

Mayor & Council Conference and Regular Meeting – December 11, 2018

The Conference and Regular meeting of the Mayor and Council of the Borough of North Caldwell was held on Tuesday, December 11, 2018 at the Borough Hall, Gould Avenue, North Caldwell, New Jersey and began at 6:34pm.

Roll Call indicated the following present:

Present: Mayor Alessi, Council President Santomauro, Councilman Astorino, Councilman Chiaia, Councilman Kessler, Councilman Raymond, and Councilman Rees.

Also present were: Mr. David M. Paris, Esq., Borough Attorney; Frank Zichelli, Borough Administrator/Engineer; Richard Mondelli, Chief Financial Officer; Mark Deuer, Police Chief; 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 the West Essex Cowboys football team to lead the Pledge of Allegiance.

Mayor's Report

Mayor Alessi announced that Acting Borough Clerk Tami Michelotti has completed the required course work and passed the required examination to become a Certified Municipal Clerk.

Mayor Alessi thanked all who attended the Joy, Peace and Goodwill celebration on Sunday, December 2, 2018 despite the rain. He thanked Rabbi Ari Lucas for his attendance and prayers.

Mayor Alessi announced the annual free rabies vaccination clinic on January 5, 2019 at the North Caldwell Fire Station. He added that pet licenses can be obtained at the same time.

Mayor Alessi stated that Christmas trees would be collected curbside starting December 31, 2018 and would continue through January.

Presentation of Certificates to West Essex Cowboys

Mayor Alessi congratulated the West Essex Cowboys "A" football team on a winning season. He read a proclamation and the Council joined the Mayor in presenting certificates of achievement to the 7th and 8th grade boys who showed great enthusiasm and team spirit.

Citizens to be Heard

Karen Kerner – 69 Beachmont Terrace

Ms. Kerner stated that she was present to represent several neighbors including Mr. Jim Quinn who had requested a stop sign on Beachmont Terrace and Hamilton Drive East. She added that she feels the need for another stop sign at the intersection of Beachmont Terrace and Hamilton Drive North. Ms. Kerner explained that drivers speed along Beachmont Terrace, which is a 25mph zone. She noted that the lack of sidewalks puts pedestrians at risk. She requested an additional stop sign to prevent speeding which would be deterred between stop signs along the Beachmont straightaway.

Mr. Zichelli stated that the proximity to Grandview School allowed to the Borough to act quickly to install a multi-way stop sign which was planned for early in 2019. He added that he would evaluate the distance from Grandview School to the intersection of Beachmont Terrace and Hamilton Drive North and Hamilton Drive West. He stated that a traffic study might be needed to evaluate an additional stop.

Paul Scagnelli – 7 Stony Brook Drive

Mr. Scagnelli asked to confirm Mayor Alessi's email as he did not have the correct address. He stated that he emailed a list of requests to the Governing Body regarding the Hilltop Developer's Agreement. He noted that he also submitted OPRA requests for documentation.

Mr. Scagnelli stated he requested Planning Board resolutions adopted on March 28, 2016 and on February 13, 2017. He inquired about the 48 hour notice required prior to construction as mentioned in paragraph 6 of the Developer's Agreement. Council President Santomauro stated that the 48-hour notice is typically in advance of the commencement of construction and not for individual construction

tasks. Mr. Zichelli stated that a construction meeting was held before construction began for which a schedule was issued and since then much has been verbal notice and communication regarding the site work.

Mr. Scagnelli read his list of document requests regarding the Development Agreement for the record from his email dated December 7, 2018.

Paul Holland – 43 Ferndale Road

Mr. Holland asked the Council what mechanism exists for residents to ensure that their complaints are fully discharged before the Borough releases the surety bond to Pulte upon the completion of construction. Mr. Paris explained that he represents the Borough and the Council and that the Borough and the Council cannot represent individual residents in the litigation. He added that he is not able to comment on a potential release nor how the Borough will proceed with the litigation proceedings.

Mr. Holland asked if the Council could relieve Pulte of their obligations and release bond without protecting the residents. Mr. Paris neither confirmed or denied Mr. Holland's statement nor indicated what a settlement with Pulte may or may not include. He noted that most surety bonds are typically posted as a performance guarantee for the completion of common development elements such as streets and lighting.

Mr. Holland stated that the Developer's Agreement provides for the protection of the residents such as groundwater and flooding. He asked what assurance the residents have that the bond is not released until repairs are done. Mr. Paris stated that he had suggested in the past that residents consult with an attorney that would represent their individual interests. He added that the Borough took action against Pulte through the counterclaim.

Paul Scagnelli

Mr. Scagnelli asked what the Borough's process is to ensure all issues are addressed regardless of the litigation. Mr. Paris asked Mr. Zichelli to address the process at end of a project for releasing a surety bond. Mr. Zichelli stated that the surety bond is to ensure the construction of public improvements. He noted that common improvement elements are inspected as they are put in. Mr. Zichelli detailed the list of inspections typically performed when the release of a bond is requested including: manhole inspection, hydrant flushing, hydrant threads, catch basin inspection, review of pipes, asphalt measurements, curb inspection, landscaping/tree/shrub counts.

Mr. Scagnelli asked how water flow effects would be checked prior to the bond release. Mr. Paris restated that the surety bond pertains to public improvements and not liability. Mr. Scagnelli requested that the Council ensure that Pulte leaves the residents unaffected by water flows prior to the release of the bond.

Dan Gallagher – 36 Ferndale Road

Mr. Gallagher asked if an action of the developer that caused water flow to lead into adjoining properties would be part of the surety bond release inspections. Mr. Zichelli stated that inspections check if the improvements are designed and built as per the Planning Board-approved plans.

Mr. Gallagher stated that trees should have been replaced at the top end of Ferndale Road. He noted that trees were removed in the conservation area and new trees were planted only at the top new slope. Mr. Zichelli responded that there is a planting plan and that trees are required to be added as per the landscaping plan approved by the Planning Board. Mr. Gallagher stated he did not see representation of the removed trees on the plans prior to development. Mr. Zichelli stated that he relayed the residents' concerns to Mr. Rossi of Pulte regarding the berm that resulted in additional drainage issues. He stated he suggested building a small swale outside of the swale leading from the berm. Mr. Zichelli clarified that the swale catches runoff from the Verona end of the Hilltop and the berm intercepts water from the woods toward the Ferndale properties.

Mr. Gallagher stated that the swale near detention basin 3 is not sufficiently sized to accommodate water flow. He noted that water overflows the swale. John Wohlgemuth confirmed that water flow is still problematic but can't pinpoint the source of the water. Mr. Zichelli stated that he had the area cleared out recently. Mr. Gallagher noted that the swale is not effective on the Ferndale side of the swale based on the land being very wet after the rains in August.

Mr. Gallagher noted the clause in the Developer's Agreement regarding the Borough having the rights to make alterations to the development plan. He asked if other alterations have been requested of Pulte in addition to the swale in front of the berm. Mr. Zichelli stated that no additional alteration requests had been made to date. Mr. Gallagher asked that trees be replanted in the conservation area. Mr. Gallagher asked for plantings in the conservation area at the rear of the eight Ferndale residences beginning at Glenview Road. Mr. Zichelli agreed to make the request with permission of the Mayor and Council. The Governing Body agreed to have Mr. Zichelli make the request of Pulte.

Mr. Gallagher asked Mr. Paris if a potential settlement agreement between the Borough and Pulte could lessen residents' assurances as per the Developer's Agreement. Mr. Paris explained that the Borough's counterclaim made allegations regarding Pulte's responsibilities as per the Developer's Agreement. Mr. Paris stated that Pulte has not responded to the Borough's counterclaim but instead filed a motion to dismiss it. He added that the motion is still pending until January 22, 2019.

Mr. Paris confirmed that the Governing Body and Mr. Zichelli are continuing efforts to be consistent with the Developer's Agreement even while litigation is ongoing. He referenced Mr. Zichelli's expedition of the construction of detention basin 2 during Phase I even though it was planned for Phase II. Mr. Gallagher expressed interest in empowering the Governing Body to do more. Mr. Paris explained that there are provisions within the Developer's Agreement that allow the Borough to make demands for alterations as issues arise during construction. Mr. Gallagher stated he prefers remedies take the form of corrections and not financial compensation. He added that he wants to see a result that matches what was promised by the developer at the Planning Board hearings. He also thanked Mr. Zichelli for distributing weekly email updates to the residents.

Councilman Rees asked to where the drainage leads from the properties currently requesting certificates of occupancy. Mr. Zichelli stated that the water leads to the swale. He added that before the COs are issued, he needs to look at the properties and ensure that the grading plan matches the approved plans. He added that some fees are still outstanding and that the Building and Sub-code Officials need to finalize approvals before the COs are issued. He added that the issuance of COs does not imply that drainage problems are resolved.

Councilman Rees asked if the catch basins are completed for the drainage into the swale. Mr. Zichelli stated that the swale from the top of Ferndale to the detention basin at the Four Seasons development is completed with the erosion mats down and plantings to be done in the spring. Councilman Rees asked if the swale is stabilized and if plantings are installed. Mr. Zichelli stated that COs were being held until the required plantings were installed. Councilman Rees added that trees should be replanted in the conservation area. Mr. Zichelli clarified that the Developer's Agreement allows for intrusion into the buffer/conservation area for the purpose of drainage improvements.

Councilman Chiaia added that any waiver of provisions in the Developer's Agreement would be a result of the Council's discussion in closed session during which the Council discusses the issues and considers the residents' concerns and needs.

Mr. Gallagher shared dates for the best results for plantings to take root. He asked for a warranty on the health of the plants since prime dates had passed. Mr. Zichelli stated that the performance bond covers trees during the first year and the maintenance bond covers an additional two years.

Councilman Rees asked if Pulte had yet requested the bond release. Mr. Zichelli confirmed that Pulte requested a reduction in the bond that week.

Colin Zurlo – 19 Glenview Road

Colin asked how drainage from the detention basins work. Mr. Zichelli explained that detention basins fill with water and enter a pipe that let the water out slowly. He added that the water would drain out into the ditch on the side of Colin's house. Mr. Zichelli added that the ditch is being investigated by an engineering firm to see if any remedy can be made so that it doesn't overflow again. He noted that results are due in after the holidays and a design would be recommended by the professionals.

Bernie Doyle - Glenview road

Mr. Doyle explained that the contractors who removed the trees near his home dragged the trees and knocked over approximately eight smaller trees which were left behind. He asked that the smaller trees be replaced. Mr. Zichelli agreed to visit and inspect the area.

Items for Discussion

AXA 457 Deferred Compensation Plan

Mr. Zichelli explained that a 457 investment plan is a municipal employee's version of a corporate 401K investment account. He added that the plan offered by AXA would offer a second option to the Valic plan already offered to employees. He noted that the resolution voted upon in October was returned by the State for a revision. A revised resolution has been prepared for a vote later in the meeting.

Emergency Appropriation

Mr. Mondelli advised the Council that some budget line items fell short as we near the end of the year. He stated that if a significant expense should arise before the end of the year, he would need to request an emergency appropriation at the last meeting of the year. He added that it is standard procedure and that we have not needed to exercise this option in the recent past.

DWI Sobriety Checkpoint Funding

Chief Deuer announced that the State is providing a grant to the Borough to conduct a DWI checkpoint within the next nine business days. He added that the program is 100% funded with no cost to the Borough.

Surplus Equipment Bids

Mr. Zichelli announced that a bid opening was held on December 6, 2018 to sell surplus Borough equipment that is no longer used. He added that all items were bid upon which generated \$6,000. He noted that two resolutions were prepared for authorization of the sale of the equipment for consideration later in the evening.

Tree Recovery Program

Ms. Michelotti announced that the New Jersey Division of Forestry is making tree seedlings available at no cost to New Jersey municipalities. She noted that the Borough's Tree Seedling event held for the past two years has generated increased interest each year. She added that 2019 will likely be the last year that the seedlings are offered for free. Ms. Michelotti suggested the event be held on April 13, 2019 due to the pickup date from the County being scheduled for April 12. She noted that the event must be open to all New Jersey residents, not just North Caldwell residents. The Council agreed to conduct the event on the proposed date.

Approval of Minutes

Council President Santomauro moved to accept the minutes from the Regular Meeting and Executive Session of September 25, 2018, seconded by Councilman Raymond. Said motion was passed unanimously with six votes.

Council President Santomauro moved to accept the minutes from the Conference Meeting and Executive Session of October 9, 2018, seconded by Councilman Raymond. Councilman Astorino abstained. Said motion was passed with five affirmative votes.

Council President Santomauro moved to accept the minutes from the Regular Meeting and Executive Session of October 23, 2018, seconded by Councilman Raymond. Councilman Kessler abstained. Said motion was passed with five affirmative votes.

Committee Reports

Legal and Ordinance

Ordinance O-14-18

Councilman Chiaia requested that the public hearing for Ordinance O-14-18 An Ordinance to Prohibit the Consumption of Liquor, Wine, Beer, or any Other Alcoholic Beverage in Public Places be tabled. He stated that he spoke with Chief Deuer who agreed that there was no urgency to adopt the ordinance and would afford the extra time to be diligent with the wording in the ordinance. Councilman Chiaia confirmed that the ordinance would need to be reintroduced at a later date before a public hearing could be held.

Ordinance O-15-18

Councilman Raymond moved to open the public hearing for Ordinance O-15-18 An Ordinance Amending Chapter 99 "Vehicles and Traffic" Schedule VIII to Accept Multi-Way Stop at the Intersection of Beachmont Terrace and Hamilton Drive East, seconded by Councilman Chiaia. Said motion was carried unanimously with six votes.

Mr. Dan Gallagher suggested that public announcement and education be done in conjunction with the placement of the new signs. He stated that he has experienced violations of multi-way stop signs. Chief Deuer noted that violators tend to be the local residents who are in the habit of not stopping. He added that forewarning signs will be erected before the intersection and offered to have NCPD patrols there to monitor and educate drivers during school drop-off and dismissal times.

Councilman Raymond thanked resident Karen Kerner for her attendance and comments regarding the Beachmont Terrace speeding issues. He also thanked Mr. Zichelli for addressing the issue.

Hearing no further comment from the Governing Body and seeing no one else from the public come forward, Councilman Raymond moved to close the public hearing for Ordinance O-15-18 An Ordinance Amending Chapter 99 "Vehicles and Traffic" Schedule VIII to Accept Multi-Way Stop at the Intersection of Beachmont Terrace and Hamilton Drive East, seconded by Councilman Chiaia. Said motion was carried unanimously with six votes.

Councilman Raymond moved to adopt Ordinance O-15-18 An Ordinance Amending Chapter 99 "Vehicles and Traffic" Schedule VIII to Accept Multi-Way Stop at the Intersection of Beachmont Terrace and Hamilton Drive East, seconded by Councilman Chiaia. Said motion was carried unanimously with six votes.

Ordinance O-16-18

Councilman Raymond moved to open the public hearing for Ordinance O-16-18 An Ordinance Amending Chapter 99 "Vehicles and Traffic" Schedule II to Amend No Parking During Certain Hours, seconded by Councilman Chiaia. Said motion was carried unanimously with six votes.

Hearing no comment from the Governing Body and seeing no one from the public come forward, Councilman Raymond moved to close the public hearing for Ordinance O-16-18 An Ordinance Amending Chapter 99 "Vehicles and Traffic" Schedule II to Amend No Parking During Certain Hours, seconded by Councilman Chiaia. Said motion was carried unanimously with six votes.

Councilman Raymond moved to Adopt Ordinance O-16-18 An Ordinance Amending Chapter 99 "Vehicles and Traffic" Schedule II to Amend No Parking During Certain Hours, seconded by Councilman Chiaia. Said motion was carried unanimously with six votes.

Resolution R-211-18 A Resolution Authorizing the Execution of an Amended Settlement Agreement with Fair Share Housing Center was read. Motion was made by Councilman Raymond, seconded by Council President Santomauro. Said motion was carried unanimously with six votes.

Resolution R-212-18 A Resolution Authorizing a Settlement Agreement with Green Brook Realty Associates, LLC was read. Councilman Raymond stated he would abstain from introducing and casting a vote on said resolution due to a professional conflict. Motion was made by Council President Santomauro, seconded by Councilman Astorino. Councilman Raymond abstained. Said motion was carried with five votes.

Personnel/Administration

Resolution R-213-18 A Resolution Adopting AXA Equitable's Specimen 457 Deferred Compensation Plan Document was read. Mr. Zichelli stated that the AXA 457 would be made available to municipal employees as a second option to the current provider. Motion was made by Councilman Rees, seconded by Council President Santomauro. Said motion was carried unanimously with six votes.

Finance

Councilman Astorino made a motion to accept the Tax Collector's Report for November 2018, seconded by Councilman Kessler. Said motion was carried unanimously with six votes.

Resolution R-214-18 A Resolution Approving the Payment of Bills was read. Motion was made by Councilman Astorino, seconded by Councilman Kessler. Said motion was carried unanimously with six votes.

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Resolution R-215-18 A Resolution Approving 2018 Budget Transfers was read. Motion was made by Councilman Astorino, seconded by Councilman Kessler. Said motion was carried unanimously with six votes.

Resolution R-216-18 A Resolution Authorizing for Redemption and Cancellation of Record of Tax Lien Redemption - Block 102, Lot 23 was read. Motion was made by Councilman Astorino, seconded by Councilman Kessler. Said motion was carried unanimously with six votes.

Public Safety

Councilman Chiaia offered the Police Department Public Safety and Detective Bureau Reports for November 2018. He noted that there were 936 calls made to Dispatch from North Caldwell residents, 121 moving violations, 28 detective matters, and 180 overtime hours for the month of November 2018.

Councilman Chiaia offered the Fire Department Public Safety Report for November 2018. He stated that the Annual Report totaled 244 calls for the year from December 2017 through November 2018.

Councilman Chiaia shared a letter of appreciation from the West Essex First Aid Squad for the Borough's donation of \$5,000.

Resolution R-217-18 A Resolution Accepting the Governor's Council on Alcoholism and Drug Abuse Fiscal Grant Cycle July 2019 – June 2020 was read. Motion was made by Councilman Chiaia, seconded by Councilman Raymond. Said motion was carried unanimously with six votes.

Public Works

Council President Santomauro offered the Construction Permit Activity Report for November 2018. She highlighted that 34 permits were issued bringing the permit total to approximately \$40,000 higher than the same time last year.

Council President Santomauro offered the Solid Waste Collection Report for November 2018. She noted that 71.25 tons total of recycling were collected in the month of November.

Council President Santomauro offered the Animal Control Report for November 2018. She noted that there were three occurrences of dogs running at large.

Resolution R-218-18 A Resolution Amending Bulk Garbage Collection Schedule was read. She noted that the vendor offered to add two additional bulk trash collections to each month. Mr. Zichelli added that the zones would remain the same and that bulk would be collected for each zone every other Wednesday for a total of four collections per month. Motion was made by Council President Santomauro, seconded by Councilman Astorino. Said motion was carried unanimously with six votes.

Resolution R-219-18 A Resolution Awarding Professional Services Contract to Suburban Engineering for Drainage Study was read. Council President Santomauro stated that five responses were received. She noted that Suburban Engineering was the second lowest proposal. Mr. Zichelli added that the lowest bidder failed to submit evidence of similar project experience. Motion was made by Council President Santomauro, seconded by Councilman Raymond. Said motion was carried unanimously with six votes.

Resolution R-220-18 A Resolution Accepting Bids and Awarding Sale of Surplus Equipment to Jersey One Auto Sales, Inc. was read. Council President Santomauro noted that the buyer bid to purchase four of the five available vehicles up for auction. Motion was made by Council President Santomauro, seconded by Councilman Chiaia. Said motion was carried unanimously with six votes.

Resolution R-227-18 A Resolution Accepting Bids and Awarding Sale of Surplus Equipment to Liberty Motors, Inc. was read. Council President Santomauro stated that the buyer bid to purchase one of the five vehicles up for auction. Motion was made by Council President Santomauro, seconded by Councilman Chiaia. Said motion was carried unanimously with six votes.

Resolution R-221-18 A Resolution Authorizing the Execution of an Interlocal Agreement with West Orange Animal Shelter was read. Motion was made by Council President Santomauro, seconded by Councilman Chiaia. Said motion was carried unanimously with six votes.

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Councilman Rees asked if he could change his vote on Resolution R-212-18 as he did not see Exhibit A referred to in the agreement. Mr. Paris and Council President Santomauro offered the map known as Exhibit A to Councilman Rees. No revision to the vote was made.

Recreation

Councilman Kessler offered the Recreation Director's Report for December 2018 through January 2019. He stated that recreation and travel basketball are in progress as are the Adult 30+ and Men 60+ leagues. He thanked the Gould School chorus who sang holiday songs at the Seniors holiday luncheon. He added that the next Seniors trip was planned for December 12 to The Manor in West Orange for lunch.

Councilman Kessler thanked all attendees, the Recreation Department and the Boy Scouts and Cub Scouts, for their participation in the Joy, Peace and Goodwill celebration. He also extended appreciation for all Toy Drive contributions.

Resolution R-223-18 A Resolution Authorizing the Hiring of Additional Part-Time Seasonal Employees for the 2018-2019 Recreation Basketball Season – Scorekeepers was read. Motion was made by Councilman Kessler, seconded by Councilman Raymond. Said motion was carried unanimously with six votes.

Resolution R-224-18 A Resolution Authorizing the Hiring of Additional Part-Time Seasonal Employees for the 2018-2019 Recreation Basketball Season – Gym Monitors was read. Motion was made by Councilman Kessler, seconded by Councilman Raymond. Said motion was carried unanimously with six votes.

Resolution R-225-18 A Resolution Authorizing the Hiring of Additional Part-Time Seasonal Employees for the 2018-2019 Recreation Basketball Season – Kindergarten-2nd Grade Basketball Clinic Instructors was read. Motion was made by Councilman Kessler, seconded by Councilman Raymond. Said motion was carried unanimously with six votes.

Mr. Scagnelli asked the purpose of the Special Meeting planned for Friday, December 28, 2019 at 8:00am. Mayor Alessi explained that the meeting is planned mainly for the purpose of paying bills before the end of the year. Mr. Scagnelli asked about the purpose of the Re-Organization meeting scheduled for January 1, 2019 at noon. Mayor Alessi stated that annual re-organization meetings are typically held on the first of each year to swear in the incoming Council members and this year, the Mayor, to a new term.

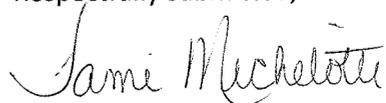
Executive Session

Resolution R-226-18 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) Annual Professional Contracts, (2) Municipal Court, (3) Risk Consultant Manager; B. Anticipated Contract Negotiation - 620 Mountain Avenue; C. Litigation - (1) COAH, (2) Pulte Homes, (3) Tort Claim; D. Personnel – (1) CFO/CTC Schedule, (2) DPW Salaries was read. Motion was made by Councilman Astorino, seconded by Councilman Raymond. Said motion was carried unanimously with six votes.

The meeting was re-opened to Public at 10:07pm.

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 Councilman Kessler, that this meeting be adjourned at 10:07pm. This motion was carried unanimously.

Respectfully submitted,



Tami Michelotti
Acting Borough Clerk