

RIVERTON BOROUGH PLANNING BOARD
MINUTES
April 19, 2005

The Public Session of the Planning Board was called to order at 7:05 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, 2005.
2. Required Service of notice and publication in the Burlington County Times on January 23, 2005.

PRESENT: Frank Siefert, Birnist O'Reilly, Donna Tyson, Christopher Halt, Mayor Martin, Councilwoman Alls-Moffat, Anthony Dydek, and Robert Smyth.

Also Present: Solicitor Tom Coleman and Secretary Ken Palmer

ABSENT: Joseph Katella.

MINUTES: A motion was made by Mayor Martin and seconded by Chris Halt to adopt the minutes of the April 19, 2005, regular meeting as distributed. The vote was unanimous.

CORRESPONDENCE/ANNOUNCEMENTS

1. **4/6/05, Burlington County Department of Resource Conservation, announcement and registration form for the Stormwater Management Forum & Award Program, May 5, 2005.**
2. **4/6/05, Spring 2005, issue of the "Rancocas Reflections" newsletter which is for and about the Rancocas Creek Watershed.**
3. **4/6/05, Delaware Valley Regional Planning Commission, announcement of audio seminar 4/20/05, on "Planning for Safe Growth" at their offices in Philadelphia.**
4. **3/31/05, Report from Tamara Lee regarding work effort needed, her scope of work, and suggested schedule for conducting the Reexamination of the Master Plan.**
5. **4/18/05, Resolution for Moccia Site Plan Approval.**
6. **Three vouchers/invoices as presented under New Business.**

OLD BUSINESS

Adoption and Memorialization of Resolutions – The following resolution was reviewed, considered and adopted by the Board:

Resolution P2005-04 for: Application of Moccia Properties LLC Requesting Approval Of A Site Plan For An Existing Paved Parking Lot at 300 Broad Street, Block 801, Lot 13:

The chair asked if there were any comments on the resolution distributed to the members for review. Councilwoman Alls-Moffat made a motion that the resolution be adopted and memorialized as presented and the motion was seconded by Tony Dydek. Chris Halt made a motion to table the resolution which was seconded by Birnie O'Reilly. The motion to table taking precedence over the motion to adopt, that motion was considered first. Donna Tyson wants to make sure that everything was done correctly in fairness to the board, the Borough and the applicant. She feels time should be taken to reflect and research the matter. Chris Halt stated he made the motion based on receipt of a letter with an opinion by a lawyer that outlines with examples of case law how this lawyer feels the board was given bad legal advice by the board's solicitor as it pertains to the Moccia matter. Chris asked that the receipt of this letter and its availability to the board and secretary be included in the public record. He is questioning the legal advice given the board. Councilwoman Alls-Moffat feels all procedures have now been followed and it is time to move on with the application. She feels the advice given the board is adequate. There was rigorous discussion among the board supporting both sides of the question: that the case law cited in Chris Halt's letter represented the last word on the subject; or it was the opinions of one attorney based on the cases he cited; or as to whether the board needs to seek a second opinion with everything tabled until that opinion is provided; or as to the impact of whether a waiver or variance was granted if it achieved the same result. The

members feel they want to make sure things were done correctly, but some feel it wasn't done correctly and others think it was done correctly. Personal opinions and feelings were interjected and the chair asked that discussion stay on the motion. The chair stated that he feels that sound advice was provided on the matter by the engineer and solicitor. Mr. Coleman stated he could not comment on Chris' letter since he had just seen it. Chris Halt stated he also spoke with an official of New Jersey Planning Officials who agreed with the opinions as cited in the letter. With discussion not producing any definitive results one way or the other, the question was called and a roll call vote was called for on the motion to table the resolution. The motion to table was defeated by a vote of 4 to 3 of the members eligible to vote (participated in the hearing) as follows:

Mr. Siefert	nay	Mrs. O'Reilly	aye
Mrs. Tyson	aye	Mr. Halt	aye
Mrs. Moffat	nay	Mr. Dydek	nay
Mr. Smyth	nay		

Discussion returned to the motion to adopt and memorialize the resolution. Bob Smyth asked if the resolution simply memorializes the unanimous action taken by the board on the matter at the March meeting. The answer was yes. Birnie is of the opinion that if the process was illegal, the vote to approve was thus illegal. She feels the legal opinion given to Chris should be reviewed by Bruce Gunn and guidance given the board. Asked if there was any new discussion and not hearing any, the question was called on adopting and memorializing the resolution. A roll call vote was called on the motion to adopt and the motion was carried by a vote of 4 to 3 of the members eligible to vote (participated in the hearing) as follows:

Mr. Siefert	aye	Mrs. O'Reilly	nay
Mrs. Tyson	nay	Mr. Halt	nay
Mrs. Moffat	aye	Mr. Dydek	aye
Mr. Smyth	aye		

The secretary stated that he would have the resolution signed, distributed and required notice published. There was some additional discussion regarding the point that while the members may not be able to agree on everything it doesn't mean that some members are not supportive of the process. It means that differences of opinion will exist and that all the members do want to do the right thing.

Reexamination of the Master Plan and 2005 Goals and Objectives – The chair asked if the members had a chance to review Tamara's proposal regarding review of the master plan. Apparently some members had not received the material until tonight. It was felt that the topic should be tabled until the members can review the material. Regarding the possible special meeting on May 2nd, it was determined that no meeting should be held until everyone is on the same page. There is also a difference of opinion as to the value of a joint meeting and that results may better obtained by other methods such as committees, etc. The chair asked and it was agreed that discussion on this topic as well as the Goals and Objectives be tabled until next meeting.

Environmental Commission – Chris Halt stated there was nothing new to report on stormwater management. It is not certain if anything is underway concerning the commission's request to Council that the wetlands buffer along the creek be increased from 50 to 100 feet. There was discussion that the issue of riparian rights might impact on this area. Chris stated he attended the stormwater conference at Palmyra Cove and that the County Freeholders have been appointed to be the organizers of the information for the regional stormwater management program. Bob Smyth commented that perhaps there might be grant money available for these projects. Donna asked if there were maps other than included in the master plan that might show if riparian rights exist. The answer was that no one is sure but they don't think so. Perhaps Councilwoman Villari is aware of something in this area.

Redevelopment – Councilwoman Alls-Moffat stated that there was nothing new to report on the plan. The mayor reported that he and Councilwoman Villari had met with officials of the new development going up in Cinnaminson along Broad Street and the river to discuss how they approached business as regards redevelopment. In short, they appear to favor eminent domain as a means of getting projects moving.

Fence Ordinance Revision – Donna reported that she has not spoken with Kerry Brandt since the last planning board meeting but she thought a draft was close to being or was being reviewed by the zoning board’s attorney. She will contact Kerry. The secretary reported that he had heard nothing from the zoning board since they had not met since February.

New Development in Cinnaminson Township – Impact on Riverton – Donna Tyson reported that she is trying to get an update from Rick Arango. She has also tried to contact the secretary of the Cinnaminson Planning Board. The project was not on the agenda this past month. She discussed the website for the project and referred to the information available on the website. Bob Smyth commented on his review of the traffic study which was done in 2003 and revised in 2004; but, is essentially pre-light rail. The findings for Main Street projected a decline in level of service for the Broad and Main Streets area. The traffic impacts in the Borough’s master plan should take these figures into consideration.

NEW BUSINESS

Vouchers and Invoices:

1. 4/6/05, Tom Coleman, \$400.00, preparation and attendance at the March meeting.
2. 4/6/05, Tom Coleman, \$574.00, for work related to the Moccia Site Plan application. To be paid from escrow.
3. 4/19/05, Kenny Palmer, \$20.00, for creating duplicates of the 3/15/05 meeting tapes for Birnie O’Reilly.

A motion was made by Councilwoman Alls-Moffat and seconded by Mayor Martin to pay the items as presented. Payment was approved unanimously. The secretary will have them signed and submitted.

Miscellaneous:

- The chair commented on the apparent success of the new ice cream parlor. Birnie asked about the awning and it was stated they still appear to be finishing the project.
- Chris and Donna commented on remediation efforts being done at the site on 4th and Morgan in Palmyra to remove the fuel oil contamination from a leaking in-ground tank.

PUBLIC COMMENT

The meeting was opened to public comment prior to the board going to closed session:

- James Moffat, 202 Fulton Street, suggested that important communications be sent regular mail rather than using e-mail since some members may not have received things. The secretary stated that he follows up on distributions including mailing items to people who do not have e-mail or placing items in the Borough mail box for Council members and officials.
- Michael Heine, 206 Carriage House Lane, finds the mayor’s name calling in his comments regarding board members Halt, Tyson, and O’Reilly lamentable. He feels it is worsened by the actions of board member Smyth who didn’t recuse himself from the Moccia matter. He took issue with Councilwoman Alls-Moffat’s comments regarding legal action stating that he did not threaten a lawsuit but noticed action taken regarding the issue. He feels the actions of the board members who sought independent legal opinion is laudable while other members were not interested in hearing case law on the subject. Not reviewing the letter is not in the best interest of Riverton. He feels these actions disrespect the law and breed contempt for the process. The mayor responded that the atmosphere of voting everything down and not getting anything done is not beneficial to the town. Councilwoman Alls-Moffat commented that Mr. Heine, as a lawyer and officer of the court, has a responsibility to uphold certain standards that she feels he has not done so on numerous occasions. She feels that Mr. Heine’s comments to Council and the planning and zoning boards are never positive, are often threatening, condescending, and insulting and Mr. Heine thinks he can get away with it because he is a lawyer. She asked it to be on record that she is going to file a complaint with the court since she feels the way Mr. Heine conducts himself is not in the best interest of the judicial system.
- Leslie Lewis, 429 Elm Avenue, feels Mr. Heine has a right to speak as a citizen. She feels the board not addressing Mr. Halt’s letter is incorrect. She feels that there has to be a policy that supports the right to agree

to disagree on matters and persons should not be faulted or disrespected for it. Muriel stated that there is a process of disagreeing on things that doesn't include threats and that is what she objects to. The chair requested that all on both sides of the table please keep their comments civil and on topic and leave personal and inflammatory comments out. The mayor stated he understood Leslie's feeling but that the type of comments made tonight are not a single meeting event. Birnie feels there is a split and polarization on the board and feels that there are members who do not believe the process is important. Birnie feels the board is new and is not getting proper guidance. Birnie thinks the letter clearly demonstrates that the advice provided on at least four occasions was incorrect. Chris feels the board just wants to do things correctly. Muriel objected to the inference that she doesn't care since was the one who blew the whistle on Moccia. Mrs. Lewis stated she objects to the board not considering the letter. The chair stated that the board cannot stop to consider every single "legal" opinion on a subject or nothing will get done. The board retains counsel to do that and needs to let counsel do his/her job. Birnie maintains the board received bad advice on four issues. Donna stated she enjoys being on the board and wants to do things correctly and that she is not against the parking lot. But, and she included the NJ Transit fence and the Farmer's Market as examples, she wants everyone to follow the same process and there not be any signs of favoritism because someone feels the end justifies the means.

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

Executive Session – At 8:30 PM, the chair entertained a motion to enter closed session under Section 8 of the Open Public Meetings Act, C231, P.L.1975. After discussion with counsel as to what constitutes proper circumstances, Councilwoman Alls-Moffat motioned that the board go into closed session under Section 8 of the Open Public Meetings Act, C231, P.L.1975 to discuss professional contractual issues. The motion was seconded by Tony Dydek and a voice vote was unanimous. At 9:15 PM Councilwoman Alls-Moffat motioned to return to public session. Bob Smyth seconded the motion and a voice vote was unanimous.

Meeting adjourned at 9:15 PM.

Next meeting is on 5/17/2005 at 7:00 PM in the Borough Hall

Tape is on file.

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