

**RIVERTON BOROUGH PLANNING BOARD
MINUTES
April 20, 2004**

The Public Session of the Planning Board was called to order at 7:30 PM. by Chairman Frank Siefert.

Public Notice of this meeting pursuant to the Open Public Meetings Act has been given in the following manner:

1. Posting notice on the official bulletin board in the Borough Office on January 21, 2004.
2. Required Service of notice and publication in the Burlington County Times on January 25, 2004.

PRESENT: Frank Siefert, Eric Goldstein, Christian Hochenberger, Birnie O'Reilly, Mayor Martin, Councilwoman Alls-Moffat, Anthony Dydek, and Donna Tyson.

ABSENT: Jose Talavera.

REORGANIZATION

Anthony Dydek, the Borough Code Enforcement Officer, was introduced by the mayor and was sworn in by Tom Coleman as the Class II member of the board.

MINUTES

A motion was made by Christian Hochenberger and seconded by Eric Goldstein to approve the minutes of March 16, 2004, as distributed. The vote was unanimous.

CORRESPONDENCE/ANNOUNCEMENTS

1. 3/19/04, copy of letter to Jan Levitt, Nu-Way, from Betty Boyle, supplying an accounting of the escrow deposits, expenditures and outstanding vouchers from the Dollarland site plan application.
2. 3/5/04 (received 3/20), copy of letter to mayor from Mayor Gural of Palmyra concerning sending of COAH Regional Contribution Agreement credits.
3. 3/23/04, copy of letter to mayor from Michael Robinson of the Environmental Commission concerning possible development behind the Cedar Lane Apartments and the sensitive nature of the land in the area and the possible impact of any Stormwater Corridor Protection regulations.
4. 3/24/04, copy of the latest edition of the state Residential Site Improvement Standards (RSIS) for the use of the planning and zoning boards. (The secretary is retaining the book for now.)
5. 3/24/04, copy of letter from Dorothy Guzzo, Deputy State Historic Preservation Officer, to David Hawk, Federal Highway Administration, Trenton, NJ, stating that the state HPO has reviewed the proposed Riverton Streetscape Transportation Enhancement Project and feels it will have no adverse effect on the historical architectural properties in the area and does not constitute an encroachment on the properties.
6. Announcement from the county Department of Resource Conservation of a Stormwater Management Forum on May 4, 2004.
7. Announcement from NJ Planning Officials of a State Planning Conference, April 30, 2004 and enclosing a brochure on a book, Illustrated Book of Development Definitions.
8. Announcement from the county Department of Resource Conservation requesting nominations for the Historic Preservation Recognition Program and the History Recognition Program.

OLD BUSINESS

Registration/Inspection of Rental Properties/Apartments – Tom Coleman discussed his review of the existing codes and how they compared with the proposed code. He concluded that Section 59 while containing enforcement provisions did not seem to support the proactive features of the new code and the reliance on the thoroughness of the county officials to carry out inspections may not provide the Borough the up front ability to say on top of issues. Michael Heine, as a committee member, commented that no current ordinance deals with commercial properties. The state standards on multi-family units require rewriting to be made applicable to commercial properties. There is no current ordinance that provides for the registration of commercial properties or for dealing with unregistered multi-family units. Section 59 relies primarily on someone initiating a complaint. Current codes leave enforcement with the county and do not provide the ability of the town to have expenditures by the town become liens against the property

owner. Michael provided an analysis of what he perceives as shortcomings in the codes such as Moorestown's. Birnie O'Reilly again offered praise and personal thanks to Michael for his extensive efforts. She remarked that the Board had the latest copies of the draft and the public comments from the first meeting have been addressed except that Mr. Gaskill's recently provided comments were not seen until tonight by the committee. Tom Coleman stated that he had also received the second set of comments and that he had considered them in his response and review. Frank stated that he would make sure that copies would be provided to the board. The chair also felt it best if the board had a chance to review Mr. Gaskill's comments and include them in any comments they have. Birnie stated that no comments have been received from the board and, if they are forthcoming, are needed ASAP. Michael feels that the topic can be talked to death. Mr. Gaskill's previous comments have been, reviewed and addressed. He feels it is time for things to move forward and give it to Council for them to deliberate. He stated that he would be more than happy to respond to Mr. Gaskill's comments on a one to one basis either before this board or before Council if needed. The chair stated that unless there were objections from the board, all comments to the committee should be provided no later than 5/3. This should provide adequate time for members to review materials yet provide a needed deadline to allow the process to move forward. Birnie O'Reilly made a motion that the draft as presented tonight be forwarded to Council. The motion died for lack of a second. The chair reiterated that final board comments were due no later than 5/3. Unless there are substantive comments or changes, the board should be prepared to act on the draft on May 18.

Smart Growth Grant for Site Plan/Subdivision Rewrite - Return of the Grant – Councilwoman Alls-Moffat reported that the process is proving cumbersome. First, sign off from the state is required. After the state signs off on the return then Council must pass a resolution authorizing the return of the funds. Council is still waiting for the state's response. There does not appear to be any way to compel response from the state.

2004 Budget – Councilwoman Alls-Moffat reported that the proposed budget had been through first reading this month and would have a second reading at the May Council meeting.

Fence Ordinance Revision – Donna Tyson reported that meetings are continuing and that other fence ordinances are being reviewed. A resource list is being looked into and the ARC is in the loop since a member is part of the committee.

Environmental Commission – Christian Hochenberger reported on Commission activities. Ed Gilmore has set up a meeting of a subcommittee as the first step in considering an ordinance dealing with the setbacks for the Pompeston Creek. The educational booklet produced from matching grants of \$2,500.00 from the Borough and state DEP will hopefully be done by the end of April. Regarding access to the Delaware near the sewer plant, Christian passed along a map. Councilwoman Alls-Moffat has researched the area with Scott Reed. Mr. Reed does not recall any path to the creek or the river and she didn't see any evidence of anything there currently. Donna wanted to know what the concern was about. Christian replied that there is a sign directing people to the creek and river. Muriel stated that it is a large sign and she thinks it only appeared within the last year or so. Neither she nor Scotty Reed knows where it came from. Christian concluded that the commission was interested in knowing if a path could be opened. It was remarked that the Borough property extends to the river at the foot of each street ending at the river bank area.

Redevelopment – The mayor stated that there was nothing new to report.

Class II Member – Mr. Dydek was sworn in at the beginning of the meeting. The board now has a full compliment of regular members.

Site Plan/Subdivision Application Procedures – Council has not started considering the matter.

Old Invoices – Mr. Levitt, who was in the audience stated that he planned to talk with Betty Boyle on the 21st.

New Development in Cinnaminson Township – Donna Tyson remarked that she still had a copy of the concept plan. She has copies of the latest ads from the local paper. Dona also reported that the affordable housing was not slated for this phase of the development but the next phase.

Annual Disclosure Forms – The secretary reported that he had passed along Mary's request to those members who still needed to submit their forms to Mary.

Jose Talavera's Appointment – The chair stated that he had spoken with Jose and he had stated he planned to attend tonight's meeting. Donna feels that he should be asked to resign. Tom Coleman stated that the Borough provides no authority to discipline or reward member attendance at meetings and that except for

possibly recommending that the mayor take the subject under advisement, further comment by the board while understandable was not warranted. The mayor reported that the topic had come up at Council session but he is interested in the Board's concerns. Birnie O'Reilly made a motion that the matter be referred to the mayor and Council, that Jose not be reappointed to the board, that a substitute be selected, and that Donna be moved up to first alternate. The mayor stated that he would like to hear the consensus of the planning board on the matter. Donna stated she feels the board needs an effective member on the board. Muriel seconded the motion and the board approved it unanimously. Donna asked if there could be an attendance policy. The mayor asked if he could move Donna up to first alternate to which Tom stated he should talk to Bruce. An attendance policy is also something to be discussed with Bruce, the Borough's solicitor.

Parking Studies –Muriel reported that the parking committee had been recreated with Ron Cessaretti as chair and members included Ed Gilmore, James Moffat, Chief Norcross, and the mayor. It will meet at the chair's discretion. Blueprints for the traffic study which includes both "big" and "little" Broad Street have been received. Donna asked if other areas and concerns would be included and Muriel responded that those issues were part of the public safety area of responsibility.

NEW BUSINESS

Stormwater Management Forum on May 4, 2004 – Donna Tyson expressed interest in attending if no one else was going. The mayor stated that someone from Council might be attending, but Donna could also attend if she desired.

Borough Representative(s) for Regional Planning Center Issues – Tom Coleman discussed a letter from the state Office of Smart Growth requesting the designee(s) from the Borough on matters related to the regional planning center designation under the state's plan which includes Riverton, Palmyra and Cinnaminson. The mayor stated that Council was considering designating one of its members and wanted to know who would represent the board. Frank stated that unless the board objected, he would be the representative from the board. There was no objection.

Borough Web Site – The chair reported that the agenda and previous month's minutes were up on the site. Frank stated that he will provide copies of all the minutes he has since he became a member and chair. The secretary stated he would begin supplying copies prior to that date. The chair will continue to supply the minutes from this point forward or delegate the task if needed.

PUBLIC COMMENT

The meeting was opened to public comment.

Mary Ann Shea, 205 Bank Avenue, wanted to know if copies of the responses to the comments would be available. The chair stated yes.

Marvin Gaskill, 102 Chestnut Ave., Merchantville – stated that the Riverton Property and Business Owners Assoc. had asked him to address issues concerning the draft code. He feels that pages of the state code were left out which address property owners rights and due process provisions of the state code. He went on to discuss at length where the stated position of the draft code adopting the state code does not do so. He feels the draft code does not provide for even handed and professional qualifications. He wants to know why the town does not properly enforce permits and feels that proper enforcement would do much to solve the problems. It was clarified that the state code only concerns multi-family dwellings of three or more units while the draft plan covers commercial properties. He feels the permitting process would guarantee adequate enforcement.

Gary Ford, Bank Avenue – interjected that many state deficiencies do not require a permit to correct.

Mr. Gaskill continued – the state regulations require the local municipality to maintain a list of properties and that all inspections must meet state requirements. He doesn't feel the draft code ensures this compliance. Board members corrected Mr. Gaskill's assumption that the new Code Enforcement Officer would be the inspector when in fact no such person has been designated and would not be unless the code was adopted. He feels the fees already paid to the state by the property owner should cover the fees needed by the town. There was confusion over whether the Borough was considering taking over the job of state enforcement. Mr. Gaskill feels the proposed code does not contain the state provision that requires tenants to do their part to maintain sanitary, clean and good repair of the units they rent and as such puts a serious extra burden on the property owner for improper actions by tenants. He wanted to illustrate a problem with the state's provision of "discretion not to enforce." While not specifically identified, the example was eluded to be a

resident's dwelling and was unrelated to the code being discussed. The chair at board council's suggestion suggested that Mr. Gaskill wrap up his comments. He stated that preservation of historic elements may require the use of the discretion provision where "full" enforcement conflicted with historic preservation. Michael Heine responded in detail to Mr. Gaskill's comments. If Mr. Gaskill feels the tougher of the two standards should be imposed on multi-family units, then that can easily be done. The provisions for compliance with state inspections is between the owner and the state and the town is only aware of things if the owner chooses to comply and follow local requirements. The proposed code will ensure that the municipality gains control over the problems.

Mary Ann Shea – stated that she feels it is an enforcement issue not an issue requiring more codes to be added. Donna Tyson asked Tom and the Board how Mr. Gaskill's concerns about the apparent non-enforcement of permits can be addressed. Complaints are the responsibility of the Code Enforcement Officer and Mr. Dydek stated he would look into items brought to his attention.

Robert Moscia, Fulton Street – feels there are many private residential properties that are in need of repair and their condition unfairly impacts neighboring commercial properties. The town needs help addressing these conditions, not duplication of efforts and additional layers of code. Mr. Moscia went on to offer a specific example to which he has personally lodged complaints. Birnie O'Reilly stated she feels that it is improper to spot enforce regulations or create code that addresses a specific site. She stated the board is trying to meet a charge by Council that the board come up with a piece of legislation. His concerns about specific properties need to start with Council and/or Borough officials.

Gary Ford, Bank Avenue – does not know how the proposed code addresses the perceived lack of enforcement of codes. Eric Goldstein responded that he feels that enforcement is an important piece that is missing and if that issue is addressed and the protections provided under the state are ensured, then perhaps Mr. Gaskill's concerns are addressed.

Michael Heine, Carriage House Lane – stated that there were two issues, enforcement and duplication. You can't address duplication unless you know what is there. You can't enforce something that does not exist. There is no ordinance that currently exists which provides for the type of enforcement being requested. Existing state enforcement is done by a patchwork of county or local officials contracted by the state to perform the inspections. The proposed code brings enforcement and inspection under the local municipality. Enforcement belongs in the municipal court. The new code will do this.

Marvin Gaskill – stated that local control of state inspections was possible as long as the requirements spelled out in the state code were met.

Mary Ann Shea – doesn't think there has ever been adequate enforcement of the existing codes on the books. She doesn't think the state has ever been approached concerning specific properties. She feels that correcting those two issues would help correct the situation. She doesn't feel that requiring registration will ensure compliance if the owner chooses not to. She obtained from the state a list of the properties currently subject to state inspection and wondered if the Code Enforcement Officer had the same list, it wouldn't provide the starting point for identifying enforcement issues and perhaps identifying properties the town was not aware of.

Robert Moscia – wanted to know if the annual fire inspection didn't do the job. The chair stated the fire safety inspection was not the same.

Marvin Gaskill – stated that many of the issues covered by the fire inspector served to identify the units involved. Birnie replied that the fire inspection was specifically directed and the inspector is not required to even identify let alone report other maintenance related issues. The draft code specifically addresses maintenance issues of commercial properties. Mr. Gaskill wanted to know why the Fire Inspector couldn't be authorized to inspect and or report those types of issues, to which the answer is there is a need for separation of powers.

Michael Heine – while acknowledging Mr. Moscia's record of maintenance of his properties and concern for the impact of poorly maintained properties on the town, stated that the current efforts are the result of a defined need to address commercial property maintenance problems and that the town had previously rejected attempts to create property maintenance for private properties. He stated that there are common law remedies to address the conditions on private properties pointed out by Mr. Moscia.

There was no further comment and the meeting was closed to public comment.

Meeting adjourned at 9:35 PM.

Next meeting is on 5/18/2004 at 7:30 PM in the Media Room of the Riverton School

Tape is on file.

**Kenny C. Palmer, Jr., Secretary
RIVERTON PLANNING BOARD**