

June 9, 2014 Zoning and Annexation Committee Meeting Minutes (Corrected)

The Zoning and Annexation Committee of the New Philadelphia City Council meeting was called to order at 6:30 pm on June 9, 2014 in Council Chambers. Present were Mrs. Cheryl Ramos, Chair, Committee members Darrin Lautenscheleger, John Zucal. The Chair announced that the meeting would be taped. The purpose of the meeting was to discuss committee approval of the Phase 4 Development at Oak Shadows which involves 14 lots on Whispering Pines Drive. Guests attending were: Council President Sam Hitchcock; Council Clerk, Patty McKay; Council members: Winnie Walker, Sandy Cox and Dan Lanzer; Law Director, Marvin Fete; Service Director, Jim Zucal; Mayor Dave Johnson; Ethan Zucal; Mark Cox; Greg Miller and Robert Martinelli of REM Construction; Safety Director Grey Popham; Auditor Beth Gundy; Treasurer Aaron Hillyer; and Carl Russo.

The Chair reviewed the planning commission meeting minutes of August 13, 2013 accepting the preliminary plat for Phase 4 and the October 8, 2013 meeting minutes noting that Phase 4 does not have utilities in place.

The Chair reviewed Ordinance 1121.01 and 1121.02 and the requirements for plat approval. The Chair asked for an update on the completion of requirements for plat approval. Mr. Greg Miller, local attorney, working with Bob Martinelli and Kathy Pietro, explained that the only items left to be completed are the curbing and the actual rough coat. Mr. Miller said that they have been hampered by the weather and are asking for a jump start on plat approval due to contracts for land sold and builders lined up. If lots can not be purchased in the next couple weeks the buyers will lose their place in line for building. Mr. Miller pointed out that Mr. Jim Zucal said that there is an exception in Ordinance 1121 that plats can be approved with a bond without meeting the requirements. Mr. Miller explained the process that they have completed to fulfill the exceptions in Ordinance 1121.

Mr. Miller advised the committee that the required letter of irrevocable credit in lieu of a performance bond as approved by the law director, Marvin Fete, was obtained. An (undated) letter of indemnity agreement was also presented as required by the law director. The committee had copies of the irrevocable letter of credit, the legal opinion of the law director approving such in lieu of a performance bond, the letter of indemnity agreement, a copy of email from Brian Stull of Diversified Engineering verifying the needed amount of the bond to view. Mr. Miller stated that all requirements for the exception/exemption required by the City had been completed.

A recent photo of the work completed was displayed via smartphone.

The chair asked for the service director's approval of the project as required by Ordinance 1121. Mr. Jim Zucal, Service Director, gave his verbal approval to the project. He has seen today the progress they have made. He endorsed the amount of the letter of credit. He is totally behind the project.

Mr. Hillyer explained the irrevocable letter of credit and the beneficiary being the City of New Philadelphia. When asked by the Chair, Mr. Miller explained that if the cost of the project goes over the irrevocable letter of credit amount (\$100,000), the city has the letter of indemnity to reclaim any amounts it might have to spend to complete the project.

John Zucal, Councilman, expressed approval of the exemption/exception and moving the project along given the track record of Bob (Martinelli) and Kathy (Pietro) in completing projects.

Marvin Fete, Law Director, explained that he, in conjunction with the service director, added the requirement of the letter of indemnity to the irrevocable letter of credit in lieu of the performance bond in case of cost overruns. Mr. Fete added that, on a personal note, real families, real lives, were involved in this situation and the impact would be that people might choose to live some where else if they can not close on properties.

The committee discussed approving the plat by ordinance at the next meeting on June 23, 2014. Mr. Miller noted that they have to obtain further approval from the county and that they would like to have approval as soon as possible and they would like to have emergency approval tonight.

The Chair explained that she had talked with several Oak Shadow residents who expressed concern of low water pressure and that they were told a water tower or a water pump station would be put in before more development. Mr. Martinelli explained that the PSI meets the EPA minimum requirement as per a study done by the city. One hundred houses could be built and they are not at that number yet.

Mayor Johnson commented that everyone knows Bob and Kathy and that they have invested big time in this city bringing jobs by building houses and developing the land on West High Ave. He stated that, "any time we have asked them for anything we have gotten it. They are good quality and one of the best things we have in New Phila."

Mr. John Zucal expressed his approval of this project as quickly as possible due to REM's proven track record and that he would hate to see it "bogged down." He said the development is in his ward and the people are very happy with their homes and the beautiful view.

The Chair asked for any other comments from the committee, administration, council and public. There were none. Mr. Fete asked if there was a proposed ordinance to put on the floor tonight. The Chair stated that she had emailed Mr. Fete last week, on Thursday, with a proposed ordinance from the committee. The mayor said that proposed ordinances have to be in the hands of the committee 72 hours ahead of time so that action could be taken so nothing could be done tonight. Mr. Fete said that he didn't understand why the changes he had made originally as per the Chair were not forwarded to the committee. The Chair replied because she had asked changes be made and had emailed those to Mr. Fete. The changes included stating that the requirements of Ordinance 1121 had been met specifically. He said that it was up to him how to draft it.

The Chair moved to recommend that an ordinance be prepared by the Law Director to approve Phase 4 of the Oak Shadows development as per the owners meeting the requirements of Chapter 1121.02 of New Philadelphia City ordinances for a first reading at the next council meeting on June 23rd.

Motion seconded by seconded by Darrin Lautenschleger for discussion purposes. Mr. Lautenschleger asked that a special meeting be considered as early as Thursday, June 12 to expedite the process. Mr. Miller asked if the ordinance was approved on June 23rd then they would not need to bond or the letter of indemnity as the incomplete requirements would be completed by then, weather willing. The law director confirmed that was the case.

Mr. Zucal expressed his desire to expedite the process and not lose time or (tax) money. Mr. Lautenschleger asked for explanation of the sub-development approval process. Mr. Miller explained the process. Discussion ensued that this approval was needed quickly because people would not buy lots in New Philadelphia if there was a delay.

Discussion was held to schedule a special meeting on Monday, June 16 at 6:30 p.m. Original motion was amended by the Chair to read as recommend that an ordinance be prepared by the Law Director to approve Phase 4 of the Oak Shadows development as per the owners meeting the requirements of Chapter 1121.02 of New Philadelphia City ordinances for a special meeting on June 16, 2014 at 6:30 p.m.

Motion passed by three yeas (Mrs. Ramos, Mr. Lautenschleger, Mr. John Zucal) and none opposed.

Motion to adjourn by Mr. Lautenschleger. Meeting adjourned at 7:02 p.m.

Respectfully submitted,

Mrs. Cheryl L. Ramos
Chair, Zoning and Annexation Committee

The audio tape of this meeting is available from the Clerk of Council