

ON THURSDAY, JANUARY 14, 2010, THE VERSAILLES-MIDWAY-WOODFORD COUNTY PLANNING AND ZONING COMMISSION HELD THEIR SCHEDULED MEETING IN THE 2ND FLOOR COURTROOM AT 6:30 P.M.

OATH OF OFFICE: Mr. Butler administered the Oath of Office to Patty Perry, Richard Schein and J.D. Wolf with them accepting.

MEMBERS PRESENT: Jim Boggs, Jim Hume, Ed McClees, Tim Parrott, Patty Perry, Richard Schein, Brian Traugott, Chad Wells, J.D. Wolf.

ELECTION OF OFFICERS:

Acting Chairman Hume called for nominations for Chairman for the year 2010.

A motion was made by Mr. Wells, as seconded by Mr. Traugott, to nominate J.D. Wolf as Chairman. With there being no other nominations on the floor the Commission voted. The motion carried with nine (9) aye votes.

Mr. Wolf took position as Chairman and called for nominations for Vice Chairman.

A motion was made by Mr. Parrott, as seconded by Mr. Traugott, to nominate Ed McClees as Vice Chairman. With there being no other nominations on the floor the Commission voted. The motion carried with nine (9) aye votes.

Chairman Wolf called for nominations for Secretary.

A motion was made by Mr. Traugott, as seconded by Mr. McClees, to nominate Chad Wells as Secretary. With there being no other nominations on the floor the Commission voted. The motion carried with nine (9) aye votes.

Chairman Wolf called for election of Committee members starting with the Subdivision Regulations Committee.

Mr. Wells stated that in looking at the grid that Mrs. Wilson made to give them assistance in electing committee members, he realized that they have a problem in the way that they amended the By-laws. They went from five committees to four and at that same time there was a provision that everyone had to be on at least two committees, but no one could be on more than three. Mr. Wells stated that by his math that does not work. The easiest way to get around that would be to exempt the Chairman from having to serve on at least two committees, which would prevent them from having quorums. He questioned if anyone else had any ideas? Mr. McClees questioned if he is saying that the Chairman should serve on two committees? Mr. Wells stated that it should probably read, "all members of the Planning Commission should serve on at least two, but no more than three committees except for the Chairman who is not a standing member of any committee but can attend any meeting upon notice." Mr. Wells stated that it could be worded different, but that is the jest of it. Mr. McClees stated that some of the committees only have three members. Mr. Wells still did not think it would work.

Mrs. Wilson stated that basically he is saying that they can exempt the Chairman. Mr. Wells stated that is the only way that he has come up with to do this. Mr. Butler stated that they definitely do not want to have a quorum at the committee meetings. Mr. Wells stated that they can amend the By-laws at some time, but the easiest way is to add that the Chairman is not a standing member of any committee, but can

attend. Mr. Butler questioned if that is ok with Chairman Wolf? Chairman Wolf stated that it is fine with him and called for a motion.

A motion was made by Mr. Wells, as seconded by Mr. McClees, to amend Article IV of the Planning Commission's By-laws Subsection 5, in the last sentence where it reads that all members shall serve on at least two committees but no member shall serve on more than three committees and add language which says, "except the Chairman who will not be a member of any committee but can attend any committee meeting upon notice to the public." The motion carried with nine (9) aye votes. VOTING IN FAVOR: Jim Boggs, Jim Hume, Ed McClees, Tim Parrott, Patty Perry, Richard Schein, Brian Traugott, Chad Wells, J.D. Wolf.

Mr. Butler pointed out that there are some committees that have to have a member from each legislative body. He suggested doing that one first

Chairman Wolf stated that they know that Richard Schein will be on the Budget and Personnel Committee representing Midway. Chairman Wolf called for nominations for the other members.

A motion was made by Mr. McClees, as seconded by Mr. Traugott, to nominate Richard Schein, Chad Wells, Tim Parrott and Ed McClees (by Chad Wells with him agreeing) to the Personnel & Budget Committee. The motion carried with nine (9) aye votes.

Chairman Wolf stated that they will take nominations for the Subdivision Regulation Committee. Mrs. Wilson stated that a member from this Committee will also need to serve on the TRC which meets at 10:00 a.m. once a month.

Mr. McClees and Mrs. Perry volunteered to serve on the Subdivision Regulation Committee. Mr. Wells nominated Brian Traugott and Mr. McClees nominated Mr. Boggs, as seconded by Mr. Parrott. The motion carried with nine (9) aye votes for the nominations and the volunteers.

Chairman Wolf called for nominations for the Planning Director & Legal Committee.

A motion was made by Mr. McClees, as seconded by Mr. Wells, to nominate Mr. Hume and Mr. Boggs to serve on that committee with Mr. Wells and Mr. Schein volunteering to serve. The motion carried with nine (9) aye votes for the nominations and volunteers.

A motion was made by Mr. Traugott, as seconded by Mr. McClees, to nominate Tim Parrott, Patty Perry, Jim Hume and himself to the Comprehensive Plan committee. The motion carried with nine (9) aye votes.

Mr. Butler questioned if the committees need to elect Chair's? Chairman Wolf thought that each committee would elect their own. Mr. Traugott stated that is not the way it was written. Mrs. Wilson questioned if they want to do it now so that they will know who the contact person is, since the Comprehensive Plan is the one that they are actively working on.

Mr. Traugott volunteered to be Chairman of the Comprehensive Plan Committee, as seconded by Mr. Parrott. The motion carried with all four members of the Committee.

Mrs. Perry nominated Mr. McClees to be Chairman of the Subdivision Regulations Committee, as seconded by Mr. Traugott. The motion carried with all four members of the Committee.

Mr. Wells nominated Tim Parrott to be Chairman of the Budget & Personnel Committee, as seconded by Mr. McClees. The motion carried with all four members of the Committee.

Mr. Wells volunteered to be Chairman of the Planning Director and Legal Committee. The motion carried with all four members of the Committee.

MINUTES: A motion was made by Mr. Traugott, as seconded by Mr. McClees, to accept the minutes of the December 10, 2009 meeting as submitted. The motion carried with nine (9) aye votes. VOTING IN FAVOR: Jim Boggs, Jim Hume, Ed McClees, Tim Parrott, Patty Perry, Richard Schein, Brian Traugott, Chad Wells, J.D. Wolf.

AUDIT PRESENTATION:

Chairman Wolf called for the audit report.

Mrs. Wilson introduced Monika Vowells, with Tichenor & Associates, who did the audit and was requested by the Planning Commission to make a presentation.

Ms. Vowells stated that the audit went well and there were no reportable findings, which means that the things that they did find were very minor and went into the Letter to Management. As far as the financials, there were some minor adjustments such as reclassifications. One that was reclassified was the Compensated Absences. It was recommended by the prior auditor, to change how those were being accumulated due to the fact it was creating a large liability on the financial statements that seemed to be growing every year. Ms. Vowells asked if the members have any questions. Ms. Vowells stated that she does a lot of government audits and this is a smaller scale audit compared to what she normally does and it was very nice to do a smaller one.

Mr. McClees stated that the main thing is that they stayed within the budget. Ms. Vowells stated that there is a schedule in there showing that and the staff does a good job keeping things under the budget.

Chairman Wolf called for questions on the audit and indicated that Ms. Vowells drove from Louisville to do this presentation.

Mr. Wells stated that he has no questions on the audit itself. Ms. Vowells stated that she assumes that they are about the management letter. Ms. Vowells stated that she wants to stress that these are very minor suggestions and are pretty standard recommendations that were not significant enough to be included in the audit.

Mr. Wells stated that it looked like the issues were pretty insignificant. Mr. Wells stated that he had not realized that a stale check would be an issue at all and questioned what the guideline is. Ms. Vowells stated that it is actually a pretty common recommendation and she usually recommends that if a check is at least six months old that you start investigating before it gets to old to have contact with that individual or vendor. Mrs. Wilson stated that the three stale checks that they had were written to board members. There were no other stale checks to vendors. Ms. Vowells stated that normally they say start looking at it in six months and if it is still there at one year something needs to be done about it, whether it is re-written or voided.

Mr. Wells questioned the recommendation regarding the bonding issue? Mrs. Vowells stated the present bonds on those handling money in any capacity is \$10,000.00. Their recommendation is that the bond amount should be equal to the average checking account balance for the year, which is about \$85,000.00 to \$90,000.00. That is a significant difference.

A motion was made by Mr. McClees, as seconded by Mr. Wells, to approve the Audit submitted by Tichenor & Associates. The motion carried with nine (9) aye votes. VOTING IN FAVOR: Jim Boggs, Jim Hume, Ed McClees, Tim Parrott, Patty Perry, Richard Schein, Brian Traugott, Chad Wells, J.D. Wolf.

Mrs. Wilson questioned if at some point the Planning Commission need to make recommendations on the items that were in the management letter and reflect some of those in the Policy Manual? Mr. Butler stated that some of these things have been done. Ms. Vowells stated that she felt that the Policy Manual may need to be updated to reflect some of the recommendations, such as the segregation of duties because they are already in the policy manual now.

Mr. Hume left the meeting at 7:00 p.m.

Recommendation: Zoning Map Amendment - & Preliminary Development Plan – Jim Plemmons – 6181 McCracken Pike – 14.901 acres from A-1 (Agricultural) to A-4 (Small Community) 5 lots (Deadline for action March 10,2009).

Mr. Wells stated that the hearing is closed, but can they have discussion? Chairman Wolf stated that they can talk among themselves. Mr. Wells stated that he did not have any questions.

Mr. McClees stated that during the 30 day grace period he has had time to review the facts and he has no problem with it.

Mr. McClees made a motion to accept the zone change for the Plemmons property.

Mrs. Wilson stated that he needs to use something with Findings of Fact and the applicant did submit some, if he is in agreement with them or he can use some other documentation. Chairman Wolf had the copy with him and provided it to Mr. McClees.

Mrs. Wilson stated that the new members were sent the record to review and questioned if they can vote? Mr. Butler stated that if they reviewed the record and feel comfortable they can certainly vote on the issue.

Mr. McClees stated that they meet the criteria of the Small Community. Mr. Parrott questioned if he is going to read the motion? Mrs. Wilson stated that if the members have all read it, he does not have to read it into the record. Mr. McClees stated that he is comfortable with it and is familiar with the area.

A motion was made by Mr. McClees, as seconded by Mr. Parrott, to recommend approval of the Zone Change for the Plemmons property at 6181 McCracken Pike for 14.901 acres from A-1 (Agricultural) to A-4 (Small Community) and adopt the Findings of Fact as submitted by the applicant as follows: 1. The applicant proposes to rezone 14.901 acres from the A-1 zone to the A-4 zone and create five (5) new residential lots near the center of the Millville Small Community District and adjoining the old Millville Elementary School property. The proposed lots range in size from 1.496 acres to 5.103 acres. 2. The express purpose of the Small Community District is to provide for limited low density residential expansion in the rural settlements recognized by the Comprehensive Plan. The communities named in the ordinance, namely Millville, Mortonsville and Nonesuch, have not been incorporated as municipalities, but have historically been recognized as though they were cities. The residents of these communities have expressed their desire for the residential development in those communities in order to maintain a continued vitality, property values and community spirit in those places. 3. The Millville Small community consists of the land located within a 1 ½ mile radius form the intersection of McCracken Pike and Watts Ferry Road.

Each of the proposed lots lies entirely within the Millville Small Community District. 4. Each of the proposed lots satisfies the minimum dimensional requirements of the zoning ordinance for a lot in the Small Community District and each lot is located on McCracken Pike, an existing state highway. 5. Each proposed lot has been granted an encroachment permit to McCracken Pike by the Kentucky Department of Transportation. 6. The applicant has demonstrated that the necessary water and utility service is available to each lot. 7. The applicant has addressed the issue of steep slopes by requiring a site plan and topographic survey is prepared of any lot before a building permit can be issued. This plan and survey must show the contours, slopes and proposed building location. If the proposed building location shows slopes greater than 18% then a geotechnical engineer and a structural engineer shall evaluate the area and specify conditions whereby the area could be buildable. Otherwise, no building permit will be issued. 8. The application is in agreement with the Comprehensive Plan and its provisions concerning residential development in the Small Community Districts. The motion carried with seven (7) aye votes. VOTING IN FAVOR: Jim Boggs, Ed McClees, Tim Parrott, Richard Schein, Brian Traugott, Chad Wells, J.D. Wolf. ABSTAINING: Patty Perry.

Chairman Wolf questioned if Mr. Traugott wants to schedule a Comprehensive Plan committee meeting? Mr. Traugott questioned if the members would want to meet before the regular Planning Commission meeting? Mr. Parrott stated that would be convenient. Mr. Traugott stated that they will meet at 5:30 pm before the next regular meeting. Mrs. Wilson questioned if they want to meet in the Fiscal Court room or in the meeting room across from the Planning Commission office. Mr. Traugott stated that he thought it was better in the meeting room.

Mrs. Wilson stated that the Budget & Personnel committee need to think about meeting soon because they need to get their draft budgets to the legislative bodies by the middle of March. Mr. Parrott questioned what is convenient for the other members since he is pretty much free during the week, but does work weekends. Mr. Wells stated that he would prefer afternoons because he is usually busy in the mornings. Mr. Schein stated that he has conflicts Monday, Wednesday & Fridays. The members agreed on Tuesday, January 26, 2010 at 4:30 p.m.

Chairman Wolf questioned if the Subdivision Regulations Committee wants to schedule a meeting? Mr. McClees questioned what is convenient for the other members? Mrs. Wilson questioned if the committee needs to meet now? Mr. McClees stated that he would like for them to meet just to get with familiar with things. The meeting was scheduled for Thursday, January 28th, at 4:30 p.m.

Mr. Wells stated that they need to keep in mind that if the Chairman attends any of these meetings there needs to be notice given because it would constitute a quorum. Chairman Wolf stated that he only wants to attend the first meeting of each of those committees.

Mrs. Wilson questioned if the other committee wants to meet? Mr. Wells stated that he sees no reason for them to meet at this time. Mr. Wells stated that he thinks that the Chairman needs to be notified of any other meetings in case he wants to come and they have time to give notice.

FINANCIAL REPORTS & BILLS, MONTHLY BUDGET REPORT, REPORT TO COMMISSION

Mr. Butler explained to the new members that these reports do not require a motion and can be accepted administratively. In the case of a bond release or reduction or extension there does need to be a motion.

Chairman Wolf stated that the reports will be accepted.

BOND REPORT

Mrs. Wilson stated that there are two items to discuss. The first is a request from Adena Woods Properties LLC for a partial release of their bond. There is a letter that was in the packet from Buan Smith regarding that as well. There are still six vacant lots, which does not allow this development to meet the 80% requirement before completion. Mr. Smith's letter stated that he would recommend reducing the bond, if the Planning Commission desires. There is a chapter in the Subdivision Regulations regarding granting waivers and the developer is requesting a waiver per Article IX, 920, A & B that there will be no adverse impact on the public interest and it will not overburden or otherwise adversely impact public facilities. Another Certificate of Deposit will be issued for the reduced amount of the bond. The bond would be reduced by \$19,815.00. The new CD would be in the amount of \$37,030.00.

Mr. McClees stated that with the economy the way it has been in the last year and the fact that Mr. Brown has strived to do what is needed to be done he feels they should allow the reduction of the CD. Mrs. Wilson questioned if he wants to grant the waiver? Mr. McClees stated that he does.

A motion was made by Mr. McClees, as seconded by Mr. Schein, to grant the waiver per Article IX, 920, A & B of the Subdivision Regulations that would allow the bond reduction from \$56, 845.00 to \$37,030.00. The motion carried with eight (8) aye votes. VOTING IN FAVOR: Jim Boggs, Ed McClees, Tim Parrott, Patty Perry, Richard Schein, Brian Traugott, Chad Wells, J.D. Wolf.

Mrs. Wilson stated that the second item is a letter from Mr. Jerry Woodall from the Wooldridge Development LLC requesting the extension of the Letters of Credit for Wooldridge Gardens, Phase II, Sections 1A-2, 1B-1 & 1A-1. They have requested also that they be reduced for any amount of work completed. Mrs. Wilson stated that in this case there has not been much completed to justify that.

Mr. McClees felt that they should allow the extension of the LOC's for another year due to the economic times. Mrs. Wilson stated that if between now and next year a lot of improvements are made they can review these for partial reductions with a waiver.

A motion was made by Mr. McClees, as seconded by Mr. Traugott, to allow the one year extension on Letter of Credit #77 Wooldridge Gardens Phase II Sec. 1A-2 in the amount of \$136,016.00, Letter of Credit #79 Wooldridge Gardens Phase II Sec. 1B-1 in the amount of \$37,047.00, and Letter of Credit #80 Wooldridge Gardens Phase II Sec. 1A-1 in the amount of \$178,722.00. The motion carried with eight (8) aye votes. VOTING IN FAVOR: Jim Boggs, Ed McClees, Tim Parrott, Patty Perry, Richard Schein, Brian Traugott, Chad Wells, J.D. Wolf.

Chairman Wolf stated that one thing he wanted to bring up is that he feels that anyone wanting to give testimony in a public hearing should be sworn in.

Mr. Boggs stated that perhaps technically they are supposed to do that, but he felt that it would deter people from speaking. Mr. Boggs stated that he feels strongly against this because it prevents the little guy from speaking.

Mr. McClees stated that he thinks that a list of who wants to speak should be provided to Mrs. Wilson seven days before the meeting. There are some that will talk forever if you let them.

Chairman Wolf stated that they might get some people who want to talk and tell them what they want to hear, but there are those who talk and don't really say anything at all. Mr. McClees stated that is where the time limit comes in.

Mr. Parrott stated that you have to treat people equally and they certainly have the right to say what they think whether the Planning Commission agrees with them or not. Mr. Parrott stated that he does not feel that he should lecture anyone on why he disagrees with them because they have just as much right to speak and to have their opinions. As far as time limits, Mr. Parrott felt that depends on how many people there are who want to speak. If you have a hundred people you obviously need to limit it more than if you had only two. Mr. Parrott did not think that they have to have a hard and fast rule. Mr. McClees stated that would be set by the Chair.

Mr. Boggs stated that in the past when they have had big meetings with a crowd of people, they have always had a time limit. Mr. Parrott stated that it was three minutes, because he has participated. Mr. Boggs stated that whatever it was it seems that everyone respected that.

Chairman Wolf stated that as far as the swearing in, he has been to several training sessions and they always say that it should be done. Mr. Boggs stated that he understands that, but he is opposed to it and he wishes he had argued with Mr. Pike at those training sessions. Mr. Boggs stated that the only reason he is really opposed to it is that the little guy is going to be afraid to stand up and speak because it is added pressure. Mr. McClees stated that he thinks it only clarifies that they are with this organization. It does not mean that they have to swear to tell the truth, the whole truth, and nothing but the truth. Mrs. Wilson stated that is what they would be swearing to.

Mr. Butler stated that there is a case out there that says it is advisable, but is not a requirement. Chairman Wolf stated that he knows that. Mr. Butler stated that in Nelson County they just swear everyone in at once at the beginning of the meeting and that takes the intimidation out of it. Mr. Parrott stated that this is not a penalty of perjury type of situation. Mr. Butler stated that is correct. Mr. Parrott stated that really it is a conscious thing. Mr. Butler stated that in reality it adds a level of seriousness that they only want relevant details. Chairman Wolf stated that he would be happy just doing the whole group. Mr. Butler stated you can also have a sign in sheet. Chairman Wolf and Mr. McClees stated that David Pike is very adamant that anyone speaking should be sworn in.

Mr. Wells stated that if someone is going to stand up and speak in an open forum, he was unsure if that extra layer of intimidation is really going to matter. Those who have come before them before have usually talked about how it is going to affect the enjoyment of their own property. He did not think adding that extra layer was really going to make that much of a difference. Chairman Wolf questioned if he believes that they should or should not do it? Mr. Wells stated that they have had people bring in pictures where they are concerned about water runoff and noise and other things and he could not see the issue. Mr. Butler stated that it is all opinion testimony. Mr. Butler stated that he has been there when it has been instituted and he did not think that it changed the testimony at all. It does add an air of formality and seriousness, but he did not think that anyone was encouraged or discouraged from giving testimony.

Mr. Boggs stated that if it is another step, why do they even have to bother? It is going to give the perception to the public that they are trying to make it harder for people to speak to them.

Mr. Butler stated that he would be willing to talk to David Pike about it even though he does not think that it is some type of flaw.

Mr. Boggs stated what he said about the law was that one person cannot represent a group unless he is a bona fide lawyer. In other words they would have to hire a lawyer to speak.

Chairman Wolf questioned if they want to just drop it? Mr. Butler stated that they may want to just try it out for a while and see how it goes. Mr. Parrott stated that Mr. Butler stated that he could talk to Mr. Pike and then report back to the Planning Commission and they can vote on it next month.

Mr. Wells stated that another idea he has had for a while is if someone comes before them and say that they represent a group, they should submit a listing of all the individuals that are in that group. Mr. Wells stated that if they have an attorney representing a group the Planning Commission does not know if any of the other speakers are in that group or not. There could also be a group opposing something that does not have a lawyer and they end up having double speaking or two times at the podium. Mr. Butler stated that he knows that has happened. Mr. Boggs agreed and stated that it really puts pressure on the guy speaking because he might not even know all the people in the group. He may have only met with a few of them. Mrs. Wilson stated that they could add an addendum to the zone change application that states that anyone speaking for a group have to submit a list of who is in that group. Chairman Wolf agreed that they need to do that.

Mr. Butler suggested that a draft insert be added to the packet. Mr. Schein stated that if there is a group of 400 people who is going to go through that check list. Mr. Schein was not sure how that would play out.

Communication: Bluegrass Regional Council Meeting

Mrs. Wilson stated that the Planning Commission should be getting some communication from the Bluegrass Add Office and they would like someone to be a representative from the Commission and attend those meetings. Mrs. Wilson stated that she has done it in the past and some of the Chairmen have done it as well. They meet every other month and Mrs. Wilson stated that she has a list of when they meet. They usually have afternoon meetings and have decided to have them at different places each time rather than just at the BGADD office. Mr. Butler stated that perhaps Chairman Wolf should go and he agreed to do so.

Mrs. Wilson noted for the record that Mr. Butler had a pending litigation report in the packet. Mr. Butler stated that he will try to do that quarterly. If the members have any specific questions they can always call him. Some of the issues require executive session because of attorney/client issues. If there are suggestions for the format of the report he would welcome those as well.

Mr. Parrott questioned if there is any problem with him contacting the committee members to ask questions or to check to see if they are going to attend meetings, etc.? Mr. Butler stated that is no problem at all.

A motion was made by Mr. McClees, as seconded by Mr. Wells, to adjourn the meeting at 7:30 p.m. The motion carried with eight (8) aye votes. VOTING IN FAVOR: Jim Boggs, Jim Hume, Ed McClees, Tim Parrott, Patty Perry, Richard Schein, Brian Traugott, Chad Wells, J.D. Wolf.

J.D. Wolf, Chairman
JW:pc