

Gary Keyser: Your talking about Bee Meadow Pool, my bride of 41 years was crowned Ms. Bee Meadow in 1967 and she still holds that crown, she never gave it up.

Mr. Brueno: I don't know how we can bring it back now and take the crown away?

Mayor: That's great!

Jim Neidhardt, 3414 Appleton Way, Whippany: I made a comment here sometime during the early part of 2014. As a Member of the Board of Adjustment, I brought a big pile of paper here, which was for one meeting and I used that to make the point that I thought that it was time that the building here get into the 21st Century and kind of make an opportunity to go paperless; and throughout the months you have graciously reported on efforts that the Township is making in terms of moving in that direction which is great, I also made a comment now that we have some nice retables and we are in a better financial situation we were in a few years ago, that we take the advantage of technology and adding some audio visual here and I was very pleased on January 1st and see a presentation of the budget and some of the development activities on the high definition screen that has been installed here.

Mayor: The second one is one its way!

Mr. Neidhardt: Oh really.

Mr. Giorgio: It's here already.

Mayor: We can't put it on that side due to some limitations; there is a bullet proof glass and other restrictions so they can't get me from the side. But it is going to be mounted where George is sitting now, he will be moved and the second one will be put up there, we checked the room for visibility to those screens.

Mr. Neidhardt: I think that is great, and it was great seeing the presentation on January 1st there. The question I have is are there other plans to roll it out beyond just the January 1st presentation to the other boards that meet here so when people come in from the outside to make presentation they don't have to use the stupid aisle boards that nobody can see and they all tip over and everyone trips over it.

Mayor: Right at this moment, if the visual files are given to the Board Secretaries, the digital files through an IPAD will go up on the screen, so if it is your

MAY 28, 2015

decision to start to use digital files on this thing you can elect to do that and we will be operating here.

Mr. Neidhardt: So is Kim trained to do that?

Mr. Giorgio: We have through Pete Bozza who is our IT guide, has written a step-by-step procedure Jim still refining it and we are going to have a meeting with all personal that would have access to use the system so that is coming in the next few weeks.

Mayor: I think it will be very short time before we have that for every department. We also got the Township Committee's consent tonight after numerous meetings that we have with a vendor known as Property Pilot, which is a digitized system of marrying all of our property records with all of our departments synergistically. We are going to look like we are going to be discussing with them an engagement for five years with them on that procedure and I think part of the process that we are also looking at is on the archival side, we have to start the process of not going just forward which is easy but how much can we go backwards in keeping records achievable. We are going to try and keep the momentum up and I want to see it move forward believe me as quick as possible to pull us out of that dinosaur age little bit here, but it is happening.

Mr. Neidhardt: I did have a conversation with Pete I believe after the January 1st meeting and I was a little bit surprised that it could only work with an apple iPad or similar type machine and if that is a typical HD screen it should work with windows to, there are devices that are little adaptors that you stick in the UPB drive of any computer with Windows and it's like a four letter word like BoCo \$35 on amazon, blue tooth to the screen.

Mayor: That's what he is doing on the iPad.

Mr. Neidhardt: It's possible on windows too. That way anybody that comes here with a laptop whether be presenting for one of the boards or an outside group that uses this room they should be able to do that. My Eden Lane Condo association has its annual meeting here on June 16 and I believe, and I think if it were possible they would love to use that screen to present to the public their budgets.

Mayor: I would work that out with Pete; I don't see any reason why you shouldn't. If your data is digitized and Pete can go through the mechanics on how we can get it up, he comfortably walked through that presentation that we had on the State of Hanover Address, there were a lot of charts, a lot of renderings, a lot of data. It works very well.

Mr. Neidhardt: I just wanted to make sure you were aware that it can work on windows, Pete didn't think it could, it had to be through his system and Apple.

Mayor: I think he is comfortable.

MAY 28, 2015

Mr. Neidhart: I think he is very comfortable with that, I want you to know that most of the business word uses Windows.

Mayor: Thank you Jim. I'm very excited over the fact that we are moving in this direction, I really think it's somewhat overdue. Morristown is using it, so many other towns that we have talked to are using it right now and speak very well of it. It will save us a lot of money in the long run.

Judy Iradi: I think I heard you mention something about periodic E-Blast going out to our residents, I think that is an excellent great idea, however I don't know what we can do for people that are not computer savvy or don't want to get on a computer or don't have a computer, I was thinking of what, how can we contact these people? Can we send mail, but that is costly, postage these days. So I thought one method might be of the public access channel, I know we have the Township Meetings schedule, but I don't know if I don't know if they do schedule a time half hour each quarter for you that way we can have a rolling scroll up of E-Blast.

Mayor: Of that months events, and things of that nature, yes.

Ms. Iradi: And, they can see what's going on. They can do that.

Mayor: I think we can do that through Optimum, if we call them.

Ms. Iradi: You can leave a large section of the population

Mayor: Well whatever Optimum that is not a plug for Optimum, people use other providers. The other thing we want to do potentially do with the E-Blast and we are talking to technical people in this area is once we have the files all digitized on E-Blast and we can send them right over to print, so the idea of a quarterly newsletter getting to the kitchen table for the people in this town still is viable, a lot of them don't go online and who do watch television, but a lot of them don't go online and a lot of them don't stay up to date because of that factor and they have said to us is there another way, so we are looking at the idea once we do the E-Blast we are going to use it a template we know, you will get your 900 words or whatever the department has that will just go right across to print run x amount of prints out and the cost of mailing. If there is ways that we can do things more efficiently believe me we want to, but the core issue is getting it to you.

Ms. Iradi: And, speaking of seniors, now that the town seems to be in a quite handsome financial state, we will say, the

Mayor: Well said, but go ahead.

Ms. Iradi: With the recreation the Bee Meadow Pool the surrounding towns seems to have free memberships for seniors so I know the pool has been a pay as you

MAY 28, 2015

go kind of own entity for all these years, however if the Town could subsidize the seniors or give them free access to the pool during the weekdays and I know that was proposed in the past but they felt that it would take away from the membership money of the pool, so if there was some time agreement with the Township end to reduce the membership of the pool that they would subsidize somewhat for the seniors, I think the seniors would love that. Free membership

Mayor: We have a discounted rate,

Ms. Iradi: East Hanover has free pools for seniors so.

Mr. Brueno: The pool is self-sustained right, so it's not supported by any tax dollars as I'm sure you know, so the money comes from the members and we really have struggled to make ends meet; and in fact that's why one of the reasons why we invested in the playground and hopefully keep some of the kids the Memorial Junior age kids the teen age that adamantly telling their parents they don't want to go to the pool anymore, we struggled a little bit and of course you know we've opened it up to out of town members and in fact a third of our membership comes from out of town. There is very little money left over at the end of each year to put toward capital and things that might go wrong, so certainly we want to encourage the senior and do whatever we can but I just don't know if we can afford to do free membership right now without raising the fees for the other members.

Ms. Iradi: How long has the pool been in existence?

Mr. Brueno: This is year 51.

Ms. Iradi: So for 51 years you have been doing it one way, can we think of another way to do it where the seniors might be able to get free membership and the Town might be able to subsidize?

Mr. Brueno: Well if you have a suggestion I'm certainly willing to listen, I'm just telling you from a financial standpoint.

Ms. Iradi: I totally see that

Mr. Brueno: Just getting by, paying the lifeguards, paying the insurance, all the other costs that go along with it, we just don't have a lot of money left over, or much money left over to be able to say let's give free memberships and then take all those seniors that are paying and let them come for free, but if you have a suggestion on how we can make ends meet certainly will be able to listen to them.

Ms. Iradi: Okay, so maybe Mr. Ferramosca and we can get together, I think the town seems to have some money excess money that maybe they can allocate a certain amount to the pool fund to support the expenses?

MAY 28, 2015

Mr. Brueno: I don't know, we can't make a donation to a charity as you know, it's not a charity, but it's a separate public entity, I don't even know if we can do that Judy, I think we can look into that.

Ms. Iradi: It was just a suggestion. My clock is running out, I would like to thank Joe Giorgio, that area by the clock outside looks simply beautiful the landscaping is beautiful in that area, I would like to thank you for that.

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

Joseph A. Giorgio, Township Clerk