

NOVEMBER 5, 2012 COUNCIL MEETING MINUTES

The November 5, 2012 Council Meeting was called to order at 7:37 P.M. in Council Chambers at the Municipal Building.

APPROVAL OF AGENDA ITEMS

Mayor DeLuca- Good Evening, we will call this meeting to order, on one of the Resolutions, Massarelli 2012-062 it should say 3 structures instead of 4 structures. The rest of the agenda will stand as presented. Please stand for the Pledge of Allegiance.

ROLL CALL

Mr. Underwood
Mayor Deluca
Dr. Kincaid
Mr. Palumbo

Mayor Deluca- Mrs. Kuhn is absent because her son is having surgery.

Also present were Manager Rayan, Planning Director Davidson, Finance Director Schrecengost, Solicitor Alexander, and Secretary Davis.

APPROVAL OF MINUTES

Mr. Underwood made a motion to approve the Minutes of October 15, 2012 meeting.

Mr. Palumbo seconded the motion.

There being no further discussion the motion was approved by a 3-0 vote. Dr. Kincaid abstained.

EXPENDITURES

Dr. Kincaid made a motion to approve the Warrants dated November 5, 2012. Journal Vouchers 0, C.D. Requisitions 5-\$19,451.40, Masters 22644-22838- \$1,348,095.80. Grand Total-\$1,367,547.20.

Mr. Palumbo seconded the motion.

There being no further discussion the motion was approved by a 4-0 vote.

RESOLUTIONS

RESOLUTION NO. 2012-060

Mr. Palumbo made a motion to approve RESOLUTION NO. 2012-060-authorizing a change order to Gregori Construction & Engineering, Inc. for the Poketa/Rockcliff Storm Sewer Rehabilitation Project in the amount of \$18,000.00.

Dr. Kincaid seconded this motion.

There being no further discussion the motion was approved by a 4-0 vote.

RESOLUTION NO. 2012-061

Mr. Underwood made a motion to approve RESOLUTION NO. 2012-061- awarding a contract to Greenthumb Excavating for the demolition of certain structures for the Penn Hills Demolition Package 4 in the total amount of \$25,000.00.

Mr. Palumbo seconded this motion.

Gary Henderson: Fawn Drive- I thought I was going to be on the speaking list, because she had me for the November 5th. I don't see it on the agenda. As far as the demolition, there is a house next door to me -7837 Fawn Drive- that I have been fighting about for years. My wife had called on a car that is out there, and John McCafferty told me that was another department, which it was, but he also said, that house is going to be demolished, but I don't see it on the sheet. I want to know if you knew anything about this.

Mayor DeLuca: Howard do you know where it is on the schedule?

Mr. Davidson: I just wrote down 7837 Fawn Drive, I will look into it for you. You live next door and you feel it's a candidate for Demolition?

Mr. Henderson: Oh, without a doubt.

Mr. Davidson: It will be on the future list if that is the case.

Mr. Henderson: I gave pictures here and everything, and John McCafferty definitely knows about it. There are raccoons in it.

Mr. Davidson: We are working on the next round already. We work on demolitions every day. It's not up this evening on either one of these two contracts. It will be on a future contract if it's a demolition candidate.

Mr. Henderson: I believe he told her it might be done by the first of the year.

Mr. Davidson: I don't know the details, it could be that an owner has come forward and asked for time to fix it up. I need to look that up for you. Would you like me to call you?

Mr. Henderson: Please 412-247-2920. John has all of the information.

Mr. Davidson: I will call you.

There being no further discussion the motion was approved by 4-0 vote.

RESOLUTION 2012-062

Dr. Kincaid made a motion to approve RESOLUTION 2012-062 with corrections- awarding a contract to Massarelli Excavating LLC. for the demolition of certain structures for the Penn Hills Demolition Package Number 4 in the total amount of \$10,213.00.

Mr. Underwood seconded this motion.

There being no further discussion motion was approved with a 4-0 vote.

RESOLUTION 2012-063

Mr. Underwood made a motion to approve RESOLUTION 2012-063- authorizing the proper Municipal Official to enter into a contract and Memorandum of Understanding with the Commonwealth of Pennsylvania, Department of Revenue, Bureau of Individual Taxes.

Dr. Kincaid seconded this motion.

There being no further discussion motion was approved with a 4-0 vote.

ORDINANCES

ORDINANCE No. 2012-2551

Pete Nychis: Good Evening Mr. Mayor, other esteemed members of Council, ladies and gentleman. I know there are a lot of other lawyers here I see in the audience. It seems like we are waiting for motions court to begin. I'm Pete Nychis, representing Mr. & Mrs. Joseph D' Andrea, the owners of the parcels in question here. What we have is an application for your consideration, is an application for rezoning of 10 acres of land, in part from R-1A residential to M- Mixed use and then part to C-Conservation District. This is depicted on the easel here. This is an illustrative sketch of the site in question. You also have another exhibit below that of an Arial view of the site in question. The application was approved by the Planning Commission in 2008. It was brought before your Council, the matter was stated that time, pending resolution of traffic issues related to this application. In particular the traffic problems at the intersection of Maple lane and Rodi Road, that would serve as

the ingress and egress for the proposed project here. These traffic concerns have been addressed. They were resolved with the installation of the traffic signal, as well as a turning lane on Rodi Road and Maple Lane. This was done in cooperation with Penn Hills Council, the Allegheny County Department of Development, the Governors' Office, as well as cooperation from Wilkins Township. If the application for rezoning is approved, Mr. D'Andrea will then go forward with plans for construction of a building for Vocollect, to consolidate their operations. They have employees now in Monroeville, they will expand their operations and move employees from Monroeville to this site here and create a campus-like atmosphere for them. They presently have over 300 employees situated in 2 buildings in Wilkins; they have another 72 in Monroeville. What is proposed here if this is approved and he can go forward with the construction of a building located in Penn Hills. It will add another 150 jobs for the region and area residents. As shown on there, part of the proposed zoning amendment is to rezone land abutting Ridgecrest Plan and part of Gramac Lane into part of a conservation district. If that is approved, that land, which will be designated as conservation district, will be offered to the township, donated to the township, if the township so deems to accept that. He will pledge to do that and will make it a condition of approval. What the proposal does is two things; it preserves steep sloped woodlands, and is consistent with the county's comprehensive plan in that regard. Also, I know you have a lot of residents that are concerned with what is being proposed and what may happen down the line and how that will impact them. The conservation district that is going to be established by the proposed rezoning will establish a permanent buffer area to these neighboring properties. You can see the permanent buffer varies from 50 feet to 150 feet throughout this conservation district area. I will submit to you and to the residents who may be concerned. There was a study that was done by the Department of Development. There has not been with development there already, already being zoned commercial. By the way, changing that to Mixed Use that would be consistent with properties already designated as such on the Rodi end of that. They are already designated as mixed use that would be an extension of that. As far as impact on property values one can see that there has been no negative impact. The property values have actually increased if you look at the assessments. I would suggest that it is a win win for the Township and for its residents. It will create a positive economic stimulus to Penn Hills and the region at a time when we face very difficult economic times. As I indicated it will create new jobs which could be filled by area residents. It would create a demand for housing. I saw that on the agenda, with homes being demolished it will attract new residents, have an increase in demand on housing and foremost of course is increase in tax revenues with construction of a new building for Vocollect to expand their operations. Naturally you will have an increase in real-estate taxes to go to Penn Hills, the School District and the County aside from other taxes and revenues that it will generate.

Therefore, I will submit to you that, although there is a lot of concern and there maybe some natural opposition when you have rezoning, proposed commercial development, by residents who are near to the proposed change. I would suggest that because of the benefits that this will bring, that it should be welcome by the residents and by public officials of Penn Hills.

There are a couple of issues and concerns. One of which was concerning the conservation district which I have already submitted to you, that if approved, Mr. D' Andrea would dedicate that land over

to the township. Secondly, there is an existent right away on Ridgecrest Road which is there for the purpose of gaining access to the land there in question, from Ridgecrest, and to my knowledge it hasn't been used recently. To any event, there is an existent right of way which would give Mr. D'Andrea possibility of a right to access that. I would also submit to you, to the extent that he may have any rights to that right of way, that he would agree to release that and waive any rights to it and any egress or ingress would be solely from Maple Road and Rodi Road. He would abandon any rights to use it in the futures. I know there are a lot of people here who are concerned and some that are going to speak in opposition. There are some legal matters, one of which is standing; I don't want to be objecting to any person, citizen who may rise to speak. Just for the record, I don't want to interrupt anyone. But for the record, as far as anyone speaking tonight, I would have a running objection to standing on anybody's part that may be a property owner but does not own property that abuts this proposed rezoning area at issue. Secondly, those that may not abut and are not in close proximity to it, and any other property owners who do not show a discernible adverse affect from what is being proposed. I just want that for the record, it is a running objection, and I will not rise to stop someone from speaking, but so that my rights are preserved in the event that should occur.

With that I would be glad to answer any questions on behalf of Mr. and Mrs. D 'Andrea.

Mr. Palumbo: You said Buffer zone of 50 to 150 feet?

Mr. Nychis: Yes, that is what is showing.

Mr. Palumbo: Is that going to be a minimum of 150 and no where 50?

Mr. Nychis: The buffer area is 50 feet and increases gradually to 150 feet. This whole area is approximately 4 acres, which would comprise the conservation district. It is sloped and wooded and I would retain those characteristics and maintain a permanent buffer between any proposed development and the residential area of Ridgecrest and Gramac. No homes on Gramac that directly abut the land directly. The property might, but not the homes that touch upon there.

Mayor DeLuca: Dr. Kincaid did you have a question?

Dr. Kincaid: No, it was cleared up with his explanation.

Mayor DeLuca: Pete, on the plans, by the 50 foot buffer zone, there are parking spaces there. Does the development need those; I believe there are about 16 spots there.

Mr. Nychis: I believe that it was agreed that they would be moved.

Mr. Davidson: The latest revised plan removed 17 of those parking spaces entirely. The ones that were closest to the homes on Ridgecrest.

Mr. Nychis: as concerns were conveyed to us, we tried to address them to alleviate any concerns that were brought to us by any of the residents, and your own planning department.

Mayor DeLuca: I guess if this passes tonight, the plan is to move the Vocollect office from Monroeville to this new building, including their workers?

Mr. Nychis: Correct, they would consolidate all of their operations, and over a period of time add over 150 additional employees to that site. So instead of being scattered they want to consolidate and create a campus for them.

Mayor DeLuca: Any other questions? We are going to make a motion and then open it up for the public.

Dr. Kincaid: My only other inquiry as the attorney stated, if I understood clearly, with regards to the road, it would go through, that Mr. D'Andrea would waive his rights away, is that something that is going to be in writing?

Mr. Nychis: It would be something that will be in writing, something that would be prepared by your solicitor and would be recorded in your Court of Deeds office as a matter of record.

Mayor DeLuca: would that be something that happens before the development actually takes place? You would donate that land to the Municipality?

Mr. Nychis: Yes, The only caveat with all of these conditions and policies is that as far as taking affect, Mr. Alexander would know, as long as we have a final decision this rezoning is made final, there may be challenges there may be appeals, what have you. This takes final affect and of course it would also be effective as well.

Mayor DeLuca: With that I will entertain a motion for ORDINANCE No. 2012-2551.

Mr. Palumbo made a motion for ORDINANCE No. 2012-2551- amending Ordinance No. 2420. The Municipality of Penn Hills Zoning Ordinance providing for a change in The Zoning District Category and Corresponding Zoning Map change for the following property described below. Said Property is currently Zoned R-1A, Single Family Residential. The intent of this Ordinance is to Change the Zoning of the Parcel to M, Mixed Use, and C, Conservation, for the purpose of Construction an office building to be located on Maple Lane in Penn Hills.

Dr. Kincaid seconded this motion.

Bill Cullen- 90 Ridgecrest Drive- The question that I have is to Howard, you had said that one row of parking spaces is going to be moved, does that imply that your minimum set back in any one direction is roughly 65 feet?

Mr. Davidson: Are you talking about the set back of the cars themselves or the building?

Bill Cullen: The minimum width of the conservancy zone. You said that one row of Parking has been removed based on what is here? So would that imply then that the minimum conservancy width is more like 65 feet?

Mr. Davidson: The C district stays 50. It's only an illustrative plan, the illustrative plan was changed that you had a row of perpendicular parking along that conservation strip, the 50 foot wide strip, the original plan showed a row of perpendicular parking, a revised drawing removed them. There is still a drive, and pavement along the edge of that C district but the parking stalls have been removed. Just so that audience may understand, what that effectively means is that there would be no perpendicular parking there and no headlights shining down over the field. There would probably require landscaping and fencing anyway, but if there was not landscaping and fencing, headlights would shine down over the slope and they have been removed. That is the kind of detail that will have to come up much later if this zoning is approved this evening or at some future date. The developer has to come back to the Planning Commission with a detailed site plan, and you are never going to get a clear picture of the exact layout of a parking lot, where the storm sewers are, where the edge of the pavement is, until you see that site plan. Just so the audience understands that drawing is illustrative only. In answer to your question, that conservation strip is still just 50 feet.

Bill Cullen: I understand that, my question is, was the originally proposal something less than 50? You are saying it's 50.

Mr. Davidson: The Conservation strip was 50 then and it's still 50 now. It's just that the parking stalls in the heart of the plan have been changed and redesigned.

Bill Cullen: The only other comment I have on this site plan is that it appears that the most direct impact upon any local residents is Ridgecrest. I would have to question the logic behind having the minimum width of the Conservancy Zone in the direction where you have the most immediate impact to homes and residences and property values. To me it seems logical that you would have a wider conservancy zone in the direction of Ridgecrest than in other directions.

Mr. Davidson: That has a lot to do with the shape of the site to begin with and the nature of the land. The conservation strip is only 50 feet, but it is also 100% of that steep sloped area there. Once you are on top of that slope you are where the 50 feet ends. The rest of the site is more level and workable contour and the developer needs to at least have a significant portion of that area for parking. He needs land to work with. He can't give 150 feet in that area and still have a good layout for an office building. On the other hand, as he gets to the Northern area there, where it is up against Mr. Denove's property and Mrs. Deer's property, he has much more land to work with and the shape of the property is different so he is able to offer more than 50 feet back there.

Bill Cullen: Mr. Mayor, with regard to any testimony that residents may want to present, do we have that opportunity now or is there another rule of order which has to go through?

Mayor DeLuca: If you have some sort of testimony you wanted to give, now is the time to do it.

Bill Cullen: Again my name is Bill Cullen, I live at 90 Ridgecrest Drive. My home is the closest home to what some people call the white building, or the initial constructed building when the property was originally determined to be within Wilkins. Before I get into testimony about the hardship and incidents that I have had to endure living with these neighbors, I did have one other question of Howard. I believe in the package that was presented in the first meeting several weeks ago, it was stated that the total number of parking spaces on the site was to be 805. Is that correct?

Mr. Davidson: It may or may not be correct, it sounds right, but again at this stage it's an illustrative number and it does mean anything to me as a Planning Director right now. 805 spaces sound right. It's illustrative in the sense that he is showing that he has a piece of property that can take this type of proposed development. Whether he builds a slightly larger building or smaller building is going to depend on a more detailed site plan. Something like that might go down to 700 parking spaces; it might go up to 900 parking spaces. At this time he is showing an illustrative drawing to show that he is capable of building an apartment building with a parking lot big enough to serve it.

Bill Cullen: Are we talking an apartment building or mixed use building?

Mr. Davidson: If I said apartment building, I misspoke. I meant an office building.

Bill Cullen: the question I have regarding the number of spaces is that there are 340 spaces at the current site, because I walked up there and counted them, ok. If the building is less than fully occupied now, which means there are less than 300 people occupying that building. They are proposing the additional workers brought to the site is roughly 150, why is there a need for 465 additional parking spots?

Mr. Davidson: The need that the developer has is that the developer has to meet the parking requirements of our zoning ordinance. Our zoning ordinance will specify so many parking spaces for square foot of office space, in a sense the larger office building he builds, the more parking spaces he'll need. He will have to meet that zoning ordinance requirement. I believe he will have to meet it on our side of the boundary line as well.

Bill Cullen: If there is a parking deficiency or the number of parking spaces being requested on the property that is in Penn Hills, is to fix an issue with inadequate parking for the current site. I don't think Penn Hills should be taking land which could be used to protect the property values of the local people, to fix a parking deficiency in Wilkins.

Mr. Davidson: I don't know that there is a parking deficiency at all. It could be that Vocollect wants more parking spaces than our ordinance requires. We are not at that point yet. But if we are at that point where Mr. D'Andrea is not proposing enough parking spaces to meet our ordinance, he would have to do something to change his design or he would have to go in front of our zoning hearing board and ask for a parking variance. From what I can see from the illustration, it serves a purpose, and from the illustration it looks as though he can meet our parking requirements. It's simply a matter of instructing his architect to design the building and the parking lot properly.

Bill Cullen: Again, I understand your zoning requirements and the number of spaces, my only point is that you shouldn't be putting spaces in Penn Hills to fix a parking deficiency that may exist within Wilkins.

Mr. Davidson: Again Mayor, take our Penn Hills shopping center, one business might share a portion of the parking area with another business and I don't think that Penn Hills or Wilkins are going to worry about if a customer at the blue building parks at one side of the Municipal boundary or not.

Mayor DeLuca: Correct me if I'm wrong Howard, until the plans are finalized this is just a proposed size of the building. Based on our ordinance, if we require ten feet, we require you have to put ten spaces that is what he is showing here. If the building is smaller than what it actually is there will be fewer parking spaces.

Mr. Davidson: And if there is not enough room he has to decrease the size of the building.

Bill Cullen: Being that I have occupied enough time here. I am going to run through this very very quickly. I'm not going to argue on whether this amendment is curative, or what the zoning should be. I am here to tell you what has personally happened to me as a result of having these commercial developments so close to my home. I am going to present these along a time line from the earliest to the latest. I am going to start doing the preconstruction phase of the second building, or the blue building. My home is approximately 100 feet from the existing property. One night about 9:30-10:00 at night I hear jackhammers, construction and heavy equipment, there is somebody digging up the parking lot outside of the original white building. I'm trying to put my kids to bed, they are still school age kids, and there is a jackhammer running 50 feet away at 10:00 at night. I drove up to the top of the hill; it was a gas company digging it up. I asked, why are you digging this at 10:00 at night? They said that the owner would not let us dig until after hours. To me I just think that is an insensitive and selfish thing to do, to impose those types of noise obstructions on the local residents when stuff like that can be done during the day. Let's talk about during the construction phase of the second building. When construction had already started it was proposed to increase the square footage of the second or blue building, from 60,000 feet to 80,000 feet. Wilkins certainly aren't going to care what is going on with these properties, you can't even see the properties from the hotel, so Wilkins sees us as kind of like the unwanted children that nobody wants. The fact is that, why was this building constructed with the fourth floor when it was originally planned for only 3. Had the building only been three floors then it wouldn't loom over the neighborhood as it currently does and currently affect our property values, again to me that is a sign of insensitivity.

Mr. Davidson: If I could interrupt, and answer that quickly while he is on that point. I just want to make sure council understands that is a building permit that issued by Wilkins not Penn Hills.

Mayor DeLuca: Yes.

Mr. Cullen: I understand, but at the same time the developer had the property to, in my opinion, do the right thing. Since construction of the second building I have had water problems like you cannot imagine. I gave Mr. Davidson a video that was shot from my back yard of a waterfall and flooding of my yard which happens two to three times a year. Not that happens during a hurricane, not during random events, during two to three times a year. Now, Mr. Davidson challenged me to walk to site and I did and I see a slope on the north side of the building where water could cascade from the west side to the north side run over the hill, as I told them it does, four houses up and cascade from yard to yard. There was the opportunity to do the right thing. Again, the right thing was not done. But at the same time I do not believe you are going to effectively be able to regulate this site and make the existing problems not get any worse. We have an issue with flooding and run off and this cascading water, again, I have provided a copy of the video and it happens two to three times a year. It is not only happening in my yard, if you go two houses up, whenever we get these cascading waterfalls, there is a river running through the yard at 82 Ridgecrest. Again, there is an excessive runoff issue; I don't know how you are not going to make it any worse without over regulating this site to the point where it can't be developed. Second is the ground water issue. When the property was still in Penn Hills, I came here and talked about issues with undocumented coal mine in that hill, I talked about issues with ground water, and how are you going to protect not making the problem worse. Well, the problem had gotten worse to the point where the french drain that is around my house is struggling to keep up with the water flow. I have measured flow rates of as much as seven gallons per minute through a french drain which prior to construction of these buildings was only a function of rainfall. In other words, we would get a rain, water would go though the french drain, two days later the French drain is dry. Since that point, even when we had the 21 days or so of drought this summer. I still had a one gallon a minute water flow through my french drain. That is 1,440 gallons a day. Where is it coming from? It wasn't there 25 years ago when I bought the house. The only common denominator is the construction effected the hydrology of the area and that was not investigated or documented fully to make sure that the construction would not affect the local properties. Also, when Mr. D'Andrea had approached Penn Hills he was willing to do a lot of things with regard to set back conservancies to satisfy Penn Hills, but obviously when he built the building in Wilkins, none of that was followed through.

There are issues with noise. Ok, there is a large dumpster which is right outside the back of the white building. The trash comes and this isn't just a tiny dumpster, this one those dumpsters that you have to have to have the forks and pick up the can with the big metal forks, one of the bigger industrial ones. It is picked up between 1:00- 4:00 A.M. I have had to go to Wilkins and file a complaint with Wilkins about the noise from the trash pickup. It is not like this is 500 yards away. It is 100 feet from my house. Mr. Nychis talked about property values. The property at 86 Ridgecrest which is immediately adjacent to me, was initially put on the market for \$179,000.00, and as far as I'm concerned was a bargain and \$179,000.00. That property took two years to eventually sell and sold for \$136,000.00. You can't tell me that as you drive up Ridgecrest and see this building that is already there, that property values haven't already been negatively effective. I don't care what you do with the conservancies, where you put that building, you are not going to make the problem moot, you are going to make it worse in some manner, it is going to be negatively affected.

To Summarize, I think there are too many issues which I have discussed which are a direct result of commercial development on this site. The ground water issues, the undocumented mine, the noise issues. As far as I'm concerned there isn't much you can do to develop this site and not make the issues any worse. I think if you try to over regulate the site then there are issues which Mr. D'Andrea may have, which could certainly force your hand in one way or another. If you over regulate him than what option does he have? He is the property owner, particularly if you rezone this and you make it too difficult for him to build. Therefore, I think the only thing you can do is avoid the issue all together and not grant this proposal. Thank You.

Mayor DeLuca: Are there any other comments?

Roni Deer: 730 Gramac Lane- I have been here many times since 1994. I just don't know what more we can say. These continued efforts to destroy one of the nicest residential areas in Penn Hills, is not right. I totally agree with Bill Cullen about the buffer that they are going to put in. Am I to understand that in the ten acre area we are talking about those four acres is going to be a conservancy buffer?

Mayor DeLuca: Yes that's it, Four Acres.

Roni Deer: So really he wants to change ten acres but he is only going to use six and he is going to leave four acres of 150 feet and in some spots a minimum 50 feet. I know I have been up here before, and I said 50 feet in gulf, that's a chip shot. Do you know how little that is of a buffer? The deer population we have up there, I don't know if these are just going to be trees left there that are there now which are just straggler trees or if they are going to plant trees and shrubs. And if they are going to plant trees and shrubs I'm sure they are going to be 1 or 2 feet. Well they will be chewed down by the deer before they have a chance to grow and inch, I mean that is the truth. I am just so upset about this because it is devaluing all of our properties. Bill Cullen gave an example of a house that has suffered a decrease. What is my property going to be worth when it abuts my property? It is going to be right there. I heard early that the house doesn't abut it, but the land does. I pay taxes on the land just like I do on the house. I don't see why he would say that, that there is no house adjacent to it. We have been up here so many times and I just hope that you make the right decision. This is not right, what is happening in that area. Thank You.

Mayor DeLuca: Thank You. Any other comments?

Jonathan Camen -1806 Frick Bldg Pgh. PA- I represent many of the residents on Ridgecrest and couple on Gramac Drive. For the record, before we even get into the discussion. I do want to put on the record that we have a number of procedural objections that we think make this proceeding impossible for Council to undertake at this point. The first is that as Peter said previously there has been a significant change in the development area since the last time the application was here. Specifically that is the installation of the traffic light. We don't necessarily know what the impact of that traffic light is, or how that effects the proposed development or the proposed rezoning but we think that by their own words and their own discussion, it is a significant change to the area that has to be studied and should be appropriately dealt with under you ordinance. Which involves first a new

application, public hearing at the Planning Commission, public hearing again here at Council and then action. And to go ahead and pass on this application as if there hasn't been a change in circumstances when by their own admission there has been, is again a fatal procedural issue that inhibits you going forward this evening. In addition to the changes with the light, there has also been changes with the demographics, some changes in the neighborhood; all of those items should be taken into account before council votes on it. In addition to sort of the general items, I have been asked to raise the issue that Council for Penn Hills previously has represented Mr. D'Andrea in matters similar to this. Now, with respect the merits of the request. What you have proposed is spot zoning. You don't have to take my word for it as someone who does a tremendous amount of zoning law and land use law; you can just take the Counties word. When the County Planning Office, Kay Peirce, who is the well known County Planner, sent back a letter to you and said, "By the way, it's our opinion that this constitutes spot zoning and shouldn't be acted on." Spot zoning means that you have identified pieces of land that are not necessarily large enough to be zoning districts on their own and have created an island so to speak, of incompatible uses. The spot zoning that they identified exists with respect to the conservation district, which again is really sort of hills, slope, and other junk that Mr. D'Andrea is unable to development. The other thing that the county said is that it is contract zoning- also illegal. Let's talk about what contract zoning is, everything that Mr. D'Andrea has promised you tonight, he has no obligation to deliver on. When I say he has no obligation to deliver on, is that legally when you change this use to M, he can put anything in that district, on that property that he desires. Grant it, it has to be included within your zoning ordinance. I wanted to run a couple of the uses that would be permitted in the M district by you, and ask you to ask yourself, If I owned the property that was zoned R-1A which is the highest level of zoning in Penn Hills, which means that is supposed to be your best residential property in terms of zoning. If owned a property in R-1A would the following uses which are permitted in M be compatible with them; A sheet metal plant, a fabrication institute, a clothing factory, a bakery, a services station, an auto repair yard, an auto dealer, a fast food restaurant, a restaurant that serves alcohol, a car wash. I could go on and on, I can run through all the lists of uses in your M use which, by the way includes many industrial uses from your I-1 district, includes many business uses and some commercial uses. The question that you should ask yourself is not what is being promised, because again, he is under no legal obligation to deliver. And you have no legal ability to require him to do that. Peter had said, well you can condition your zoning on these things. You can't. I am telling you as someone who represents 14 Municipalities and sits on the other side of the table as Mr. Alexander does eleven nights a month. You can't contract zone, you can't say these things are required. Mr. D'Andrea is under no obligation to provide them to you. The question before you tonight is not, wouldn't it be great for Vocollect to bring 150 jobs here, or wouldn't it be great for Vocollect to have a campus like atmosphere. Or wouldn't it be great to have all this new tax base. None of those issues are properly before you, because they can't promise you anything and you can't require, and they are under no obligation to deliver. The question you should ask is, is this spot zoning, which again don't trust me, the County already says it is. Is it contract zoning? Again, don't trust me the County raised it in their letter back to you and I submit to you everything on the record that they promised tonight is contract zoning. Even Howard said in his discussion, we can't require them to any of this stuff until they have a site plan. And you can't have a site plan until it is rezoned. The question before you is really simple. Is the M Use and the conservation use- are those uses

compatible with your R-1 Neighbors, and I submit to you that the answer is No. From a procedural stand point we don't even think you can entertain this tonight. We think it has to go back to Planning Commission, we think they have to go back, submit the proper studies, have the proper public hearings, have the proper input. I asked an associate of mine to research, we were unable to find a case where a zoning request has been tabled for years. The closest case we could find is where a zoning request had been table for eight months, and you know what they did in that case? They sent it back to the Planning Commission and said they had to start over. So if eight months is a bar that is unacceptable, I don't know how three years is. We would ask that you deny this request, that you tell Mr. D'Andrea and the applicant if they want to do this, they have to do it right. Let's start back at the beginning and we'll go through it again. I submit to you that the same reasons why this has been denied three times maybe four times before, part of it happened while I was still in high school; I submit to you that all of those reasons still exist today. Thank You.

Mayor DeLuca: Are there any other comments?

Robert Denove- 740 Gramac Lane- I am here this evening, I have lived in this home now for 15 years. I am a 34 year resident of Penn Hills. My wife is a lifelong resident of Penn Hills. When we were making the decision to build this home here, or somewhere else, we chose to stay here because we enjoyed Penn Hills, we like the security, the serenity. The area that we selected was wooded, and it was quite. What we have in front of us tonight is something that is going to sacrifice and eliminate the reasons why we moved into this property a number of years ago. I just have a couple of things here, because I don't want to be repetitive from everybody else. This is not a win win with respect to the residents who live on Ridgecrest and Gramac. It is a lose win. It's a win for Mr. D' Andrea, it is a win for Penn Hills with the promise of some additional real-estate taxes, but it is a loss for the people and residents of this area, and it is going to sacrifice what we had moved into a number of years ago, so it's not. I would really ask that this Council spend the time to really think about this before they vote and approve something that is going to sacrifice a beautiful area within Penn Hills. Thank You.

Mayor DeLuca: Any other Comments?

Bruce Hall: Representative of the Penn Hills Chamber of Commerce- I would like to indicate our support for this project, because of the many advantages for Penn Hills, not only for the business community, but for the Municipality and the School District. I have had discussions with some Vocollect officials and I was able to obtain some financial information as far as the impact that this building would have on Penn Hills. Vocollect in 2011 spent nearly \$750,000.00 in our business community. This reflects dollars spent with suppliers etc. It doesn't even reflect the contributions of the dollars spent by the employees on groceries, gas, auto repairs, food establishments and general shopping. The new building is going to add significantly to this activity. I understand we are talking about approximately 150 additional employees. This should have a significant impact on our slumping real-estate market and increase home sales. The benefits to the Municipality and the School District would also be significant, with a assessed value of about 2.5 million dollars at the current milage rates, the annual real-estate taxes would approximate \$70,000.00. Wage taxes could be as much as \$57,500.00 for the Municipality and \$23,000.00 for the school district. The LST tax could be

\$5,200.00. Given the economic situation that exists in Penn Hills, I think you need to consider these facts very seriously. Thank You.

Kelly Fry- 620 Gramac Lane- My property does not directly abut the property that we are discussing but I will tell you after being there for 21 years, I still do not understand and no one has been able to answer me, why after how many times this has been turned down, Mr. D'Andrea bought that property anyway, knowing that it was not zoned the way he wanted and having been turned down more than once, for that property. I have all due respect for Vocollect, it is a fabulous company. What keeps them from coming to Penn Hills in any of the what 20 square miles of Penn Hills that we have many parcels that we have zoned more than appropriately for its use. Why must it be in the one neighborhood that in the last 21 years that I have lived there, have seen significant houses built. No other places in Penn Hills has houses being built, there is another house getting ready to break ground now. My own house, after our own fire, which some of you may now know about, we put significant money back in that house to stay in the neighborhood, where my children are the fourth generation to grow up in that area. I don't understand why, this piece of property is the make or break. There is nothing, and I'm sure as other companies can tell you, there is nothing that guarantees that we do all this for Vocollect that they won't leave. I hope they stay, I really do, I just don't understand why it has to be this spot that continuously has to be dragging us down here for this purpose, while there are houses being built one after the other to the right specifications. I invite Mr. D'Andrea to build a house up there and live there himself and he can understand why we are so upset, and he can enjoy the parking lots abutting his property, like the rest of the people have to endure. I simply don't understand why this continues to be an issue. When he has been turned down repeatedly and still bought the property knowing that. That is basically all I have to say. I am hoping that you continue to enjoy the housing that are being built, maintained, and currently for sale and with the promise of future Penn Hills residents that will come and help the economy the same way as the companies we hope will come with them. Thank You.

Mayor DeLuca: Any other comments?

Trent Griffith: -Penn Hills resident- Back in 2008 I was on the Planning Commission. I was on the Planning Commission for eight years. We looked at things that had to be changed, small little things, we thought ah boy, great, and then this came about back in 2008. We said Holy Smokes! Something other than a pizza shop or an auto parts shop, people coming in, engineers, Penn Hills, positive. But there were some situations that had to be addressed, and they have been addressed. The two biggest things that we had, now the Planning Commission at that time voted yes. Council voted no- fine, because there were certain things that had to be done. A big thing was the red light. So, as quickly as the State of PA can move, from 2008 to 2011 or 2012, whatever, now we have a light. I would have to think that a lot of thought went into that light. How long it has to stay red, green, blah, blah, blah, so it's fixed. Then there was the buffer area. I understood, but you know what Penn Hills needs to work together, I understand, I own 23 acres of property, I can sit there and look at Alcoma on the Green, I hear Community Super Market, I hear all this stuff, I understand. But then again I also understand that Penn Hills needs people! Penn Hills needs to go positive, there are twelve buildings on Rodi Road that are out of business, and why do you think? Why do you think I can't buy

a pair of socks in Penn Hills, I can't buy paper for my computer in Penn Hills, you want to know why? Because businesses are saying- why should be invest in Penn Hills? Are we going to guarantee ourselves that these new people at Vocollect are going to stay here? No we can't but one thing we do know; if we don't build the building we've got the answer there. You know, maybe Morgan's restaurant could open up again. Maybe we could sit down at a restaurant and eat at a restaurant other than Mohan's. And I happen to know that Mohan's gets a lot of their people from Plum. We need positive change, but we also at the same time have to work together with the residents. I understand. A lot of people don't like change, I understand. The definition hear if positive change. It's positive. You mentioned about R-1. Has anyone ever walked there? You wouldn't build a house there on a bet. It was made R-1 a long time ago. Why aren't there any homes there? It's the wrong type of property. Before those buildings were built up there. I am getting darn tired of making excuses about what happened to Penn Hills. What happened? It used to be a beautiful place. Rodi Road was pretty, and this and that, Penn Hills shopping center was doing well. You know where everybody went? - Right up the street to Monroeville, and over to Plum. Because they are building, they are working with businesses, and I would suggest we work with business. Can you think of what could happen? Restaurants, maybe down the hill, where they used to fix cars, maybe somebody will open that up again. Maybe someone will open up Morgan's Restaurant again. Just think of the businesses that have gone out of business. This will fix it. Thank You.

Gregory Swatchick- Thank you Mr. Mayor and Council. I just wanted to make one comment. Mrs. McCrady was talking about Bradley's house, and how that came about was sort of interesting. You approached her house and it was a dead-end from McCrady Road, and when they put the six lane Monroeville bypass in- the parkway- she was cut off from the rest of the world. So they built Maple Lane from Rodi, so she had a way to get in and out of her house, and since then became the hotel. It was a little old farm house that Mr. D'Andrea purchased and built his first Vocollect building perched over the parkway. I sent Howard and email and he responded asking him to include a letter in your packet. I just want to make sure you have it.

Mr. Davidson: They have it already I gave them a copy.

Mr. Swatchick: I want to give you this formally for the record too, which I'm not going to go through, but it is submitted for the record. I'm not going to go back to the Penn Hills Wilkins boundary dispute, and the fact that we found after discovered evidence, which may have reversed the decision made by the Boundary Commission and the large Vocollect building wouldn't ever have been built. That is probably going to be a bone of contention forever but those are the rules of evidence. Just to emphasize why I wanted to formally submit it is to make sure we don't miss anything this time.

Mr. Nychis: I just wanted to say that the document he has presented has absolutely no relevance. I object to his submission.

Mayor DeLuca: Thanks Pete.

Mr. Swatchick: I took a few notes, I am just going to mention a few things that I haven't heard mentioned yet tonight. In my opinion, and it is just my opinion, based on that after discovered

evidence Howard, I think Mr. D'Andrea should be very happy, in fact elated that 3 and ½ acres of the five acres landed in Wilkins that is already zoned commercial where he was able to build his building.

Mayor DeLuca: Mr. Swatchick- please stick to the rezoning that we have before us.

Mr. Swatchick: Ok, Part of the rezoning deals with the remaining acre and a half of those five acres that was requested several time, through conditional use and variance to have additional parking. I think Bill Cullen brought that up, I don't know if Howard skirted it or not, but it was claimed that, that additional parking was needed for the existing building, all in Wilkins. When Mary Rose Davis was on council she was a real-estate agent also, and she recognized the importance for the Hotel to develop what they claimed was going to be an extended stay wing/addition and it was on R-1A zoning land behind Damien's building. It was under the guides of this extended stay addition that Mr. Jim Bower from, I can't recall where somewhere in the middle of the state, he rides into town makes an investment, got that zoning change, never built his extended stay and ended up selling it to D'Andrea under Mixed Zoning. I don't know if that was a ploy or not. I don't think we'll ever know. But we didn't object to that change. We are reasonable in that regard. The try line traffic study, even though it is old, mentioned that Penn Hills should try to minimize the traffic going through Maple Lane, whether there is a light or not. 800 more cars on top of the other hundreds that are there just seems unreasonable to have that many cars dumping onto Rodi at the end of business. I think the Consolidation of the three lots; again it may have been a ploy. It said for the purpose of constructing a parking lot, Howard. And then it went on to say, it will set the stage for future land development. It just seems like people are trying to force and use smoke and mirrors, you know eight pounds of potatoes in a six pound bag, because it is not straight forward, it not zoned that way, so how can we get this configuration at the end of the day. And that is what really thwarts common sense with people. If you are embarking on that or at least entertaining those notions with people bringing you things, I think you ought to switch gears. You know that we had 200 signatures opposing the zoning for many years. I think the Planning Commission was wrong when it based its approval on increased revenue through taxes. I don't think that is a reason to rezone. The spot zoning was covered. I remember you saying Mr. Mayor; you said that Penn Hills is a bedroom community. And I took that to heart. It was a very nice summary to your position the last time we met. Sara Kuhn isn't here but I believe one of her final comments the last time we met was something to the effect, and I'm paraphrasing, in my own words, something to the effect that the addition tax revenue is sort of like a drop in a bathtub or insignificant relative to the overall Penn Hills coughers intake annual. Although she did say its money, it is good money, in the overall pictures of things, it's just money and it's a small percentage of the overall take. I forget if there was a mention made of Plum by somebody, but I was at Linton, the auditorium was packed, Plum people were even invited over the Wal-Mart. Unfortunately, I felt for them, but it was already zoned commercial, so it was a matter of dotting the I's and crossing the T's going through the procedural requirements. Where you know that had to be approved. This is totally different; this is a guy who speculated. I think Phyllis Kernick, council woman, wrote something that is in the packet I handed to you. She was known to do her homework, it alluded to the fact that Mr. D'Andrea had a two year option on purchasing that property, and during the two years he made no attempt or get feelers out there or take overt actions to try to change the

zoning. I think it was a bad business decision. It was a real gamble. I don't think he anticipated the kind of political upheaval that occurred. Right now, in baseball terms, the people in the area are batting a thousand. Every time the Planning Commission or Zoning Hearing Board approved anything, over the Penn Hills line, the County Court overturned it, and then of course it was appealed, and the appeal upheld it being overturned. Mr. D'Andrea got irritated at one time because we didn't know where the boundary was, to the tune of 600 feet, where the line banks Thompson Run Creek. The other side of which is Monroeville. 600 feet pivoting about a point sort of toward Wilkinsburg, that's hundreds of acres. Mayor DeLuca, your father, as a state legislature, hats off to him, recognizing that should not affect the children, so he passed legislation anywhere in the state where there is a boundary dispute, they don't have to get uprooted from school they can go to the school their siblings did, even the unborn child.

Mayor DeLuca: Mr. Swatchick- just stick to the rezoning.

Mr. Swatchick: I just think that is credit where credit is due. There are consequences of our actions and Mr. D'Andrea experiences that. The kids certainly shouldn't and they didn't because of the proper legislation that was passed. I know that Howard had a hand out last meeting, I didn't see it on the table tonight, and did I miss it? It is the memo recommendation to Council.

Mr. Davidson: I made a recommendation to Council; I'm not sure what you're referring too.

Mr. Swatchick: There was a written memo that was on the table last meeting, that we could all pick it up and read your recommendation. Is it on the record?

Mr. Davidson: The recommendation is on the record, for sure.

Mr. Swatchick: Do we have copies of it out anywhere in the room tonight?

Mr. Davidson: Council has my recommendation; it is not in the packet that was on the table this evening.

Mr. Swatchick: Thanks for answering. Should it be?

Mr. Davidson: I don't think so. They don't provide a full packet for members of the public when they come to a council meeting. They provide copies of the ordinances and resolution and small amounts of background material.

Mr. Swatchick: The information that was on the table last time I came.

Mr. Davidson: It could have been a coincidence.

Mayor DeLuca: Just go on with your testimony about the rezoning.

Mr. Swatchick: The information that was on the table last time. The memo to council- is that in the record?

Mr. Davidson: I don't know what was on the table, but my recommendation is in the record.

Mr. Swatchick: Can I show you this?

Mr. Davidson: You can come in and see the whole file. The file is public record.

Mayor DeLuca: Mr. Swatchick, the recommendation is there. Planning Commission recommended approval of the project.

Mr. Swatchick: Did you people take note or make from Kate Peirce- Our main concern is that proposed rezoning to the C conversation district constitutes spot zoning or contract zoning which is impermissible under the Laws of the Commonwealth. She goes on to list cases and the definitions.

Mr. Davidson: They have that document.

Mr. Swatchick: Well I don't have anything new that isn't in the record. I could go through and highlight what I have given you, but I won't do that. I think just by turning it in, it is there for the attorneys use in the future, am I right there?

Mayor DeLuca: Right, yes.

Mr. Swatchick: Ok, then that is all I have except I wouldn't want to be in your place, you have a heck of a vote to take tonight. Tomorrow night's will be easy compared to this and have way less local ramifications. I do wish you vote your conscience and do what you think is right and that is all we can ask, and thank you for listening.

Mayor DeLuca: Thank you, are there any other comments?

Mike Frachioni-Good Evening, my name is Mike Frachioni. I am a fifteen year resident of Penn Hills together with my family. I am an attorney and have been practicing for nineteen years downtown, prior to that I took a degree in geography and regional planning and I practiced in that field for a several years. I am not here representing anyone, save my family, and I like to think the neighborhood and community we are so devoted to. It is a difficult decision and I welcome the opportunity to work with anyone who has got reasonable solutions. We have here a Zoning Ordinance that was first adopted in 1957 which set clear boundaries based on striking topographic features, which to the east of which is zoned residential. It was zoned that way in 1957. The rezoning of 1980 kept it residential. Ordinance 992 of 1993 kept it residential. The consideration of the 1994 petition kept it residential. A few years ago it was kept residential. All the while people moved in, people moved out, businesses moved in businesses moved out. I want to see this community prosper in every way. I want to see it continue to be a wonderful place to raise families. I want to encourage businesses to move in, prosper and thrive. This Zoning Ordinance that we are bound by, reads in part the ordinance is further designed to prevent the overcrowding of land and physical blight. I feel that what we have here as an initial matter is an overcrowding of land and physical blight, if adopted. We have a natural boundary, this rezoned mixed use and the so called conservation zone will creep down over the hillside, over crowd, in my view, one of the nicest residential areas in Penn Hills and create blight on the nicest residential area in Penn Hills. We had previous testimony that Penn Hills is a large community, it is. It is 19.3 square miles, which is over 12,000 acres. I have to believe that we have

plenty of space here, and I welcome Vocollect, I would love to have them here. I've got to believe that we have plenty of space here where they can erect this building. You've noted 8 businesses on Rodi Road that aren't there anymore. There is other potential space that perhaps in working together we should look at. Everything else that was discussed tonight in my view is conjecture. Its conjecture as to what sort of building will be built here, or how tall. I need not remind this Council that mixed use is exactly that, many permitted uses. Warehouses, light industrial, multi story buildings of indeterminate height. There are conditional uses to mixed uses including auto pounds, and half way houses, and accessories to mixed use, included but not limited to nine enumerated uses in the zoning ordinance. Now, I'm not a "not in my back yard" type. We moved into a residential 1A area and we knew what the rules were. Just as Mr. D'Andrea moved in and knew what the rules were to development when he moved in. There was a large garage proposed in our neighborhood, it was opposed by someone, but it was within the use, and the neighborhood banded together and we supported the construction of that garage in our neighborhood on Gramac Lane. There are two other homes being built on Gramac Lane right now both in excess of 3,500 square feet, both on lots of greater than 2 acres, consistent with the use that's been there since 1957, a boom to the community. There are 13 houses currently on Gramac Lane, 2 being built and subdivisions for many more. There are 59 houses on Ridgecrest. All of these are in excess of the average home price in Penn Hills. All of these are a benefit to the community. Certainly a Vocollect building would be a benefit to the community here, but not at the expense, going back to the Zoning Ordinance, of the overcrowding and physical blight of the nicest neighborhood in Penn Hills. Lastly, it has been mentioned by council and others, and I want to make it clear, that we are all on notice that this can well be categorized as spot zoning, which the Commonwealth Court in 1987 defined for us zoning provisions adopted to control the use of a specified area of land, without regard to the relationship of those used controls to the overall plan and the general welfare of the community. I submit that is precisely what this is - Illegal Spot Zoning. I welcome the opportunity to have Vocollect come to Penn Hills is some of our 12,000 acres. I welcome the opportunity to work with anyone who wants to work in good faith, but this is a trashing of our finest residential neighborhood. Thank You.

Al Papa: Hello Mr. Mayor, members of Council. You have a tough task. I feel like this is like Yogi Berra, we have been going through this same argument for about twenty years. With regard to some of the issues as an example that Mr. Cullen brought up, I'm sorry he's not still here. He talked about a trash dumpster, he talked about the building being three stories above ground, the blue building. When the blue building came before the Penn Hills planning commission, Mr. Mayor you may remember this, Mrs. Kuhn sure would, We actually met with Mr. D'Andrea and he had stipulated that, that building, if it was built in Penn Hills was going to have one floor more or less underground and the height was going to conform to our regulations. When the site was then deemed to be in Wilkins Township and Wilkins was the governing body then for the approval of the site plans, then the Penn Hills Planning Commission rules and regulations which we could have controlled are thrown out the door. The problems that you are seeing and hearing about, these are issues that we had addressed at the Penn Hills Planning Commission Level. Mr. D'Andrea had stipulated to agree to our conditions, but when they left us and we had no control over it. When Mr. D'Andrea had his back put the wall because we could not build the property in Penn Hills, and it went before the created

commission of the Boundary Lines. What Mr. Swatchick failed to say is we lost forty of fifty houses and that population that left Penn Hills, that went to Wilkins and other Municipalities. My point is entirely this. You had chance over the years to have Joe D'Andrea build buildings in Penn Hills that we could control the type, the tenor, the quality, the use and the location, and all the slightest issues. I understand about spot zoning and I can argue those merits, but that is not for you tonight. Because if you look at Rodi Road when you drive in off the park way, on the right hand side, it is all commercial. You would have a pretty hard time convincing people that it is spot zoning on top of the hill when all throughout that hillside from the bottom going up; it is all commercially zoned and developed. Mr. D' Andrea when we had him in front of the Planning Commission and had him agree to that conversation zoning district, we also asked him to stipulate that he would forego the use of the easement that would run from that property site through Ridgecrest and he agreed to that. I would say to you, you have these things as conditions that we have talked to Mr. D' Andrea about in the past. So if you wanted to reinforce those kinds of issues, they have already been put on the table for him. He has already agreed to these long ago. Also the tax value, the Planning Commission did not make its recommendation on approval based solely on the taxes that is not our purview. The Planning Commission recommendation was built on what we deemed to be the best use of the property and an effective use of the property. We asked Mr. D'Andrea to agree to conservation zones, to buffers and to forego certain things, and he did. We have in the past asked him, and mandated him on how he would build a building, where he would locate it and where he would put the foot print. He has always agreed. There were questions about what would Mr. D'Andrea do with the building? All you have to do is look at his other buildings and you can see for example, his buildings have high quality offices in it. I don't see him varying and deviating from what he has done in the past. You have tough tough question a head of you Mr. Mayor and I don't envy you for that. I commend you all for taking this under advisement. Thank You.

Mayor DeLuca: Thank You. Any other comments?

Christie Frachioni: I live at 739 Gramac Lane, my home does not abut the property of Vocollect, but any window of my house that I look out, is the hillside that Vocollect will be sitting on. My children will be playing the yard and instead of seeing a hillside of trees they will see a large shiny, glass and metal building. I was listening to Mr. Peter talking about his arguments as to why they should go on with these zoning changes. First of all, the first thing he was talking about was what this change will bring to Penn Hills, he mentioned employment and how he feels that because of bringing new employees to Vocollect in Penn Hills, that this will better and increase the residency of Penn Hills, but as mentioned earlier, currently a very small percentage of Vocollect employees live in Penn Hills. I doubt that just because they bring new employees, suddenly they are going to think that Penn Hills is the place to live. They are all high paying jobs, not all of them but a large majority of them and many of them will choose to live in Wilkins Township, Churchill, & Murrysville, They won't choose to live in Penn Hills. They don't now, nothing is going to change that. There may be a couple, but those are a few token people. So I don't believe that is something that is going to change. It hasn't changed already. The second thing he brought up was the buffer zone for the conservancy there. I wish Mr. Cullen was still here as I can appreciate his sorry for the fact that he feels that because the 50 foot

buffer zone for an industrial place like that is a very small area and if you consider the width of this room, perhaps standing on your back porch here and looking to the other side of the room, and there is an enormous concrete parking lot and a large building. We don't know how tall this building is going to be, they say that they feel that this conservancy land is going to be an appropriate buffer but width and depth of a buffer does not change the height of a building, it is not going to hid. Those trees aren't going to grow four stories tall and hide the height of that building. If for instance they choose to build a three or four story building who's to say later on that they decide to increase that and add an addition four floors to that building. It would certainly change the view from our front yard. You can imagine what Mr. Cullen would feel standing in his yard. And now suddenly, what used to be a lovely wooded area is now concrete and glass. I also want to add that it sort of makes me sad to think that Vocollect can sort of grease the palms or feel that he can grease the palms of Penn Hills by offering unusable land and calling it conservancy land. It is sad that he feels that is a carrot he can dangle in front of the Council to convince you that that is a good payment for changing the zoning of that property. As it is now, it is a lovely wooded area and calling it conservancy would not change that. Unless of course they extended their building area and put tons of tons of fill in, which they aren't going to choose to do, because it's unusable land. As and gift to Penn Hills, seems more like a greased palm for land that is not usable anyway for construction. I would like you all to put yourselves in the shoes of the residents of both Ridgecrest and Gramac Lane, knowing that 50 feet is a very small space and cars going in and out every day, people working late at night, Mr. Cullen mentioned the Dumpster, Parking Lights, which right now we have a beautiful hillside and at night we can see the silhouette with the stars behind it. That will all go away; we won't be able to see beyond the hillside because of the building that might be erected there. I am all for business grown in Penn Hills. I appreciate Penn Hills; I love Penn Hills that is why we decided to live here. I don't think that this is the only spot that Vocollect could choose to build on. There is so much space that would not infringe upon other people and their rights in Penn Hills, in their comfortable, comfort living level. I would also like to add and I'm not exactly sure and I don't know how relevant you might feel this to be, but going back to residents of Penn Hills being employed by Vocollect. Does Mr. D'Andrea live in Penn Hills or Churchill? I'm just saying if they are trying to argue that it's going to bring residents to Penn Hills if their own employees don't live there already, including the owner I think that is telling in itself. And that is all, that you for listening.

Mayor Deluca: Does anyone have anything new other than what has already been discussed?

Peter Germanowsky: I have lived on Ridgecrest since 1972 a little over 40 years. My first house was at number 9 and right after that is when our incidents with Mr. D'Andrea started. I was president of the Ridgecrest Civic Association at that time. We started at that point, I will skip all of that history, I will move onto where we are now. 20 years later I bought my second house on Ridgecrest which happens to be the one beside the easement which has now disappeared from our illustrative drawing that was there. My major concern is we are dealing with the sewage and traffic that may have come through there if in fact they ever chose to put a road through. I have been told and I wanted it to be repeated, that this will not happen, there is no intention of using that easement for any of those purposes. I have about three points that I want to make. I have not heard anyone yet mention

tonight that Vocollect was acquired in March of this year by a company based in the State of Washington, anyone of you that has gone through a merger as I have, knows that once you are acquired you no longer control your own destiny. I just want you to realize that making decisions thinking about what Vocollect may or may not do, you have to also think about the parent company that is now based in the State of Washington, they have desires to spread that business across the Country and I wish them well. I think they may be able to do that. They may want to expand in Penn Hills, but you have no guarantee of that occurring. That is what you need to remember. The other point is market value. I am really getting frustrated with people comparing Market value to some Allegheny County Assessment, I've lived there I've watched the homes, I'm working with five other neighbors right now, selling their homes because they are dissatisfied with the current market value and what they may be able to receive on their initial investments. I'm an investor, I do that for a living, and I will take on anyone here that wants to talk about Market value and assessments in Ridgecrest. I paid \$150,000.00 for my house; I cannot sell it today, twenty years later, for what I paid for it. I cannot sell it for what it is currently assessed at. My neighbor across the street who I am trying to assist in selling their home is below the assessed value. The house that was mentioned before was number 86. It was originally priced at over \$200,000.00 it was sold for \$135,000.00 Three years later. My next door neighbor on the other side of the easement paid \$135,000.00 for their house; they cannot get \$100,000.00 for it today because of the concerns about the easement the building and the developments. I talked to the realtors when they show the house, they ask questions about zoning notices, they ask questions about the buildings, they ask questions about whether or not there will be anything coming through that easement. The question of schools which are the things that are most important to me. I think we should be focusing on improving that image. The last is this whole issue of zoning and what can be put there. Your approval allows him to build what he wants to build. It goes back to there is no guarantee that is going to be Vocollect or any other companies like Vocollect. It would be wonderful if it is. I did a quick search looking at the company today. It is a very attractive company, they are right, they do pay a lot. Their salaries are very high. But my son is an aerospace engineer; he can't find a job in Pennsylvania. He works in Connecticut. The point is, yes there may be business, yes it may attract, but I would love to challenge the numbers that are in there but I would love to challenge the numbers that are in there because they site things like 200 new employees. If only ten percent or less than ten percent are going to live in Penn Hills, you can't count that as tax revenue. You can count the value of the building which has been said to be seven million. I don't know if that is true. None of the other buildings up there are seven million. So when you look through the numbers you really have to look at them with a little more of a close eye than just suggesting that they are correct. The biggest issue for me was market value. Not being able to sell a house I bought twenty years ago for what I paid for it, is no indication of an appreciating market value in Ridgecrest. Thank You.

Mayor DeLuca: Any other comments than what we have already heard? Comments from Council?

Mayor DeLuca: Just a couple of comments. Tonight's decision really is a tough one. I know eight years ago when this first came before Mayor and Council. One of my biggest concerns was the

traffic that was coming off of that road, especially with no red light. After eight years, we finally got the red light there. Another question is, it was zoned residential in 1957, which back then, our leaders of Penn Hills wanted a bedroom Community, so most of Penn Hills was residential, actually Rodi Road at one time was slotted to be a four lane highway and our leaders did not want that. They did not want us to be like another Monroeville. One of the things for us to go forward in the future we have to look at, is the commercial property is already up there. Do we want to continue to go commercial? Bring businesses into Penn Hills. We have to start changing things around; I heard the concerns about people's properties down below being affected by rain and stuff. One of the things I was looking at was if the rezoning does pass tonight, maybe have that building be green, have permeable asphalt to eliminate some of the run off. I know we had students from Pitt come here and talk about some of the runoff we have on Rodi Road. These are some of the things we have to start thinking about if it does pass, we do need to be green and cut back on some of that run off so that it doesn't affect the adjoining properties. A lot of things I think, Mr. Papa brought up before, when it goes to our Planning Commission, there are a lot of things they can do to try to eliminate some of the hardships that the property owners next to them will face. So, with that, Council has a tough decision.

There being no further discussion the motion for ORDINANCE No. 2012-2551 was approved with a 3-1 vote.

ITEMS FOR CONSIDERATION

INTRODUCTION OF ORDINANCES, RESOLUTION, ETC

REPORTS

EXECUTIVE SESSION

ADJOURNMENT

Mayor DeLuca: I will entertain a motion to adjourn.

Dr. Kincaid made a motion to adjourn, motion was seconded by Mr. Underwood at 9:16 P.M.

Sheree Davis

Date

Secretary of Purchasing