



TOWN OF CLINTON

INCORPORATED APRIL 5, 1865

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PLANNING BOARD

Minutes of the Town of Clinton Planning Board held on September 1, 2009 at 7:30pm in the Municipal Building at 43 Leigh Street Clinton, New Jersey 08809

Chairman Gallagher called the meeting to order at 7:30pm and read the "Administrative Statement" and the "Statement of Adequate Notice":

"Meetings are held on the first Tuesday of each month. Applications must be filed at least 21 days prior to the meeting date. In order to ensure that all applications receive complete and thorough consideration of the board, all meetings will adjourn no later than 10:30pm with all items not concluded to be carried over to next month's agenda".

"Adequate notice of this meeting has been provided indicating the time and place of the meeting with the proposed agenda, which notice was posted, made available to the newspapers and filed with the clerk of the Town of Clinton in accordance with Section 3(d) of the Public Laws of 1975".

ROLL CALL:

Present: Baka, Gallagher, Insel, Maher, Rogan, Trepkau

Absent: Hendricksen, McGuire

Attorney William Caldwell, was present.

Approval of Minutes:

A Motion was made by Mrs. Insel, seconded by Mr. Baka, to approve the August 4, 2009:

All Ayes. Motion Carried.

Abstain: Trepkau

Memorialization of Resolution –extension on Final Site Approval- Block 18 Lot 5- Z&F LLC:

A Motion was made by Mr. Baka, seconded by Mrs. Insel, to approve the Resolution for Block18 Lot 5:

Roll Call Vote:

Ayes: Baka, Insel, Gallagher, Maher, Rogan

Nays:

All Ayes.

Motion Carried

Final Site Plan – Latino- Block 23 Lot 6

The board received a letter from Attorney Wilson requesting an extension from the board on the period of time in which to act on the Final Site Plan until November 2009:

A Motion was made by Mr. Rogan, seconded by Mr. Baka, to approve the extension request and carry the Final Site Plan Application until November 2009.

All Ayes.

Motion Carried.

Discussion on Town of Clinton Flood and Analysis of Water Marks:

The discussion will be carried to the October 2009 meeting.

Sign Ordinance Review:

Mr. Maher advised the board the Master Plan Committee met and discussed the three recent changes to the sign ordinance the Committee has some further questions and suggestions, which are outlined in a memo dated August 31, 2009.

The first change relates to Billboards and the Master Plan has no issues with the changes.

The second change relates to “Free Expression” signs and the question arose if it is possible to limit these signs in regard to how many a year, time period the signs can be displayed or if any perimeters can be established for “Free Expression” signs.

The third change relates to enforcement and appeals and it is unclear as to why this section was changed to eliminate penalty fees. The Code Enforcement Officer advised the Committee that he is not allowed to go on private property and remove signs, if the ordinance eliminates the potential of a fine how does one enforce the ordinance. Attorney Caldwell commented that it is unusual not to have fines associated with violations of the ordinance and he would suggest the Planning Board recommend a monetary penalty, which exists under the current ordinance. In addition, Mr. Maher suggested that the enforcement procedures used by Mr. Daniels be included in the ordinance.

The board discussed the “Free Expression “ signs and what is considered a commercial and non-commercial message. Attorney Caldwell stated it is impossible to list every definition of what is allowed and not allowed under an ordinance and he would suggest the “Free Expression” signs be limited to size, setbacks and length of display. The Board seemed to be in agreement with putting some perimeters on “Free-Expression” signs but recommended Mr. Cushing’s office look into the legality of limiting “Free Expression” Signs. Mr. Maher advised the board that there are other issues that Mr. Daniels has raised that will need to be addressed in the future.

A Motion was made by Mr. Maher, seconded by Mr. Baka, to open the meeting to the public:

All Ayes. Motion Carried.

Mr. Dan Shea, commented freedom of expression can be regulated such as when you have public forums such as protests, rallies, perimeters are put in place to regulate this activity which may be used to regulate “Free- Expression” signs. In regard to enforcement Mr. Shea stated that some language change is needed in the ordinance on how enforcement is handled and he believes after written notice has gone out the Code Enforcement Officer can enter the property to remove the sign. Mr. Maher questioned the board if they thought fines were more appropriate. Attorney Caldwell suggested the Code Officer not enter private property that the violation be documented in writing and if not removed than followed up with a summons.

Mrs. Wetherill, West Main Street, inquired if the current ordinance was reviewed by an attorney before going into effect and would strongly recommend once the proposed ordinance is completed it should be formally reviewed by legal council.

Mr. Walter Hetzel, Main Street, stated that there are inconsistencies with regard to enforcement and clear direction should be given to the Code Enforcement Officer.

Mr. Peter Sandrian, Old Highway 22, commented that religious entities need the ability to advertise events and inquired if there should be an exception for churches. Mr. Baka stated the Committee is in receipt of a letter regarding recommendation of church signs, which will be addressed in the future by the Committee.

There being no further questions a Motion was made by Mrs. Insel, seconded by Mr. Rogan, to close the

meeting to the public:

All Ayes. Motion Carried.

Chairman Gallagher suggested the board move forward with recommendations to the Mayor & Council based upon the issues outlined in the memo from Master Plan Committee.

A Motion was made by Mr. Rogan, seconded by Mrs. Insel, to recommend the Mayor & Council proceed with the proposed sign ordinance as outlined in the Master Plan Memo dated August 31, 2009 and recommend council have further discussion with legal council in regard to "Free Expression" signs and the Enforcement/ Appeals section as outlined in the Master Plan memo dated August 31, 2009.

Roll Call Vote:

Ayes: Baka, Gallagher, Insel, Maher, Rogan, Trepkau

Nays:

All Ayes. Motion Carried.

Mr. Rogan and the Board thanked Mr. Maher for all his effort he has put into working on the proposed signs issues.

Highlands / COAH Extension Discussion:

Chairman Gallagher advised the board the memo regarding the COAH extension to June 8, 2010 only applies to municipalities that have opted into the Highlands Master Plan by December 8, 2009. Mrs. Insel advised the board that on September 22, 2009 the Town Council will hold a public meeting presentation on all the new information received as it relates to the Highlands and the COAH numbers.

Mr. Baka advised the board of a recent court decision made by a South Jersey Appellate Court ruling a builder could go ahead and build low cost housing even though the Town had in place a COAH approved plan. Attorney Caldwell stated he read about the case and stated it was a case that involved a denial from the BOA because the builder wanted to build low income housing on an undersized lot. The Appellate Court reversed the BOA decision under the reasoning low income housing is an inherently beneficial use, which the builder satisfied under the criteria of the MLUL 44-55 D-70d. Mr. Maher inquired if the Town would receive additional protection against a suit if the Town opted into the Highlands; Attorney Caldwell responded he was unsure if Highlands would give any additional protection.

Chairman Gallagher asked the board to look at the planning issues within the Town of Clinton and that the Planning Board has the ability at this time to create our own Master Plan that best serves our Town. If you opt into the Highlands it does offer some benefits but along with that comes restrictions the board needs to look at both sides. He urged the board members to ask questions from the professionals at the September 22, 2009 meeting. Mrs. Insel stated Mr. Cushing will be present at the meeting to answer any legal questions, which his expenses will be paid for by grant money. Mr. Maher commented that he would like the planner to be prepared to present information on the limitations the Town has if we do opt in. Mr. Rogan suggested it would be helpful if at the meeting someone from the Highlands Council were present to answer questions.

Committee Updates:

BOA Update- Mr. Trepkau advised the board the BOA approved a sign variance for Anthony Shallo.

Smart Growth Update- Mrs. Insel stated that presently the Smart Growth is waiting to see if the Town will proceed with the Highlands so if it would help out the Master Plan Committee they have available time to help out.

Voucher Approval:

A Motion was made by Mr. Maher, seconded by Mr. Rogan, to approve the attached voucher list:

All Ayes. Motion Carried.

Board Discussion:

Chairman Gallagher advised the board that Mr. Paul has moved out of Clinton and therefore resigned from the Planning Board.

Executive Session:

A Motion was made by Mr. Maher, seconded by Mrs. Insel, to enter into Executive session at 9:20pm to discuss pending litigation; no formal action will be taken:

Roll Call Vote:

Ayes: Baka, Gallagher, Insel, Maher, Rogan, Trepkau

Nays:

All Ayes.

Motion Carried.

The Planning Board returned to its regular meeting at 9:25pm.

There being no further business a Motion was made by Mr. Baka, seconded by Mr. Rogan, to adjourn the meeting at 9:25pm:

All Ayes.

Motion Carried.

Respectfully Submitted,

Allison Witt
Land Use Administrator