MINUTES

**FOX CHAPEL BOROUGH COUNCIL MEETING HELD JULY 20, 2020**

**PRESENT:** Walter A. Scott, III, Mayor; Andrew C. Bennett, President; Thomas A. Karet, Harrison S. Lauer, Frederick C. Leech, Betsy Monroe, Mandy Steele, Jay S. Troutman, Councilmembers; A. Bruce Bowden, Solicitor; Gary J. Koehler, Manager; David M. Laux, Police Chief; Jeanine A. Mancuso, Treasurer; Shawn Marie Peterson, Borough Secretary.

**ALSO**

**PRESENT:** Nannette Bennett, Wesley Posvar, Jeff Todd, James Royston, Planning Commission Members; Steven Victor, Victor-Wetzel Associates; Sara Thompson, Pashek +MTR; Approximately 81 other attendees made up of residents and non-residents.

Mr. Bennett called the meeting to order at 7:00 P.M.

Upon a motion made by Mr. Troutman and seconded by Mr. Lauer, the minutes of the June 15, 2020 meeting were approved. The motion passed by a unanimous vote.

**VISITORS/COMMENTS**

Mr. Bennett announced that Melissa Compton, and Michele Leonard (both residents of Fox Chapel), along with Miguel Sague from the Council of Three Rivers American Indian Center, asked to speak to Council regarding renaming Fox Chapel parks, streets, and waterways that use the word “squaw”. Following their comments, other residents spoke on both sides of the matter.

Mr. Bennett informed all in attendance that this is a sensitive issue, and that no decisions were to be made at the meeting. Mr. Bennett proposed that a committee be formed. He noted that this should be a logical, thoughtful process that will be undertaken by the committee. Mr. Bennett suggested that residents Melissa Compton, Michele Leonard, Michael Pohl, and Carey Casey Leemhuis should be on this committee, as well as residents from Squaw Run Road and Squaw Run Road East. He stated that anyone interested in joining this committee should email the Borough Secretary, Shawn Marie Peterson.

It was moved by Mr. Bennett that any person who is interested in joining this committee shall send their request to the Borough Secretary, Shawn Marie Peterson, by the end of business day, Friday, August 7, 2020. Mrs. Monroe modified the motion to have the interested persons include their address, and if they have Native American ancestry in their request. The motion was seconded by Mr. Lauer and passed by a unanimous vote.

**ANNOUNCEMENT**

Mr. Bennett announced that there was an Executive Session held on Thursday, July 9, 2020, at 4 pm to discuss a Personnel/Legal matter.

**HARDIE PROPERTY MASTER PLAN**

Sara Thompson from Pashek +MTR presented the Executive Summary from the Master Plan for the Hardie Property.

After Ms. Thompson finished her presentation, Mr. Bennett asked if Council had any questions for Ms. Thompson, or Mr. Posvar, Chairperson of the Parks Commission. Mr. Bennett asked Mr. Posvar about the three phases for development and the funding for the phases. Mr. Posvar said that the Borough had received a grant for $50,000 for invasive species removal. The only area that was not funded yet was the Stormwater Management, which is more than just park amenities. Its infrastructure deals with more money involved with grants from government agencies. Mr. Bennett then asked if the Borough can

accomplish Phase I. Mr. Posvar informed Council that Phase I has already partially begun and that everything can be performed either with in-house personnel or the existing grant for the removal of invasive species.

Mr. Scott stated that there has been $100,000 raised above the purchase price of the property and that the Borough was within $36,000 for paying for Phase I with donations.

Mr. Koehler said that he is still waiting to hear about a DNR grant that was submitted that could be up to 50% of the purchase price.

Mr. Leech suggested that during Phase I, the Stormwater Study and Cost-Benefit Analysis might be beneficial to the Borough to have the study done for the entire Borough and not just the Hardie property. Mr. Posvar agreed with Mr. Leech that it could offer Borough-wide stormwater solutions. Mr. Koehler stated that the US Army Corps of Engineers is currently doing a study based on ways to prevent flooding of structures here in the Borough and O’Hara Township. This study should be completed in six months to a year. Mr. Koehler suggested that the Borough wait to get the results of this study before continuing with a more exhaustive study.

Mrs. Steele stated that DCNR- Wetland Restoration is quite excited about the Hardie project and that they may be able to pull from mitigation funding for Phase III.

Councilmembers thanked Ms. Thompson, Jim Pashek, and Pashek +MTR for all of their hard work in creating the beautiful Master Plan.

It was moved by Mr. Troutman that Borough Council accept the Hardie Property Master Plan as presented. The motion was seconded by Mr. Karet and passed by a unanimous vote.

It was moved by Mr. Troutman that Borough Council recognize Hardie Valley Park as the name for the Hardie property. The motion was seconded by Mrs. Steele and passed by a unanimous vote.

**SALE OF VEHICLE**

It was moved by Mr. Troutman that the sale of the 2015 Chevrolet Tahoe to the Allegheny County Housing Authority for $17,000 be ratified. The motion was seconded by Mrs. Monroe and passed by a unanimous vote.

**PLANNING COMMISSION**

There were two matters to come before the Planning Commission prior to the Council meeting. The first item was the Conditional-Use Application 20-03, a 6-lot, 19.88-acre residential density development at 251 and 305 Old Mill Road. The Planning Commission has examined the subject application as required in §400-38.E. of the Fox Chapel Code of Ordinances (“Code”) in light of the standards and criteria set forth in §400-14.A. of the Code. The degree to which the application conforms to or departs from the said standards and criteria is as follows:

[**(1)**](https://ecode360.com/31905147#31905147)Density development is permissible in A, B and C Residence Districts. **Conforms: The site of the proposed development is located in the A Residence District.**

[**(2)**](https://ecode360.com/31905148#31905148)The site of a density development shall not be smaller than six acres (261,360 square feet). **Conforms: The site consists of 19.88 acres.**

[**(3)**](https://ecode360.com/31905149#31905149)The total number of single-family dwellings in a density development shall not exceed that which is permissible for a single-family development in the applicable base zoning district. **Conforms: The plan provides for six lots. The conventional zoning requirement is three acres per lot. 19.88 acres divided by three acres per lot yields a permitted number of six single-family dwellings on the site.**

[**(4)**](https://ecode360.com/31905150#31905150)The permitted uses and structures in a density development shall be those of the zoning district in which the density development is located but shall not include uses authorized under the provisions for planned residential development. **Conforms: Detached single-family dwellings are proposed and are permitted in the A Residence District.**

[**(5)**](https://ecode360.com/31905151#31905151)[Lot size]. . . For density developments submitted or approved after July 20, 1992, see § [**400-10**](https://ecode360.com/31905052#31905052), Schedule of District Regulations, Lot, Yard and Setback Requirements, Part II. **Conforms: The Schedule of District Regulations provides for density developments in the “A” Residence District that “No structure of any character shall be closer to any street line or property line of any street, road or lane or any parkland than 50 feet; not closer to any side lot line than 30 feet with a combined distance from both side lot lines of not less than 75 feet; nor closer to any rear lot line than 40 feet.” Front setbacks in the plan are 50 feet, side setbacks are 37.5 feet, and rear setbacks are 40 feet.**

[**(6)**](https://ecode360.com/31905152#31905152)[Lot width, yard and setback requirements**]**. . . For density developments submitted or approved after July 20, 1992, see § [**400-10**](https://ecode360.com/31905052#31905052), Schedule of District Regulations, Lot, Yard and Setback Requirements, Part II. **Conforms: The Schedule of District Regulations provides for density developments in the “A” Residence District that “No structure of any character shall be closer to any street line or property line of any street, road or lane or any parkland than 50 feet; not closer to any side lot line than 30 feet with a combined distance from both side lot lines of not less than 75 feet; nor closer to any rear lot line than 40 feet.” Front setbacks in the plan are 50 feet, side setbacks are 37.5 feet, and rear setbacks are 40 feet.**

[**(7)**](https://ecode360.com/31905153#31905153)The portions of a density development not occupied by single-family lots or roads shall be common open space. The area of common open space shall constitute no less than 15% of the total site area to be used for a density development. Within the area of common open space, at least 50% shall be undisturbed open space. Each parcel of common open space shall be offered for dedication to the Borough for park use. The Borough may accept or reject any such offer. Only if the Borough rejects such an offer of any parcel, the parcel shall meet one of the following two requirements:

[**(a)**](https://ecode360.com/31905154#31905154)The land shall be deeded to an organization in which membership is mandatory for all owners of single-family lots in the density development, which organization shall be responsible for maintenance of and insurance and taxes on common open space; or

[**(b)**](https://ecode360.com/31905155#31905155)The land shall be deeded to a private nonprofit conservation organization with perpetual existence, provided that the conveyance contains provisions for reverter or retransfer to the Borough or to another private nonprofit conservation organization with perpetual existence in the event that the first or a successor such organization becomes unwilling or unable to continue carrying out its functions, and further provided that an appropriate covenant or other form of maintenance agreement acceptable to the Borough is entered into by the developer and the organization.

[**(c)**](https://ecode360.com/31905156#31905156)Such common open space shall, to the reasonable satisfaction of Council, be located and designed as an area or areas easily accessible to residents of the density development and which preserves the natural features of the development area, including those features listed under § [**363-9**](https://ecode360.com/31903363#31903363) in Chapter [**363**](https://ecode360.com/31903343#31903343), Part [**2**](https://ecode360.com/31903360#31903360), the Natural Resources Assessment and Protection Ordinance.

Regardless of the type of ownership utilized, all areas of common open space shall be covered by conservation easement, deed restriction, or other form of written agreement for perpetual preservation of the area as open space consistent with the terms of this section. Such agreement shall be subject to the approval of the Borough Solicitor. **Conforms: The Plan provides for 3.5 acres of open space, subject to a conservation easement, of which 2.74 acres will be undisturbed. The undisturbed open space includes the wetlands along the northeasterly side of the site and wooded areas along the southerly sides of the site. The developer will offer the open space to the Borough, and to a homeowners’ association or conservation organization if the Borough is unwilling to accept it. The proposed trail along Old Mill Road comes close to closing the gap between The Trillium and the Hardie property and that, combined with the trail extension to a viewpoint between Lots A-1 and A-2, provide easy access not only to residents of the plan but also to the public.**

[**(8)**](https://ecode360.com/31905157#31905157)The layout of any density development shall be consistent with the Borough's Comprehensive Plan. **Conforms: The developer’s June 10 letter provides 17 comments in support of his argument that his plan is consistent with the Comprehensive Plan. The Plan seeks to accommodate growth while directing it away from environmental or conservation corridors. The Plan identifies wooded stream valleys as principal resources to be protected. The site here is mostly hilltop meadow, not identified in the Plan as a site on which development was to be avoided or a resource to be protected but rather as one of 21 sites expected to be developed. The Plan makes repeated references to density development as a tool to allow development while protecting such resources. The only natural features identified on this site are the view to the north, which the developer agrees to take steps to make available to residents and the public, and the large oak trees at the center of the site and along its perimeters, which the developer also proposes to protect. Trails are identified as an asset; rather than being a “trail to nowhere,” the trail the developer proposes along Old Mill Road will, with some small additions at its ends, provide a connection between trails in The Trillium and those on the former Hardie property. The developer provided a plan of what the site might look like if developed as a conventional three-acre-lot subdivision and concluded that density development of the site offers lesser environmental impacts, compliance with Borough requirements without waivers or variances, consistency with the Comprehensive Plan, and more public benefit through expansion of the Borough’s trail system (to include access to the view point) and preservation of wet lands and large trees on the site.**

**Borough residents at the public hearing and Planning Commission meetings made comments some of which are summarized on Exhibit A. Some pointed out attributes of the property to be preserved such as the view, open space, trees and vegetation, and the need to minimize disturbance. Residents also suggested alternative uses of the property, such as preserving the land as open space. As noted above, the developer demonstrated that the proposed density development will further preserve many of these important features and is preferable from the standpoint of the Borough and neighboring residents to a conventional development, which is the alternate use shown by the developer.**

[**(9)**](https://ecode360.com/31905158#31905158)Single-family dwellings, roads and areas of common open space shall be located, oriented and dimensioned to meet the requirements of the Natural Resources Ordinance (Chapter [**363**](https://ecode360.com/31903343#31903343), Part [**2**](https://ecode360.com/31903360#31903360), of the Code). **Conforms: The developer will be required to comply fully with Part 2 (the Natural Resources Assessment and Protection Ordinance) in the subdivision approval phase of the development.**

[**(10)**](https://ecode360.com/31905159#31905159)In granting a density development as a conditional use, the Borough Council grants only the land use, based on the general characteristics of the proposed density development as shown on a preliminary plan (as defined in Article [**IV**](https://ecode360.com/31905134#31905134), § [**380-18**](https://ecode360.com/31904737#31904737), of the Subdivision Ordinance), and on the

above requirements. After being granted approval as a conditional use, a proposed density development is still subject to preliminary and final subdivision approval. **Conforms: The developer acknowledges that the approval currently sought only permits the conditional use of density development. Full compliance with the subdivision and environmental provisions of the Code and building permit requirements for individual homes on the site will still be required.**

[**(11)**](https://ecode360.com/31905160#31905160)If the density development is proposed as a portion of a larger subdivision or land development, the developer must show the proposed boundary of the density development. **Conforms: The plan covers developer’s entire site.**

[**(12)**](https://ecode360.com/31905161#31905161)If the density development is adjacent to land not fully developed and under option or the same beneficial ownership, the developer shall submit a master plan for the future development of all contiguous properties under option or the same beneficial ownership. **Conforms: This plan includes all of developer’s contiguous property.**

Additional conditions or safeguards which appear reasonably necessary to implement the purpose of Part 1, Chapter 400 of the Code are as follows:

**The Planning Commission has discussed with the developer modifications to the initial plan adding improvements that would be of benefit to the Borough. The developer has indicated that he proposes to approve the following changes:**

* **Agreement to open the trail for public use**
* **Agreement to extend the trail along Lane A up to a higher vantage point up to the apex of the property along Lane A.**
* **Proposal to reroute Lane A so that it connects to Old Mill Road rather than to Haverford Road**
* **Agreement to retain existing large oak trees on the property.**

Mr. Lauer informed Borough Council that the Planning Commission is recommending to Borough Council to approve the Density Development with the Planning Commission findings, and the four conditions listed.

It was moved by Mr. Lauer that Council approve Conditional-Use Application 20-03 with the Planning Commission finding and the four conditions listed. The motion was seconded by Mr. Leech.

Mr. Bennett made a motion to modify the approval and conditions to include having the trail along Old Mill Road be a usable trail for the public, providing a school bus stop area in between Haverford Road and Lane A, having Victor-Wetzel Associates submit the geotechnical reports in Phase 2, and have the line of sight looked into for Lanes A and B. Mr. Leech seconded the motion. After comments made by Council members and residents, Mr. Victor agreed to have Victor-Wetzel Associates take a serious look during Phase 2 in adding additional storage for stormwater to slow down the rate of disbursement as much as possible. All of Council were in favor of the motion with a Nay vote by Mrs. Steele.

The second item discussed during the Planning Commission meeting was for Quail Plan No. 3 revision to lots 2 and 3. Mr. Lauer informed Borough Council that the Planning Commission has reviewed the application and is recommending approval of the subdivision with modifications to make conditional upon pin placement after approval has been granted, and recommend a waiver for the topographical lines on the Plan.

It was moved by Mr. Lauer to approve the subdivision with the modifications and to grant the waiver. The motion was seconded by Mrs. Monroe and passed by a unanimous vote.

**TREASURER REPORT**

Mrs. Mancuso informed Council that PNC had reimbursed the Borough $7,400 in bank fees. She also said that the Council of Governments (COG) has a RFP for Bank Services that will be advertised on August 1, 2020. The Liquid Fuels Audit came back, and everything looks great with no problems. The Borough also began using ACH transfers for regular monthly payments such as Cooper-Siegel Community Library, and the VFD quarterly payment.

Payment of Bills

It was moved by Mr. Troutman that the payment of bills for June 2020 (General Fund Voucher Nos. 26105 - 26214 in the amount of $691,195.64, and the Land Fund Arm Voucher Nos. 1051 - 1054 in the amount of $14,965.01) be approved. The motion was seconded by Mr. Lauer and passed with Mr. Leech abstaining from voting on the Leech Tishman invoice due to the appearance of a conflict of interest.

**NEW BUSINESS**

Resolution No. 646, 647, and 648

These resolutions authorize LSSE to submit grants funded under the Allegheny County Sanitary Authority GROW Program in the amounts of $64,352.23, $152,415.85, and $49,324.60, to fund a project that proposes to remove inflow and infiltration in the sanitary sewer system tributary to ALCOSAN points of connection. It was moved by Mr. Troutman that Resolution Nos. 646, 647, and 648 be adopted. The motion was seconded by Mr. Leech and passed by a unanimous vote.

Crown Castle & New Cingular Wireless PCS, LLC (AT&T Mobility)

The Borough received a request from Crown Castle & AT&T Mobility to modify their transmission equipment on a telecommunications tower located at the Pittsburgh Field Club, 121 Field Club Road. Borough staff has reviewed the request and accompanying information and determined that it does not substantially change the physical dimensions of the existing tower or base station, thereby eliminating the need to go through the Conditional Use process. Council was asked to waive the requirement for Conditional Use approval and allow staff to approve the application administratively.

It was moved by Mrs. Monroe that the modification to the existing tower at 121 Field Club Road be approved, including a waiver of the requirement that a formal conditional use application is filed, subject to evaluating the current camouflaging for any needed replacements/upgrades. The motion was seconded by Mr. Troutman and passed by a unanimous vote.

Zip Line for Annie’s Field of Dreams

It was moved by Mr. Troutman to ratify the purchase of the zip line for Annie’s Field of Dreams from the Kompan quotation SP75260 dated 6/22/2020 via CoStars Contract #014-161 for $17,599.48. The Whittinghams, through the Pittsburgh Foundation, will reimburse the Borough for the total cost. The motion was seconded by Mrs. Steele and passed by a unanimous vote.

Free-Standing Lending Library, Free-Standing Doll Nursery Lending Box, and Carved Fox(es) for McCahill Park

It was moved by Mr. Troutman that Council accepts the following gifts as Phase I additions to Annie’s Field of Dreams in McCahill Park: free-standing lending library, free-standing doll nursery lending box, and carved fox(es). The motion was seconded by Mr. Lauer and passed by a unanimous vote.

There being no other business to come before the Board, the meeting was adjourned at 9:20 PM.

SHAWN MARIE PETERSON

Borough Secretary