

**MINUTES FOR THE JUNE 28, 2010 WORKSHOP MEETING
HELD AT 7:00 PM
51 WEST MAIN STREET
FREEHOLD, NJ 07728**

ROLL CALL:

Present: Councilman Michael DiBenedetto, Councilman Kevin Kane, Councilman John Newman, Councilman George Schnurr, Councilwoman Sharon Shutzer and Councilman Jaye Sims.

Absent: Mayor Michael Wilson

Also present were Business Administrator Joseph B. Bellina, Borough Attorney Kerry E. Higgins, Captain Glenn Roberts and Borough Clerk Traci L. DiBenedetto.

In the absence of Mayor Wilson, Council President Sims opened the meeting the public.

2. PUBLIC COMMENTS

Dorothy Wright, 89 Barkalow Avenue, asked if the Borough was going to be holding the community yard sale this year.

Councilman DiBenedetto replied it will be held in the fall.

Jim Ballew, Jackson, New Jersey, owner of Ballew Jewelers, stated that his store recently was holding a sale and he has always counted on Forman Parking Lot for his customer parking. Recently, the lot has been full from 9:00 AM to 7:00 PM. Mr. Ballew called the police department and they said that they couldn't take care of that. They were too busy. Mr. Ballew checked on some of the cars that had been parking there and two of them worked in offices across Main Street and one worked in the club house. Some of these spots are designated 2 hour parking. Mr. Ballew stated he respects the police department; however, he doesn't want to receive the answer that they are too busy. This parking lot is important to retailers during the day. Mr. Ballew is asking the council to look into this and see why the time limits for parking are not enforced. He doesn't want to ticket people who are 15 minutes over the time limit but people coming into work and parked there for 8 hours, is unconscionable. Yes, there are greater problems then this within the Borough, but for a retailer it is a problem.

On another matter, Mr. Ballew stated he was on the planning board for 28 years, most of it as chairman. One of the things they worked very hard on was signage. The appearance of the community is also a very important aspect of marketing. We allowed for 20% of window coverage. Mr. Ballew called Borough Hall to report some businesses

that have 80% of their windows covered, which is not really attractive to someone coming into town. He was told, "We just don't have time to do that." Mr. Ballew stated he would like to think, at some point, we pay some respect to the ordinance.

Council President Sims asked Captain Roberts to follow up on the parking issue.

Captain Roberts apologized to Mr. Ballew for receiving that type of answer from the police department. He asked Mr. Ballew who he had spoken to at the department.

Mr. Ballew thought it was a dispatcher.

Captain Roberts stated that in the future to ask to speak with a supervisor and he will address the dispatchers. Captain Roberts explained that since February they have had a strong increase in their parking enforcement in all of the parking lots in the downtown area.

Mr. Ballew stated there has not been a single ticket issued in Forman Parking Lot in 6 months.

Captain Roberts stated he will address this and research all of the summonses issued.

Barbara Oliver, 71 Center Street, stated the tree was finally taken out of the yard next door to her but the yard is a mess.

On another matter, Ms. Oliver had her son go close her blinds over at 73 Center Street and while he was over there he saw someone run out of the cellar of the house next door and urinate on the side of the house. Ms. Oliver called the owner of the property and she said she would take care of it. Two days later, it happened again. Ms. Oliver has called the owner again but hasn't received a call back.

Council President Sims asked if this was a rental property.

Ms. Oliver stated it is a rental property.

On another matter, Ms. Oliver stated the corner of Main Street and Court Street smells horrible. She asked Mr. Bellina to remove the benches from that corner.

Councilman Schnurr stated there are some instances where people don't know who owns the property next door to them and that is one of the reasons why we have a web-site that lists every single landlord in the Borough, the property they own and where we can contact them.

Eileen Mars, Monroe Township, stated she owns rental properties in the Borough. She stated, as a landlord, she can't be responsible if her tenant was urinating in public. That is why we have police officers. It is illegal for someone to urinate in public. She questioned how a landlord can stop something like this.

Bob Taylor, 13 Kiawah Avenue, stated this town is the worst it has been in years regarding the landlords. Most of the landlords don't live in this town and they don't care about this town. This used to be a middle income town and right now it is a low income town. These landlords come here and even they wouldn't live next door to the houses that they own. They don't take care of the outside of the house. It is a disgrace.

Andy Kiely, Freehold Township, owns several properties in Freehold Borough. Mr. Kiely stated the following: "My family moved here in 1968 to a 2 bedroom apartment on Broad Street and I disagree with Mr. Taylor. This is a great town that has gone through a lot of changes. On a whole, this town is a wonderful place and I have chosen to invest every penny that I have in this town through my retirement. My office is in the center of town. I am not an absentee landlord. I care deeply about my buildings and the people that I rent apartments to. This gentleman doesn't know these tenants. He is taking a handful of bad situations. There were 11 overcrowding summonses issued last year and there are 2200 apartments in Freehold. I'm tired of hearing people say "absentee landlords". I do live in Freehold Township but my office is here. I live in Freehold Borough in the daytime and at night I am visiting my properties, investing serious dollars in the 19 buildings that I manage or own in this town. I bought my office in 2000. It was on the market for two years. It was falling apart. I borrowed as much as I could borrow to fix that building up. That is only commercial building that I have. All of the properties that I own or manage, I spend a lot of money upgrading them. They are nice places and I don't have the problems that this gentleman is talking about. I am tired of being stereotyped. I'm tired of being accused of being a slumlord. We have started the Freehold Landlord Association to try to improve our communication with the town officials and to establish a dialogue. We are professionals at what we do and nobody is talking to us about how we can improve this situation. Overcrowding hurts my building as well. It hurts my tenants. I've reached out to the mayor before our first meeting in October. I just wanted him to know that before we have our meeting, not to be alarmed or have any misconceptions about what we are all about. We care about this town. We want to attract better investment in this town. We want to improve our properties and improve our rental situation. The mayor called me back and we had a nice conversation and I had an open invitation to the mayor to please join us along with council and start a dialogue. After that conversation, the mayor has never called me back. That was October 14th. After that we made contact with John Newman and he was more than happy to sit down and talk with us and learn about our situation. We had a productive meeting and I thank you for spending the time with us. I then reached out to Kevin Kane, whom I've known for many years. It never formulated that we got together and I called again to ask you about it and I was disappointed when Kevin told me not to make this thing political. I was kind of alarmed by that. I assured Kevin that we were not a political organization and I could care less what political affiliation any council member may have. We are interested in establishing a dialogue with our representatives. In December, Chris LoPresti, Fernando Cabrera and I met with Joe Bellina. Joe suggested at that point coming back after the first of the year to meet with him and Kerry Higgins. After the first of the year, Charles Gormally, our attorney, Chris LoPresti and I with met Joe Bellina, Kerry Higgins and Hank Stryker. We met for about 2 hours but, to me, it

was not a productive meeting. Sometime later we all met again, which was more productive. The bottom line, the fee is still \$300/building; the naughty list is proposed to be eliminated.”

Councilman Sims stated to Mr. Kiely that there will be a public hearing on the ordinance tonight, which in that case you can address your concerns and opposition toward that ordinance.

Mr. Kiely stated: “I reached out to everyone to have a dialogue and I don’t think we have had that dialogue and to make this decision without talking to the tax payers. We are the tax payers as well. Our tenants are the tax payers. They pay rent to us and we pay taxes on all of these properties. We deserve representation. We don’t deserve to be singled out. I have been to meetings where elected officials have actually said things like we want to make it as hard as possible for landlords to do business in this town. This problem goes way beyond this ordinance as well. We have been going to Landlord Advisory meetings over and over to try to have a dialogue and make things better. We would like you all to sit down with us and address these issues.”

Teresa Meola, 46 Jerseyville Ave., Apt. 2D, stated she is a tenant and received notice that there are night time searches of rental properties. Ms. Meola stated that she has a sleep disorder and anyone is welcome to come inspect her apartment during the day by appointment. From her perspective, this would be in violation of her fourth amendment right to not have an illegal search. She stated that the apartment tenants in this town spend their money here and should be given some respect. The tenants should not have to face discrimination or higher fees based on the fact that some of them might be illegal or rowdy. Most of us are law abiding.

Charles Gormally, Attorney with Brach Eichler, LLC, represents the Freehold Landlord Association:

“I would note that I know you have for consideration on your extended agenda today the second reading of an ordinance. I would urge you that based on the fact that this dialogue really is, I consider, at its inception that you ought to re-visit this ordinance at another time. There are some changes that you made to the landlord licensing and registration, largely as a result of issues that we raised. For instance, the original ordinance contained a double penalty. If someone got a housing code violation, their registration fee went up the following year. That type of double penalty is unconstitutional and inappropriate and has now been removed from the ordinance. That is a good thing. It doesn’t solve the other problems we raised in the ordinance. For instance, for the entire period of time your current ordinance has been in effect, you have been assessing a fee not on a per owner basis which is what your ordinance says but on a per building basis. You have collected hundreds of thousands of fees improperly under your old ordinance. We have raised that to your council’s attention and in fact that change was made. So now it is clear that the fee is to be assessed on a per building basis. While we appreciate the fact that you have clarified your ordinance and corrected something that is obviously inappropriate, it doesn’t solve the problem and we raised that

issue and hopefully we will continue a dialogue on what the town plans on doing about the fact that they have collected fees improperly for many years. The real issue that we asked the town to engage in a dialogue in is that the amount of fees that you collect whether it be a per individual basis or a per building basis. The amount of fees is wholly disproportionate to the cost of this program. This program is a licensing of landlords and a registration of rental properties. I proposed, as part of these discussions, that to keep track of the landlords and to keep track of rental properties in town, most communities that have registration programs in their town charge far less than what is being charged here. Are there some communities that charge more for seasonal rentals? Sure. This is not a seasonal rental situation, most of these tenants are long term tenants and to charge \$300.00 on a per building basis is wholly disproportionate to the amount of expenses incurred. Basic municipal government 101 is that you do not collect fees for profit. You collect fees in order pay the expenses of the government you are providing. The government you are providing with a licensing and registration ordinance is to put a piece of paper in someone's file noting their registration. I've requested through OPRA and still haven't received a response from them as to what the costs to administer these programs are. All I am suggesting is that this ordinance should never make it to the public comment section. It shouldn't be put before the public at this point and I hope you take the opportunity to table it."

Dan Xavier, 52 Brinckerhoff Avenue, stated he agrees with Bob Taylor and hopes this ordinance is adopted.

Eileen Mars, Monroe Township, stated: "I particularly picked Freehold Borough because it was good community. We paid cash for two homes here so we are not some crappy landlords looking to do whatever it is that you all really feel we are. We invested all of that money with the intention to rent and thought this could be part of our retirement. We are not leaving our homes to be dumped. The point is, don't think that all landlords are bad. A lot of us have a lot of money invested in this community because we believe in this community. You guys are not believing in us. Not everybody can afford to buy a home, especially not today. People are losing their homes and need to rent. We serve a purpose so people can rent. Think about it. We are not the bad guys."

Chris LoPresti, Grande Court, Colts Neck, landlord in Freehold Borough. Mr. LoPresti asked Council President Sims to take a look at the house next to his Church and tell him that all landlords are bad. He stated the house was a dump and he can't believe that it was ever rented. He again asked Council President Sims to take a look at it and tell everyone here whether or not landlords provide a good service to this town.

Jim Ballew stated: "Both Bob Taylor and Andy Kiely have good points. We would be naïve to not realize that there are problems with absentee landlords and their less than desirable tenants. Andy is speaking to the better part of that and he spoke well and Bob is speaking to the other side of that. I was told on another occasion that we don't have time to do something that I thought should be done. We need to inspect places where there are 12 people living in a room. Do we need that in Freehold? We can't get on top of that situation?"

Ted Miller, 13 Henry Street, stated: “After listening to both sides, one thing I keep hearing from the landlords and I appreciate the word “investment”, I appreciate their investment in our community. There is also a large population of homeowners and families in this community that have an equal, if not greater investment here. I moved to Freehold Borough in 1999 and my investment was not just my home but my investment was my three boys. I am raising a family here too. I am sending them to the schools and we belong to a local house of worship. My concern is my quality of life so when I was unable to allow my children to learn how to ride a bicycle up and down the street because of the absentee landlords who didn’t have any concern for my quality of life because I saw a revolving door of people coming and going. I have to be concerned about my children. I have to be concerned who is on my street. My concern is that I don’t know who is living on my street, only the landlord knows and that can change from month to month. That is not fair to the homeowners. I am recognizing the fact that there is an overwhelming majority of landlords with good intentions, looking to make a reasonable investment. You also have to be sensitive to the fact that our council and our residents, whose investment is living here. Our livelihoods and our families are Freehold Borough. We all need to be sensitive to this and we all need to reach out to each other. Perhaps there are some landlords that will reach out to some homeowners. There are also some landlords that I know that operate under the darkness of night. Whether it is the second time they happen to have an illegal restaurant in their home, they could care less, as long as at the end of the month they get that cash. I presume we are not talking to those landlords. We are talking to the decent landlords. We hope that we can all come together as a greater community and appreciate everyone’s investment in Freehold Borough. My investment in Freehold Borough is my family, my house, the schools, my house of worship, our employees, our council and I hope everyone appreciates that and I want to thank everyone for listening.”

Marc LeVine, 79 Barkalow Avenue, stated: “I did want to share here with everyone the various perspectives that were involved which I had seen from my first service on council back in the early 1990’s and later on when I returned in 2005, as code enforcement liaison during my second stint on council and also a present member of the Rental Advisory Board. I must say that I have had more of a unique perspective by being out in a lot of these neighborhoods. The picture that we are getting at the Rental Board and through town is that the situation has changed to a large degree and that things are much more positive than they have been in quite some time due to the fact that the economy has changed. The fact of the matter is I don’t think a lot of us as residents in the town are really seeing and feeling that. I think we realize that the problems are remaining at least the same and in certain parts of town may have grown even worse. The rental body has met with the Landlord Association on a number of occasions and we have had an opportunity to hear the situation analysis and also review their complaints. There are a couple of points where we formed a little bit of an agreement with them in terms of not having their names specifically published on the Borough web-site but having their properties listed there and I think the general intent where that ordinance was created to have their names on the web-site so that us as residents could know who our neighbors are. We realize this day and age that people could be harassed, etc. and it was

something that our committee felt that we could live with. The other thing that we thought about after hearing from some tenants is possibly limiting the systematic inspections to appointments, hopefully made during the day either with the landlords or the tenants when they are available realizing that some have young children. These were really only two of the recommendations that they are making that we have agreed with. In principal, which we recommended to council liaison Newman we do not want to see the code enforcement lessen its enforcement activities because these problems still exist whole heartedly in these neighborhoods. We certainly encourage council to put this on the table and vote positively for it. It is a situation that is a difficult one but it is critical for the Borough of Freehold to continue to enforce the ordinances if we are going to have the quality of life that we think we need to have and I think we all deserve.”

Jeff Friedman, 3 Broad Street, stated he appreciates all of the work that the Rental Property Committee has done. They have been very open and there has been a wonderful dialogue there. He stated that he would comment on the ordinance during the public hearing.

Barbara Oliver, 71 Center Street, stated everyone is complaining about overcrowding but we have some of the greediest landlords in Freehold that she has ever seen. There are a lot of landlords in Freehold Borough who are over-charging their tenants for rent.

Greg Hauke, 145 South Street, stated he is a landlord in Freehold. He stated: “I agree with Mr. Ballew – there are bad residents, landlords, tenants, etc. I am wondering why the OPRA request was not answered. This is all about money. Before you proceed, I would want to know why the request was not answered and what the answer is. You need to tell me why you are assessing the landlords this kind of money. I want to see dollars and cents. Are we charging this money because we have a deficit in our budget, the court system is not enough of a profit, you don’t want to go back to the tax payer residents of the town? Is it easier to go to the landlord? Andy is about the most approachable person in this town. He has approached the council, the Rental Advisory Committee and the mayor. We want answers. I’m the same as everybody in this room. I have to work for a living and I am not asking any favors. This is a legal request, why wasn’t it answered?”

Kerry Higgins stated to Mr. Hauke that he is assuming facts that are not in evidence. There were OPRA requests that were made. There were responses that were made. Two of the responses indicated that we needed additional specific information as to what they were looking and a check to cover the copying costs. We haven’t heard the response from them.

Andy Kiely stated: “I hand out my business card to all of the neighbors around the properties that I manage and I introduce myself and let them know if there is something they don’t like, they can call me. I will answer my cell phone 24 hours a day. What I am finding, on Monmouth Avenue, I have a lot of buildings that I manage there and I have gotten a lot of phone calls from homeowners on Monmouth Avenue that have

accused certain things of going on in my properties. I take them very seriously. I actually visit the properties at night time. I have Roberto Diaz here. Roberto Diaz and his family are probably one of the nicest families I have ever met. Roberto works on Main Street in Freehold. He lives with his wife and three kids in a three bedroom apartment that I manage. He is recognizable in this town and everybody knows him. This woman told me that there is overcrowding going on in that house. I was so humiliated for Roberto and myself when I went to Roberto's house one night and banged on his door and asked to walk in and look around. After this woman called two more times for two other properties that I had on Monmouth Avenue with the same thing and after I followed up and investigated all of these accusations, I told this lady to never call me again because she is out of her mind and she hates Latinos. That is the bottom line. My card goes out to every property in the area. Anybody I see walking on the yard, I shake their hand and say I am here to improve the neighborhood. Call me if there is a problem. The money I am spending on these properties is because I care about them and I care about the people who are in them. There are a group of people who drive around this town and count bicycles. This code enforcement department is complaint driven. A code enforcement official came to a landlord advisory meeting and said that. They take complaints from people and without investigating these complaints they go out.....

Kerry Higgins stated that is not true.

Andy Kiely stated, "I am going to give you an example. Two or three weeks ago, I received a complaint about my apartment at 1 John Street – that there were illegal prayer services going on. I investigated it and my tenant told me she was getting married and they were having a little party. It turns out that these are unfounded complaints that are coming in.

Councilman Schnurr stated he had a resident ask him about this.

Kerry Higgins asked Mr. Kiely, "So we shouldn't investigate a complaint that comes in?"

Mr. Kiely stated to investigate the people who are making the complaints. There are people here who just don't like the quality of the people in this town and they are wonderful tenants. On your way home drive past 35 Monmouth Avenue. I manage 30-32 Stokes Street and directly behind that property, there is a car engine sitting in the backyard. It looks like a junkyard. This is a single family home. Code Enforcement just inspected my property April 1st and 20 feet out my back door you can't miss this junkyard that is there. The people who drive around and look at that list that is on the web-site and target us landlords. This complaint driven code enforcement is being driven by people that just don't like tenants. They are passing up single family homeowners that are violating the same thing. Mr. Kiely introduced his tenants from John Street, Angelica and Jessica, these two wonderful women are trying to make it in this world and they are accused of having prayer services in their yard.

Dorothy Wright, 89 Barkalow Avenue, stated as an Afro-American, we had to migrate out of here because we can't afford to pay the rent. I don't feel sorry for you. I really don't. I don't know of one Afro-American tenant that you have.

Chris LoPresti stated he had an application before the planning board and Lillie Hendry, an African American woman said, "This man is trying to clean up my neighborhood, my hood where I live. If anyone wants to spend money in my hood to make it better, I support it." Mr. LoPresti stated he walked out of there feeling so good because that is what it is about. Work with us because this town can't function without landlords. The properties that we buy and we manage; many of them will never be owner-occupied properties. No matter how hard you try you are not going to chase the landlord away, you work with them. They are your partner, not your enemy.

Ted Miller stated to Mr. LoPresti, "You made the comment just now that some of these homes would never be owner-occupied, that no one would want to buy a house in the Borough. I'm kind of curious why you would think that. I bought a house in the Borough that someone prior to me bought a year earlier and their intention was to flip the house. It gave me a house that was almost re-built like new and it was very affordable for me to move into the Borough. Maybe we would like to encourage some people to come in and flip homes to sell to people who want to raise their families here. It sounded like you didn't have enough faith that anyone would want to buy a house in Freehold Borough in any condition or at any price. I would like to know what that really means to you."

Kerry Higgins stated we really can't have the back and forth dialogue.

Barbara Oliver stated she owns eight buildings and she is a black woman and proud to be able to do what she did.

Fernando Cabrera, Affiliated Management, Livingston, New Jersey, has been managing Monmouth Village Apartments since 1987 stated:

"I just want to take a moment because there seems to be some misconception that the apartment buildings and the individual homeowners are two distinct animals and that is the furthest thing from the truth. All of the housing stock in Freehold is completely interlocked when it comes to the tax base. The minute you start hurting the landlords, you start hurting the homeowner. This is typical; wedges are pushed between homeowners and the individual landlords. The reality is that if you start adding to our expenses and our income continues to decrease as it has for a couple years now because we are not recession proof. Our tax assessments go down. The communities have to make up for those lower assessments and where does that come from? That comes from the private homeowner directly. It will be interesting to see what happens in this coming year or two if this 2.5% cap does get passed on because then the squeeze on municipal government will be harder than it is now. I just want to clarify that when a mayor of a municipality says that we are accountable to all of the tax payers that includes private homeowners and the landlords. One needs the other to even survive. That is just fact.

You may not like what we do. You may not like some of the people who do business in town. At the end of the day, you don't have one without the other. I sat in with Mr. Bellina and we went over all of the economics and Mr. Bellina and Ms. Higgins understand this because they have been working in conjunction with this ordinance. At the end of the day you are making a potential problem, not just for the landlord but also for the private homeowner and yourselves when it comes to creating a budget in a year or two. I surely don't assume that you know everything that goes into the day to day transactions of running apartment houses or even this industry which is one of the most regulated industries in the State and this State over regulates more than anyone in the country."

Jessica Alvarado, 1 John Street, stated almost two years ago she used to live on Institute Street and around 9:00 PM someone from the code office knocked on her door to inspect her home. There was an officer parked on the street with a spot light shining at the door. The inspector had told Ms. Alvarado that if she did not let her in, she would obtain a warrant. Ms. Alvarado was upset at the fact that the inspector came at that time with an attitude to do the inspection. Ms. Alvarado had a one and a half year old at that time who she was trying to put to bed. She felt that 9:00 PM is too late for someone to be going through her home. The way the inspector went about it was very rude and she never explained to Ms. Alvarado why she needed to be there. Ms. Alvarado watched her leave and the only homes she went to were rented by Hispanics. Ms. Alvarado stated inspections are good for the safety of the people but the timing and the way are going about it is wrong, especially within the Hispanic community.

Ted Miller, 13 Henry Street, stated some towns have adopted resolutions in support of the 2.5% cap that Mr. Cabrera mentioned earlier. Mr. Miller asked where the council stands on this.

Councilman Kane offered the following Resolution and moved its adoption, seconded by Councilwoman Shutzer:

RESOLUTION TO CLOSE PUBLIC PORTION.

On roll call Council Members DiBenedetto, Kane, Newman, Schnurr, Shutzer and Sims voted its adoption; opposed none; abstain none; absent none. Council President Sims declared the motion adopted.

3. ROUTINE TRANSACTIONS-SUPPLEMENTAL AGENDA (See Attachment I).

See the permanent minute book for the minutes and the resolution book for the attachments.

4. FREEHOLD HEALTH SCREENING FAIR – REGIONAL PERINATAL CONSORTIUM OF MONMOUTH-OCEAN COUNTIES.

5. ZONING ORDINANCE PROPOSED CHANGES.

Items 4 & 5 on the agenda were held.

Councilman Kane offered to enter into Executive Session, seconded by Councilwoman Shutzer:

6. EXECUTIVE SESSION.

A. PERSONNEL MATTERS.

B. LITIGATION.

C. CONTRACT NEGOTIATIONS.

On roll call Council Members DiBenedetto, Kane, Newman, Schnurr, Shutzer and Sims voted its adoption, opposed none, absent none, abstain none. Council President Sims declared the Resolution adopted.

7. ADJOURNMENT.

There being no further business to discuss, Councilman Kane moved to adjourn the meeting at 10:15 PM, seconded by Councilwoman Shutzer, with All in Favor.

Respectfully Submitted,

Traci L. DiBenedetto, RMC
BOROUGH OF FREEHOLD