

Mayor Dunwell called the Meeting of the Common Council of the Borough of Alpha to order at 7:08 P.M. on October, 10, 2017.

Mayor Dunwell announced that adequate notice of the meeting was given and posted on the bulletin board in the Municipal Building satisfying the requirements of the Open Public Meetings Act:

NOTICE

Pursuant to the provisions of the Open Public Meetings Act, adequate notice of this meeting has been given. On January 1st, 2017, the Municipal Clerk delivered to the Star Gazette/Express-Times and posted on the bulletin board in the Municipal Building a notice containing the date, time, and place of this meeting of the Alpha Borough Council. Also said notice has been mailed to persons requesting the same.

Mayor Dunwell led the prayer and flag salute.

Roll Call: Present, Councilman Cartabona, Councilwoman Grossman, Councilman Pettinelli, Councilman Schwar, Councilman Seiss, Councilman Singleton.

Public Comment:

Lisa LaCaruba, 1805 Springtown Rd., asked about the procedure for delinquent water bills.

Mike Savary, had additional comments on the topic of the procedure for shut offs due to delinquent water bills. He also asked about the port-a-john at the ball field and when it will be removed. He also made additional comments regarding the voting on the pool.

Mr. Schmidt, had questions as to who is responsible for maintaining the sidewalks due to some of them being out of repair. The Code Enforcement Officer will take a look into this in addition to overgrown trees. Mr. Schmidt will meet with the Code Enforcement Officer.

Jody, Springtown Road, asked who is looking into the LMR business due to the number of complaints that were filed. Attorney Troxell said that since there is an application before the Land Use Board now, and if they are denied any discussion now could be perceived as prejudice against the application. Mayor Dunwell explained that the Zoning Officer issued a notice of violation and he is holding enforcement in abeyance until the applicant is heard before the Land Use Board for a variance.

Jack Frank, 3rd Ave., ask who handles noise ordinance issues. Councilman Seiss said that the police can take a report but the responsibility to enforce the ordinance is the Code Enforcement Officer. Councilman Cartabona read the ordinance for clarification. Discussion continued around this topic.

Mr. Pursell, High St, had comments regarding the maintenance of the sidewalks.

Jack Frank, 3rd Ave., reiterated that they are asking for the council to do something about the LMR issue.

Mike Savary, asked questions about the zoning around LMR.

Lisa LaCaruba, 1805 Springtown Rd., asked what is going on with the Municipal Clerk's position. She had additional questions about Donna Messina's clerical duties. She also had questions regarding the OPRA request.

Ordinances-First Reading:

Motion made by Councilman Schwar to introduce Ordinance 2017-10, motion seconded by Councilwoman Grossman. Roll Call: Ayes; Cartabona, Grossman, Pettinelli, Schwar and Singleton. Nays; None.

Ordinance 2017-10

AN ORDINANCE OF THE BOROUGH OF ALPHA, COUNTY OF WARREN, STATE OF NEW JERSEY, AMENDING THE CODE OF THE BOROUGH OF ALPHA IN ORDER TO ADD A NEW CHAPTER 260 ENTITLED *MASSAGE ESTABLISHMENTS* TO THE CODE OF THE BOROUGH OF ALPHA

WHEREAS, the Borough of Alpha regulates commercial and residential property within the Borough by and through the Borough Code; and

WHEREAS, the Borough may impose monetary fines and penalties for each violation of this ordinance and its respective provisions in the Borough Code; and

WHEREAS, the Borough Council finds that it is in the best interests of the Borough to amend the Borough Code as hereinafter provided to enact the following.

NOW, THEREFORE BE IT ORDAINED as follows:

The Borough of Alpha Code shall be amended, and a new chapter, Chapter 260 shall hereinafter be adopted to provide as follows:

Chapter 260 : Massage Establishments

§ 260-1 **Purpose.**

§ 260-2 **Definitions.**

§ 260-3 **Permits required.**

§ 260-4 **Fees.**

§ 260-5 **Application for massage establishment permit.**

§ 260-6 **Building requirements; inspections.**

§ 260-7 **Referral of application.**

§ 260-8 **Issuance or refusal of permit.**

§ 260-9 **Operating requirements.**

§ 260-10 **Sanitation and safety requirements.**

§ 260-11 **Revocation or suspension of permit.**

§ 260-12 **Register to be kept.**

§ 260-13 **Responsibilities of permittee.**

§ 260-14 **Display of permits.**

§ 260-15 **Inspections.**

§ 260-16 **Minors prohibited; exceptions.**

§ 260-17 **Alcoholic beverages prohibited.**

§ 260-18 **Unlawful acts.**

§ 260-19 **Permit specifications not to be changed.**

§ 260-20 **Transferability.**

§ 260-21 **Exceptions.**

§ 260-22 **Existing establishments; permit renewal.**

§ 260-23 **Violations and penalties.**

§ 260-1 **Purpose.**

The purpose of this chapter is to insure the health and safety of all persons involved in massage businesses and establishments within the Borough.

§ 260-2 **Definitions.**

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

EMPLOYEE

Any and all persons, other than the massage practitioners, who work at a massage establishment, who receive compensation directly from the permittee and who have no physical contact with the customers and clients.

LICENSED MASSAGE AND BODYWORK THERAPIST

A person licensed to practice massage and bodywork therapies pursuant to the provisions of P.L. 1999, c. 19 (N.J.S.A. 45:11-53 et seq.), and P.L. 2007, c. 337 (N.J.S.A. 45:11-68 et seq.)

[Added 7-21-2015 by Ord. No. O:2015-16]

MASSAGE

Any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical electrical apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice.

MASSAGE ESTABLISHMENT

Any establishment having a fixed place of business where any person, firm, association or corporation engages in or carries on or permits to be engaged in or carried on any of the activities mentioned in this chapter. This includes any establishment engaged in or carrying on any of the activities mentioned in this chapter. This includes any establishment engaged in or carrying on or permitting any combination of massage and bathhouse.

MASSAGE PRACTITIONER(S)

Any person, including a trainee, who, for any consideration whatsoever, engages in the practice of massage as herein defined including but not limited to subcontractors, subtenants or temporary employees.

PATRON

Any person who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefor.

PERMITTEE

The operator of a massage establishment and out-call massage service.

§ 260-3 **Permits required.**

No person shall engage in or carry on the business of massage unless he or she has a valid massage establishment permit issued by the Borough of Alpha pursuant to the provisions of this chapter for each and every separate office or place of business.

§ 260-4 **Fees.**

A.

Every applicant for a permit to maintain, operate or conduct a massage establishment including out-call massage services shall file a complete application with the Clerk's Office upon a form provided by said office, and pay an annual filing fee as follows:

(1)

For one massage practitioner, the fee shall be \$250 per year.

(2)

For each additional massage practitioner, the fee shall be \$100 per year.

B.

All fees are nonrefundable.

C.

If at anytime after the initial permit is granted additional massage practitioners begin providing services at the massage establishment, all of the information required herein must be submitted to the Clerk within 10 days and the additional fee paid.

D.

In addition to the above fee, each massage practitioner must pay the fee required in § **260-5E(7)**.

§ 260-5 Application for massage establishment permit.

Any person desiring a massage establishment permit shall file a written application with the Borough Clerk's Office on a form to be furnished by the Borough. The applicant shall accompany the application with a tender of the correct fee set forth in § **260-4** above and shall, in addition, furnish the following:

A.

The type of ownership of the business, i.e., whether individual, partnership, corporation, limited liability corporation, or otherwise.

B.

The name, style and designation under which the business or practice is to be conducted.

C.

The business address and all telephone numbers where the business is to be conducted.

D.

A complete list of the names, residence addresses and emergency telephone numbers of all massage practitioners and employees in the business and the name, residence addresses and emergency telephone numbers of the manager or other person principally in charge of the operation of the business.

E.

The following personal information concerning the applicant, if an individual, concerning each stockholder holding more than 10% of the stock of the corporation, each officer and each director or managing agent if the applicant is a corporation, concerning the partners including limited partners. If the applicant is a partnership, the manager or other person principally in charge of the operation of the business, and all massage practitioners and employees:

(1)

The name, complete residence address and residence/emergency telephone number.

(2)

The two previous addresses immediately prior to the present address of the applicant.

(3)

Written proof of age.

(4)

Height, weight, color of hair and eyes and sex.

(5)

Two front-face portrait photographs taken within 30 days of the date of the application and two inches by two inches in size.

(6)

The massage or similar business history and experience, including but not limited to whether or not such person has previously operated in this or another Borough or state under a license or permit or has had such license or permit denied, revoked or suspended and the reason therefore and the business activities or occupations subsequent to such action for denial, suspension or revocation.

(7)

All criminal convictions other than misdemeanor traffic violations, fully disclosing the jurisdiction in which convicted and the offense for which convicted and circumstances thereof. The applicant shall execute a waiver and consent to allow a fingerprint and criminal background check by the Police Department. A fee of \$50 shall be paid for each massage practitioner and employee.

(8)

A diploma, certificate or other written proof of graduation from a recognized school by the person who shall be directly responsible for the operation and management of the massage business. A true copy of a certificate of certification, issued by the Massage, Bodywork and Somatic Therapy Committee of the New Jersey Board of Nursing pursuant to P.L. 1999, c. 19 (*N.J.S.A. 45:11-53 through 67*), for each massage practitioner to be employed at the massage establishment.

(9)

Authorization for the Borough and its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.

(10)

The names and addresses of three adult residents of the county who will serve as character references. These references must be persons other than relatives and business associates.

(11)

A written declaration by the applicant, under penalty or perjury, that the foregoing information contained in the application is true and correct, said declaration being duly dated and signed in the Borough.

§ 260-6 Building requirements; inspections.

A.

No massage establishment shall be issued a permit to be operated, established or maintained in the Borough unless an inspection by the Construction Official and Fire Inspector reveals that the establishment complies with each of the following minimum requirements:

(1)

Construction of rooms used for toilets, tubs, steam baths, and showers shall be made waterproof with approved waterproof materials and shall be installed in accordance with the New Jersey Uniform Construction Code.

(2)

All massage tables, bathtubs, shower stalls or bath areas and floors shall have surfaces which may be readily disinfected.

(3)

Adequate bathing, dressing and locker facilities shall be provided for the patrons to be served at any given time. In the event that male and female patrons are to be served simultaneously, separate bathing, dressing, locker and massage room facilities shall be provided.

(4)

The premises shall have adequate equipment for disinfecting and sterilizing non-disposable instruments and materials used in administering massages. Such non-disposable instruments and materials shall be disinfected after use on each patron.

(5)

Closed cabinets shall be provided and used for the storage of clean linen, towels and other materials used in connection with administering massages. All soiled linens, towels and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas.

(6)

Toilet facilities shall be provided in convenient locations. When employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided for each sex. A single water closet per sex shall be provided for each 20 or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for half of the water closets for the male patrons after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein.

(7)

Lavatories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule immediately adjacent thereto. Lavatories or washbasins shall be provided with soap and a dispenser and with sanitary towels.

(8)

The premises shall be equipped with a service sink for custodial services.

(9)

The premises shall meet the Building Code, Fire Code of the Borough, and all other applicable laws and regulations.

B.

The Health Officer, the Construction Official or the Fire Inspector shall certify that the proposed massage establishment complies with all the requirements of this chapter and shall send such certification to the Clerk.

§ 260-7 Referral of application.

The Clerk, upon receiving an application for a massage establishment permit, shall refer the application to the Construction Official, the Fire Department, the Police Department and the Borough Land Use Board/Planning Department, which departments shall inspect the premises proposed to be operated as a massage establishment and shall make written recommendation to the Clerk and/or governing body concerning the laws and codes that they administer.

§ 260-8 Issuance or refusal of permit.

The Clerk may issue a permit within 14 days following receipt of a completed application and the certifications set forth in §§ **260-6** and **260-7** above, if all requirements for a massage establishment described in this chapter are met unless he finds that:

A.

The correct permit fee has not been tendered to the Borough and in the case of a check or bank draft honored with payment upon presentation.

B.

The operation as proposed by the applicant, if permitted, would not comply with all applicable laws, including but not limited to the building, zoning and health regulations.

C.

The applicant has knowingly made any false, misleading or fraudulent statement of fact in the permit application or in any document required by the Borough in conjunction therewith.

D.

The applicant has had a massage business, massage practitioners or other similar permit or license denied, revoked or suspended for any of the above causes by the Borough or any other state or local agency within five years prior to the date of the application.

E.

The applicant, if an individual; any of the officers and directors or managing director, if the applicant is a corporation or limited liability corporation; any of the partners, including limited partners, if the applicant is a partnership; or the manager or other person principally in charge of the operation of the business is not over the age of 18 years.

F.

The applicant, if an individual, any of the stockholders holding more than 10% of the stock of the corporation, or any of the officers or directors or managing directors if the applicant is a corporation, or any of the officers or directors if the applicant is a partnership, or the manager or other person principally in charge of the operation of the business has been convicted of a felony, an offense involving sexual misconduct with children, prostitution, soliciting for purpose of prostitution, pandering, keeping a place of prostitution, any crime involving dishonesty, fraud or deceit or other offenses opposed to decency and morality.

§ 260-9 **Operating requirements.**

A.

Every portion of the massage establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.

B.

Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.

C.

All employees, including massage practitioners and employees, shall be clean and wear clean, nontransparent outer garments. A separate dressing room for each sex must be available on the premises, and each dressing room shall contain a tub or shower in good working order and individual lockers for each employee and customer. Doors to such dressing rooms shall open inward and shall be self-closing.

D.

All massage establishments shall be provided with clean, laundered sheets and towels in sufficient quantity, which shall be laundered after each use thereof and stored in a sanitary manner.

E.

The genital area of patrons must be covered by towels, cloths or undergarments when in the presence of an employee or massage practitioner.

F.

It shall be unlawful for any person knowingly, in a massage establishment, to place his or her hand upon or to touch with any part of his or her body, to fondle in any manner or to massage a genital area of any other person.

G.

No massage practitioner, employee or operator shall perform, offer or agree to perform any act which would require the touching of the patron's sexual or genital area.

H.

All massage practitioners and employees shall refrain, under all circumstances, from initiating or engaging in any sexual conduct, sexual activities, or sexualizing behavior involving a client, even if the client attempts to sexualize the relationship.

I.

All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and all other physical facilities shall be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms or steam or vapor cabinets and shower compartments and toilet rooms shall be thoroughly cleaned after each use. When carpeting is used on the floors, it shall be kept dry.

J.

Oils, creams, lotions and other preparations used in administering massages shall be kept in clean, closed containers or cabinets.

K.

Eating in the massage work areas shall not be permitted. Animals, except for Seeing Eye dogs, shall not be permitted in the massage work area.

L.

Each massage practitioner shall wash his or hands in hot running water, using a proper soap or disinfectant, before administering a massage to each patron.

M.

Insurance. All massage practitioners and massage establishments shall maintain and post proof of appropriate liability insurance coverage with a reputable company licensed by the State of New

Jersey in an amount of not less than \$1,000,000 per occurrence and in the aggregate for all claims caused by personal injury. A certificate of insurance in acceptable form shall be provided to the Business Administrator within 10 days of the issuance of the permit set forth in § **260-8** above.

N.

Hours of operation. The hours of operation for all licensed business shall be between 7:00 a.m. and 10:00 p.m.

§ 260-10 **Sanitation and safety requirements.**

A.

All premises used by permittees hereunder shall be subject to periodic inspections by the Health Department of the County of Warren and Building Department or their authorized representatives for safety of the structure and adequacy of plumbing, ventilation, heating and illumination. The walls shall be clean and painted with washable mold-resistant paint in all rooms where water or steam baths are given. Floors shall be free from any accumulation of dust, dirt or refuse. All equipment used in the massage operation shall be maintained in a clean and sanitary condition. Towels, linen and items for the personal use of operators and patients shall be clean and freshly laundered. Towels, cloths and sheets shall not be used for more than one patron. Heavy, white paper may be substituted for sheets, provided that such paper is changed for every patron. No massage service or practice shall be carried on within any cubicle, room or booth or any area within a massage establishment which is fitted with a door capable of being locked.

B.

Nothing contained herein shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of premises nor to preclude authorized inspection thereof.

§ 260-11 **Revocation or suspension of permit.**

Any permit issued for a massage establishment or out-call massage service may be revoked or suspended by the Borough after a hearing, for good cause or in any case where any of the provisions of this chapter are violated, or where any employee or the permittee, including a massage practitioner, is engaged in any condition which violates any of the state or local laws or ordinances at the permittee's place of business, and the permittee has actual or constructive knowledge of such violations, or the permittee should have actual or constructive knowledge by due diligence or any duly authorized police officer or health inspector of the Borough of Alpha to inspect the premises or the operations therein. Such permit may also be revoked or suspended by the Borough, upon the direction of the Clerk or other Borough official so designated, that such business is being managed, conducted or maintained without regard for the public health or health of patrons or customers, or without due regard to proper sanitation and hygiene.

§ 260-12 **Register to be kept.**

The operator of a massage establishment or an out-call massage service must maintain a register of all persons employed as massage practitioners and their permit numbers. Such register shall be available for inspection at all times during regular business hours.

§ 260-13 **Responsibilities of permittee.**

The permit holder shall be responsible for all actions which occur on the premises whether by massage practitioners, employees, subcontractors, or other persons on the premises.

§ 260-14 **Display of permits.**

All massage establishments shall post their massage establishment permit in the hallway entrance in a conspicuous location at all times.

§ 260-15 **Inspections.**

The County Health Department, the Police Department and the Fire Department shall, from time to time, at least once a year, announced or unannounced, make an inspection of each massage establishment granted a permit under the provisions of this chapter for the purpose of determining whether the provisions of this chapter are complied with. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any permittee to fail to allow such inspection officer access to the premises or to hinder such officer in any manner.

§ 260-16 **Minors prohibited; exceptions.**

No person shall permit any person under the age of 18 years to receive a massage without advanced written permission of their parent, caregiver or guardian or a parent, caregiver or guardian must be present in the room during the time of the massage.

§ 260-17 **Alcoholic beverages prohibited.**

No person shall sell, give, dispense, provide or keep or permit the sale or consumption of alcoholic beverages on the licensed premises.

§ 260-18 **Unlawful acts.**

A.

It shall be unlawful for any person to massage any other person or give or administer any of the other things mentioned in this chapter or which violate any municipal law, state law or ordinance. Any violation of this chapter shall be deemed grounds for revocation of the permit granted hereunder.

B.

Any massage practitioner engaged in massage at an unlicensed massage establishment shall be guilty of a violation of this chapter.

§ 260-19 **Permit specifications not to be changed.**

No person granted a permit pursuant to this chapter shall operate under any name or conduct his or her business under any designation for any location not specified in his or her permit.

§ 260-20 **Transferability.**

Massage establishment permits are not transferable, separate or divisible, and such authority as a permit confers shall be conferred only on the permittee named therein for the location specified therein only.

§ 260-21 **Exceptions.**

The provisions of this chapter shall not apply to massage or physical therapy treatments given:

A.

In the office of a licensed physician, chiropractor, physical therapist or licensed massage and bodywork therapist.

B.

In a regularly established medical center, hospital or sanatorium having a staff which includes licensed physicians, chiropractors, physical therapists and/or licensed massage and bodywork therapists.

C.

By any licensed physician, chiropractor, physical therapist or licensed massage and bodywork therapist in the residence of his or her patient.

§ 260-22 **Existing establishments; permit renewal.**

All persons who presently operate a massage establishment must apply for a permit within one month of the effective date of this chapter. Applications for renewal of permits must be filed not more than two months nor less than one month prior to termination of an existing permit.

§ 260-23 **Violations and penalties.**

Any person violating any of the provisions of this chapter shall, upon conviction, be liable for a penalty as stated in Chapter 1, Section 9 of the Alpha Borough Code.

Motion made by Councilman Schwar to approve Resolution 2017-134, motion seconded by Councilman Seiss. Roll Call: Ayes; Cartabona, Grossman, Pettinelli, Schwar, Seiss and Singleton. Nays; None.

**RESOLUTION 2017-134
RESOLUTION AWARDING A CONTRACT
FOR SOUTH BOULEVARD SANITARY SEWER WORK**

WHEREAS, the Mayor and Council of the Borough of Alpha have determined that the municipal sanitary sewer system is to be maintained and a part is in need of reconstruction and renovations; and

WHEREAS, the Mayor and Council of the Borough of Alpha, through the Borough Engineer, have openly and publicly solicited bids (now, a second time) for such reconstruction contract for said sanitary sewer work, pursuant to New Jersey law; and

WHEREAS, the Borough of Alpha has, this second time, received the lowest responsible bid from Penn-Bower Inc. of High Bridge, New Jersey, based on the recommendation of the Borough Engineer.

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Alpha, County of Warren, State of New Jersey that the said contract for the contemplated work –South Boulevard sanitary sewer replacements and work – is hereby awarded to Penn-Bower, Inc. of High Bridge, New Jersey, having submitted a bid of \$129,969.00 for said work, upon written certification of funds by the Borough CFO.

BE IT FURTHER RESOLVED, that the Mayor, Clerk, Borough Attorney, and/or Borough Engineer are authorized to execute all necessary documents to effectuate the contract.

The engineer answered questions that the Governing Body had prior to voting on Resolution 2017-135.

Motion made by Councilwoman Grossman to approve Resolution 2017-135, motion seconded by Councilman Singleton. Roll Call: Ayes; Cartabona, Grossman, Pettinelli and Singleton. Nays; Schwar and Seiss.

**RESOLUTION 2017-135
RESOLUTION AUTHORIZING BOROUGH ENGINEER TO
PROVIDE CONSULTING ENGINEERING SERVICES
FOR MUNICIPAL POOL BACKWASH DISCHARGE**

BE IT RESOLVED, by the Borough Council of the Borough of Alpha, County of Warren, State of New Jersey that the firm of Remington & Vernick Engineers is hereby authorized to act as the Borough Engineer and proceed with engineering services in regard to the municipal swimming pool backwash discharge – design plans and construction documents – in the Borough for the contemplated scope of work in accordance with the firm’s proposal of September 27, 2017 (attached hereto) and in an amount not to exceed \$5,920.00, upon written certification of funds by the Borough CFO.

BE IT FURTHER RESOLVED, that the Mayor, Clerk, Borough Attorney, and/or Borough Engineer are authorized to execute all necessary documents to effectuate the services.

Motion made by Councilman Seiss to lay on the table Resolution 2017-136, motion seconded by Councilwoman Grossman, all were in favor

**RESOLUTION 2017-136
RESOLUTION AWARDING A THREE-YEAR CONTRACT FOR THE LEASE OF PUBLIC
PROPERTY TO PENN BOWER**

Councilman Seiss requested 10 minutes executive session, contractual for use of public property.

Motion made by Councilman Cartabona to lay on the table Resolution 2017-137, motion seconded by Councilwoman Grossman, all were in favor.

**RESOLUTION 2017-137
GOVERNING BODY CERTIFICATION OF THE ANNUAL AUDIT**

Attorney Troxell referenced Robert's Rules, 38 in reconsideration of this resolution would require a motion but it may be introduced again and in a future session. There was further discussion regarding the process of reconsideration. Councilman Cartabona also shared his opinion on the dollar amount. Mayor Dunwell polled the Governing Body to indicate their not-to-exceeds number for the pool renovation. Councilwoman Grossman - \$650,000; Councilman Singleton – due to not being on Council when the pool discussions were being had, has no number; Councilman Pettinelli - \$175,000 - \$200,000; Councilman Cartabona - \$400,000; Councilman Schwar - \$500,000; Councilman Seiss - \$400,000 - \$450,000

Motion made by Councilwoman Grossman to approve Resolution 2017-113, motion seconded by Councilman Cartabona. Roll Call: Ayes; Cartabona, Grossman, Pettinelli, Schwar, and Singleton. Nays; Pettinelli and Schwar. Abstentions; Seiss

**RESOLUTION 2017-113
RESOLUTION AWARDING A CONTRACT
FOR SWIMMING POOL RECONSTRUCTION AND REHABILITATION**

WHEREAS, the Mayor and Council of the Borough of Alpha have determined that the municipal swimming pool and pump house building are in need of reconstruction and renovations; and

WHEREAS, the Mayor and Council of the Borough of Alpha, through the Borough Engineer, have openly and publicly solicited bids (now, a second time) for such reconstruction contract for said pool work, pursuant to New Jersey law; and

WHEREAS, the Borough of Alpha has, this second time, received the lowest responsible bid from Ray Palmer Associates, Inc. of Dover, New Jersey, based on the recommendation of the Borough Engineer.

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Alpha, County of Warren, State of New Jersey that the said contract for the contemplated work –reconstruction of the municipal swimming pool and renovations to the pump house building – is hereby awarded to Ray Palmer Associates, Inc. of Dover, New Jersey, having submitted a bid, Alternate Bid #1, of \$277,600.00 for said work, upon written certification of funds by the Borough CFO.

Approval of Minutes;

Motion made by Councilman Schwar to approve the regular meeting minutes from January 1, 2017 and January 10, 2017 with a correction to add Budget as a

subcommittee on the January 10, 2017 minutes. Roll Call: Ayes; Cartabona, Grossman, Schwar and Seiss. Nays; None. Abstentions; Pettinelli and Singleton.

Department Reports;

Administration, Councilman Alan Singleton: Councilman Singleton reported out on the code enforcement activities and gave everyone an update on the open Clerk's position. He requested 10 minutes executive session, personnel, for the open Clerk's position. In closing, Councilman Singleton approved his bills, salaries and wages for his department.

Finance, Councilman Michael Schwar: Councilman Schwar reported that we received a check from PAIC to get the fire truck repaired. He reminded everyone that the budget is October 17 an 7:00 PM. He asked that anyone with employees speak with to se what their budgetary needs are. The auditors are in the process for the library. In closing, Councilman Schwar approved his bills, salaries and wages for his department.

Health & Welfare, Councilwoman Peter Pettinelli: Councilman Pettinelli reported that he is working with the CFO to finalize the date for the second clean up. In closing, Councilman Pettinelli approved his bills, salaries and wages for his department.

Public Property, Councilwoman Tracy Grossman: Councilwoman Grossman reported they are continuing on the work at the ball field and the latest community event. Mayor Dunwell reported on the status of the phone tree for the new phone system. There was also discussion regarding getting rid of old emergency phone number. In closing, Councilwoman Grossman approved his bills, salaries and wages for her department.

Public Safety, Councilman Thomas Seiss: Councilman Seiss reported that the Facebook page didn't have any mention of the crossing guard position that is available. Mayor Dunwell reported about the issue of parking on 5th Ave. and Williams St. In closing, Councilman Seiss approved his bills, salaries and wages for his department.

Public Works, Councilman Louis Cartabona: Councilman Cartabona reported out on the activities of the DPW and requested 10 minutes executive session, personnel for DPW and 10 minutes executive session, personnel for Zoning Officer. Councilman Cartabona is asking council to approve awarding Pip's Paving to do paving at 169 6th Ave. for \$2,200.

Motion made by Councilman Cartabona to approve Pip's Paving to do repaving at 169 6th Ave., motion was seconded by Councilman Schwar. Roll Call: Ayes; Cartabona, Grossman, Pettinelli, Schwar, Seiss and Singleton. Nays; None. In closing, Councilman Cartabona approved his bills, salaries and wages for his department.

Professionals & Official Reports:

Mayor, Craig S. Dunwell: Mayor Dunwell reported that a resident called him and reported on 836 3rd Ave. where the roof of the home is unsafe. That home is now repaired. Mayor Dunwell would like to appoint David Santowasso as an Alternate 2 to the Land Use Board to a term that runs through 2018.

Fire Department, Chief Sean McDyer: Chief reported out on the activities of the Fire Department. He also reminded everyone of the Open House on Thursday from 6 p.m. to 8 p.m. There was discussion around the repair of the fire truck and getting the appropriate number of bids, so we are complying with the laws that govern the process.

Office of Emergency Management; Todd Pantuso; Todd reported that the Emergency Operating Plan was approved by the State Police.

Attorney, Christopher Troxell: Attorney Troxell asked for five minutes executive session, personnel and five minutes, litigation for engineer.

Engineer, Stephanie Cuthbert: Stephanie referred everyone to the latest engineering report previously distributed, giving updates with ongoing projects.

Motion was made by Councilman Cartabona to authorize the engineer to contact DEP and rescind the disruption permit, motion seconded by Councilman Schwar. Roll Call: Ayes; Cartabona, Grossman, Pettinelli, Schwar, Seiss and Singleton. Nays; None.

Motion was made by Councilman Schwar to approve the contract for \$9,300 for the cleaning of the wet well and \$5,520 to do the A3 Manhole, motion seconded by

Councilman Cartabona. Roll Call: Ayes; Cartabona, Grossman, Pettinelli, Schwar, Seiss and Singleton. Nays; None.

Stephanie also discussed the Water Accountability Act and what the new requirements are now. She will send everyone the information. She also updated us on the Farce St. project.

Motion made by Councilman Cartabona to authorize Mayor Dunwell to spend up to \$10,000 to contract with a water testing company to move forward on testing water at the Frace St. plant, motion seconded by Councilwoman Grossman. Roll Call: Ayes; Cartabona, Grossman, Pettinelli, Schwar, Seiss and Singleton. Nays; None.

Code Enforcement, Thomas Fey: Mr. Fey elaborated on a previous discussion regarding a property that is in violation.

Library Board, Steve Noll: Mr. Noll reported out on the activities of the library.

Second Public Comment;

Joey Foor, 1110 Morris St., commented on the condition of the manhole in front of his house. He also asked to get doggie bags refilled at the park.

Mr. Morris, 527 Alpha St., reported that the house across from him has the tar paper blowing off. He also asked who is paying for Leigh fuel's clean up.

Mr. Pfeiffer, 400 E. Central Ave., had questions about the water softener and sidewalk repair.

Tom Fey, had comments regarding Mr. Pfeiffer's concerns. He also asked to have the Christmas Tree Lighting to be put on the Borough calendar.

Mike Savary, asked if all the ordinances were online. He had additional comments regarding the pool vote and asked about who is responsible for the mercantile licenses.

Tracy Grossman, 873 7th Ave., asked Councilman Seiss if the reason he voted the way he did tonight regarding the pool was because he didn't have adequate information. Councilman Seiss replied it was his prerogative.

Joey Foor, 1110 Morris St., asked what other uses we would have for the pool if the vote is to demolish the pool.

Ms. Schier (??), address inaudible, had additional questions regarding the pool voting.

Mayor Dunwell commented on the current pool voting issue regarding abstentions.

Payment of Bills & Claims:

Councilman Cartabona made a motion to make the director's report a part of the minutes. Councilman Pettinelli seconded the motion, all were in favor.

Councilman Schwar made a motion that the CFO be authorized to pay all bills authorized by the director. Councilman Pettinelli seconded the motion. Roll call: Ayes; Cartabona, Grossman, Pettinelli, Schwar, Seiss and Singleton. Nays: None.

Councilman Schwar made a motion that the CFO be authorized to pay all salaries and wages approved by the director, Councilman Cartabona seconded. Roll call: Ayes; Cartabona, Grossman, Pettinelli, Schwar, Seiss and Singleton. Nays: none.

October 9, 2017 04:06 PM		BOROUGH OF ALPHA Bill List By P.O. Number				Page No: 1		
P.O. Type: All		Range: First to Last		Open: N	Paid: N	Void: N		
Format: Condensed				Rcvd: Y	Held: Y	Aprv: N		
				Bid: Y	State: Y	Other: Y	Exempt: Y	
PO #	PO Date	Vendor	PO Description	Status	Amount	Void Amount	PO Type	
17-00412	06/22/17	CASTLE	CASTLE SEPTIC SERVICE CORP	TOILET RENTAL CHARGES--JUN-OCT	Open	500.00	0.00	
17-00414	06/22/17	HEALTH	STATE OF NJ HEALTH BENEFITS	HEALTH BENEFITS - MAY-DEC 2017	Open	2,823.16	0.00	
17-00434	06/29/17	TRITE	DE LAGE LANDEN FINANCIAL SERV	COPIER LEASE 6/15/17-1/14/18	Open	144.59	0.00	
17-00445	07/05/17	LMR	LMR CLEANOUT & DISPOSAL	TRASH REMOVAL - JUN-DEC 2017	Open	12,833.33	0.00	
17-00464	07/08/17	MOUNTAIN	MOUNTAIN SIDE LAWN CARE	2017 Season Lawn Care Service	Open	1,010.48	0.00	
17-00584	08/22/17	EHLRI	EHRlich, INC.	PEST PROTECTION SERVICE - AUG	Open	189.00	0.00	
17-00600	09/08/17	JHMSI	JHM SIGNS	INSTALLATION OF PARK SIGN	Open	582.00	0.00	
17-00621	09/20/17	FINCH	FINCH FUEL OIL CO., INC.	DIESEL FUEL 9/7/17	Open	109.85	0.00	
17-00624	09/25/17	NJADVME	NJ ADVANCE MEDIA	ADVERTISING FEES	Open	571.73	0.00	
17-00630	10/02/17	TOWNP	TOWN OF PHILLIPSBURG	2017 3RD QTR SEWAGE BILLING	Open	59,958.63	0.00	
17-00631	10/02/17	JCP&L	JCP&L	ELECTRICITY CHRGS SEP/OCT 2017	Open	893.84	0.00	
17-00632	10/02/17	TADDEO	FRANCESCO TADDEO, LLC	GEN LABOR MATTERS JUL-SEP 2017	Open	528.00	0.00	
17-00633	10/02/17	ALLIED	ALLIED OIL, LLC	93OCT PREMIUM NOLEAD GASOLINE	Open	455.08	0.00	
17-00635	10/03/17	TOWNP	TOWN OF PHILLIPSBURG	SHARED SERVICES--DONNA MESSINA	Open	2,731.07	0.00	
17-00636	10/03/17	EVOQUA	Evoqua water Technologies, LLC	BIOXIDE ODOR CONTROL	Open	5,160.06	0.00	
17-00638	10/03/17	QC	EUROFINS QC, INC.	WATER TESTING 9/7/17	Open	165.00	0.00	
17-00639	10/03/17	ALFIR	ALPHA VOLUNTEER FIRE CO	2017 FIREHOUSE EXPENSES	Open	15,061.42	0.00	
17-00640	10/04/17	STORR	STORR TRACTOR CO.	TRACTOR PARTS	Open	174.48	0.00	
17-00642	10/04/17	HOME	HOME DEPOT CREDIT SERVICES	LANDSCAPING--PARK/BENKE FIELD	Open	132.67	0.00	
17-00643	10/04/17	JEWELL	JEWELL COMPUTING SOLUTIONS LLC	COMPUTER SUPPORT SERVICES	Open	375.00	0.00	
17-00644	10/05/17	DRAKES	DRAKE'S	STAGE RENTAL FOR COMMUNITY DAY	Open	352.00	0.00	
17-00646	10/09/17	KYLEPLAN	KYLE PLANNING & DESIGN	COAH DECLATORY JUDGMENT ACTION	Open	9,730.00	0.00	
Total Purchase Orders: 22				Total P.O. Line Items: 0	Total List Amount: 114,481.39	Total Void Amount: 0.00		

Old Business;

Councilman Seiss pointed out that the Ordinance 2017-10 that regulates massage establishments requires an edit.

Councilman Cartabona asked about the bonfire activities for the month.

Councilman Seiss asked about the status of the shared services bids for police coverage.

New Business:

Mayor Dunwell polled council for the time that Halloween would be held on October 31. Councilwoman Grossman 6PM-8PM, Councilman Singleton 6PM-8PM, Councilman Pettinelli 5PM-8PM, Councilman Cartabona 5PM-8PM, Councilman Schwar 5PM-7PM, Councilman Seiss 5PM-7PM. Mayor Dunwell abstained. Councilman Cartabona changed his vote to 5PM-7PM.

Executive Session:

Councilman Cartabona made a motion to approve the following resolution to go back into executive session 45 minutes for contractual, litigation, and/or personnel. Motion seconded by Council Pettinelli, all were in favor.

EXECUTIVE SESSION RESOLUTION

WHEREAS, Section 8 of the Open Public Meetings Act, Chapter 231, P.L. 1975, permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist.

1. The public shall be excluded from discussion(s) of the hereinafter specified subject matter(s).
2. The general nature of the subject matter(s) to be discussed is: Personnel, Litigation and/or Contractual,
3. It is anticipated at this time, that the above stated subject matter(s) will be made public when it is no longer a matter of confidentiality.
4. Action may or may not be taken after executive session.

NOW THEREFORE BE IT RESOLVED, by the governing body of the Borough of Alpha that the public shall be excluded from an executive session for approximately 45 minutes, allowing for a five (5) minute recess between the regular session and the executive session.

Return to Regular Session:

Motion made by Councilman Seiss to return to the regular session, motion seconded by Councilman Cartabona, all were in favor.

Mayor Dunwell indicated that to pass Resolution 2017-137 the Governing Body Certification of the Annual Audit needs to be signed by each member of the Governing Body and notarized. Each member of the of the Governing Body provided their signature and Attorney Troxell notarized the documents.

Motion made by Councilman Seiss to remove from the table Resolution 2017-136 and Resolution 2017-137. Roll Call; Ayes; Cartabona, Grossman, Pettinelli, Schwar, Seiss and Singleton. Nays; None.

Motion made by Councilman Cartabona to approve Resolution 2017-136, motion seconded by Councilman Seiss. Roll Call; Ayes: Cartabona, Grossman, Pettinelli, Schwar, Seiss and Singleton. Nays; None.

**RESOLUTION 2017-136
RESOLUTION AWARDING A THREE-YEAR CONTRACT FOR THE LEASE OF PUBLIC
PROPERTY TO PENN BOWER**

WHEREAS, the Mayor and Council of the Borough of Alpha have determined that a certain portion of land within real property owned by the Borough of Alpha at/off Industrial Drive, Alpha, NJ known as block 99, lot 2 of the Borough of Alpha, may be leased to the highest bidder, pursuant to New Jersey law, as a tenant on site for the storage and transfer of materials per N.J.A.C. 7:26A-1.4 and for other use approved by the Borough; and

WHEREAS, the Mayor and Council of the Borough of Alpha have openly and publicly bid such lease, pursuant to New Jersey law; and

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Alpha, County of Warren, State of New Jersey, that the said lease for a tenancy at the site is hereby awarded to Penn-Bower, Inc. having bid Nineteen Thousand Eight Hundred Dollars and no 00/100 (\$19,800.00) for a three-year term (\$6,600.00 per year for three years).

BE IT FURTHER RESOLVED, that the Mayor, Clerk and/or Borough Attorney are authorized to execute all necessary documents to effectuate a lease of the said property.

Motion made by Councilman Seiss to approve Resolution 2017-137, motion seconded by Councilman Schwar. Roll Call; Ayes: Cartabona, Grossman, Pettinelli, Schwar and Seiss. Nays; None. Abstentions; Singleton

**RESOLUTION 2017-137
GOVERNING BODY CERTIFICATION OF THE ANNUAL AUDIT**

WHEREAS, N.J.S.A. 40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions, and

WHEREAS, the Annual Report of Audit for the year 2016 has been filed by a Registered Municipal Accountant with the Municipal Clerk's Office pursuant to N.J.S.A. 40A:5-6, and a copy has been received by each member of the governing body; and,

WHEREAS, R.S. 52:27BB-34 authorizes the Local Finance Board of the State of New Jersey to prescribe reports pertaining to the local fiscal affairs; and,

WHEREAS, the Local Finance Board has promulgated N.J.A.C. 5:30-6.5, a regulation requiring that the governing body of each municipality shall by resolution certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled "Comments and Recommendations, and,

WHEREAS, the members of the governing body have personally reviewed as a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled "Comments and Recommendations, as evidenced by the group affidavit form of the governing body attached hereto; and,

WHEREAS, such resolution of certification shall be adopted by the Governing Body no later than forty-five days after the receipt of the annual audit, pursuant to N.J.A.C. 5:30-6.5; and,

WHEREAS, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board, and

WHEREAS, failure to comply with the regulations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52, to wit:

R.S. 52:27BB-52: A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the Director of Local Government Services, under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.

NOW, THEREFORE BE IT RESOLVED, That the Mayor and Council of the Borough of Alpha hereby states that it has complied with N.J.A.C. 5:30-6.5 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

Adjournment:

Seeing no further business to come before Council, motion made by Councilwoman Singleton to adjourn this meeting at 11:34 PM , motion seconded by Councilman Pettinelli , all were in favor.

Respectfully submitted,

Donna L. Messina

Acting Borough Clerk