

Mayor and Council Conference Meeting – November 7, 2018

The Conference Meeting of the Mayor and Council of the Borough of North Caldwell was held on Tuesday, November 7, 2018 at the Borough Hall, Gould Avenue and began at 7:35pm.

Roll Call indicated the following present:

Council Members: Mayor Alessi, Council President Santomauro, Councilman Astorino, Councilman Chiaia, Councilman Kessler, Councilman Raymond, Councilman Rees

Also, present were David M. Paris, Borough Attorney; Frank Zichelli, Borough Engineer; Mark Deuer, Police Chief; Rich Mondelli, Borough 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 Council President Santomauro to lead those present in the salute to the American flag.

Citizens to be Heard

Paul Scagnelli – 7 Stony Brook Drive

Mr. Scagnelli asked the Council for an update on the Pulte construction site with regard to the August flooding. He acknowledged receipt of weekly update emails from Mr. Zichelli.

Mr. Zichelli updated the public on each issue submitted by Mr. Scagnelli. Mr. Zichelli offered that five (5) proposals were received on October 30, 2018 in response to the Borough drainage study RFP. He stated that he hoped to have a recommendation ready at the next Council meeting. Mr. Zichelli added that proposals for the drainage study of the Glenview Road culvert and drainage ditch were discussed at the last meeting. He noted that he recommended the selection of Petry Engineering to perform the study. Mr. Zichelli announced the bond ordinance was approved to fund the studies.

Mr. Zichelli stated that construction of detention basin 2 is progressing and should be completed by Thanksgiving. He confirmed the residents' report of recent excavation which is needed to shape the berm and swale and to direct water to the temporary detention basin. Mr. Zichelli stated that the reported dead trees would be removed after the detention basin wall was poured, that the construction trailer has been removed and that the small swale was cleared out and is operating as intended.

Mr. Zichelli reported that ground water remains an open issue as surface water needs to be addressed first. He noted that surface water is being addressed first but that he reminds Pulte frequently of the remaining ground water issues. He stated that Pulte submitted a performance bond and that they will likely be in town for another two years.

Mr. Zichelli addressed resident's concern for the path on Courter Lane and confirmed that it is not a public road for vehicles other than for Essex County maintenance.

Mr. Scagnelli asked for an update from Mr. Paris regarding the litigation with Pulte Homes. Mr. Paris stated that Pulte's motion to dismiss the Borough's counterclaim was moved to December. He added that selection of a mediator was in progress in an attempt to mediate a resolution.

Daria DeMartino – 58 Ferndale Road

Ms. DeMartino stated concern regarding Pulte's response to residents' claims. She stated that Pulte asked for a declination letter from residents' home insurance representatives. She asked for guidance with respect to submission of claims to Pulte and getting a response back. Mr. Zichelli confirmed that Tony Rossi from Pulte is the main contact to whom to send all claims and communications.

Ms. DeMartino acknowledged that Pulte restored her basement on or around January 23, 2018 after repeated flooding. She stated that subsequent to a conference call with Jim Mullen, attorney for Pulte Homes, Pulte agreed to pay ServicePro for remediation and restoration of her basement. Ms. DeMartino added that Pulte Homes sent her a waiver of responsibility to sign but that she did not sign it.

Mr. Paris explained that Pulte is suing the Borough to which the Borough responded by filing a counterclaim. He explained that the Borough cannot represent Ms. DeMartino but asked if she would keep the Borough apprised of communications with Pulte. He added that if residents have evidence that Pulte is not meeting its obligations as per the Developer's Agreement, the residents should share the documentation with their own attorneys and with the Borough.

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Ms. DeMartino stated that her basement flooding began during the July 4, 2018 weekend. She asked if there was a timeline for claims submissions. Mr. Paris stated that there are timelines regarding tort claim submissions and recommended that Ms. DeMartino consult her attorney. Council President Santomauro suggested that Ms. DeMartino consult her own attorney for legal advice. Ms. DeMartino confirmed that she has consulted her attorney.

Mr. Zichelli confirmed that Pulte representatives have been notified regularly of the ongoing problems and has not denied a connection between rain and the bubbling water coming up through Ms. Martino's patio and garage. Ms. DeMartino confirmed that she is sure that people at the higher levels of Pulte is aware of her issues.

Sherri London – 108 Mountain Avenue

Ms. London offered her congratulations to the Mayor and council members who won another term during the previous day's election.

She stated that she and her husband do not have an attorney and have not yet submitted any claims for storm damage to Pulte. She asked for a deadline to submit claims. Mr. Paris stated that there are several types of claims with varying statutes of limitations and suggested that Ms. London seek legal counsel for advice on what type of claim to file and the corresponding deadline. Ms. London stated concern for submitting a claim through her homeowner's insurance only to receive not coverage for surface water and risk higher premium rates. Mr. Paris noted that he is unable to provide advice on how to proceed as he represents the Borough in its litigation with Pulte and cannot represent individual residents. He suggested that Ms. London seek guidance from independent counsel.

Paul Holland – 43 Ferndale Road

Mr. Holland asked for a description of the minimum that must be done to satisfy the requirements of the Developer's Agreement. Mr. Zichelli stated that he would provide a copy of the agreement to Mr. Holland.

Jamie Falkin – 30 Amelia Street

Ms. Falkin referred to an email she sent to the Governing Body regarding signs and displays at 6 Meadow Lane. She asked for a content-neutral temporary ordinance to be implemented. Mr. Paris stated that he is looking into the issue with respect to constitutional rights to freedom of speech. Ms. Falkin noted the height of the structures as potentially unsafe. Chief Deuer noted that the Halloween displays had already been removed within two days after the holiday.

Lorraine Padalino – 4 Acorn Place

Ms. Padalino asked if the Pulte development was the source of flooding on Acorn Place and if drainage issues in Cedar Grove had been corrected. Mr. Zichelli stated that the Pulte development was not a factor in flooding on August 11, 2018 in Ms. Padalino's neighborhood. He added that he spoke with the Town Engineer of Cedar Grove who acknowledged the drainage issue flowing from Cedar Grove into North Caldwell. The engineer indicated that the detention facilities from which water flowed is privately owned and that the property owner would be review the area. Mr. Zichelli confirmed the area from Cedar Grove to Walker's Pond would be part of the Borough drainage study. He added that basins had been checked and pipes were cleared in the area of Acorn Place with no issues found.

Ms. Padalino asked for an update regarding FEMA reimbursement for flooding damages. Mr. Zichelli stated that the Borough received notice from the Federal government that New Jersey was denied a declaration of disaster; therefore, there would be no FEMA grant monies issued. Mr. Zichelli stated that small business loans with low rates were being offered to residents instead.

Don Theobald – 54 Ferndale Road

Mr. Theobald stated concern for water runoff from roofs of the Pulte homes. He asked for the stormwater to be fed into detention basins as opposed to recharged into the ground. Mr. Zichelli explained that recharging water is a State requirement and stipulates that stormwater is required to be detained, cleaned and treated, and let out at a contained rate to be recharged back into the ground. He noted that he already had Pulte change their plans to prevent recharge areas directly behind the Ferndale properties. He added that Pulte moved the recharge areas from locations where there are known groundwater issues.

Mr. Theobald asked about the 50 foot buffer between the rear of his property and the property behind him. Mr. Zichelli confirmed the buffer zone and noted the berm and swale being installed there for which plantings would be added.

No one further from the public came forward.

Items for Discussion

Personnel Policies and Procedures Manual Update

Mr. Zichelli stated that the Morris County JIF issued notice that the Employee Policy and Procedures Manual required updates to the Rice Notice and Sick Leave sections. He added that Labor Attorney, Trevor Lyons, assisted with the update and that revised manuals would be distributed to all employees with the next paychecks.

LOSAP Cost of Living Increases

Mr. Mondelli stated that the Fire Department LOSAP calculations used an incorrect maximum contribution amount for the 2016 and 2017 spreadsheets. He added that the recalculation will require an additional \$5,000 contribution by the Borough for the two years. He noted that the annual contribution calculation process will encompass a verification check by the CFO and Borough Clerk going forward in addition to the NCFD.

Best Practices

Mr. Zichelli stated that Mr. Mondelli and Ms. Michelotti completed the annual Best Practices worksheet resulting in Borough exceeding the minimum required for eligibility of full State aid. Therefore, no penalty in funding is anticipated.

Ordinance Amending Chapter 99 Multi-Way Stop

Mr. Zichelli noted that the amendment to Borough Code Chapter 99 “Vehicles and Traffic” was discussed last meeting regarding a multi-way stop sign on Beachmont Terrace. He noted that the proximity to Grandview School allows for the certification of the Borough Engineer to determine that requirements are met without a traffic study being performed. Mr. Zichelli explained that the location within 500 feet of a school and it’s contiguity with school property allow for municipal jurisdiction. Therefore, 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 would be introduced later in the meeting.

Ordinance Amending Chapter 99 Parking on Certain Streets

Chief Deuer stated that parking behind West Essex Middle School on Squire Hill, Tanglewood, and Sunset Roads is restricted between 8:00am and 2:00pm. He added that residents have recently complained that teachers are frequently parking on those streets early in the morning to avoid traffic entering the campus and then later move the cars. Chief Deuer stated that the West Essex School District administration is aware of the problem. He added that an ordinance amending Chapter 99 “Vehicles and Traffic” Schedule II to Amend Hours of Prohibited Parking on Certain Streets would be introduced later in the meeting. The ordinance will revise the prohibited parking hours to begin one hour earlier to ensure the safety of children walking to school as well as of area residents.

Bid Report for 4WD Dump Truck with Snowplow

Mr. Zichelli stated that two bids were received on October 23, 2018 for a 4WD dump truck with snowplow, both of which fell below the \$235,000 budgeted for this item in the 2018 Capital Budget. He explained that the lower of the two bids did not meet the bid specs regarding the front axle strength and, therefore, recommended that the bid of Brown’s Hunterdon be accepted.

RFP Report for Glenview Drainage Ditch and Culvert Study/Design

Mr. Zichelli stated that a resolution would be presented later in the agenda to award the contract to Petry Engineering.

RFP Report for Borough Drainage Study

Mr. Zichelli stated that five proposals were submitted and are under review. He planned to have a recommendation ready at the next meeting.

Liberty Turf Field Policies/Procedures Ordinance

Councilman Kessler updated the Governing Body that the Recreation Department is reviewing rules and procedures for implementation at the Liberty Turf Field. He added that he hopes to present the proposal in January.

Electronic Background Checks for Volunteer Coaches and Seasonal Employees

Councilman Kessler stated that there is a decrease each year in coaching volunteers as well as difficulty in conducting background checks of those volunteers in a timely manner. He noted that background

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checks need to be updated every three years and is done by a private organization. Councilman Kessler announced that the Recreation Department proposed that the Borough assume the process with the help of the NCPD. He noted the benefits including the ability to perform the checks more often and the greater ease in getting volunteers to comply. He noted the cost of \$1,500-2,000 per year plus an initial \$30-35 per person, and \$17-20 for renewals per person, can be covered through registration fees.

Chief Deuer stated that the background check process is similar to the one used currently by outsourcing but eliminates the fingerprinting step. He stated his favor with the proposal as it can currently take several weeks to get appointments with the vendor. He added that the easier process may increase the number of volunteers.

Recreation and Travel Basketball Scorekeeper Wages

Councilman Kessler stated that scorekeepers are currently paid a starting wage of \$7 per hour. He added that the Recreation Department finds it challenging to find interested workers for the low wages and short work hours. He suggested paying scorekeepers \$8.25 per hour to entice employees. Councilman Kessler noted that the additional cost can be covered by program registration fees. The Council agreed.

Pool Concession Stand Bid Preparation

Councilman Kessler announced the preparation of the bid spec for the pool concession stand with the need for a few revisions including: 1. Specific dates for payment of fees; 2. Penalties for late payments; 3. Fines imposed for non-compliance with health inspection requirements. Councilman Raymond expressed concern with imposition of fees and penalties reducing interest in bidders. Council President Santomauro stated that there be no compromise regarding health department violations.

Mr. Zichelli explained issues with the last vendor who paid late and was mildly responsive to health issues. Councilman Kessler offered that he would bring suggestions to present to the Council to foster vendor compliance that would not inhibit bidder interest.

Camp Wyanokie

Mayor Alessi expressed the need to compare the cost benefit of Camp Wyanokie and the use of the camp by North Caldwell residents. Ms. Michelotti confirmed that all applications and permits for use of the camp are handled by North Caldwell's Recreation Department. Mayor Alessi asked to table the matter to a future date if action is needed.

Additional Council Meeting in Late December

Mr. Zichelli stated the need for an additional, brief "Special" meeting, primarily to pay bills before the end of the calendar year and close out accounts. The Council agreed to schedule the meeting for December 28, 2018 at 8:00am.

NJSLOM Elected Officials Seminar

Mr. Zichelli encouraged the Governing Body to attend the JIF sessions at the League of Municipalities Conference which will earn the Borough a \$250 savings against our assessment.

Councilman Raymond offered congratulatory wishes to Mayor Alessi, Councilman Astorino and Councilman Kessler on their re-election to office.

Action to be Taken

Councilman Raymond introduced Ordinance O-15-18 An Ordinance Amending Chapter 99 "Vehicles and Traffic" Schedule VIII to a Accept Multi-Way Stop at the Intersection of Beachmont Terrace and Hamilton Drive East, seconded by Councilman Chiaia. He noted that the public hearing would be held on Tuesday, December 11, 2018 at 6:30pm. Said motion was carried unanimously with six votes.

Councilman Raymond introduced Ordinance O-16-18 An Ordinance Amending Chapter 99 "Vehicles and Traffic" Schedule II to Amend No Parking During Certain Hours. Councilman Chiaia asked for clarification of the need for the ordinance amendment. Chief Deuer explained that the residents complained of the increase in parking on the streets since the beginning of the school year. He stated that school staff admitted to parking in the neighborhood to avoid school entrance traffic in the morning. He added that the staff would then move their vehicles during a free class period to avoid parking tickets. The current ordinance limits parking to a two-hour maximum starting at 8:00am which provides time for teachers to move their cars until 10:00am. He explained that moving the beginning time of the parking time limits back to 7:00am would require staff to move their cars by 9:00am (within the first two periods of the

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day) which is less likely. The option of limiting the maximum parking allotment to one hour was discussed but found to be too restrictive for visitors and/or contractors of the neighborhood residents. Chief Deuer reiterated that the school was notified of the restrictions and consequences. He added that if the amended ordinance does not stop the problem, the issue would be readdressed. Councilman Kessler noted that the ordinance would not restrict dropping off of students in the neighborhood. The motion was seconded by Councilman Chiaia. Councilman Raymond noted that the public hearing would be held on Tuesday, December 11, 2018 at 6:30pm. Said motion was carried unanimously with six votes.

Resolution R-197-18 A Resolution Adopting Updated Personnel Policies and Procedures was read. Motion was made by Councilman Rees, seconded by Councilman Astorino. Said motion was carried unanimously with six votes.

Resolution R-198-18 A Resolution Approving the Payment of Bills was read. Motion was made by Councilman Astorino, seconded by Council President Santomauro. Said motion was carried unanimously with six votes.

Resolution R-200-18 A Resolution Amending LOSAP Contributions for Volunteer Fire Department for 2016 was read. Motion was made by Councilman Chiaia, seconded by Councilman Raymond. Said motion was carried unanimously with six votes.

Resolution R-201-18 A Resolution Amending LOSAP Contributions for Volunteer Fire Department for 2017 was read. Motion was made by Councilman Chiaia, seconded by Councilman Raymond. Said motion was carried unanimously with six votes.

Resolution R-202-18 A Resolution Accepting Bid and Awarding Contract for Purchase of a 4WD Dump Truck and Snowplow was read. Motion was made by Council President Santomauro, seconded by Councilman Chiaia. Said motion was carried unanimously with six votes.

Resolution R-203-18 A Resolution Accepting Proposal and Awarding Contract for the Study and Design of Drainage Improvements to the Glenview Road Drainage Ditch and Culvert was read. Motion was made by Council President Santomauro, seconded by Councilman Chiaia. Councilman Rees abstained stating that he is a resident living next to the culvert. Said motion was carried with five affirmative votes and one abstention.

Resolution R-205-18 A Resolution Amending R-193-18 to Revise Start Date of Employment of Joseph Costello as Police Department Dispatcher was read. Chief Deuer noted that the amendment was for a one day difference in start date. Motion was made by Councilman Chiaia, seconded by Councilman Kessler. Said motion was carried unanimously with six votes.

Executive Session

Resolution R-204-18 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 – Caldwell Sewer Utility; B. Anticipated Contract Negotiations – 620 Mountain Avenue; C. Litigation – (1) COAH Declaratory Judgment, (2) Pulte Homes; D. Anticipated Litigation – NJDEP Violation; E. Personnel – Assistant DPW Director Compensation was read. Motion was made by Council President Santomauro, seconded by Councilman Astorino. Said motion was carried unanimously with six votes.

The meeting was re-opened to Public at 10:25pm.

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 10:25pm. This motion was carried unanimously.

Respectfully submitted,



Tami Michelotti
Acting Borough Clerk