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August 22, 2023  
**Regular Meeting**  
7:00p.m.

**STATEMENT:**

**PUBLIC NOTICE** of this meeting pursuant to the Open Public Meetings Act has been given by the Riverton Borough Planning Board in the following manner:

Public Notice of this meeting has been given in the following manner:

- 1) Posting written notice on the official bulletin board and the door of the Borough Hall on January 30, 2023.
- 2) Having written notice published in the Burlington County Times on February 2, 2023.
- 3) Forwarding written notice for informational purposes only to the Courier Post on January 30, 2023.

This Regular Meeting of the Riverton Borough Planning Board was held on the above date at 505A Howard Street.

**Roll Call:** Mayor Cairns Wells, Ms. Hack, Councilman Wilburn, Ms. Reis, Mr. Martin, Mr. Paszkiewicz, Mr. Aird, Mr. Brandt Brandt, Chairman Threston. Mr. Della Penna and Mr. Flade were absent. Solicitor Koutsouris was in attendance via telephone.

**MINUTES:**

**Motion made by Mayor Cairns Wells and seconded by Mr. Paszkiewicz to approve the meeting minutes of the August 22, 2023 Regular Meeting with the changes noted by Mayor Cairns Wells.**

**Ayes – All members present.**

**Nays - None.**

**Abstentions – None.**

**NEW BUSINESS:**

**Ordinance 2023-05:**

Chairman Threston put Attorney Koutsouris on speaker phone to participate in the Board meeting. Chairman Threston laid out the roadmap for proceeding advising that the Board has an obligation to review Ordinance 2023-05, as introduced by Borough Council, in accordance NJAC 40-55D-26. The review is two-fold, consistency with the Master Plan and any other

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matters of concern to convey to Borough Council for consideration regarding the Ordinance. Borough Council shall review the report of the Board and shall either follow or not follow the recommendations and record the reasoning. The Board will first discuss the Ordinance and then open the matter to the members of the public that are in attendance. Chairman Threston suggested that the Board move through the Ordinance as follows:

1) The title:

- a) The use of the term advisory is concerning to Chairman Threston, given the admonishment under the recent lawsuit. The term advisory should be removed so that the title mirrors that provided by State statute. While members of the public may have concerns regarding the reach of a commission, it is a best practice adhere to the terms established by the Legislature. Mr. Brandt agreed with Chairman Threston citing the ruling in said lawsuit regarding the established lack of an HPC. Mr. Brandt further expanded that without an HPC, there is no ability to stop demolition.

Chairman Threston asked Attorney Koutsouris if it wise to recommend striking the term. Attorney Koutsouris advised that he believed it is wise given that there are other non-advisory functions performed by the HPC. Mr. Brandt asked if Attorney Koutsouris was aware if Beach Haven has ever been sued. Attorney Koutsouris advised he was not aware. Chairman Threston asked Attorney Koutsouris if the title is relative to an inconsistency with the Master Plan or it is considered other matters. Attorney Koutsouris advised that this is an opportunity to urge Council to redefine Master Plan.

2) Historic Area Designation:

- a) Chairman Threston advised that it is hard to follow and suggested that a list be established, either by block and lot or address, or both. It would be more straightforward and provide an easier ability to amend going forward. Attorney Koutsouris asked if there is a survey of the District. Mayor Cairns Wells and Chairman both advised that the map and accompanying description was established some time ago. Attorney Koutsouris advised that there should be an Exhibit attached and noted as on file.

3) Definitions:

- a) Strike the reference to Advisory as discussed.
  - b) 128-12 is the Land Use Ordinance so Chairman Threston asked Attorney Koutsouris if the definitions are consistent and if they should refer back to 128-12 rather than define in the proposed Ordinance. Mayor Cairns Wells asked Chairman Threston to clarify. Chairman Threston advised that there should be consistency. Clerk Hack advised that she would cross-reference. Attorney Koutsouris advised that the Ordinance specifically references the definitions for the purposes of this Chapter, so there should be a clear delineation and comparison. Mr. Brandt advised that he has concerns regarding various definitions, advising that individuals should be able to easily determine whether or not their properties are subject to the Ordinance, and how so. Mr. Brandt reiterated that if Borough Council follows the State's lead, the definitions would be clearly delineated.
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- 4) 128-43 – Chairman Threston circulated a draft of recommended changes to this section so that it mirrors the State statute. Mr. Brandt advised that he reviewed these revisions and supports the changes, especially how it spells out the portions of the MLUL, rather than just referencing the MLUL. Chairman Threston further stated that in his role as the Liaison to the Environmental Commission, he would strongly encourage the Mayor Cairns Wells and Council to include a member of the Planning Board as a member of the HPC for a clear line of communication, which will be beneficial to the public as well.
- 5) 128-44 – There are no comments other than the reference to the term advisory, as previously discussed. Mr. Martin noted that the definitions should be clear.
- 6) 128-46 – Chairman questioned Mayor Cairns Wells and Councilman if thought has been given to allowing the HPC to promulgate any additional rules to their rules and procedures, such as established time limits on public portion or when business is heard. Mayor Cairns Wells advised that it would be taken under consideration.
- 7) 128-46 – Mr. Brandt advised that (1) should be additionally defined. Mayor Cairns Wells advised that it is defined under demolition. Secretary Jack advised that demolition is also regulated by the State Uniform Construction Code, so the Ordinance and any actions related to said Ordinance cannot supersede State statute. Mr. Brandt recommended the removal of all exceptions and state anything other than demolition.
- 8) 128-47:
  - a. The notion of requesting higher fees was discussed. Clerk Hack advised that she believes that all fees are low, so if these are going to be raised, then all fees need to be increased across the Board so that there is consistency. Mr. Brandt agrees that the fees need to be consistent, but he believes that the escrow is too high from the start, but that ultimately depends upon whether there is an appeal process involved. There was a discussion as to what types of professionals are required and how the forty-five (45) day appeal process can impact those fees. Clerk Hack restated the need to make sure that the fees are consistent. Mayor Cairns Wells encouraged to start with the fees established, as they can always be amended. There was a discussion on the appointment of professionals for the HPC. Clerk Hack advised that the professionals are going to be appointed by the HPC, just as the Planning Board does annually, and the RFP specifies the qualifications that are required for the appointment. Chairman Threston asked as to the planned start date for the HPC. Mayor Cairns Wells advised that it would be no later than January 1<sup>st</sup> of the coming year.
  - b. It was noted that Mr. Della Penna was concerned that there were no certified professionals. Clerk Hack recommended that historic professionals be included in the RFP.
- 9) 128-48:
  - a. Mr. Brandt advised that *may* needs to be changed to *shall* in section (2).
  - b. Mr. Brandt believes that the equation is upside down in subsection (h), so the verbiage needs to be changed. Mayor Cairns Wells advised that it would be reviewed with the CFO. Attorney Koutsouris was asked if he has seen this before and he

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advised that he has not, but which is the test. Mayor Cairns Wells reiterated that she will get clarification. Mr. Brandt advised that the intent is to be fair to the residents, so establishing a ratio will give guidance. Chairman Threston advised that the concern is for clarity, but also for assigning a specific number, as there is a tendency to get stuck on that number, which begs the question as to whether a ratio should be eliminated. Mr. Brandt advised that a ratio can be valuable and was only brought up because it was upside down. Chairman asked is we should seek clarification or recommend removing. Mr. Brandt advised that it is an important topic and further illustrates the needs for professionals. Councilman Wilburn advised that he does not like the language in (h), but Mr. Brandt cautioned that if nothing is put in, there is no mean to regulate it. Chairman agreed that he is not a fan but believes financial issues should be considered. Mayor Cairns Wells asked for Mr. Brandt to put language forth for review.

- 10) 128-49 – Chairman Threston advised that there is no language regarding the time frame for the appeal. Mayor Cairns Wells asked if there is anything in the MLUL. A discussion determined that it was recommended that an appeal be filed in accordance with N.J.S.A. 40:55D-72, which provide an applicant twenty (20) days to appeal.
- 11) 128-50 – Chairman asked if there are established violations. Clerk Hack and Attorney Koutsouris advised that (4) should reference the Code chapter and/or section and that the continuing violation should absolutely be referenced.
- 12) Consistency with the Master Plan:
  - a) Chairman Brandt advised that the inconsistencies that have been outlined are damaging and, therefore, inconsistent with the Master Plan.
  - b) Chairman Threston believes that anything that is contradictory to State statute should be inconsistent with the Master Plan.
  - c) Attorney Koutsouris advised that looking at the Master Plan and subsequent Re-Examination would lend its self to updating the Master Plan to be consistent. Attorney Koutsouris read from current Historic Element portion of the Master Plan, which illustrates how the Ordinance is currently inconsistent with the Master Plan. The Solicitor for the Borough is looking for advice to update this piece of the Master Plan to that end. Mayor Cairns Wells advised that doing away with the ARC for an HPC lends to updating the Historic Element to reflect that change. These two documents would be inconsistent with each other, so should be updated to reflect consistency. Councilman Wilburn asked Attorney Koutsouris if this Ordinance is defensible. Attorney Koutsouris advised yes.

Chairman Threston opened the meeting to the public.

Mr. Prichard, 201 Fulton Street, Borough Historian, came forward and thanked everyone for the effort and seriousness with which they are approaching preservation. Mr. Prichard fully supports removal of term advisory, as discussed. Mr. Prichard believes that the Judge provided the guidance to conforming to the State statute, and there is wide support for an HPC that does that. Mr. Prichard stressed that a property-by-property inventory is fundamental to the Ordinance and

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HPC, and the Historical Society can certainly assist with that. Mr. Prichard also recommended that it be noted that the HPC did not establish the District, as it was taken from national register, which has been in place for 23 years now. This inventory also indicates whether properties are contributory or non-contributory, which essentially lends itself to establishing the properties to which demolition applies. Mr. Prichard identified a few items that he believed should be moved in the existing Ordinance, as well as provided recommendations regarding the appeal time period and ratio valuation.

Hal Feinstein, 211 Linden Avenue, came forward and stated that he appreciated the work that is being done. There is a concern that this is not addressing the current situation on Midway. Chairman Threston advised that there is a pending application so that we cannot further address that project.

**Motion made by Mayor Cairns Wells and seconded by Mr. Paszkiewicz to close the public comment.**

**Ayes – All members present.**

**Nays - None.**

**Abstentions – None.**

Chairman Threston asked for direction from Attorney Koutsouris. Attorney Koutsouris advised that the Board is fulfilling the requirements of the advice and consent role, as there has been an extensive discussion on items of concern in Ordinance 2023-05. At this point in time, the Board needs to grant authority to communicate concerns to Council. Chairman Threston advised that he could communicate with Borough Council and circulate to the Board members via email.

**Motion made by Mr. Martin and seconded by Mr. Paszkiewicz to direct Chairman Threston to deliver comments of the Board on Ordinance 2023-05 to Borough Council.**

**Ayes – All members present.**

**Nays - None.**

**Abstentions – None.**

**COMMITTEE REPORTS:**

Historic Preservation Update – No additional comment.

Ordinance Review Committee Update – No additional comment.

Council Liaison Report – Republic awarded new three-year contract, 9/20 is Food Truck Night, benches were erected and dedicated in honor of former Police Chief John Shaw, Chief Scott Reid

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and Assistant Chief Fabulous, hired a new Police Officer Ben Pascal and new Code Enforcement Officer Vincent Coniglione.

Environmental Commission Report – Councilman Wilburn advised that Historic Preservation was the main topic of discussion at present. Rain garden clean up will be this weekend.

Minor Site Plans Report – Working with Robert Yearly to get someone in here.

**PUBLIC PORTION:**

**Motion made by Mr. Brandt and seconded by Mr. Flaide to open the meeting the public comment.**

**Ayes – All members present.**

**Nays - None.**

**Abstentions – None.**

Donna Kirland 405 Midway asked about trash carts and Mayor Cairns Wells advised to call PW and Mr. Adams will come out and take a look to seen what he can do.

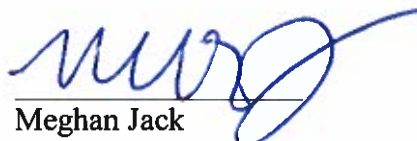
**Motion made by Mayor Cairns Wells and seconded by Mr. Paszkiewicz to close the public portion.**

**Ayes – All members present.**

**Nays - None.**

**Abstentions – None.**

**There being no further business to attend to, motion made by Mr. Aird and Mayor Cairns Wells that the meeting be adjourned, and so declared by Chairman Threston.**

  
Meghan Jack  
Secretary