

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

CALL TO ORDER

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

ROLL CALL

Mr. Fell, Mr. Knilans, Mr. McNamara, Mr. Simonovich, Mr. Zilka, Director of Law Kerner, and Engineering Manager Reitz were present.

Mayor Zuber had called to say he would be a few minutes late to the meeting. He was involved with another meeting tonight.

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

APPROVAL OF MINUTES

None

COUNCIL REPORT

Mr. Zilka stated the cases that had been approved or had readings at the City Council meetings since the last meeting.

Mayor Zuber arrived to the meeting at 7:32 p.m.

SWEARING IN

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

TABLED CASE:

**CASE NO. 033-09
AT&T WIRELESS
TELECOMMUNICATION TOWER
CONDITIONAL USE SITE PLAN
(PUBLIC HEARING)**

REQUEST OF THE AT&T MOBILITY/JOHN SINDYLA, 7425 ROYALTON ROAD, NORTH ROYALTON, OHIO FOR APPROVAL OF A CONDITIONAL USE SITE PLAN FOR A MONOPOLE WIRELESS TELECOMMUNICATION TOWER ON MUNICIPALLY OWNED PROPERTY AT THE NORTHWEST CORNER OF AVON BELDEN ROAD AND ELECTRIC BOULEVARD. THIS PROJECT IS LOCATED IN AN R-1 RESIDENTIAL ZONING DISTRICT. THIS REQUEST WILL REQUIRE A WAIVE TO THE FOLLOWING CODE SECTION: WAIVER TO 1256.05(H) FENCING TYPE AND WAIVER TO 1256.05(c) ILLUMINATION.

Mr. Reitz stated this request is to create a Conditional Use at 150 Avon Belden Road for a Wireless Telecommunication Tower. Placement of the tower shall be in the rear of the building behind the garage. The westerly parking bay will be used to house the equipment for AT&T. The tower shall be a monopole with a covering to hide the antennas and shall appear to be a 130 foot tall flag pole. The flag will be illuminated from the ground.

City Council has approved the lease agreement for the site as reviewed by the Law Director with the understanding that this request still needs a recommendation from Planning Commission.

This project is a Tabled Case from the November 10, 2009 meeting and is being brought back for a full review by the commission. At the November 10, 2009 meeting a Public Hearing was held for this case and will continue tonight.

Mr. John Sindyla with AT&T Mobility and Mr. James Miller Attorney for AT&T Mobility were present tonight to represent this case and answer any questions the commission may have.

Mr. Sindyla showed the coverage areas, site plans and maps on the overhead projector so the members and audience could see the site. Mr. Sindyla stated that the monopole tower would have availability for AT&T and two other carriers.

Law Director Kerner stated that he reviewed the waiver for the illumination of the flag today and did not think the waiver was needed based on the size of the facts that no lighting fixtures will be attached to the tower, that the tower itself will not be illuminated, and that the lighting fixtures will be ground mounted and directed or focused to illuminate the flag only and not the tower.

Mr. Fell opened the meeting to the public.

Mr. Jack Koch, 32610 Carriage Lane handed out information and diagrams of coverage in the area of this tower and the tower at the safety center on Walker Road. Mr. Koch asked why on the coverage maps given out by AT&T the coverage going south would only go to Redwood, but the same size tower on Walker Road going north covers up to Redwood, a much farther area. Verizon can get coverage from the Walker Road tower going south all the way to Lake Road. I showed towers all over in different communities that once you allow one tower at a location they will ask for more.

David Kos, Council Representative Ward 4 stated that the calls he has been receiving have been 3 to 1 in favor of the tower. People in this area need cell phone coverage. This is the reality we live in, everyone uses cell phones these days. This is also a safety issue for people trying to use their phones while at the lake.

Mr. Sindyla introduced John Kovitch, Technical Engineer for AT&T. Mr. Kovitch stated that the reason that Verizon can get more of a coverage area is because of the frequency that they use. They have a 1900 frequency vs. AT&T frequency that is at 850. The frequency for towers can interfere with each other. Our frequency is facing south on both the safety center and here.

Mr. Fell closed the public portion of the meeting.

Mr. McNamara asked if AT&T is willing to add height to the tower in order to have space for an additional carrier.

Mr. Sindyla stated that it would be up to the City to decide how they want to approach that, but anytime you add further height for more carriers it would take away from the aesthetics of the flag pole.

Mr. Fell asked if AT&T had gotten Larry Meiners the breakdown of the streets and coverage that he had asked for last month.

Mr. Kovitch stated that he cannot give a street by street coverage because of the clutter between towers and trees in the area. Every area is different depending on the phone in use and the antenna, tower and trees.

Mr. McNamara stated that he felt as a Planning Commission member that it makes better planning sense to put this tower one block north, make it bigger for more use of carriers than to have multiple towers in the City Hall area.

Mr. Simonovich asked if all the information pertaining to code section 1256.11 had been received from the applicant.

Law Director Kerner stated that the information submitted by the applicant and the report requested by the City from Ms. Sarady is in compliance with code requirements. The case before us tonight is to approve or deny the monopole tower requested by the applicant.

Mr. Zilka stated that he was given a copy of the discussion of the last meeting. I listened to the tape and had given comments regarding this case at the last meeting. If you look at the phone poles out from, the power pole etc., I am sure at some point the residents fought against having a pole every hundred feet, but as technology moves forward, so must we. I have a Verizon phone and it doesn't work in this building or in the High School. I think we will see more towers in this immediate area because people will demand the coverage. I went to see the monopole tower at 254 and Gulf Road and think the tower looks off. It looks so tall and oversized for the space. I looked at the report of Ms. Sarady and the report of Jack Koch and his comments concerning multiple towers, but think that this is the best location for the tower now.

Mayor Zuber referred to the e-mail from Law Director Kerner sent to the members regarding the need for the type of reasoning to deny this tower at this location. Sure AT&T would love to have another tower at a higher height to allow for more carriers to cover the lake area, but the tower that is before us tonight is for the monopole flagpole tower at City Hall. I think a higher tower would look odd and would stick out at this location. This is the location they have proposed, this is what it is.

Mr. Fell stated that he thought that AT&T is trying to cover a more east west area up along the lake, with some coverage to the south up to Redwood, but looks like there will still be some coverage areas that won't be met with this tower, is that correct?

Mr. Sindyla agreed with Mr. Fell.

Mr. Sindyla stated that this is not an economical decision for AT&T to put towers up in this area. We are looking for a coverage area we need to have and the best location to get the most coverage possible without having to put towers up all over. We are not concerned about whether or not you should have 4 or 5 carriers, but don't think that would be the look the City was going for at City Hall.

Mr. Fell stated that he would rather have a tower that would carry 5 carriers than have two towers in the area.

Mr. McNamara asked if a tower was built to handle 5 carriers, would the property being so close to the creek, would the property be structurally sound.

Mr. Sindyla stated that if that is what the City would decide then the plans would be looked at by an engineering consultant, but I feel there would be no problem with it fitting next to the creek where this tower was proposed.

Law Director Kerner stated that AT&T made a proposal of the site and size of the tower. If that site and size of the tower changed; it would have to go back to the start and be reviewed by department heads and structural engineers.

Mr. Fell stated that he felt that if we could allow for another carrier on this tower it would lessen the chance of having another tower in this location.

Mr. Knilans stated that the application has been made for the tower in this location, I agree that a tower is needed in the area, but do not want to see a bunch of towers popping up all over.

Mr. McNamara stated that he did not want multiple towers in the area. We hired a consultant to prepare a report that stated that the tower would be better off higher and further north to get better coverage for everyone. We should be prepared for what is coming down the road.

Mr. Reitz asked Mr. Sindyla if the tower would be expandable like the tower that was built at the Safety Center.

Mr. Sindyla stated that there is no expansion. This is being built as a flagpole.

Mr. McNamara asked if significant coverage would be gained if the tower was built 10 or 20 feet higher.

Mr. Kovitch stated that it would give AT&T slightly better coverage to the south. Most 100 ft. towers cover a mile to one and a half miles, so we may gain $\frac{1}{4}$ to $\frac{1}{2}$ mile in coverage.

Mr. Fell asked if any other members wanted to see more carriers on this pole at this site.

Mr. McNamara agreed with Mr. Fell.

Law Director Kerner stressed the importance of following the criteria of the Planning Commission members. I am struggling with turning the applicant down because the members want to see a higher pole with more carriers.

Mr. Fell stated that he is not looking to turn the tower down he is suggesting that the commission would be voting in favor with a condition to add the height for another carrier.

Mr. James Miller, Attorney for AT&T stated that the application was for a 130 foot tower with space for 4 carriers. The commission would need substantial evidence to deny the application. The application has met all the requirement of the code with no violations, we meet the zoning requirements and setback requirements.

Mr. Fell moved to approve the request of AT&T Mobility/John Sindyla on behalf of New Cingular Wireless PCS, LLC for approval of the site plan for a monopole wireless telecommunications tower and related ground equipment including a waiver for the installation of a board on board fence enclosure on municipally owned property at the corner of Avon Belden Road and Electric Boulevard, subject to the acceptance and approval by the City's Engineer and Engineering Department Manager of the final soils reports that will be submitted during application to the Building Department for the permit to install the tower and related ground equipment, and

moved to recommend to Council the approval of the application of the application of AT&T Mobility/John Sindyla on behalf of New Cingular Wireless PCS, LLC for a conditional use permit for a monopole wireless telecommunication tower and related ground equipment

including a waiver for the installation of a board on board fence enclosure on municipally owned property at the corner of Avon Belden Road and Electric Boulevard, subject to the acceptance and approval by the City's Engineer and Engineering Department Manager of the final soils report that will be submitted during application to the Building Department for the permit to install the tower and related ground equipment and with the condition that they add space for a fifth carrier within the tower.

There was no second to the motion.

Mr. Fell stated that the motion fails due to no second on the motion.

Mayor Zuber moved to approve the request of AT&T Mobility/John Sindyla on behalf of New Cingular Wireless PCS, LLC for approval of the site plan for a monopole wireless telecommunications tower and related ground equipment including a waiver for the installation of a board on board fence enclosure on municipally owned property at the corner of Avon Belden Road and Electric Boulevard, subject to the acceptance and approval by the City's Engineer and Engineering Department Manager of the final soils reports that will be submitted during application to the Building Department for the permit to install the tower and related ground equipment, and

moved to recommend to Council the approval of the application of the application of AT&T Mobility/John Sindyla on behalf of New Cingular Wireless PCS, LLC for a conditional use permit for a monopole wireless telecommunication tower and related ground equipment including a waiver for the installation of a board on board fence enclosure on municipally owned property at the corner of Avon Belden Road and Electric Boulevard, subject to the acceptance and approval by the City's Engineer and Engineering Department Manager of the final soils report that will be submitted during application to the Building Department for the permit to install the tower and related ground equipment. Mr. Simonovich seconded the motion.

Mr. Fell stated that he would be voting no on this because I really feel that there should be a fifth carrier in the pole so that we don't end up with a lot of cell towers. Legally I would vote no stating there is not significant enough coverage in the gap that the new cell tower is putting up.

Mr. McNamara stated that he was voting against this because I don't think it is the best for the future of our city and legally because there is not significant enough coverage in the gap that the new cell tower is putting up.

**AYES: Simonovich, Zilka, Zuber,
Knilians**

NAYS: McNamara, Fell

Mr. Fell stated that this case has passed and will now move on to City Council for three readings and approval.

NEW CASES:

CASE NO. 037-09

**MASTER THOROUGHFARE
PLAN UPDATE**

**AS PART OF THE UPDATE TO THE
COMPREHENSIVE LAND USE PLAN A
REVIEW AND RECOMMENDATION NEEDS
TO BE MADE TO THE PLAN TO MAKE ANY
NEEDED REVISIONS**

Mr. Reitz stated this case was discussed at several prior meetings of Planning Commission as part of the Comprehensive Land Use Plan update. Since the discussion at the October 6, 2009 meeting the connectivity of Redwood Boulevard has been reviewed and commented on by department heads.

Mayor Zuber stated that the only reason he suggested that Redwood be taken off the thoroughfare plan was because it goes directly through the Metro Parks. Seeing the comments of the safety forces, I see that they do not agree with me and feel this would be a safety concern.

Mr. Fell asked if the east/west connector could be moved north of the park.

Mr. Zilka stated that the connector streets are on the thoroughfare plan for the ability of traffic to flow through the City in an efficient manor for safety. The emphasis has always been on the east/west connectors.

Mr. Fell asked why Armour Road could not be used as the connector.

Mr. Reitz stated that the safety forces do use the Armour Road path when needed.

Mr. Zilka moved to reaffirm the Master Thoroughfare Plan the way it was originally with no changes. Mayor Zuber seconded the motion.

AYES: All

NAYS: None

Mr. Fell stated this request has passed and will now be forwarded on to City Council for three readings and approval.

CASE NO. 038-09

**HISTORIC PRESERVATION
ORDINANCE**

**CITY COUNCIL BY MOTION ON
NOVEMBER 23, 2009 IS SENDING A
PROPOSED CODE SECTION TO PLANNING
COMMISSION FOR REVIEW. THE
PROPOSED ADDITION TO THE
PLANNING AND ZONING CODE WILL
CREATE A HISTORIC PRESERVATION
SECTION. COUNCIL IS REQUESTING A
RECOMMENDATION FROM PLANNING
COMMISSION ON THE ATTACHED
PROPOSAL.**

Mr. Reitz said, by a motion of Council at the November 23, 2009 meeting this proposed ordinance is being submitted for review by the commission. This proposed ordinance will create an avenue for property owners to ensure the preservation of historic properties or features of their homes or businesses. Through the creation of the Avon Lake Historic Preservation Commission property owners will be able to petition to have properties reviewed for historic preservation. The proposal before the commission tonight is the result of many months of research and collaboration and is being requested for review and discussion tonight.

Mr. Fell stated that the commission had received memos from Law Director Kerner. Has the information included in the memos been included in our packets, or is this new information?

Law Director Kerner stated that the changes in the memos are just language tweaking of the originals in your packets that have been approved by City Council. Mrs. Booher is in attendance tonight to help answer any questions the commission may have.

Mr. David Kos, 32901 Redwood was present tonight to represent this case and answer any questions the commission may have.

Mr. Kos stated that the committee that has started this has a passion for history and trying to protect the historic value in the community. The committee started over a year ago and is working on making the process easier than trying to go through to the Ohio Historical Society. That process is hard to get through and very time consuming. The City has to adopt a code with legislation, and is then processed through the historical society, then to the park service. With this code section the City will make the determination and decide who and what is accepted within out City, not the state. The historical district code will allow for grant funds and increased property values.

Mr. McNamara stated that he was in favor of the historical code. Mr. McNamara asked about the 70% determination of total square footage. I am concerned that with the percentage the way it is, the determination could come down to one person and not a majority of the property owners in the area.

Mr. Kos stated that with the 75% we figured it would be enough to be the most effective.

Mayor Zuber stated that the approval would still have to go through the committee, Planning Commission and City Council.

Law Director Kerner stated that state statute requires a petition for certain improvements to be signed by the owners of 75% of the area to be assessed.

Mr. McNamara stated that he felt that an area of 1000 feet should be notified when a district is looking to be added. With a landmark being added, I would think that we would want to notify as many people as possible.

Mr. Kos stated that we took that into consideration, but our codes only require a 300 foot surrounding on all other code sections for notification.

Mr. McNamara asked about the enforcement and penalties.

Law Director Kerner stated that the Zoning Administrator will enforce the code, and penalties would be enforced through the zoning code and our court system.

Mr. Simonovich asked if the City wants to get certified, is it required to have another commission.

Mr. Kos stated that yes a separate commission would have to be in place and each commissioner would be required to have special training once a year in order to be on the commission. The resumes of the commissioners plus two city officials would have to be approved by the state.

Mr. Simonovich asked how many other cities in the stated qualify.

Mr. Kos stated that there are approximately 40-50 cities either qualified or in the process of getting qualified.

Mayor Zuber thanked the committee for the time they have put in in order to get this historic district in place.

Mr. Fell asked about the difference between a landmark and a district. How and who determines the district.

Mr. Kos stated that the commission would decide on the district. It is strictly regulated.

Mr. Fell worried about the cottage district and single homes being in the district and the percentage to get it approved. The cottage district had a hard time getting 70% of the people willing to sign for the cottage district. I worry about how the cottage district and historic district will interact and how does the zoning administrator keep it all straight.

Mr. Reitz stated that the planning and zoning code will be the underlying code. This district would be an overlay. They would have the same zoning requirements, just additional requirements for the historic district.

Mr. Fell asked about fees and how that would be handled.

Mr. Reitz stated that the fee schedule would have to be revised to add this into the schedule.

Mr. Knilans thanked the committee for all the help they have been through this year and trying to get this code together.

Mr. Kos stated that this is the start of forever preserving our history, and thanked the committee for voluntarily giving their time.

Mr. Fell asked if there were any negatives.

Mr. Kos stated that there will always be negatives, but we strive for the training and put the values and restriction our history and preservation of our community.

Mr. McNamara asked about the tax breaks and if the City would get less tax money or revenue. What happens when you want to get out of the historic district or code.

Mr. Kos stated that when you enter into the preservation you understand that it is forever. You can apply to get out, but only if the property is demolished, but otherwise the historic name will not come off the property.

Mr. Reitz stated that #2 of the comments of the Zoning Administrator talked about that situation and she recommended other alternatives.

Mr. Zilka asked if Avon has a historic district.

Mr. Kos stated that Avon has a historic district, but not one that will or is designated by the City. They are going through the state process.

Mr. McNamara stated that he had a problem with the only alternative to getting out of the district is demolition. What if you have an elderly relative and they pass away you no longer want the historic label, but don't want to demolish the property. I think there should be a way out, even if you make it very difficult.

Mr. Kos stated that if a property is willed or purchased the property would go through a title search and you would know before purchasing or receiving ownership that the historic designation is on the property.

Mr. Reitz asked in the case of the Avon Lake Theater, could the Wave Salon have gone in if the historic district would have been in place.

Mr. Kos stated that in 90% of the cases the historic label is on the exterior structure, windows etc., so yes I believe they could have gone in.

Mr. McNamara stated that he was concerned about people not putting the money into the properties and ending up with either demolished properties, or abandoned properties due to the economy.

Mrs. Tomassina Patton stated that she visited Turkey. Turkey has historic districts and the people there don't have the money to keep it up. Turkey is riddled with old dilapidated buildings. I think we need to consider a way to get out of the district if necessary, other than demolition.

Mr. McNamara stated that he had concerns about people in the cottage district entering the historic district and not having the money, or their heirs having enough money to keep the historic regulations up and the district having open demolished lots all over, or housing that can't keep up with the upkeep with the historic regulations.

Law Director Kerner stated a perfect example of that type of situation is the Christian Science Reading Room in Cleveland. It was sold to the city of Cleveland for \$1.00 and the city does not have the money for the restoration or upkeep of the building and it is sitting there just rotting away.

Mr. Kos stated that with the historic district there is an education process and the applicant would be told about the process well in advance. It is up to the property owner to apply for the historic preservation. We would also have the zoning code that would enforce exterior maintenance. We don't want this to be a heavy handed situation; we would certainly be working closely with property owners.

Mr. McNamara felt there needed to be some other option other than demolition.

Mr. Kos stated that 90% of the homes will be exterior only. The property owners can modernize the inside all they want. We have done the research on this. No other cities have the out in their legislation.

Ms. Fenderbosch stated that her husband's family had a family historic home in Olmsted Falls. In Olmsted Falls the city has a book with historic homes. I know that in Oxford and in Avon they do have rescinding language in the code.

Mr. Fell asked the Law Director what direction the commission should move in if they would like to see rescinding language in the code.

Law Director Kerner stated that per code section 1218.05 the commission can recommend the proposed legislation to council as requested, or can grant approval with modifications or can deny. If the commission has concerns, they can always refer the application back to the committee for further review and revision.

Mr. Kos stated that the committee has discussed the issues and we did not want the rescinding language in the code. No other cities have the rescinding language in the code. We did not want people taking the tax and grant monies and then saying they wanted out. It would cause too much trouble. The property owners would always have the opportunity to go through the appeals process.

Ms. Booher stated that she knows of two other cities that have rescinding language. It is made very difficult to get out, but there is a process in the language.

Mr. McNamara stated that he would like to see this go back to the committee and have the committee discuss this. I would like them to know that the Planning Commission had an issue with no rescinding language.

Mayor Zuber stated that this could be referred back to City Council.

Mr. Knilans felt that the process to get into the historic district is voluntary. I feel the property owners would be well aware of the situation before they decided to get in.

Mr. Zilka stated that he agreed with the historic district and the process, but felt this could be sent back to the committee for some clean up of the language.

Mr. McNamara moved to postpone Case No. 036-09 the addition to the Planning and Zoning Code that will create a Historic Preservation section in order to give the committee or applicant an opportunity to review the code and clean up some of the language. Mr. Zilka seconded the motion.

AYES: McNamara, Simonovich, Zilka, Fell, Knilans **NAYS: Zuber**

Mr. Fell stated Case No. 036-09 has been postponed until the next available meeting.

**CASE NO. 037-09
SIGN CODE REVISION**

**REQUEST OF THE PLANNING AND
ZONING DEPARTMENS TO REVISE
PORTIONS OF CHAPTER 1262 TO MAKE
CODE COMPLIANT SIGNAGE AN
ADMINISTRATIVE APPROVAL.**

Mr. Reitz stated this proposed revision to the code will permit applicants for sign approval to be able to receive approval in a timelier manor. The revision will therein create an administrative approval for signs that meet the requirements of the Planning and Zoning code. Signs that are outside of the code requirements and/or master signage plans for developments will still need Planning Commission approval.

Law Director Kerner stated that he had passed out minor revisions to the wording for this code revision. He stated that he would like to postpone this case to include his comments on this revision.

Mr. Reitz stated that he had no problems with the wording changes that Law Director Kerner had suggested. He did not feel that this case would have to be postponed. The changes could just be incorporated in the motion and move forward with this case.

Mayor Zuber stated that he would like to see this case move forward.

Mr. Knilans moved to approve the request of the Planning and Zoning Departments to revise portions of Chapter 1262 as amended by Law Director Kerner at tonight's meeting to make code compliant signage an administrative approval. Mr. Zilka seconded the notion.

AYES: All **NAYS: None**

Mr. Fell stated this case has been approved and will now move on to City Council for readings and approvals.

INFORMATIONAL ITEM

Mr. Fell stated there were a number of Minor Alterations for review tonight.

1. Request of the Avon Lake Recreation Department to install a new score board in Bleser Park.
2. Request of the Avon Lake City Schools for changes to the fence and walking path at the Softball Field, 175 Avon Belden Road.
3. Request of the Avon Lake City Schools for an addition of a concession stand/retail sales trailer at the High School, 175 Avon Belden Road.
4. Request of the Avon Lake City Schools for an additional press box on the south stands at the High School, 175 Avon Belden Road.
5. Request of the Avon Lake Erieview School for an addition of a fence, gate, parking lot and canopy to the modular classroom at Erieview Elementary School, 32630 Electric Blvd.
6. Request of the Avon Lake Redwood School for an addition of a canopy to the modular classroom at Redwood Elementary School, 32967 Redwood Blvd.
7. Request of the Landing Racquet and Swim Club for a 6' fence around a propane tank at the Landings Racquet and Swim Club, 425 Avon Belden Road.
8. Request of the Spoiled & Pampered Dawggy for a 4' fence to enclose a courtyard of the Spoiled & Pampered Dawggy, 690 Avon Belden Road.

Mr. Zilka stated that he was unhappy to see all of the after the fact approvals with substantial changes to plans as minor alterations. Some of these changes are more than a year old and the school district is just now getting permits for these projects.

Mayor Zuber stated that the administration sat down with the school and tried to resolve these issues and feel that in the future this will not be how the permits are handled.

Mr. Zilka stated that he had a hard time with the fact that the schools don't think it is necessary to come to the City for permits or approvals. They just do whatever project they want at the time and do the permits later when the City catches them doing work without permits. The Engineering and Building Departments did not know about this work until way after the projects were completed.

Law Director Kerner stated that we talked about minor alterations at the last meeting and the commission decided that they did not want to see or determine minor alterations.

Mr. McNamara asked what type of penalty does the City have for non-compliance of our code and permits policy.

Mrs. Booher stated that the Zoning Administrator has the enforcement of the code and zoning permit. If the zoning permit is not issued before the work has started or completed I can issue citations which can be taken to muni-court.

Mayor Zuber stated that he did not think the answer is to take the schools to court. Let's be realistic. We informed them about the problem and don't think this will be an issue any longer.

Mr. McNamara stated that he thought a letter should be sent from the Planning Commission to let them know the commission is very upset about these non-compliance issues and if done again fines and penalties will be applied.

Law Director Kerner stated that he thought there was a certain laxity on the schools part and we have looked at this very carefully. We have written some memoranda and along with the Mayor's office communicating with them on this, I think they now understand that there is a possibility of citations and I don't think they want to face that. I am looking and hopeful and optimistic that things are changing for the better at this time, and hope that this is the first step on that path.

Tomasinna Patton, Lake Road resident and business owner, stated that the city would have fined me if I would have done work without permits. Just because it is the school system I don't think it is fair they get away with this.

Mr. Zilka asked for his understanding, confirmation that Law Director Kerner did draft a memorandum and it was sent to the schools?

Mayor Zuber talked to Mrs. Booher about this particular subject. She did draft a memorandum to Mr. Kerner of which I got a copy of which I gave a copy to the school superintendant to read. We met and discussed the issues and our opinions that we should bring all the parties together at a meeting based upon her memo that she had forwarded on to Mr. Kerner, which happened last week or the week before.

Mr. Zilka stated that he agreed with the suggestion of sending the letter to the schools. I think they should know that the commission is very upset about this situation and let them know about the penalties and fines without approvals.

Mr. Knilans stated that the schools should be treated the same as private residents or business owners.

Mr. Simonovich has no problem with sending a letter to the schools. This is not the first time the schools have done this. I have no problem asking for their cooperation with our codes and permits.

Mr. Fell moved to have a letter sent to the school board.

Law Director Kerner suggested that the letter come from the Planning Commission Secretary and I will work with the secretary with the drafting of the letter.

DISCUSSION ITEM

Ms. Spring asked if the minutes and memos to the planning members could be sent via e-mail instead of by U.S. mail to avoid postage and waste of so much paper.

There were no objections to the minutes and any memos in regard to planning being sent via e-mail.

Ms. Spring stated that she would start this process tomorrow with the minutes of the last meeting being sent to members for additions and corrections.

Mr. Fell stated that he will not be at the January meeting. Mr. Fell stated that if nominated, he would have no problems chairing the commission for another term.

Mr. Zilka stated that Mr. Brightwell's term will be up on December 31, 2009. A letter has been sent to him to ask if he would like to be reappointed. No response has been received as of yet.

GENERAL PUBLIC COMMENT

None

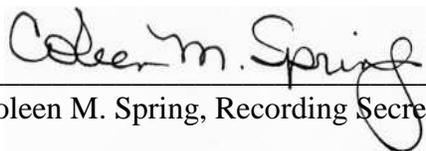
ADJOURNMENT

Mr. Knilans moved to adjourn at 9:55 p.m. the December 1, 2009 Planning Commission meeting. Mr. Fell seconded the motion.

AYES: All NAYS: None

The next regular meeting of the Planning Commission will be on January 5, 2009.

Gary Fell, Chairperson



Coleen M. Spring, Recording Secretary