

Minutes: Russell Township Zoning Commission
Russell Town Hall
April 20, 2009

Present: Richard E. Snyder, Chairman
Bruce Murphy
Donna Weiss Carson
Wendy Bruzas
Ben Kotowski
Diana Steffen, Secretary

Also in attendance: Ric Machnics, Zoning Inspector and Jim Dickinson, Chairman of the Board of Trustees.

The Chairman called the meeting to order at 7:32 p.m.

MINUTES OF MARCH 16, 2009 – *Mr. Murphy made the motion to accept the minutes as presented, Ms. Bruzas seconded and the motion passed unanimously by 4-0. (Ms. Weiss Carson abstained due to her absence from that meeting.)*

BALANCED GROWTH PROGRAM – Mr. Snyder explained that the Commission has done a thorough review of the Plan to be sure that it is compatible with the Land Use Guide Plan and the Zoning Resolution. They have made a few changes and there are now no discrepancies between the three. They have added text to further explain the Priority Conservation Areas and the Priority Development Area, so that the text will be the controlling factor; if any land changes in size or protection status it will not invalidate the map because the text will be controlling.

Mr. Murphy said that legal counsel Rebecca Schlag had been away for a while but he spoke with her today. Her only concern would be if the Township decided to incorporate the Balanced Growth Program (BGP) into the Land Use Guide Plan and there were portions of the BGP that were in conflict with the Guide Plan. Otherwise she had no reservations at Russell adopting the program. She also offered to review the BGP and Guide Plan to make sure there are no conflicts if the Township does decide to add the BGP to the Guide Plan.

Mr. Snyder said he spoke with David Dietrich who said the same as Ms. Schlag. He has been involved since the inception of this initiative by the Chagrin River Watershed Partners, having attended all meetings about it. His only reservation was also if there would be a conflict between the Guide Plan, Zoning Resolution and the BGP. Mr. Snyder also mentioned that Russell is different from other communities since the Commission is using text as the controlling factor, and not the map. The map can change and so will be used as a guide only. If any parcel becomes under the criteria written in the text then it will automatically become part of the program.

The Commission worked on the controlling text, making a number of changes to the definition of the PDA, and adding verbiage to say, "The accompanying map is to be used as a guide only; the above text shall prevail."

Mr. Kotowski made the motion to recommend to the Board of Trustees that Russell Township adopt the Priority Conservation and Priority Development Plan developed by the Russell Township Zoning Commission, Mr. Murphy seconded and upon roll call the vote was Mr. Murphy – yes, Ms. Weiss Carson – yes, Ms. Bruzas – yes, Mr. Kotowski – yes, Mr. Snyder – yes, and the motion passed unanimously.

Mr. Snyder said he would write a letter to the Board of Trustees to explain the process the Commission used to come to its decision. He, Mr. Murphy and Amy Holtshouse Brennan will attend the Trustees meeting when the BGP is on the agenda.

Kristina Port, Township Trustee, had arrived before the vote on the BGP. She said that she spoke to Ms. Schlag who did not recommend adoption of the PCA and PDA into the Township zoning, because of possible conflicts between a developer and the language in the BGP that could open the door to litigation. Mr. Dietrich had also stated fairly strongly that both he and Ms. Schlag did not want the BGP to be included in the Land Use Guide Plan. Mr. Murphy and Mr. Snyder described their conversations with Ms. Schlag and Mr. Dietrich, as written above. Mr. Snyder said that the Commission's job was to review the BGP for any discrepancies with the Zoning Resolution and the Guide Plan, and there are none, so they are now passing it on to the Trustees to make the decision whether to adopt it or not.

Ms. Port also expressed concern that Hudson is using transfer of development rights although there is no enabling legislation, and that could influence Russell in the future. Ms. Weiss Carson said that subject has been in discussion for many years. Mr. Snyder explained that Mr. Dietrich had commented to him that adoption of the BGP will strengthen the Guide Plan, since it is another indication that Russell supports large lot zoning and is another step taken to protect it.

Another concern of Ms. Port's was that parcels of 10 acres would be included in the PCA, whereas she understood that previous discussions used parcels of 20 acres for conservation. Mr. Snyder explained that the 20 acres is used in the Zoning Resolution for Planned Residential Developments, which is a completely different matter. Ms. Port also felt that the BGP should not be adopted for the CRWP to gain perhaps merely one point towards a grant, when the Township could apply for grants itself. Mr. Snyder said that the Commission has done everything asked by the Prosecutor and the Planning Commission, and is merely recommending adoption to the Board of Trustees.

FOOD SERVICE/PERMITTED USES IN C-S ZONE – Mr. Kotowski presented the result of his further research into the ability of the Township to regulate noise. He found that townships are allowed to regulate noise except where it conflicts with state law. A 1999 bill gave townships the ability to regulate noise for establishments with liquor licenses. Mr. Kotowski handed out information on noise and said that it is possible to regulate it without measuring decibels. Chagrin Falls Village has just enacted an ordinance that does not require people to be specially trained or equipment that must be calibrated, but if music is audible at a distance of 50 feet then it is a violation. Mr. Kotowski suggested that Russell may be able to have a similar regulation in residential areas using the general welfare authority, as well as in commercial areas. He also found information substantiating the health effects of noise, which could be included in a regulation. Wind turbines also can be regulated for noise. He said it appears that smaller communities are apt to go with generally-recognized concepts of noise, whereas larger communities use the decibel approach.

