

XENIA TOWNSHIP ZONING COMMISSION

MEETING

May 24, 2016

THESE MINUTES ARE A SUMMARY OF THE EVENTS OF THE MEETING AND ARE NOT A WORD FOR WORD ACCOUNT OF THE DISCUSSIONS WHICH TOOK PLACE.

The Xenia Township Zoning Commission held a meeting on May 24, 2016 at 6:00 p.m. at the Xenia Township Trustees Office, 8 Brush Row Road, Xenia, OH, 45385 with the following members present:

Attendees: Jeffrey Zweber, Virgil Ferguson, Kent Harbison, Alan King, Donna Randall, Alan Stock, Zoning Inspector/Clerk, Shelby Ratliff, and one guest.

Chairman Jeffrey Zweber called the meeting to order at 6:30 p.m.

Jeffrey Zweber asked about the meeting minutes from March 22, 2016.

Mr. Stock introduced Shelby Ratliff. Mr. Stock informed that Shelby Ratliff works Wednesday, Thursday, and Friday. Mr. Stock said that he wanted to thank her for doing a wonderful job thus far. He advised that just before Sheryl Blackaby took time away from work she was working on the March 22, 2016 minutes. He said that the minutes contained the beginning and end of the meeting but there were about 25 minutes in the middle missing. Mr. Stock informed that when he went to replicate the minutes, he recalled that she had told him that she had not gotten them done because there was a gap in the middle. Mr. Stock advised that Shelby Ratliff would fix and finish the minutes for the next Zoning Commission meeting.

Mr. Stock added a new agenda item, which was news on the Agritorism Bill. He reminded the Zoning Commission that they looked at this bill approximately 2 years ago. He said that they have a definition for rural entertainment and they have it as a conditional use in an agricultural only district. Mr. Stock advised that the bill has passed through the state level. He said that if any member wanted a copy he could send them one. He advised that Stephanie Hayden felt it would be good for the Board of Zoning Appeals, the Zoning Commission, and the Board of Trustees to go to training on it. Mr. Stock said the Senator Hackett informed him that that was the best possible job they could do and they would let the courts figure it out after the Townships interpret what the bill says. Mr. Stock said that because of that, and reading between the lines, they did the best they could do with the bill and left some ambiguities, which would be interpreted by the Township and then by the applicants attorney. He said that it would then end up in court and the courts would flesh out the refinements of the bill.

Jeffrey Zweber asked if the Zoning Commission would receive something detailing how this will affect Xenia Township with everything they have already done.

Mr. Stock said that if Stephanie Hayden is available Wednesday June 22, 2016 or Wednesday June 29, 2016, and she is hoping the Zoning Commission could decide which works better, she will come and speak with them. Mr. Stock informed that she would also do this with the other 11 Townships. Mr. Stock said that he can e-mail the finally copy of the Senate Bill to them or print it off for them. Mr. Stock said he was curious which day would work better for them, both on Wednesday evenings at 6:00 p.m. at a location to be determined in Greene County.

Alan King advised that he will be out of town on June 22, 2016, but he is available June 29, 2016.

Jeffrey Zweber said that he would like a printed copy of the Senate Bill.

Donna Randall also said she would like a printed copy of the Senate Bill.

Alan Stock said that he could get the printed bill to them that evening.

Jeffrey Zweber raised the topic of minutes, conveyance letters, and resolutions. Jeffrey Zweber advised that the first set of minutes the Zoning Commission had were the minutes from the Zoning Commission Public Hearing over the Kil-Kare rezone from April 26, 2016. Along with that, he said that the Zoning Commission had the Letter of Conveyance and the resolution.

The Zoning Commission read the Kil-Kare Public Hearing minutes and found a few changes that needed to be made. Shelby Ratliff actively made the changes and printed off the final copy of the revised minutes. Jeffrey Zweber made a motion to approve the Kil-Kare Public Hearing minutes from April 26, 2016, Alan King seconded the motion. Jeffrey Zweber asked for any further discussion. There were no further comments. Roll Call: all voted aye. Motion carried with vote of 5 – 0.

Jeffrey Zweber and Alan Stock signed the Letter of Conveyance to the Board of Trustees for the Kil-Kare rezone. Jeffrey Zweber and the Zoning Commission also signed the resolution for the Kil-Kare rezone.

Jeffrey Zweber asked if the minutes from May 12, 2016 Central State University Public Hearing would only have three signatures given that Alan King and Kent Harbison were absent.

Alan Stock advised that the signature lines would say absent.

The Zoning Commission revised the minutes from the Public Hearings held for the CSU rezone.

Alan King asked if the Trustees were going to hold a Hearing for this as well.

Alan Stock confirmed that they would be.

Jeffrey Zweber said the next set of minutes the Zoning Commission had were from the Public Hearings held for the Central State University rezone on April 26, 2016 and May 12, 2016. Jeffrey Zweber started with any comments or questions for the April 26, 2016 minutes. A few changes were requested. Shelby Ratliff actively made the changes requested. Jeffrey Zweber asked if there were any further comments or questions after the changes were made. There were no further comments. Alan King made a motion to approve the April 26, 2016 CSU Public Hearing minutes as amended.

Jeffrey Zweber asked that Alan King hold off on making the motion so that the minutes from May 12, 2016 could be reviewed since it was a continuance. Jeffrey Zweber said the minutes could be treated as one Hearing.

Jeffrey Zweber asked for any questions or comments on the May 12, 2016 CSU Public Hearing minutes.

The Zoning Commission gave a few changes that needed to be made. Shelby Ratliff actively made the changes requested. Jeffrey Zweber asked if there were any further changes or comments. There was no further discussion. Alan King made the motion to approve the April 26, 2016 and May 12, 2016 CSU Public Hearing minutes, Virgil Ferguson seconded. Jeffrey Zweber asked for any discussion. There were no further comments. Roll Call: all voted aye. Motion carried with a vote of 5 – 0.

Alan Stock and Jeffrey Zweber signed the Letter of Conveyance to the Trustees for the CSU rezone. Donna Randall, Virgil Ferguson, and Jeffrey Zweber signed the resolution with Kent Harbison and Alan King's signature lines being written in as absent.

Alan King asked, while the Letter of Conveyance and resolution were being signed, if everyone including the Governor signed the Agritorism Bill.

Alan Stock informed the Bill was going to the Governor. Alan Stock said that it is expected the Governor will sign the Bill. Alan Stock said the Bill is expected to be active around August 14, 2016.

Jeffrey Zweber asked if the Board of Trustees have set a hearing yet for the Public Hearing for the CSU rezone.

Alan Stock informed that the Trustees have set the date for the Public Hearing. Alan Stock said the Hearing will be held June 16, 2016 at 6:00 p.m.

Jeffrey Zweber and Alan King advised that they will both be out of town on June 16, 2016.

Donna Randall asked if the date for the Trustees' Public Hearing was on the back of the last Regular Trustee Meeting Agenda.

Alan Stock said no because they had set the date that evening. Alan Stock reminded the Commissioners' that when they sign a Letter of Conveyance, it has to be read at the next Trustee Meeting. Alan Stock explained that is why it went through to the Trustees without the Zoning Commission having to approve the minutes, the Letter of Conveyance, or the resolution. Alan Stock said that after that the Trustees have 30 days to hold the first Hearing. Letters are also sent out to the people who live in the surrounding area. Alan Stock informed that an ad is also place in the newspaper, and said that Shelby Ratliff would change the sign with the date set to May 26, 2016

Jeffery Zweber shared the next topic on the agenda, which was a possible rezoning on 68 South.

Alan Stock shared that for the last 8 months, there has been an unknown entity looking for property within the Xenia Township to build a store. Alan Stock said that later it was discovered that the unknown business was Dollar General. Alan Stock informed that Dollar General's goal is by the end of 2017 they want to build 2,000 new stores in the United States.

Alan King shared that there are already two new Dollar General Stores moving into Xenia. He asked if this site would make a third store.

Alan Stock confirmed that this would be the third store. Alan Stock shared that there is a store being place on U. S. 68 in front of Elmcroft, and then another is being built across from Cox Elementary.

Jeffrey Zweber asked if there was another Dollar General next to the Goodwill in the strip mall.

Alan Stock said that he believes it is now a restaurant.

Alan King said that the new restaurant was next to it. Alan King asked if the site on U. S. 68 was also going to have a Dollar General built on there.

Alan Stock showed the potential sites that Dollar General was looking at on the map to the Zoning Commission.

Alan Stock said that the reason he was telling the Zoning Commission about the Dollar General build sites was so that they could begin thinking about it. He also said he was sharing this with the Zoning Commission because it shows how important it is that they discuss the road frontage requirement in B-3 zoning. He said the site in question and the parcels around it have changed in iteration many times. Alan Stock informed that Dollar General wants to do the proper thing in terms of zoning. He said that they also have a master plan that says that all the stores be the same size, built on the same size lot, and all the aspects of each store being the same. Alan Stock showed on the map that the parcels around Hook Road are all zoned B-3. The lot in question is a flag lot near it between the housing and the red zone on the map.

Alan King asked if the parcel in question was the Nixon place.

Alan Stock pointed on the map where the Nixon property was located. In relation to that, he showed them where the parcel was, and referred to it as a flag lot. He said they call it a flag lot because it consists of 23 acres with 70 feet of road frontage. Alan Stock said that on a map the property looks like a flag on a flagpole. He informed that around and near the property, the parcels are zoned agricultural. Alan Stock said that he did not have any actual plans, but he had spoken to about 3 or 4 developers for approximately 11 or 12 hours total. He said that things could change between now and when the paperwork is actually filed, but he just wanted to speak with the Zoning Commissions up front. He said the parcel is agricultural and requires a minimum of five acres and 300 feet of road frontage. He informed that Dollar General plans to maintain the 300 feet of road frontage. He shared that beside one of the property lines of the lot, the zoning is B-3. He informed that Dollar General only wants about 2.33 acres because that is the size of their other stores.

Jeffrey Zweber noted a concern about the green space.

Alan Stock agreed that green space would be part of the issue. He showed on the map the area that would be allotted for the sewer and a well. Mr. Stock informed that depending on whether the decision was a yes or no, the applicant would have to ask for a variance from the BZA.

Alan King asked if they would need the variance because they do not currently have sewer and water.

Alan Stock said that this is because B-2 and B-3 both require sewer and water. He informed that in the 1980s Regional Planning pushed hard for sewer and water to become a requirement in business zones because of how much development was coming in from Dayton. He reminded that 85% of the Township is Agricultural and that quite a few members of the Township have sewers and wells. He said in this case, they had to go to the Fire Marshall because in a building of this size you have to have fire suppression and a well cannot support fire suppression because there is not enough water pressure. Alan Stock informed that is why the City of Xenia does not have tankards on their fire trucks, because they get all over their water from hydrants. Whereas the Township does have tankards for water on their trucks. Alan Stock advised that they have designed the building in a manner that will not require a sprinkler system.

Jeffrey Zweber asked if anyone talked to the Health Department since they have to have fire suppression.

Alan Stock advised that they did not have to. He said that they would need to go to the Board of Zoning Appeals for a variance because in a B-2 zone, only 25% of the area can be covered with impervious material, and they would need a variance for the retention pond. He said they can either go to the Board of Zoning Appeals first or the Zoning Commission first, but this will only work if the BZA gives the variance on the 25% land coverage.

Jeffrey Zweber said that they were not rezoning the building, but rezoning a parcel.

Alan Stock said that they rezone the parcel based on a site plan for development.

Jeffrey Zweber said they are rezoning and changing the color on the map. He said that they could consider any plans or promises that people give, but if the parcel gets rezoned B-2 and Dollar General sells it, there are a number of things that could get placed there.

Alan Stock advised that the reason this parcel was being rezoned was for a specific project. He said that they could put two conditions in the resolution that give approval if this specific building is built and the BZA give the required variance.

Virgil Ferguson asked if the septic was going to be a dry well or a mound on the ground, or if they had decided yet.

Alan Stock advised that B-2 and B-3 zones have checks and balances. He said based on what you have planned, the checks and balances include having an approved septic and sewer system from the Greene County Health Department. Alan Stock said that after that, Al Kuzma is asked if there are any further requirements needed for said building. Alan Stock advised that Ken Middleton from Soil Conservation is contacted and he comes and tests the soil and gives his recommendations. The percent coverage is calculated and from that, the size of the retention pond is drawn. Alan Stock then informed that Al Kuzma is contacted again because the ORC tells us that the County Building Director is the one that gives occupancy permits. There are eight different occupancy permits. Then, based on the occupancy rate, the Township Fire Department applies the appropriate fire code.

Jeffrey Zweber asked that, if he was following correctly, the only reason Dollar General has to go to the BZA is for the variance on land coverage.

Alan Stock confirmed this was correct. He advised that before the Zoning Commission gets any physical paper information, all of the questions that need answered will be answered. Alan Stock advised that the drawing they currently had was around the seventh drawing they have had. Alan Stock said every time they present a drawing, Alan Stock gave them the complications, requirements, and what would need to be done.

Jeffrey Zweber asked if B – 3 had road frontage.

Alan Stock said that it does not.

Jeffrey Zweber said that was not a very ideal way to define a district.

Alan Stock advised that this subject is a topic that has been intended to be brought up later and discussed. Alan Stock advised that Ken Middleton had said that a 42 inch drain will be required as well. He advised that they are the first line of defense in rezones, and they have to trust the other entities to do their jobs as well.

Jeffrey Zweber asked how many of the B – 3 lots in that chunk of B – 3 zoning on the map were non-conforming lots.

Alan Stock advised 8 out of the 12 lots were non-conforming.

Jeffrey Zweber shared the next topic on the agenda, which was an update on the resignation of Harold Snyder and openings on the Zoning Commission and Board of Zoning Appeals.

Alan Stock informed that Harold Snyder had shared that he did not have the proper time to give to the Commission. Alan Stock shared that there are openings for two alternates for the Zoning Commission, one sitting member for the Board of Zoning Appeals, and two alternates for the Board of Zoning Appeals. Alan Stock informed that before Sheryl Blackaby left, they worked on the ad that would be placed in the newspaper seeking the new members. Alan Stock said that the ad would be in the newspaper for two weeks, and that the news would be splashed out as much as possible. Alan Stock gave some information on the process of interviewing and accepting new members. Alan Stock said that their input was welcome in the interviews for either Board, and he asked they let him know.

Jeffrey Zweber informed that the next topic was covering decorum. He asked how Alan Stock wanted to handle discussing this.

Alan Stock said that he would share how this got brought about.

Jeffrey Zweber agreed, and said that he would also share what he saw. Jeffrey Zweber advised that what troubled him most was the appearance of bias and the appearance of having things pre-judged. Jeffrey Zweber said that, for example, the topic they just discussed must have led to everyone having a specific thought or feeling about it. Jeffrey Zweber said that he did not know how to tell people not to have thoughts, but said that that was the fallacy they were expected to operate under. He said care in choosing words to prevent the appearance that a Commissioner has already made up their mind is important. He said not to make a paper trail. He said to pay attention to what you say, and pay even more attention to what you write down. He said that could cause a whole mess that is not needed. Jeffrey Zweber asked if there was anything that needed to be expanded on.

Alan Stock advised that he felt it was important that they all understood that their roles in a public meeting are different. He informed that in a public meeting they are at the mercy of the newspapers and the public eye. He said the Zoning Commission is expected to be impartial, and they are not expected to make a decision until both sides have been heard. Alan Stock shared that he was proud of the word choice Jeffrey Zweber used during the Central State University Public Hearing. Alan Stock advised that Regional Planning called him and said that two Greene County Commissioners came into a meeting discussing how they were going to vote that evening and a petitioner and audience member heard that and reported it to the Commissioners. Alan Stock informed that he does not think this actually happened, but that it very well could happen. Alan Stock informed that the rules for a public hearing are completely different than for a Work Session.

Jeffrey Zweber advised that he was making the distinction between a Working Session and a Public Hearing. He said that public records requests can include the tape as well, and that's why there is a tape. He said that the Working Session is public as well, but it is different than a Public Hearing. Jeffrey Zweber said that when they move from a Working Session to a Public Hearing, it is supposed to start fresh with the proposal. He said that the public gets to come in and anyone who wants to talk can talk. He said the appearance of having pre-judged an issue is what will cause a lot of problems that are not needed.

Alan Stock informed that when it comes time for them to give their thoughts, he commended Alan King for stating and making it clear that he has heard both sides, and then telling the public where he was going to land on a subject. Alan Stock also said that there is no reason that any of them should abstain from a vote.

Alan King asked if he would be permitted to attend a Trustee Public Hearing for, for example, Kil-Kare, as just a normal person and not a Zoning Commissioner and give his opinions.

Jeffrey Zweber advised that he would ask that he not do that. He said he would ask that he is careful to not imply that he is speaking for the Commission.

Alan King said that he has been to a Board of Zoning Appeals hearing and stated that he was with the Zoning Commission but he was there speaking on his own behalf.

Jeffrey Zweber said that he would divide those as different because the Trustee Hearing is more of a legislative thing in terms of making a policy. He said that if you are personally affected by the subject matter then that is fine.

Alan Stock informed that he did not believe the ORC prevents him from doing that.

Alan King said that a lot of his thinking on this was from the Cemex topic they discussed.

Donna Randall said this is basically saying because he is on the Zoning Commission he loses his ability to be a normal citizen.

Jeffrey Zweber advised that you have to be careful how you identify yourself.

Jeffrey Zweber advised that the next topic on the agenda was something he wanted to discuss, which was a combined meeting with the Trustees. He said there a lot of topics he wants to get the

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Trustee's opinions on, and he understood that he was asking for another evening of everyone's time, but he thinks that it would be a good idea to have the communication.

Alan King asked if a motion was needed.

A motion was not necessary.

Virgil made a motion to adjourn the meeting, Donna Randall seconded. The meeting was adjourned at 9:00 p.m.

ATTEST:

Alan D. Stock, Zoning Clerk