

BOROUGH OF FAR HILLS
Borough Council Regular Meeting
MINUTES
March 25, 2024

CALL TO ORDER

Mayor Welsh 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.

ROLL CALL

Present: Councilman Joseph Carty, Councilwoman Mary Chimenti, Council President David P. Karner, Councilman Rick Rinzler, Councilman Charles P. Schwester, Mayor Kevin P. Welsh

Absent, as Excused: Councilman Peter J. Coccoziello, Jr.

Absent:

Also Present: Borough Clerk Dorothy S. Hicks, Borough Attorney Albert Cruz, Lieutenant Chris Kocur

REPORTS

Councilman Carty – Police

Councilman Carty reported he and Council President Karner met with Far Hills representatives of the Police Benevolent Association (PBA) earlier this evening regarding the PBA contract which will be further discussed during Executive Session this evening.

Councilwoman Chimenti – Health & Sanitation

Councilwoman Chimenti presented the February 2024 Sewer Collection System report and reviewed the Borough's purchased capacity in relation to usage as well as the impact of precipitation levels for January and February. She noted that while the Borough's system is functioning properly precipitation may increase in the Spring which will most likely increase the inflow and irrigation in the system.

Council President Karner – Laws & Ordinances

In Councilman Coccoziello's absence this evening, Council President Karner reported on the status of the improvements at the J. Malcolm Belcher Fairgrounds. The installation of the water line has been completed and three new spickets have been installed at the barns for use during the Atlantic Visiting Nurse Rummage Sale. Improvements to the track were also recently completed as the gravel had to be replenished due to the recent storm damage.

Councilman Rinzler – Finance & Insurance

Councilman Rinzler reported that an email phishing attempt had recently occurred utilizing Mayor Welsh's email and reminded everyone to be aware of these scams and to use caution when opening and responding to emails.

Mayor Welsh added that many people reached out to himself and Ms. Hicks regarding this particular email which was the best course of action in response to these email phishing attempts.

Councilman Schwester – Roads

Councilman Schwester reported that during the recent rainstorm, he witnessed a considerable amount of water runoff from the Kimbolton/Pulte Development site. He noted that the property at 19 Lake Road, owned by Mr. Steve Newman had been specifically affected by this runoff.

Councilman Schwester also reported that he saw orange-colored water being emitted near the gas line at the intersection of Route 202 and Sunnybranch Road. After consulting with Mayor Welsh, the New Jersey Department of Transportation (NJDOT) will be contacted to ensure that there was no underlying damage to the roadway. He also expressed his concern regarding these drainage issues and the ability for adequate soil percolation at the Kimbolton/Pulte Development site and questioned the viability of the onsite wastewater treatment facility.

Mayor Welsh added that there were several locations on Route 202 where water had continued to pool or run across the roadway and this would also be reviewed with the NJDOT.

Mr. Steve Newman, 19 Lake Road, Far Hills stated he witnessed significant erosion around a drainage pipe that runs underneath Route 202 and outflows adjacent to his property.

A brief discussion ensued regarding the status of the construction issues associated with the Kimbolton/Pulte Development project.

Councilman Schwester concluded his report by stating that the Bedminster DPW continues to address potholes throughout the Borough.

Lieutenant Kocur

Lieutenant Kocur informed the Borough Council of the Distracted Driver detail that would be commencing in April 2024. He also reported the Far Hills Police Department prepared a flyer to provide residents with additional safety information and tips. Copies were available this evening and the information has also been posted on the Borough website.

Mayor Welsh

Mayor Welsh reminded everyone of the 73rd Annual Easter Egg Hunt, which was scheduled for Noon on Saturday, March 30, 2024 at the J. Malcolm Belcher Fairgrounds.

Mayor Welsh provided an update regarding the construction at the Kimbolton Development and read the following statement:

On tonight's Consent Agenda is Resolution 2024-085 appointing O'Toole Scrivo, LLC as Special Litigation Counsel.

On the March 11, 2024 Consent Agenda was Resolution 2024-076 appointing Clarke Caton Hintz, PC as Special Planning Consultant.

Both of these appointments are in furtherance of the efforts of the Borough of Far Hills to enforce the conditions imposed by the Borough Planning Board on the Kimbolton Development and enforce the Borough's Land Management Ordinances.

On January 18, 2024, the Borough Zoning Officer issued Pulte Homes of NJ, Limited Partnership, a Notice of Violation for, among other things, exceeding the retaining wall heights at the Kimbolton Development without the necessary variance or design waiver. Pulte's response was not to comply with the NOV and return to the Planning Board for amended site plan approval. Instead, Pulte allowed the applicable time periods to expire and, on March 12, 2024 filed a motion to intervene in the Borough's underlying affordable housing litigation alleging that the Borough was attempting to delay the development of affordable housing within the Borough and imposing cost generating mechanisms

on Pulte and the affordable units. Additionally, because Pulte claims that the Borough breached its affordable housing obligation, Pulte's motion also seeks relief in aid of litigant's rights. Essentially, Pulte seeks that the Superior Court of New Jersey award Pulte legal fees in this matter.

The Borough's response to Pulte's motion is currently due April 4, 2024. Pulte's reply to the Borough's opposition is due April 8, 2024 and a hearing is scheduled on April 12, 2024 before the Superior Court. As with all Superior Court matters, this schedule is subject to change.

Special Litigation Counsel and the Special Consulting Planner Michael F. Sullivan of Clarke Caton Hintz, are leading the preparation of the Borough's opposition and are supported by the Borough's Affordable Housing Counsel, Jeffrey Surenian and Nancy Holm, Borough Engineer Paul Ferriero, Borough Planner David Banisch and Borough Attorney Albert Cruz. All of these professionals are, in turn, supported by the Borough Clerk Dorothy Hicks.

The Borough believes it has assembled a team consisting of both outside subject matter experts supplemented by the Borough's existing professionals and staff to litigate with Pulte.

Because this matter is in litigation, the Council and I are constrained from further discussion. The Borough Council will be further updated by Mr. Cruz in Executive Session.

The Borough will continue to seek to enforce the Planning Board's conditions and Borough's Land Management Ordinances and oppose Pulte's motion.

Thank you for your continuing understanding.

Mayor Welsh continued with his report indicating that options to potentially stream the Borough's public meetings were currently being reviewed. He noted that an estimate obtained several years ago was approximately \$22,000.00 to install the necessary equipment. The vendor has been contacted to prepare a revised proposal which will be further considered.

He stated that the public meetings are recorded and anyone who may have missed a meeting could obtain a copy of the audio recording by contacting Ms. Hicks.

REGULAR AGENDA APPROVAL OF MINUTES

3/11/2024 – Regular Meeting Minutes

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

3/11/2024 – Executive Session Minutes

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

NEW BUSINESS

ORDINANCES – INTRODUCTION

ORDINANCE 2024-02 – AN ORDINANCE ESTABLISHING REGULATIONS TO PRESERVE THE PUBLIC PEACE AND ORDER AND THE PROTECTION OF RESIDENTS OF THE BOROUGH OF FAR HILLS

Mayor Welsh provided a brief overview of the Ordinance which had originated through the efforts of the Somerset Hills Public Safety Committee. He noted that similar ordinances have already been adopted in Bedminster and Bernards Townships.

A brief discussion ensued regarding the increase in crime in the surrounding areas and the need to have sufficient penalties and consequences in order to deter future criminal activities.

Motion by Councilman Rinzler, seconded by Council President Karner that Ordinance 2024-02 be introduced.

Roll Call:

Aye: Carty, Chimenti, Karner, Rinzler, Schwester

Nay:

Abstain:

Motion Carried.

ORDINANCE 2024-03 – AN ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK FOR CALENDAR YEAR 2024

Motion by Council President Karner, seconded by Councilwoman Chimenti that Ordinance 2024-03 be introduced.

Roll Call:

Aye: Carty, Chimenti, Karner, Rinzler, Schwester

Nay:

Abstain:

Motion Carried.

CONSENT AGENDA

The items listed within the consent agenda portion of the meeting have been referred to the Borough Council for reading and study; a copy placed on the table in the meeting room and is considered routine and will be enacted with one motion 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 24-083 – Authorizing Emergency Temporary Appropriations
2. Resolution 24-084 – Supporting NJ State Legislature Bills – A-3806 and S-2819
Concerning Motor Vehicle Theft Violations
3. Resolution 24-085 – Professional Services Contract, Special Counsel – Litigation
O’Toole Scrivo, LLC
4. Resolution 24-086 – Authorizing Special Use Permit – Far Hills Race Meeting Association
Skeet Flurry Shooting Event
5. Resolution 24-087 – Payment of Bill List

Motion by Council President Karner, seconded by Councilman Rinzler that Resolutions 24-083 through 24-087 be approved.

Roll Call:

Aye: Carty, Chimenti, Karner, Rinzler, Schwester

Nay:

Abstain:

Motion Carried.

DISCUSSION

Stream Corridors – Accessory Structures and Conservation Easements

The discussion was tabled until the April 8, 2024 Borough Council meeting.

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.*

Mayor Welsh opened the meeting for public comment.

George Mellendick, Lake Road, Far Hills commented that he was not aware of any opposition to the affordable housing units being built at the Kimbolton Development and questioned why Fair Share Housing Center was now involved in the litigation as the Borough's concerns pertained to the construction of a retaining wall. He also echoed those concerns expressed by Councilman Schwester regarding the ability for proper soil percolation at the site.

Mayor Welsh responded that the Borough Council was limited in what could be discussed due to the pending litigation; however, reiterated that a Notice of Violation (NOV) had been issued to Pulte Homes and no further zoning permits would be authorized until compliance with the NOV has been satisfied. He clarified that permits pertaining to the affordable housing units would be issued.

Johanna McCarten, Peapack Road, Far Hills inquired if notification had been made to the Bedminster Township School regarding the Skeet Flurry Shooting event as it had caused disturbance last year during state testing.

Mayor Welsh responded that the school has been informed of this year's event.

Karen Reilly, Fox Hunt Court, Far Hills inquired about the continual pooling of water adjacent to the culvert on Route 202. She also inquired if the reimbursement of legal fees was common practice in this type of litigation and the estimated costs to be incurred by the Borough for legal representation.

Mr. Cruz responded Mayor Welsh made a statement regarding the litigation. Mr. Cruz confirmed that Pulte Homes was seeking reimbursement of their legal fees, should they prevail in the litigation. Legal fees incurred by the Borough would remain the Borough's responsibility.

There were no further comments from the public.

Mayor Welsh closed the meeting for public comment.

EXECUTIVE SESSION

Mayor Welsh read Resolution 24-088 into the record.

Resolution 24-088 - Attorney Client Privilege – Litigation – In the Matter of the Application of the Borough of Far Hills-Docket No. SOM-L-903-15 (Pulte Homes of NJ, Limited Partnership, Motion to Intervene and to set aside the Notice of Violation). Contract Negotiations – Police Benevolent Association (PBA) Contract. Personnel – Police Chief – Terms and conditions of employment

WHEREAS, Section 8 of the Open Public Meetings Act, Chapter 231 P.L. 1975, permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Far Hills, as follows:

1. The public shall be excluded from discussion of an action upon the specified subject matter.
2. The general nature of the subject matters to be discussed are as follows:
 - Attorney Client Privilege – Litigation – In the Matter of the Application of the Borough of Far Hills-Docket No. SOM-L-903-15 (Pulte Homes of NJ, Limited Partnership, Motion to Intervene and to set aside the Notice of Violation).
 - Contract Negotiations – Police Benevolent Association (PBA) Contract
 - Personnel – Police Chief – Terms and conditions of employment
3. It is anticipated that the minutes on the subject matter of the closed session will be made public upon conclusion, dismissal, or settlement of litigation; or final resolution of agreements on personnel matters; and in any event, when appropriate pursuant to N.J.S.A. 10:4-7 and 4-13.
4. The Council will come back into open session and may take further action.
5. This Resolution shall take effect immediately.

Motion by Council President Karner, seconded by Councilwoman Chimenti and unanimously carried to approve Resolution 24-088.

RETURN TO OPEN SESSION AND ADJOURNMENT

Motion by Councilman Rinzler, seconded by Councilman Schwester was unanimously carried to adjourn the meeting at 8:30 p.m.

Respectfully submitted,



Dorothy S. Hicks
Borough Clerk

APPROVED – 4/8/2024