

May 4, 2005

The work session of the Riverton Borough Council was held on the above date. Mayor Martin presiding.

PRESENT: Council members Daniel, Villari, Smyth, Gilmore, Alls-Moffatt and Solicitor Bruce Gunn

ABSENT: Council member Cesaretti

The following statement was read by Mayor Martin:

Public notice of this meeting, pursuant to the Open Public Meetings Act, has been given by the Municipal Clerk in the following manner:

(A) Having written notification of all meetings to be held in 2005 published in the Burlington County Times on December 29, 2004

(B) Posting written notice on the official bulletin board on January 4, 2005

RESOLUTION 44-05

**A RESOLUTION PERMITTING THE EXCLUSION OF THE PUBLIC FROM A MEETING IN CERTAIN CIRCUMSTANCES PER SECTION 8 OF THE OPEN PUBLIC MEETINGS ACT
(IN FULL IN RESOLUTION BOOK)**

The above Resolution was read by title only by Mr. Smyth, who moved for its adoption. This was seconded by Mrs. Alls-Moffatt. A poll vote was then taken. Dr. Daniel aye, Mrs. Villari aye, Mr. Smyth aye, Mr. Gilmore aye, Mr. Cesaretti absent and Mrs. Alls-Moffatt aye. It should be noted that personnel and contract negotiations will be discussed.

At this time Mr. Smyth moved we adjourn the closed session for now and continue at the end of the meeting. This was seconded by Mr. Gilmore, with all present voting in the affirmative.

Presentation by representatives of the County Re: River Route Marketing Program (Darlene Scocca and Michael Willman were present). Both Ms. Scocca and Mr. Willman reported that the County is aggressively pursuing a comprehensive marketing plan for the Burlington County River Route. One of the major goals is to attract new businesses and rateables to the Route 130 corridor. They reviewed the new logo for Council's information. They detailed everything from signage and advertising to direct mail and website creation. A packet of information is on file with the Municipal Clerk.

Streets/Roads & Sewer Issues: a. Update Re: 2004 Community Development Block Grant Project. Mrs. Villari reminded Council that they had authorized Dante Guzzi, Associates, the Borough's Engineer for this project, to re-bid this project at their sole cost. Mrs. Villari reported that Mr. Guzzi is now expecting his firm to be reimbursed for printing costs associated with the re-bidding process. Mrs. Villari stated that she recommends that Council should not do this and that a Resolution re-affirming Council's position regarding this issue be done. After a short discussion, it was the consensus of Council to agree to this.

RESOLUTION 45-05

**A RESOLUTION REAFFIRMING BOROUGH COUNCIL'S POSITION AS STATED IN RESOLUTION 34-05 REGARDING THE RE-BIDDING OF THE 2004 COMMUNITY DEVELOPMENT BLOCK GRANT PROJECT BY DANTE GUZZI, ASSOCIATES
(IN FULL IN RESOLUTION BOOK)**

The above Resolution was read by title only by Mrs. Villari, who moved for its adoption. This was seconded by Mr. Smyth. A poll vote was then taken. Dr. Daniel aye, Mrs. Villari aye, Mr. Smyth aye, Mr. Gilmore aye, Mr. Cesaretti absent and Mrs. Alls-Moffatt aye.

b. To participate in the Community Development Block Grant program for the Years 2006, 2007 & 2008. Mrs. Villari reported that we received notification of the option to participate with Burlington County in the Community Development Block Grant and

Home Investment Partnership Programs for Fiscal Years 2006, 2007 and 2008. Mrs. Villari reported that we need to do a Resolution informing the County of the Borough's desire to participate in this program. Council also needs to authorize the Mayor to sign the required agreements. It was the consensus of Council to agree to this.

RESOLUTION 46-05

A RESOLUTION AUTHORIZING THE BOROUGH OF RIVERTON TO EXECUTE AN AGREEMENT WITH BURLINGTON COUNTY FOR COOPERATIVE PARTICIPATION IN THE COMMUNITY DEVELOPMENT ACT OF 1974

(IN FULL IN RESOLUTION BOOK)

The above Resolution was read by title only by Mrs. Villari, who moved for its adoption. This was seconded by Mr. Gilmore. A poll vote was then taken. Dr. Daniel aye, Mrs. Villari aye, Mr. Smyth aye, Mr. Gilmore aye, Mr. Cesaretti absent and Mrs. All-Moffatt aye.

c. Update Re: 2004 Road Program. Mrs. Villari reported that the Borough had withheld a portion of the amount owed the contractor until items on the respective punch list were completed satisfactorily. Mrs. Villari reported that our Engineer for this project has reviewed and inspected the completed work and is recommending that payment be made. Mrs. Villari commented that a Resolution needs to be done by Council to release the balance owed to the contractor.

RESOLUTION 47-05

A RESOLUTION AUTHORIZING THAT THE FINAL PAYMENT OF \$3,683.89 FOR THE 2004 ROAD PROGRAM BE RELEASED TO PARAMOUNT ENTERPRISES, INC.

(IN FULL IN RESOLUTION BOOK)

The above Resolution was read by title only by Mrs. Villari, who moved for its adoption. This was seconded by Mr. Gilmore. A poll vote was then taken. Dr. Daniel aye, Mrs. Villari aye, Mr. Smyth aye, Mr. Gilmore aye, Mr. Cesaretti absent and Mrs. All-Moffatt aye.

d. Update Re: 2005 Road Program (Authorization for Engineer to proceed) Mrs. Villari asked that this issue be differed until next week's Council meeting. She needs to clarify the Engineering fees for this project with our Engineer. It was the consensus of Council to agree to this.

e. Authorization for our Sewer Engineer to prepare specifications for the sludge removal contract and advertise for bids. Mrs. Villari reported that our current sludge contract expires at the end of June. We need to authorize T&M Associates to prepare the required specifications for this contract. After a short discussion, it was the consensus of Council to agree to this.

RESOLUTION 48-05

A RESOLUTION AUTHORIZING T&M ASSOCIATES, THE BOROUGH'S WASTEWATER TREATMENT FACILITY ENGINEER, TO PREPARE THE SPECIFICATIONS FOR THE SLUDGE REMOVAL CONTRACT AND AUTHORIZING THEM TO ADVERTISE FOR THE RECEIPT OF BIDS CONTINGENT UPON THE SOLICITOR'S REVIEW AND APPROVAL OF THE SPECIFICIATIONS

(IN FULL IN RESOLUTION BOOK)

The above Resolution was read by title only by Mrs. Villari, who moved for its adoption. This was seconded by Mr. Gilmore. A poll vote was then taken. Dr. Daniel aye, Mrs. Villari aye, Mr. Smyth aye, Mr. Gilmore aye, Mr. Cesaretti absent and Mrs. All-Moffatt aye.

f. Update Re: Broad Street Enhancement Grant. Mr. Gilmore reported that he has been informed by Thomas Berryman of the Department of Transportation, that the agencies involved with this grant are reviewing the required documentation submitted by Dante Guzzi, Associates, the Borough's Engineer for this project. Mr. Gilmore reported that the

Federal agency would not approve any money for the placement of a gazebo at the project site. However, Mr. Gilmore reminded Council that we previously included the monies for purchase of a gazebo for this project in a Bond Ordinance that we did in 2003. Mr. Gilmore reported that if all goes well, the Borough and our Engineer should be given authorization to prepare the specifications and advertise for the receipt of bids for this enhancement project. Mr. Gilmore asked the Solicitor if we could do an authorizing resolution to have the Engineer prepare the specs for this project and advertise for the receipt of bids contingent upon receipt of the required approval from all of the agencies involved with this project. Mr. Gunn responded that Council could do that.

RESOLUTION 49-05

A RESOLUTION AUTHORIZING DANTE GUZZI, ASSOCIATES TO PREPARE SPECIFICATIONS AND ADVERTISE FOR THE RECEIPT OF BIDS FOR THE BROAD STREET ENHANCEMENT GRANT CONTINGENT UPON RECEIPT OF THE REQUIRED APPROVALS FROM THE FEDERAL STATE AND LOCAL AGENCIES INVOLVED WITH THE GRANT (IN FULL IN RESOLUTION BOOK)

The above Resolution was read by title only by Mr. Gilmore, who moved for its adoption. This was seconded by Mr. Smyth. A poll vote was then taken. Dr. Daniel aye, Mrs. Villari aye, Mr. Gilmore aye, Mr. Cesaretti absent and Mrs. Alls-Moffatt aye.

Update Re: Potential revaluation/reassessment of all properties in Riverton and authorization to obtain proposals. Mr. Smyth reminded Council that County Tax Administrator Lawrence Vituscka and the Borough's Tax Assessor, Tom Davis had reviewed the revaluation process in detail at our November 3, 2004 meeting. The last time a revaluation was done in Riverton was in 1989. Mr. Vituscka had stressed the importance at that meeting that the governing body should consider initiating the necessary steps for a revaluation on our own. Mr. Vituscka had also informed Council that if no action was taken, the County would seek to obtain court order to get Riverton to comply. Mr. Smyth also stated that one of our residents had inquired as to when we would be doing a revaluation of all properties in town at last month's meeting. Mr. Smyth obtained a list of companies that provide revaluation/reassessment services from our Tax Assessor. Mr. Smyth would like to move forward and obtain proposals for Council's review. Mayor Martin asked how sure we were that the County will force us to do a revaluation. Mr. Smyth responded that it was his understanding that the County could come down pretty hard on us to get this done. Our Solicitor commented that it is within the County's discretion as to when they would require Riverton to complete this process.

Michael Kinzler, 209 Lippincott Avenue, commented that there was a recent article in the Philadelphia Inquirer regarding this issue. Mr. Kinzler commented that there were a number of towns in Burlington County in worse situation than Riverton in terms of how long since they had a revaluation completed. Mr. Kinzler commented that this article spoke on this issue from a State level as opposed to a County level, in terms of the legal requirement. Based on statistics listed in this article, Mr. Kinzler commented that Riverton is well within the safety zone.

William Harris, 502 Cinnaminson Street, agreed with Mr. Kinzler's comments. He doubts that we have to do a revaluation. Mr. Harris then stated that if we have to do a revaluation, it can be done based on a percentage based option. You don't have to go into people's homes to gather the required information.

Discussion resumed on this issue. Both Mrs. Villari and Mrs. Alls-Moffatt commented that they understood that Riverton's time for a revaluation was near. Mayor Martin commented that he feels we are trying to balance whether people have unfair assessments versus do we want the taxpayers to spend the money for the revaluation. Mrs. Villari asked if we would be charged for any proposals submitted. The Solicitor stated that we can specify that we would like free quotes. Mrs. Villari once again voiced her concern that we could be charged for these proposals.

RESOLUTION 50-05

**A RESOLUTION AUTHORIZING THE REQUEST FOR PROPOSALS FOR THE POSSIBLE REVALUATION/REASSESSMENT OF ALL PROPERTIES IN THE BOROUGH OF RIVERTON
(IN FULL IN RESOLUTION BOOK)**

The above Resolution was read by title only by Mr. Smyth, who moved for its adoption. This was seconded by Mrs. Alls-Moffatt. A poll vote was then taken. Dr. Daniel aye, Mrs. Villari nay, Mr. Smyth aye, Mr. Gilmore aye, Mr. Cesaretti absent and Mrs. Alls-Moffatt aye.

Review of Corrective Action Report pertaining to the 2004 Audit Report. Mr. Smyth reported that we are required to submit a Corrective Action Plan relative to the findings and recommendations in the Audit Report and forward that onto the State. Council reviewed this document.

RESOLUTION 51-05

**A RESOLUTION PERTAINING TO THE CORRECTIVE ACTION REPORT PLAN FOR THE 2004 AUDIT REPORT
(IN FULL IN RESOLUTION BOOK)**

The above Resolution was read by title only Mr. Smyth, who moved for its adoption. This was seconded by Mrs. Alls-Moffatt. A poll vote was then taken. Dr. Daniel aye, Mrs. Villari aye, Mr. Smyth aye, Mr. Gilmore aye, Mr. Cesaretti absent and Mrs. Alls-Moffatt aye.

Update Re 4th of July activities-Authorization to permit pony rides in the park on the 4th of July. Mrs. Villari, the liaison to the 4th of July Committee reported that Council needs to consider giving the committee a waiver to hold pony rides in the park. Council agreed to this waiver.

RESOLUTION 52-05

**A RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF RIVERTON GRANTING A WAIVER TO THE 4TH OF JULY COMMITTEE TO HOLD PONY RIDES IN THE PARK ON JULY 4, 2005
(IN FULL IN RESOLUTION BOOK)**

The above Resolution was read by title only by Mrs. Villari, who moved for its adoption. This was seconded by Mr. Gilmore. A poll vote was then taken. Dr. Daniel aye, Mrs. Villari aye, Mr. Smyth aye, Mr. Gilmore aye, Mr. Cesaretti absent and Mrs. Alls-Moffatt aye.

Update re: Farmer's Market. Mrs. Villari commented that she cannot serve as the Council liaison to the Farmer's Market because of insurance issues. Mr. Smyth has now volunteered to serve in this capacity. Council reviewed the parameters prepared at Council's request by the Solicitor. Mr. Gunn stated that we will need to review the access permit required by New Jersey Transit. Council took this issue under advisement and will discuss it at next week's meeting.

Review of Draft agreement with Farmers' & Mechanics Bank Re: Parking Issue. Mr. Gilmore suggested eliminating the two hour parking limitation, with respect to individuals who would utilize said lot. However, Mr. Gunn commented that if Council desires to retain the two hour parking limit, the Bank's owner would have to submit a written request to the Borough to have this enforced under Title 39. A Resolution would have to be done by Council. This would not have to be done if there is no parking limitation. Mr. Gunn commented that a basic agreement still needs to be done to utilize this parking lot. Mr. Gunn further stated that our insurance agency needs to review this agreement for any additional insurance charges. Both Dr. Daniel and Chief Norcross favor the two hour parking limit. A discussion ensued regarding this issue. Mr. Gilmore withdrew his suggestion regarding the parking limitation.

RESOLUTION 53-05

A RESOLUTION TO APPROVE AN AGREEMENT WITH FARMERS AND MECHANICS BANK RELATIVE TO THE BANK PARKING LOT AT LOT 12.02 BLOCK 1102 IN THE BOROUGH OF RIVERTON

(IN FULL IN RESOLUTION BOOK)

The above Resolution was read by title only by Mr. Gilmore, who moved for its adoption. This was seconded by Mrs. Alls-Moffatt. A poll vote was then taken. Dr. Daniel aye, Mrs. Villari abstained, Mr. Smyth aye, Mr. Gilmore aye, Mr. Cesaretti absent, and Mrs. Alls-Moffatt aye.

Update Re: Smart Growth Grant. Council reviewed the revised scope of work for our Smart Growth Grant (Redevelopment) that was submitted by Planner, Tamara Lee. A discussion then ensued with questions and concerns being raised regarding the proposed timeline for the completion of this project as well as the Borough's in-kind services for this project. Strong concern was voiced that this grant must be completed or the Borough might be asked to return the grant money. It was the consensus of Council that Ms. Lee be asked to attend next week's meeting to answer questions from Council.

Preliminary Agenda for May 11, 2005. The Clerk reviewed this with the Governing Body.

Meeting open to the public

William Harris, 502 Cinnaminson Street, reported that the curbing along the park is falling apart. He would like this issue addressed. Mr. Harris also suggested that we vacate these curbs.

Robert E. Smyth, 1 Bank Avenue, recommended obtaining information from municipalities such as Cherry Hill who were faced with a court order to get their revaluation done. Mr. Smyth didn't think anything was wrong by us getting proposals.

James Moffatt, 202 Fulton Street, asked for information regarding the Dolecky/Horner litigation. Mr. Gunn reported that Judge Sweeney determined that the area between the riverbank and Bank Avenue is private property. The Borough had argued that the deeds from the 1850's gave a public easement-the right for the public to be on there for recreation, etc. Judge Sweeney did not concur. Mr. Gunn reported that Judge Sweeney did not decide whether it would be considered a prescriptive easement because that wasn't briefed. The argument could be made that the claim of inverse condemnation would fail because the property owners couldn't show any public taking of the property. The Judge stated that the only taking that was presented was the fact that the Borough had widened Bank Avenue at one time. However no proof was provided as to what size Bank Avenue was in the beginning. Mr. Gunn stated that the Judge has not signed an order yet. Mr. Gunn further stated that since Judge Sweeney had made the private property determination, the Judge asked the attorney for Dolecky/Horner what they were going to do about their seawalls. Mr. Gunn stated that there was an argument about the viability of our seawall ordinance. Mr. Gunn stated that Judge Sweeney has not ruled as to whether our ordinance is ultra virus. Judge Sweeney wants the Borough to submit what it takes to get a permit from the Army Corps of Engineers to do work on the respective riverwalls. We also need to submit information regarding the erosion problem. Mr. Gunn reported that we will point out to the Judge that there has been some more recent erosion at the location of 109 Bank Avenue. Mr. Gunn reported that the Judge also raised some other arguments, such as preemption. This means that the Army Corp. of Engineers and the Department of Environmental Protection could have regulatory controls regarding the seawall. This could mean that the Borough's seawall ordinance isn't given full enforcement. Mr. Gunn stated that we would argue that our seawall ordinance is necessary. Council will be kept apprised.

Scott Reed, Public Works Manager, suggested that we send a letter to Mr. Horner, 109 Bank Avenue, informing him of the hazardous erosion problems at his riverwall location. Mr. Gunn stated that it is the Judge's feeling that we should not write letters to either Mr. Dolecky or Mr. Horner or cite them during the litigation process. Mr. Gunn stated that we would have to go through their attorney's regarding this issue.

Michael Heine, 206 Carriage House Lane, stated that he was delighted to hear the findings that Mr. Gunn shared with Council regarding the Dolecky/Horner litigation. Mr. Heine recommended that Council authorize the Solicitor to make an immediate application

for injunctive relief to judge Sweeney so that he fully understands that this community is very concerned about the public safety issues at the Dolecky/Horner riverwalls in question.

Regarding the relocation of the Court, Mr. Heine asked if any consideration was made to using the school to hold court. Dr. Daniel reported that the Administrative Offices of the Court, in conjunction with Judge Sweeney, have stated that it can't be done. The school doesn't meet the criteria to hold court.

Mr. Heine reported that there have been rumors of police resignations. He asked if there was any truth to do this. Chief Norcross responded that there have been no resignations from his Department.

Regarding the Broad Street Enhancement Grant, Mr. Heine raised concern that patrons of Zena's Bakery will have trouble entering and exiting her parking lot after the project is completed. Mr. Gilmore commented that the Borough's Engineer for this project designed the traffic pattern at this location. Mr. Gilmore believes the present parking problems will be alleviated.

Robert E. Smyth, 1 Bank Avenue, reported that Palmyra's portion of the riverwall near his property is collapsing. He contacted their Mayor about this issue and was informed that Palmyra received an infrastructure and shoreline preservation grant. They will be fixing the wall at the location in question as well as Palmyra's riverwalls down to Cinnaminson Avenue. Mr. Smyth volunteered to talk to Palmyra officials to find out what they had to do to qualify for this grant. Perhaps Riverton could do the same thing.

At this time Mr. Gilmore moved that we return to closed session. This was seconded by Mrs. Alls-Moffatt. A poll vote was then taken. Dr. Daniel aye, Mrs. Villari aye, Mr. Smyth aye, Mr. Gilmore aye, Mr. Cesaretti absent and Mrs. Alls-Moffatt aye. Discussion resumed regarding contract negotiations.

At this time Mr. Gilmore moved that we return to open session. This was seconded by Mr. Smyth. A poll vote was then taken. Dr. Daniel aye, Mrs. Villari absent (left meeting at 10:00pm), Mr. Smyth aye, Mr. Gilmore aye, Mr. Cesaretti absent and Mrs. Alls-Moffatt aye.

RESOLUTION 54-05

A RESOLUTION FOR THE LEASE OF THE COURTROOM AND COURT FACILITIES OF CINNAMINSON TOWNSHIP (IN FULL IN RESOLUTION BOOK)

The above Resolution was read by title only by Mr. Gilmore, who moved for its adoption. This was seconded by Mrs. Alls-Moffatt. A poll vote was then taken. Dr. Daniel absent (left meeting at 10:15pm), Mrs. Villari absent, Mr. Smyth aye, Mr. Gilmore aye, Mr. Cesaretti absent and Mrs. Alls-Moffatt aye.

There being no further business to discuss, Mr. Smyth moved that we adjourn the meeting. This was seconded by Mr. Gilmore, with all present voting in the affirmative.

Mary Longbottom, RMC
Municipal Clerk