

The Special Meeting of the Township Council of the Township of Franklin, County of Somerset, New Jersey was called to order by the Mayor at 7:10 p.m.

Mayor Levine read the following statement: "In accordance with Section 5 of the Open Public Meetings Act, Chapter 231, Public Law 1975, be advised that adequate notice of this Special Meeting of the Township Council of the Township of Franklin, County of Somerset was made by the posting on the bulletin board at the Municipal Complex and transmitted to the officially designated newspapers, indicating that this Special Meeting would take place at the Franklin Township Municipal Complex at 7:00 p.m. on April 1, 2008. In addition, a copy of this notice is and has been available to the public and is on file in the Office of the Municipal Clerk."

The Deputy Township Clerk called the roll.

Present: Ms. Daniel, Ms. Eberle, Mr. Glicklich, Ms. Francois, Mayor Levine, Mr. Mettler (arrived at 7:25 pm), Mr. Prasad, Mr. Sumter. Deputy Mayor Vassanella

Also Present: Kenneth W. Daly, Township Manager, Leslie G. London, Esq., Township Attorney, Virginia M. Woodbury, Deputy Township Clerk

PRESENTATION/DISCUSSION OF PROPOSED REVISIONS TO PROPERTY MAINTENANCE ORDINANCE

Township Manager Daly opened the discussion explaining that this procedure is not to introduce an ordinance; the ordinance is not even finalized. He further explained that the purpose of this meeting is to present the proposed ordinance and to hold discussions to examine the proposed improvements to the ordinance. The televising of this meeting, he noted, would allow residents and others to hear the issues and encourage the democratic process of people making laws through their representatives. Mr. Daly noted that this ordinance is not, as he might have misdirected some people, about students from out of town illegally attending Township schools; it is about health and safety issues. The Township staff, he explained, sees gaps in our ability to protect people and this ordinance would: (1) Detect problems in one family owner-occupied residences when house is sold, a certificate of continued compliance would be issued. Mr. Daly further explained that if violations exist, the seller and buyer would decide which party was responsible to fix violations. (2) Rental properties would be registered and periodic inspections would be made.

Presentation of Slide Show

Vince Lupo, Director of the Community Development Department and Construction Official, stated that a property maintenance ordinance does exist; the purpose of this meeting is to present the revision of that ordinance to insure health, safety and welfare for quality of life issues and to better serve present and future residents. Mr. Lupo showed examples of residences where violations of health and safety issues were clearly visible.

Because the Township property maintenance ordinance had not been updated in twelve years, Mr. Lupo cited changes in state expansion of lead paint inspection and the passage of a new bill increasing fines to landlords and tenants for violations of occupancy requirements as an incentive to make changes.

Mr. Lupo's presentation showed examples of tragic fires caused by violations of code requirements and also of new construction or reconstruction projects performed without permits and in extreme violation of code requirements.

Mr. Lupo noted that recently there had been more vigorous enforcement of the Construction Fraud Act, the use of the Realtors Property Disclosure Statement and also the increase of OPRA requests for property sales. He stated that zoning issues will also be addressed by extended publication of information for the public on the website, in local newspapers and in the Township newsletter.

Mr. Lupo stated that cross-training of all Township Code Enforcement Officials will facilitate the increased number of inspections; members of the Health Department, Fire Prevention Bureau, Zoning Department, Engineering Department and Construction Department will also be involved in the increase in inspections. He explained that the revised ordinance will give the Township staff the right to do inspections of one and two family units used as rentals.

Mr. Lupo showed the State form, "Property Condition Disclosure Statement" which is used to disclose information regarding permits obtained, or not obtained, for work done and also existing violations which the buyer should be aware of before closing. He noted that after the proposed adoption of the new property maintenance ordinance the Township would require a certificate of continued compliance.

Ms. Francois asked for information regarding new homebuyers. Mr. Lupo explained that an inspection of a new home is optional and the inspection may or may not identify code violations with which the inspector is not necessarily familiar.

Mr. Lupo also noted that a code inspector would recognize a conversion to a two family unit that was listed as a single and therefore no tax record would show that the unit is a two family.

In answer to a question regarding staff, Mr. Daly noted that the Township does not presently have sufficient staff, but the proposed inspection fees would pay for the increase in staffing that would be necessary.

John Hauss, Director of Fire Prevention Bureau, spoke in regards to the types of inspections that are done by members of his staff including smoke detectors, carbon monoxide and fire extinguishers. He noted that, if the inspector notices conversion, a final certificate would not be issued and notification would be made to the code enforcement department. Mr. Hauss cited examples of illegal conversions, one that involved a two-family unit that was turned into a sixteen-unit residence.

Mr. Hauss narrated the slide show pictures of fire code violations that resulted in tragic fires in which lives were lost or that created the potential for loss of life. He also cited cases of residents and or landlords who did unlicensed construction work even to the extent of creating serious structural problems.

Patti Elliot, Assistant Director of Health, spoke regarding serious health issues including illegal conversions that put residents in potentially dangerous situations. Ms. Elliot cited an instance of a basement conversion where children were exposed to a hot water heater in a confined living space and a dryer that was vented into the living space. Within the slide presentation, Ms. Elliot cautioned the audience that the picture of the young boy who was scalded by 140° hot water was upsetting. The issue of hot water temperature is one that needs to be addressed in the new code ordinance, Ms. Elliot noted.

Ms. Francois asked Ms. Elliot how the health department knows about violations if landlords or others are not coming in to the construction office to obtain permits. Ms. Elliot answered that many times the health department receives phone calls from neighbors or tenants who have knowledge of violations. Ms. Elliot reiterated the purpose of adopting the revised property maintenance ordinance is to allow inspections in one and two family dwellings or rental units that would enable inspectors to find and effect correction of code violations.

Continuing with the slide presentation, Mr. Lupo noted the illegal conversion of a single-family house to a different use that produced abandoned cars parked on the front lawn and eventually the posting of the structure as an unsafe structure that should be condemned. In another slide, Mr. Lupo pointed out an illegal junkyard noting that in some illegal junkyards trailers were discovered in which residents were living.

Mr. Lupo noted that information regarding the implementation of the new property maintenance ordinance would be published in local newspapers, advertised on the website and in the Township newspaper. Mr. Lupo stated that the intention of the new ordinance is not one of vigilantism, and the Township does not want to incur lawsuits, which is why the ordinance will include the six-month compliance timeline. Again Mr. Lupo recounted the personnel who will be completing a course that is recommended and supported by the State, that Mr. Lupo teaches for the State, at the completion of which all trainees will be certified.

At this point, several Councilmembers asked questions and sought clarification of the procedures that Mr. Lupo outlined in his presentation. A discussion on the procedure for relocating displaced tenants of illegal housing and the setting of fines for code violations ensued.

Mr. Glicklich presented the scenario of an owner of an existing owner-occupied residence moved out of the residence and asked how the Township would enforce regulation with a new, possibly unknown, owner. Mr. Lupo replied that a situation now exists where an owner who lives in Florida has had to enlist a local agent to reply to violations or problems in a multiple unit building. Mr. Lupo also noted that, if the Township could learn who is collecting rent, that person would be the agent for the owner and would be responsible for dealing with violations.

Mr. Daly explained that, if necessary, the Township could step in and fix any serious health or safety problems and put a lien on the property.

Ms. Elliot noted that the Health Department is able to investigate in the case of the death of a property owner and discover the executor of the estate who would become responsible for the property.

Ms. Danile asked if it would be feasible to create an incentive to encourage tenants to report safety or health violations. Mr. Lupo answered that it usually follows the discovery of existing violations that the person responsible is anxious to report other property owners who are allegedly guilty of similar violations.

Mr. Mettler pointed out that on page 15 of the new ordinance a reference to “R-3, R-4 and R-5 structures” does not make it clear what use groups those titles refer to. Mr. Mettler also noted that there is discretion for historic structures in the proposed ordinance and Mr. Lupo added that historic structures are also covered in the Uniform Construction Code.

With regards to the slide pictures of dilapidated buildings, Mr. Mettler noted that one of the greatest offenders in that area is the State of New Jersey. Ms. Elliot responded that the State has been contacted on many occasions with requests to deal with decaying houses, to no avail.

Ms. Francois discussed the subject of water temperature and asked how the homeowners or landlords will be educated as to the requirements of the property maintenance code. Mr. Lupo replied that, because of problems with multiple family dwellings, the allowable water temperature was raised to a range of 120° to 140°. Upon inspection, landlords or owners are told that water temperatures must be within the correct range or they would be given a corrective notice. Ms. Elliot explained the procedure for dealing with violations. If a violation is an “easy fix”, the owner is given ten days in which to correct the problem. If the violation is major, a thirty-day grace period is given, Ms. Elliot explained. Also, if the owner needs an extension of time because of a delay and there is evidence that an attempt is being made to correct the violation, Ms. Elliot noted that the extension is given.

Ms. Francois expressed her concern about the feasibility of relying on the collection of fees to pay for the additional staff. She asked about owners who are not aware of the requirement to obtain permits to do certain work in their homes or rental units. If builders or

contractors do not apply for permits and the owner has a problem with the work, Mr. Lupo said a penalty would not be assessed against the owner because the contractor did not get a permit.

Mr. Lupo explained that the new ordinance and the certificate of building compliance concept would make it easier for the residents or buyers to deal with the Township.

Mr. Glicklich cited the hypothetical case of a residence in very bad condition and the tenants were notified that they had to relocate and asked Mr. Lupo what procedure would be followed. Mr. Lupo answered that the municipality, under Township Code and under State law, has the obligation to fund the relocation. Mr. Daly noted that funds for that purpose are in the budget under “liens on property”.

Mr. Prasad noted that Councilman Mettler, Councilwoman Eberle and he were working with the staff to create and implement the new property maintenance ordinance and expressed his satisfaction with the improvement over the existing ordinance.

Mayor Levine questioned what the current rental registration requirements cover. Ms. Elliot answered that properties of three and above units are inspected for violations each time there is an occupancy change; Mr. Hauss explained that fire inspectors inspect the interior once every five years; fire inspectors inspect the common areas every year and Health inspects the common areas every five years.

Mr. Lupo noted that the new property maintenance ordinance deals with three units and less; the State does all multiple units of three or more. Mayor Levine questioned what the new property maintenance ordinance is actually changing from the existing ordinance. Mr. Lupo answered that the new property maintenance ordinance will address overcrowding that is a major problem and Bureau of Housing Inspection criteria is being used to estimate acceptable occupancy limits.

Mr. Glicklich mentioned that some municipalities choose to take over State inspections and the State reimburses the municipality. Mr. Lupo explained that Mr. Glicklich was speaking of one of the three different programs in Board of Housing I?? called the SLIT program. The three programs are:

- 1) Town takes over everything – administration and inspections
- 2) SLIT program – town hires inspectors, they do inspections and sends results to State; State does administrative work
- 3) As in Franklin Township – the State does the whole thing – inspections and administration.

Mr. Prasad moved to open the meeting for public discussion. Said motion was seconded by Mr. Mettler and carried unanimously upon voice vote. Mayor Levine at this time invited the audience to send any comments they might have on the new property maintenance ordinance to the Township Clerk.

Joe Lewis, 10 Blake Avenue, noted that, upon calling the Health Department to complain about a car parked on a lawn of a residence on Franklin Boulevard and a “garbage condition” at a second residence, he was told it would take five to ten days for someone to go out to inspect.

Mr. Lupo replied that the car parked on the lawn was an issue that is not covered in the existing ordinance, but will be addressed in the new ordinance.

With regard to the garbage condition at the second residence, Ms. Elliot answered that the Health Department did respond to that complaint and the owners of the property Mr. Lewis is speaking of are currently in court in relation to the violations.

Tom Gale, 14 Ford Avenue, Chairman of the Historic Preservation Commission, thanked the staff who had worked on revising the property maintenance ordinance. Mr. Gale agreed with Mr. Mettler that the ordinance should have a separate section on one-family owner occupied

homes. He noted that a temporary certificate of continued compliance is only good for thirty days and, in the case of a single family unit, the owner should be allowed to live in the home and do the necessary repair work for longer than thirty days. Referring to page 3F, Mr. Gale asked for clarification of the language regarding “officially designated historic structures”. He noted that the Township does not have any mechanism in place to offer extra leniency with this language. Mr. Gale asked that the language of the new property maintenance ordinance contain “user friendly” wording, making it clear what is or is not acceptable.

John McConville, 5 Stone Leigh Way, stated that he had mixed feelings about the revised property maintenance ordinance saying that there were items added to the ordinance that were already in the existing ordinance. He mentioned that hiring more people for inspections would add to housing prices and that the new ordinance puts too much power in the hands of the code officials. He went on to cite many items within the new ordinance with which he did not agree.

John Walker, Claremont Road, Franklin Park, was reassured by Mayor Levine that the Council and staff would accept written comments. He noted that the inspectors must be identified with colored photo identification cards so that residents would be aware that they were authorized to inspect their residences. Mr. Walker noted that zoning issues should be included in the new ordinance with language to tie zoning into it in general terms and that the Tax Assessor’s office should be involved as the main inspection office in the Township. Mr. Walker noted that, within 200’ radius of one of the houses he owns within the Township, there are four illegally converted houses and that inspection on demand is the only way of dealing with the problem. He recounted the event of a fire in a house in Franklin Park where the owner of a restaurant had the restaurant workers living in the house, renting “mattress space”.

Mr. Mettler moved to close the meeting for public discussion. Said motion was seconded by Mr. Prasad and carried unanimously upon voice vote.

Mr. Glicklich moved to adjourn the meeting at 9:00 p.m. Said motion was seconded by Ms. Danile and carried unanimously upon call of the roll.

Approved: *As Submitted.*

Date: *June 24, 2008*

Brian D. Levine, Mayor

Virginia M. Woodbury
Deputy Township Clerk