

**MINUTES OF THE AVON LAKE
PLANNING COMMISSION MEETING
SEPTEMBER 1, 2009**

CALL TO ORDER

Chairperson Fell called the Avon Lake Planning Commission Regular Meeting of September 1, 2009 to order at 7:30 p.m. in the Council Chambers of City Hall.

ROLL CALL

Mr. Fell, Mr. Knilans, Mr. Simonovich, Mr. Zilka, Mayor Zuber, Director of Law Kerner, and Engineering Manager Reitz.

Mr. Brightwell called the planning office earlier in the day to say he would not be at the meeting.

Mr. McNamara was absent.

There were no objections from the members to the absence of Mr. Brightwell and Mr. McNamara, so their absences are considered excused.

APPROVAL OF MINUTES

Mr. Fell moved to approve the minutes of the August 4, 2009 meeting. Mr. Knilans seconded the motion.

AYES: All

NAYS: None

Mr. McNamara arrived to the meeting at 7:33 p.m.

COUNCIL REPORT

None

SWEARING IN

Director of Law Kerner swore in applicants and members of the audience speaking to items on the agenda.

NEW CASES:

**CASE NO. 028-09
BRIDGESIDE SUBDIVISION
FREESTANDING IDENTIFICATION
SIGN SITE PLAN**

**REQUEST OF THE BRIDGESIDE
HOMEOWNERS ASSOCIATION, 31912
FIELDSTONE CIRCLE, FOR THE
RECOMMENDATION OF APPROVAL OF A
SITE PLAN FOR A FREESTANDING
SUBDIVISION IDENTIFICATION SIGN TO
BE PLACED AT THE NORTHEAST CORNER
OF KREBS ROAD AND LAKESIDE DRIVE.
THIS PROJECT IS IN AN R-1 RESIDENTIAL
ZONING DISTRICT.**

Mr. Reitz stated this request is for approval to install an identification sign for the subdivision on Krebs Road. The total signage area is within the limits of the code and has no outstanding comments from departmental review.

Mr. Jeff Robinson, Bridgeside Homeowners Association was present tonight to represent this case and answer any questions the commission may have.

Mr. Robinson stated the sign would be externally lit.

There were no comments regarding this case from members.

Mr. Knilans moved to approve the request of approval of a Site Plan for a freestanding subdivision identification sign to be placed at the northeast corner of Krebs Road and Lakeside Drive. Mr. Zilka seconded the motion.

AYES: All

NAYS: None

Mr. Fell stated this case has passed.

**CASE NO. 029-09
HINKLEY LIGHTING
IDENTIFICATION SIGN
SITE PLAN**

**REQUEST OF HINKLEY LIGHTING, 33000
PIN OAK PARKWAY FOR A
RECOMMENDATION OF APPROVAL OF A
SITE PLAN TO INSTALL A FREESTANDING
IDENTIFICATION SIGN FOR THE NEW
FACILITY ON PIN OAK PARKWAY. THIS
PROJECT IS LOCATED IN AN I INDUSTRIAL
ZONING DISTRICT.**

Mr. Reitz stated this project is for approval to install a sign along Pin Oak Parkway for the new office/warehouse facility on Pin Oak Parkway. The requested sign area is within the limits of the

code and has no outstanding comments from the departmental review.

Mr. Rich Dunham, Hinkley Lighting, was present tonight to represent this case and answer any questions the commission may have.

Mr. Knilans stated that on the plans the sign has moved from feet from the right-of-way to 7 feet from the right-of-way.

Mr. Dunham stated that the sign was moved because of the comments of the Zoning Administrator.

Mr. McNamara moved to approve the request of Hinkley Lighting, 33000 Pin Oak Parkway for a recommendation of approval of a Site Plan to install a freestanding identification sign for the new facility on Pin Oak Parkway. Mayor Zuber seconded the motion.

AYES: ALL NAYS: NONE

Mr. Fell stated this case has passed.

**CASE NO. 030-09
WIND ENERGY
NEW CODE SECTION
LEGISLATION**

**ZONING ADMINISTRATOR BOOHER HAS
WRITTEN A PROPOSED CODE SECTION
FOR REGULATIONS REGARDING THE
PLACEMENT OF WIND TURBINES IN AVON
LAKE.**

Mr. Reitz stated that due to the increase in interest in renewable energy there is a growing movement for the placement of wind turbines. Currently in Avon Lake there is no code to address the placement of these turbines in the City. Zoning Administrator Booher has done research of other communities to incorporate the best aspects from different codes for the betterment of the City and its residents. Once Planning Commission has approved the wording of the new code section it will be sent to City Council for final approval in which they will be required to hold a Public Hearing.

Ms. Booher, Zoning Administrator was present tonight to represent this case and answer any questions the commission may have.

Ms. Booher stated that she has had some interest in wind energy on Pin Oak Parkway. She needs to get the legislation in place before applicants want to put in the turbines and we have no code. I have researched other cities and the State of Ohio Code that will be in place soon. I have basically followed the other codes from other cities with a few minor changes for our community.

Mr. Fell asked how an applicant could change the shadow or flicker.

Ms. Booher said it is in the positioning of the tower and sunlight.

Mr. Knilans asked about the noise and how that would come into play.

Ms. Booher stated that noise is hard to put into an ordinance. Every noise level is different for every different person. We use normal office function noise as our base in this ordinance.

Mr. McNamara asked why we are excluding residential homeowners from this ordinance.

Ms. Booher stated that residential is not excluded. It would depend on the fall zone and it would be a conditional use.

Mr. McNamara stated that he thought the insurance or bond needs to be higher or more specific.

Ms. Booher did not want to make the insurance too high that the applicant couldn't afford it.

Mr. Simonovich asked if the State Code Requirements would take precedent over our City Code.

Ms. Booher stated that the State Code would govern 5 mega watts or higher, and the municipality would cover anything under 5 mega watts.

Mr. Simonovich asked about jurisdiction in the water.

Ms. Booher stated that zoning has jurisdiction two miles out into the water. ODNR has jurisdiction anything further out and has final say in our two miles.

Mr. Simonovich asked if approval would be any quicker than it has been with this code in place.

Ms. Booher stated that anyone that applied previous to this code going into affect has had to wait. Once this code goes into affect then we have something to go by when applicants want to put one in.

Mr. Zilka asked about the waivers of neighbors. What constitutes a neighbor?

Ms. Booher stated that it would be anyone property owner within the fall zone.

Mr. Zilka was not sure of the conditional use running with the land. What if a property owner sold the land with a turbine and the future property owner abandoned the site. What rights would the city have?

Law Director Kerner stated that a conditional use would become void when the site became abandoned. The City has restrictions and code on abandoned sites.

Mr. McNamara thought the code should better define a landowner and the distance in which a waiver form would be needed in an outlying area. Mr. McNamara thought we should have more information regarding the de-commissioning of a tower in the code.

Law Director Kerner stated that he was thinking more on the lines of a performance bond being in place to cover the amount of a tower being de-commissioned. That way the city would not incur any costs if the site became abandoned.

Mayor Zuber asked Ms. Booher where it states that the City has jurisdiction two miles out into the lake.

Ms. Booher stated that it is in code section 721.04 of the Ohio Revised Code.

Mayor Zuber asked, with the noise and flicker how can the City evaluate until the tower goes up and begins to work. I think that the city should be able to hire a structural engineer to evaluate these.

Law Director Kerner suggested that we require the applicant to supply the City with a structural report from a licensed engineer, but the City would still have the ability to hire an engineer to evaluate if needed.

Ms. Booher will look into the structural engineer. We should require the applicant to supply the structural report and have the ability to hire a structural engineer.

Law Director Kerner swore in members of the audience that had not been sworn in previously.

Council Person, Jennifer Fenderbosch stated that within one month property owners will be able to purchase rooftop turbines at Ace Hardware and Home Depot. We need to have this code section in place as soon as possible.

Mr. Fell stated that he would like Ms. Booher to look into some of the information that was discussed tonight. Maybe we could see the changes and look at this again next month.

Mr. McNamara moved to postpone the request of the Zoning Administrator for a proposed code section for regulations regarding the placement of Wind Turbines in Avon Lake. Mr. Simonovich seconded the motion.

AYES: ALL NAYS: NONE

INFORMATIONAL ITEM

Mr. Fell stated that a Minor Alteration was in the packets for a 10 x 16 ft. storage building at the Avon Lake Police Department.

Mr. Reitz stated the shed will not be seen from the road. It sits in the back of the property and will be landscaped.

There were no comments on the Minor Alteration.

DISCUSSION ITEM

Mr. Fell asked how the commission felt waivers of Planning Commission fees should be handled.

Mr. McNamara thought that maybe we only waive fees for 5013C's or none at all. Whatever we decide I think we should be consistent.

Mayor Zuber stated he had no problem with it being all 5023C's, but wondered why Planning Commission needs to make a recommendation at all. I think that City Council is the only body that can waive the fees and they should be making the stipulations on who can and cannot have fees waived.

Mr. McNamara felt that the schools can afford to pay the fees. Maybe we should look at a tier system for fees, or businesses with a budget under a certain amount, \$500,000 or \$1,000,000.

Mr. Zilka thought that if you say all 5013C's or \$1,000,000 budgets, some of the groups, St. Jude, Churches and Schools have very high budgets and would be looked at differently.

Mr. McNamara thought that whatever way we decide to make it, I think we should be consistent. Either waive fees for certain people (5013C, small businesses, schools) or none at all.

Mr. Fell asked Mr. Reitz to get information from surrounding cities on how they handle the waiver of fees. We will bring this back again next month for a discussion item.

Mr. Fell stated that the Comprehensive Land Use Plan is scheduled for an update. We received a copy of the plan at the last meeting.

Mr. Reitz stated that he did not have an opportunity to complete the revisions to the Comprehensive Land Use Plan. He will have the plan ready for a work session following the next meeting.

Mr. Fell asked if there were any further comments on the Public Hearing Notices that were discussed last month.

Mr. McNamara stated that he thought the setbacks on plans should be clearly noted on the public hearing notices. We call out the buildings and what will be placed and any waivers, but we should make very clear how close a project is going to be from a property line.

Mr. Fell stated the meeting for November is on Election Day.

Mayor Zuber and Law Director Kerner will not be available for that meeting. Mayor Zuber and Law Director Kerner stated they would like to have the meeting on another day. Mr. Zilka stated he would prefer the meeting date stay the same, but with two members out he would understand moving the date. Mr. Zilka will not be available for the second Tuesday.

Mr. Knilans moved to change the date of the November Planning Commission meeting from November 3rd to November 10, 2009. Mr. McNamara seconded the motion.

AYES: All **NAYS:** None

Mr. Fell stated the next meeting of Planning Commission will be October 6, 2009 and November's meeting will be November 10, 2009.

GENERAL PUBLIC COMMENT

None

ADJOURNMENT

Mr. Knilans moved to adjourn at 8:42 p.m. the September 1, 2009 Planning Commission meeting. Mayor Zuber seconded the motion.

AYES: All **NAYS:** None

The next regular meeting of the Planning Commission will be on October 6, 2009.

Gary Fell, Chairperson



Coleen M. Spring, Recording Secretary