

**RIVERTON BOROUGH PLANNING BOARD
MINUTES
June 21, 2005**

The Public Session of the Planning Board was called to order at 7:00 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 (arrived after roll call), Mayor Martin, Councilwoman Alls-Moffat, Robert E. Smyth, and Joseph Katella.

Also Present: Solicitor Tom Coleman, Planner Tamara Lee, and Secretary Ken Palmer

ABSENT: Anthony Dydek.

MINUTES: A motion was made by Councilwoman All-Moffat and seconded by Mayor Martin to adopt the minutes of the May 17, 2005, regular meeting as distributed. The voice vote was unanimous. A motion was made by Councilwoman All-Moffat and seconded by Mayor Martin to adopt the minutes of the June 8, 2005, special meeting with Borough Council as distributed. The voice vote was six ayes and one nay.

CORRESPONDENCE/ANNOUNCEMENTS

1. **Announcement from DVRPC, of audio seminar "Planning, Environmental, and Land Use Law" on Wednesday, June 29, 2005 in Philadelphia.**
2. **5/24/05, Copy of "Legislative Alert" bulletin from the NJLM concerning S-2133/A-3803, Education Requirements for Zoning and Planning Board Members. The League opposes the proposed implementation of the requirements if they are adopted.**
3. **5/24/05, Copy of open letter to Council, boards and officials concerning New Leaf.**
4. **5/31/05, copy of letter from County Engineer to Andrew Ott, Moccia's engineer concerning the parking lot and their concerns with it before they will grant approval.**
5. **6/1/05, copy to chair of letter to mayor from Lucy Voorhoeve, Executive Director of COAH, regarding review of the Development Fee Ordinance by the State Attorney General's office.**
6. **6/13/05, copy of memo from Mary to Council members requesting review of the current goals and objectives of the master plan for discussion at Council's July meeting.**
7. **May 2005, Copy of latest edition of the Residential Site Improvement Standards.**
8. **Four vouchers/invoices as presented under New Business.**

MINOR SITE PLAN APPLICATIONS and PRESENTATIONS

Minor Site Plan Hearing, 531 Main Street, Suite C – Lila Hart of Lila Hart, Inc. wishes to open a book store/information center. Ms. Nitya Fiorentino was present for the applicant. She was sworn in and explained the proposed business. The use is similar to the former use. Asked by Bob Smyth asked about the astrology reports and tarot card reading mentioned on the advertising in the window. Nitya replied that those services are provided for entertainment purposes only and will be on the lighter side of things appropriate for all ages. Donna was concerned that the description in the window doesn't match what was submitted on the application and the application should match what the applicant is seeking. Bob Smyth was concerned that all the planned services complied with the zoning code. Tom Ehrhardt the attorney for the applicant stated that he had reviewed the ordinance and he feels all is in compliance. Tom Coleman concurred that things appear in order. Birnie stated that the application needs to reflect what business is going to occur and that the business can't continually morph after it is opened. The applicant answered questions as to the proposed customer base, that all signs would meet approval and that the hours would be similar to the old business. Nitya stated there are no plans to physically connect the business to the adjacent business. There are no exterior changes or changes in the footprint planned and only minor interior decoration related changes planned. Handicapped access may not be an issue since there is no change of use, but there is access from the rear that does not involve steps. The applicant agreed to amend

the application to reflect the revised scope of the business. The chair stated that if the board concurs, he feels the application should be approved. Birnie felt that there should be some provision for continuity of hours. The applicant stated she doesn't feel the hours would be outside of the other businesses and probably shorter. The chair and Tom stated that if the board wishes to make contingencies then that falls outside the realm of the minor application. The application as made falls within the scope of a minor application and unless the board feels differently the chair feels it should be approved. There was no further discussion and no disagreement and the chair announced he would approve the resolution and have it given to the Code Enforcement official.

Presentation by Carol Jones on 519 Howard Street – The chair explained that Carol Jones had been invited to present to the board ideas for the property at 519 Howard Street. She elected not to come because her architect was not available. There is no application as yet and things are just in the planning stage. There was other discussion but there was nothing definite and the matter was tabled until Ms. Jones could appear.

OLD BUSINESS

Attendance Policy – Birnie raised concerns about the absence of Tony Dydek. The chair stated that Mr. Dydek had informed him he would not be able to attend and the secretary reviewed that at the April meeting Tony was ill and at the May meeting he was out of town. While recognizing the concern, the chair commented that he doesn't believe the borough has instituted an attendance policy. Councilwoman Alls-Moffat informed the board that Tony is resigning as the Code Enforcement Official effective the end of the month.

Development Fee Ordinance, Spending Plan and COAH – The chair introduced board planner Tamara Lee to review the latest developments with the board. Tamara reviewed the e-mail previously sent to the members as well as the steps taken to date including the revision of the Borough's Development Fee Ordinance and the revisions to the Spending Plan. COAH approved the development fee ordinance conditioned on the Borough revising its Spending Plan which was also done and submitted to COAH. However, COAH subsequently has changed their policy such that approvals of the development fee ordinance modifications would be granted only for towns that have petitioned COAH for third round certification before the end of the year. The date for submitting petitions is before 12/20/2005. Tamara had wind of this change and had contacted COAH. Tamara had been informed by COAH that since Riverton's ordinance had already been approved there should be no problem. Subsequently, COAH lost that decision when the Attorney General's Office informed COAH that since they have established this policy they cannot approve the Borough's ordinance unless the Borough complies with petitioning for third round approval prior to the 12/20 deadline.

Thus the Borough has two choices. They can revert to the old ordinance which only applies to one small area of the town or they can go ahead and prepare the petition. Complying with the deadline only moves up the submission by several months; since the Borough is due to submit its petition for recertification by the middle of April 2006. If the Borough commits to COAH they will submit before 12/20, COAH will not retract its approval of the Development Fee Ordinance. To do this, the board must make a decision it wants to do submit the petition by the deadline. The Board's decision needs to be passed on to Council and Council needs to pass a resolution submitted to CAOAH that the Borough will petition for recertification under third round by the deadline. Donna asked for clarification and Tamara reviewed the chronology of what she had explained. Donna asked if it was worth while trying to fight the ruling. Tamara stated that such a fight may well be a losing battle and it doesn't really buy that much time since a petition needs to be filed in April 2006 anyway. This has all been communicated to the town. COAH's letter was included in the correspondence. Tamara stated that there are only two or three towns including the Borough caught in this dilemma where they are current certified under the old rules and are close to resubmitting under the new rules. Asked by Donna for his opinion, Tom Coleman replied that while there probably is an appeal process it is probably wasting much needed time if nothing is done while an appeal is made. He is not certain an appeal is winnable. Tamara stated there is a lot of work to prepare the revised Housing and Fair Share Plan submissions. Tom concurs that he board should probably go ahead and begin the process since the two items are essential parts of the master plan and the work needs to be done anyway. The board can decide to go ahead regardless of Council's action; however, without the resolution from Council, the revised development fee ordinance cannot be approved by COAH. Birnie asked what the impact is. Tamara explained that the revised development fee allows the Borough to obtain development fees for all new development where an obligation will be generated under the new COAH standards. Once fees are collected,

COAH requires that a town provide plans on how it will spend those fees. This is why the revised spending plan was prepared. Asked by Donna if she knew the other towns, Tamara replied she did not but could find out. Donna feels the other towns should be sought out and asked how they are planning to deal with the situation. Tamara stated she wasn't sure but she felt one of the other towns may be involved in litigation and thus their actions may not be applicable. COAH has not rejected the spending plan, they haven't reviewed it. They have rejected the development fee ordinance and without a method to collect fees, the revised spending plan is moot. Tamara feels COAH is going to be really hard pressed to quickly resolve any of the submitted plans since they will be inundated with petitions, most likely arriving near the deadline. Donna wanted to know if assistance is available and Tamara and Tom stated not from COAH.

Tamara reviewed the changed process for calculating the potential obligation. Where previously, COAH told a community its obligation; now with growth share, a town must calculate its own. Using formulas provided, the town needs to generate and justify a projected obligation out to 2014. This projection is subject to review at 3, 5, and 8 years and can't be more than 10% off the original projections. It involves reviewing demolition and building permits, redevelopment plans, pending and projected site plan applications, etc. since 1996. Chris Halt asked if history is relevant since there has been negligible development in the last 10 to 15 years and the only substantial development/redevelopment is only now in the proposed stages. Tamara replied she had stated as much to COAH and their reply was in essence to give it her best shot. Birnie asked if it made sense for the town to put the brakes on everything in town and not issue any permits. She was informed that it can't be done. If a redevelopment area has been identified, it must be considered. The town probably cannot put off legitimate applications. Applications deemed legally compliant have to be heard and considered in a diligent fashion. And if there is an application with no variances required, it will by right probably go forward. Thus there is no way to make time stand still. Chris asked if there was a way to fast track things or past models to follow. Tamara stated this is new for everyone. She will follow the formulas as closely as possible. She feels the best method is to make sure the minimum requirements are met and make the submission by the deadline. In her experience it is always a give and take process no matter how good a town thinks the plan is. There are always revisions and with the number of petitions COAH is going to be reviewing, Tamara doesn't see it as a speedy process. She feels it could take up to a couple of years. Once the petition is submitted a town is safe as long as it continues to participate in the process. Bob Smyth asked how this work impacts the work the subcommittee is already doing and he feels that they just need to move things like compiling the census data to a faster track. Tamara concurred. As to the projections, Tamara stated someone, probably her, needs to go through the construction files etc. to develop the projections. Asked if a lot of this was simple number crunching or data collection, Tamara replied there is a lot of analysis that must also be done and that is why she is proposing she do the work. Not only does the data need to be properly sifted and organized the planning policies that go into the Fair Share Plan have to be done. She feels she can generate some strategies as to how the Borough can meet its Fair Share Plan and then the board debates and decides the best strategy to follow. Then Tamara develops the revised Fair Share Plan incorporating those strategies. The board approves the Housing Element and Fair Share Plan and passes it to Council. Council has to decide they endorse them and then they are submitted to COAH for review. The two elements are supposed to be adopted as part of the re-adoption of the master plan. This does not mean the master plan needs to be complete by December. Tamara recommends that the board hold back on the formal hearing and adoption of the master plan until they get at least some initial feedback from COAH; otherwise they might find themselves having to make amendments to the master plan based on COAH's review.

Donna feels that Tamara should not be doing what Donna terms clerical work and that Tamara should give the building inspector guidelines as to what information she needs and shame on him if it isn't organized such that he can readily extract it. Tamara stated she would love it if it was that simple. However, from experience she has found that the paper work that is generated for permits is not designed for COAH. Many times a careful review of the material is required to pull out the information that is applicable to COAH. The chair asked what kind of crunch the board is under. Tamara feels, given that Council needs to be able to act prior to December 20th, the research probably needs to be finished by August to allow time to develop the Housing Element and Fair Share Plans and have the board review, hold hearings, and adopt. Tamara feels the board needs to pass it Council no later than the board's November meeting so Council can act on it prior to December 20th. Donna suggested Tamara should give guidance to the building inspector as to what exactly she needs. Asked what other sources need to be tapped, Tamara stated she also would need information from the boards on applications and the county and regional (DVRPC) information. All of it must closely relate to each other. Board members encouraged

Tamara to work closely with the building inspector, the boards, the county, and regional organizations to request as much information as possible be supplied to her so Tamara can put her efforts into the analysis and development of the official documents. Members of the board stated that if they can gather the information for Tamara, they would be glad to do so. Tamara stated that if the census data and related tables can be completed that would be very helpful. The board continued to try and see if the whole process could be reduced to simply plugging information into a series of formulas supplied by Tamara. Tamara stated that COAH has mentioned that they are trying to generate some model formats and methodologies; but she doesn't think we can sit around and wait. Things need to be started sooner rather than later. Asked if he worked with any other communities in a similar situation, Tom Coleman stated he is not working with any other town that is inside of a year of recertification and none that would be helpful or similar to the Borough's case. Tom concurs that the Borough needs to get the petition submitted to safe guard the town and let the process run its course. He agrees with Tamara that he wouldn't be surprised if it takes several years before things are finally approved. Asked again about models, Tamara stated that look what happened with the development fee ordinance. That was done by the book and look where things are at. The chair asked Tamara for her recommendation on how to proceed. Tamara stated that there needs to be agreement on the board to move ahead with things. She has presented a proposal to the board. She realizes it is not in the budget; but the sooner she is permitted to start the better. Donna doesn't feel comfortable making a decision tonight since she doesn't yet understand all that needs to be done and she still feels that Tamara is proposing too much of what Donna calls clerical work for herself that possibly can be done by others. Tamara doesn't feel there is a lot of clerical work. She has to double check all the data supplied and at times that means reviewing the raw data it was extracted from. She has to personally verify the data since COAH will and she has to be able to defend the data for the town. Donna doesn't think there is enough of a breakdown of things in the proposal. The mayor asked Tom for his recommendation. Tom stated that if there is no clarification by the end of July from COAH or the State Attorney General's Office, the board needs to move forward to make sure the town is not left exposed come December. The mayor stated that a re-appropriation can be worked on by Council. Tamara thinks there is not a lot more the board can do that she hasn't already anticipated. Donna doesn't feel Tamara has provided enough scope of work for the fee she has proposed. The mayor clarified that since the board does not have the funds in its budget, if the work is to proceed, Council needs to be approached to re-appropriate the funds from elsewhere in the budget if possible. The mayor stated that perhaps the board could approve things tonight and then that would allow Council to look at the finances and hope Council could approve things in July. Asked his opinion, Tom stated he understands it is an approval based on Council coming up with the appropriation. Donna again stated she doesn't see enough breakdown of the costs to justify the proposed expenditure. She isn't questioning the fee, she just doesn't see the breakdown. The chair stated that perhaps it can be made as a not to exceed basis with all attempts made to reduce the costs where possible. Tamara stated that it is very difficult to provide an hour by hour breakdown at this point. Bob Smyth stated that there is probably not an hour for hour comparison of the work if done by others and feels a not to exceed basis is a way to go. Asked by the chair, Tamara stated her proposal is based on her hourly rate not on a percent completed basis and she could work on an hourly basis with a not to exceed limit and make all attempts to shift her costs and work where possible. However, if there are substantially more meetings than projected, they eat up time rapidly. The chair recognized Michael Heine who suggested it might be useful, with the board's attorney's concurrence, to have Tamara's work have a penalty attached if it is not completed. He feels the budget is a big issue and asked again what the downside is if the deadline is missed. Tamara explained that if a resolution is not sent to COAH that a petition will be filed by the deadline then the revised development fee ordinance has to be revoked. If that is done, any development that occurs in town outside of the area covered under the old ordinance will generate an obligation under COAH third round and the Borough will not be able to collect any fees to pay for it. Thus the burden of meeting the generated obligation will have to be satisfied without any contribution by the developer. The chair stated that the board needs to consider a motion to proceed with the petition based on a not to exceed basis contingent on Borough Council's approval of the revised budget. The mayor made a motion seconded by Councilwoman Aills-Moffat that the board agrees to develop the petition based on Tamara's proposal on a not to exceed basis of the proposed amount and contingent on Council approving the revised budget. There was no further discussion and the motion was passed unanimously by voice vote. Donna asked and Tamara agreed to find out which other towns are in a similar situation.

Reexamination of the Master Plan – The chair asked if Bob Smyth would report on the subcommittee’s progress. Before he began, Birnie requested that there be a clarification of the members of the subcommittee. She requested that Tom Coleman read the portion of the May minutes relevant to the formation of the subcommittee. He read them and agreed that the minutes reflected that Bob Smyth, Birnie O’Reilly and Joe Katella had volunteered to form the subcommittee. Tom further confirmed that a maximum of three members of the board can be on the subcommittee and can hold meetings as a subcommittee without being subject to the sunshine laws and open meetings act since no official board business can occur at such meetings with only three members present. Birnie contends the subcommittee deliberately bypassed her in favor of Muriel being on the subcommittee. Bob Smyth stated there was some confusion on his part as well as others who was actually on the subcommittee since it had also been mentioned that Muriel, as a member of Council, would have a roll on the effort. It was stated at the special meeting on June 8, when the issue was discussed then, that they would wait to resolve the issue until the minutes were distributed and that there had been no deliberate attempt to exclude Birnie. Tom stated that only three members of the board could be on the subcommittee unless they intended to notice all meetings, conduct them as formal meetings and provide minutes of the meetings. Tom stated that Muriel has to be considered as a board member. Birnie and Muriel continued to heatedly debate the presence of Birnie on the subcommittee, who excluded who and whether Birnie was a suitable candidate to be a member of the subcommittee. The chair repeatedly called for order and requested the members keep it civil. The mayor stated that given the good work by the subcommittee to date, perhaps the membership be amended. Donna made a motion that the board recognizes the subcommittee being made up of the three people who were recognized at the meeting as having volunteered to form it. Chris seconded the motion. Joe Katella stated it is important that there be representation from someone on Council familiar with the board’s work and involved with the redevelopment plan. He is willing to step aside if needed to allow Muriel to be on the subcommittee and he would continue to help wherever needed on an ad hoc basis only not participate in the subcommittee meetings. Birnie thinks Councilwoman Villari as discussed at the special meeting would be a good Council representative. The mayor asked Bob Smyth what he felt. Bob stated that no matter who is on the official subcommittee there is a ton of work to be done and the more volunteers the better. Mrs. Alls-Moffat stated she couldn’t work with Mrs. O’Reilly and left the meeting. The debate continued over who had done what to whom or if any of the work done had any value. The chair noted that a motion has been made and seconded. The question was called and Donna’s motion was approved by unanimous voice vote. Birnie asked it be noted that she considers it an illegal subcommittee. Chris Halt stated that all the recriminations aside, he feels there may have been an honest mistake and the board should move on. Bob Smyth went on to review the handout detailing the subcommittee’s efforts to date and feels the board needs to continue its work with due diligence. Bob and the board discussed who on the subcommittee or on the board were willing to take on the tasks the subcommittee has identified with Tamara’s input that needed to be done. Several members spoke up to say they will take on the tasks. Bob requested that the mayor proceed to make sure that Council completes its review of the existing goals and objectives and report on the accomplishments in their findings as soon as possible since this is a requirement of the review process. An early draft of the revised goals and objectives was distributed for board consideration. As to due dates, it was agreed that the sooner the better and that a July 15 deadline was suggested for getting the tasks done if possible. The subcommittee will attempt to have rough drafts of items available by the next board meeting. Birnie asked if Laurie Villari was going to be asked to be on the subcommittee and the mayor said he would approach her.

2005 Goals and Objectives – The chair and members agreed that the board has more than enough on its plate for this year and the topic will be dropped from the agenda.

Environmental Commission – Chris Halt reported that the setback ordinance for the creek may be being drafted by Bruce Gunn. There was a meeting over the nerve gas dilution proposed to be dumped in the river. The Borough has become a model for other towns wanting to take action on this proposal. Regarding the “blue drum” nothing has been done. The county was called, but they have not looked into it. Chris Halt went on the record that he would call the county and if no results he would contact the state DEP. The remediation of the lot where the house was demolished in Palmyra is completed. The commission is revisiting the Erin Cleaners site and seeking approval with the DEP to move up the cleanup of that site. Stormwater management remains on course with the County Freeholders involved.

Fence Ordinance Revision – Donna stated she was not sure where things were at present and asked the secretary if there was anything new. The secretary reported that a draft had been given to the zoning board members for

their “informal review and comment” to make sure zoning’s concerns have been addressed.

Redevelopment – The mayor reported that Jim Brandenburger had made an informal presentation of his ideas for the Nu-Way site with a CVS Pharmacy as the primary tenant. There was concern that CVS had been negatively received previously. There is also concern of national or regional tenants coming in and then leaving. Donna stated she has marketed the center and has some ideas that would work an anchor. However, no one has come forth to buy or redevelop the property and Jim’s presentation is the first time there seems to be a serious proposal that may move forward. The board discussed some ideas they had that might involve the existing tenants to help revitalize the property.

New Development in Cinnaminson Township – Impact on Riverton and Parking – Donna Tyson reported that she had contacted the Cinnaminson Planning Board and the development was not on the agenda for the board’s meetings this month. Donna talked about how a proposed development in Bordentown was dealt with by neighboring Fieldsboro. Concerning Light Rail parking, Donna commented that Riverside’s large lot has very little occupancy while Riverton’s is overflowing. Chris Halt wanted to know if the board can request Council move on considering restrictions on parking in the vicinity of the station as it impacts use of retail parking by rail users. He also thinks the town needs to pursue the possibility of acquiring additional parking from the River Line. There needs to be better enforcement of the use of the “drop off” spaces by all day parking.

Miscellaneous:

- Bob Smyth reported that the business being considered at 300 Broad Street by Glen and Barbara Smyth was a dead issue. Bob feels it is a shame that a potential business opportunity got caught up in all the problems surrounding the property. The secretary reported that there were also issues involved with the change of use from a grandfathered apartment to a business with an apartment over a business.
- Birnie asked about ARC activity and having it discussed at board meetings. Chris Halt is on the ARC and he briefed the board on recent activity. A report on ARC proceedings will be added as a regular old business agenda item for future board meetings.
- Chris Halt reported there was a rumor that a half way house was going into a home on Elm Avenue.
- Birnie wanted to know if there had been any effort by the town to secure a “lock” on the Borough’s standard for traffic level of service. Donna stated she would follow up with the County on the procedures involved.

NEW BUSINESS

New Leaf Letter – Donna Tyson feels the board should not ignore the letter about the flower shop at the New Leaf property even though it is unsigned and at this point unsubstantiated. She read it out loud. It was agreed that it is a Borough issue for the Code Official to pursue. It was noted that there had been no application before the planning or zoning boards. It was also stated for the record that the board is concerned about the matter. Birnie feels the board should send a letter to Council making sure they are aware of the matter. It was noted that Council had received the same letter. Birnie asked how Council would know that the board is concerned about the allegations and it was stated that the board’s concern would be a matter of record in the board’s minutes. It was commented that without first hand knowledge, the board can’t really lend credence to an unsigned letter containing unsubstantiated allegations. Birnie made a motion that Council receive a letter from the board stating that the board had received the letter and recognizes that concerns raised are valid and the board wants the matter pursued and the outcome reported back to the board. There was no second. Donna and other members stated their feelings. Donna made a motion that Council be informed the board has received the letter, that the use never came before the board for approval, that alleged possible violations should be looked into, and the board wishes to be kept apprised of the outcome. Chris Halt seconded the motion. A roll call was called for and the motion was adopted by a vote of six to one as follows:

Mr. Siefert	aye	Mrs. O’Reilly	aye	Mrs. Tyson	aye
Mr. Halt	aye	Mayor Martin	aye	Councilwoman Alls-Moffat	nay
Mr. Smyth	aye				

Vouchers and Invoices:

1. 6/27/05, Tamara Lee, \$297.50, preparation and attendance at the May meeting to explain the revised spending

plan.

2. 6/2/05, Tom Coleman, \$400.00, preparation and attendance at the May meeting and general business advice.
3. 5/31/05, Lord Worrell and Richter, \$520.95, professional services March through April 2005 concerning the Moccia application. To be paid from escrow.
4. 6/21/05, Kenny Palmer, \$30.00 for charges to have three copies of the April 29, 2005 regular meeting prepared upon a request under the Freedom of Information Act and the fee paid to the Borough.

The secretary reported that all matters concerning escrow are under control. A motion was made by Birnie O'Reilly and seconded by the mayor to pay the items as presented. Payment was approved unanimously. The secretary will have them signed and submitted.

Miscellaneous:

- The secretary informed the board that due to a personal conflict, he would not be present for the July meeting and would make arrangements with the chair.
- There was a report that Mr. Doleky had lost his lawsuit against the Borough and had been given a limited time period to make an application to the Army Corps of Engineers regarding repairs to the seawall on his riverfront property.

PUBLIC COMMENT

The meeting was opened to general public comment:

- Michael Heine, 206 Carriage House Lane, had a question concerning the Attorney General's Office rejection of COAH's approval of the Borough's development fee ordinance. He asked and was allowed to see the correspondence on the subject.
- Mark Lewis, 429 Elm Avenue, asked if the Lila Hart minor site plan application had been approved. He was informed that it had. He wonders if they will be dispensing holistic medications or herbal remedies and other "new age" things. He was informed that that would constitute a change of use since it was not discussed or listed on the application. A business cannot simply morph from its originally approved use.
- Michael Heine, suggested that the board pass a resolution requesting a legal opinion on the COAH matter by the board's counsel before the matter is passed onto Council. He is troubled by the way the whole matter has progressed, that a deadline requirement may have been missed, and he made a thinly veiled inference that perhaps Tamara had dropped the ball and a burden had not been met that should have been. Given the budget impacts, Michael feels all possible avenues of approach need to be researched and an opinion issued as to the impacts of each. He feels the Brandenburger application has a long way to go with many things to be cleaned up before it becomes a done deal. He thinks things need to be sorted out. The chair asked Tom if the matter needs to be addressed as suggested. Tom feels it may be irrelevant in that a decision at the State level has been made. Tom further stated that if the board wishes him to find out if the Borough as a whole or the board has acted the way it was supposed to act, he has no problem doing that. However, it appears from the letter that the board has an obligation to submit a petition by the December deadline or go back to the old development fee ordinance which does not allow the Borough to collect fees to help offset the obligation generated by the development. Bob Smyth asked if the board needs a resolution or can the chair just request Tom to follow up on concerns. The chair stated he wasn't sure and would like some guidance. Tom stated that he wasn't sure what Mr. Heine was getting at. If Mr. Heine feels the board or Borough should be appealing the rejection of the ordinance and do nothing until the appeal is resolved, the Borough runs the serious risk the petition will not be filed in time and the protection of the revised development fee ordinance will be lost. Tom has no problem doing what the board wants. Tom is also inclined to accept Tamara's explanation of the events and the consequences of not doing what has been directed by COAH. Mr. Heine again stated his feelings that research is need as to the legality of COAH's and or the State Attorney General's Office rulings, that the research include the possibility that the planner "screwed up," and the Borough needs to be on a sound footing before approving a \$10,000.00 expenditure that was not budgeted for. Tom stated he does not know the authoritative basis for the state level decisions and opinions and he thinks the board needs to find out that basis. Donna feels Tamara is "grading her own paper" and thinks another opinion is warranted. Asked if the research and the work on the petition were exclusive of each other, the answer is no they can go on concurrently. Tom stated he would research the matter further.

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

Meeting adjourned at 9:50 PM.

Next regular meeting is on 7/19/2005 at 7:00 PM in the Borough Hall

Tape is on file.

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