

MAY 12, 2016

Regular Meeting of the Township Committee of the Township of Hanover, County of Morris and State of New Jersey was held on Thursday, May 12, 2016, at 8:30 o'clock in the evening, prevailing time, at the Municipal Building, 1000 Route 10, in said Township.

PRESENT: Deputy Mayor Ferramosca, Members
Coppola, Gallagher and Brueno

ABSENT: Ronald Francioli (Mayor)

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

OPEN TO THE PUBLIC

Motion made by Member Gallagher and seconded by Member Brueno.

Douglas Falcone, 21 Hilltop Circle, Morristown, NJ: I am hear this evening to discuss and ordinance that was changed I believe this year. The Ordinance is 17-2015. I'm the president of Douglas Properties, I own 622 & 628 Route 10 as well as 9 Whippany Road. I own both properties for approximately 5 years and it's about 300,000 square feet of space making up of multi tenanted uses. The Ordinance, not sure if you are familiar with it, I'm sure you are, changed the use of what type of uses could be next to each other. We have had several applications turned down, because of the language that is being used and it's becoming a real problem because a lot of brokers won't even bring tenants to us because they don't understand it and the applications are being turned down. The current situation that we have a manufacturer or an assembly company that takes a small wireless device and assemblies pieces that are made elsewhere. They are a 5 employee company it was turned down; I asked people in the Building Department and anyone to come down to see the location and nobody would come look at the situation. They had a current CO in the town and they were next to a Kiddie Academy which is a 7 day a week operation Monday-Friday 8-5 and they shared the same building. My property has a dance studio 5 doors down which operate in the evenings and the weekends. So I'm not sure what the ordinance was adjusted for the reasons for it, but I would like to get that reasoning.

Mr. Ferramosca: Mr. Brancheau, would you care to provide some background on the ordinance but before you begin; from a Planning standpoint the Township placed a significant effort to try to preserve safety and that job is number one for the Township Committee Members as well as the Members of the Planning Board; Mr. Brancheau through is in a position to provide a little bit more background and direction on those words.

Mr. Brancheau: The Ordinance in question is section Chapter 166 Section 115 F and although the ordinance was amended in 2015 it's been on the books for a number of years, the amendment added certain uses to the list but the basic purpose of the Section of the Code is that in certain locations and certain zones we allow a wide range

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of uses that may or may not fit together on the property. Where one use of the property could conflict with another use or be a safety concern to another use or be a nuisance concern to another use and the whole purpose of the ordinance was to require that those uses can work well together. The Ordinance does not completely prohibit the uses, it only requires that when those types of uses are on the same property or in the same building that they have to go to the board and demonstrate that they work. Basically there are two Columns, Column A and Column B and the type of use on one Column that have to work with other uses include industrial and manufacturing uses wholesale trade construction operations, building trade contractors, construction equipment leasing and storage truck depots, distribution facilities, truck storage warehousing, motor vehicle repairs and servicing, utility stations and yards and similar uses to that. Those uses when they are combined with other uses raise potential concerns and I say potential they don't always result in concerns but again there is potential. The uses in Column B if they are with what I just read is what requires you to go to the Board. There is amusement and recreation services including but not limited to dance studios, martial arts studios, tennis clubs, physical fitness centers and other indoor physical fitness facilities. Health services including but not limited to medical offices, educational services and social services including but not limited to schools, childcare centers, counseling services and employment services, membership organization, clubs and including non-profit organizations and houses of worship and other services there similar to that...so what that is saying is when you have these manufacturing construction trucking operations on the same site as a child care center or a place where people go for physical fitness or for martial arts or for a school or those types of uses, there is a potential for the two to conflict. So to make sure that they don't the ordinance requires you to go to the Board and demonstrate that they don't. That would also include looking at the parking adequacies looking at issues of whether there is outdoor storage of if there operations that produce vibrations, odors, smoke or otherwise that would interfere with the other uses and vice versa where the child care center were to go there and now all of a sudden you got children coming from the building in an area where there is trucking or outdoor storage of equipment or outdoor operations or even indoor stuff that could affect the use. It's more of trying to make sure that that doesn't raise issues that would be either unsafe or unhealthy or basically a nescience to the different uses, and that's what it is for.

Mr. Ferramosca: Thank you Mr. Brancheau; Mr. Falcone if you would like I will ask Mr. Brancheau who is the Township Planner to make a copy of that Ordinance.

Mr. Falcone: I already have it. The problem with going in front of the Board that it takes; these are 2000 square foot units many tenants that I put applications in it takes 30 days just to get the Building Department to get the use without permits, without construction plans and so on. If it has to go in front of the Board it's going to be much longer than that, these tenants don't have that long to wait. Historically, these properties run a 5% vacancy rate I've been a tenant there for 18 years and I have owned it for 5 years and I got the prior history of the tenancies; I'm running almost 30% vacancy because of this. Brokers in the community are not bringing potential tenants to us because they will go the path with least resistance, they will go right down the street in the next town there is none of these issues. If the town had a 30% tax deficit coming in it would be a financial crisis; it is to me. I ask everybody in the building department and many people in the town to just come down and look at what this tenant does. This was the cleanest use it has nothing to do with; they use FedEx and UPS there are no tractor trailers, they have less volume their units sold for \$7,000 apiece and they sell 10 a month. It is not a big company, but nobody can take the time to come down and take a look. I found that astounding.

Mr. Ferramosca: Mr. Falcone I'm sorry that you're experiencing the vacancy we are trying to help you we offer you the opportunity if you want a copy of this ordinance we will make it available to you; if you want to present to the Planning Board we will make sure your case gets onto the Planning Board agenda.

Mr. Falcone: But if it's a case by case basis I cannot go through the financial burden of lawyers, and the time restraints, the tenants will not stay with me.

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Mr. Ferramosca: I totally understand the situation and I empathize with you, however as I said earlier it is the responsibility of this Board, and the responsibility of the Planning Board to ensure the safety; the use that you are describing I don't know all the particulars associated with it and this is not the right forum to discuss it and I'm sure that if you brought it to the Planning Board's attention the Planning Board would hear your case and if there are none of the incompatibilities that Mr. Brancheau just spoke about it probably would be viewed positively but I can't rule on a Planning Board case.

Mr. Falcone: I understand that, but are you saying by a case by case basis bring it to the Planning Board? Tenant by tenant?

Mr. Ferramosca: I'm not suggesting on a case by case hypothetical basis you have a good understanding as to the ones that you want to bring in front of the board for approval; so I would not submit you come in with a basket full of them; it would be a waste of time.

Mr. Falcone: No, I'm not saying that I'm saying would the Planning Board look at this to revise or to adjust the language in that ordinance?

Mr. Ferramosca: The Planning Board at this point in time has recently put that in in the past 24 months for good reasons that the town planner shared with you; he shared with you the rationale.

Mr. Falcone: Okay; so what's going to happen is I got current leases for Greg's Fitness; Edge Wrestling; _____ Fitness; Sharon's Dance Studio, that when these leases come up I'm not going to renew their lease; because that's the use that is prohibiting all the other people that I have to get in; so I'm just letting you know that that is going to happen.

Mr. Ferramosca: We cannot tell you how to manage your leases.

Mr. Falcone: I know that, I'm just letting you know that the town is not going to have a fitness center, the Town is not going to have a dance studio that has been there for 20 something years, I mean this is, just crazy. So I'll go through the proper procedure but I think that the brush that was stroked on this language was too broad. I work in that 628 Route 10 as I said I've had my office there for many years before I brought the building; there has never been an incident that I know of and even at 9 Whippany the same thing; and I have more flex space than anyone in town. So I don't know; we can put all these things out to protect everything but if there isn't something to protect I just don't see it. That's one man's opinion.

Mr. Semrau: Deputy Mayor excuse me. Mr. Brancheau can I ask, if this individual and this property had three perspective tenants, could he file one application? So he can do that sort of just one evening before the planning board but he would have potentially three perspective tenants he could do that?

Mr. Brancheau: Yes he could.

Mr. Semrau: That's helpful to know,

Mr. Falcone: I appreciate the help on that but it doesn't unfortunately happen that way and the legal expense a lot of these tenants are \$2,000.00 a month tenants, the legal fees to go through it and the time and they are one year leases in a lot of instances, it just doesn't pay. I will just not have to renew leases in these uses.

Mr. Brancheau: What type of language do you think needs to change?

Mr. Falcone: I don't have that right now; but I certainly think it was fine the way it was before, as I said I have not heard of any inconsistencies on any of the properties on all three and I know the owner that I bought it from and I'm very close and I even spoke with him; there has never been one incident on the property even close to this; now I understand not putting a kiddie kindergarten next to a Dasco manufacturing with tractor

trailers and fork lifts; I get that but Fed Ex is in our property every day and some of our uses that would confirm are using more FedEx and UPS than somebody else would not be approved and the NoiseWave was one. Noise Wave had at CO in our town with the Kiddie Kinder next door ~ and they've since moved out of the town.

Mr. Brancheau: Is your issue the uses in the list or is the issue the procedure of getting approval?

Mr. Falcone: I would say the procedure; it's difficult to get a tenant and by you negotiate a lease with lawyers and get everybody to agree now you have to fill out the application for the zoning that takes 30-45 days right there now if I get turned down I now have to start the new process which is going in front of Planning Board and that could take, by the time you give notices and so on and get a lawyer involved that time.

Mr. Brancheau: Again this is up to the Township Committee to decide if it were revised to merely require to go before the Planning Board on an informal basis not as a formal site plan but on a concept review, would that work for you?

Mr. Falcone: Absolutely, and I'm not looking to put tractor trailers next to Sharon's Dance believe me and that part does not have any tractor trailers businesses to speak of.

Mr. Brancheau: You don't have a problem going before the board it's the site plan process with the notice and the resolution etc.

Mr. Falcone: It's the timing and the length of time, remember I've already got a denial in the Building Department and I have one in there right now that Sean is working hard to get it approved but I know it's going to get turned down. And that doesn't include a handful that I had that I just knew was not going to get approved. It's pretty frustrating and I don't know if there is notice to be given, but I didn't even know the ordinance was being modified.

Mr. Brancheau: The reason for that modification was last year we amended certain zones to allow adult day care, the state law requires that we allow child care, but it doesn't allow adult; so we amended it to allow adult day care; that was basically the reason for the amendment. But there had always been similar language in here that range of uses got expanded with that amendment but it had always been there; not always, but it was there for a good number of years, it's not new. Maybe that triggered more violations or more issues than it did in the past. I have to leave it to the Township Committee on how they want to decide on how to deal with this.

Mr. Ferramosca: Given under the suggestion of the Planner the Township Committee will discuss it. Thank you.

Mr. Falcone: Thank you for your time.

Motion to close made by Member Brueno and seconded my Member Coppola.

APPROVAL OF TOWNSHIP COMMITTEE MINUTES:

The Minutes of the Regular Meeting of April 28, 2016 and the Bid Reception Meeting of May 3, 2016 have 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 Minutes of April 28, 2016 and the Bid Reception Meeting of May 3, 2016 be accepted and approved as presented by the Township Clerk. The motion was seconded by Member Coppola and was unanimously passed.

COMMUNICATIONS

Resignation of John Napolitano as an Alternate II member of the Board of Health effective immediately

Retirement of Public Health Nurse Patricia Russomano effective November 1, 2016.

Retirement of Supervisor of Park Maintenance William Brittle effective July 1, 2016.

Motion to accept the resignations made by Member Coppola and seconded by Member Brueno and unanimously passed.

Breakdown of Monthly Tax Levy of the Hanover Township Board of Education for Fiscal Year 2016-2017. The monthly payments will be \$2,445,255.00 during the months of June, July and August and September, October the payments will be \$2,528,283.00. November the payment will be \$1,833,927.75; and the balance of the fiscal school year between January and May the tax break down of levy monies owed will be \$2,037,710.00 per month.

Breakdown of Monthly Tax Levey of the Hanover Park Regional High School District for Fiscal Year 2016-2017 payments will be \$1,107,461.00 per month.

Motion made by Member Coppola and seconded by Member Gallagher and unanimously passed.

DEPARTMENTAL REPORTS

The following reports were presented and ordered filed as received:

Human Resource	J. Johnston	Report of April
Public Works	B. Foran	Reports (2) April
Property Maintenance	E. DeSimone	Report of April-May 12th
Township Engineer	G. Maceira	Reports of May 12, 2016

All reports are on file in the Business Administrator's Office.

ORDINANCE 17-2016

AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HANOVER AMENDING ARTICLE II ENTITLED "NOISE CONTROL" UNDER CHAPTER 184 OF THE CODE OF THE TOWNSHIP ENTITLED NOISE

WHEREAS, the New Jersey Department of Environmental Protection ("NJDEP") provides a Model Noise Control Ordinance to serve as guidance for municipalities adopting a noise control ordinance pursuant to the State's Noise Control Act; and

WHEREAS, the Township adopted the NJDEP's Model Noise Control Ordinance in 1997; and

WHEREAS, the NJDEP most recently updated its Model Noise Control Ordinance in December 2014; and

WHEREAS, the Township of Hanover desires to update its Noise Control Ordinance to reflect the updated NJDEP Model Noise Control Ordinance.

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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. Part II, entitled "General Legislation," of the Code of the Township of Hanover is hereby amended with the inclusion of a new Article II entitled "Noise Control" under Chapter 184 of the Code of the Township as follows:

Chapter 184. Noise

Article II. Noise Control

§ 184-5. Definitions.

As used in this article, the words and terms described below shall have the following meanings, unless the context clearly indicates otherwise. Terms not defined in this article have the same meaning as those defined in N.J.A.C. 7:29.

CONSTRUCTION:

Any site preparation, assembly, erection, repair, alteration or similar action, including demolition of buildings or structures.

dB(C):

The sound level as measured against the "C" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors. The unit of reporting is dB(C). The "C" weighting network is more sensitive to low frequencies than is the "A" weighting network.

DEMOLITION:

Any dismantling, destruction or removal of buildings, structures or roadways.

DEPARTMENT:

The New Jersey Department of Environmental Protection.

EMERGENCY WORK:

Any work or action necessary at the site of an emergency to restore or deliver essential public services, including but not limited to, repairing water, gas, electricity, telephone, sewer facilities or public transportation facilities, removing fallen trees on public rights-of-way, dredging navigational waterways or abating life-threatening conditions or a state of emergency declared by a governing agency.

IMPULSIVE SOUND:

Either a single pressure peak or a single burst (multiple pressure peaks) that has a duration of less than one second.

MINOR VIOLATION:

A violation that is not the result of the purposeful, reckless or criminally negligent conduct of the alleged violator; and/or the activity or condition constituting the violation has not been the subject of an enforcement action by any authorized local, county or state enforcement agency against the violator within the immediately preceding 12 months for the same or substantially similar violation.

MOTOR VEHICLE:

Any vehicle that is propelled other than by human or animal power on land.

MUFFLER:

A properly functioning sound dissipative device or system for abating the sound on engines or equipment where such a device is part of the normal configuration of the equipment.

MULTI-DWELLING-UNIT BUILDING:

Any building comprising two or more dwelling units, including but not limited to apartments, condominiums, co-ops, multiple-family houses, townhouses and attached residences.

MULTI-USE PROPERTY:

Any distinct parcel of land that is used for more than one category of activity. Examples include, but are not limited to:

A. A commercial, residential, industrial or public service property having boilers, incinerators, elevators, automatic garage doors, air conditioners, laundry rooms, utility provisions or health and recreational facilities or other similar devices or areas, either in the interior or on the exterior of the building, which may be a source of elevated sound levels at another category on the same distinct parcel of land; or

B. A building which is both commercial (usually on the ground floor) and residential property located above, below or adjacent.

NOISE CONTROL OFFICER (NCO):

An employee of a local, county or regional health agency which is certified pursuant to the County Environmental Health Act (N.J.S.A. 26:3A2-21 et seq.) to perform noise enforcement activities or an employee of a municipality with a department-approved model noise control ordinance. All NCOs must receive noise enforcement training as specified by the department in N.J.A.C. 7:29 and is currently certified in noise enforcement. The employee(s) must be acting within his or her designated jurisdiction and must be authorized to issue summons(es).

NOISE CONTROL INVESTIGATOR (NCI):

An employee of a municipality, county or regional health commission that has a Department-approved model noise control ordinance and the employee has not received noise enforcement training as specified by the Department in N.J.A.C. 7:29. However, they are knowledgeable about their model noise ordinance and enforcement procedures. A Noise Control Investigator may only enforce sections of the ordinance that do not require the use of a sound level meter. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a summons.

PLAINLY AUDIBLE:

Any sound that can be detected by a NCO or an NCI using his or her unaided hearing faculties of normal acuity. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. The NCO or NCI need not determine the title, specific words or the artist performing the song.

PRIVATE RIGHT-OF-WAY:

Any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased or controlled by a nongovernmental entity.

PUBLIC RIGHT-OF-WAY:

Any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased or controlled by a governmental entity.

PUBLIC SPACE:

Any real property or structures thereon that are owned, leased or controlled by a governmental entity.

REAL PROPERTY LINE:

Either (a) the vertical boundary that separates one parcel of property (i.e., lot and block) from another residential or commercial property; (b) the vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling unit building; or (c) on a multi-use property as defined herein, the vertical or horizontal boundaries between the two portions of the property on which different categories of activity are being performed (e.g., if the multi-use property is a building which is residential upstairs and commercial downstairs, then the real property line would be the interface between the residential area and the commercial area, or if there is an outdoor sound source such as an HVAC unit on the same parcel of property, the boundary line is the exterior wall of the receiving unit.) This definition shall not apply to a commercial source and a commercial receptor which are both located on the same parcel of property (e.g., a strip mall).

SOUND PRODUCTION DEVICE:

Any device whose primary function is the production of sound, including, but not limited to any, musical instrument, loudspeaker, radio, television, digital or analog music player, public address system or sound-amplifying equipment.

SOUND REDUCTION DEVICE:

Any device, such as a muffler, baffle, shroud, jacket, enclosure, isolator, or dampener provided by the manufacturer with the equipment, or that is otherwise required, that mitigates the sound emissions of the equipment.

WEEKDAY:

Any day that is not a federal holiday and beginning on Monday at 7:00 a.m. and ending on the following Friday at 6:00 p.m.

WEEKENDS:

Beginning on Friday at 6:00 p.m. and ending on the following Monday at 7:00 a.m.

§ 184-6. Declaration of policy; applicability.

A. It is the policy of the Township Committee of the Township of Hanover to prevent excessive sound that may jeopardize the health, welfare or safety of the citizens or degrade the quality of life.

B. This article shall apply to the control of sound originating from sources within the Township of Hanover.

(1) This article applies to sound from the following property categories:

(a) Industrial facilities.

(b) Commercial facilities.

(c) Public service facilities.

(d) Community service facilities.

(e) Residential properties.

(f) Multi-use properties.

(g) Public and private rights-of-way.

(h) Public spaces.

(i) Multi-dwelling-unit buildings.

(2) This article applies to sound received at the following property categories:

(a) Commercial facilities.

(b) Public service facilities.

(c) Community service facilities (i.e. non-profits and/or religious facilities).

(d) Residential properties.

(e) Multi-use properties.

(f) Multi-dwelling-unit buildings.

(3) Sound from stationary emergency signaling devices shall be regulated in accordance with N.J.A.C. 7:29-1.3, except that the testing of the electromechanical functioning of a stationary emergency signaling device shall not meet or exceed 10 seconds.

§ 184-7. Enforcement officers.

A. Noise control officers shall have the authority within their designated jurisdiction to investigate suspected violations of any section of this ordinance and pursue enforcement activities.

B. Noise Control Investigators shall have the authority within their designated jurisdiction to investigate suspected violations of any section of this ordinance that do not require the use of a sound level meter (i.e., plainly audible, times of day and/or distance determinations) and pursue enforcement activities.

C. Noise Control Officers and Investigators may cooperate with NCOs and NCIs of an adjacent municipality in enforcing one another's municipal noise ordinances.

§ 184-8. Permissible sound levels; sound measurements; sound production devices.

A. Maximum permissible sound levels.

1. No person shall cause, suffer, allow or permit the operation of any source of sound on any source property listed in § 184-6(B)(1) of this Ordinance in such a manner as to create a sound level that equals or exceeds the sound level limits set forth in Tables I, II or III when measured at or within the real property line of any of the receiving properties listed in Tables I, II or III except as specified in paragraph B(2) of this section.

2. Impulsive sound. Between 7:00 a.m. and 10:00 p.m., impulsive sound shall not equal or exceed 80 decibels. Between 10:00 p.m. and 7:00 a.m., impulsive sound which occurs less than four times in any hour shall not equal or exceed 80 decibels. Impulsive sound which repeats four or more times in any hour shall be measured as continuous sound and shall meet the requirements as shown in Tables I and II.

TABLE I
MAXIMUM PERMISSIBLE A-WEIGHTED SOUND LEVELS
WHEN MEASURED OUTDOORS

RECEIVING PROPERTY CATEGORY	Residential property, or residential portion of a multi-use property	Commercial facility, public service facility, non-residential portion of a multi-use property, or community
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			service facility
TIME	7 a.m.-10 p.m.	10 p.m.-7 a.m.	24 hours
Maximum A-Weighted sound level standard, dB	65	50	65

TABLE II
MAXIMUM PERMISSIBLE A-WEIGHTED SOUND LEVELS
WHEN MEASURED INDOORS

RECEIVING PROPERTY CATEGORY	Residential property, or residential portion of a multi-use property		Commercial facility, public service facility, non-residential portion of a multi-use property, or community service facility
TIME	7 a.m.-10 p.m.	10 p.m.-7 a.m.	24 hours
Maximum A-Weighted sound level standard, dB	55	40	55

TABLE III
MAXIMUM PERMISSIBLE OCTAVE BAND
SOUND PRESSURE LEVELS IN DECIBELS

Receiving Property Category	Residential property, or residential portion of a multi-use property		Residential property, or residential portion of a multi-use property		Commercial facility, public service facility, non-residential portion of a multi-use property, or community service facility	Commercial facility or non-residential portion of a multi-use property
	OUTDOORS		INDOORS		OUTDOORS	INDOORS
Octave Band Center Frequency, Hz.	Octave Band Sound Pressure Level, dB		Octave Band Sound Pressure Level, dB		Octave Band Sound Pressure Level, dB	Octave Band Sound Pressure Level, dB
Time	7 a.m.-10 p.m.	10 p.m.-7 a.m.	7 a.m.-10 p.m.	10 p.m.-7 a.m.	24 hours	24 hours
31.5	96	86	86	76	96	86
63	82	71	72	61	82	72
125	74	61	64	51	74	64
250	67	53	57	43	67	57
500	63	48	53	38	63	53
1,000	60	45	50	35	60	50
2,000	57	42	47	32	57	47
4,000	55	40	45	30	55	45
8,000	53	38	43	28	53	43

Note: When octave measurements are made, the sound from the source must be constant in level and character. If octave band sound pressure level variations exceed plus or minus 2 dB in the bands containing the principal source frequencies, discontinue the measurement.

B. Sound measurements.

1. Sound measurements made by a Noise Control Officer shall conform to the procedures set forth at N.J.A.C. 7:29-2, except that interior sound level measurements

shall also conform with the procedures set forth in paragraph A of this section and with the definition of “real property line” as contained herein.

2. When conducting indoor sound level measurements across a real property line the measurements shall be taken at least three feet from any wall, floor or ceiling and all exterior doors and windows may, at the discretion of the investigator, be closed. The neighborhood residual sound level shall be measured in accordance with N.J.A.C. 7:29-2.9(b)2. When measuring total sound level, the configuration of the windows and doors shall be the same and all sound sources within the dwelling unit must be shut off (e.g., television, stereo). Measurements shall not be taken in areas which receive only casual use such as hallways, closets and bathrooms.

C. Sound production devices.

1. No person shall cause, suffer, allow, or permit the operation of any sound production device in such a manner that the sound crosses a property line and raises the total sound levels above the neighborhood residual sound level by more than the permissible sound level limits set forth in Table IV when measured within the residence of a complainant according to the measurement protocol in paragraph B of this section. These sound level measurements shall be conducted with the sound level meter set for “C” weighting, “fast” response.

TABLE IV
MAXIMUM PERMISSIBLE INCREASE IN TOTAL SOUND LEVELS
WITHIN A RESIDENTIAL PROPERTY

Week nights 10:00 p.m. – 7:00 a.m. Weekend nights 11:00 p.m. - 9:00 a.m.	All other times
2 dB(C)	6 dB(C)

§ 184-9. Restricted uses and activities.

A. Exceptions.

(1) Except as provided in Subsection **B** below, the provisions of this article shall not apply to the exceptions listed at N.J.A.C. 7:29-1.5.

(2) Sound production devices required or sanctioned under the American with Disabilities Act (ADA), FEMA or other government agencies to the extent that they comply with the noise requirement of the enabling legislation or regulation. Devices which are exempted under N.J.A.C. 7:29-1.5 shall continue to be exempted.

(3) Construction and demolition activities are exempt from the sound level limits set forth in Tables I, II and III except as provided for in Subsection **B** below.

B. The following standards shall apply to the activities or sources of sound set forth below:

(1) Excluding emergency work, power tools, home maintenance tools, landscaping and/or yard maintenance equipment shall not be operated between the hours of 8:00 p.m. and 8:00 a.m., unless such activities can meet the applicable limits set forth in Tables I, II and III. All motorized equipment used in these activities shall be operated with a muffler. At all other times, the limits set forth in Tables I, II and III do not apply.

(2) Excluding emergency work, power tools, landscaping and/or yard maintenance equipment used by nonresidential operators (e.g. commercial operators, public employees) shall not be operated on a residential, commercial, industrial or public (e.g. golf course, parks, athletic fields) property between the hours of 6:00 p.m.

and 8:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. on weekends or federal holidays, unless such activities can meet the limits set forth in Tables I, II or III. All motorized equipment used in these activities shall be operated with a muffler and/or sound reduction device. At all other times, the limits set forth in Tables I, II and III do not apply.

(3) All construction and demolition activity, excluding emergency work, shall not be performed between the hours of 6:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. on weekends and federal holidays, unless such activities can meet the limits set forth in Tables I, II or III. All motorized equipment used in construction and demolition activity shall be operated with a muffler and/or sound reduction device. At all other times, the limits set forth in Tables I, II and III do not apply.

(4) Motorized snow removal equipment shall be operated with a muffler and/or a sound reduction device when being used for snow removal. At all other times, the limits set forth in Tables I, II or III do not apply.

(5) All interior and exterior burglar alarms of a building or motor vehicle must be activated in such a manner that the burglar alarm terminates its operation within five (5) minutes for continuous airborne sound and fifteen (15) minutes for intermittent sound after it has been activated. At all other times, the limits set forth in Tables I, II or III do not apply.

(6) Self-contained, portable, non-vehicular music or sound production devices shall not be operated on a public space or public right-of-way in such a manner as to be plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m., sound, operated on a public space or public right-of-way, from such equipment shall not be plainly audible at a distance of 25 feet in any direction from the operator.

(7) It shall be unlawful for any property owner or tenant to allow any domesticated or caged animal to create a sound across a real property line which unreasonably disturbs or interferes with the peace, comfort, and repose of any resident, or to refuse or intentionally fail to cease the unreasonable noise when ordered to do so by a Noise Control Officer or Noise Control Investigator. Prima facie evidence of a violation of this section shall include but not be limited to:

(a) Vocalizing (howling, yelping, barking, squawking, etc.) for five (5) minutes without interruption, defined as an average of four (4) or more vocalizations per minute in that period; or,

(b) Vocalizing for twenty (20) minutes intermittently, defined as an average of two vocalizations or more per minute in that period.

It is an affirmative defense under this subsection that the dog or other animal was intentionally provoked to bark or make any other noise.

§ 184-10. Enforcement.

A. Violation of any provision of this article shall be cause for a Notice of Violation (NOV), Notice of Penalty Assessment (NOPA), or other enforcement document to be issued to the violator by the noise control officer or noise control investigator.

B. Any person who violates any provision of this article shall be subject to a civil penalty for each offense of not more than the maximum penalty pursuant to N.J.S.A. 40:49-5, which is \$2,000 as of April 2016. If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate and distinct offense.

C. Upon identification of a violation of this Ordinance, the Noise Control Officer or Noise Control Investigator shall issue an enforcement document to the violator. The enforcement document shall identify the condition or activity that constitutes the violation and the specific provision of this Ordinance that has been violated. It shall also

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indicate whether the violator has a period of time to correct the violation before a penalty is sought.

D. If the violation is deemed by the Noise Control Officer or Noise Control Investigator to be a minor violation (as defined by § 184-5), a NOV, NOPA or other enforcement document

1. The document shall indicate that the purpose of the enforcement document is intended to serve as a notice to warn the responsible party/violator of the violation conditions in order to provide them with an opportunity to voluntarily investigate the matter and voluntarily take corrective action to address the identified violation.

2. The enforcement document shall identify the time period (up to 90 days), pursuant to the Grace Period Law, N.J.S.A. 13:1D-125 et seq. where the responsible party's/violator's voluntary action can prevent a formal enforcement action with penalties issued by the Noise Control Officer or Noise Control Investigator. It shall be noted that the enforcement document does not constitute a formal enforcement action, a final agency action or a final legal determination that a violation has occurred. Therefore, the enforcement document may not be appealed or contested.

E. If the violation is deemed by the Noise Control Officer or Noise Control Investigator to be a non-minor violation, the violator shall be notified that if the violation is not immediately corrected, an enforcement document with a civil penalty of not more than the maximum penalty allowed pursuant to N.J.S.A. 40:49-5, which is \$2,000 as of April 2016, will be issued. If a non-minor violation is immediately corrected, an enforcement document without a civil penalty shall still be issued to document the violation. If the violation occurs again (within 12 months of the initial violation), an enforcement document shall be issued regardless of whether the violation is immediately corrected or not.

F. The violator may request from the Noise Control Officer or Noise Control Investigator, an extension of the compliance deadline in the enforcement action. The Noise Control Officer or Noise Control Investigator shall have the option to approve any reasonable request for an extension (not to exceed 180 days) if the violator can demonstrate that a good faith effort has been made to achieve compliance. If an extension is not granted and the violation continues to exist after the grace period ends, an enforcement document shall be issued.

G. The recipient of an enforcement document shall be entitled to a hearing in a municipal court having jurisdiction to contest such action.

H. The Noise Control Officer or Noise Control Investigator may seek injunctive relief if the responsible party does not remediate the violation within the period of time specific in the enforcement document.

I. Any claim for a civil penalty may be compromised and settled based on the following factors:

1. Mitigating or any other extenuating circumstances;
2. The timely implementation by the violator of measures which lead to compliance;
3. The conduct of the violator; and
4. The compliance history of the violator.

§ 184-11. Severability; repealer.

A. If any provision or portion of a provision of this article is held to be unconstitutional, preempted by federal or state law or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the article shall not be invalidated.

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B. All ordinances or parts of ordinances which are inconsistent with any provisions of this article are hereby repealed to the extent of such inconsistencies.

C. No provision of this article shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this article or from other law.

Section 2. 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 3. In case, for any reason, any section or provision of this Ordinance shall be held to be unconstitutional or invalid, the same shall not affect any other section or provision of this Ordinance, except so far as the section or provision so declared unconstitutional or invalid shall be severed from the remainder or any portion thereof.

Section 4. This ordinance shall take effect in accordance with the law.

The Ordinance will be further considered for Public Hearing and Final Passage at the May 26th, 2016 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 Daily Record in accordance with the law.

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

So Introduced.

PUBLIC HEARING AND ADOPTION OF ORDINANCE:

ORDINANCE NO. 15-2016

AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HANOVER AMENDING AND SUPPLEMENTING CHAPTER 166 OF THE CODE OF THE TOWNSHIP ENTITLED LAND USE AND DEVELOPMENT LEGISLATION, BY AMENDING THE REGULATIONS FOR GASOLINE STATIONS AND MOTOR VEHICLE REPAIR AND MAINTENANCE ESTABLISHMENTS

The Ordinance was submitted to the Morris County Department of Planning and Public Works in accordance with the Municipal Land Use Law and we have notice that it has been properly filed and also submitted to the Planning Board for review and recommendation.

Proof of Publication that the Ordinance and the Notice of Introduction for Ordinance 15-16 appeared in full in the April 20th, 2016 issue of the Daily Record in accordance with the law.

Letter of recommendation from the Planning Board:

“Dear Mr. Giorgio,

At its May 10, 2016 meeting, the Planning Board reviewed and discussed Ordinance 15-2016 which had been referred by the Township Committee as required by the Municipal Land Use Law at N.J.S.A. 40:55D-26a. The amendments proposed by Ordinance No. 15-2016 would amend the regulations for gasoline stations and automotive repair garages.

The Planning Board has reviewed Ordinance 15-2016 and compared its provisions with the recommended policies in the Land Use Element of the Master Plan. Although largely consistent, the

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Board has identified some inconsistencies between Ordinance 15-2016 and the policies in the master plan. Following are the areas of inconsistency:

1. Ordinance 15-2016 would permit gasoline stations in the B, B-1, B-P, BP-2, I-B and I-B3 zone districts. In the Land Use Element of the Master Plan, gasoline stations are recommended to be permitted in the B, B-P and I-B3 zone districts, but not in the B-1, BP-2 or I-B zone districts. These inconsistencies exist for the following reasons:

a. The Land Use Element recommends elimination of the B-1 and I-B zone districts and replacing these zones with the B zone district; thus, although there is a discrepancy in the zone districts, the locations of the zone districts are the same, at least in the case of the B-1 and I-B zones.

b. In the case of the BP-2 zone, a gasoline station currently exists as the result of a variance granted by the Board of Adjustment for the site of a former gasoline station. Ordinance 15-2016 would recognize and permit this gasoline station as of right, and not simply by virtue of the variance, and in the same location.

2. Ordinance 15-2016 would permit motor vehicle repair or maintenance establishments in the B, B-1 and I-B zone districts. In the land use element of the Master Plan, motor vehicle repair shops and public garages are recommended to be permitted in the B zone, and motor vehicle service stations (defined in the ordinance as gasoline stations with or without motor vehicle repair) are recommended in the I-B3 zone; repair shops are not recommended in the B-1 or I-B zone districts. The inconsistencies concerning the B-1 and I-B zones exist for the same reasons as described above for gasoline stations. The inconsistency concerning the I-B3 zone is technical in nature and arises due to a different meaning for the term "motor vehicle service stations" in the master plan and ordinance. In the Master Plan, the term is intended to mean gasoline stations, and not repair garages.

Notwithstanding these inconsistencies, the Planning Board recommends the adoption of Ordinance No. 15-2016 as introduced. Most of the inconsistencies are technical in nature only. The Board intends to revise the Master Plan to eliminate the only substantial discrepancy, that concerning gasoline stations in the BP-2 zone, in the near future.

Thank you for the opportunity to comment on Ordinance 15-2016. Very truly yours, Gene Pinadella, Chairman Township of Hanover Planning Board."

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

Public hearing closed by Member Brueno and seconded by Member Coppola 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 BY AMENDING AND SUPPLEMENTING THE REGULATIONS FOR GAS STATIONS, MOTOR VEHICLES REPAIR AND MAINTENANCE ESTABLISHMENTS,**" be passed on final reading and that a Notice of the final passage of the Ordinance be published in the May 18th, 2016 issue of the Daily Record.

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

So Adopted.

RESOLUTIONS AS A CONSENT AGENDA:

RESOLUTION NO. 91-2016

A RESOLUTION APPROVING THE APPOINTMENT OF FULL-TIME, SEASONAL PERSONNEL FOR THE BEE MEADOW POOL IN ACCORDANCE WITH SECTION 13. ITEMS 5. AND 14. OF SALARY ORDINANCE NO. 9-2016

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

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. and 14. of Salary Ordinance No. 9-2016.

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. and 14. of Salary Ordinance No. 9-2016, the rates of compensation for the following seasonal employees mentioned below shall be as follows:

PARKS & RECREATION – SUMMER

Bee Meadow Pool:

Start Date

Lifeguards – Part Time:

Marissa Ciavatta	\$ 9.00/hr.	05/26/16
Noelle Ciottone	\$ 9.00/hr.	05/26/16
Joseph Gigantino	\$ 9.00/hr.	05/26/16
Kristen Liu	\$ 9.00/hr.	05/26/16
William L. Wainscott, III	\$ 9.00/hr.	05/26/16

Office Staff:

Debbie Castelluccio	\$12.00/hr	05/14/16
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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 5, 2016.

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. 92-2016

A RESOLUTION APPROVING THE APPOINTMENT OF BIANCA THALIA GREEN TO SERVE AS A FULL-TIME, TEMPORARY, SEASONAL INTERN ASSIGNED TO THE ENGINEERING DEPARTMENT AND ESTABLISHING HER COMPENSATION AT \$14.00 PER HOUR UNDER JOB GROUP I OF SCHEDULE "B" AND

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SALARY RANGE GUIDE "C" OF SALARY ORDINANCE NO. 9-2016

WHEREAS, the Township of Hanover posted on its web site the availability of an intern position to be assigned to the Engineering Department; and

WHEREAS, in accordance with the posting, the Township received two (2) applications; and

WHEREAS, the Township Engineer and Human Resource Specialist interviewed the two (2) candidates and, as a result of those interviews, are recommending that **Bianca Thalia Green** be appointed by the Township Committee to serve as a full-time summer intern assigned to the Engineering Department.

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

1. That **Bianca Thalia Green** residing at 63 Elm Street, Apt. C2 in Montclair, New Jersey is hereby appointed to serve as a full-time, temporary, seasonal intern assigned to the Engineering Department commencing May 23, 2016 and ending August 31, 2016.
2. **Ms. Green** shall be compensated at the rate of \$14.00 per hour as set forth under Job Group I as listed under Schedule "B" and Salary Range Guide "C" of Salary Ordinance No. 9-16.
3. Irrespective of the Engineering Department assignment, the Business Administrator/Township Clerk reserves the right to assign **Ms. Green** to any other Department based on the work load needs of other departments.
4. Except for disciplinary removal, all appointment as a seasonal employee shall terminate on or before August 31, 2016.
5. That a certified copy of this resolution be transmitted to the Township Engineer and the Township's Chief Municipal Finance Officer for reference and information purposes.

RESOLUTION NO. 93-2016

A RESOLUTION AUTHORIZING THE EXECUTION OF A DEVELOPER'S AGREEMENT BY AND BETWEEN QUICKCHEK REALTY, L.L.C. AND THE TOWNSHIP CONCERNING THE CONSTRUCTION OF A QUICKCHEK CONVENIENCE FOOD STORE WITH FUEL SALES AND OTHER RELATED IMPROVEMENTS ON PROPERTY LOCATED AT 1001-1025 ROUTE 10 AND 6 SOUTH JEFFERSON ROAD IN THE WHIPPANY SECTION OF THE TOWNSHIP AND DESIGNATED AS LOTS 4 THROUGH 8 IN BLOCK 2902, 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, **QuickChek Corporation**, as applicant, applied to the Planning Board of the Township of Hanover for preliminary and final site plan to construct a **QuickChek** convenience store with fuel sales, parking areas and driveways, storm water management facilities, associated utilities, landscaping and other related improvements on property located at 1001-1025 Route 10 eastbound and 6 South Jefferson Road in the Whippany Section of the Township and designated as Lots 4 through 8 in Block 2902 as set forth on the Tax Map of the Township of Hanover; and

WHEREAS, by resolution adopted by the Planning Board on October 21, 2014 and memorialized on November 11, 2014, **QuickChek Corporation** received preliminary and final site plan and variance approval subject to conditions which were

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outlined in the October 21, 2014 resolution; 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 2902, Lots 4 through 8, in accordance with the requirements of said preliminary and final approvals or furnishing performance guarantees in lieu thereof to be approved by the Township and conditioned upon satisfactory completion by the Developer of all such improvements as provided in N.J.S.A. 40:55D-53 and the execution of this Agreement; and

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

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

1. The Mayor and Township Clerk are hereby authorized and directed to execute a Developer's Agreement by and between the Township of Hanover and **QuickChek Realty, L.L.C.**, the Developer, concerning the construction of a **QuickChek** convenience store with fuel sales, parking areas and driveways, storm water management facilities, associated utilities, landscaping and other related improvements on property located at 1001-1025 Route 10 eastbound and 6 South Jefferson Road in the Whippany Section of the Township and designated as Lots 4 through 8 in Block 2902 as set forth on the Tax Map of the Township of Hanover. However, the Mayor and Township Clerk shall not execute the Developer's Agreement until the following instruments and guarantees are first submitted to the Township, and only after the Township Engineer has reviewed and accepted all of the pertinent documents and plans required for approval before construction activities commence, including but not limited to any other State or County approvals that may be required. In addition, where an approval of a site plan or a variance is subject to certain stated conditions, or where the approval was made subject to the approval of other governmental units, N.J.A.C. 5:23-2.15(a)(5) requires that the applicant for a building permit must furnish a "statement that all required State, County and local prior approvals have been given:"

- A. The Developer shall be responsible in submitting a total performance guarantee of \$831,214.00 which includes submission to the Township Clerk of a certified check or cash in the amount of \$83,121.00 representing the cash performance guarantee as required pursuant to the Township's Ordinance and paragraph 5(a) of the Developer's Agreement. And, submission to the Township Clerk of a Performance Surety Bond or Irrevocable Standby Letter of Credit in the amount of \$748,093.00 as a performance guarantee for completion of the improvements provided for in Schedule "A" attached to the Developer's Agreement, and all in accordance with paragraph 5(a) of said Agreement.
- B. In accordance with paragraph 5(b) of the Developer's Agreement, and the Township Engineer's Schedule "A", the Developer shall pay to the Township the sum of \$41,561.00 to compensate the Township for all Township engineering review, inspection and supervision services of all the improvements as required to be installed by the Developer.
- C. The Developer shall also be required to pay to the Township the sum of \$20,000.00 to cover the cost of the Hanover Sewerage Authority's engineering review, inspection and supervision of the sanitary sewer facilities and improvements required for this project subject to the provisions of N.J.S.A. 40:14A-40.
- D. Submission of a Certificate of Insurance to the Township Clerk naming the Township of Hanover as "an additional insured", all in accordance with paragraph 14 of the Developer's Agreement.

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- E. In accordance with N.J.S.A. 40:55D-8.1-8.7 and Section 166.48.1 of Chapter 166 of the Code of the Township entitled Land Use and Development Legislation, the Developer shall be responsible to pay a Mandatory Development Fee for Affordable Housing by paying a development fee of 2.5% of the equalized assessed value of any non-residential property as determined by the Municipal Tax Assessor.
- F. In accordance with paragraph 24 of the Developer's Agreement, the Developer is subject to the terms of the Township's tree regulations as described in full in the Township's Code. Based upon the calculations set forth in the Ordinance, the Developer shall pay the total sum of \$18,000.00 based on the calculations of the conditions set forth in said Ordinance.
- G. Furthermore, the Developer shall comply with all the requirements and conditions more specifically outlined in full in the attached Developer's Agreement and Schedule "A".
- H. The Developer's Agreement shall not be signed by the Mayor and Township Clerk until the Township Engineer has received all of the cash and surety performance bonds, any other fees as required at the time of signing, and the conveyance of any applicable deeds of dedication, conservation easements or any other pertinent documents, drawings and plans needed for approval prior to the commencement of any construction activities.

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

RESOLUTION NO. 94-2016

A RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HANOVER RELEASING THE IRREVOCABLE LETTER OF CREDIT IN THE AMOUNT OF \$778,989.00 AND THE CASH PERFORMANCE BOND IN THE AMOUNT OF \$86,740.51 PLUS A PORTION OF THE INTEREST, PURSUANT TO P.L. 1985,c 315, TO WOODMONT REALTY GROUP CEDAR KNOLLS, LLC UPON COMPLETION OF THE CONSTRUCTION OF ONE HUNDRED TWELVE (112) MARKET RATE UNITS AND TWENTY-EIGHT (28) AFFORDABLE UNITS AND ASSOCIATED IMPROVEMENTS ON CEDAR KNOLLS ROAD AND ALSO DESIGNATED AS LOT 2 IN BLOCK 2302 AS SET FORTH ON THE TAX MAP OF THE TOWNSHIP OF HANOVER

WHEREAS, on November 18, 2008, the Planning Board granted Preliminary to **Woodmont Realty Group Cedar Knolls, LLC** as applicant/property owner/developer, in connection with the construction of one hundred twelve (112) market rate units located within seven (7) residential buildings and twenty-eight (28) affordable units located in one (1) residential building, a clubhouse, an outdoor pool, and related site improvements located on Cedar Knolls Road in the Cedar Knolls Section of the Township and designated as Lot 2 in Block 2302 as set forth on the Tax Map of the Township of Hanover; and

WHEREAS, the Planning Board granted final site plan approval on December 9, 2008 to **Woodmont Realty Group Cedar Knolls, LLC**; and

WHEREAS, certain improvements were required to be installed by the developer for the project in accordance with the Planning Board approval and the subsequent Developer's Agreement dated May 17, 2013; and

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WHEREAS, the Engineering Department has conducted an on-site inspection and determined that all improvements were found to be acceptable; and

WHEREAS, in a letter dated May 6, 2016 to the Mayor and Township Committee, the Township Engineer recommends the release of the \$778,989.00 Irrevocable Letter of Credit and the \$86,740.51 cash performance bond subject to the submission to the Township Clerk of a two (2) year Site Improvement Maintenance Bond in the amount of \$244,172.00.

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 the May 6, 2016 letter recommendation of the Township Committee, **Woodmont Realty Group Cedar Knolls, LLC's** Irrevocable Letter of Credit, Letter of Credit No. OD1401919 dated September 30, 2014 by Valley National Bank in the amount of \$778,989.00 is hereby released.
2. The cash performance bond in the amount of \$86,740.51 deposited in a TD Bank Escrow Account, No. 00007760845134, plus a portion of the interest, in accordance with P.L. 1985, c 315 is also released.
3. As a condition of the release of the Irrevocable Letter of Credit and the cash bond, **Woodmont Realty** shall furnish the Township a one (1) year Site Improvement Maintenance Bond in the amount of \$244,172.00 which represents 15% of the total performance guarantee of \$1,627,814.00.
4. At the end of the two (2) year period, a final inspection will be made by the Engineering Department. After the Developer makes all corrections, the Township Engineer is further authorized by this resolution to then release to the Developer the Site Improvement Maintenance Bond and any remaining deposits in the Sanitary Sewer Inspection Escrow Account and Engineering Inspection Escrow Account.
5. That a certified copy of this resolution shall be transmitted to the Township Engineer, Chief Municipal Finance Officer and **Woodmont Realty Cedar Knolls, LLC** for reference and action purposes.

RESOLUTION NO. 95-2016

A RESOLUTION AUTHORIZING THE MAYOR AND TOWNSHIP CLERK TO EXECUTE AN EXTRAORDINARY, UNSPECIFIABLE SERVICES AGREEMENT IN AN AMOUNT NOT TO EXCEED \$17,181.80 WITH GARDEN STATE FIREWORKS, INCORPORATED FOR AN INDEPENDENCE DAY CELEBRATION OF FIREWORKS ON THE EVENING OF JUNE 29, 2016 WITH A RAIN DATE OF JUNE 30, 2016 OR THE NEXT CLEAR NIGHT IN CASE OF INCLEMENT WEATHER AT THE VETERANS MEMORIAL PARK ATHLETIC FIELD, ALL IN ACCORDANCE WITH N.J.S.A. 40A:11-5.(1)(a)(ii) and N.J.S.A. 40A:11-6.1 OF THE LOCAL PUBLIC CONTRACTS LAW

WHEREAS, the Township of Hanover intends to provide a fireworks display for the 2016 Independence Day Celebration on June 29, 2016 with a rain date of June 30, 2016 or the next clear night in case of inclement weather at the Veterans Memorial Park Athletic Field located on North Jefferson Road and Paper Mill Drive; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the resolution authorizing the award of contracts for "Extraordinary Unspecifiable Services" without competitive bidding and the contract itself must be available for public inspection; and

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WHEREAS, the Township has determined that the performance of a fireworks display requires an expertise and extensive training in this field of endeavor and involves the additional problem that if the displays are not properly furnished in the first instance, there is no opportunity for correction of any errors or omissions on the part of those providing said displays; and

WHEREAS, the Township solicited and received two (2) sealed quotations on March 15, 2016 but said quotations were rejected by the Township Committee by resolution dated March 24, 2016 due to defects with both quotations; and

WHEREAS, subsequently on April 8, 2016, the Township sent its revised Request For Proposal and Quotation to seven (7) vendors requesting the submission of new proposals and quotations to be submitted to the Township's Bid Reception Committee on May 3, 2016; and

WHEREAS, the revised Request For Proposal and Quotation was sent to the following vendors:

1. **Garden State Fireworks, Inc.;**
2. Bay Fireworks;
3. Big Apple Pyrotechnics, Inc.;
4. D & M Fireworks, LLC
5. International Fireworks;
6. Alonzo Fireworks;
7. Schaefer Pyrotechnics, Inc.; and

WHEREAS, on May 3, 2016, the Township's Bid Reception Committee received and opened one (1) sealed quotation as follows:

Garden State Fireworks, Inc.\$17,181.80; and

WHEREAS, the Township's Business Administrator reviewed the proposal and quotation by **Garden State Fireworks, Inc.** and determined that the proposal and quotation was submitted in accordance with the Township's Request for Proposal and does not include any exceptions, deviations or deficiencies, and, is therefore considered the only responsible and responsive bidder; and

WHEREAS, the Chief Municipal Finance Officer has certified that sufficient funds have been appropriated and are available for this expenditure through the year 2016 Current Fund Budget - Line Item Number 126-0038-304; and

WHEREAS, the Township Committee of the Township of Hanover conclude that the providing of fireworks displays should be classified as an "Extraordinary, Unspecifiable Service" as defined by N.J.S.A. 40A:11-5.(1)(a)(ii) and N.J.S.A. 40A:11-6.1.

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 N.J.S.A. 40A:11-5.(1)(a)(ii) and N.J.S.A. 40A:11-6.1, the governing body hereby authorizes the performance of an Independence Day Fourth of July Fireworks Display to be held on Wednesday evening, June 29, 2016 with a rain date of Thursday, June 30, 2016 or the next clear night in case of inclement weather which fireworks display shall be held at the Veterans Memorial Park Athletic Field located on North Jefferson Road and Paper Mill Drive.

2. That the Mayor and Township Clerk are further authorized to execute an Extraordinary, Unspecifiable Services Agreement with **Garden State Fireworks, Inc.** located at P.O. Box 403, 383 Carlton Road, in Millington, New Jersey 07946 at a cost not to exceed \$17,181.80 for a fireworks program to be displayed at the Veterans Memorial Park Athletic Field on Wednesday, June 29, 2016, with a rain date of Thursday, June 30, 2016 or in the event of inclement weather, on the next clear night.

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3. This contract is awarded without competitive bidding as an Extraordinary, Unspecifiable Service in accordance with N.J.S.A. 40A:11-5.(1)(a)(ii) and N.J.S.A. 40A:11-6.1 of the Local Public Contracts Law guidelines and regulations.

4. The Township's Chief Municipal Finance Officer has certified that sufficient funds have been appropriated in the year 2016 Current Fund Budget, Patriotic Celebration Account, Line Item No. 126-0038-304 and are available for the purpose set forth in this resolution.

5. The contract be awarded without competitive bidding in accordance with N.J.S.A. 40A:11-5.(1)(a)(ii) because providing Fireworks Displays requires an expertise and extensive training in this field of endeavor and involves the additional problem that if the displays are not properly furnished in the first instance, there is no opportunity for correction of any errors or omissions on the part of those providing said displays.

6. A brief notice of the action taken in this resolution shall be published once in the Daily Record within ten (10) days of its passage.

7. The resolution and contract are on file in the office of the Business Administrator/Township Clerk and are available for public inspection.

8. A certified copy of this resolution shall be transmitted to the Township's Chief Municipal Finance Officer, Superintendent of Recreation and Park Administration, and **Garden State Fireworks, Inc.** for their reference and information.

RESOLUTION NO. 96-2016

A RESOLUTION OF THE TOWNSHIP COMMITTEE CONSENTING TO THE APPLICATION FROM WAYNE NATUNEN, JR., FOR THE EXTENSION OF WATER SERVICE OUTSIDE THE DISTRICT OF THE SOUTHEAST MORRIS COUNTY MUNICIPAL UTILITIES AUTHORITY FOR TWO (2) NEW SINGLE FAMILY RESIDENCES LOCATED AT 101 AND 103 JENKS ROAD IN THE TOWNSHIP OF HARDING AND ALSO DESIGNATED AS LOTS 14 AND 14.01 IN BLOCK 24 AS SET FORTH ON THE TAX MAP OF THE TOWNSHIP OF HARDING

WHEREAS, the Southeast Morris County Municipal Utilities Authority has received a request from **Wayne Natunen, Jr.** for water service connections to two (2) new single family residences located at 101 and 103 Jenks Road in Harding Township, and also designated as Lots 14 and 14.01 in Block 24 as set forth on the Tax Map of the Township of Harding; and

WHEREAS, the proposed new water service connections, outside the District of the Authority but not considered a new extension requires the approval of the Authority's four (4) creating municipalities; and

WHEREAS, the properties in question front on, or have reasonable access to the Authority's system and no "new extension" (as defined in the Service Contract between the Authority and its creating municipalities dated January 20, 1977) is required; and

WHEREAS, the Authority has determined and advised the creating municipalities that the proposed service connections can be made without any adverse effect on the system, and that no further extension of the system is foreseen as a result of providing service to the two (2) new single family residences located at 101 and 103 Jenks Road in Harding Township; and

WHEREAS, the Authority has requested that the creating municipalities give their consent to the proposed water service connection.

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

1. Consent is hereby given to the Southeast Morris County Municipal Utilities Authority to provide water service connections for two (2) new single family residential dwellings unit located at 101 and 103 Jenks Road within the Township of Harding, and also designated as Lots 14 and 14.01 in Block 24 as set forth on the Tax Map of the Township of Harding.

2. A certified copy of this resolution shall be transmitted to the Executive Director of the Authority and the Municipal Clerks of the Township of Morris, the Borough of Morris Plains and the Town of Morristown for reference and action purposes.

RESOLUTION NO. 97-2016

A RESOLUTION AUTHORIZING CHANGE ORDER NO. 1 TO DOWNES TREE SERVICE, INC. CONCERNING THE WHIPPANY RIVER DE-SAGGING PROJECT AND BY INCREASING THE TOTAL DOLLAR AMOUNT OF THE CONTRACT FROM \$122,300.00 TO \$133,850.00 OR AN \$11,550.00 INCREASE WHICH REPRESENTS A 9.44% INCREASE OF THE TOTAL CONTRACT DOLLAR AMOUNT

WHEREAS, the Township of Hanover awarded a contract through the competitive bid process to **Downes Tree Service, Inc.**, by resolution dated November 23, 2015 for the de-snagging of the Whippany River, a joint project with the Townships of East Hanover and Parsippany and the Borough of Florham Park; and

WHEREAS, the amount of the competitively bid contract was \$122,300.00; and

WHEREAS, the Township Engineer has submitted Change Order No. 1 indicating that unforeseeable site conditions required additional base bid work as well as alternate bid "B" additional work; and

WHEREAS, Change Order No. 1 describing the supplemental work has been signed by the Township Engineer which Change Order is attached hereto and made a part of this resolution as if set forth in full; and

WHEREAS, Change Order No. 1 represents an \$11,550.00 increase or a 9.44% increase in the total dollar amount of the contract; and

WHEREAS, the Township Engineer has now determined that the extra work and the reductions set forth in Change Order No. 1 shall increase the total contract amount from \$122,300.00 to \$133,850.00.

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

1. The governing body approves the recommendation of the Township Engineer that Change Order No. 1, in the amount of \$11,550.00 be accepted, and that the final total adjusted contract amount of the contract with **Downes Tree Service, Inc.** be fixed at \$133,850.00.

2. The Township Clerk is hereby authorized to execute Change Order No. 1.

3. A certified copy of this resolution shall be transmitted to the Township Engineer, the Chief Municipal Finance Officer and **Downes Tree Service, Inc.** for reference and information purposes.

RESOLUTION NO. 98-2016

A RESOLUTION APPROVING THE REFUND OF TAX OVERPAYMENTS

BE IT RESOLVED, by the Township Committee, of the Township of Hanover, County of Morris and State of New Jersey, that the following tax overpayments, as certified by Silvio Esposito, Collector of Taxes, be and are hereby refunded:

<u>BLOCK</u>	<u>LOT</u>	<u>QUAL. #</u>	<u>NAME</u>	<u>AMOUNT</u>
4402	14	C2002	Harry & Agnes Hansen 2002 Appleton Way Whippany, NJ 07981	\$384.64

Motion made by Member Coppola and seconded by Member Gallagher and unanimously approved.

RAFFLES

- RL-2923 – The Calais Foundation – on premise 50/50**
- RL-2924 – Elizabeth Ann Seton – Knights of Columbus**

Motion to approve made by Member Ferramosca and seconded by Member Gallagher and unanimously passed. Member Coppola abstained from RL-2924 but was in favor of RL-2923.

PAYMENT OF BILLS:

The governing body approved a grand total disbursement of \$ **\$7,580,657.05** for the payment of all bills as of this Regular Township Committee Meeting. A copy of the "Bills Payment List – by Vendor" is hereby approved and made a part of this resolution as if set forth in full. Moved by Member Coppola and seconded by Member Ferramosca and unanimously passed.

A copy of the Bill Payment List – by Vendor has been incorporated in the Supplemental Minute Book – Payment of Bills which is on file in the Township Clerk's office.

OPEN TO THE PUBLIC

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

Carol Fomchenko, Malapardis Road, Whippany: I have a question then a request. Who has jurisdiction over the No Turn On Red that's at the corner by the Church going North on Jefferson Road, there is a "No Turn On Red," who has jurisdiction? The Town or County?

Mr. Ferramosca: The Director of Public Safety or Engineer?

Mr. Maceira: What locations?

Ms. Fomchenko: On Jefferson Road going north at the intersection of Route 10 going East.

Mr. Maceira: Oh the Route 10 intersection that would be the State.

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Ms. Fomchenko: Oh it would be the State, for many years the reason that was there was because of Cathy's Corner was so close to Route 10 that you couldn't see 2 feet on who was coming, but now that everything has been demolished we can see all the way down passed 287 and I thought as a suggestion if we can get that sign removed now rather than later it would certainly help alleviate some of the traffic going north that want to turn east on route 10.

Mr. Ferramosca: It is a good idea, Gerry perhaps you can float that by.

Mr. Maceira: As you know that whole intersection is going to be improved.

Ms. Fomchenko: That might not happen for a year!

Mr. Maceira: We can look into that.

Mr. Coppola: You are talking about Jefferson Road north going onto Route 10; I have a problem with that.

Mr. Ferramosca: That's a good suggestion we will bring it to the attention of the DEP.

Mr. Maceira: It's a shared lane it's not a dedicated right turn lane so you will sometimes a vehicle that is going to go straight.

Ms. Fomchenko: They are just going to have to wait that's all! We do it now right.

Thank you.

Motion to close made by Member Brueno and seconded by Member Gallagher.

OTHER BUSINESS

Mr. Gallagher: Tomorrow night we have Hanover Township's Big Night Out; it started two years ago as a Volleyball Tournament and Family Picnic. And we didn't invent the idea, we got the idea from Retired Deputy Chief Bolcar, he said back in the old days they had volleyball in the gyms in the schools and all the families would come out and have a great time and we should do this again, so just like Chuck Berry always said about music nobody really invents anything they just borrow things from each other ~ so thank you very much Deputy Chief Bolcar for sharing that piece of history with us.

I just want to share the companies and the organizations that are working with us because it's getting bigger better and stronger, first and foremost is the Substance Awareness Council working with the Cedar Knolls Fire Department, Whippany Fire Department, Hanover Township Police Department, Morris County Sheriff's Department. I hear firsthand the Swat Team is coming to do a demo for our children and also the Bomb Squad. American Martial Arts, Knights of Columbus, Rotary, Shmedd's Music, Cheer Pride, Party Pleasing Rentals, Legacy Gym, Hanover Storm Hockey, Tiger's Nation Football and Cheer and all the food is going to be donated by Wegman's and of course prepared by the Knights of Columbus cause nobody prepares hot dogs like the Knights of Columbus and we know that, and we have one of our big cooks up here right now! So that is tomorrow night 7-9 at WPHS everything is free.

Last thing I want to say is that I took a picture of it last week and I tried to share it but was having a problem with my phone; but I rode through Salem Drive School and saw the men from the DPW getting the fields ready for the weekend and I just want to say thank you very much for the detail they put in and a lot of people don't realize this but they lift up the bleachers and cut under the bleachers and they have been paying a lot of attention to the high grass around our paths and our fields because that's where typically all the ticks are so we park our bikes and we have families standing by the

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woods, our men have been working hard and our fields are beautiful and before you know it hopefully they will be getting ready for the Memorial Day Parade.

Mr. Brueno: A lot going on in Recreation, we had the fishing contest last week unfortunately we didn't have a rain date, next year we will have a rain date! So the fisherman don't have to stand outside in the rain, but more importantly there are over 300 trout that were put into the pond at the Brick Yard, and I think we caught a total of 16-18. So if you are included to fish and eat some trout go over to the Brick Yard Pond there are many trout remaining.

Saturday in addition to Mr. Gallagher's Big Night Out we have Family Health Day starting at 8:00 over at the Recreation Center, over 20 exhibitors as well as 4 time Olympian Joetta Clark Diggs, she is also in the New Jersey Hall of Fame, so it's Family Health Day as I said there will be prizes, giveaways and exhibits on eating healthy, being healthy living healthy lifestyles. Come to the Recreation Center, if you are not included to do that starting at 1:00 we have our Healthy in Hanover Walk rain or shine and we thank Roberta and Alan Foster for spear heading that initiative, that's in Cedar Knolls. For whatever reason you can't get out of bed for Family Health then take a healthy walk.

Summer Camp is underway registration is at the Rec Center it will start June 27th Bee Meadow Pool opens the Friday of Memorial Day, May 27th at 5:00 Grand Opening. A little info about the fireworks, they are Wednesday, June 29th over at Veteran's Field same as last year, we will have all kinds of actives going on DJ's will be here, food trucks, that will all start at 6:00 and then three summer concerts this year; July 11th, July 18th and July 25th at the Brick Yard.

Mr. Coppola: The Veteran's Alliance meeting on Wednesday night we discussed the parade, breakfast at 7:00 at Community Center until 8:15; 8:30 is the ceremony at the Town Hall, 9:00 bus will bring people to the parade and the parade starts at 9:30.

VFW is selling poppies, selling a couple of weeks now and you will see them around town at Quick Chek, 7-11, or some of the key spots.

Fireman had their 5K run last weekend and Mother Nature wasn't too cooperative but they had quite a day and the one thing that should be noted that Wegman's donated all of the fruit all of the water and all of the Gatorade, bagels and condiments, Wegman's is going to be a great neighbor and we are really looking forward to having them as part of our community.

This Sunday, we have four young men who are going to become Eagle Scouts; it seems that each and every year we have more than 1 making it. This year 4 of them it is really nice, that's the highest rank that a Scout can make and that's quite a tribute.

As far as public safety is concerned our newest Police Officer started in April he is now out on the road and being trained, the newest and final will bring our Department up to 30 is Eric he is due for his physiological exam tomorrow, and if approved he will start on June 1st. The lieutenant exam will take place in mid-June so hopefully by the end of June we will be looking to appointing a new lieutenant and a new sergeant.

Mr. Ferramosca: On behalf of the Township Committee we would like to complement the Hanover Green Team and Employment Horizons. They conducted a very successful shred day, nearly 1 ton of paper was taken out of the waste screen and recycled in a proper way and much of that paper was confidential information, it was a free service to our Township residents who had less than 30 pounds. Over 100 people took advantage of that and were a great success.

Remind everybody about the Hanover E-Blast, it's working out really well and very pleased with it and are gathering more and more enrollment in each day. So again you can get to the Hanover E-Blast by visiting the Township's website or this piece of paper which I have with your smart phone you can use your QR Code Reader and it will automatically sign up that way.

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Just a reminder the trees in Hanover Township in certain parts of our town are Ash Trees, the Ash Trees are under very much distress this season due to something called the Emerald Ash Borer (EAB) there is information about this on the Township's website about EAB and we just recommend you council that website and look at the information and make a determination as to what you want to do best for the Ash Tree that's on your property.

ADJOURNMENT

Motion to adjourn made by Member Coppola 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
