

BOROUGH OF FAR HILLS
Borough Council Special Meeting
MINUTES
March 8, 2023

CALL TO ORDER

Mayor Welsh called the meeting to order at 7:03 p.m. at the Far Hills Municipal Building and read the open public meetings statement in accordance with the law.

PLEDGE OF ALLEGIANCE

Mayor Welsh led the Pledge of Allegiance.

ROLL CALL

Present: Council President Mary Chimenti, Councilman, Peter J. Coccoziello, Jr., Councilman David P. Karner, Councilman Rick Rinzler, Councilwoman Sheila Tweedie, Mayor Kevin P. Welsh

Absent, as Excused: Councilman Joseph Carty

Absent:

Also Present: Borough Clerk Dorothy S. Hicks, Borough Attorney Joseph Sordillo, Borough Planner David Banisch, Special Counsel Joseph Baumann, Detective Corporal Ryan Kamieniecki

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.*

Motion by Councilman Karner, seconded by Council President Chimenti to open the meeting to public comment.

Daniel Steinhagen, Esq., Beattie Padovano, Montvale, NJ representing Far Hills in Crisis, a NJ non-profit corporation comprised of citizens of the Borough of Far Hills inquired as to the agenda and publication of the notice in the newspaper for tonight's special meeting. He also asked when the financial report being prepared by the Otteau Group would be available for review by the public and if that would be prior to the authorization of the Developer's Agreement. Mr. Steingarten opined the Borough should not be concerned with losing the bonus rental credits due to negotiations of the payment to the developer and stated that he spoke with the Special Master, Mr. Kyle and there was no indication the affordable housing agreement for the payment was approved through a Fairness Hearing. In contrast, he referenced a case in Englewood where he represented the developer and Fair Share Housing Center sought action to remove the bonus rental credits due to that municipality not adopting ordinances in a timely fashion which he felt was not the case for Far Hills.

Ms. Hicks responded the 48-hour notice for tonight's meeting was provided in compliance with statute and was only required to be transmitted not published in the newspapers.

Mr. Sordillo explained the Developer's Agreement was separate from the Affordable Housing Agreement and the financial report from the Otteau Group pertained to the Affordable Housing Agreement.

Denise Errico Duffy, 62 Pheasant Hill Drive, Far Hills inquired about the March 10, 2023 due date. She also commented that she researched and found 18 other municipalities who are objecting to the affordable housing developments and again expressed her concern regarding the number units to be built in the affordable housing development. She stated she has had two buyers for the property for several years, yet no one had reached out to her.

Mayor Welsh responded there was not a March 10, 2023 due date; however, he explained, there are currently two motions brought against the Borough and the courts have indicated a concern with how long the Borough has taken to authorize the required affordable housing documentation.

George Mellendick, 260 Lake Road, Far Hills expressed concern regarding the presence of the Borough Planner at a Council meeting as well as there being no publication of the notice of tonight's meeting in the newspaper. He inquired when the Otteau Group financial impact study report would be made available to the public. Lastly, he questioned the litigation being discussed during executive session this evening and when the minutes would be available to the public.

Ms. Hicks reiterated the 48-hour public meeting notice requirements as well as the procedures for the release of the executive session minutes.

Mayor Welsh responded the financial impact study report would be posted on the Borough website under Latest News once it has been completed and reviewed by the Borough Council. He anticipated being able to provide additional information to the public at the March 13, 2023 Borough Council meeting.

Mr. Sordillo briefly reviewed the motions to intervene and enforce litigant rights filed by Melillo Equities and Fair Share Housing Center against the Borough of Far Hills. The special meeting this evening was necessary in order for the Borough Council to meet in executive session to review legal strategies with each of the Borough's professionals. Mr. Sordillo responded these motions pertained to the Borough's Judgment of Repose as was the ongoing litigation since originally filed in 2015.

Jonathan Mahoney, 5 Fox Hunt Court, Far Hills stated if the Borough proceeds with the affordable housing project and the payment to the developer, the project would be subject to union labor laws and outlined the following actions he would take. He plans to monitor the project for compliance with prevailing wage and union labor regulations; set up surveillance cameras to ensure compliance with OSHA and intends to personally inform Pulte leadership of these actions.

Suzanne Voorhees, 5 Castle Court, Far Hills inquired who would be responsible for any failure of the septic treatment plant for this development.

Mr. Sordillo responded the Homeowner's Association would be responsible for the maintenance of the wastewater treatment facility and a financial reserve would also be required to be established. The Borough would not be responsible for the maintenance of the treatment facility.

Jon Sobel, 44 Spring Hollow Road, Far Hills expressed concern about the lack of transparency and notice to the public. He also questioned if other members of the Council had conflicts of interest with Melillo Equities. Lastly, he stated the Far Hills Country Day School was on spring break the week of March 13, 2023 and asked that the financial impact report presentation be rescheduled until the next Borough Council meeting.

Denise Errico Duffy, 62 Pheasant Hill Drive, Far Hills inquired if additional notices could be provided to the public regarding the special meetings. She also asked about the NJDEP permit approvals for the development.

A brief discussion ensued regarding the conditions and timelines for the NJDEP permits approved for the development. Mr. Sordillo noted the NJDEP approvals were available to the public.

George Mellendick, 260 Lake Road, Far Hills inquired about the presence of the Special Counsel as well as the absence of Councilman Carty from tonight's meeting. He also expressed concern regarding the Borough Attorney, Mr. Sordillo not appearing to be an advocate for the Borough.

Mayor Welsh responded that Dr. Mellendick's comment was disingenuous and inaccurate. Mr. Sordillo has always acted in the best interest of the Borough.

Councilman Karner concurred with Mayor Welsh regarding the legal representation provided by Mr. Sordillo.

Mr. Joseph Baumann responded he was in attendance this evening to provide legal counsel pertaining to affordable housing to the Borough Council.

Mr. Sordillo responded the Borough was under deadlines imposed by the courts which necessitated the scheduling of a special meeting and unfortunately, Councilman Carty was unable to attend.

Mike Pendency, 196 Lake Road, Far Hills inquired as to an RFP with Pulte and the ability to build only the 27 affordable housing units instead of as a component of a larger project.

Mr. Sordillo responded there was no RFP with Pulte and provided an overview of the affordable housing projects that were previously presented to the Borough. He noted the court providing special permission to the Borough for an extension in order to conduct public hearings with each of the developers.

Karen Reilly, 7 Fox Hunt Court, Far Hills inquired about the two motions recently filed against the Borough.

Mr. Sordillo responded the first motion was filed by Melillo Equities, LLC and the second by Fair Share Housing Center. The Borough was required to authorize the Developer's Agreement as well as sign the final subdivision plat plan. He explained if the Borough did not comply, then the court could remove the Borough's Judgment of Repose (JOR) which would subject the Borough to potential builder's remedy lawsuits. Additionally, the motion filed by Fair Share Housing Center could also remove the age restriction currently in effect for the 105 market rate units.

Mayor Welsh added the Borough was required to report back to the court and expressed his concern with a builder's remedy lawsuit which could be devastating to the Borough of Far Hills. He referenced that this is what had previously occurred in Bedminster Township resulting in the Hills development.

Suzanne Voorhees, 5 Castle Court, Far Hills expressed concern that the Borough Council was not representing or hearing residents' opposition to the 105 units being built for 29 affordable housing units.

Councilman Rinzler responded the members of the Borough Council also live in town and reassured the residents that they are being heard. He added the review of developments for affordable housing compliance has been ongoing for several years.

Mr. Baumann, Borough Special Counsel stated municipalities across the State of NJ are in the similar situation in order to meet the affordable housing obligation as mandated by the state and currently being overseen by the court. He reviewed the inclusionary set aside process and indicated the Errico Acres development affordable to market ratio was 22% which was a higher-than-normal percentage. He indicated it was necessary for the Borough to approve the easements and the developer's agreement this evening in order to avoid litigation and a potential builder's remedy lawsuit.

Mr. Banisch, Borough Planner provided a brief overview of the affordable housing developments presented to the Borough Council over the years which brought equal public debate. He stated the location of the Errico Acres site provided a well-hidden development than the other sites that were previously presented. Lastly, he referred to the existing Polo Club development which was also an inclusionary affordable housing development as a result of a builder's remedy lawsuit which resulted in 125 units.

Karen Reilly, 7 Fox Hunt Court, Far Hills inquired if the Borough Council could ask Ms. Duffy who would build the 29 affordable units and what penalties the Borough would receive if the agreement with the developer was terminated.

There were no further comments from the public.

Motion by Council President Chimenti, seconded by Councilman Karner to close the meeting to public comment.

EXECUTIVE SESSION

Resolution 23-058 - Attorney-Client Privilege – Litigation – Affordable Housing

Motion by Councilman Karner, seconded by Council President Chimenti, was unanimously carried to approve Resolution 23-058.

RETURN TO OPEN SESSION AND ADJOURNMENT

Motion by Councilman Karner, seconded by Council President Chimenti was unanimously carried to adjourn the meeting at 10:41 p.m.

Respectfully submitted,



Dorothy S. Hicks
Borough Clerk

APPROVED – 3/27/2023