

Mayor and Council Conference Meeting – October 9, 2018

The Conference Meeting of the Mayor and Council of the Borough of North Caldwell was held on Tuesday, October 9, 2018 at the Borough Hall, Gould Avenue and began at 7:32pm.

Roll Call indicated the following present:

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

Absent: Mayor Alessi, Councilman Astorino,

Also, present were David M. Paris, Borough Attorney; Frank Zichelli, Borough Engineer; Mark Deuer, Police Chief; Rich Mondelli, Borough Chief Financial Officer; and Diana Ruthman, Administrative Assistant.

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

Council President Santomauro asked Rich Mondelli to lead those present in the salute to the American flag.

Council President Santomauro announced that PSE&G will be milling and paving Mountain Avenue within the next few days.

Citizens to be Heard

Paul Scagnelli – 7 Stonybrook Drive

Mr. Scagnelli asked if the paving on Mountain Avenue will continue down to the intersection of Route 23 (Pompton Avenue). Council President Santomauro stated that it would not as it was to repave the portion of Mountain Avenue that was disrupted due to gas line replacement between East Greenbrook Road and Willow Brook Drive.

Mr. Scagnelli referred to an email he sent to Mr. Zichelli requesting updates on the flooding issues on Glenview Road, Ferndale Road, Hill Street and Mountain Avenue. He asked if there had been responses from engineering firms to the Borough's Request for Proposals for a drainage study of the culvert under Glenview Road. Mr. Zichelli stated that the responding engineering firms confirmed that the requested response date of October 19, 2018 was feasible for proposal submission. Mr. Zichelli stated that a proposal from Pulte Homes' engineering firm, Najarian, had already been received and would be considered among the other proposals.

Mr. Scagnelli asked for a status of the bond ordinance to fund the drainage study and culvert. Mr. Zichelli confirmed that the bond ordinance would be introduced by the Council that evening.

Mr. Scagnelli noted that residents have reported increased flow of water in the stream and significant erosion along the stream bed near the culvert at the lower end of Ferndale Road. He asked if the lower crossing will be included in the Glenview culvert drainage study RFP. Mr. Zichelli stated that it was not specifically requested but that the problem is outlined for evaluation and that DEP approvals would necessitate downstream analysis. He added that only proposals that include the downstream analysis would be considered.

Mr. Scagnelli asked for an update on the clearing of the vegetation at the lower end of Ferndale Road behind detention basin 3 as well as the re-establishment of a swale and berm to collect overland flow. Mr. Zichelli reported that Pulte cleared the area of debris approximately three weeks prior and that he knew of no issues since. None of the area residents present indicated any residual problems.

Mr. Scagnelli stated that the residents at the top of Glenview and Ferndale Roads need relief from the discharge of water from the temporary basin 2 into the wetlands into their back yards. He stated that the situation has improved since the temporary filling of the ditch but asked when it would be complete. Mr. Zichelli explained that the final design will discharge water from detention basin 2 at least 100 feet deeper into the wetlands. Mr. Scagnelli stated that the pumps only work during the day and stated concern for rain at night. Mr. Zichelli responded that Pulte evaluated the flow during heavy rain.

Mr. Scagnelli requested that the existing manhole that collects water flow from the slope at the top of Ferndale Road be fitted with a permanent grate. Mr. Zichelli confirmed that the permanent grate is already in place. He added that the swale feeds into the basin near Four Seasons which in a conservation easement for which there is a vegetation plan. He noted that the temporary construction

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trailer will be relocated, excavation was expected to be completed the following week and then Pulte's landscaping contractor will spread topsoil.

Mr. Scagnelli asked if any action was being taken regarding underground water, noting that it is a difficult problem to solve as it is not easily quantifiable. Mr. Zichelli stated that the issue has been presented to Pulte Homes to address. He added that Pulte has been put on notice to find a remedy. Mr. Scagnelli stated that it is most evident during constant, heavy rain and may otherwise be overlooked.

Mr. Scagnelli asked for a status of the town-wide overland flow study. Mr. Zichelli responded that an RFP was prepared and distributed with a due date of October 23, 2018.

Mr. Scagnelli asked Mr. Paris for update on the lawsuit with Pulte Homes. Mr. Paris reviewed that in response to Pulte's lawsuit against the Borough, North Caldwell filed a counterclaim against Pulte Homes which includes reference to the stormwater damage. He noted that Pulte's response is due by October 15, 2018. Mr. Paris added that he is working with counsel from the Joint Insurance Fund to work toward a solution. He suggested that residents send any damage documentation, including photos and video, to the Borough that can document the stormwater damage.

Mr. Scagnelli added that some residents along the lower part of Glenview Road have incurred overland water flow damage resulting from the incomplete condition of detention basin 2. He asked what the Borough plans to do for residents to remedy the damages. Mr. Paris stated that the Borough does not have a fund from which to make repairs for stormwater damage. He noted that documentation of damages should be forwarded to the Borough which will be compiled and included in the Pulte litigation counterclaim to show the extent of damage. Mr. Zichelli requested one email or file per residence that includes all documentation for ease of compilation. Mr. Scagnelli noted that not all residents have complete documentation of all repairs yet.

Carmella Cannistraci – 17 Glenview Road

Ms. Cannistraci asked for a template for organization of damage submission. Mr. Paris stated that he could provide a checklist to include photographs, videos, proof of payments or estimates i.e. invoices specifying water damage repairs. He stated that he would provide the checklist to Mr. Zichelli.

Mr. Scagnelli asked if Pulte Homes has been authorized to work at night. Mr. Zichelli stated that they have not been authorized to work at night. He added that the 6:00pm curfew was reiterated to the site supervisors and suggested that residents can call the police to report violations. Council President Santomauro confirmed that the police are empowered to stop violators. Mr. Zichelli noted that he may suggest allowing discretion for work on detention basin 2 which is a complicated structure that may require stopping at critical points.

Ms. Cannistraci asked if either drainage study would address the current condition and the future maintenance of the brook on Glenview Road next to her home. Mr. Zichelli stated that RFP included evaluation of the brook. He added that if improvements were determined as necessary, the Borough will request an easement for access. Ms. Cannistraci reiterated her concern about the responsibility for maintenance of the brook and asked the Borough to monitor its condition. She noted that the brook is not on her property but she has noticed significant changes in the brook over time as it has narrowed from the accumulation of debris. Mr. Paris stated that there should be an ordinance preventing residents from discarding debris into the brook.

Mr. Paul Holland – 43 Ferndale Road

Mr. Holland asked if the completion of detention basin 2 would extend the release channel further into the wetlands. Mr. Zichelli confirmed that is the permitted plan and that the DEP desires that water flow to the wetlands as a natural resource and aquifer. He added that a DEP representative was on site after August 11 with a representative of the Soil Conservation Commission. Mr. Zichelli stated that detention basin 2 stormwater construction permits were approved and the DEP approved of the entirety of the improvements including the release channel.

Mr. Holland stated that a defined solution should be identified for Pulte Homes to achieve.

Mr. Bernie Doyle – 31 Glenview Road

Mr. Doyle asked who would assume responsibility for the dead tree in the buffer zone near the silt line adjacent to his home. Mr. Zichelli confirmed that Pulte is responsible as it is on their property. Mr. Paris suggested that Mr. Doyle take a photo of the tree.

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Mr. Richard Verdi – 8 Hickory Drive

Mr. Verde stated that he was present to speak with Mayor Alessi who was absent from the meeting. Council President Santomauro stated that Mayor Alessi was ill but has been in contact with her each day and that she was handling daily matters. Mr. Verde stated that he wants to debate the Mayor before the election but has not heard back from the Mayor's campaign manager. Council President Santomauro stated that the Council meeting was not the forum to discuss a political debate.

Mr. Jim Quinn – 59 Beachmont Terrace

Mr. Quinn asked about the scope and nature of the traffic study included on the evening's agenda. He thanked the Council for considering the traffic on Beachmont Terrace. He stated that the one-mile length of road has seen increased traffic over the twenty years since he has lived there. Mr. Quinn added that the stretch has no traffic regulations, no sidewalks, and runs adjacent to Grandview School. He stated that vehicles travel at high speeds among pedestrians which has become very hazardous. He asked the Council for stop signs. Council President Santomauro stated that the area has been considered in the past and budgeted for signage. She verified that the area is a 25 mile per hour zone. Chief Deuer stated that radar had been implemented on Beachmont Terrace. He added that since traffic patterns feeding into Grandview School changed, there has been an increased flow of vehicles travelling on Beachmont to enter the school. He noted that speed strips installed in the road tend to make too much noise for the residents living in front of the speed bump. Chief Deuer stated that the traffic study would provide the best measurement of traffic volume and the most optimal solution to the speed issue. Mr. Zichelli stated that a potential solution is a three-way stop sign for which State standards must be met, e.g. equal traffic from each direction.

Mr. Paul Gallagher – 36 Ferndale Road

Mr. Gallagher inquired about the timing of the completion of the Ferndale/Glenview drainage study, including water flow from Verona, in relation to the completion of the Pulte development. Mr. Zichelli stated that the study results were anticipated in advance of Pulte's completion of the development and included the drainage area including flows from Verona. Mr. Gallagher expressed concern for planting and landscaping plans for replacement of the trees that were removed. Mr. Zichelli noted that landscaping plans are specific to each lot but that the conservation area behind Ferndale Road and the area in front of detention basin 2 will be replanted with trees.

Mr. Gallagher asked for guidelines on how to measure underground water. He noted that measurements are difficult without major rainfall despite the idea that water table issues may exist. Mr. Paris noted that the Borough could not conjecture the levels by which underground water issues are proven.

Mr. Gallagher offered that some residents may not be submitting estimates to Pulte until they feel that additional repairs are not needed. He noted a reluctance to move forward until they feel repairs are finished. Mr. Paris stated that estimates for anticipated repairs can be submitted if the work has not yet been completed.

Mr. Gallagher noted that temporary drainage solutions are pumping water into the wetlands in a concentrated form and asked if future plans include discharge further north into the wetlands. Mr. Zichelli stated that approved plans call for discharge further north into the wetlands. Mr. Gallagher noted that the concentrated discharge is creating new channels in the wetlands and modifying the state of the wetlands. Mr. Zichelli stated that Pulte will be directed to restore the wetlands if necessary after the completion of detention basin 2. Mr. Gallagher stated that it is imperative to ensure that detention basin 2 is functional to keep the wetlands in order.

Mr. Gallagher stated that identification and presentation of the problems to Pulte Homes needs to be followed with solutions.

Mr. Scagnelli asked for a copy of the new plans for detention basin 2. Mr. Zichelli offered to provide a copy of the updated drawings and confirmed that the construction currently follows the plans.

Items for Discussion

Amending Landscaper License Ordinance

Mr. Paris stated that plans were to rescind the ordinance. Councilman Chiaia noted that although State construction licensing take precedence over landscaping, there is a basis for licensing those landscapers

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who do not have State registration. Chief Deuer confirmed that landscapers who have a State Contractor's Registration would be exempt from the Borough licensing. He noted that identification of those landscapers who do not have the State registration would be difficult as would ensuring that those landscapers follow up with obtaining the Borough license. Mr. Paris confirmed that the ordinance would be amended to apply to only those landscapers who do not have the State Contractor's registration.

Amending Soliciting/Canvassing Ordinance

Council President Santomauro stated that Mr. Paris drafted an amended ordinance in compliance with all State and Federal regulations regarding solicitation. Mr. Paris stated that he and Chief Deuer were still reviewing the extensive changes to the ordinance. He noted that the revisions were in response to potential legal action sought by a solicitor who sued other New Jersey towns.

Proposed Ordinance re: Public Consumption of Alcoholic Beverages

Mr. Paris stated that he forwarded a draft ordinance to the Chief and the Council. Chief Deuer stated that the draft was satisfactory. Councilman Chiaia asked for clarification of public vs. private consumption with regard to Horseneck Tavern. Chief Deuer stated that such an ordinance does not exist today within the Borough code. Mr. Paris stated that the ordinance was ready to be introduced at the next Council meeting.

Assistant to Borough Engineer

Council President Santomauro stated that details of hire would be discussed in Executive Session. Councilman Chiaia stated the need for a responsible succession plan for the Borough Engineer position but did not feel that immediate action was necessary. Council President Santomauro agreed that a succession plan is critical but that Mr. Zichelli needs immediate help with daily engineering tasks. Mr. Zichelli stated that a succession plan is a great concern to him and noted his understanding of budget issues, but suggested the hiring process commence for hiring in January 2019. He offered some suggestions including a Director of Public Works with a water and sewer license, project-specific consultant who would be paid out of capital funds, a staff person for smaller issues, and a stormwater manager for ensuring quality control standards for which engineering degrees are not required.

Councilman Kessler stated that discussion of a succession plan began a year prior and that Mr. Zichelli's 32-year knowledge base could not be replaced. Councilman Raymond stated his support for a succession plan including an assistant who can learn from and assist Mr. Zichelli with each project with knowledge of the history of the Borough. Council President Santomauro summarized that the Council is in favor of starting the process to hire an assistant even if the new hire does not have all of the qualifications that Mr. Zichelli currently has. Mr. Zichelli offered to draft a job description.

AXA Deferred Compensation Plan

Mr. Zichelli stated that public employees do not have 401K plans but rather 457 deferred compensation plans to which the Borough does not contribute. He stated that one plan has been offered to Borough employees and that AXA is another option for the savings plan at no cost. He noted that AXA submitted a proposal which will be presented later in the evening's meeting agenda.

LOSAP Contributions

Council President Santomauro stated that the discussion would be tabled.

Drainage Study

Councilman Chiaia stated that he spoke with a resident on Farmstead Road who requested to be added to the study. Mr. Zichelli stated that the issue was being investigated by DPW as a clogged pipe or stormdrain was most likely the cause of the resident's problem.

Emergency Appropriation – Retaining Wall Repair

Mr. Zichelli stated a municipal retaining wall on Park Place sits on private property and was damaged by the heavy rains on August 11, 2018. He stated that the wall is in need of emergency repair and that he obtained quotes with a resolution later in the meeting for approval of an award of contract. Councilman Rees asked the anticipated life expectancy of the wall. Mr. Zichelli stated that the wall is 15-20 years where 30 years is typically expected. He added that he plans on additional measures for the new wall but that the DEP restricts the materials for the wall which contributed to the failure. He noted that the materials cannot be revised for the new wall construction as per the DEP.

Bond Ordinance for Capital Improvements

Mr. Mondelli stated that a bond ordinance has been prepared for introduction that evening in the amount of \$500,000 for the drainage study and improvements.

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Liberty Field Scoreboards

Councilman Raymond stated that the North Caldwell Recreation Foundation will be donating funds for the installation of two new scoreboards at the Liberty Turf Field. He stated that the contract with the turf field contractor called for the installation of the old scoreboard which would now be replaced with the two new scoreboards. He added that the purchase of both and installation of one scoreboard would be paid for by the NCRF. Council President Santomauro stated that a resolution would be presented later in the meeting regarding the donation.

Beachmont Terrace Traffic Study

Council President Santomauro referred to Mr. Quinn's testimony earlier in the meeting. Chief Deuer stated that a traffic study is first necessary and that plans would be submitted to the county for approval of a three-way stop sign. He added that the busiest time in that area for traffic is when children are going to or coming out of the school when Police Department resources are needed at the school for security, preventing radar or monitoring of traffic.

Councilman Chiaia stated that solar powered speed signs were included the capital budget. The Council discussed placement of stop signs and speed signs which could be undesirable by neighbors. Mr. Quinn offered the area of a Borough easement for possible placement of a sign. He asked the nature and scope of a traffic study. Chief Deuer explained two types of studies that count cars and speed. Mr. Zichelli estimated the timing between one month and six weeks. He noted that the Department of Transportation is conservative regarding the use of multi-way stops for the purpose of slowing traffic. Chief Deuer stated that the Police Department will install their speed system as soon as possible to start counting vehicles and monitoring speed.

Mr. Zichelli noted that the Verona traffic study cost \$7,500. Chief Deuer stated that there have not been many accidents at the intersection in question and offered to send email blasts to remind residents to control speed. Councilman Raymond suggested monitoring speed and installing solar powered signs before incurring costs of a traffic study.

County of Essex Funding for Mountain Avenue Field Improvements

Mr. Zichelli stated that the Borough sent a resolution to Essex County requesting green acres funding for replacing Mountain Avenue field with turf at the same time as the resolution requesting a dog park. He noted that the County collects money from Borough residents for open space and a portion is given back through a grant program for improvements. Councilman Raymond noted that the grant could be approximately \$150,000 which would not pay for a turf field but may cover some improvements.

Action to be Taken

Introduction of Bond Ordinance for Capital Improvements

Councilman Raymond stated that a Bond Ordinance for a drainage study is being introduced. He explained that the total costs and extend of improvements and repairs are unknown at this time. He added that the bond allocates funds for the study and will likely not cover all improvements and repairs. Council President Santomauro noted that the Bond Ordinance allows the Borough to have funding in place for the study and some off the anticipated work.

Councilman Raymond moved to Introduce Bond Ordinance O-13-18 A Bond Ordinance Authorizing Various Stormwater Drainage Infrastructure Improvements and Study in and for the Borough of North Caldwell, in the County of Essex, New Jersey, Appropriating \$500,000 Therefore and Authorizing the Issuance of \$475,000 Bonds or Notes to Finance Part of the Cost Thereof, seconded by Councilman Kessler. Councilman Astorino was absent from the meeting. Said motion was carried unanimously with five votes. The public hearing and final adoption is scheduled for October 23, 2018 at 7:30pm.

Resolution R-184-18 A Resolution Approving the Payment of Bills was read. Motion was made by Councilman Rees, seconded by Councilman Raymond. Said motion was carried unanimously with five votes.

Resolution R-185-18 A Resolution Adopting AXA Equitable as an Authorized 457 Deferred Compensation Plan for the Borough of North Caldwell was read. Motion was made by Councilman Raymond, seconded by Councilman Kessler. Said motion was carried unanimously with five votes.

Resolution R-186-18 A Resolution Accepting the Resignation of Police Dispatcher Michael Daino was read. Chief Deuer stated the new hire did not work out and that he was in the process of conducting

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interviews for the position. Motion was made by Councilman Chiaia, seconded by Councilman Raymond. Said motion was carried unanimously with five votes.

Resolution R-187 A Resolution Authorizing the Installation of Two Score Boards at Liberty Field in the Borough of North Caldwell was read. Motion was made by Councilman Raymond, seconded by Councilman Kessler. Said motion was carried unanimously with five votes.

Resolution R-188-18 A Resolution Authorizing an Emergency Contract for Retaining Wall Repair was read. Motion was made by Council President Santomauro, seconded by Councilman Kessler. Said motion was carried unanimously with five votes.

Resolution R-190-18 A Resolution Authorizing the Borough of North Caldwell to Enter into an Agreement with Owners of Block 2104, Lot 6 for Access to Easement for Repairs was read. Motion was made by Council President Santomauro, seconded by Councilman Kessler. Said motion was carried unanimously with five votes.

Resolution R-189-18 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) Caldwell Sewer Utility, (2) Essex Fells Water Utility, (3) North Caldwell-Essex Fells Joint Police Dispatch; B. Anticipated Contract Negotiations – (1) 620 Mountain Avenue; C. Litigation – (1) COAH Declaratory Judgment, (2) Pulte Homes; D. Personnel – (1) Assistant Engineer, (2) NCPD Dispatch was read. Motion was made by Council President Santomauro, seconded by Councilman Chiaia. Said motion was carried unanimously with five 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