

BOROUGH OF FAR HILLS
Borough Council Regular Meeting
MINUTES
June 24, 2019

CALL TO ORDER

Mayor Vallone called the meeting to order at 7:05 p.m. at the Far Hills Municipal Building and read the open public meetings statement in accordance with the law.

PLEDGE OF ALLEGIANCE

Mayor Vallone led the Pledge of Allegiance.

ROLL CALL

Present: Carty, Chimenti, Karner, Surks, Vallone

Absent, as Excused: Hand, Tweedie

Absent:

Also Present: Clerk Hicks, Attorney Sordillo, Chief DeCarolis, Detective Kamieniecki, Officer Mulch and approx. 45 members of the public

REPORTS

Councilman Surks – Roads

Councilman Surks reported the milling and paving of Route 2020 from Far Hills to Bernardsville has been completed and acknowledged the efforts of Mayor Vallone for progressing the project. He also noted that Bedminster DPW Director, John Mantz installed large riprap and pea gravel to stabilize the roadway by the culvert on Lake Road. Somerset County was notified to ascertain if the scope of the culvert repair project was within the County's purview to repair. Councilman Surks also reported that Mr. Mantz was informed of additional roadway repairs on Far Hills Avenue, and Lake and Schley Roads and remediation efforts were being scheduled.

Councilman Carty – Finance/Insurance

No report.

Councilwoman Chimenti – Laws, Ordinances, & Elections

No report.

Council President Karner – Police

Council President Karner stated that the 3rd annual Essex Horse Trials, held on June 22-23, 2019 at Moorland Farm, was a well attended and successful event. He noted that there was only one first aid call during the two day event.

Council President Karner indicated that a meeting to review the drainage concerns, raised by residents of Dumont Road and DeMun Place at the June 10, 2019 Borough Council meeting, was scheduled for June 25, 2019 with himself, Borough Engineer, Paul Ferriero, and resident representative, Mr. Nunzio Merola, 8 Dumont Road. Council President Karner stated a subcommittee consisting of Councilman Surks and Councilwoman Tweedie has also been formalized to assist with the review of the drainage issue. Councilman Surks added that he would also be attending the June 25th meeting to assist with any roadway concerns. Lastly, Council President Karner provided an update regarding the PBA negotiations and indicated that further review was pending the Borough's Human Resources Officer, Jill Searing who was currently on vacation.

Mayor Vallone

Mayor Vallone introduced Bernards Township Mayor, Ms. Carol Bianchi, who recently became the JCP&L's Regional External Affairs Consultant and would be serving as the liaison for several municipalities, including the Borough of Far Hills. Ms. Bianchi provided her contact information to the members of the Borough Council.

REGULAR AGENDA

APPROVAL OF MINUTES

6/10/19 – Regular Meeting

Motion by Councilman President Karner, seconded by Councilman Surks, was unanimously carried that these minutes be approved for content and release.

6/10/19 – Executive Session Meeting

Motion by Councilman President Karner, seconded by Councilman Surks, was unanimously carried that these minutes be approved for content only.

UNFINISHED BUSINESS

ORDINANCE – PUBLIC HEARING AND ADOPTION

ORDINANCE 2019-04 – AN ORDINANCE APPROPRIATING \$400,000.00 FOR DOUGLAS ROAD IMPROVEMENTS - SECTION 2

Motion by Council President Karner, seconded by Councilman Surks and unanimously carried to open the public hearing.

Charles Schwester, 410 Lake Road, Far Hills inquired as to appropriation of the \$400,000.00 and the fiscal responsibility of each municipality. Clerk Hicks responded that Bernards Township was providing the engineering and grant administration for the project and any costs in excess of the NJDOT grant would be shared equally between the two municipalities.

Clerk Hicks advised that the notice of the public hearing was published in the newspaper of record, and that no communication, either written or verbal, was received regarding the Ordinance.

Motion by Councilman Surks, seconded by Council President Karner and unanimously carried to close the public hearing.

Motion by Council President Karner, seconded by Councilwoman Surks that Ordinance 2019-04 be adopted.

Roll Call:

Aye: Carty, Chimenti, Karner, Surks

Nay:

Abstain:

Motion Carried.

NEW BUSINESS

CONSENT AGENDA

The items listed within the consent agenda portion of the meeting have been referred to the Borough Council for reading and study and are considered routine and will be enacted with one motion of the Borough Council with no separate discussion. If separate discussion is required, the item may be removed from the agenda by Borough Council action and placed on the regular agenda under new business.

RESOLUTIONS

1. Resolution 19-095 – Authorizing Submission of NJDOT Grant Application
Mine Brook Road Resurfacing Project – Section 2
2. Resolution 19-096 – Authorizing Renewal of Commodity Resale Agreement
Somerset County Park Commission
3. Resolution 19-097 – Authorizing Adjustment to Sewer Charges – B9 L5 and B8 L1.01
4. Resolution 19-098 – Confirming Resignation – Administrative Assistant
5. Resolution 19-099 – Payment of Bill List

Motion by Council President Karner, seconded by Councilwoman Carty that Resolutions 19-095 through 19-099 be approved.

Roll Call:

Aye: Carty, Chimenti, Karner, Surks

Nay:

Abstain:

Motion Carried.

DISCUSSION

Affordable Housing Update

Mayor Vallone read the following statement:

Ladies and Gentlemen –

Tonight I want to say a few words about the ongoing discussions we have had regarding our state mandated COAH obligations. I will then ask our Borough Attorney, Mr. Sordillo to make a statement as well.

Over the past two months, we have been looking into another possible option, that is working with a builder, in this case, RPM Development Group (RPM) and having the Borough contribute some portion financially. On a parallel track, we have reached out to the Court and Fair Share Housing Center (FSHC), as we are required to do and Mr. Sordillo will expound on these meetings and discussions.

RPM, like any builder who builds affordable housing obtains much of their money for funding from a State fund which has limited resources. The builder requires a partnering municipality to contribute funds, in our case the cost included: all the sewer connections; all water hook-ups; a give back incentive of approximately \$750,000.00; any cost over-runs exceeding \$235,000.00 per unit and the builder, in our case, estimates \$250,000.00-\$300,000.00 per unit, as well as any and all ground improvements.

Our discussions over the last few weeks indicate that our cost as a Borough would be somewhere between 8.5 - 10 million dollars which, as my newsletter outlined would seriously impact our financial viability.

Last week, our professionals had a meeting with Judge Miller and attorneys representing FSHC and the outcome, which Mr. Sordillo will detail, was not in our favor. Firstly, the Court will grant no more time extensions and wants our court approved plan to move forward. Moreover, the attorneys for FSHC, having worked with RPM and pretty much all of the other builders of affordable housing throughout the state of New Jersey, have stated that they would vigorously oppose any plan requiring a builder working in Far Hills to try and obtain reimbursement funds from the state of New Jersey, and would in fact impose even stronger requirements on Far Hills if we chose to go down that path.

This means that we, the Borough, will have to shoulder the entire cost of building these units and which will be well over 20 million dollars. Keep in mind, RPM will not build anything less than 50 units. The breakdown consists of the following: \$275,000.00 per unit multiplied by 56 units totaling \$15.4 million, \$3.6 million for sewer, \$1.5 million for water, and \$1 million for infrastructure drainage etc. not including any professional fees. This would surely financially devastate Far Hills.

In short, we have a court approved plan that satisfies our COAH requirements, costs Far Hills no financial outlay, maintains our low taxes, is deeded age-restricted age, is income positive and will architecturally assimilate into our Borough.

Moreover, it is supported by the FSHC, the Court and the Court's independent Special Master. As such, we are moving forward with this plan. The Planning Board will commence Master Plan discussions at their next meeting on July 1, 2019. The Court and Fair Share Housing Center will be monitoring our progress and has instituted a time frame to complete this process. Our attorney will speak to the requirements that have now been placed upon us.

I and this Council in no way wanted to jeopardize our positive position with the Court and be subject to a builder's remedy lawsuit wherein a builder can build what he wants and almost as many as he wants, with any appearance he wants. The Council and I have worked very hard to avoid this as it would severely impact all of Far Hills.

With that I will ask our Borough Attorney to say a few words.

Borough Attorney Joseph Sordillo stated that he attended the case management conference on June 18, 2019 with Judge Miller and representatives from the Fair Share Housing Center (FSHC) to discuss the Borough's current status and at that time made a request for an extension of time to consider the RPM proposal in lieu of what was currently set forth in the Borough's Settlement Agreement and presented at the Fairness Hearing. He noted that Judge Miller reprimanded the Borough for requesting an extension at this time, and stated that had the request been made prior to the case management conference, the Court would have denied the request. Mr. Sordillo expressed that Judge Miller has the authority to revoke the Borough's immunity to builder's remedy lawsuits, but that he recognized the Borough's continual efforts in working collaboratively with FSHC and indicated the Borough's immunity would remain in effect at this time.

Mr. Sordillo continued that the RPM proposal was reviewed and FSHC adamantly objected to the RPM proposal for the reasons previously stated by Mayor Vallone this evening. Mr. Sordillo added that the Court indicated that they would support FSHC's position. Mr. Sordillo briefly explained the state funding program parameters for affordable developments and noted that the amount of funding requested by RPM was nearly half of the allotment allocated by the program for the entire state. Based on this, the Court and FSHC would not support the RPM proposal development in the Borough. Mr. Sordillo stated that RPM was duly advised as to the Court's and FSHC decision.

Mr. Sordillo explained that as the Borough was considering the RPM proposal, it did not proceed with the adoption of the zoning ordinances which were due to be completed by June 24, 2019 and indicated that Judge Miller expressed that that was a mistake. Mr. Sordillo outlined the next steps as presented by the Court indicating that the Borough had until November 2019 to adopt the necessary affordable housing documents including the adoption of the amendment to the Master Plan, adoption of zoning ordinances as well as amendments to the current agreements. Mr. Sordillo continued that the Court was requiring an order to be drafted which would detail the specific time frame for the adoption of these

documents and advised that should any of the deadlines be missed, the Borough would then be required to file a motion with the Court to justify the lack of adherence to the schedule and the Borough's immunity could then be jeopardized. Mr. Sordillo stated that the hearing for the amendment of the Master Plan would be scheduled for the July 1, 2019 Planning Board meeting.

Mr. Sordillo lastly noted that the Borough must also submit a written update on a monthly basis to the Court detailing the Borough's progress.

PUBLIC COMMENT – *The Mayor and Council welcome comments from any member of the public. To help facilitate an orderly meeting and to permit the opportunity for anyone who wishes to be heard, speakers shall limit their comments to 5 minutes.*

Jon Sobel, 44 Spring Hollow Road, Far Hills requested that the amendment to the Master Plan, planned for the July 1, 2019 Planning Board meeting, be postponed due to the holiday. He also inquired if the members of the Borough Council had read his letter presented at the June 10, 2019 meeting and again commented upon the lack of notification of meetings and transparency pertaining to affordable housing. Mr. Sobel also requested written confirmation from Judge Miller as to his denial of the extension.

Mr. Sordillo responded that the Borough of Far Hills has provided all notifications as required by law and added that the Court Order was anticipated to be issued by Judge Miller next week which would detail the schedule by which the Borough must adhere.

Mr. Sobel inquired if the amendment to the Master Plan could exclude the Errico Acres development but move forward with the other developments. He also inquired as to the precedent for other developments as result of the amendment to the Master Plan.

Mr. Sordillo responded that the amendment to the Master Plan must include all properties included in the Settlement Agreement and confirmed that it was specific to the properties identified and would not set a precedent for other developments.

Charles Schwester, 410 Lake Road, Far Hills inquired as to the ability of the Borough Council to ensure the deeded age-restriction would remain applicable to all of the market rate units in the Errico Acres development. He also suggested that the units be built in phases to ensure the financial viability for the project.

Mr. Sordillo responded that the deeded age-restriction would be included in the amendment to the Master Plan, the Settlement Agreement and zoning ordinances. He also noted that the age restriction would also be included in the state registration of the development's homeowner's association as well as being included in the deed, which the Borough is a party to and, therefore would require Council approval for any changes to the age-restriction.

Janine Silberberg, 90 Hidden Valley Road, Far Hills requested confirmation of the date of the meeting with Judge Miller and clarification as to the conditions for the June 24, 2019 deadline. She also suggested video conferencing be arranged for the July 1, 2019 Planning Board meeting due to many residents being unable to attend because of the holiday. She also commented on the continual postponement of the Planning Board hearing for the amendment to the Master Plan and inquired as to the process going forward should the Planning Board not approve the amendment at the July 1, 2019 meeting.

Mr. Sordillo confirmed that he met with Judge Miller and representatives of FSHC on June 18, 2019 and explained the Court Order imposed a 120-day compliance period, which resulted in the June 24, 2019

deadline. He further explained that the Court would look for the Borough to proceed with the zoning ordinances regardless of approval of the amendment to the Master Plan by the Planning Board as the law provides for procedures for the Borough Council to override the decision by the Planning Board. He added that the Planning Board hearing for the amendment to the Master Plan was postponed due to resident's requests for the Borough to review the proposal from the RPM Development Group.

Dr. George Mellendick, 260 Lake Road, Far Hills inquired if any environmental or traffic study analyses were required to be submitted for the Errico Acres site prior to the Planning Board's review of the amendment to the Master Plan at the July 1, 2019 meeting.

Mr. Sordillo advised that the amendment to the Master Plan provides in general terms the Borough's designation of areas suitable for affordable housing, whereas the zoning ordinances would provide more details and would encompass the specific study analyses. He also provided a procedural overview of the Planning Board public hearing, which would provide an opportunity for members of the public to ask questions of the Borough Planner with respect to the amendment to the Master Plan.

Charles Schwester, 410 Lake Road, Far Hills suggested potential tax abatements for the developer to support a reduction in the number of market rate units.

There were no further comments from the public.

EXECUTIVE SESSION

Resolution 19-100 - Attorney/Client Privilege – Litigation – Affordable Housing
- Attorney/Client Privilege – Litigation – Tax Appeal – 97 Spring Hollow Road

Motion by Council President Karner, seconded by Councilman Surks and unanimously carried to approve Resolution 19-100.

RETURN TO OPEN SESSION

Resolution 19-101 – Authorizing Settlement of Tax Appeal - 97 Spring Hollow Rd, B6 L25

Motion by Council President Karner, seconded by Councilman Surks that Resolution 19-101 be approved.

Roll Call:

Aye: Carty, Chimenti, Karner, Surks

Nay:

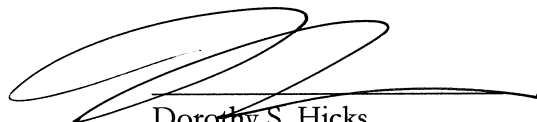
Abstain:

Motion Carried.

ADJOURNMENT

Motion by Council President Karner, seconded by Councilman Carty and unanimously carried to adjourn the meeting at 8:50 p.m.

Respectfully submitted,



Dorothy S. Hicks
Borough Clerk

APPROVED - 07/08/19