

**RIVERTON BOROUGH PLANNING BOARD
MINUTES
May 18, 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, Birnie O'Reilly, Mayor Martin, Councilwoman Alls-Moffat, Anthony Dydek, and Jose Talavera.

ABSENT: Christian Hochenberger and Donna Tyson.,

MINUTES

A motion was made by Eric Goldstein and seconded by Councilwoman Alls-Moffat to approve the minutes of April 20, 2004, as distributed. The vote was unanimous.

CORRESPONDENCE/ANNOUNCEMENTS

1. **4/21/04, letter to board chairmen from William Connolly, Director, Division of Codes and Standards, State DCA, reminding that site plans should be reviewed with the construction official regarding site accessibility.**
2. **5/04, announcement/invitation for DVRPC audio conference, "Suburban Place Making," 5/26, Bourse Building, Phila. PA.**
3. **5/04, announcement by DVRPC of public comment period on the Draft FY 2005 Transportation Improvement Programs (TIPs) for NJ and PA, and the Amendments to *Horizons*, the 2025 Long-Range Plan.**
4. **4/19/2004, letter from ANJEC to board chairs and Env. Comm. chairs covering release of the third edition of *Freshwater Wetlands Protection in New Jersey – A Manual for Local Officials*.**
5. **5/5/2004, copies of letter to mayor for Birnie and Frank from Marvin Gaskill, with additional comments regarding the draft code.**
6. **One voucher and invoice as presented under New Business.**

OLD BUSINESS

Registration/Inspection of Commercial Properties/Apartments – Birnie O'Reilly reported that all comments received had been turned over to Michael Heine for review. Michael reported that the efforts of the subcommittee are completed and the draft before the Board represents the subcommittee's best effort to fulfill the needs presented by Council. The existing standards and codes in the Borough are compromised and lack the authority to compel maintenance and upkeep. It gives the Borough the control over the matter it needs. It uses the state code as a basis and builds on the DCA inspection of commercial rental units and provides for property maintenance of all commercial units. It places the enforcement in the hands of the Borough by recommending that the Borough assume the responsibility of conducting the state mandated inspections as well conducting its own. It takes the bare minimum of the habitability standards and provides a realistic standard for gauging suitable standards. The limited appeal committee serves to present an avenue for resolution prior it going for formal review by Council. The subcommittee feels it is complete and ready for Council's consideration.

Eric Goldstein asked if there were new revisions since the last draft and Birnie replied no, that while many excellent comments were received, the subcommittee feels that all the comments are already addressed in the draft. Eric replied that he was therefore still uncomfortable with the draft for the same reasons he stated previously. Michael replied that the issue regarding the Borough conducting the state inspections was a minor item that can be resolved once the draft is in Council's hands. The chair stated that he still feels the timing of inspections based on lease terminations is onerous and having a set interval within the state's 5-year cycle is preferred. Frank further feels the interim inspections should concentrate on the exterior of the structure as that is the "face" presented to the community. Michael replied that inspections triggered by lease terminations are not unheard of in other community's ordinances and that he feels it is best to start with a

tight set of standards. Once enacted, if the Borough feels they should be loosened, that is easily done and usually much easier to accomplish than tightening standards that are too lax. Michael feels that the draft follows the state standards and that if the Borough intends to take over those inspections it should apply the standards to all inspections. In addition, both interior and exterior inspections are needed in order to establish a base line for measuring performance and hopefully, where needed, to at least prevent further deterioration and even raise the standards of the problem properties. The chair also voiced concern about a paid board versus a volunteer board. Michael responded that the attorney would always need to be paid since he is performing legal work not volunteer work as are all legal representatives in a town. While not essential, if the committee/board meets on a regular basis, the offer of at least a token appreciation might be beneficial since the group is acting as an administering agency of the Borough. This again is an issue for review and decision by Council. Birnie stated she felt the draft addressed Eric's concerns and that it should go to Council for their consideration and review. The mayor stated that he supported the chair's comments. The chair asked if the newly appointed code official shouldn't be given time, say a year, to see if the existing codes can be made to work. Michael responded that the only enforcement powers Mr. Dydek has are under the zoning code. Under the other sections such as Section 59 which deals with habitation issues, he has no enforcement authority. Mr. Dydek may be able to cite the owner, but enforcement lies with other agencies such as police, department of health, etc. Since the zoning code does not deal with the state inspection issues, Mr. Dydek does not have an enforcement authority over the state inspections. Tom Coleman concurred that the county board of health had the enforcement authority for Section 59 and suitability of habitation issues. Tony Dydek stated that he feels he has some enforcement authority but it is limited to the exterior of buildings only. Muriel asked if Council could amend the ordinances and Tom replied yes, but the new code goes beyond the old codes and places control and enforcement of the issues in one code. Michael stated that if the Borough wants to maintain local control, then the new code is the answer. Section 59 allows/requires inspection if complaints are made. However, everything beyond the inspection including enforcement is by the county board of health. While the Borough can amend its ordinances, that is an issue for Council and its legal council to deal with. In addition, when modifying codes one must be careful that a change in one code doesn't end up conflicting with others. The new code being considered places all the issues in one place since they do not currently exist in the other codes of the Borough. Birnie again summarized how she feels the proposed code fulfills the mandate that was given by Council. Many good ideas have been raised that she feels are addressed in the draft. It is Council's prerogative to revise the draft as it deems necessary. The ordinance can also be amended as needed after it is adopted. Continued tweaking now is only picking at the issue and it should go to Council now so they can begin considering it. The chair asked for clarification on the duties of the code official. It was explained that all complaints originate with Mr. Dydek. However if they are outside of the zoning ordinance, enforcement goes to the responsible authority. Violations of the housing code would go to the county health department.

Prior to opening the meeting to public comment on the draft code the chair entertained a motion that individual comments be limited to three minutes in length as timed by the secretary and be restricted to the matter at hand. A motion to same was made by Eric Goldstein, seconded by Birnie O'Reilly, and passed unanimously. The meeting was opened to public comment:

- William Henry Harris, Cinnaminson Street, commented that the new code is overkill and is not needed. Having enforcement outside of the town prevents personal conflicts clouding equitable resolution. The Borough does not enforce its codes now.
- Frank Cioci, Lippincott Avenue, wants to know if Mr. Dydek can initiate a violation. Violations of the zoning code are completely his responsibility. For other sections of the code he can initiate the process by notifying the proper authority of the complaint. Then it is in that authority's hands.
- Ed Gilmore, Main Street, feels the issue should be tabled for now. He feels it is too cumbersome and that there is too much against it. The town is taxed now to properly administer its current responsibilities and to require another administrative function is too much for a small town.
- Mary Anne Shea, Bank Avenue, wants to know why Section 59 is on the books if it can't be enforced. It can be enforced, but it is enforced by the county. She feels the code official be allowed to try and make the current codes work. Is the code as presented last month being left unchanged and the recommendations not incorporated? Birnie responded that her assumption was correct. The submitted comments were considered. Some were already in the draft; others were deemed not applicable; and others were felt better left for Council's review.
- Fred DeVece, Cedar Street, recollected that the code enforcement officer used to ride around the town and look for violations. He used the example of abandoned cars where violators were notified and if nothing done within a period of time the issue was forwarded to the police department for enforcement.
- Joe Rainer, Main Street, feels that a splitting of powers is needed to prevent conflicts of interest and/or personal vendettas. He cited an example where he had to appeal all the way to the superior court and won. He also feels there are many examples of where the existing codes are not being enforced.

- Barbara Horner, Bank Avenue, thinks the issue should be dropped. It is prejudicial against certain targeted people and is selective by not including single family dwelling's many of which are in worse shape.
- Jose Talavera, Thomas Avenue, has problems with Section Six of the draft dealing with administrative procedures, fees, and the appeals process. He feels the appeals fee would dissuade valid appeals. The appeals board should not be associated with the town. It should be independent. Who is going to pay the costs?
- Barbara Horner, wants to know why Mr. Heine wasn't timed if everyone else in the public is? The chair explained that up to this point Mr. Heine's remarks had been made as a result of his being a principal member of the subcommittee. If he wishes to address the issue as a member of the public, he would be timed like anyone else.
- Michael Heine, Carriage House Lane, stated that the ordinance needs to be approached as a legal issue not a lay issue. There is no enforcement authority now and legal guidance is needed to provide the control if it is wanted. If the town cares, it needs the new code to gain local control. He pleaded that it is time to let Council decide the issue. Council requested the code; let it decide if is still wanted and in what form.
- Mr. Harris again commented that he felt there was unequal treatment of individuals and property owners going on and he resents it.
- Mr. Cioci agrees that the board needs to move on and either recommend the ordinance to Council or send it back to committee for further work.

The meeting was closed to public comment.

There being no further discussion, Birnie O'Reilly made a motion that the board send the draft to Council for consideration. There was no second and the motion died. The chair recommended that further efforts on the package be tabled until new/further direction is received from Council. Frank asked that the mayor and Council provide additional guidance on the issue and to let the Board know if Council desires the Board to continue to pursue the issue. The chair publicly thanked Birnie and Michael Heine for their extensive and professional efforts on the project all of which was done voluntarily.

Jose Talavera's Appointment – Jose's status as an alternate member of the board was discussed. The mayor and councilwoman stated that Jose had been properly reappointed following the rescission of the initial reappointment. It was their opinion that he was now a properly appointed member. There was discussion but no resolution on whether Jose had to be re-sworn into the position following the new appointment action. Birnie once again stated that she is against Jose's appointment to the board to which she was reminded that it was the mayor's appointment and that this was not a topic for discussion before the board. The mayor and Councilwoman Alls-Moffat commented that there was discussion in Council regarding attendance but the issue was not resolved yet. Tom Coleman suggested that, until he could resolve the issues with the Borough's solicitor, Mr. Talavera should abstain from any deliberation and action as a board member. However, his comments and opinions are still valued and that he should feel free to speak on matters like any other concerned citizen. Tom stated that this matter would be resolved by the next meeting.

Smart Growth Grant for Site Plan/Subdivision Rewrite - Return of the Grant – The mayor reported that the money had not yet been returned and that the Borough is waiting for a written reply from the state on how to proceed. Verbal conversations had indicated the Borough might be able to use the funds for redevelopment related activities. Until written directives are received the money will remain untouched.

2004 Budget – Councilwoman Alls-Moffat reported that the budget has been adopted.

Fence Ordinance Revision – Report tabled since Donna Tyson was absent.

Environmental Commission – Report tabled since Christian Hochenburger was absent.

Redevelopment – Councilwoman Alls-Moffat stated that a presentation on the plan was now scheduled for the June Council workshop meeting. It is designed to bring the new Council up to speed and start the process moving again.

Site Plan/Subdivision Application Procedures – Council has approved them and asked their solicitor to review them.

Old Invoices – The secretary reported that Mr. Levitt had made a partial deposit and that there should be sufficient funds to pay Mr. Hardt's invoices.

New Development in Cinnaminson Township – Report tabled due to Donna Tyson’s absence.

NEW BUSINESS

Vouchers and Invoices:

1. 5/4//04, \$722.00 voucher and invoice from Tom Coleman for research on ordinances and attendance at the April meeting.

Following discussion that funds exist, a motion was made by Eric Goldstein, seconded by Councilwoman Alls-Moffat and unanimously approved to pay the voucher as presented. The secretary will have it signed and submitted for payment.

PUBLIC COMMENT

The meeting was opened to public comment.

- Alfred Devece, Cedar Street, wanted to know if the motion to forward the draft code to Council was seconded. It was explained that the motion died for lack of a second and the further consideration is tabled.
- Mary Ann Shea, 205 Bank Avenue, wanted to know if the draft plan was dead. It was explained that further action is on hold pending additional direction from Council.

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

Meeting adjourned at 8:52 PM.

Next meeting is on 6/15/2004 at 7:30 PM in the Borough Hall

Tape is on file.

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