

**KINGSTON TOWNSHIP ZONING COMMISSION
MEETING MINUTES**

APPROVED: November 19, 2008

DATE: October 15, 2008
LOCATION: Kingston Township Hall
TIME CALLED TO ORDER: 7:01 PM by Vice-Chair Harsany

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

PUBLIC PRESENT: None

APPROVAL OF MINUTES:

Member Steinhoff made a motion to approve Meeting Minutes dated September 17, 2008. The motion was seconded by Member Burrell and was unanimously approved.

ZONING REPORT:

Members were advised that Vice-Chair Harsany had agreed to preside over the remaining Zoning Commission meetings in 2008, and that election of 2009 Chair and Vice-Chair positions would take place at the December meeting.

The Zoning Commission was provided a copy of the September 2008 Zoning Report to the Trustees *attached as Item 1*. Members were informed that negotiations continue between Zoning Attorney Mike O'Reilly and Robert Weiler Attorney Jill Tangeman regarding language refinement in the draft land transfer document.

Zoning Inspector Talbott discussed the status of a complaint involving a junk motor vehicle and vehicle with a small for sale sign in the window at 5500 North Galena Road. Members were advised that the Trustees felt the vehicle with the window sign was not an issue that would be pursued. Member Burrell suggested that the Commission should evaluate the matter during the Zoning Resolution text amendment review process to ensure that the posting of a for sale sign in a vehicle window is clearly permitted. Inspector Talbott also advised that the complainant was informed that the junk vehicle removal ordinance was not in effect until November 1, 2008. He then explained the process that the Trustees will follow once the ordinance is effective requiring a second, separate ordinance focused upon individual vehicles.

Bill Steinhoff was introduced as the new member of the Zoning Commission and Tom Filbert was introduced as the new Alternate; both appointed by the Trustees on October 6, 2008. Members were provided a copy of the updated Zoning Commission Roster *attached as Item 2*.

Regarding an approaching Board of Zoning Appeal vacancy, they were advised that the deadline for filing a letter of interest and resume is Friday, October 24, 2008 to fill the seat of Jim Martin. The Trustees will interview and appoint the position at their monthly meeting on November 3, 2008, and Jim Martin has expressed interest in being reappointed. After clarification at the October 6, 2008 Trustee meeting, Members were updated concerning how the Trustees will advertise vacancy notices to secure applications for both future Zoning Commission and Board of Zoning Appeal positions. Vacancy notices with application procedures will be posted on the Township Web Site, published in the Township Newsletter and posted on the door of the Township Hall.

Finally, Members were informed (per Harlem Township comments at the September Delaware Regional Planning Commission (DCRPC) meeting) that Assistant Prosecutor Janice Hitzman was promoted within the Delaware County Prosecutor's Office, and that Prosecutor Yost did not intend to fill the vacancy assigned to provide township assistance. Harlem Township supported by the DCRPC has sent a letter asking the Prosecutor to fill the position. During the October 6, 2008 Trustee Meeting, the Kingston Township Trustees supported the Harlem Township position, and indicated that they would also be willing to sign a letter to the Prosecutor asking that the position be refilled. This was to be relayed at the next DCRPC Meeting.

Media Articles:

Several documents/articles were distributed for information including:

- Supreme Court Zoning Case E-mail from Doug Harsany, August 8, 2008 *attached as Item 3.*
- Comprehensive Plan Guidelines, Delaware County Regional Planning, August 8, 2008 *attached as Item 4.*

OLD BUSINESS:

The Zoning Commission took a brief look at *Item 3* concerning a zoning case currently before the Ohio Supreme Court. Member Deavers indicated that she possesses details concerning the case, and would forward the information to all Members via e-mail. Vice-Chair Harsany suggested that discussion regarding the issue be postponed until the November 19, 2008 meeting so that all Members could review the information in advance, and all Members agreed.

Members turned their attention to comprehensive plan guidelines recommended by the Delaware County Regional Planning Office (Regional Planning) as outlined in *Item 4*. Within the letter, Regional Planning suggested, based on advice from their counsel and the Delaware County Prosecutor, that the Kingston Township Zoning Commission consider modifying language in Section 8.07 E-2 (page 62), Section 12.05 C-2 (page 79) and Section 17.05 C-2 (page 103) during a future zoning resolution text amendment review process. Specifically, to soften references requiring conformity with the Comprehensive Plan since the Zoning Resolution is backed by statute and the Comprehensive Plan is only a guideline (tool) for making decisions. Upon discussion, the Zoning Commission decided to adopt the recommendation and change language from "in conformity with" to "consistent with the general spirit of" for the specific sections listed above since rezoning applications should generally follow a comprehensive plan. If conflicts arise between a comprehensive plan and a zoning resolution, decisions must be based on zoning resolution requirements and the overall spirit of the comprehensive plan.

Next, the Zoning Commission looked at specific Districts located within the Zoning Resolution, the Zoning District Map and the Comprehensive Plan Land Use Map to determine any conflicts. Based on clarification received from Regional Planning and internal discussion, Members determined that Comprehensive Plan Land Use Map should be viewed as a general land use guideline, that the Zoning Resolution contains a number of defined Districts that are not on the Zoning District Map (as the map accurately reflects existing conditions today), that rezoning requests for Districts not on the map are handled on a case by case basis based on the merits of the application, and that no conflict exists. Members also concluded that the Commercial Zone drawn on the Comprehensive Plan Land Use Map requires future action to define the zone on the map and in the plan text.

Zoning Resolution Text Review & Amendment Process—Vice-Chair Harsany asked Members to provide the status regarding research of their assigned topic. Responses are as follows:

Deavers (Lighting)—Has collected information and ideas but has not compared the information to the existing Kingston code.

Steinhoff (Signs)—Collected code language from Genoa, Liberty and Berlin Townships. Found that the language was much more detailed than the existing Kingston code. Is still in the process of evaluating the information and compiling ideas.

Stites (Code Consistency To PRD Changes)—About 1/3rd through the Kingston code and no discrepancies found.

Cope (General Dev. Standards)—Topic was assigned to new Alternate Filbert.

Harsany (Protection Overlays)—Has collected information which will be distributed next meeting for Commission discussion to determine the level of detail warranted.

Burrell (Towers/Turbines)—Has collected information from Berlin, Orange and Genoa Townships and reviewed applicable sections of the Ohio Revised Code. Indicated that she was ready to discuss findings.

Talbott (Nuisances/Grass)—Indicated that the Trustees recently passed ordinances to address junk motor vehicles and noise complaints. These two issues along with unmowed grass have resulted in the largest number of complaints since becoming Zoning Inspector. Will continue to research the grass issue regarding trustee authority found in the Ohio Revised Code.

Communication Towers/Wind Turbines—Member Burrell reported that Ohio Revised Code (ORC) 4906.13 provides no local authority to regulate wind turbines between 5-50 megawatts aggregate capacity defined as economically significant wind farms commonly associated with utility companies. ORC 519.213 governs small wind farms under 5 megawatts aggregate capacity, and appears to give townships some regulatory authority. Member Burrell will research for further clarification.

Regarding communication dish receivers, Member Burrell found that the Federal Communication Commission (FCC) regulates all dish receivers over 39.37 inches. She also learned that Berlin Township does regulate size and Orange Township limits stations to 24 inches. The Zoning Commission asked that the existing Kingston code language found in Section 20.10, pages 118 and 119 be reviewed by Member Burrell, and that she provide update recommendations based on language used by other townships in Delaware County.

Member Burrell found that no changes have been made to the ORC regarding the lack of local authority over telecommunication towers. She pointed out that ORC 519.211 requires companies to notify both a township and adjacent property owners by certified mail of their intent to construct a tower. If no written objects are filed within 15 days, the company can move the project forward. After discussion, the Zoning Commission found that the existing Kingston code language includes a safety fall zone requirement, is adequate and requires no modification.

Alternate Filbert raised the question regarding the difference between telecommunication towers and personal communication towers like those used by ham radio operators. After discussion, it was determined that telecommunication towers are regulated by the FCC but both telecommunications and personal towers do fall under township regulatory authority. Member Burrell was asked to conduct further research to determine if existing Kingston code language requires modification.

In closing discussions, Members agreed that as text amendment changes are determined, these changes could also impact both definitions and general development standards.

NEW BUSINESS: None

FOLLOW UP ITEMS:

Discuss the Supreme Court Zoning Case, *Item 3* at the November 15, 2008 meeting after Member Deavers forwards a copy of case details via e-mail to the Commission.

Copy research information received from individual Members regarding signs, lighting standards and protection overlays for distribution at the next meeting.

ADJOURNMENT:

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

TIME: **9:01 PM**

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