

## Mayor & Council Conference and Regular Meeting – August 14, 2018

The Conference and Regular meetings of the Mayor and Council of the Borough of North Caldwell were held on Tuesday, August 14, 2018 at the Borough Hall, Gould Avenue, North Caldwell, New Jersey and began at 6:32pm.

Roll Call indicated the following present:

Present: Council President Santomauro, Councilman Chiaia, Councilman Kessler, Councilman Raymond, Councilman Rees

Absent: Councilman Astorino

Also present were: Mr. David M. Paris, Esq., Borough Attorney; Frank Zichelli, Borough Administrator/Engineer; Mark Deuer, Police Chief; Rich Mondelli, Chief Financial Officer; and Tami Michelotti, Acting Borough Clerk.

Mayor Alessi called the meeting to order announcing that notice was provided in accordance with the requirements of Chapter 231, P.L. 1975.

Mayor Alessi asked Brett Friedensohn of The Progress Newspaper to lead the Pledge of Allegiance.

Mayor Alessi stated that the agenda order would be revised to accommodate the citizens in the audience so they could be heard without waiting through a long agenda of discussion items.

### **Citizens to be Heard**

#### **William Bolan - 27 Glenview Road**

Mr. Bolan, a resident of over 50 years, stated that he is concerned with construction at the end of Glenview Road which has deposited mud, dirt and silt in the neighborhood from recent rainstorms. He noted that tree removal began over eight months ago which has caused rain water to runoff into the neighborhood and road damage. Mr. Bolan stated his concern that contractors will not follow through with correction of the drainage problems.

Mayor Alessi stated that he visited the Glenview/Ferndale neighborhood both before and after the storm and that he immediately contacted Pulte Homes regarding the lack of drainage after the heavy rains on the evening of Saturday, August 11, 2018. He added that the New Jersey Soil Conservation Commission was also contacted. Mr. Zichelli noted that the Hudson/Essex/Passaic County Soil Conservation Service issued permits for the silt fence and runoff control at the site and that he has communicated with them regarding drainage issues throughout the construction. He announced that as of midnight that night, a stop-work order would take effect prohibiting Pulte from construction of homes. Mr. Zichelli added that he requested the stop-work order to be amended to include the construction of a detention basin which is an integral part to holding the water. Mr. Zichelli added that Pulte would have to extend the curb line on Hilltop Drive to catch water and feed it into the detention basin and hydro seed to stop soil from running down with water and blowing around when dry.

Mayor Alessi stated that he and Mr. Zichelli met with John Evans, Divisional President of Pulte Homes. He noted that Mr. Evans visited some homes on Ferndale Road to discuss and document the issues. Mayor Alessi announced that Pulte would be appointing a liaison as the point person to help residents. He added that Pulte would fix the swale and the berm.

Mr. Zichelli stated that some of the water issues on Ferndale Road are attributed to water rising up through the ground which he found surprising. He added that the only work that would be permitted is work related to erosion control and stormwater.

Mr. Bolan noted that the Hilltop property has a clay base which is not permeable. Mr. Zichelli stated that grass would help absorb the water and run to the swale toward the detention basin. Mr. Zichelli added that Pulte contact, Tony Rossi, would set up a customer service phone number with one point of contact for all North Caldwell residents. He stated that the number would be distributed to the residents and that the Borough should be contacted if the liaison is not responsive.

#### **Carmela Cannistraci – 17 Glenview Road**

Ms. Cannistraci stated that she wished to share history of the neighborhood and that she emailed photos to the Governing Body and Borough staff. Mayor Alessi interjected that any photos that residents wish to share are welcomed.

Ms. Cannistraci stated that her family has lived at the residence for over 41 years and that the property had encountered only minor flooding in the driveway during severe storms over that time. She stated that since the development began two years ago, flooding in the driveway had increased at which time she expressed her concerns regarding increased flooding that might come from further development of the Hilltop property. Ms. Cannistraci noted that the rainstorm and subsequent flooding from the past weekend's storm was unprecedented and caused her entire yard to flood for the first time ever. She noted that water surrounded her home and caused flooding in the basement and garage and resulted in mold and property damage.

Ms. Cannistraci noted that Tony Rossi from Pulte Homes came to the house and acknowledged that Pulte would help rectify the problems. She stated that it was her understanding that Pulte asked a fellow neighbor for a "release" which raised concern. Mayor Alessi stated that he would look into that as it was his understanding that there should be no such releases.

Ms. Cannistraci added that she was happy to learn that Pulte would establish a mechanism for compensation and that the Soil Conservation Commission would be addressing the issues. She stated her concern that the solution must be long-term as past development approvals did not contemplate or account for this type of flooding.

Mr. Zichelli noted that the storm was exceptional and that he was watching the weather forecast and the neighborhood through the weekend, both before and after the storm. He added that the site is most vulnerable once the land is stripped and trees are removed. He noted that silt fences are installed, however, the measures are not perfect and need maintenance. Mr. Zichelli noted the need for the installation of the detention basin and curbing. He referred to the Planning Board's review of the 35 acre site for development by Pulte and noted that over 100 acres of water runoff flows through the Glenview/Ferndale neighborhood. Mr. Zichelli stated that Pulte cannot solve 100% of the drainage problems running through the pipe under Glenview Road but that Pulte has committed to a plan that will result in a reduction in runoff. He added that the detention basin at the Four Seasons complex and the basin the middle of the site are not yet completed and that he has asked the Soil Conservation Commission to address it.

Mr. Zichelli stated that Pulte should install curbing and plant grass to prevent erosion while phase 2 of the construction is pending.

Ms. Cannistraci stated concern with the brook next to house as she noticed water runoff coming from behind her property and not just down Glenview. She added that she heard there may have been a recommendation back in the 1970's that the size of the culvert be expanded. Mr. Zichelli responded that an expansion can be considered and studied. He added that he analyzed the ditch last year and found the ditch to have a lower capacity than the pipe; therefore, a larger pipe would not be a sufficient solution. He added that the ditch would still be the bottleneck and that any improvement would need to include the expansion of the ditch from the end of the pipe up to the beginning of the ditch.

Mayor Alessi communicated the importance of this issue and his dedication and that of the Council to the town and its residents. He added his appreciation to residents who helped their neighbors and promised that the Governing Body would study the drainage and possible solutions.

Ms. Cannistraci stated that she found cracks in her walls and a slope on the second floor of her home since the blasting performed on the Pulte site. Council President Santomauro asked if a survey is required prior to blasting. Mr. Zichelli indicated that a survey is not required and was not performed. Ms. Cannistraci noted that she had not yet contacted Pulte about the blasting effects. She noted that she had a structural engineer review the issues who said it could be a result of settling. She added that she recently learned that other neighbors on the street had indicated similar problems over the past several months. Council President Santomauro suggested that Ms. Cannistraci mention the issues to the Pulte liaison. Mr. Zichelli also offered that Ms. Cannistraci complete a blasting complaint form that could be shared with the builder, the blasting contractor and State Division of Mines and Workplace Safety. Mr. Zichelli added that a State inspector was on site three or four times during the blasting and had been responsive.

Ms. Cannistraci asked if the blasting could have been the cause for a change in the water table and for the instability of her home. Mr. Paris recommended she complete the form so we can notify the State.

#### **Denise DeCaito – 29 Glenview Road**

Ms. DeCaito stated that she has lived in her home for 41 years which was new when she purchased it. She noted that she had a mudslide on July 3 which ruined her pool and compromised the wooden deck around the pool. She noted that she has no basement so water from the weekend's storm ran down

from the hilltop and deposited mud in her garage and permeated the family room. Ms. DeCaito stated that she is fearful to leave home when it rains.

Mayor Alessi noted that Pulte needs to speak with the residents on Glenview Road in addition to those on Ferndale Road. Mr. Zichelli stated that Mr. Rossi did visit Glenview and cleaned up around Ms. DeCaito's pool but it was before the most recent rain. Ms. DeCaito indicated that the cleanup was performed around the pool but not under the deck steps which still had mud. Mr. Zichelli stated that he contacted Mr. Rossi the day prior indicating he must return to complete the cleanup once the land dries out a bit.

Mayor Alessi offered Ms. DeCaito a complimentary membership to the town pool to allow her to take her grandchildren swimming while her pool is unusable. Ms. DeCaito declined.

**Sherri and Dan London - 108 Mountain Avenue**

Ms. London stated that she returned from vacation to find flooding in her back yard and water in her basement. She recognized Mr. Zichelli's responsiveness to her call for help and the response by the DPW to pump out her basement late that night.

Mr. London stated that he appeared before the Council approximately 25 years ago with a similar flooding issue. He noted that the Borough installed curbing, storm drains and other means of remediation at that time. He noted that the water flowing downhill toward his home crumbled a three foot concrete retaining wall he had installed to hold back flood water. Mr. London added that his neighbor on Hill Street subsequently installed a berm on the opposite side of his retaining wall to hold back flood water. Mr. London stated that he also installed a storm drainage system with a seven foot deep pit and pump in his back yard to prevent water from entering his garage and basement. Mr. London stated that he, the Borough, and his neighbor took steps to avoid drainage issues.

Mr. London stated that plans for the Hilltop development seemed sufficient but he wants assurance that the paved-over land will absorb and channel water to the catch basins. He asked for assurance that the remediation steps prior to Phase 2 construction will be sufficient and not impact his property. He stated that there were two feet of water in his basement and garage causing damage to a vehicle.

Mr. London asked for close review of remediation plans and soil conservation recommendations as well as assurance that water runoff won't happen again. He noted the physical and material damage as well as the psychological damage that are a result of the lapse in prevention.

Council President Santomauro stated her shock regarding the damage from the storm in several parts of town. She stated her faith in Mr. Zichelli to oversee the investigation and that the Council would address the issues. Mayor Alessi announced additional bulk trash collections for flood-related items. Mr. London expressed his appreciation for friends and neighbors who helped them clean out and prepare meals.

Mrs. London inquired about Governor Murphy's State of Emergency declaration for Essex County and the length of time to get remediation and repairs. Mayor Alessi stated that he contacted Governor Murphy and County Executive DiVincenzo requesting the declaration. Mr. Zichelli added that the County and Local Offices of Emergency Management would estimate property damage to the municipality and to personal property and compile an assessment of financial need. He added that FEMA may visit the area to assess the need for funding.

**Ken and Barbara Barth – 37 White Oak Drive**

Mr. Barth stated that he lives near Acorn Road and has lived in his house for 20 years. He stated that this storm caused more damage than Hurricane Floyd. He noted that he lives next to a brook which spilled over across Brookside Terrace, down Acorn Road and around the turn onto White Oak Drive. He stated that he had a foot of water in his basement but did not receive a visit from the Borough. Mayor Alessi stated that he and Borough representatives visited as many affected homes as possible. Mrs. Barth noted that she met the Mayor at a neighbor's home that weekend.

Mrs. Barth stated her concern that the brook cannot handle the storm runoff. She added that she raised the issue 15 years ago at a Council meeting because the brook is not a natural brook but rather a storm depository which can no longer accommodate the runoff. She added that storm drains are clogged and there are limbs near the brook that disrupt the flow of water. Mrs. Barth noted that the brook is a six foot drop on her side so it did not overflow from volume but because debris clogs the passage of water.

Mr. Zichelli stated that the DPW is in the process of cleaning catch basins throughout town and that the Borough cannot simply dig to enlarge the brook without an improvement study and plan. He

acknowledged that people dump with no regard for the affects downstream. Mr. Barth added that the logs in the brook look to be intentionally cut and dumped and not a result of fallen branches.

Mrs. Barth suggested Reverse 911 alerts to notify residents who are out of town of any emergencies. Chief Deuer noted that the flooding happened so fast that the Police Department, although not understaffed, was not staffed enough to deal with such an emergency. He added that the complexity of the Reverse 911 system would have left him further strained for staffing that was needed for rescues. Mr. Zichelli stated that extra help was brought in to help Dispatch with the volume of calls.

Mayor Alessi agreed to have a drainage study performed. Mr. Barth stated his opinion that the Hilltop construction is directly responsible for the damage in his neighborhood. Mr. Zichelli noted that the Barth's property is outside of the Pulte drainage area of responsibility. Mayor Alessi suggested that the Barths and all residents record their expenses in the event that FEMA relief is offered. Mr. Zichelli added that the Governor toured nearby areas with a focus on personal property.

Councilman Chiaia thanked Mr. and Mrs. Barth and the other residents in attendance for explaining the scope of the issues. He asked if it was anyone's experience that water infiltrated North Caldwell properties from neighboring towns such as Cedar Grove. Mr. Zichelli stated that much of the water runoff that affected the Barth's neighborhood near White Oak Drive and Acorn Place starts in Cedar Grove.

Councilman Chiaia suggested that Essex County engineers be consulted regarding a cross-town solution so the financial burden of a solution would not rest solely upon North Caldwell. Mayor Alessi added that he and Councilman Chiaia are members of the Essex County Planning Board and they can request help from the County Engineer.

#### **Paul Holland - 43 Ferndale Road**

Mr. Holland stated that he experienced no flooding on his property. He stated that his opinion is that the Hilltop is overdeveloped. He added that he attended Planning Board meetings regarding the Hilltop development and believes that plans approved by the Environmental Protection Agency and by the Borough have not been followed. Mr. Holland asked to obtain copies of the construction plans to review for compliance with Planning Board approvals.

Mr. Holland added that he feels the development plans are insufficient. He noted that a berm was removed, the land was elevated by 20 to 30 feet in some areas and that all trees were removed. He stated that proper drainage should have been the first step in the development process. Mr. Holland stated that he was pleased to hear of the stop-work order but inquired as to what would justify a release of the order. Mr. Zichelli indicated Pulte was provided a list of corrections that were required in order for the Soil Conservation Service to release the stop-work order. He offered to make the list available to residents.

Mr. Holland stated that he is concerned with the decline of property values after the development is completed by Pulte and that he is concerned about future water damage for his neighbors. He noted that he appreciates the steps that the Borough has taken to help but that he wants to know when Pulte is permitted to build, who signs off on the release, that plans are adhered to, and that plans are sufficient.

Councilman Rees asked Mr. Zichelli to explain the retention basin in Verona at the top of the Hilltop property. Mr. Zichelli stated that the Verona recharge basin serves to detain water. Councilman Rees asked to obtain assurance from Verona that the basin is maintained and working as it should. Councilman Rees also inquired about the size of the pipe that extends under Glenview Road and suggested that Pulte could extend the pipe to the backyards of houses. Mr. Zichelli suggested that the pipe not be extended until after a drainage study is performed. Councilman Rees noted that the pipe would allow the water to be carried out of the woods that currently collects debris. He also suggested that the Borough obtain copies of previous inspections performed by the soil conservation service. He added that a timeline of Pulte's implementation of the water retention system is imperative or else the Borough should freeze their permits. Mr. Zichelli stated that the berm behind Ferndale Road is nearly completed except for seeding and grading to move water to the detention basin near Four Seasons, however, the area north of the berm is not yet complete.

#### **Richard Verde – 8 Hickory Drive**

Mr. Verde stated that the timing of the rain events over the last two weeks is unfortunate for the residents of the Ferndale Avenue neighborhood and for all citizens in the town. He stated he noticed muddy water running down Forest Avenue in West Caldwell on Friday, the day before the significant

rainfall. He added that the three or four homes at the top of Ferndale that flooded were from undeveloped land that has no trees or drainage. Mr. Verde stated that the flooding devastated residents. He added that he did not know the Hilltop was being developed. He stated that meetings should be broadcast on television so that every resident can know what is going on in town as well as in neighboring towns.

Mr. Verde stated that he learned of Pulte Homes' lawsuit against the Borough filed in Federal District Court and that he shared the filing with other residents in town.

Mr. Verde stated that his property suffered no water damage from the storm but that he watched the rain and measured it at five inches in one hour. He stated he was unaware of what damage was suffered by others in town until after the weekend. Mr. Verde stated that government should not allow 62 homes to be built on land without drainage. He added that the infrastructure of the town has not been addressed in a long time. He stated that the flooding event was like a "9-11" event to the Borough and to the region.

**Maureen and John Zurlo – 19 Glenview Road**

Mr. Zurlo thanked members of the Council, Chief Deuer, the DPW, friends, neighbors and the trash collectors for all taking part in helping them during and after the flooding which filled his new pool with mud, tore out a new fence and flooded his basement. He stated his concern with making changes so a similar event does not happen again. He asked that a formal assessment of the pipe under Glenview Road be completed to allow for adequate water flow through the pipe instead of above and around the pipe as occurred during the storm.

Mr. Zurlo noted that he attended the Planning Board meetings regarding the Hilltop development at which retention basins were discussed to capture water running downhill both during and after construction. He stated that K. Hovnanian engineer assured them that three basins were sound from an engineering perspective and that less water would be in the brook next to his house than in the past.

Mr. Zurlo added that there has been brown muddy water in the brook for months. He requested that the work on retention basins be completed before any additional construction work on homes is done. He stated that he hopes that the Borough will pursue preventative measures for when Pulte has completed the development. Mrs. Zurlo offered photos of their property. Mr. Zurlo noted that the photos were taken after the peak of the flooding.

**Don Foti – 18 Ferndale Road**

Mr. Foti stated that he lives at the southernmost house on the Ferndale hill next to Four Seasons. He thanked Mayor Alessi for his visit and to the Council and Borough employees for their response. He inquired if the retention basin behind his home is complete. Mr. Zichelli confirmed that basin #1 is almost complete and is essentially functional. Mr. Foti stated that he watched the water flow through three chambers that seem to slow down the flow. Mr. Zichelli stated that he spoke with Four Seasons management and noted that the basin did not overflow. Mr. Foti presented a photo of the first chamber that could not handle the pressure of water even after the rain had stopped. He noted that he is concerned with the potential of clogs in the swale underneath the basin. Mr. Zichelli responded that there will be a maintenance plan with the Homeowners' Association of Four Seasons and Pulte requiring State regulated inspections and approvals. Mr. Zichelli added that he will look at the swale and the basin as the photos Mr. Foti presented to indicate a potential clog.

Mr. Foti mentioned concern for the sharp grade between the walk-out basements of the Pulte homes to the rear of his home for which the only barrier is a two foot high berm leading to a basement. He asked if the residents could obtain flood insurance through Pulte or a bond or other financial assurance. He noted that residents also suffered property damage and disruption from the Four Seasons development.

Councilman Rees asked Mr. Zichelli about roof runoff from the existing Pulte homes. Mr. Zichelli explained that the runoff from the homes under construction drain through the swale into the existing detention basin near the Four Seasons. He added that no existing homes drain toward detention basin #2. Councilman Rees stated that he did not recall the roof runoff from the homes being included in the plans. Mr. Zichelli said it would flow into the swale and then to the detention basin near the Four Seasons. He added that Pulte is not required to have individual seepage pits for each home on a development like this. He noted that such a development instead builds detention basins at a size to handle all the roof runoff. Mr. Zichelli confirmed that the detention basins were designed with the maximum coverage of each lot and were included in the proposed plans.

Councilman Chiaia asked if the detention basins at the Hilltop property were designed to handle a storm like this or if they are inadequate. Mr. Zichelli noted that storms can be measured by volume and intensity with this storm bringing significant rainfall but greater intensity. He noted that the detention basin at Mountain and Arbor Roads was not full and the detention basin at Four Seasons was full but did not overflow. He added that those basins that were designed and built for 100 year storms are holding the water. Councilman Rees noted that the problem at the Hilltop is that the drainage system is not yet finished. Councilman Chiaia inquired about the neighborhood flooding near Acorn Road. Mr. Zichelli responded that the Acorn Road area suffers from an existing system with old infrastructure that is being overtaxed by current needs.

**Paul Scagnelli – 7 Stoney Brook Drive**

Mr. Scagnelli stated that he is a licensed civil engineer and contractor and knows that the first step is to build all drainage structures first. He added that he feels the town is overdeveloped and the pipe under Glenview Road is undersized. He noted that a town with so many hills needs a town-wide drainage study to protect its residents and their investments and that it should be the responsibility of the Borough to pay for a study and the improvements of basins and pipes. Mr. Scagnelli stated that FEMA funding is typically in the form of loans. Mr. Zichelli stated that FEMA does provide grants as well as loans. Mayor Alessi committed to performing a drainage study.

Council President Santomauro stated that she is a 32 year resident and would have tried to stop overdevelopment if it was possible. She explained that the Hilltop property development was decided upon before the Borough became involved. She noted that K. Hovnanian purchased the property from Essex County and wanted to build 240 townhouses on the property which the Borough fought against through litigation. She added that the Borough tried to limit development to the extent that was legally permitted. Council President Santomauro added that the Borough purchased the Walker property so that it couldn't be developed. She added that all residents are affected by development. Mr. Scagnelli stated that drainage was not an issue 40 years ago. He stated that he feels the town is overdeveloped in the sense of drainage capability.

Council President Santomauro added that another step to limiting overdevelopment is the Borough's strict ordinance regarding impervious coverage which is set at a maximum of 30%. She noted that the Council and Borough staff participates in storm drainage education courses to keep apprised as well.

Mr. Scagnelli added that the Pulte property has a clay base which is not impervious.

Mayor Alessi reiterated that this issue is extremely important to him, the Council and the Borough.

**Brian Donnelly – 50 Ferndale Road**

Mr. Donnelly stated that he moved to town six years ago and never had an issue with water until the blasting a few months prior. He stated that there is no proper drainage evidenced by a river those flows through his back yard. He added that the developers cleared 30 acres of land of trees.

Council President Santomauro stated that the Borough cannot control developers. Mayor Alessi stated that the Borough cannot stop development but the Governing Body makes attempts to insist on drainage plans and ensure the developers comply with requirements.

Mr. Donnelly stated that he has had water issues ever since the Hilltop development started and that his emails to Pulte have gone unanswered. Mr. Zichelli asked Mr. Donnelly to contact him directly and share past correspondence with him.

Mr. Donnelly stated that the Borough Council should protect the residents or step down from office. Mayor Alessi assured Mr. Donnelly that he and the Council take their elected office seriously and are committed to the town and the residents.

Councilman Rees asked Mr. Zichelli if the issues can be attributed to more than surface water, noting that blasting could have caused fissures in the rock. Mr. Zichelli stated that he investigated water issues at some of the properties on Ferndale which have water rise up from the ground. Mr. Zichelli brought the issue to the attention of an engineer at Pulte two weeks prior showing that it was not overland flow. He added that the water was brown which Pulte recognized as coming from their site. Pulte committed to performing test digs to identify causes under the surface.

**Mr. Paul Holland** approached the Council with an addition to his testimony. He stated that he built his house and knows the ground to be red clay on top of rock. He stated that he believes the blasting on the Hilltop opened underground channels through which water flows.

Councilman Rees asked Mr. Zichelli for a summary and timeline of next steps. Mr. Zichelli stated that the Site Supervisor, Tony Rossi, planned to meet with Pulte Homes' Divisional President the next day. Mr. Zichelli anticipated the customer service call-in number for residents to contact a consistent Pulte representative by the end of the week through which residents can submit information on their damage, insurance, etc.

Mayor Alessi noted that the Borough has a clear and open line of communication with Pulte and that he is committed to performing the drainage study which will identify any additional areas of concern.

**Dan Gallagher – 36 Ferndale Road**

Mr. Gallagher expressed his thanks and appreciation to the Mayor and Council for their service and to the Borough, especially Mayor Alessi and the DPW, for their problem-solving and help filling sandbags for the neighborhood residents. He stated that all of the issues raised that evening had been raised and addressed at the Planning Board hearings on the Hilltop development. He added that it was his understanding that all drainage systems would be in place and inspected before any home construction would begin.

Mr. Gallagher referenced a neighbor's flooding issues from a few weeks prior, noting that the past weekend's storm was unusual but not isolated. He added that Pulte has made attempts to correct the problems and seemed surprised that the corrections were not effective. Mr. Gallagher thanked Mr. Zichelli for recognizing that underground fissures may be a possible source of water rising from underground.

Mr. Gallagher suggested that the westerly side of Basin #1 which is a long slope needs a swale to lead water away from the rear yards on Ferndale. Mr. Zichelli stated he would look at it. Mr. Gallagher added that despite assurances from the County to build on the current topography and limit development to only what is necessary, houses are being constructed on significantly raised land. He estimated that the land has been raised eight to twelve feet in some areas where Ferndale residents who used to view the roof of the four-story jail now see the basements of three-story homes.

Mr. Gallagher asked for the impervious coverage permitted for the development. Mr. Zichelli stated that 35% impervious coverage is permitted for which a variance was not required for this zone. He noted that Pulte is building smaller homes than those approved for K. Hovnanian so there may be a smaller impervious coverage percentage as a result. Mr. Gallagher stated that Pulte blasted the land at the top of the hill and transferred the fill to the bottom of the property to construct homes at a higher elevation. He noted that the fill was compressed and proper drainage was not installed.

Mr. Gallagher asked the Council to review Pulte's plans and requests again. Councilman Chiaia noted that the development plans were heard and approved by the Planning Board and not by the Mayor and Council. He recalled visiting with Mr. Gallagher with Mayor Alessi and Council President Santomauro a year prior at which time they did not make promises regarding home elevations or heights as they had already been approved by the Planning Board. Councilman Chiaia added that the recent storm made the Borough aware of areas of weak drainage and that the Council will act responsibly. He assured Mr. Gallagher that all residents' opinions and information are welcomed. Mr. Gallagher stated his appreciation to the Council for their service to the town. He added that he raised his concerns to the Mayor and Council prior to the development and was referred to the Planning Board.

Mr. Gallagher stated that if the berm had been installed as per the plans, the overland water would have run into the berm and out to the basin. He added that the berm was not continued as per the plans. He added that a count of trees removed should have been logged and kept to a maximum number. Council President Santomauro explained that the Governing Body does not have control over the Planning Board or the Zoning Board which function independently of the Council within the structure of the law. Mayor Alessi welcomed Mr. Gallagher and the public to attend combination meetings of the Planning Board, Zoning Board and Council in the future.

Councilman Chiaia asked if Mr. Gallagher is concerned with policing of the site which is the responsibility of the Construction Official who ensures that construction is performed according to plans approved by the Planning Board. Mr. Gallagher agreed and added that better coordination in advance of the building was needed. Mr. Gallagher thanked Mr. Zichelli for his hard work and responsiveness to every resident.

Mr. Gallagher noted that although only six trees were identified for removal for the installation of a new wall near the Doyle's property on Glenview Road to prevent the overflow, all the trees in the area were removed. He added that trees were removed behind Ferndale Road that were within 50 feet of the properties. Mr. Zichelli stated that some trees were removed from the buffer zone for the installation of

drainage measures such as a berm and swale. He added that fill was needed in that area to pitch the water toward the Four Seasons but that there is a landscape plan to restore it. Mr. Gallagher added that retaining walls of 26 feet and 22 feet are needed because homes are sitting on land that been built up.

**Donna Honovic – 17 Bloomfield Avenue**

Ms. Honovic stated that she was present to address the discussion of the Horseneck Tavern. Mayor Alessi offered Ms. Honovic the opportunity to speak at that time or wait for the discussion of Horseneck Tavern's application for and Extension of Premises to follow. Ms. Honovic chose to wait to hear testimony by Horseneck Tavern representatives before addressing the Council.

Mayor Alessi asked if there were any other citizens to be heard. Upon hearing none, Mayor Alessi thanked everyone for attending the meeting and called for a brief recess at 8:45pm.

Mayor Alessi called the meeting back on the record at 8:58pm.

**Items for Discussion**

**Dezi's/Horseneck Tavern Extension of Premises Application and Annual Liquor License Renewal**

Councilman Rees recused himself from the discussion as he owns a property within 200 feet of the tavern.

Mr. Robert C. Williams, Esq. stated he was present on behalf of the Applicant, Dezi's Hospitality, L.L.C. at 11 Bloomfield Avenue along with his client, James Faloni. Mr. Williams stated that his client filed for and expansion of premises in 2016 which was granted. He added that this additional application is further described on the plan submitted to the Clerk and clarifies proposed seating on the front sidewalk. He noted that the Application has been approved by the landlord.

Mayor Alessi asked for a recess at 9:00pm to allow Chief Deuer and Borough Administrator Zichelli to tend to a medical emergency in front of Borough Hall.

Mayor Alessi called the meeting back on the record at 9:05pm and apologized to Mr. Williams for the interruption.

Mr. Williams stated that subsequent to filing the extension application, he received a letter from the Borough Clerk requesting his appearance to answer any outstanding questions. Mr. Williams stated that his client filed for the annual liquor license renewal and paid the fees but the renewal was not granted. He noted that his client has been operating on an Ad Interim permit which expires at the end of August.

Mr. Williams referred to the 2016 extension of premises application which was approved by resolution of the Governing Body. He added that the plan provided to his office incorrectly depicted the length of the extension as 23 feet instead of the actual length of 33 feet. Mr. Williams added that it was error made by the draftsman of the plan so his client is asking for permission for the extension of the additional ten feet currently there. He stated that they are also asking permission for seating on the front sidewalk as permitted by the landlord to allow for passage of people walking between the building and the tables. Mr. Williams noted that most of the front sidewalk activity would be in the evenings after the other shops in the mall would be closed and that no changes to the inside of the tavern are being proposed.

Council President Santomauro stated that the current structure was built longer than the plans indicated as submitted in 2016. She added that she was not in favor of the extension of premises at 23 feet and asked for confirmation that the applicant is seeking permission for the extended area that has already been built. Mr. Williams stated that he advised his client to ask for the additional ten feet when he realized the error on the drawing.

Council President Santomauro reviewed the history of the liquor license. She stated that the original plans were to provide eight to ten seats at the bar for customers to wait for dinner seating in the restaurant. She added that there is now table seating in the bar area but since it remains indoors, it does not impose too great of a noise impact for the neighbors. Council President Santomauro added that the area residents were living in the area before the restaurant was opened and that they have been bothered by the noise that outdoor dining brings. She stated her concern that another expansion of service in an outdoor area will bring more noise complaints. She noted that she feels conflicted between helping a local business be successful and allowing the expansion of outdoor service and the associated noise. She added that she is reluctant to approve the additional 10 feet of outdoor space

that has already been built but recommended that the Borough not permit the expansion of the outdoor, non-enclosed sidewalk area that would promulgate more noise.

Council President asked the Applicant to address the speakers in the side expansion under the tent and if additional speakers were installed recently. Mr. Faloni stated that speakers have been in the tented area for the last three years since the tavern opened but they are not used and had been turned off approximately 1-1/2 years ago when noise complaints were received. Mr. Faloni added that the confusion may be from the recent installation of sprinkler heads in the tented area which were inspected by the Building Official that day. Mr. Faloni added that live music does get loud at times and that he has called the County to come for periodic decibel readings which have always produced results under the maximum. He added that they have been closing the front doors at 10:00pm to keep the noise inside during the later hours.

Mayor Alessi asked Mr. Faloni to describe the location of the speakers. Mr. Faloni stated that speakers were installed in the side patio area under the awning but they have not been used. Mr. Faloni offered to disconnect the speakers and Mr. Williams offered to make the disconnection a stipulation in the resolution.

Chief Deuer stated that the Police Department tries to help find a balance between the entertainment at the tavern and the noise complaints of the neighbors. He noted that complaints have decreased since he explained the noise issues to the staff in the Spring at a staff meeting. He added that they discussed moving the live music and speakers to the rear of the restaurant. Chief Deuer stated that his patrol staff has indicated that the doors have been closed during the later evening hours. He added that his staff will continue to address complaints as they arise.

Councilman Chiaia asked for clarification of the patio and if the awning that was installed in 2016 was 33 feet or 23 feet. Mr. Faloni stated that the awning area was 33 feet. Council President Santomauro stated that the original outdoor patio dining area was shorter than 33 feet. Mr. Faloni clarified that the original outdoor patio space was smaller before the awning was installed. He added that original awning installed was 33 feet, which subsequently collapsed after a snow storm, was the same size as the awning currently in place. Mr. Chiaia asked about the potential for the awning to collapse again from snow. Mr. Faloni stated that a structural engineer was contracted to build a stronger awning. He confirmed that the current structure is no larger than the structure that collapsed.

Councilman Chiaia asked about the sidewalk service area and if the design allowed for foot traffic. Mr. Williams stated that 4-1/2 feet were reserved for walking between the tables and the building. Councilman Chiaia asked about the times of the year and day during which outdoor service would be offered. Mr. Faloni estimated the months of April through October as being warm enough for outdoor service and stated the closing time of 11:00pm during the week but offered a 10:00pm end time for outdoor service. Councilman Chiaia asked if alcoholic beverages were being served there now. Mr. Williams stated that they are not permitted to serve alcoholic beverages on the sidewalk now.

Councilman Kessler asked Chief Deuer if there were any safety concerns regarding the service on the front sidewalk. Chief Deuer stated he could not speak to fire code but that he would review the space between the tables and the building to ensure enough room for egress in case of emergencies. Mr. Paris asked if the tables were currently on the front sidewalk. Mr. Faloni stated that the restaurant staff pulls the tables out onto the sidewalk every day. Chief Deuer stated that the issue at hand is the service of liquor outside of the facility which must be approved by permit.

Mayor Alessi asked Chief Deuer if noise complaints have specifically mentioned the outdoor front tables. Chief Deuer stated that complaints have not been specific to certain areas of the restaurant. He added that there are typically general noise complaints to which the Police Department responds each time. Chief Deuer noted that decibel levels have been measured and none were found to be over the permitted levels. Councilman Chiaia stated that the tables on the sidewalk at Horseneck Tavern are within private property unlike many restaurants who offer outdoor dining on public sidewalks. He added that the tables should be moved away from the handicap entrance to the sidewalk. Mr. Faloni stated they would have six tables on the sidewalk. Councilman Chiaia noted that the Borough and the New Jersey Alcoholic Beverage Control would have more control over the outdoor area through the provisions of an extension of the liquor license. Mr. Williams agreed that a maximum of six tables on the front sidewalk positioned to keep the handicap access area free of tables was reasonable. Mr. Faloni stated that there is currently a sign and a rope in place to prohibit patrons from drinking out on the sidewalk.

**Donna Honovic – 17 Bloomfield Avenue**

Ms. Honovic offered photos of the tavern to the Council. She stated that the first photo depicts the sidewalk area with tables that encroach on the handicap area and prevent passage through to the other businesses in the mall. She added that Horseneck Tavern is serving alcohol at the sidewalk tables and have been for the past several years. She added that she never knew that it was not permitted. Ms. Honovic stated her opinion that the tavern has pushed the limits of noise in the patio area and of service on the sidewalk.

Ms. Honovic described the second photo as depicting the installation of a new speaker. Mr. Faloni stated that there was not a new speaker installed. Mr. Faloni offered to take the speakers down. Ms. Honovic added that there are heating units in the patio area which lead her to believe the space would be used all year and not just seasonally. Mr. Williams stated that testimony regarding seasonal outdoor use was specific to the front sidewalk area and not to the patio area under the awning. He stated that the intention of the enclosed area is for use throughout most of the year. Mr. Williams confirmed that the heaters would not be used on the front sidewalk. Ms. Honovic noted that the side panels of the awning are removed at times as depicted in another photo which allows for noise to escape.

**Mark Espino – 20 Elm Road**

Mr. Espino stated that the awning walls do not contain any noise from the patrons or the music. He noted that the band is set up on the interior of the tavern but along the sidewalk area.

Ms. Honovic referred to photos that depict a band performing on the sidewalk at the opened front doors. She presented a video with audio taken on her cellular phone from the Jola Coffee parking lot at 11:22pm on Friday, June 15, 2018. She explained that the video depicts noise of patrons talking loud and a band set up on the front sidewalk at the open doors in the bar area. Ms. Honovic added that the noise levels have improved when the doors have been closed during the hot and rainy weather. Mr. Williams stated that the volume can be manipulated on a cellular phone and should not be considered to be representative of the noise heard from Ms. Honovic's property. Councilman Raymond noted that the microphone was able to pick up the noise from a distance but that readings have not been over the permitted decibel level.

Chief Deuer noted that the discussion of permitting alcoholic beverage service is separate from the discussion of noise emanating from the property. He stated that he addressed the noise issues with the staff and that complaints have decreased since then. Mr. Espino added that noise is currently a significant problem and that allowing drinking of alcoholic beverages outdoors on the front sidewalk will make the noise levels worse.

Mr. Williams stated that his client wants to cooperate and that they don't want to give the neighbors reason to complain. He offered to remove the speakers in the patio area, keep the noise below decibel limits and address the issues with the staff again. Mr. Faloni added that the County noise inspections have all produced results within limits but that he will continue to address noise issues. Mayor Alessi asked if the doors are always kept open allowing the sound to disperse. Mr. Faloni explained that the double doors are kept open to the sidewalk during certain times and weather but that the door between the bar and the patio must be kept open for wait service.

Councilman Raymond summarized that the question at hand is the licensing of alcoholic beverage service in the additional ten feet of patio space under the awning and on the front sidewalk. He added that the service of food in those areas, assuming there are no fire or safety hazards, is already permitted. He added the potential of increased noise with the expansion of liquor service should be considered. Ms. Honovic stated that extending the liquor service to the front sidewalk will bring more people and more noise. She added that there have only been three or four tables outside to date but the Applicant is asking for more tables as well as permission to serve alcohol.

Mr. Williams stated that his client will agree to reduce the number of tables from the eight tables depicted on the map to six tables to clear the handicap accessible area. Council President Santomauro asked that the seating at the sidewalk tables be limited to two persons per table. Mr. Williams offered that his client will agree to close the doors to the front sidewalk at 10:00pm.

Councilman Kessler asked if the band could be relocated to the rear of the restaurant to minimize the noise escaping out of the open front doors. Mr. Faloni stated that he would look into that option.

Mr. Williams stated that the seating at the front of the building is not currently licensed for liquor service and, therefore, is not subject to Borough or ABC jurisdiction. He continued that permitting alcoholic consumption in that area through an extension of premises license would give the Borough

and ABC control over the establishment. Mr. Williams noted that only two residents appeared with complaints but that all noise tests have shown that the levels are compliant. He added that closing the front doors at 10:00pm and keeping the band inside will reduce the noise.

Chief Deuer stated that although Horseneck Tavern is in decibel level compliance, the frequency of noise disturbances has become a nuisance to the neighbors so a moral solution is needed. Mr. Williams noted that his client has had no ABC complaints since opening in 2014, there has been no disruptive behavior and that the tavern would like to offer its clientele seasonal outdoor eating to enhance the business. He added that he and his client have traveled to Trenton twice and incurred significant additional expenses for ad interim permits while awaiting the Governing Body's decision to renew the annual license. Mr. Williams asked for the Council to renew the license and offered to make changes to the expansion application including removal of two of the eight proposed sidewalk tables and closure of doors at 10:00pm. He added that the Borough would have jurisdiction over legitimate complaints if the proposed areas of expansion are granted a license. Councilman Chiaia added that the sidewalk tables would need for two-person seating and not four-person seating for crowd control. Mr. Williams and Mr. Faloni agreed to only set up two-top tables as shown in the application drawing.

Councilman Chiaia summarized that the Applicant would agree to control noise by maintaining two person tables on the sidewalk, close the doors at 10:00pm and remove the speakers in the awning patio area.

Mayor Alessi announced that the Council would consider the resolutions for the annual license renewal and the expansion of premises application out of order of the agenda to accommodate the Applicant who had been present during the lengthy combined meeting. Mr. Paris confirmed that the time of evening, being past 10:00pm, justified adequate notice to the public concerning the resolutions on the agenda.

Mr. Paris noted that the resolution for the annual liquor license renewal should be considered regarding the 23 foot area on the side of the building. He added that the additional ten foot area should be considered in the resolution for the extension of premises.

Resolution R-162-18 A Resolution Authorizing the Renewal of Liquor License #0715-33-003-002 to Dezi's Hospitality, L.L.C. was read. Councilman Raymond stated that discussion with the Applicant and Counsel and the public regarding the license renewal. He made a motion to renew the liquor license as stated in the resolution, seconded by Councilman Kessler. Said motion was carried unanimously with four votes. Councilman Rees had recused himself from the discussion and was therefore absent.

Resolution R-161-18 A Resolution for Place-to-Place Transfer (Extension of Premises) for Dezi's Hospitality, L.L.C. was read. Councilman Raymond moved to approve the resolution with the following modifications:

- Approval of the expansion of the patio area to 33 feet.
- Prohibit service of alcohol on the front sidewalk.
- Require the removal of the speakers in the patio area under the awning.
- Require the closure of the westernmost front-facing ancillary doors after 10:00pm.
- Require the closure of the panels of the awning on the patio after 10:00pm.

Councilman Chiaia stated his approval of allowing alcoholic beverages to be served on the front sidewalk during limited seasons as the Applicant agreed to limit the number of tables to six and the number of persons per table to two. He added that licensing the front area would allow the Borough better noise control. Councilman Raymond stated he would not modify his motion to permit alcoholic beverage service on the front sidewalk. The motion was seconded by Council President Santomauro.

Councilman Raymond stated that his motion is a compromise between the Applicant and the residents by deterring the noise that would be generated by people coming out to the front of building if they were permitted on the front sidewalk with alcoholic beverages. He added that he wishes to address the neighborhood residents' concerns and allow the Applicant to continue its thriving business.

Councilman Kessler noted that licensing the front sidewalk would allow the Borough to limit noise with only six tables with two persons per table as opposed to not licensing the area and having no control over the number of people at each table. Councilman Chiaia stated that it would be inconsistent to not serve alcohol at the sidewalk tables to patrons who want to sit outside at an establishment that has a liquor license. He added that the Borough would have no control over the number of tables and people on the front sidewalk without licensing the area. He noted that best way to control the noise is to limit the number of people outside. Councilman Chiaia noted that the Applicant has agreed to other

concessions requested by the Council and that granting the extension of premises to the front sidewalk would be an act of good faith. Council President Santomauro stated that she was already uncomfortable with the additional ten feet of service area on the patio that was already in use and that she did not feel the additional service area of the front sidewalk is necessary.

Mayor Alessi called for a vote on the motion unless there was any further discussion. Councilman Chiaia asked if the motion could be revised to include approval of the front sidewalk. Councilman Raymond stated he would not revise the motion and called for a vote. A roll call vote was taken and said motion was carried unanimously with four votes. Councilman Rees had recused himself from the discussion and was therefore absent. Mr. Paris stated that he would make revisions to the resolution to reflect the changes and stipulations set forth in the discussion.

Mr. Williams asked if the liquor license renewal could be obtained the next day. The Governing Body confirmed the renewal would be processed and prepared the following day. The Applicant thanked the Mayor and Council.

#### **Property Revaluation**

Council President Santomauro stated that the Borough Tax Assessor explained that Essex County would like the Borough to perform a ten year revaluation. She noted that the development and the potential devaluation of flood-affected homes justify a request for a one year extension of the revaluation. She added that Mr. Librizzi will work with Mr. Paris to prepare a letter to the County Board of Taxation requesting the extension.

#### **NJSPCA Animal Cruelty Officer Appointment**

Chief Deuer stated that the State removed the SPCA Police Department and that each municipality must appoint a police officer as an animal cruelty officer to work with the local Animal Control unit. He added that the individual would only be responsible for cases of animal cruelty and dog fighting. He stated that he will assign an officer who would receive training.

#### **Suburban Engineering Construction Management Services – Liberty Field Project**

Mr. Zichelli stated that he received a proposal from Suburban Engineering with hourly rates for services related to the construction of the turf field such as shop drawing review, some site visits and interpretation of plans and specs as needed.

#### **Landscaper Licensing**

Mr. Paris stated that a landscaper raised the issue of the State licensing of landscapers as home contractors which should supersede municipal licensing. He noted that if a landscaper is licensed by the State as a home contractor, they should be exempt from the Borough landscaper license ordinance. Mr. Paris suggested that the Borough stop enforcement of the landscaper license ordinance and rework the language to reflect that only those landscapers without a State home contractor license need to be licensed through the Borough.

Chief Deuer added that it is difficult to check the permits and registrations which is why other municipalities have abandoned similar ordinances. Mr. Paris stated that he could prepare an ordinance to repeal the landscaper license ordinance for the next meeting. Councilman Chiaia asked to first review the issue with the Public Safety Committee. He noted the reason for the ordinance was to know which landscapers were permitted at which residences for the safety. Councilman Chiaia added that the result should also be administratively efficient for the Police Department. The Council agreed that the matter would be further discussed before taking action.

Chief Deuer departed the meeting at 10:28pm. Councilman Rees returned to the meeting at 10:29pm.

#### **West Essex Fireworks Gate Monitor Stipends**

Mr. Zichelli stated that North Caldwell sends two monitors to work the gates at the Annual Fourth of July Fireworks event in West Caldwell. He added that the two people who worked the event this year are not listed as regular employees and a resolution is needed to authorize the \$100.00 payment which will be prepared for the next meeting.

#### **NJ Supreme Court Dismissal of Old Municipal Court Warrants**

Council President Santomauro stated that the New Jersey Supreme Court issued a report recommending the dismissal of old municipal warrants. She stated that she finds no objection with the dismissal of old warrants and the Council agreed.

**Online Payments and Water Meter Readings**

Mr. Zichelli referred to a memo from a resident who requested the ability to submit online payments. Council President Santomauro suggested it be tabled for the 2019 budget discussions as the technology would require funding. Borough Chief Financial Officer, Rich Mondelli, noted that water meter readings can be captured online through the Borough website currently. He added that the application for online payments is underway and should be completed by the fall. Mayor Alessi added that the remote readings were found to be very expensive to implement. Councilman Raymond added that there have been many requests for the ability to make ACH payments for water. Mr. Mondelli responded that the capability should be ready by the end of the year.

**N.J.D.O.T. Local Aid Grant Applications**

Mr. Zichelli stated that the Borough was invited to apply for pavement improvement projects. He suggested that Brookside Terrace, which was last paved in 2005, and Deer Trail Road be submitted for repaving. He offered to start the grant process and have resolutions prepared for the next meeting.

**Mayor's Report**

Mayor Alessi thanked former Mayor Matarrazzo and his cousin Frank Padilla for the donation of landscaping services and shrubs on the three triangles in town. He recognized residents Jeremiah Murnane IV and Joseph Panza who received their Eagle Scout designation. Mayor Alessi noted that Jeremiah's Eagle Scout project was the restoration and improvement of the Borough's Veteran Memorial near Borough Hall and that Joseph's project was a study and improvement of the blue bird ecosystem.

**Approval of Minutes**

Council President Santomauro moved to accept the minutes from the Conference and Regular Meeting and the Executive Session of July 17, 2018, seconded by Councilman Kessler. Said motion was passed unanimously with five votes.

**Committee Reports**

**Legal and Ordinance**

Councilman Raymond moved to Open the Public Hearing for Ordinance O-12-18 - An Ordinance to Provide for Various Capital Items as Enumerated Within the General Capital Fund for the Borough of North Caldwell, County of Essex, and to Provide for the Funding Therefore, seconded by Council President Santomauro. Said motion was carried unanimously with five votes.

Seeing no one from the public coming forward, Councilman Raymond moved to Close the Public Hearing for Ordinance O-12-18 - An Ordinance to Provide for Various Capital Items as Enumerated Within the General Capital Fund for the Borough of North Caldwell, County of Essex, and to Provide for the Funding Therefore, seconded by Council President Santomauro. Said motion was carried unanimously with five votes.

Councilman Raymond moved to Adopt Ordinance O-12-18 - An Ordinance to Provide for Various Capital Items as Enumerated within the General Capital Fund for the Borough of North Caldwell, County of Essex, and to Provide for the Funding Therefore, seconded by Council President Santomauro. Said motion was carried unanimously five votes.

Raffle License Application RA-10-18 for North Caldwell Recreation Foundation 50/50 Raffle to be held at North Caldwell Municipal Pool September 8, 2018 was moved by Councilman Raymond, seconded by Councilman Chiaia. The application was approved unanimously with five votes.

Resolution R-156-18 A Resolution Urging the Legislation to Amend S-716, S-477, S-1766 was read. The Governing Body tabled the resolution for further review and discussion.

Resolution R-157-18 A Resolution Authorizing the Utilization of Affordable Housing Trust Fund Money for the RPM Development, L.L.C. Affordable Housing Project was read. Motion made by Councilman Raymond, seconded by Council President Santomauro. Said motion was carried unanimously with five votes.

**Personnel/Administration**

Councilman Rees had no new business from the Personnel and Administration Committee.

**Finance**

Council President Santomauro made a motion to accept the Tax Collector's Report for July 2018, seconded by Councilman Kessler. Said motion was carried unanimously with five votes.

Resolution R-158-18 A Resolution Approving the Payment of Bills was read. Motion was made by Council President Santomauro, seconded by Councilman Kessler. Said motion was carried unanimously with five votes.

**Public Safety**

Councilman Chiaia communicated a public service announcement from Chief D'Ascensio reminding residents to check their heating systems prior to the start of the colder seasons. He stated that the Police and Fire Department monthly reports for July would be postponed to the next meeting.

**Public Works**

Council President Santomauro offered the Construction Permit Activity Report noting a total of \$150,524 in permit fees collected for July 2018.

Council President Santomauro stated that the Recycling Report for July 2018 is consistent with last year.

Council President Santomauro offered the Animal Control Report for July 2018 noting a total of seven calls for Animal Control assistance.

**Recreation**

Councilman Kessler offered the Recreation Director's Report for August/September 2018. He stated that recreation soccer will begin soon for which coaches are still needed for the 223 children registered for teams. He added that Soccerfest is planned for Saturday, September 15, 2018. Councilman Kessler announced that after-school programs are open for registration. He noted that Seniors' monthly meetings will resume on September 12.

Councilman Kessler noted some upcoming event dates: last day the municipal pool is open is September 3, West Essex Cowboys pep rally is September 5 at Mountain Avenue field, NCRF 5K and Color Run followed by the Town Picnic on September 8, and the Boy Scout camp-out on September 29.

Resolution R-159-18 A Resolution Authorizing Payment of Stipends to Two Summer Fun Camp Instructors was read. Motion was made by Councilman Kessler, seconded by Councilman Raymond. Said motion was carried unanimously with five votes.

Mr. Paris added that the Borough awarded the Solid Waste Collection contract to the lowest bidder, F. Basso, Jr. Rubbish Removal, Inc. He added that following the award, the second bidder, Suburban Disposal, filed a lawsuit against the Borough of North Caldwell and F. Basso, Jr. Rubbish Removal, Inc. Mr. Paris stated that the matter was voluntarily dismissed by Suburban. He added that litigation is no longer pending and that the Borough is under contract with F. Basso who is now providing the solid waste collection service. Mr. Paris stated that the bid from F. Basso was approximately \$400,000 less over the five year contract than Suburban Disposal's bid.

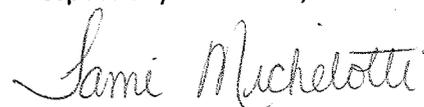
**Executive Session**

Resolution R-160-18 A Resolution Authorizing the Mayor and Council of the Borough of North Caldwell to Hold a Closed Session Meeting for Certain Specified Purposes: A. Contract Negotiations - (1) RPM, (2) Caldwell Sewer Utility; B. Litigation - (1) COAH Declaratory Judgment, (2) Aptive Environmental; C. Anticipated/Potential Litigation – (1) Pulte Homes; D. Personnel – (1) Acting Borough Clerk Re-appointment, (2) Emergency Management was read. Motion was made by Council President Santomauro, seconded by Councilman Kessler. Said motion was carried unanimously with five votes.

The meeting was re-opened to Public at 11:28pm.

There being no other matters to be addressed by the Governing Body at this time, a motion was made by Council President Santomauro, seconded by the Council members, that this meeting be adjourned at 11:28pm. This motion was carried unanimously.

Respectfully submitted,



Tami Michelotti  
Acting Borough Clerk