

**MINUTES FOR THE SEPTEMBER 20, 2010 WORKSHOP MEETING  
HELD AT 7:00 PM  
51 WEST MAIN STREET  
FREEHOLD, NJ 07728**

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**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, Lt. Mark Wodell and Borough Clerk Traci L. DiBenedetto.

**2. PUBLIC COMMENTS**

Yvette Cataneo, 19 Schanck St., read the following statement:

“The Borough of Freehold zoned the area around the court house as residential, not commercial and not as a place for home offices. The reason for this is very clear. It is a residential neighborhood filled with lovely, old homes. When one looks up Court Street towards the court house, there are really only a few businesses. For some reason, there is perception of more businesses than there really are. The business office area is clearly delineated and the businesses end at Haley Street. On Monument Street there is only one law office and that was approved only because it was a large multi-unit residential rental property. When thinking about this particular area, I ask you to view it as it is, a well-defined but small residential neighborhood. The loss of one residence in this neighborhood is more amplified here than would be in other neighborhoods. Despite Mr. Stryker’s comments at the most recent hearing on the Davis application, this is a residential neighborhood. There are more residences than businesses and the residents have been engaged in a struggle to keep it residential for years.

We residents have come together to object to Mr. Raya’s law office and made significant changes to that application so much so that you can’t tell that there is an office at this location. We fought against Throckmorton grocery, the conversion of the Hepburn House and now the Davis law office. I was present for many of the proceedings for this application, including the last hearing. Some of the comments concerned the traffic but this application is about more than just the increase in traffic but about the further erosion of a small historic residential neighborhood. The historic homes help make this a true neighborhood.

Aside from living in close proximity to each other, we neighbors have a common bond, we have worked hard to keep this area residential but to ensure that our homes

maintain a certain historic character. My fear is that this decision will only serve to force the residents to sell their properties. Between the Ramos house, the Davis application and the other trials and tribulations that have recently met us, I have heard several residents express a desire to move. The Davis application is perhaps the last straw for some. It certainly is a slippery slope. Past poor decisions permitting offices were used as a premise for this current decision. This decision will no doubt be the basis for future decisions to convert the two "for sale" properties on Monument Street or to convert the Ramos house. A domino effect will result and no doubt it will continue to fall onto Schanck Street where a house a couple of doors from the court house has been "for sale". We live on Schanck Street. Our property is not only a home but also an investment in a residential neighborhood. We moved to this area because it has the mix of history and community but hearing the frustrations of neighbors that have expressed feelings that they now want to move in light of all of the recent events, I have to ask myself, would I have made the same commitment today in light of the erosion of this neighborhood. I might not.

Lastly, the Davis decision is not only a detriment to this neighborhood affecting the character of the area but also a detriment to the community at large. Near by there are empty offices on Broad Street, Main Street and a huge office structure on South Street. The impact of this decision is negative across the board for the local neighborhood and for the greater community. I, therefore, ask the mayor and council to take action against this decision to preserve our neighborhood and bring you our commitment to this town.

Mark Kalmis, 56 Court Street, stated he is also here to ask the council to help the residents protect the neighborhood on Court and Monument Streets. He stated that when he sat and listened to the vote be taken again, he heard a lot of negatives that were clearly laid out by Kevin Mulligan. There were no positives from what I heard in the entire voting process. Some of the negatives were an abundance of available vacant commercial space that was clearly documented during the two year process. The area is zoned residential and the resident's desires for the area clearly communicated this requirement and its meanings and the reference to the Master Plan and discussions surrounding the Master Plan. What are the positives? One member of the board felt that this residential zone is really a quasi-commercial zone where a residence can be converted to commercial downstairs and apartment upstairs. Mr. Kalmis doesn't believe he heard any positives to the neighborhood or the town. The amount of vacant, for sale and for lease commercial spaces has clearly been documented and all you have to do is take a walk around town to see it. Mr. Kalmis asked if the town wants to attract new residents and families or do we want to take the remaining residential homes and turn them into 9 to 5 operations that are vacant at night.

Al Michenfelder, 30 Jackson Street, thanked Mr. Bellina and the Public Works Department for cleaning up over at the park across from the Rug Mill. Mr. Michenfelder announced that he will be a volunteer of a scout troop over at the YMCA. He stated they are looking for one parent and four boys from 10 to 15. They will be meeting on Tuesdays at 5:00 PM.

Barbara Oliver, 71 Center Street, suggested having a microphone up front for the public comments so people in the audience can also hear the comments.

Mike Burt, Freehold Fire Department, stated he has been going around getting signatures for the fire district. They have hit over 2,000 homes and have gotten over 800 signatures. He stated that he is shocked at the amount of residences the Borough has that illegal's are living in. Mr. Burt stated mayor and council need to take a look at these single family homes. He stated he can now understand why the First Aid Squad is not getting any donations or volunteers with the amount of illegal's living in single family homes. This year the fire department tried to find "new ways" of doing business by fundraisers and mailings. He stated that he feels that the First Aid Squad may be done in 5 years and they will be looking at a paid squad and also looking at a paid fire department. It is scary out there and he stated mayor and council need to take a good look at what is going on.

Debbie Esola, 3 Monument Street, stated she wanted to echo the sentiments of the other residents from the Monument and Court Street neighborhood. She was extremely disappointed in the approval of the Davis application. This is a really unique neighborhood and one small change can affect it greatly. Ms. Esola asked mayor and council to help the residents protect this very special, unique neighborhood.

Kevin Coyne, 54 Broadway, stated that each time an application has come up, as Borough Historian, he has led his support in opposition to it. Your will is very clear. The ordinance is extremely clear. Mr. Coyne stated he is a former chairman of the zoning board. The bar is very high for a variance. A variance goes with the property not with the owner. Mr. Coyne stated mayor and council need to re-examine whether those standards were truly met in this case because Freehold Borough is unique in that we retain a residential neighborhood at the heart of our historic center.

Tom Baldwin, 3 Vought Avenue, stated the street sweeper has not been through his neighborhood all summer. Vought Avenue, Bowne Avenue and Bannard Street are in deplorable condition. Mr. Baldwin stated the sidewalks on Bannard between Vought and Bowne Avenue are in horrible condition. About 10 years ago, Mr. Baldwin was cited for cracks in his sidewalk that he had to fix within two weeks. Mr. Baldwin asked Mr. Bellina to look into this. Mr. Baldwin thanked Councilman Newman for sending him an e-mail on tonight's meeting.

Muriel Smith, 21 Monument Street, stated she is one of the neighbors affected by the Davis application. Ms. Smith asked what the next procedure would be.

Kerry Higgins, Borough Attorney, stated the planning board is a separate entity. The council has no jurisdiction over the planning board. The decision of the planning board can be appealed by anybody including the council, who has already authorized her to do that.

Ms. Smith asked to whom mayor and council would appeal.

Ms. Higgins replied it would be appealed to the Superior Court. The Superior Court remanded this back to the planning board to clarify certain statements.

Ms. Smith asked if the planning board meetings were recorded.

Ms. Higgins replied that they were recorded.

Ms. Smith suggested mayor and council listen to those tapes. The contents and the conversations were very interesting.

Ms. Higgins stated the transcripts will be printed out.

Ms. Smith stated that Ms. Cataneo made a point that this is a “slippery slope”. Ms. Smith stated she has already had two people in the neighborhood say to her, “Oh, good this one has been approved. Now I can put in for it and I can sell my house because I can have a professional living here.”

Ms. Higgins explained every case is fact sensitive. Theoretically, other than on the legal issues, there is no such thing as a precedent on the factual issues. Every case stands by itself in terms of what the facts are. The legal issues are a different story. There is precedence for that. Every application is a brand new application.

Ms. Smith stated that she has noticed at planning board meetings that people frequently do bring up things that have happened before.

Councilwoman Shutzer stated the decision will be appealed.

Al Michenfelder, 30 Jackson Street, stated there is a Volunteer Fair on September 25 in the Hall of Records Parking Lot. The Racers Club will have a table set up there. Mr. Michenfelder encouraged people to attend and volunteer.

Tom Baldwin, 3 Vought Avenue, asked if the planning board originally turned the Davis application down; how can they turn around and approve it.

Councilman Newman stated that Ms. Davis changed her application. That is why it was able to be voted on differently.

Ms. Higgins stated it was remanded for certain issues.

Gregory Goldman, 19 Schanck Street, commended the council for considering this appeal and he is in full support of it.

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

## 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. CERT PROGRAM.**

Council President Sims stated Item Number 4 will be put on hold for this evening.

### **5. SIGN REVIEWS – HISTORIC PRESERVATION COMMITTEE.**

Councilman Newman stated he is the liaison for the Historic Preservation Committee and recently there has been an issue with the committee regarding signs. Councilman Newman stated his review of the Historic Preservation Committee ordinance says that the Historic Preservation Committee has review of anything that occurs to the exterior of a building. The committee feels that they have been overlooked on some of the applications. They made a resolution so that they could review the signs in town. The Master Plan in 1980 wanted to have a downtown that had a colonial feel. In 2005, council was considering a Vision Study and having the downtown look attractive. There was already a sign ordinance in place but the Vision Study went and looked at how the downtown would look with signs, awnings, etc. The Historic Preservation Committee has looked at that and they started applying that to a couple of applications they have gotten. The committee wants to have more of a say in what's happening with the signs.

Kevin Coyne, Borough Historian, member of the Historic Preservation Committee, stated the spur for this committee was the Bartleson Mansion, which was bulldozed to make way for a vacant office building. When this committee was formed, the town showed that there is a genuine interest in preserving the historic look of our town. The council does have a tool in this committee to shape how you want the town to look. The committee does not have control over anything outside of the district. The sign ordinance poses many questions and it may be a job much more appropriate for the committee. Mr. Coyne stated that the Borough is at a real transition point in the town if you take a look at the facades that are here today vs. the facades that were here ten years ago. The committee is asking to help you.

Dave Loring, 106 Broad Street, member of the Historic Preservation Committee, stated he recently went through the sign ordinance. It is a very well written document. It gives the applicants putting in for signs good direction of what you decided that we wanted. The town would probably agree that if we followed this, that is the look that we

want. The committee would like to help and if we followed this ordinance, the town would have a vision that the mayor and council set out for in the ordinance.

Jeff Friedman, member of the Historic Preservation Committee, presented the council with pictures of conforming and non-conforming signs, awnings and store fronts. Mr. Friedman showed what was improper according to the Redevelopment Ordinance today.

Councilman Newman explained they are not going to ask businesses to change their signs, awnings or facades. This is about moving forward.

Councilman Schnurr asked if the Historic Preservation Committee wants to decide this.

Mr. Friedman stated they would like to decide this based on the ordinance.

Kerry Higgins stated she has met with Mr. Bellina and Mr. Stryker. They have set up a meeting with the planner to come in and meet with us because there are some conflicts and grey areas between the different ordinances that we have. We would like to involve a representative from the Historic Preservation Committee so that we can make sure we have the proper set of rules so businesses will know what they have to do. Ms. Higgins stated one of the areas that is a problem are the applications that don't need to go before the board such as building permits. How are we going to get them to Historic Preservation to review in a timely fashion? By law, the building department has to issue a building permit within twenty days.

Kevin Coyne suggested that Councilman Newman and one other member of the Historic Preservation Committee be present at the meeting. Mr. Coyne encouraged everyone who attends that meeting to read the Vision Study.

Dave Loring explained this will just be in the downtown and we don't want to make this a financial burden for anyone. The town could really benefit from this and the Historic Preservation Committee wants to help.

Kerry Higgins stated the Redevelopment, Historic Preservation and Sign Ordinances will need to be reviewed.

Councilman Newman stated that we already have the tools there. We have the old sign ordinance which is superseded with a conflict by the Vision Study. The town did the right thing with the Vision Study because part of that was to incorporate a historical aspect to the downtown.

Ms. Higgins stated that, legally, sign permits can't be issued by the committee. The building department still actually has to be the one who approves it and issues the permits.

Barbara Wagner, Historic Preservation Committee, stated she has brought in many building permits over the years and if something is missing it is kicked back and the twenty days doesn't start until everything is correct.

Ms. Higgins explained that as long as they meet the requirements for building permit applications that the State sets forth than it is complete. We have to issue the permit within twenty days.

Councilman Newman gave an example of the Historic Preservation Committee denying the application within the twenty day period and Mr. Stryker "stamps" denied on it. There would be no problem.

Ms. Higgins stated that is correct but it would have to be denied for not meeting the requirements.

Councilman Newman stated the committee has really gone over the Vision Study and the sign ordinance and there is one side of Main Street that is non-conforming.

Richard Gatto, director of the Freehold Center Partnership, stated there are two issues here: one being what do you do when you have a new application come in and what do you do with the existing businesses there now. We have been working very closely with Mr. Stryker over the past six months on all of the signage in the downtown area, including Throckmorton and South Streets. We went store to store and I did a cover letter with an attachment of the actual ordinance. Mr. Gatto stated he has been working on a project with a business owner at an extremely prominent corner in the downtown area. This will be a very aesthetically pleasing retro-fit to a major corner. We are trying to figure out a way to enhance that further and to bring it in as one package. That might be the catalyst to spur the change on one side of Main Street.

Councilman Kane stated everyone is the on the same page as far as what we want to see in the downtown.

Councilman Newman stated after talking with Mr. Gatto, it was his understanding that a good number of the signs he was talking about were the window signs that block up more than the percentage.

Mr. Gatto stated what he was just referring to was going to be a façade change. Window coverage is a big part of this. It is not a separate issue. There are a number of businesses that have 90% coverage.

Jeff Friedman stated the window coverage was not part of their presentation because they are guided by the Historic Preservation Committee Ordinance which are changes that affect the permanent exterior of the outside.

Councilman Newman stated that is a code enforcement issue.

## **6. HOMEOWNER INCENTIVE/RENTAL PROPERTY CONVERSION.**

Councilman Newman read the following:

“The falling prices in the housing market and the mortgage foreclosure crises are creating a perfect opportunity for buying in Freehold. Perfect for homebuyers and perfect for those looking to convert distressed properties to additional rental units. Residents of Freehold Borough are trying to preserve their single family residential neighborhoods. Homeowners who otherwise like their street are distressed by the presence of rental properties which has not diminished despite these tough economic times. Often, residents of rental properties fail to take a stake in their neighborhood due to the transient nature of rentals. This has caused numerous quality of life problems in Freehold Borough over the past ten years which council has discussed a lot in the last year. My conversion incentive program is intended to bring balance back to neighborhoods where increasing rentals have created problems of overcrowding, noise complaints, property maintenance issues and other quality of life issues. Meanwhile, it was intended to preserve affordable housing stock so that people of low to moderate income, often the same people who rent, can have a shot at buying their own homes. We want everyone to have a chance at home ownership to have the advantages of home ownership, whether it is an income tax deduction for mortgage interest, equity in a home, additional interest and pride in the community or just breaking the rental cycle. Make no mistake this is also intended to provide an additional incentive to all potential buyers in Freehold regardless of income to convert rental properties back to home owner occupied properties.

What I am proposing is a second part of the approach to controlling the rental housing stock in the Borough. The first step was already taken by council, the licensing of rental properties to ensure the safety of tenants and their neighbors. Among other things, the ultimate goal of licensing is to ultimately promote screening of tenants by landlords to communication of Borough expectations to both landlords and tenants and to promote quality management of those properties resulting in a better quality of life for the entire community. In addition to this, the rental property advisory committee must continue to promote training and informational sessions to both landlords and tenants as well as communicate any changes of the law to those affected. I’ve worked with members of the rental property advisory committee to formulate a landlord/tenant complaint form and procedure to work out differences between the two parties. Better communication and understanding between landlords and tenants in an amicable setting will also hopefully increase the quality of life for our community.

My proposed second step which is to be discussed now is to convert rental units back to single family, owner occupied residences/redevelopment projects. This community has expressed a strong desire to limit single family rentals and multiple unit rentals. This can be done through a conversion grant and/or a tax abatement program. Through this plan the Borough will stabilize stronger neighborhoods. It will reduce the rental stock and therefore stabilize the rental industry, create a higher demand for landlords and hopefully improve the quality of the rental units in the Borough. At the same time it will promote home ownership and the benefits thereof.

In order to qualify, a person who wants to buy a house and convert it must meet the following criteria:

- the exterior of the building and all core systems must be brought up to code
- the conversion must eliminate all apartments of record
- extra kitchens and fire escapes must be removed
- public spaces must be brought back to their original configuration
- extra utility service must be disconnected and meters removed
- property must remain owner occupied for at least five years following the conversion process
- property owner must not be delinquent on taxes for the property
- grant funds can only be used towards purchase of the property and the funds would be paid at the time of settlement
- if at any time during the five year period, the property is not owner occupied, the entire original grant amount shall become due, applicants must sign a contract to that at settlement
- upon disbursement of grant funds, a lien will be placed on the property for a period of five years to protect the Borough
- applicants must maintain appropriate homeowner's insurance on the property at all times considering the Borough has a lien and naming the Borough as an additional insured
- conversions of rental units into condo units is not part of the program

There are two parts of the program that I am proposing; one being a grant program to provide incentive to the persons of a rental property to convert it to a single family ownership. The property being converted to an owner occupied family use must have been used exclusively as a rental property for at least three years immediately prior to the conversion. The buyer must be converting the property to an owner occupied family residence and the buyer must intend to occupy the home within a year of the closing date. I propose a grant of up to \$7500.00, after the fifth year the agreement would be terminated and the grant would be forgiven.

The second part of this is a tax abatement program. Using the same set of guidelines, people would have to prove that the conversion was a rental property for three consecutive years previously and again convert it to an owner occupied family residence. The buyer intends to live in the home within a year of closing. The Borough property taxes for the first year would be abated in whole then gradually phased in over a period of three years. Another concept on this would be a deed restriction afterwards. I don't know if that would fly. Once we grant money, give an abatement on taxes for the conversion of a rental unit to deed restrict that property to no longer be able to go back to a rental unit. Obviously, we have a situation in town that council has felt very strongly about. We have had people come to these meetings and it has gotten a little bit heated about the rental housing stock in town. I think a program like this would help neighborhoods in the community to ease the burden of those rental units and at the same time if I was a landlord in town, I wouldn't be too unhappy about this either. I would think it would increase the value of my property as a rental. The number of multi-family units is about 1/5 of the Borough properties so there would have to be some sort of limitations on how many places can apply for this."

Council President Sims stated the Borough already has a tax abatement program.

Mr. Bellina explained that covers improvements to the actual property.

Council President Sims questioned the grant money.

Councilman Newman stated if a house were to have a few apartments in it they will have to convert some of these back to single family residences. That would obviously cost money and this would be an extra incentive for someone who is going to do that.

Councilwoman Shutzer asked where the money was going to come from.

Councilman Newman replied it would come from the tax base.

Councilman Schnurr suggested discussing this at a Finance Committee meeting.

Councilwoman Shutzer stated it looks and sounds wonderful but she does not feel comfortable discussing it until there are some financial considerations.

Mr. Bellina stated we would have to look into the legal aspect of this and then talk about the financial aspects. With the 2% cap now there is very little margin for error.

Councilman Newman questioned if there is anyone who objects to the idea.

Councilwoman Shutzer stated she needs to see what the numbers are.

Councilman Kane stated it falls in line with the Live Where You Work Program. The whole thing is trying to attract young families into town.

Kerry Higgins explained that powers of a municipality are set forth and delineated by the Constitution and then by statute so you are limited by what you can and can not do by statute. Ms. Higgins stated she should go over some of that with council before they go too far into this.

## **7. RECYCLING GRANT UPDATE. (SEE ATTACHMENT IV.)**

Mr. Bellina stated he received notice that the Borough will be receiving a substantial sum of money towards recycling buckets. Mr. Bellina stated that when you provide these big buckets as opposed to the little black containers that will be a huge reminder to the residents to recycle. They are looking for the Borough to purchase 1/5 of the buckets.

Councilman DiBenedetto questioned how they came up 6200 containers.

Mr. Bellina stated they used our garbage formulas but we will need to get a more precise number as it gets closer.

Council President Sims called upon members of council for their comments.

Councilman Schnurr thanked all of the participants from the Housing Fair that was held at Park Avenue School. The key note speaker was Ed Collins from the New Jersey Housing and Mortgage Finance Agency. He was the gentleman that helped us with the Live Where You Work Program. Councilman Schnurr also thanked Park Avenue School. Councilman Schnurr stated the Memorial Day Parade Committee will be holding a fundraiser on Tuesday, September 28<sup>th</sup> at The Cabin where the parade committee will receive 20% of the pre-tax bill. Councilman Schnurr stated that he is the council liaison to the Planning Board and the decision that was made in the Veronica Davis case was as much of a surprise to him as many of the residents. He stated that he was not allowed at the meeting because a lot of those Class D variances can come before the council. Councilman Schnurr stated all committees should be agents of the public and he is in full support of the proposal from the Historic Preservation Committee.

Councilman Newman thanked Al Michenfelder for his idea at the last council meeting to post the list of committees and volunteer opportunities at the Library. The Library will be showing a movie of Ken Burn's first part of the series on the Civil War on September 22<sup>nd</sup>.

Councilwoman Shutzer announced that flu shots are being offered on Tuesday, October 19<sup>th</sup> from 2:00 PM to 3:00 PM for residents of the Borough. The cost will be \$20.00 for residents 18 yrs. and older. Senior Citizens will be free when they show their Medicare card. The Borough bus will be available for seniors. Councilwoman Shutzer announced that on September 25<sup>th</sup> at the Freehold Borough Police Station there will be a collection of any unused, outdated or unwanted over the counter or prescription drugs. It will be held from 10:00 AM to 2:00 PM. Councilwoman Shutzer stated that she agrees with Mr. Burt on the issue of overcrowding. Councilwoman Shutzer stated the council will be appealing the Veronica Davis application.

Councilman Kane congratulated Councilman Schnurr on the success of the Housing Fair. Councilman Kane announced that this Saturday, September 25<sup>th</sup> will be the Volunteer Fair in the Hall of Records Parking Lot. He stated, as far as the Historic Preservation Committee proposal, we all want the same result and we are all on the same page. We will just need to work on the mechanics of it. In regards to Councilman Newman's proposal, Councilman Kane stated we have talked for a long time about converting rental properties back to single family homes. We will do whatever we can to have young families come in and raise their children. We just need to take a look at the financial aspect.

Councilman DiBenedetto offered his condolences to the Wodell family. Councilman DiBenedetto congratulated Councilman Schnurr on the Housing Fair and is looking forward to seeing the numbers regarding Councilman Newman's idea. Councilman DiBenedetto thanked the Historic Preservation Committee for their presentation.

Council President Sims commended the police department, road department and fire department for the job that they did with the storm that recently came through town. Council President Sims also announced the Volunteer Fair and stated in the event of rain, it will be held at the Park Avenue School. Council President Sims also congratulated Councilman Schnurr on the Housing Fair.

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

**8. EXECUTIVE SESSION.**

**A. PERSONNEL MATTERS.**

**B. LITIGATION.**

**C. CONTRACT NEGOTIATIONS.**

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

**9. ADJOURNMENT.**

There being no further business to discuss, Councilman Kane moved to adjourn the meeting at 9:15 PM, seconded by Councilwoman Shutzer, with All in Favor.

Respectfully Submitted,

Traci L. DiBenedetto, RMC  
BOROUGH OF FREEHOLD