

**Zoning Commission Meeting
May 4, 2011**

Members/Attendance:	X	Ron Massullo
	X	Jack Shetler
	X	Gene McCullough
	X	Joan Madej
	X	Tim Marucci
Also in attendance:	X	Bob Monus, Zoning Inspector
	X	Michele Richards, Recording Secretary

Ron Massullo called the meeting to order at 6:13 p.m.

1st Order of Business:

Ron Massullo stated that the first order of business is to approve the minutes from the meeting held on March 3, 2011. Joan Madej made a motion to accept the minutes from the March 3, 2011 meeting. Jack Shetler seconded the motion.

Voting:

Yes Joan Madej
Yes Jack Shetler
Yes Gene McCullough
Yes Tim Marucci
Yes Ron Massullo

Motion carried.

2nd Order of Business:

Ron Massullo stated that the Board is in workshop discussion. The first item of discussion is RDW and Thom Sutcliffe.

Massullo distributed to all board members information from the Ohio Revised Code on PUD legislation.

Massullo stated that at the last meeting held on March 3, 2011, a motion was made by Joan Madej to accept the proposal by Thom Sutcliffe. Sutcliffe had given a proposal to change from a PUD to a fee simple lot structure for the Preserve at Yellow Creek. Massullo stated that the Board had no position, per the Ohio Revised Code, to amend the development plan. Jack Shetler asked Massullo if the Board knew this. Massullo replied no. Monus stated that the resolution states that the Board has authority to make amendments to the PUD. Monus stated they were advised by the Planning Commission that based on case law, there was a similar situation where the commission had made a decision on a PUD and the residents opposed it and challenged it in court. The court determined that the Trustees were the original governing body that approved it and

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should be the governing body to amend it. Monus stated that the Trustees will meet on Tuesday, May 10, at 5:30 p.m. to discuss this issue.

Jack Shetler stated approximately a year ago the Board heard a similar situation with Dominic Marchionda. The Board asked Marchionda for additional information and he never returned to the Board to pursue his issue. Now the Board is dealing with Thom Sutcliffe. The Board requested information and he complied. Shetler asked what happens with the next person that comes to the Board with a similar case. Does this Board even listen because it does not have any authorization? Joan Madej agreed with Jack and stated that the Planning Commission referred him to this Board and questioned why he was referred by the Planning Commission if this Board does not have any authorization.

Massullo stated that he asked Sutcliffe about a construction bond and asked if there are monies in place protecting potential residents. Massullo also stated he wanted direction from legal counsel before a decision was made in Sutcliffe's case. He stated it was brought to his attention that the Board may not be in the proper position to make a decision due to RDW's lack of proper bonding.

Massullo stated that this Board, per the Ohio Revised Code, is not the authority to amend a comprehensive planned unit development (PUD). Joan Madej stated that the Board did not make amendments to the resolution, the Board made a recommendation. Massullo stated per the motion stated at the March 3, 2011 meeting "*to accept the proposal by Thom Sutcliffe*", and the Commission is not in the position to make any changes to this particular comprehensive development plan.

Massullo stated that the Board will have to rescind the motion made at the March 3, 2011 meeting.

Joan Madej asked if the Mahoning County Planning Commission governs this board. Massullo stated he does not know. Massullo stated he was in contact with David Shepherd, who represents the township, and read an email that he received from him.

Gene McCullough asked if this Board rescinds the motion and Sutcliffe comes back before this Board, do we tell him that we have no authority and his obligation is to before the Trustees. Massullo stated yes, and we should have done that. McCullough asked if Sutcliffe is aware of this now. Monus stated he explained the situation to Sutcliffe, stating that there were two different languages. He said that per a legal opinion from the township's attorney, that since the Trustees originally approved the PUD, they would be the ones to amend it. Monus stated it was brought to his attention by the Planning Commission. The Trustees will approve the replat of the PUD. Monus stated that this particular case is a unique situation, amending an issue that the Board has already approved.

Massullo reiterated that the Board has no standing in this situation; it goes directly to the Trustees for approval.

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After further discussion, the following motion was made:

Motion

Ron Massullo made a motion to rescind the motion made and accepted at the March 3, 2011 Zoning Commission meeting, based on the proposal made by Thom Sutcliffe representing RDW, from a Planned Unit Development (PUD) to a fee simple lot structure at the Preserve at Yellow Creek. This recommendation is based on advice of township legal counsel and due to the fact that according to Ohio Revised Code 519.021, the Zoning Commission was not authorized to make the recommendation. Tim Marucci seconded the motion.

Voting:

Yes Ron Masullo
Yes Tim Marucci
Yes Jack Shetler
Yes Gene McCullough
Yes Joan Madej

Motion carried.

3rd Order of Business:

Wind turbine pre-emptive zoning. Jack Shetler presented his working papers as well as the proposed article to the Board for discussion. Jack discussed some issues, such as a mono pole versus a lattice pole. It was decided to go with a mono pole because it is more durable, safer, and tougher to climb. Roof top units were ruled out. The fall zone was increased compared to other townships.

Tim Marucci asked how many wind turbines they expect to be put up in the township. Jack Shetler stated he does not think there will be one put in this area for a savings of energy to where it is cost effective. There may be a few people putting them up say for a status symbol. Joan Madej stated she could see one on the BFI property.

Jack Shetler stated this article has been written to keep “fly by night” windmills being installed in Poland Township.

The Board made the following motion:

Motion

Gene McCullough made a motion to accept the proposed Article XII on Green Energy Wind Turbines, and to forward to the Mahoning County Planning Commission for review. Joan Madej seconded the motion.

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Voting:

Yes Gene McCullough
Yes Joan Madej
Yes Tim Marucci
Yes Jack Shetler
Yes Ron Massullo

Motion carried.

Massullo stated that the proposed article on wind turbines as well as the signage issue discussed at the March meeting will be forwarded to the Mahoning County Planning Commission. Monus asked for a board member for representation at the Mahoning County Planning Commission. Massullo agreed to represent the board.

Old Business:

Maintenance housekeeping issues. Ron Massullo stated these issues are lengthy and can be discussed at a future meeting.

New Business:

Gene McCullough stated that we should support our local people and builders and promote the township for potential new residents.

Meeting adjourned at 7:08 p.m.

Submitted by:

Michele Richards/Recording Secretary

cc: Trustees (3)
Board of Zoning Appeals (7)
Zoning Commission (6)
J. Granitto (1)
File (1)