

**KINGSTON TOWNSHIP ZONING COMMISSION
MEETING MINUTES**

APPROVED: As Amended January 21, 2009

DATE: December 17, 2008
LOCATION: Kingston Township Hall
TIME CALLED TO ORDER: 7:06 PM by Vice-Chair Harsany

MEMBERS PRESENT:	(CHECK ONE)		
BURRELL	YES	X	NO
GROVE	YES	X	NO
STEINHOFF	YES	X	NO
HARSANY	YES	X	NO
DEAVERS	YES		NO X
FILBERT	YES	X	NO
TALBOTT	YES		NO X
STITES	YES	X	NO

PUBLIC PRESENT: None

APPROVAL OF MINUTES:

Member Burrell pointed out two corrections to the draft minutes and made a motion to approve Meeting Minutes dated November 19, 2008 as amended. The motion was seconded by Member Grove and was unanimously approved.

ZONING REPORT:

The Zoning Commission was provided a copy of the November 2008 Zoning Report to the Trustees *attached as Item 1*. Members were informed that Zoning Inspector Talbott will be meeting with Township Attorney O'Reilly in the near future to discuss the NorthStar transfer and right-of-entry agreements. They were also advised that no ruling has been issued by the federal court regarding dismissal of the Pastures at Blue Church litigation.

Members were advised that the Zoning Office met with Kelly Tennant from the Delaware County Auditor's Office to determine how "agricultural land" designation is determined and how the designation relates to language in the zoning resolution regarding "agricultural use". During the meeting, Ms. Tennant pointed out that when farmland, enrolled in the Current Agricultural Use Valuation (CAUV) program, is removed from active farming, three years of the tax credit must be repaid to the federal program. As this may have an impact on the acreage being deeded from NorthStar to Kingston Township, Zoning Inspector Talbott has asked Zoning Attorney O'Reilly to determine the legal impacts.

The Zoning Office has received a written complaint regarding a newly constructed structure inside the required side yard setback on State Route 521. Members encouraged the Zoning Office to respond quickly to the complaint and enforce the zoning resolution requirements.

Information regarding a zoning workshop sponsored by the Delaware County Regional Planning Commission on January 24, 2009 was distributed (*attached as Item 2*), and members were encouraged to participate with the cost reimbursable by the township.

Media Articles:

Several documents/articles were distributed for information including:

- Healthy Riparian Corridors, Natural Ohio, Fall 2008 *attached as Item 3*.
- Endangered/Threatened Species, Publication 356, May 2008, Division of Wildlife *attached as Item 4*.
- Scrapped Development Plan, Columbus Dispatch, November 20, 2008 *attached as Item 5*.
- Prosecutor Letter Township Attorney, November 20, 2008 *attached as Item 6*.
- Wetland Banking, Columbus Dispatch, November 28, 2008 *attached as Item 7*.
- House Bill 562 Township Impacts *attached as Item 8*.
- Wind Energy Sitting Guidelines, Ohio Township News, September/October 2008 *attached as Item 9*.

A general discussion took place regarding *Item 4* and the regulatory processes that protect both endangered/threatened plants and animals. Proposed construction which impacts wetlands and drainage ways trigger permit and review processes by the Ohio Environmental Protection Agency and the U. S. Army Corps of Engineers. Agencies within the Ohio Department of Natural Resources supply plant and animal community information to consultants during their design processes as well as being part of the permit review process. Regarding *Item 5*, Member Burrell indicated that the Village of Galena has seen a trend where existing houses are being sold quickly either through the foreclosure process or willing sellers compared to the construction of new housing developments or individual houses. This trend appears to be favoring the resale value of existing condominium units or the construction of new units.

OLD BUSINESS:

The Zoning Commission again decided to table discussion regarding a zoning case currently before the Ohio Supreme Court since the court hearing was scheduled for December 17, 2008 and Member Deavers was not present to lead topic discussion. Secretary Stites was instructed to contact Member Deavers requesting that she secure a copy of the case when available. A copy of the judgment entry from the Ninth District Court of Appeals of Ohio is *attached as Item 9*.

Zoning Resolution Text Review & Amendment Process

The Zoning Commission has been researching and evaluating text amendments in order for the Township's Code to reflect "best practices" and stay current with any changes in law which may affect the Township. Due to the complexity of this task and the need for timely and accurate review, the Zoning Commission previously requested that Zoning Inspector Talbott contact the Delaware County Regional Planning Office Staff and secure a written proposal for them to provide research and written text amendment assistance. A meeting was held with Regional Planning staff on December 5, 2008 after which a fee proposal was submitted for township consideration.

The proposal offered a review/rewrite of six topics at a cost of up to \$1,500 including 24 “Policy Hours” (hours provided via membership dues) over an approximate four month period, or a review/rewrite of the entire zoning resolution at a cost of up to \$8,000.00 including the “Policy Hours” over an approximate ten month period.

After considering both options, the Zoning Commission determined that a complete review of the zoning resolution was the best option to pursue for several reasons including:

- Zoning resolution text has not been amended (other than the definitions and the planned residential development articles) since adopted in 2001.
- A number of law changes have occurred and new issues arisen (wind turbines, adult oriented businesses, etc.) making it critical that the Kingston Township Zoning Resolution remain proactive rather than reactive.
- Regional Planning staff has provided similar contract services to Troy, Berlin and Genoa Townships over the past two years with positive feedback from both Zoning Commission members and the Township Trustees.
- Both the Regional Planning staff and the Zoning Commission currently have the time to devote to the task based on the economic downturn and decreased development.
- The professional involvement of the Regional Planning staff ensures that current laws and the “best practice” text language of other townships in the county are incorporated; providing document credibility to withstand legal challenges.
- A complete review vs. select topic review will ensure language consistency throughout the entire document and ensure that the township is not exposed to challenges to code language in sections that have not been selected for review.
- The review process will take much less time if conducted by the Regional Planning staff based on their experience gained by rewriting other township codes.

Member Burrell made a motion to request that the Trustees approve \$8,000.00 to enter into a contract with the Delaware County Regional Planning Office to assist in the review and rewriting of the Kingston Township Zoning Resolution. The motion was seconded by Member Steinhoff, and was unanimously approved. Members Burrell, Grove and Steinhoff indicated that they would attend the January 5, 2009 Trustees Meeting to request approval of the funds. Member Burrell asked that the contract be structured to ensure adequate time for commission input, and that sectional review be organized so that current topics can be advertised in the newsletter in advance to provide opportunity for resident input during the process.

NEW BUSINESS:

After a brief discussion regarding personal availability and commitment issues, Zoning Commission officers were elected for 2009. Member Steinhoff made a motion nominating Doug Harsany as Chairman and Jeanna Burrell as Vice-Chair. The motion was seconded by Member Grove, and was unanimously approved.

Member Burrell discussed two recent news articles. She advised the Delaware Gazette reported that Delaware County had assumed control of the NorthStar sewer plant from the Robert Weiler Company. She then discussed a Columbus Dispatch article concerning a homeowner who had constructed a residential solar panel in his front yard. The panel drew a complaint by a neighbor and ended in a citation from one local government official while another official in the same agency had indicated to the homeowner that no construction permit was needed.

While this matter is appealed, Member Burrell pointed out the need to ensure that solar panel construction is clearly addressed in the Kingston Zoning Resolution during the text amendment process.

Member Burrell also indicated that a representative from the Ohio Department of Natural Resources, Division of Water, Floodplain Management Program, had recently addressed staff from the Village of Galena regarding riparian buffers and special flood hazard areas. The speaker informed the village that riparian 10 to 50 foot setbacks are important along with how the setbacks are maintained. The speaker advised that a well maintained vegetative cover helps to filter runoff before it enters a drainage way or stream, and that proper education of property owners or homeowner association members must be done to ensure the vegetative cover remains in place.

When asked about what constitutes a “taking” as it relates to zoning resolution setbacks, buffers or protective overlays, the speaker indicated that a taking of property results in 100 percent loss of value; anything less including setbacks is not a “taking” by law. Editorial Note: Rather than rely on the information provided by this speaker, Kingston Township would seek legal advice from Zoning Attorney O’Reilly prior to the implementation of new setbacks, buffers or protective overlays.

FOLLOW UP ITEMS:

- Discuss the Supreme Court Zoning Case heard on December 17, 2008 once their ruling is published. Contact Member Deavers and request a copy of their ruling be forwarded to the Zoning Office when available.
- Secure a copy of the urban sediment and runoff standards reference on Page 117, Section 20.07 of the Kingston Township Zoning Resolution for future discussion.

ADJOURNMENT:

Member Grove made a motion for adjournment. The motion was seconded by Member Burrell, and was unanimously approved.

TIME: 8:50 PM

SUMBITTED BY: Dave Stites, Zoning Secretary/Assistant Zoning Inspector