

March 10, 2010

The regular meeting of the Riverton Borough Council was held on the above date. Mayor Martin presiding.

**PRESENT:** Council members Katella, Brown, Cairns Wells, Smyth, Kinzler, Myers and Solicitor Bruce M. Gunn

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 2010 published in the Burlington County Times on December 27, 2009

(b) Posting written notice on the official bulletin board on January 6, 2010

The minutes from February 3 and February 18 were then presented. Mr. Brown moved that these minutes be approved as submitted. This was seconded by Mr. Smyth. A poll vote was then taken. Mr. Katella aye, Mr. Brown aye, Ms. Cairns Wells aye, Mr. Smyth aye, Mr. Kinzler aye and Mr. Myers aye.

**COAH discussion: Review and endorsement of the Planning Board's adopted and revised (on January 19<sup>th</sup>) Housing Element and Fair Share Plan of the Master Plan and possible agreement with Quality Management-Planner Tamara Lee and Planning Board Solicitor Tom Coleman present**

Ms. Lee stated that the Governor wants to eliminate the Office of the Council on Affordable Housing (COAH) and put those responsibilities into the Office of State Planning. The court stepped in to determine whether or not the Governor had the legal authority to do this. Ms. Lee informed Council that should COAH be eliminated, there still will be some type of affordable housing program with specific rules and regulations keeping with the Mt. Laurel decisions. Ms. Lee provided an overview on the history of those decisions. Ms. Lee further stated that in addition to the Governor's efforts, there are also bills being considered by both the Assembly and Senate regarding the affordable housing issue.

Ms. Lee reported that she has recently been contacted by COAH. If they can receive the Planning Board resolution adopting the revised Housing Element and Fair Share plan of the Master Plan, a resolution from Council endorsing this revision and a copy of the signed agreement with Quality Management (QMA), they would go ahead and deem us complete (3<sup>rd</sup> round submission). Ms. Lee is of the opinion that COAH is trying to show that they can work with us. Ms. Lee believes we have an opportunity here to take advantage of their problems. However, Mayor Martin believes that some members of Council think we are moving forward too quickly given the uncertainty of the status of COAH; therefore, why should we approve or endorse anything right now. Mr. Coleman stated that at the end of all the issues regarding COAH there will still be some type of obligation on the municipality. Mr. Coleman does not want to see COAH (presently overseeing our plan) deem Riverton incomplete. In theory we could be sued for this. Mr. Coleman believes Riverton needs to continue to work as if COAH is still in existence.

Mr. Coleman then referenced the proposed agreement Council is considering with QMA, which would provide the Borough with four (4) affordable housing units in exchange for the Borough's payment of \$50,000.00 to them. Ms. Cairns Wells asked if QMA specifically identified the property at 815 Homewood Drive (proposed group

home) in the agreement. Mr. Coleman responded no. Mr. Coleman explained that the way the agreement is presently set up is that QMA would get the money from the Borough (through money paid by developers and placed in our Housing Trust Fund) when they purchase a property within the Borough that establishes four (4) affordable housing units. Mr. Brown stated that it hasn't been made clear whether QMA is properly licensed with the State to operate a group home. He doesn't believe they have been forthcoming about this issue. Mr. Gunn believes we should have a copy of their license. Ms. Lee stated that this proposed agreement spells out that these are going to be COAH qualified units. In order to be qualified, COAH must sign off as well. QMA will not get any money until everything is in order. Ms. Cairns Wells asked if QMA would have a general license for everything that they do. Ms. Lee responded that each facility is licensed differently. Mr. Brown stated that he does not trust anything that COAH does because they keep changing the rules all the time. A discussion then ensued.

Mr. Kinzler asked what happens should Council approve the documents tonight and everything stays the same with COAH. Ms. Lee stated if we get certified then we are safe until 2018. Mr. Coleman stated that if Council is on board with the endorsement resolution and the proposed agreement with QMA and Ms. Lee makes the submission, COAH will deem our application complete. There will then be a 45 day public comment period. The Clerk will have to send out notification that we have this plan on file (in the past we have received no public comment for prior submissions). Mr. Coleman stated that substantive certification would probably not occur until late summer or early September.

Mr. Kinzler asked what happens to the remaining balances in the Housing Trust Funds if everything stays the same with COAH, and we move forward with the proposed agreement with QMA and pay the \$50,000.00. Ms. Lee responded that another \$55,000.00 will go to the required accessory apartment program. Ms. Lee explained that our plan includes two accessory apartments-one would be a moderate income apartment (costing \$25,000.00) and the other would be a low income apartment (costing \$30,000.00). Group homes are negotiated differently. Mr. Coleman commented that we would also have to spend for advertising to the general public.

Mr. Smyth asked what the Governor really means by gutting COAH and that he's going to fight it in court. Why should Council act tonight with all of the COAH issues still up in the air? Ms. Lee responded that by gutting COAH the Governor means getting rid of the Office of the Council on Affordable Housing.

Ms. Cairns Wells asked if we go forward and sign this proposed agreement with QMA and we don't get COAH to officially certify the units, do we have to go through with the payment to QMA at that point. Mr. Coleman responded that if it turns out we don't need four (4) units to satisfy the plan by whichever agency would be overseeing this, he doesn't know by what mechanism they would allow us to amend our plan. Mr. Coleman explained that if Council approves the plan the way it is four (4) units are included. Subsequently if some body changes that and we only need one (1) unit our plan needs to be amended somehow.

Mr. Katella who served on the Planning Board for many years stated that we missed an opportunity with the first development on Homewood (815) to gain COAH units from QMA. Mr. Katella stated that as we go forward with this issue, there will be some affordable housing requirements. This is an opportunity for us, without putting out

money from the Borough's budget, to gain some credibility for affordable housing units. If we can get the certification, it is fantastic. Mr. Katella would not like to see four (4) units go by the wayside. He remembers that during one earlier round we were looking at a 17 unit requirement. If we have an opportunity to close this and have it grandfathered in, it's a very good benefit for Riverton. If we are not in compliance Riverton could be open to a builder's remedy.

Mr. Brown believes we have a credibility issue here with COAH. Mr. Smyth asked if COAH units can go anywhere in town. Ms. Lee responded that the way our present plan is written a group home can go anywhere. The Planning Board also decided that the accessory apartment program requirement (also requires marketing) should be able to go anywhere. Ms. Cairns Wells explained that you cannot take a property and create an apartment within it. It has to be a pre-existing apartment. Council then reviewed the revised proposed agreement with QMA, which includes the following verbiage: "In the event COAH does not grant the Borough Substantive Certification, or current COAH regulations in effect at the time this Agreement is executed are revised to the extent that the Borough no longer needs the four (4) units, the Borough shall have the right upon thirty (30) days written notice to QMA to terminate this Agreement in which case the parties have no further legal obligation to each other". Ms. Lee is worried about including this new language to the agreement when QMA has already signed the initial version without it. Council debated this issue.

Mr. Katella stated that we are not the type of town that can afford to fight COAH in court. So we have strategically tried to satisfy COAH just enough to stay in compliance, without putting ourselves at risk. Mr. Katella doesn't think we have ever been this close to completely satisfying it as we are right now. He believes there is a benefit to that. Ms. Cairns stated that if there was no more discussion she was ready to ask Council to take action on the endorsement of the housing plan and the agreement with QMA without the new language.

#### **RESOLUTION 29-10**

#### **A RESOLUTION FILING AN ADOPTED HOUSING ELEMENT AND FAIR SHARE PLAN FOR A PETITION FILED PREVIOUSLY (IN FULL IN RESOLUTION BOOK)**

The above Resolution was read by title only by Ms. Cairns Wells, who moved for its adoption. This was seconded by Mr. Katella. A poll vote was then taken. Mr. Katella aye, Mr. Brown nay, Ms. Cairns Wells aye, Mr. Smyth nay, Mr. Kinzler aye and Mr. Myers aye.

#### **RESOLUTION 30-10**

#### **A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH QUALITY MANAGEMENT ASSOCIATES TO PROVIDE FOR AFFORDABLE HOUSING UNITS (IN FULL IN RESOLUTION BOOK)**

The above Resolution was read by title only by Ms. Cairns Wells, who moved for its adoption. This was seconded by Mr. Katella. A poll vote was then taken. Mr. Katella aye, Mr. Brown nay, Ms. Cairns Wells aye, Mr. Smyth nay, Mr. Kinzler aye and Mr. Myers aye.

#### **MEETING OPEN TO THE PUBLIC**

**Eric Clausner 629 Lippincott Avenue** informed Council that his neighbor (631

Lippincott) has anywhere between 7 and 17 dogs (beagles.) These dogs are primarily housed outside. Barking is a major issue and he can't sit outside because of the noise. The dogs also charge the fence. The Clerk reported that the resident in question has licensed 8 dogs this year. Mr. Clausner reported that sometimes he sees puppies and then in a couple of weeks the puppies are gone. Mayor Martin thought we might have a breeding issue here and is concerned how we would enforce this. Mayor Martin asked if Mr. Clausner has seen any type of animal cruelty going on. Mr. Clausner responded yes, the SPCA has been called on occasion but they did not see any problem. Mr. Clausner also stated that the SPCA had indicated that they need to have more than one person file a complaint. Mr. Brown, who is aware of these issues, stated that the SPCA was trying to get witnesses to give them statements as to what they saw. **Joe Threston** commented that through his work with Consumer Affairs, the County Board of Health is a good source to go to for assistance regarding these issues. Mr. Clausner stated that his neighbors are fearful of speaking out against this neighbor. Mr. Smyth commented that we have a barking Ordinance (Chapter 45-19.), which needs to be enforced. Suggestions were made to limit the number of animals a resident can have. The consensus of Council was to contact the County Board of Health for help.

**Frank Siefert, 304 Main Street** raised concern about the property located next door to him at 300 Main Street. It's a deteriorating commercial property with 7 apartments inside. Mr. Seifert understands that the owners don't pay their taxes and that the property went for tax sale. Mr. Seifert asked if there was some way to tax the owners to get more income out of this property for parity purposes. Mr. Seifert stated that he recently had an appraiser come out to his home. He was told that he would probably have difficulty selling his home and could lose money because of this property's condition. Mr. Seifert further stated that the police are at 300 Main Street quite frequently for various issues. He wants to know how stricter enforcement can be initiated regarding this property. A discussion ensued. It was the consensus that our Fire Marshal, who does periodic inspections of this property be asked to contact the County Board of Health for their assistance regarding some of the issues raised. Mr. Brown reported that our Code Enforcement Officer is aware of the problems and is in the process of drafting a letter to the owners to resolve these issues.

Mr. Seifert publicly thanked the Public Works Department for their efforts during the recent snow storms.

**Dave Polaneczky** lives across the street from 300 Main Street and has the same issues regarding this property as Mr. Seifert. He has called the police about this property on numerous occasions. He provided an overview of some incidents that occurred over the past few weeks. He doesn't see any action taken by the Police Department. He has come before Council in the past about this property and feels that the issues are not addressed. The Chief stated that many people live at 300 Main and he understands that not everyone there has a signed lease agreement, so people do come and go. Mr. Polaneczky asked if any tickets for disturbing the peace or intoxication were issued regarding the incidents he raised tonight. The Chief responded that no one was written up for disorderly conduct. Mr. Polaneczky asked what needs to be done to get these issues addressed and remedied. Mr. Seifert raised concern that if people do not have leases, we can't have rooming houses in town. The Clerk reported that there is a rooming house Ordinance on the books (Chapter 102). Mr. Gunn reported that we also have an ordinance on disorderly houses

(Chapter 94). He reviewed this with Council. A discussion ensued. Mr. Brown reiterated the fact that the Code Enforcement Officer would be sending a letter to the owners. Council acknowledged the fact that enforcement is key here. Mr. Seifert commented that it seems that we have the tools; he asked that we follow up on these issues.

**Frank Cioci** asked if commercial or multi property owners are required to let the Police and Fire Departments know who lives at their property. The response was no. Mr. Cioci thought it would be a good idea to have this information.

**FINANCIAL ITEMS:** Mr. Kinzler

**TREASURER’S, FINANCE REPORT AND BILL LIST FOR APPROVAL**

Mr. Kinzler moved that the attached reports for the month of February be approved as submitted. This was seconded by Mr. Brown. A poll vote was then taken. Mr. Katella aye, Mr. Brown aye, Ms. Cairns Wells aye, Mr. Smyth aye, Mr. Kinzler aye and Mr. Myers aye.

**TRANSFER RESOLUTION-**The Treasurer reported that there was no need for a transfer Resolution this month.

**ORDINANCE 2-10**

**AN ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK FOR CALENDAR YEAR 2010**

**(N.J.S.A. 40a:4-45.14)**

The above Ordinance was read by title only for the first time by Mr. Kinzler, who moved for its adoption. This was seconded by Mr. Katella. A poll vote was then taken. Mr. Katella aye, Mr. Brown aye, Ms. Cairns Wells aye, Mr. Smyth aye, Mr. Kinzler aye and Mr. Myers aye. Second reading and a public hearing on this Ordinance is scheduled for April 14<sup>th</sup>.

Mr. Kinzler distributed a draft capital budget for Council’s review. Mr. Kinzler stated that this includes the following proposed capital purchases and/or projects: hard drives/ram/monitors server, and a replacement for the 2001 or 2002 Dodge Durango for the Police Department (estimated costs \$30,000.00), a fire car for the Public Works Department (current car is a 1995 Ford-estimated cost \$25,000.00), upgrades to Riverton Park (estimated cost for project is \$186,875.00-estimated engineering costs \$32,000.00) and filing cabinets for the Borough Offices (estimated costs \$7,000.00).

Mr. Myers commented that Land Engineering has revised their proposal for engineering services for the proposed park upgrades to the following: \$15,000.00 to perform a topographic survey of the entire area of construction and prepare plans and specifications for public bidding and \$8,000.00 for inspection and project management until the project is certified complete. Mr. Myers stated that he believes the inspections can be completed in house, thereby reducing the engineering costs by \$8,000.00. Mr. Myers commented that we would be looking into asking the Freeholders for some monetary assistance for the park upgrades. Detailed review and finalization of this budget will take place on April 7<sup>th</sup>. Council then discussed the possible purchase of the recycling buckets. The consensus of Council was to go ahead and order them.

**COMMITTEE REPORTS**

**PUBLIC SAFETY/CODE ENFORCEMENT/COURT**

Mr. Brown read a report for the month of February that was submitted by Chief Willis. Vehicle Mileage 2,130, Juvenile Arrests 0, Adult Arrests 9 (Criminal Warrants 3, Criminal Summons 2, Contempt 4), Motor Vehicle Accidents 6, Motor Vehicle Stops 40,

Motor Vehicle Warnings 12, Motor Vehicle Summonses 27 (Riverton Officers 27), Burglar Alarms 15, Assists to Other Police Departments 16, Animal Complaints 5, Fire Calls 6, Arson 0, Ambulance Calls (Riverton 24), Unattended Deaths 0, Criminal Cases 14, Incidents 203, Domestic 2, Thefts 1, Shoplifting 3, Burglaries 0, Assaults 1 (Civilian 1), Sexual Assaults 0, Criminal Mischief 2, Robberies 0, Motor Vehicle Thefts 0, Miscellaneous Calls 262, Total calls dispatched-Incidents 203 and Quick 262.

Mr. Brown read a report for the month of February that was submitted by Deputy Fire Chief Robert Yearly. Fire calls for the month 16, drills 3, calls in town 9 and calls out of town 7.

Mr. Brown read a report for the month of February that was submitted by Court Administrator, Jackie Gleason. The total receipts for the month amounted to \$4,324.00. The total amount disbursed to Riverton amounted to \$2,390.790.

Mr. Brown reported that the Public Safety Committee would be meeting with the Chief to discuss the activity counts. Mr. Brown reported that, among other things, the Chief is working on performance evaluations for all of our officers and is trying to obtain grants (or possible donations from the Rotary and/or Lions Club) to help defray costs of video cameras.

**STREETS/SEWER/ECONOMIC DEVELOPMENT AND SHARED SERVICES-Mr. Smyth**

Mr. Smyth reported that the new stop signs have been installed at various intersections in the Borough. We have been asked by the County to come up with municipal assessment needs for Economic Development, businesses, etc. Council will be kept informed.

**PLANNING/REDVELOPMENT/SCHOOL-Ms. Cairns Wells**

Ms. Cairns Wells reported that the pre construction meeting was held this week for the ADA ramp project at the school. The contractor is looking at a start date of April 2<sup>nd</sup> when the school is on spring break. Ms. Cairns Wells reported that two trees might have to be removed. Council will be kept informed.

**ZONING/ENVIRONMENTAL/BOARD OF HEALTH-Mr. Katella**

Mr. Katella reported that the Zoning Board will be hearing the site plan application regarding the old post office building at their March 18<sup>th</sup> meeting. Scott Reed reported that we will be getting a letter from the County to lift the parking in front of the post office. Mr. Reed indicated that a resident made this request. Mr. Katella stated that he would confer with our Local Board of Health on the issues discussed here tonight (complaints about 300 Main Street and the dog breeding issue and the number of dogs at 631 Lippincott Avenu).

**SHADE TREE/PARK & RECREATION-Myers**

Mr. Myers reported that the Tree removal contractor (Friendly Tree Service) has commenced this work. So far a sidewalk has been broken and a gas light damaged. Payment to the contractor will be held up until these issues are resolved.

A discussion took place regarding the need to address how a determination is made for tree removals. It appears that there are many other trees that need to be removed but were not included in this year's specifications. A suggestion was made to consider the inclusion of an alternate bid when advertising for tree removals in the future for the potential removal of additional trees. Public safety issues need to be addressed. Mr. Gunn commented that under our present Ordinance, the Shade Tree Board (Chapter

35) the Council has the authority regarding the removal of trees. Mr. Myers asked if the Shade Tree Commission is a volunteer advisory committee. Ms. Cairns Wells asked if they were a Board or a Commission. Mr. Gunn stated that we had a Commission as of 1954; however in the 70's it was changed from a Commission to a Board. Mr. Gunn further stated that even though we enacted a separate ordinance on trees in 2003, our Ordinances reflects that we are a Board. Mr. Gunn explained that a true commission has the power to enact and enforce ordinances and are truly independent. Historically, we have called them a commission, so as a practical matter it could be considered a hybrid. Ms. Cairns Wells asked if the Ordinance states Board, shouldn't we refer to them as Board members so there is no ambiguity. Mr. Smyth thought it would be good to wait and check this out because he feels that Tree City USA has very strict requirements that enable us to obtain grants for tree issues. Council concurred.

Mr. Myers reported that the Riverton Improvement Association would like to place a dog park at the park, adjacent to the creek and the railroad tracks. They would be raising funds for this. This proposed project is in the very preliminary stages. Council will be kept informed prior to any decision being reached on this proposed project.

**OLD BUSINESS**-None

**NEW BUSINESS**-None

**CORRESPONDENCE**-None

Mayor Martin asked if we would be responding to the editorial from Mr. Gwyn that appeared in a recent edition of the BCT. This pertains to the names of those veterans who served being placed on the plaque at the War Memorial. Ms. Cairns Wells asked who owns the memorial. Gunn reported that the town owns the ground but the Fire Company has the responsibility for the war memorial, including the listing of the names. Every name that appears on the memorial is referred first to the VFW for their review. Mr. Smyth reviewed the complete process. Mr. Smyth will contact Mr. Gwyn. A suggestion was also made to include the information our website.

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

Mary Longbottom, RMC  
Municipal Clerk