

**Clifton Heights Borough Council
October 20, 2020 Council Meeting Minutes**

Council Members Attending:

Leona Papale, Council President
Harris Resnick, Councilman
Mark Campbell, Council Vice President
Mike Humphreys, Councilman
Louis Cabrelli, Councilman
Karen Peterson, Councilwoman
Destiny Borelli, Councilwoman

Absent:

Timothy O'Hara, Councilman

Officials Attending:

Joseph Lombardo, Mayor
John Perfetti, Borough Manager
Timothy Rockenbach, Chief of Police
James Kneass, Fire Chief
John Gould, Code Enforcement
Francis J. Catania, Borough Solicitor, by phone
J.P. Kelly, Borough Engineer
Cynthia Leitzell, Borough Financial Advisor

Call to Order and Pledge of Allegiance:

Borough Council President Leona Papale presided over the meeting and called the meeting to order and led the Pledge of Allegiance. Mayor Lombardo offered a prayer.

Swearing in of New Police Officer

Borough Manager Perfetti requested that they go out of their normal course of business, for the swearing in of a new full-time police officer, Josh Kelly, who is present with his family.

Mayor Lombardo swore in Officer Josh Kelly.

[Applause]

Roll Call:

President Papale took roll, which is set forth above.

Solicitor Catania announced for the record that prior to tonight's meeting at 7pm, the Council convened an Executive Session, in which they discussed personnel matters and a personnel litigation matter. They also discussed one pending litigation matter, Rockbourne vs. Clifton

Heights Borough, and the new Upper Darby School District virtual learning center that was announced.

Meeting Minutes:

President Papale asked for any edits to the October 2020 meeting minutes. She approved the minutes after requesting an edit to the 1st page where it read “to” and should read, “no.”

Public Comment:

No opening public comment.

Manager’s Report:

Borough Manager Perfetti noted that tonight they are bringing the preliminary 2021 budget before Council. He noted that he would be asking for approval of the preliminary budget here tonight, with permission, after discussion if needed.

Borough Manager Perfetti outlined that they met several times throughout the last 60 days and through our financial director and the Finance Committee, we believe that this is a budget that should be approved by the council, and with his recommendation.

Borough Manager Perfetti also noted that they had some discussion about abandoned vehicles and the enforcement thereof. In speaking with the Chief of Police, he's informed me that he does have 2 police officers pretty much on a full time schedule, going through the power, trying to identify these vehicles and that he would make available to us monthly reports starting with the month November.

Borough Manager Perfetti also noted that they have had some issues with dangerous dogs in the past month or so, if not longer. This matter was also discussed with the Chief of Police, and he advised of the State statute that that the Borough will follow in the event that we have any more of these unprovoked attacks.

Borough Manager Perfetti said that he was pleased to announce that for the year 2019, all of the Borough’s financial affairs and statements are in order and have passed through audit without issue, and this is the first time in the past five years that we can say that we are on it and that we met all of the requirements through the CPA as such. He noted that Councilmembers would receive the full audit report from Mingis Gutowski & Co LLP in their November folders.

Manager Perfetti announced that they entered into a renewal with A2U Services for snow removal services for the year 2020-2021. There have been no changes in any of the terms, and we seek approval of this contract with your council here tonight.

Borough Manager Perfetti reported that Northpointe, Beyond Self-Storage, was requesting a release of their bond. They are about 98% complete and the bond that they filed with the 3rd party was for \$774,000. And after speaking to the code enforcement and the engineer, they have

no objection to Council approving the release of the 3rd party bond, which includes Northpointe, the Borough of Clifton Heights and the bonding company.

Borough Manager Perfetti reported that County of Delaware has erected the ballot drop box with camera operated through solar panels, and it is in place as of today, October 20th. He said that they have seen people using it throughout the day.

Manager Perfetti reported that the Planning Commission met on October the 13th and the 19th. At the conclusion of the October 19th meeting, the Planning Board rejected the Upper Darby School District Land Development Plan. I would ask for permission to have the Hearing Officer/Solicitor, John McBlain, present his facts to the Council in the event that Council would be interested in taking a vote on this matter tonight. He said that Upper Darby representatives would have the opportunity to publicly comment on the matter.

Manager Perfetti announced that the Red Cross Blood Drive, which was canceled in August to the curb in COVID-19 outbreak, is now rescheduled for October 22, 2020 in the Borough Hall Council Room from 9:30am to 2:30pm.

Borough Manager Perfetti announced that they had an e-cycling and drug take back event scheduled for Saturday, October 24, 2020 in a joint venture with the Borough of Aldan at the Borough Parking Lot, however, they were notified by the vendor that the e-cycling has been canceled by the vendor. There will be no electronic take back at the event but, the drug take back will still be on. That will occur between 10am & 2pm this Saturday.

Borough Manager Perfetti said that at this time there will be some discussion as to whether or not the Borough of Clifton Heights should request additional extra escrow funds from the Upper Darby School District due to the additional costs of all the plan reviews. He said that there will be discussion among the Council and he will have the solicitor follow up with the Upper Darby School District to advise of the amount that they would recommend.

Manager Perfetti said that he is sad to announce that our code enforcement inspector, Tom Young, will be leaving us, with his last day on Thursday. He said that he is one of the kindest individuals that he has had the pleasure of working with, and it has truly been a pleasure. He said that the Borough is sad to lose him but they wish him well in his next step.

Manager Perfetti reported that it's been suggested that the Borough should schedule some type of community cleanup day, and if they were to do so it should be in the very near future, so he will certainly contact Council President and see what council members would like to be involved to make this a success and it would be a one day event for the entire town.

Action Items:

A motion was made by Councilman Resnick to authorize the snow removal contract renewal with A2U Services, with no changes from the previous contract to run from December 15, 2020 to April 15, 2021; seconded by Councilwoman Peterson; and carried unanimously by a roll call vote of 7-0. (Resnick – yes, Borelli – yes, Humphreys – yes, Cabrelli – yes, Peterson – yes, Campbell – yes, Papale – yes).

Manager Perfetti noted that he had been advised that the Engineer will speak in much more detail about the Northpointe Beyond Self Storage request to have their bond released, so they can hold off on that action item until his report.

Manager Perfetti also reported that he neglected to mention to our Council that the 4th Ward polling place will return to the Clifton Heights firehouse, which is located at 20 West Baltimore Avenue for this General Election on November 3, 2020 through the efforts of the Fire Chief. He was able to convince his Board Members to allow voting to take place. They requested that the Fire House not be used during the Primary because of COVID-19 concerns.

Manager Perfetti said that the last item he is requesting is to allow the solicitor for the Planning Commission to talk to Council as to what has happened at the meetings of October 13th and 19th, and to explain the vote that took place last night in order to inform all Council members.

A motion was made by Vice President Campbell to accept the verbal report of the Borough Manager; seconded by Councilman Humphreys; and carried unanimously by a vote of 7-0.

Solicitor's Report:

Solicitor Catania said that for Council's consideration tonight is a Land Development and subdivision application filed by the Upper Darby School District. It was first filed May 23, 2019. As part of the review process, the application was referred to the Clifton Heights Planning Commission, and they have had several meetings and took a vote on the matter. He said that Borough Council appointed a Hearing Officer on the matter, John McBlain, who was present for those hearings and a record has been made for most of the hearings. He said that it would be appropriate at this time to hear from Mr. McBlain about what the Planning Commission did and why they did it. He said that it would then be appropriate to allow the School District to present what they wanted to do. He said that then if Council is so inclined, they can then entertain a motion and hear from members of the public.

John McBlain provided a verbal report on the Clifton Heights Planning Commission's timeline with the land development and subdivision application filed by the Upper Darby School District.

"Good evening, Mayor, members of Council and Borough Officers, as was described, my name is John McBlain, I'm an attorney and I was appointed by the Borough to act as special counsel on behalf of the Borough and its Planning Commission in the evaluation of a preliminary land development plan submitted by the Upper Darby School District, the property known as 217 North Springfield Road, which consists of approximately 14 acres of what is now currently ballfields in open space and which is commonly known as the "Clifton Fields." I was retained sometime in early to mid-August of 2019. And with that, Madam President, I have a report prepared today as a result of the meeting that occurred last night.

The Upper Darby School District submitted preliminary land development plans to the Borough of Clifton Heights in May of 2019 to develop the property at 217 North Springfield Road, commonly known as the Clifton Fields, into a Middle School and related school facilities. Following that first submission, it is our understanding from the

Borough Engineer that, the plan has been revised multiple times with the last revision, which the engineer terms the "fifth submission" filed with the borough in August of 2020. The Planning Commission has conducted numerous public meetings to hear from the School District's representatives, the Borough's representatives and the citizens of Clifton Heights. The Planning Commission believes that it had a full opportunity to hear presentations from the School District, the Borough and the public, and that all the participants had the full opportunity to ask any questions and engage in discussion with all of the other participants.

At the Planning Commission's meeting of October 19th, 2020, which was last evening, the following motion was unanimously approved by the Commission members:

"I move that the Clifton Heights Planning Commission issue a recommendation to the Borough Council that the preliminary land development plan submitted by the Upper Darby School District not be approved at this time because of the following issues:

- 1) The traffic plan would require the Borough Council to adopt an ordinance to eliminate approximately 44 on street parking spaces located on Sycamore Avenue, Oak Avenue and Springfield Road. The loss of these parking spaces would be detrimental to the residents of homes on Sycamore who use these parking spaces and especially to the business owners and patrons on Springfield and Oak. There are no other parking options that the district has presented to replace these parking spaces.
- 2) The traffic plan presented by the District would likely cause substantial issues with vehicle traffic and pedestrian traffic in and around the proposed school site that may endanger students walking to the school, have hundreds of cars per day driving on small borough roads, and have student pedestrians crossing Springfield Road between buses entering and leaving the school site.
- 3) The plan lacks storm water management details, which would allow the Borough to determine if those plans would be adequate to alleviate an already existing storm water management problem on Springfield Road that may be made worse by the proposed project.
- 4) The plan would deplete much of the remaining open space, an active recreation area in the Borough, resulting in the loss of much of the Borough's green space and without any guarantee that Borough residents would be able to use the facilities.
- 5) The plan does not conform to borrow ordinances adopted in 2019 relating to the uses for the RCD zoning district. The impact study presented by the District is not adequate and the plan does not conform to other ordinances and requirements as outlined by the Borough engineer James P. Kelly P.E. as detailed in his report of September 24th, 2020.

I move that this motion be adopted and that Mr. McBlain prepare a report for Borough Council from the Planning Commission consistent with this motion.

The original plan was scheduled to be reviewed by the Clifton Heights Planning Commission at the July 9th, 2019 meeting, but was not reviewed at that time due to litigation that was commenced by the Upper Darby School District challenging certain Borough ordinances. The 1st review by the Planning Commission occurred at the meeting of August 7th, 2019. The Planning Commission heard from the School District's Engineers, traffic engineer and architect and other School District representatives. Members of the public also provided comment. The School District intended to make changes to the submitted plans. The Planning Commission next met on December 10th, 2019, to review the revised plans. Once again, the School District made presentations by its engineer and architect. The Superintendent of Schools, Dr. Dan McGarry, made a presentation along with other administrators. The School District representatives presented various questions to the borough engineer and traffic engineer who were present and provided answers to the District questions. Numerous members of the public expressed opinions both in favor and opposing the plan, and were able to ask various questions of the design professionals and School District representatives. Once again, the School District indicated that it planned on revising its plans, and that the Planning Commission would meet again for further review. A Planning Commission meeting was scheduled for February 11th, 2020, but the School District requested a continuance of that meeting as it had submitted the 4th revised plan on that same date. The Planning Commission agreed to the continuance. Planning Commission meetings were scheduled for May 18th, 2020, and July 14th, 2020, but both of these meetings were continued at the request of the School District. A 5th revised plan was submitted on August 17th, 2020, and the School District provided a deadline of action of October 30th, 2020 for the Borough to act on the revised preliminary land development plan. The Planning Commission met on October 15th, 2020. The School District provided an update on its plans after the August 2019 and December 2019 presentations. The borough's Engineer, James P. Kelly and its traffic consulting engineer, Al Frederico, also made presentations and discussed the plans with the Commission. The Commission members were able to ask any further questions. The Commission heard again from members of the public. At the conclusion of that meeting, the Commission scheduled another meeting for October 19th, 2020 to vote on some recommendation to the Borough Council on the proposed preliminary land development plan. The Planning Commission met on October 19th, 2020, and briefly heard from the School District representatives, the Borough's representatives and again from the public. The Planning Commission then approved the motion as I read into the record. The School District's representatives presented their evaluation, and this is generally overall, that the overcrowding in the District's two other middle schools is a serious problem and that the proposal to build the middle school in Clifton Heights would help alleviate that problem, as well as present a state of the art new educational facility to Clifton Heights residents. The School District states its willingness to open the recreational playing fields to the public and to the civic organizations in Clifton Heights, such as the Boys Club and PAL organization for continued Use of the

Clifton Fields. The School District feels that the project would create a win-win for Borough residents, providing both a new educational facility for the community and improved infrastructure in and around the property. Many of the citizens that spoke on the project agree that a new school would be an asset, the benefit of which would outweigh any of the negative community impacts discussed. Concerns were raised by Borough officials about many of the impacts that such a large school would cause to the community. It was noted that with a planned 950 students and an additional 100 staff, the 1,050 plus additional persons would raise the population of the Borough by over 15 percent on school days. There was much discussion about traffic concerns. There would be over 1,000 vehicle trips per day at the property, with over 550 vehicle trips in the peak hours in the morning. The plans were revised several times for traffic issues. There were concerns expressed about the volume of traffic at the five-point intersection at Springfield and Sycamore and the congestion that may occur along Sycamore. There was concern expressed about the interaction of pedestrian traffic on Springfield Road, especially in the areas of the bus drop-offs across from Church Avenue. And there was much discussion about pedestrian student traffic, as well as concerns about student safety walking along Sycamore Avenue, where there are no sidewalks. There would be road and traffic lane redesigns to accommodate the new traffic. These designs would necessitate that the Borough eliminate approximately 44 on street parking spaces on Sycamore Avenue, N. Oak Avenue and North Springfield Road. With the parking spaces in front of the businesses and apartments in the 300 block of North Springfield Road proposed to be eliminated. The School District is still going through reviews with PENNDOT for many of these plans. There was also discussion regarding the storm water management for the project. In earlier versions of the plan, the offsite storm water management plan had not been designed. Presumably what is needed is the construction of an underground storm water pipe in the Springfield Road right of way, running from the property site south along Springfield Road to Baltimore Pike to connect to the existing storm sewer. The Borough Engineer indicates that the 5th submission does contain plans for the offsite storm water management, but those plans still need some answers. Concerns were also raised about the development of the site itself. It is noted that there are approximately 22 acres of total open space in Clifton Heights, a number which is well below recommended levels. This project would eliminate approximately 7 acres with the construction of the school and the parking lots, reducing the Borough's open space inventory by approximately 1/3. Many believe this will have an adverse impact to the quality of life of the Borough's residents. Moreover, the Clifton Fields have been utilized for decades for Borough events and public gatherings with no real other alternative. Although the School District indicates it will permit those functions to continue, subjecting it to its permitting process, rules and regulation, even those well-intentioned promises cannot be enforced well into the future. The Planning Commission is further aware that there is a dispute between the Borough and the School District regarding the applicability of ordinances passed by the Borough Council after the initial plan was received. The Borough engineer's review indicate that if these ordinances were to apply, there would be further Zoning or Conditional use relief needed. That dispute is and was outside the purview of

the Planning Commission. For other specific issues and comments, we would refer the Council to Mr. Kelly's various review letters prepared after his review of the various plans. In summary, the Planning Commission felt that the issues outlined above warrant the denial of the current revised plan submitted by the School District. However, the Planning Commission feels that the School District and the Borough should continue to work on the plans and these issues as outlined in this report."

Mr. McBlain thanked everyone for listening to his report.

A motion was made by Councilman Resnick to accept the report as presented by Mr. McBlain; seconded by Councilman Humphreys; and carried unanimously by a vote of 7-0.

Solicitor Catania requested that the motion be amended to reflect the other documentation from the Planning Commission.

A motion was made by Councilman Resnick to reflect that the report also include the Planning Commission meeting minutes; seconded by Councilman Humphreys; and carried unanimously by a vote of 7-0 after the

President Papale opened the floor for the Upper Darby School District representatives to speak.

Dr. Daniel McGarry took the podium and thanked Council for the opportunity to speak.

Dr. McGarry: "I appreciate you acknowledging the fact that the School District has made several submissions of the plan and made every effort to make the improvements to earn preliminary approval. We recognize that last evening we did not earn preliminary approval. We've every intention to keep going to try to make this plan a reality. I recognize as a Superintendent of Schools in the Upper Darby School District that our problems and our overcrowding are not necessarily the Borough's problems. I recognize that. We recognize that. However, we do recognize that this property is currently owned by the Upper Darby School District. I have become very well versed in the history of this property and the very much so heartfelt, hurtful feelings that have been left in the 70s. I recognize that it is the heartbeat of this community and we have every intention, if we are able to somehow work this out and move forward and build this school and this property, to continue to honor the history of Clifton Heights and to continue those time honored traditions that are so important that any community that would be a plan and a goal of ours moving forward. I'm here again to reiterate, and I don't want to continue to rehash the need; I think that you know that there's a need. We have over 3,000 students in our middle schools right now. We have over 100 sections of students attending classes with 30-34 students in a class. Given the implications of special education, English learners and all the needs that come with those spaces, we're simply out of space in our middle schools. If we could have solved this problem in other areas in the District, we certainly would have. It's simply a situation now where this property lends itself uniquely to provide us with three middle schools and with three elementary schools feeding each one of those middle schools. We have made every effort to focus the priority on this project, on the open space in the fields, as Mr. McBlain presented. We recognize that the open

space is important, and as such, we decided to put the school in a location that honors the fields that exist and potentially make improvements to those fields as they currently are, so much so that the timeline of the project would be that we would put the fields back in place first before the school and any inconvenience that we would put the Borough Boys Club or the PAL through, we would make use at no cost to the Boys Club or the PAL to other facilities, mainly Upper Darby high school's turf field or another baseball field if it impacts the PAL or any other of the programs that are here. Our intentions are to, as Mr. McBlain said, make this as much of a win-win as we can. We recognize, I recognize that throughout this process, at times, it has become adversarial. That is not my intention. That is not our intention. We would like to be good neighbors and good partners with Clifton Heights Borough and provide an outstanding educational facility that would, if anything, we think would enhance the community. We recognize that traffic is an issue. Traffic is an issue in general in Delaware County. And we think that the process that we have put into place, and I understand that Mr. Kelly may not agree and Mr. McBlain and the Planning Commission may not agree, but we do feel that we've made improvements, that students and athletes that participate on those fields will have improved access to those fields, where currently we would say that it's not that safe. Improvements to the sidewalk and improvements for access to those fields. We've heard time and time again from members of the community that Oak Avenue and Sycamore Avenue, as it currently exists, present with safety issues. We feel that the recommendations that we're making are improvements. In regard to the 44 parking spaces, without question, those are hardships. But I think we could work out a solution where instead of removing that off street parking, we could simply put timestamps onto maybe they're not operational from this hour to this hour and we turn them back over to the community while it's there and offer parking on the District's campus to neighbors who need that parking when school's not in session. The only reason for the recommendation of the off-street parking removal is simply to make cleaner and smoother, safer transition off and onto campus as we as we navigate this plan. So for Upper Darby School District, there's a substantial need. We recognize that that's not the Borough's problem, that's the School District's problem. It just so happens that this is District owned property and we feel that we can improve the athletic fields that are there that will help the Borough and we can offset the significant overcrowding here in Upper Darby School District. And we think that the Borough students who travel so far away, they get on a bus and have to go further away would be in a situation where they could walk to school and the community that really becomes a part of this. What I've read in the minutes of previous board meetings, I don't think the Clifton Borough at the time ever wanted to lose their School District, and I don't think Upper Darby School District really wanted to take it on. I think it's a situation where this happened in the history in the 70s. From what I've read, I'm sure Mr. Catania knows more than I do; he's much more well-read than I am, but I think it was a situation that happened to both municipalities and townships. I see this as an opportunity to move forward in a much different process, I recognize more than anything that it's an issue of trust, so my goal will continue to be to

stand in front of you and try to rebuild that trust. That's our goal. So I appreciate the time and the opportunity to speak with you this evening.”

President Papale thanked Dr. McGarry for his comments.

Andrew Stoll spoke next. He said:

“I have the utmost and the pleasure of representing the Upper Darby School District. Before I start, I'd like to hand over a few things that were sent over to your solicitor, if I may approach members of Council. For the record, this is just a letter that I sent over to Mr. McBlain and Mr. Catania and asked them to consider along with its attachments and the submitted plan. “

Mr. Catania asked if he could state for the record when the letter was sent.

“It was sent this evening, I believe it was around 4:30-5pm, I don't have the specific time stamp.”

Mr. Catania noted that it was at 5:07pm.

“There has been a couple of things that the District has been trying to do to make this a win-win, and I don't want to take Mr. McBlain's thunder, but I would respectfully suggest that making this a win-win was the District's priority and the goal from the get go. We've done more than any applicant could possibly do in our position to meet all of the specific objective requirements to receive preliminary plan approval, which is what we're here for tonight is preliminary plan approval. And I'm sure your counsel has brought you up to speed as to the law in Pennsylvania. If you satisfy every specific objective ordinance requirement for preliminary planning approval, you must approve the plans. We've done that. Not only have we done that, but we went above and beyond to do it. We made concessions to do it. Sure, would it be easy to relocate the school on the property? Yeah. But you know what? We want to keep that space as Dr. McGarry said for community use. Now, Mr. McBlain had given you a flavor of what's been going on in terms of submissions and resubmissions and a lot of that isn't atypical in a project especially of this size, the applicant will make a submission, receive a review letter, make another submission, receive a review letter, and the process takes place. This one's not been the typical land development process. There's been a lot that's taken place before and during this application, a lot of which is documented in my letter and documented by the attachments. One of the things that Mr. McBlain brought up was these ordinances. Now, we understand the Borough's position. We heard it from the Borough Planning Commission. We saw it when the lease was broken. We saw when the Borough came out and told us there's no way, now how you're building a school here. We read it in the September 2018 press release from Borough officials when they said we'll take any lawful action to stop this project. You know what the District did? They went back to the drawing board, said, how can we make this a better plan? Not just go and meet the specific objective requirements, but how can we engage with the community? How can we how can we have community meetings? How can we have Dr. McGarry take time

away from his family...The engineers take time away from their families...The architects to take time away from their families? To talk to the members of the community and say, how can we make this a win-win? Because we're going to satisfy the specific objective ordinances, which we've done, but we wanted to make this a win-win for the District and for the Borough and its residents. During that time, ordinances were passed or purportedly passed. There was a meeting that was held before the application was even filed, and Borough officials told the District and its administrators that you have to give us the property and if you don't, we're going to pass ordinances that prevent this project. That meeting occurred right in the Borough of Clifton Heights, and I'm sure the administration told you about it. Now, the Borough had hold true to that promise on May 28th, the borough purported to have passed ordinances. If there's a couple of things that we can agree on with respect to this application, it's 1, the District is proposing to build the school; 2, that they're proposing to build it in Clifton Heights; and 3, that those ordinances were targeted at this project and at that property and at this applicant, there's no dispute about that. And I understand the Borough's position that, 'well, we're not sure which ordinances apply.' We had a meeting here a couple of weeks ago. I asked Mr. Kelly, the Borough civil engineer. I said, 'Mr. Kelly, why are your review letters considering our application?'"

Solicitor Catania asked if he was referencing part of the discussions in Court that is supposed to be kept confidential.

"This was an October 8th, 2020 meeting between the consultants, and, for the record, I'm looking at Mr. McBlain, and I think he would agree that this was an October 8th, 2020 meeting between consultants for the District and the Borough. This meeting was actually discussed at last night's Planning Commission meeting. I had asked Mr. Kelly, 'why are these ordinances being applied?' He said, 'I'm just the engineer.' I asked Mr. McBlain, 'why are these ordinances being applied?' That's a subject of litigation. Ladies and gentlemen, the application was filed on May 23, 2019. That's when it was duly filed, as they say. These ordinances, assuming they're valid, were passed at a Borough council meeting on May 28th, 2019. Now, this application, as I'm sure you know, is reviewed and processed under not just your ordinances, but the Pennsylvania Municipalities Planning Code. And with respect to changes in ordinances during the time an application is filed to a time an application is acted on, is codified in the NPC and it reads under section 508 for approval of plats, it says, 'changes in the ordinance shall affect plats as follows from the time an application for approval of a plat, whether preliminary or final, is duly filed as providing the subdivision of land development ordinance, and while such application is pending approval or disapproval, no change or amendment of the zoning subdivision or other governing ordinance or plan shall affect the decision on such application. It's as clear as day, despite the opposition that the Borough has put in front of the district, these ordinances do not apply and I want to make that very clear. Now, this project was reviewed before it even came to the Borough Planning Commission, it was reviewed by the Delaware County Planning Commission. That was in June of 2019. At that time, at the first submission, the Delaware County Planning Commission agreed with the

District's position that those ordinances do not apply. In fact, the June 19th, 2019 review letter from the Delaware County Planning Commission said that we are in full compliance of the RCD district zoning ordinances. It also recommended in June of 2019 that the plan be approved and moved towards final plan approval. Since that time, we've received review letters that have been nothing short of lengthy, 50-60 pages long. We reach out for direction. We are told you're not going to get it. I've received letters from Mr. Catania, received letters from Mr. McBlain saying that everything needs to be public. We're not going to have any conversations with you and we'd send letters. Can you just tell us this information? Can you give us clarification on this requirement? We're trying to act in good faith. You know what we're told, if anything? We're told it's not our problem. It's not our job to design your plans. Again, the District is trying to make this not just compliant under the laws and ordinances in effect, but it's trying to make it a win-win for the citizens of Clifton Heights and for the Upper Darby School District. The District has faced a lot more than just legal issues. It's been publicly ridiculed at the Planning Commission meeting the other night, the Engineer for the Upper Darby School District, with thirty six years of land development experience at one of the most reputable firms in the Commonwealth of Pennsylvania was called incompetent. The District's administrators were publicly on social media, ridiculed. I, just the other night before walking into this to the Planning Commission meeting, found out that I was the definition of ineptitude. You know what the District did? They went back to the drawing board and kept designing their plans. And what they put before you they put before the Planning Commission was a plan that not only meets all the specific objective ordinances in your municipality, but it's a win-win for the Borough and the District. I want to just talk about a few things that Mr. McBlain had brought up, because this is something that is somewhat lost. We are here for preliminary plan approval. That is the first, let's call it goal line, to getting the school built. We get preliminary plan approval by designing a plan that's in compliance with all the specific objective ordinances, and stop me if you heard me say that before. At that time, the plan then moves forward. Mr. Kelly's most recent review letter of 56 pages kicks a lot of these questions to final plan approval, which is fine under normal circumstances because parties would continue to be working together, but the Borough has made it very clear that they don't want our project. So all we can do is make sure that we put together the best plan again, a win-win and something that's fully compliant under the applicable laws and standards. On street parking was the first issue Mr. McBlain brought up. On street parking; we are not violating any ordinances. We make that clear. We are not violating any ordinances by suggesting removal of on street parking. Again, this is a suggestion throughout a process to which we've received no collaboration, no collaboration. So that is not a basis to deny the plans. The traffic plan caused substantial issues. There's traffic issues in Clifton Heights. We're not looking to exacerbate them. In fact, just last week at the October 15th, 2020 Planning Commission meeting, the Borough traffic engineer had made a comment that we were making substantial improvements. Storm water. Mr. Kelly just made a comment the other day, just said that we were making substantial improvements. And with specific respect to offsite storm water, that is a whole separate process that we have to go through

with PENNDOT. Interestingly, the municipality has to be the applicant for off-site permit. We have reached out to the Borough to try and get the Borough's collaboration to put forth a plan for off-site storm water to make substantial improvements in your municipality. We have received the response of either: 'nothing,' 'go away,' or 'it's not our job to design your plans.' The question of open space without guarantee; now that's something that dates back to the 1970s and the history, and I wasn't even born yet. And I understand because the gentleman behind me, the Chairman of the Planning Commission, had told us last night he felt snake bitten, he felt like there were unkept promises. And I understand that, we learned this at the very beginning of the process. We can give you our word. That's what we can do. We can tell you folks, residents of Clifton Heights, if you want to make this a win-win, let's do it. We're on board. But to hold something back from the 1970s, not only is it not codified in your ordinances, it's not something that we can take care of. The plan that does not comply with the new ordinances which was Mr. McBlain's 5th point, I read you straight from the municipality planning code, should this thing go any further and should those ordinances be challenged? That'll be read in court and some Judge will read that and say, what am I missing? And maybe I'll look back on this and maybe I've been reading along, too. But I'm hoping that we can all understand that those ordinances should not apply to this project, should not apply to this applicant, should not apply to that property. That is trying to undercut this project and take away this school. It's also been throughout this process, the District's been subject to a lot of dissemination of misinformation, a lot of really unplaced ridicule, so one of the most recent things that come to memory is something that I just heard tonight that there should be 950 students in the school. There is not going to be 950 students in the school. That is another bit of information that is being thrown out to try and make sure that this project doesn't get pushed through. The next piece of this is I keep hearing this phrase that 'we want to continue to work together', and even Mr. McBlain last night had talked to a member giving public comment and he said, well, the parties can continue to work together. And, you know, he had said it again tonight and continue working together. And we want to continue working together. But this isn't just some ploy. This isn't just an idea. This is a fully engineered design plans that's designed to meet the specific objective ordinances of your municipality, so I want you to really consider that. And the reason is I don't want you to think that this is well, 'let's just kick it down the curb,' because who knows where this goes? We want to work with you. We put together a plan that works. We put together a plan that satisfies a lot of the requirements of your ordinances and a lot of the thoughts that we receive from public comments. So I want you to think long and hard, not just about that, about the importance of your vote, about the June 2019 Delaware County Planning Commission review letter saying that at that time this plan should be recommended for approval. And think about, more importantly, the children, because I'm not a developer coming in to put an apartment complex in your municipality. There's no profit, there's no gain here...all we're trying to do is promote education. So who loses? I don't know. But I do know the kids lose because they're entitled to a fair education and there's no shame on the District for trying to provide it and put it in your

municipality. Without any questions, I'm more than happy to offer myself up or representatives of the District or the District consultants."

Solicitor Catania asked if they had any more presentations

Dr. McGarry added:

"No, again, I just want to thank you for the opportunity. Look forward to being good neighbors and hopefully we can move this forward in a positive direction. I do want to say that over the last couple of months and years, I've had exchanges with the Mayor where there's been opportunities to continue the long standing projects. And regardless of where we go, it's every intention for the School District and the Superintendent to try to keep a positive relationship moving things forward. So I appreciate the opportunity tonight. Thank you."

Solicitor Catania asked Mr. McBlain if he had any follow up comments.

Mr. McBlain offered the following comments:

"Yeah, I can offer a couple of comments, I guess, after hearing Dr. McGarry and especially Mr. Stoll's presentation, you know, to Council and certainly willing to answer any questions. As Council knows, we have, besides representing the Borough and the Planning Commission matters, we have represented the Borough in terms of trying to formulate discussions, some as a process of a Court ordered mediation as well as other processes. And I will just simply note to Council, you know, that the attorney for the School District has over and over again indicated that he doesn't receive any cooperation from the Borough or any of its officials. I briefly looked at the letter that I presume that he handed up tonight, which, you know, once again, I presume was drafted today after I'm sure it was disappointing to him to receive the report of the of the vote of the Planning Commission last night. But as typical in this case, you know, whenever, you know, somebody's told that you have to improve something or told no, you know, you're met with a vituperative attack on me personally, which he which he has done; to the Mayor, which he has done. I would note that Mr. Stall indicated that Borough leaders have taken positions regarding the project. I would note to you that the Pennsylvania Municipality Planning Code and the other laws and ordinances do not neuter the leaders of your Borough whenever there is a project that comes before you and, in fact, you are certainly entitled to represent the citizens and take whatever actions and make statements, you know, so that the fact that any leader in the Borough of Clifton Heights may have uttered anything that the District interpreted as an opposition to this project is their issue, not yours. I would note that this plan has evolved greatly since the original plan that was submitted. I think when we talk about some of the issues that need to be addressed, much of that came because of the involvement of your engineer, Mr. Kelly, and Mr. Frederico, your traffic planning engineer. I always just shake my head because I get met with these attacks that, you know, you refuse to talk to us, OK, well, let's know, last was I arranged for the meeting with the engineers here on October the 8th, I think it was."

J.P. Kelly, Borough Engineer, noted that it was October 6th.

Mr. McBlain continued, "As you went through that meeting, you know, and the engineers talked back and forth to each other, it's like, 'well, remember, we had the conference call where we discussed this' and 'we had the site meeting where we talked about storm water management' and 'your email of this.' And, you know, over and over again, there were references to that kind of discussion and cooperation that went on between your engineers. I mean, make no mistake, I think, you know, Mr. Stall is attempting to be a good lawyer and create as many arguments he can for his clients no matter what the Council may decide, but one of the arguments he attempts to create is that the Borough didn't cooperate with the School District throughout this process and that therefore he's going to ask some Court to approve it if he doesn't receive the outcome that he wishes here. It's admirable that they've taken time away from their families, as have you for very little pay for you, in order to consider these matters and come out. I don't agree with the one statement that they took time away from their families to go out and talk to members of the community about the impacts. I know right behind me is Bill Ciminera, who's a business owner in the 300 block of North Springfield Road, who I think will talk to you, based on what I heard from him outside, about the impacts to his business if all the parking is removed from the front of his property. And then just finally, so we can clarify, this application is for a building that accommodates 950 students. That's what the design professionals presented throughout this matter. That's where it is. If it's something different and there would be a cap that would be applied to that, we would invite the School District officials to come forward and tell us that right now that they won't go higher than a certain number, but the building is designed for 950 students during the Planning Commission meeting; that's what their professional said they needed, that's what it's designed for. If they're going to want to make a binding statement as to the number of students, we would invite the School District to do that or and further collaborate on it. So that's all I think I had, Madam President, thank you."

Solicitor Catania said that it would be in order to next hear comments from members of the public in attendance. He asked that Mr. McBlain stay as the Council would entertain a motion.

Mr. Stoll said that he would like to respond to Mr. McBlain's comments.

Solicitor Catania finished outlining the next steps and told Mr. Stall that he could respond.

Mr. Stoll said the following:

"OK, thank you, Mr. Catania and my apologies for interrupting. Just to go back to one of the comments that Mr. McBlain had said, that there's been collaboration. There's not been collaboration. This letter was not draft out of emotions to last night. Our engineers back there, do you want them to tell you that there's been no collaboration or do you want to look at the email that I included in my package? When we got Mr. Kelly's September 24th, 2020 review letter, we did what any good applicant would do. We said, 'hey, Mr. Kelly, can we meet with you?' In fact, Tom Freise, who's in here tonight, who is the civil engineer on this project, sent an email to Mr. Kelly's associate or engineer who works in

his office and asked him, this is a quote. 'Thanks, Matt. We will take a look and get back to you (being the review letter) with any questions. If helpful in our estimation, can we get on a conference call to discuss particular comments/issues?' Do you know what the response was? It wasn't, 'sure, let's get on a conference call. Let's do what we've been doing.' Mr. McBlain was talking about the back and forth in the emails. No emails like that. You know what he said to Tom? He said, 'I will discuss with JP, but I would recommend that you make the request to Borough and John Perfetti. Also look at my letters in the packet where the Borough consultants have told us throughout the process, 'we can't answer your questions unless we're authorized to do so by Borough officials.' Under what realm of good faith and good land planning perspective is that even possible? So then we have to write to Mr. McBlain. 'Mr. McBlain, here's some of the information. Here's some of the questions we have. Would you mind providing that?' We got silence again. Good land planning and good neighbors don't entail, if I want to answer your question, I've got to run it up the flagpole. You know what happened when I got around the flagpole? We got no response. And I'm going to, again, rebuff Mr. McBlain. There were community meetings about this project. The District has offered time and time again to answer any and all questions. There's a frequently asked questions on their District page. They want to be your good neighbor. Let them be. Let them be.'

Borough Manager Perfetti said that since the Borough engineer's name has been mentioned numerous times throughout the presentation of Mr. Stall, he would like to offer some time, with your permission to our engineer to respond to some of the issues that Mr. Stall has brought up.

J.P. Kelly said that there are a couple of items that he would want to clarify.

Solicitor Catania asked if Tom Freise was the same Tom Freise who told PENNDOT not to invite the Borough to the traffic meetings. He said he did not ask for that clarification.

Mr. Kelly said that was the same Tom Freise.

Solicitor Catania said that he remembers hearing time and time again from the School District that they weren't going to do things privately. He said that they don't have to get into all of that because that is what Mr. Stall wants and why he jumped back up because he wants to make a mockery of the whole process.

Mr. Kelly said that he agrees, he doesn't think that they need to debate what was said in the past because it's been going on for quite some time. He continued:

"The only thing I want to clear up the record for Council's consideration is the letter we wrote stands for itself. That meeting was October 6th, the minutes are dated October 8th. We have not once ever said, 'that's not our problem, design it yourself.' That was never said. That's just sensationalism as far as I'm concerned. The letter or the submission that was made to the Borough by Pennoni on the impact statement has discrepancies, and the discrepancies are noted in the Grafton review. And one important discrepancy is the number of students within that submission. There's a discrepancy of 750 students versus 950 students, with approximately 100 staff. So they weren't numbers that were just pulled

out of thin air; that was from the submission that was made. I just wanted to clear that record. Also, again, Frank, if you want to take over, I just want to remind Council that back in October 2018, we were asked to start reviewing zoning ordinances and subdivision land development ordinances because of pending, or what we thought were large developments such as 500 Broadway and other land development process. NorthPointe, yeah, there were there were several in the pipeline, the Arby's. And we noted that there were some zoning issues that were not addressed, such as buffers and setback issues that should have been increased or decreased. At no time at that time on October 16th was this particular application identified or targeted or brought to even my attention as we went through those ordinances, so I just think that's important to note that that started well before this application was ever submitted.”

President Papale thanked Mr. Kelly.

Mr. Stoll asked if he could provide a brief response on that.

President Papale said that they were going to hear from the public.

Mr. Stoll asked if he could provide a response.

President Papale said that they were going to hear from the public.

Mr. Stoll asked with all due respect if he could provide a brief response to the allegation.

President Papale said that they have allowed him to speak several times and they would like to hear from the public.

Mr. Stoll asked if he could speak after public comment.

President Papale told him he could.

Mr. Stoll thanked President Papale.

President Papale said that if there was anyone in the audience who would like to comment publicly, they could approach the podium and state their name and address.

Meredith Hegg, 123 E. Berkley Avenue, said that she has made comments at some previous meetings, so she didn't want to repeat herself too much. Be she said that she would repeat that we all know that our town desperately needs revitalization. We all know that we have vacant houses, vacant storefronts. The town really needs a boost, and she desperately thinks that this school could be that boost. It could really bring people to want to live here, move here, and buy houses. She thinks our kids deserve this. Our kids deserve to have a school in their own community that they can take pride in and they can walk to. We shouldn't be busing our kids to Drexel Hill to be in trailers where they can go and slip on the ice. She doesn't think that anyone's questioning that they're are going to be some bumps and they're going to be some changes that are going to make people unhappy. She does think that Mr. McBlain's traffic numbers only work out if you count a parent's arrival and their departure as two trips. She said that math is fine and you can do that, but she just wants it to be clear that it's only a thousand trips if the parents drive into the drop off loop and their drive out of the drop off loop counts as two trips. She just wanted

to be clear on that. And noted that, as has already been mentioned, this project has received approval from the Delaware County Planning Commission. They recommend granting preliminary approval, and to be clear that this IS preliminary approval. If things don't work, if some of these smaller issues can't be resolved, then deny final approval. She said that if they can't sort out some of these small things then there would be a problem, and they would have every right to deny final approval. She said that this is preliminary approval, and she thinks, in the end, they have to keep in mind the big picture, 'are we going to welcome this improvement in this development in our community for our kids and our town? Or are we going to turn it away? Are we going to add costs to all of our taxpayers and all of us? All of us sitting right here, all of us residents, we're paying both sides; lucky us. So are we going to increase costs because we're quibbling over little details?' She thinks, in the end, it's: do you want a school or do you not? She said that they can talk about the details and worry about the details, and she gets it because the devil is in the details. But in the end, we're not voting on the ownership of the property. She said that she gets that that is frustrating. It was incredibly frustrating to a lot of members of the community to realize that the Borough doesn't own the field, but the Borough doesn't. She said that denying this tonight won't make us own on the field. The School District owns the field. She just wants everyone to remember that, while we have been able to use the fields, even though we don't own them, it's hard to imagine that that's going to continue if this is denied tonight.

Mayor Lombardo said that he had a question for Ms. Hegg. He asked if she was a member of the School Board.

Ms. Hegg said that she was a member of the School Board.

Mayor Lombardo said that the gentleman sitting behind her owns a store on N. Springfield Road. He asked if his business losing all the parking spots in front of his store was a small detail.

Ms. Hegg said that it is hard and everything is relative.

Mayor Lombardo asked if she thought that was a small detail.

Ms. Hegg said certainly not to him or his business, and as someone who likes his pizza, it's not to her either. She said to go back to what she was saying previously, "Let's work out those details. The devil is in the details."

Mayor Lombardo said that he would like to work them out ahead of time.

Ms. Hegg said that is not what preliminary approval is for, that is what final approval is for.

Mayor Lombardo asked if she was an engineer.

Ms. Hegg said that she is happy to let the experts say and clarify this, but what has been stated to her many time, not just by the people on the School District side, but on the other side is that this is preliminary approval.

President Papale said that they were going to stop her there to allow others speak.

Ms. Hegg asked if Mayor Lombardo's interjection used part of her time to speak.

Mayor Lombardo apologized.

Ms. Hegg said that her last thing that she wanted to note is that she thinks that it's a question of whether or not we want a school and we want that improvement for our community or we don't. She said that she wants it. She wants them to look to the future. She does not want us to stagnate. She does not want us to have depressed property values. And she really hopes that we can all see that. She said if things can't be resolved, deny final approval, by all means. She thanked them for the time.

Bill Ciminera, Ciminera's Pizza at 418 North Springfield Road. He said that the first he heard of this was today, so he is not well prepared and this is all new to me, he's just hearing it right now. He said that the woman who just spoke before him and said she was a customer, she's not going to be able to get my pizza anymore because there'll be no parking. Without the parking, Ciminera's won't exist. He will simply go out of business. He said he started the business 37 years ago with nothing. His father passed away and he worked my butt off to get through to be successful. He said that his business employs kids from the neighborhood. If anybody wants to come in and look around, they're all kids from the neighborhood. He's had hundreds and hundreds of neighborhood kids come through his shop and learn a trade, something they carry with them for the rest of their lives. He said that he's not even just asking for himself, he's asking for the kids that work for him. He said he's heard it said that it's a win-win situation. To him, it sounds like a lose-lose situation and it's not a little detail because someone else's little details are big for him as this is his life. He has a mortgage. He has children in college. He has one daughter in high school. How will he pay? How will he pay for them? His son wants to go to medical school. What are they going to do, tell him he went out of business after 37 years? He doesn't understand why they don't understand how important the parking is, where it is. They have very limited parking. He's happy just to have two spots on a Friday night that get him through because he does have a lot of loyal customers that will wait and drive around the block until they can get in and get the pizza. He said that he is humbly asking that everybody keeps that in mind when they say it's a little detail, these minor things, the win-win situation; there's no win in there for his business or the kids that work for me. He thanked them for their time.

John Todd, 29 West Broadway Avenue, said that he wanted to totally disagree with what Miss Baxter just presented here. To him, this is not a win-win situation, it is a lose-lose situation as this has been presented to Clifton Heights Borough, the present plan for this school. He said it's a lose-lose for the Borough, while it might be a win-win for the School District. He said by losing one parking spot on Sycamore Avenue, they're taking somebody's spot away from them. If they have to walk 3 blocks in the morning to get to their car with snow, rain, whatever else to go to work, that's an inconvenience that they shouldn't have to endure to facilitate the School District. He said that in closing, he'd just like to say he thinks this is a lose-lose proposition as it is presently being presented to the Borough of Clifton Heights. He thanked them for their time.

Mr. Stoll approached the podium and noted that he brought with him, the District's civil engineer, Mr. Freise. Mr. Stoll said:

“There was a comment made about this back and forth exchanging and this was kind of a normal land development application. Mr. Freise, can you please explain just the outreach to Mr. Kelly's office and his receptiveness, or lack thereof, of getting back to you in terms of questions you had relating to the project?”

Mr. Freise said: “Yes, throughout the process that has been lengthy. We have reached out through email and phone messages to Mr. Kelly on numerous occasions, and I would say most often they were not returned. That doesn't mean that there has never been any coordination. We did have one site meeting to discuss the offsite drainage. It's true. We had one on October 6th that has been talked about. We had one meeting face to face, which Mr. McBlain set up. We had one teleconference on the phone when we had some questions and we were able to speak and ask questions. But other than one other meeting which was set up with by the Judge having to do with the mediation, that's really other than the interplay at the meetings, the public meetings, that's the only coordination that we've been afforded through the process, and we've asked for more than that. We've asked for meetings with the Fire Marshal and have had no response other than, ‘we're not meeting now.’ We did coordinate the last meeting and they said meeting with the Fire Marshal would be after preliminary approval.

Mr. Stoll said, “Mr. Freise, can I ask you, is it typical for there to be a lack of communication for land development projects?”

Mr. Freise said that it's not typical in his experience.

Mr. Stoll thanked Mr. Freise and continued:

Listen, this is we understand where we stand, we do. We understood where we stood before we submitted the application, the District's obligation to provide facilities that are suitable for students throughout the District, including students and citizens and children of Clifton Heights. We were told in September 2018 that you would take any lawful action to thwart this project. We were told in April 2019, through public airways, that the taxes would go up 1/3 and that this project, cannot happen because of “taxes, taxes, taxes.” Now we're being told there's land development issues. We get it. We understand where we stand. We've tried to win some goodwill and tried to make you know that we're trying to be good neighbors. We're just here to build a school, educate kids. We can work out all the details, big or small. Some are more important to others than they are to each other, but we'll work them out. That's all part of the land development review process. So with that being said, Mr. Catania, I understand you have questions for Mr. Freeze, but we deserve to be treated just like any other land development applicant.

Vice President Campbell asked if he could ask about the letter that was presented to him.

Mr. Stall responded that it was a letter that describes the last couple of weeks. It's a response to allegations I received from Mr. McBlain that the District and I were making unfounded claims of an atypical.

Vice President Campbell asked if this was an important letter that was meant to impact his decision on this matter tonight, why he was just receiving the letter tonight.

Mr. Stoll said that was a very good question and continued:

So I will tell you this, a lot of those documents and those emails and those text messages to the District about not responding, don't bring public support to these meetings, things like that. I had figured that the Borough Council was all abreast to that information, those emails that came from Mr. Catania's office. So what I had been tasked to do over since, I think it was, early last week, I received a letter from Mr. McBlain, and again, I respectfully disagree that's sensationalism, because that's why I had to go through length. And I was tasked with saying, 'hey, here's what we've been up against.' So that's what that letter does. Hopefully, it provides you a good summary of just kind of what the District has been up against and what we tried to overcome. And Mr. Campbell, when you read that letter and when you look at the attachments, just think, what could this project be if we actually work together, if we actually got Borough input, what could this project be? That's how exciting this is. He thanked them again.

A councilperson asked Mr. Stall where he lives.

He said that he lives in Bucks County.

He asked if he attended Upper Darby.

He said that he has been there for a number of community meetings they have had for this project.

He said he didn't mean visit but attend. He said that he thinks that they are looking at things a little different or a lot. He said that he has paid hundreds of thousands of dollars in school taxes to Upper Darby, not to Bucks County or Haverford but to Upper Darby School District. He said that he grew up in Clifton Heights and graduated from Clifton Heights High School. He said that there is only so much that they can take from them and they're sitting here trying to make a rational decision. He said that his presentation is good, and he spent his professional life in a Courtroom. He said that he understands his presentation, but it's a presentation. It's not a derivative, it's not an understanding. He said what he would like from Mr. Stall is for him to just acknowledge the fact that everyone here has a legitimate concern. They all live in Clifton. He moved from Drexel Hill back to Clifton Heights because he liked the town. He said he doesn't take any pay, he gives it away, and this is important to him as he is sure it is important to everyone else.

Mr. Stoll said that he really appreciated that comment.

Solicitor Catania posed a few questions to Mr. Freise. He said, "Mr. Freise, it looks like there were about 6 Planning Commission meetings, is that correct?"

Mr. Freise said that sounded about right.

Mr. Catania asked if he was present at all of the meetings.

Mr. Freise said yes.

Mr. Stoll asked if when he says planning commission meetings, you mean the ones that adjourned or ones that substantively discussed the project.

Mr. Catania asked if Mr. Kelly was at those meetings.

Mr. Freise said yes.

Mr. Catania asked if he had the opportunity to ask any questions at those meetings.

Mr. Stoll said he didn't believe so, no.

Mr. Catania said that he asked Mr. Freise a question and only hears Mr. Stoll's voice. He asked why that was.

Mr. Stoll said that he thinks he is trying to clarify things for him.

Mr. Catania said that Mr. Stoll was interfering with his questions for Mr. Freise.

Mr. Freise said that there was not a question and answer back and forth with the Borough Engineer at all the Planning Commission meetings.

Mr. Catania asked if there were any questions that he had for the Borough Engineer that he didn't have the opportunity to ask at the Planning Commission meetings. He said that he has transcripts for all but one of the meetings that he can go back and check, but he wanted to ask.

Mr. Freise said that he didn't recall that they were afforded an opportunity to ask all the questions that they had.

Mr. Catania asked as they stand here tonight, what questions haven't been answered by Mr. Kelly.

Mr. Freise said that he doesn't have any further questions of Mr. Kelly that relate to the preliminary plan approval.

Mr. Stall said and that's what we're here for tonight, preliminary plan approval. Thank you, guys. He thanked them again.

President Papale asked if anyone else had any further public comment.

Mr. McBlain asked if he could just respond to the last question. He said:

“At the December 10th, 2019 Planning Commission, a substantial amount, if not the majority of the meeting was dedicated to the allowance of Upper Darby School District officials to ask all questions to Mr. Kelly and Mr. Federico. Mr. Catania's asked that the minutes of those meetings be entered into your record or considered by you. You know, we do have those. But, you know, we set aside a considerable amount, if not most of the meeting, for that specific purpose where Mr. Freise and his other associates were able to quiz Mr. Kelly and Mr. Frederico on any issues or questions that they that they had there. And please allow me to make one last whichever way Council decides, I know it probably sounds like a tit for tat between lawyers at this point, but the idea that this is not

a typical land development process, I will agree in one respect in that in my 27-28 years of practicing, I've been involved in many land development issues and processes. I can think of no other where for a year and a half, basically the municipality granted continuances to the applicant in order to continue to improve and make changes to the plans. That is the thing that is extraordinary to me. That is what is unusual about this process. I defer to Mr. Kelly, who's got even more experience than I do when we do these sorts of things. But in the very beginning, we had plans that did not have any offsite storm water management controls. None. And the Borough certainly would have been within its rights at that time to take action, and the only action you could have taken, which the District agreed with me at the time, was to deny the plan. So if that was simply the intention of the Borough, you could have not agreed to all of the various extensions requested by the School District and taken action any time in the past. The reason you're here tonight is the District has established an October 30th deadline, which they're entitled to do. They have not asked for any further continuances of that or any further extensions in order to address any of the issues that were brought up. I think it's notable that after hearing the Planning Commission meetings and hearing what the Planning Commission decided last night and being have the opportunity to present it to you today, that there is hardly any discussion coming from the School District about addressing those issues that were brought up and of concern to the Planning Commission. He thanked them again."

Mr. Catania said that his notes show there were 8 requests for continuance, all of which were granted by the Borough or the Planning Commission. He asked if that sounded accurate.

Mr. McBlain said that "it sounded accurate and the Borough was in agreement with the continuances because part of it was that they were engaged in a Court ordered mediation process where they continued to work through these matters, and the plans were, as you've heard, they are on the 5th submission of what is the largest land development project in the history of Clifton Heights. That is where you stand tonight."

Mr. Catania asked if it would be burdensome to ask him to repeat the issues cited by the members of the Planning Commission in their decision to vote against preliminary land approval.

Mr. McBlain said it was not burdensome to him though it might be for people who have to listen to his voice so far this evening. The issues cited by the Planning Commission in the motion to recommend that the preliminary land plan not be approved were:

- 1) The traffic plan would require the Borough Council to adopt an ordinance to eliminate approximately 44 on street parking spaces located on Sycamore Avenue, Oak Avenue and Springfield Road. The loss of these parking spaces would be detrimental to the residents of homes on Sycamore who use these parking spaces and especially to the business owners and patrons on Springfield and Oak. There are no other parking options that the district has presented to replace these parking spaces.

- 2) The traffic plan presented by the District would likely cause substantial issues with vehicle traffic and pedestrian traffic in and around the proposed school site that may endanger students walking to the school, have hundreds of cars per day driving on small borough roads, and have student pedestrians crossing Springfield Road between buses entering and leaving the school site.
- 3) The plan lacks storm water management details, which would allow the Borough to determine if those plans would be adequate to alleviate an already existing storm water management problem on Springfield Road that may be made worse by the proposed project.
- 4) The plan would deplete much of the remaining open space, an active recreation area in the Borough, resulting in the loss of much of the Borough's green space and without any guarantee that Borough residents would be able to use the facilities.
- 5) The plan does not conform to borrow ordinances adopted in 2019 relating to the uses for the RCD zoning district. The impact study presented by the District is not adequate and the plan does not conform to other ordinances and requirements as outlined by the Borough engineer James P. Kelly P.E. as detailed in his report of September 24th, 2020.

Solicitor Catania said that without further public comment, the Borough was left with 3 options. Option 1 would be to approve the plan as presented. Option 2 would be to approve the plan with conditions. Option 3 would be to deny the plan for the same reasons that the Planning Commission outlined, as read by Mr. McBlain.

A motion was made by Councilman Resnick to deny the preliminary land development plan submitted by the Upper Darby School District for the reasons outlined by the Planning Commission as read by Solicitor McBlain; seconded by Vice President Campbell; and carried unanimously by a roll call vote of 7-0. (Resnick – yes, Borelli – yes, Humphreys – yes, Cabrelli – yes, Peterson – yes, Campbell – yes, Papale – yes)

Solicitor Catania said that the legal effect of this is to deny the preliminary plan, and the District is free to resubmit. He said that he appreciates and has worked with Dr. McGarry for a long time, and he appreciates his comments tonight and his professionalism and civility that he heard, and he hopes to build on that moving forward and they would be happy to be a part of that process.

Dr. McGarry said that this was a tough one and a long night, but the School District is not going to give up and they hope to continue to work together in a positive light. He thanked them.

President Papale said that they would be moving back to their regular agenda items.

Committee Reports

Finance Committee: Vice President Campbell said that they hosted 2 Finance Committee meetings to work on the preliminary budget.

He noted that there are 2 preliminary budgets prepared for them, one with a 10% increase and one with a revenue neutral preliminary budget.

Borough Manager Perfetti said that this item was time sensitive because of the required 30 day viewing period that was part of the process for the preliminary and final budgets. He said that they requested that the Financial Advisor be present to provide a brief overview as to why there are 2 budgets.

Ms. Leitzell said that Borough officials have 2 preliminary budgets in front of them. Pursuant to the Delaware County assessment/reassessment law, the Borough is required to present a revenue neutral budget, which is the 1st copy. That budget creates a 10.083 millage, reduced because of the assessment, and that would make the Borough revenue neutral; that would also result in a deficit in the current year in the General Fund. Pursuant to the assessment rule, if Borough Council chooses to raise taxes, they are allowed to raise them. So the 2nd budget in front of them is 11.09 mills, and that increases the revenue allowable for this period of time. As she understands it, they are asking Borough Council to approve the 1st revenue neutral budget with a 2nd motion for the tax increase.

Solicitor Catania asked to clarify that the reassessment means that the number that you use to raise revenue from has changed and the effect of that on each individual is different.

Ms. Leitzell confirmed that. Ms. Lietzell said that they were given an idea before all of the appeals were filed. She said that they had the reported number before appeals, and that number resulted in a significant decrease in the assessment of the Borough to begin with. She said that there are also many appeals that are still pending.

Solicitor Catania said that they don't know the actual number of appeals.

Ms. Leitzell confirmed that.

Solicitor Catania said that if all of those appeals go through and are successful, the amount of money that you are basing the revenue neutral budget on could be significantly less.

Ms. Leitzell agreed with that assessment.

Solicitor Catania said that the prudent thing to do would be to adopt both budgets, one as a low and one as a high, as they await final numbers. He said that the high would represent the ceiling.

Ms. Leitzell said that the ceiling for increasing is 10% over revenue neutral.

Solicitor Catania said that the final budget would fall somewhere between the floor (revenue neutral) and the ceiling (10% increase to revenue neutral).

Ms. Leitzell said that they don't know if the assessment will still be the same either.

Solicitor Catania said that in the next 30 days, they would be working to get that information from the County, to try and assess how many appeals are out there that could impact the revenue neutral millage. He said that they may be forced to raise the millage based solely on the appeals that come back.

A motion was made by Vice President Campbell to approve the revenue neutral budget as presented; seconded by Councilman Humphreys; and carried unanimously by a roll call vote of 7-0. (Papale – yes, Resnick– yes, Cabrelli – yes, Humphreys – yes, Borelli – yes, Campbell – yes, Peterson – yes.)

A motion was made by Vice President Campbell to approve the 10% increase budget as presented; seconded by Councilwoman Peterson; and carried unanimously by a roll call vote of 7-0. (Papale – yes, Resnick– yes, Cabrelli – yes, Humphreys – yes, Borelli – yes, Campbell – yes, Peterson – yes.)

A motion was made by Vice President Campbell to approve the Treasurer's Report as presented and pay the bills; seconded by Councilman Humphreys; and carried unanimously by a roll call vote of 7-0. (Papale – yes, Resnick– yes, Cabrelli – yes, Humphreys – yes, Borelli – yes, Campbell – yes, Peterson – yes.)

Public Health & Safety Committee: Councilman Humphreys congratulated the Borough's new officer who was sworn in earlier in the meeting. He reminded residents that the Fire Company is always looking for new volunteers. He reminded everyone to wear masks.

Police Report:

A motion was made by Councilman Humphreys to accept the Police Report as presented; seconded by Councilman Resnick; and carried unanimously by a vote of 7-0.

Fire Report:

A motion was made by Councilman Humphreys to accept the Fire Report as presented; seconded by Vice President Campbell; and carried unanimously by a vote of 8-0.

Infrastructure & Public Works Committee:

Engineer's Report:

Mr. Kelly said that work was continuing on the parking lot CDBG project and the contractor had submitted a payment request for items directly due payable from the Borough. He has reviewed the request and recommends payment in the amount of \$48,420 for the items that have been completed to date. He said that the contractor has been notified and has committed to completing all work by November 15th. Copies of the invoice were included in his report.

A motion was made by Councilman Resnick to approve the payment request in the amount of \$48,420 as outlined in the Engineer's Report for the parking lot project; seconded by Councilwoman Peterson; and carried unanimously by a roll call vote of 7-0. (Papale – yes, Resnick– yes, Cabrelli – yes, Humphreys – yes, Borelli – yes, Campbell – yes, Peterson – yes.)

Mr. Kelly reported that for the CDBG project at Garchinsky Park, the surveyors have completed the field work and a draft site project should be completed in the next 3 weeks and their target date for the improvements is in the spring.

Mr. Kelly reported that the contractor, AF Damon is scheduled to start work on the Road Program next week and they anticipate all work being completed, weather permitting, within one month's time.

Mr. Perfetti asked if they would be having a pre-con meeting.

Mr. Kelly said that they would be having the pre-con meeting and videoing all of the curbage before the contractor would proceed.

Mr. Kelly noted that they had prepared bidding documents for the lawn maintenance and trash removal pursuant to Council's direction at last month's meeting. He said that he would move forward with advertising with the plan to have bids received in time for next month's meeting.

Mr. Kelly noted that the NorthPointe project is substantially complete and as such, they have requested a bond release of \$750,000. He said that recommends that is authorized subject to a maintenance bond being submitted.

A motion was made by Councilman Resnick to authorize the bond release of \$750,000 for the NorthPointe project, subject to a maintenance bond being submitted; seconded by Councilwoman Peterson; carried unanimously by a roll call vote of 7-0. (Papale – yes, Resnick– yes, Cabrelli – yes, Humphreys – yes, Borelli – yes, Campbell – yes, Peterson – yes.)

A motion was made by Councilman Resnick to accept the Engineer's Report as presented; seconded by Vice President Campbell; and carried unanimously by a vote of 7-0.

Economic Development Committee: Councilwoman Peterson had nothing further to report.

Recreation and Historical Committee: President Papale noted the Clifton Heights Swim Club would be hosting a Halloween Party at the Swim Club on October 24th. The cost is \$10/adult & \$5/child. The PAL would be hosting a Corn Hole tournament on Saturday, October 24th at the Athletic Field and a Trunk or Treat on Friday, October 30th.

Mayor Lombardo said that in discussions with the Clifton Heights Business Association, the Civic Association and the Fire Company, they decided to host the tree lighting ceremony on the 1st Sunday of December. He said that the event would be held outside this year.

Law & Ordinances Committee: Councilwoman Borelli said that as discussed earlier, the Police Department has been working on abandoned cars. She said that there is a protocol that has to be followed during that process and it usually takes about 30 days to have the vehicle removed.

Code Enforcement Report:

John Gould said that he just wanted to reiterate the sentiment that Mr. Perfetti shared earlier when discussing the departure of Tom Young. He said that he was pivotal in the transition process, and he wanted to publicly thank him for his service and dedication to the residents of the Borough.

A motion was made by Councilwoman Borelli to accept the Code Enforcement report as presented; seconded by Vice President Campbell; and carried unanimously by a vote of 7-0.

Environment Committee: Councilman Cabrelli said that he would be working on the shade trees.

Communications Committee: Councilman O'Hara was absent.

Old Business

President Papale asked about the AQUA status on Chester Ave.

Mr. Kelly said that they have reached out to AQUA and they acknowledged it, and they will continue to follow up until it is addressed.

President Papale thanked him for that.

President Papale asked if Mr. Gould if he wanted to provide follow up on Mrs. Callahan's concern from last month with trucks and trash.

Mr. Gould said that the police department handles abandoned vehicles and if there is trash accumulated on a property, Code Enforcement will certainly take a look at it. If there is a truck that is loaded and violating the motor vehicle code, they can certainly get involved if it is causing nuisance issues.

President Papale thanked Mr. Gould. She did remind residents to reach out to the police department directly immediately if they are about and have concerns.

New Business

Councilman Resnick announced that the Boy Scouts would not be hosting their annual food drive in November, but they would be waiting to schedule until it is safe, whether that be February, March, April, whenever it is safe.

Mayor Lombardo said that if anyone was aware of a family or families that were unable to afford a Thanksgiving dinner to please reach out to his office so that they could help accommodate those families.

Closing Public Comment:

No closing public comment.

Adjournment:

A motion was made by Councilwoman Borelli to adjourn; seconded by Councilwoman Peterson; and carried unanimously by a vote of 7-0.

Respectfully Submitted,

Kimberly A. Duffy
Clifton Heights Borough Secretary