

BOROUGH OF SOUTHMONT
September 22, 1997 7:00 p.m.

The Special Meeting of Council was called to order by President Pile at 7:00 p.m.. After the pledge to the flag, the Special September 22, 1997 meeting of Council convened.

PRESENT: President Pile, Mr. Rodgers, Mr. Leventry, Mr. Krupa, Mr. Kory, Mr. Davis, Solicitor: Daniel R. Lovette, Engineer: Dave DuRay, and Secretary: Judith Czyrnik

ABSENT: Mr. Danyluk: vacation, Mayor Robert Morgan,

VISITORS: Pete Chiodo 943-B Menoher Blvd. Pat Ditko 134 Avis St.
David J.Kaltenbaugh, Atty.- C&D George Gvozdich, Atty-C&D

President Pile reviewed with Council the submission of the revised (9-17-97) Subdivision and Land Development Agreement and the Escrow Agreement. Solicitor Lovette filled Council in on the previous meeting held on September 16, 1997 with Mr. Chiodo, the Contractor, Attorneys, three Council members, and Borough Engineers. At this meeting, an agreed construction contract amount was settled. The cost of construction for the roadways, sewers, and Etc. is \$173,000. An additional 10% must be put into the Escrow Account in order to ensure payment to the Contractors, for the roadway and etc. A 10 day provision has been made in order to allow the representatives time to review the invoices, before payment. 1st Summit Bank will be holding the escrow fund. No condition of lending was needed. The Assisted Living facility will wire the purchase price of their property amount to Attorney George Gvozdich, to deposit into their Real Estate Settlement Account. The net amount will then be sent to 1st Summit Bank. The closing with Assisted Living Concepts is expected to be Sept. 23, or Sept. 24, 1997. The Assisted Living Concepts group, owner of the facility is going to escrow an additional \$20,000.00, to ensure that all Engineering construction specs are met and fully accepted by the Borough. Life Services Development Co., of Erie will manage the facility. At this time President Pile asked that the Borough be given a monthly balance statement. Attorney Gvozdich assured Council that we would receive the statements.

Several items were discussed on the Escrow Agreement. Mr. Rodgers asked questions on Section 1. and Section 2., referring to the amount deposited and the amount withdrawn. Solicitor Lovette stated that when the balance falls below 110% deposits will be made. Discussion was held on the submitted invoices for the construction inspection on the roadway.

Upon receipt of an invoice, in accordance with the Subdivision and Land Development Agreement, the Escrow Agent will FAX the invoice to the Borough for immediate fax submission to the Borough Engineers for review before approval to pay. Written disapproval of the invoice must be received by Escrow Agent before 4:00 p.m. the tenth (10th) day following date of invoice.

In the event of a dispute, an Independent Engineering firm will look over the invoice and determine if, the invoice is approved or disapproved. This will determine who will pay for the required services, if needed. Discussion then was held on the submitted invoices for the construction inspection on the roadway.

A lengthy discussion was held on other questions. Solicitor Lovette answered all questions to Council's satisfaction. There were questions on the invoices already paid by the Borough to the Borough Engineers and Solicitor Lovette and Zoning Solicitor Kiniry.

Solicitor Lovette asked if all of Council is satisfied with the Escrow Agreement and if all of their questions were answered. There being no further questions, Solicitor Lovette reviewed the Subdivision and Land Development Agreement. Copies of their Liability Insurance have been submitted to Council, a copy of their Notice to proceed will be submitted, copies of the Utility Agreements and legal descriptions have been received. The exhibit "A" is the legal description and described, attached and marked the "Tract", exhibit "B" is a complete schedule of the plan to be recorded and all supporting plans, now referred to as "Plans", exhibit "C" is the Mandatory Public Improvements, and exhibit "D" Capital Improvements. Exhibit "E." is improvements to be dedicated for public use and exhibit "F" is the Letter of Credit/Escrow Agreement, schedule "1" is for Financial Security. (See attached). He reviewed what has to be deposited under Submission and Land Development Agreement, Paragraph 27, which specifies reimbursement to the Borough for the paid invoices to the Borough Engineer's in the amount of \$6,000.00 and for the Solicitor's fees in the amount of \$2,500.00. There will be no dispute for these costs. Mr. Chiodo and Mr. Ditko did not agree with the estimated costs of the Borough Engineers for the construction inspections that will need be done before the Borough accepts the new road. After several lengthy discussions and the determination on how the costs and fees are set forth Solicitor Lovette suggested that Mr. Chiodo and Mr. Ditko, of C & D Associates and their Attorneys take the time out to talk between themselves. At this time they stepped into the hall for private discussion. After discussion, the Developer then agreed to deposit \$20,500.00 into a special escrow account. The additional \$12,000.00 will be set forth to be used for construction inspections. The Special Escrow Account will be deposited by the Borough into an interest bearing account.

Solicitor Gvozdich ask that the Borough provide a letter confirming that as to be stated in Paragraph 17., that the Borough agrees C & D Associates will have the improvements to the roadway (Cheney Oak Drive) by November 30, 1997 and that the final wearing coat will not be completed until spring of 1998. Further agreeing that, subject to Borough Engineer's approval, if all other aspects of the improvements are satisfactorily completed the Borough will treat said road improvements as if accepted by Borough for snow plowing and maintenance.

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C & D Associates will agree that 110% remain in the escrow account of 1st Summit Bank until the final wearing coat is installed and Borough Engineer's have approved.

Some discussion was held on Paragraph 27, of the Subdivision and Land Agreement will be subject to the provisions of Section 50 of the Pennsylvania Municipality Planning Code. Mr. Chiodo and Mr. Ditko and their Attorney's again excused themselves to leave the room to further discuss the final issues. The group returned and agreed to the agreements, as submitted.

Solicitor Lovette will make the necessary changes. After further discussion and several other questions answered, Solicitor Lovette felt that Council had a good agreement and recommended that Council approve these agreements, as submitted.

A motion was made by Mr. Davis to conditionally approve the Escrow Agreement pending proper documentation and approval of the Solicitor. Motion seconded by Mr. Krupa. All in favor, motion carried.

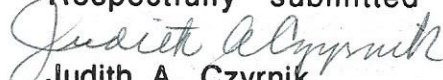
A motion was made by Mr. Davis to conditionally approve the Subdivision and Land Development Agreement as set and discussed, pending proper documentation, and approval of the Solicitor. Motion seconded by Mr. Krupa. All in favor, motion carried.

A motion was made by Mr. Davis to appoint the Borough Engineers, Hinks & Locher as representatives for the construction inspection on the roadway, storm water management, holding pond and sanitary sewer lines. Seconded by Mr. Leventry. All in favor, motion carried.

The discussion of the sanitary sewer tap-in fees was briefly discussed. Solicitor Lovette recommended that the Street Committee look at this for future requests in the Cheney Oak Development.

A motion was made to adjourn at 8:30 p.m. by Mr. Davis , seconded by Mr. Kory. All in favor.

Respectfully submitted


Judith A. Czyrnik,
Borough Secretary