

**PRAIRIE TOWNSHIP ZONING COMMISSION
MINUTES OF NOVEMBER 27, 2007 MEETING**

Members Present: Howard Balzer, Christopher Finn, Glen Hymer, Hulda Moffitt, and Judy Stalter

Members Absent: None

Others Present: Dana Scott, Zoning Clerk; Molly Mooney, Field Inspector; and Pam Williams, Township Resident, Bruce Whyte, member of Big Darby Accord Advisory Panel (appointed by Prairie Township)

Call to Order: The meeting was called to order by Howard Balzer, Chairman, at 3:00 p.m.

Meeting Minutes:

Mr. Balzer asked for a motion to approve the October 30, 2007 Zoning Commission Meeting Minutes.

Ms. Stalter moved to approve the October 30, 2007 minutes. Mr. Finn seconded the motion.

Roll call as follows:

Christopher Finn, Aye
Glen Hymer, Aye
Hulda Moffitt, Aye
Judy Stalter, Aye
Howard Balzer, Aye

The motion was approved unanimously.

Old Business:

DECEMBER MEETING DATE & TIME CHANGED

Ms. Swisher asked for official confirmation from the Zoning Commission that the December meeting has been changed to the third Tuesday, December, 18¹, and that the time has been changed to 7:00 p.m. because it will be a public meeting. Ms. Swisher said that she needs this information in order to publish the legal notice of the meeting in the newspapers. Members confirmed the meeting date and time changes as stated.

New Business:

PRAIRIE TOWNSHIP 2007 COMPREHENSIVE PLAN UPDATE

Review of Past and Future Action

In review, Ms. Swisher said that the Big Darby Accord Advisory Panel had recommended approval of the Prairie Township 2007 Comprehensive Plan Update; however, in issuing its

¹ The 4th Tuesday of December falls on Christmas Day.

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approval on October 9, 2007, the Panel clearly expressed its concern over the inclusion of “package plants” as an acceptable alternative wastewater treatment system.

Next Steps: She said that the Comprehensive Plan update will proceed through Prairie Township’s regular review process: Zoning Commission’s motion to adopt; public meeting on motion; and submission of motion to the Franklin County Planning Commission for its recommendation.

Recent Deletions and Additions

In response to the Darby Panel’s concern, and as decided by the Zoning Commission at the October 30 meeting, Ms. Swisher stated that the words and punctuation—***package plants, or***—were deleted from the *Services* sub-section on page 20.²

In addition, Ms. Swisher, holding up a copy of the Plan, showed the Commission that the new Prairie Township logo has been added to the front page, table of contents, and chapter pages, replacing the original sun/grass graphic. She also pointed out that the names of the Township Trustees and Zoning Commission members have been added to the front cover.

Ms. Swisher asked Commission members if they wanted the page with the names on it to be the Plan’s cover; or, if they wanted the name page to be moved to the first inside page, and a front page with just the logo and title to be the new cover.

Mr. Finn said that he thought that it was okay to print the names but that the page with the names on it was “too busy” to use as a cover for the Comprehensive Plan. He recommended that that the name page be moved to the inside, and that a page with only the logo and title be used as the front cover. After a brief discussion, Commission members told Ms. Swisher that they agreed with Mr. Finn. Ms. Swisher said that the changes will be made as requested.

The current business concerning the Plan’s contents and look having been concluded, Ms. Swisher told Mr. Balzer that it would be appropriate for him to proceed with his motion.

Motion to Initiate Revision of Prairie Township Comprehensive Plan

Mr. Balzer made the following motion:

To initiate for consideration a revision to the Prairie Township Comprehensive Plan by revising the current Plan Text in order to address and incorporate into the Plan land use development and planning provisions, principals and policies related to the Darby Accord, the Town Center Development, the Broad Street Corridor and In-fill Redevelopment, and future Conservation Development. The text entitled “Prairie Township 2007 Comprehensive Plan Update” reflects and contains all revisions proposed to be made to the current Plan and would, if adopted, constitute the updated and standalone comprehensive land use plan for Prairie Township. It also directed that this proposed revision be transmitted to the Franklin County Planning Commission for its recommendation and that a public meeting on this proposed revision to be held on

² Prairie Township 2007 Comprehensive Plan Update: Chapter: Community Character & Land Use; Section: Rural: Conservation & Preservation; Sub-section: Services, page 20.

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December 18, 2007, at 7:00 p.m. at the Prairie Township Hall located as 23 Maple Drive, Columbus, Ohio 43228.

Mr. Hymer seconded the motion.

Roll call as follows:

Christopher Finn, Aye
Glen Hymer, Aye
Hulda Moffitt, Aye
Judy Stalter, Aye
Howard Balzer, Aye

The motion was approved unanimously.

Ms. Swisher reiterated that the December meeting will be before Christmas and will be a public meeting held at night. She stressed that it will be a “meeting” rather than a “hearing,” as the Comprehensive Plan does not require a hearing.

Ms. Williams asked Ms. Swisher what the difference was between a public “meeting” and a public “hearing.”

Ms. Swisher responded that the distinction is drawn by statute in State law. Since the Comprehensive Plan is not a legal document, such as the Zoning Resolution, it does not require a public hearing. The 2007 re-write of the Comprehensive Plan is a comprehensive plan for future land use; however, it does meet the criteria for a legal document and, therefore, is not assigned a number.

PROPOSED AMENDMENTS TO ZONING CODE

Ms. Swisher said that she is meeting with Don Brosius³ the first week in December to go over all the proposed amendments to the Township Zoning Resolution—including, but not limited to, establishment of riparian buffers and enforcement of the National Pollutant Discharge Elimination System (NPDES). She said that she has a complete package of changes to discuss with Don. As is often the case, in order to be consistent, a change in one section triggers a change in one or more other sections.

Various sections within the following Articles need to be revised:

- Article 2 Definitions
- Article 5 Administration
- Article 15 Flood Hazard Regulations
- Article 21 Big Darby Creek Critical Resource Protection District

The Zoning code must be amended so that Prairie Township will be in compliance the Big Darby Accord Master Plan and recently passed laws, as well as to permit the Township to

³ Donald F. Brosius is an attorney associated with Loveland & Brosius LLC, Columbus, Ohio. Practice areas: Labor; Local Government; Land Use; Business. Mr. Brosius periodically provides counsel to the Zoning Office,

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enforce a program to reduce pollutants in any storm water runoff from construction activities that result in a land disturbance of greater or equal to one acre.

Because Franklin County Soil & Water has no enforcement authority, it is asking Prairie Township to enforce through its Zoning code the NPDES erosion and sedimentation regulations applicable to construction sites. In order to be helpful, Soil & Water provided the Township with samples of zoning resolutions related to water management and sediment control from Geauga and Cuyahoga counties in northern Ohio.

However, Ms. Swisher, said that home rule townships like Prairie might have the ability to enforce NPDES practices through resolution, similar to how Township Administration is currently exercising public nuisance enforcement. Tracy Hatmaker is continuing to delve into enforcement through resolution rather than zoning.

If by resolution, enforcement may involve issuing a citation or violation letter to the offender from Administration written by Tracy Hatmaker on behalf of the Trustees, as opposed to handling it through the zoning violation process. Don Brosius is exploring how to best implement enforcement. Ms. Swisher stated that no matter how enforcement is effected, the Zoning Office will be responsible for it.

Submission of Amendment Package to Franklin County Planning

Ms. Swisher said that she plans to submit a package of amendments to the Franklin County Planning Commission. The conservation zoning district amendment will come up immediately, and Ben Weiner will probably be responsible for it. She is confident that Ben will address Prairie's CZD in the same efficient manner as he did the amendment to Section 650 of the Franklin County Zoning Resolution to establish stream setback requirements in the Big Darby Watershed pursuant to the Ohio EPA Water Quality Management (§208) Plan. Ben was very organized and completed that work in eight, nine weeks.

In response to Ms. Moffitt's question, Ms. Swisher said that the amendment to Section 650 had not yet been approved. She said that Judy Edwards⁴ raised questions about how riparian buffer requirements will relate to the numerous existing structures in the floodplain. From a realistic standpoint, Judy doubted that the stringent prohibitions against all new construction, primarily coming from EPA staff, could be effectively enforced.

Ms. Swisher said that she shares Judy's concerns—that it was easy to talk about great ideas but hard to enforce them on structures, which are legal non-conforming uses, already in the floodplain. Some of the homes and other structures have been in the floodplain for 50 years or more. Ms. Swisher stated that she believes it is a certainty there will be property owners who will build whatever they want without pulling a permit. Ms. Swisher suggested that a more realistic approach is to regulate what is being built so as to ensure that it does not harm the Darby, which is everybody's goal.

⁴ Judith Rieser Edwards is a member of the Franklin County Rural Zoning Commission.

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Ms. Swisher said that she sent Mr. Brosius Prairie's revision of Article 21, which was modeled after Section 650, marked with all her questions and asked for his recommendations. She also said that she anticipates that the County, recognizing the field enforcement issues, will re-write portions of Section 650 in order to modify some of the well-intentioned language incorporated by the EPA.

LOOKING TO THE FUTURE

Infill Projects

Ms. Swisher told the Commission that in the very near future there will be some new infill building projects occurring along the south side of West Broad Street. There will probably be three of them—all connected to Doctors Hospital (Ohio Health).

Prairie Township Commercial Building Department

Ms. Swisher said that she and Mr. Hatmaker had met this morning with Michael Asebrook from Asebrook & Co. (Architects) to discuss the establishment of a commercial building department at the Township level, pending approval of the Trustees. Mr. Asebrook has helped ten jurisdictions in the Columbus area with commercial building departments and issues. If approved by the Trustees, the Zoning Office will expand into the Zoning/Commercial Building Department for Prairie Township.

Ms. Swisher believes that this is a step in the right direction because currently many commercial building permits are never pulled, or the State, primarily because of its large size and workload, usually overlooks and rarely communicates with local entities when it does issue commercial building permits. The State is actually encouraging this course of action because it is working well in several local jurisdictions. Ohio will still get 3% income, but Prairie will get control.

Control will flow from the Township having its own chief building official who will add the State's weight to violations of building code. This will be particularly helpful with non-conforming structures, such as apartment buildings that are old and grandfathered and in bad need of repair. For example, the local building official will also inspect and issue a letter of violation to the property owner, in effect, countersigning the Fire Department's order to correct violations it has discovered during an annual inspection.

Requests for building permits for single family homes and buildings four units and under will still go to Franklin County. Requests for structures over four units, churches, schools, and places of assembly, which in the past went to the State, will go to Prairie Township. Requestors will have to go through Prairie Township's entire checklist/process (Fire, Roads, Drainage, Building, & Darby Panel) in order to obtain a building permit.

Ms. Swisher remarked that she hopes the Prairie Building Department will be up and running before Doctors and the other new building projects start pulling permits in 2008. In addition to the hospital expansion, potential new builds are: two at Inah & West Broad St., one at the old Frisch's site, and one near Speedway. Issuing permits for these projects will result in a significant amount of money.

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Ms. Stalter said that she is hopeful the expansion of Doctors Hospital and new professional buildings will encourage the development of a nearby sit-down restaurant.

REMARKS FROM BRUCE WHITE
BIG DARBY ACCORD ADVISORY PANEL

Mr. Balzer announced that Bruce Whyte, Prairie Township appointee to the Big Darby Accord Advisory Panel, has requested time to speak to the Zoning Commission.

Mr. Whyte thanked the Commission for the opportunity to speak and stated that he wanted to address Ms. Williams' perception that the Darby Panel might be "dysfunctional," based on her reading of the October 9, 2007 Minutes of the Big Darby Accord Advisory Panel.⁵

Mr. Whyte said that he appreciated Prairie Township's support for the Darby Panel as indicated by the comments in the Minutes, particularly Ms. Swisher's perceptive remarks. Mr. Whyte said that he too believes the Darby Accord Panel is an ongoing learning process for all the people who are members.

He said that he was not in a position to share the details of any specific cases that the Panel recently did or are currently working on. In fact, members of the Panel were told that they were not allowed to exchange too much information among each other. It is not like a working team—rather the people representing the various municipalities kind of operate individually.

Mr. Whyte said that his objective today was to provide the Zoning Commission with a better understanding of how the Darby Panel works.

Cases are assigned by the County planners to individual people to be in charge of. For example, if a case was in Columbus, it would be assigned to a Columbus planner. This planner will do the leg work and research required, and will contact all the people who need to be involved. Then the planner will provide the entire body of information to the individual members.

Mr. Whyte said that he has an ongoing concern about getting the information in usable form. Much of the problem has to do with printing and reading the vast number of pages. Then there is the challenge of understanding the breadth of the information. Usually the stack is extremely detailed and hard to digest, often requiring specialized expertise to understand. In addition, the information is frequently made available with a very short lead time before it has to be acted upon.

Because the information is so unwieldy and complex, it compels Panel members to ask questions. It is critical for the planner to give members answers to their questions. Sometimes Panel members' requests for information receive no response. A question is often repeated because an answer was not provided, or, if provided, not clear or related.

⁵ Mr. Whyte was referring to text he read in the October 30, 2007 Minutes of the Prairie Township Zoning Commission.

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Mr. Whyte said that he has absolutely no interest in a six-hour meeting. He told the Commission that the length of a Panel meeting is largely a determination of the way it is organized by the chairman. A chairman can determine how many questions people get to ask. Mr. Whyte is confident that the chairman of the Darby Panel, for a lot of the good reasons already pointed out, will never again get himself into the situation that creates a six-hour meeting.

Mr. Whyte also wanted the Commission to understand that the minutes of the Panel are produced by a Franklin County staff person. They represent what that individual thinks is the essence of the meeting. The written minutes are not a complete transcript of the proceedings. What the staff person chooses to leave out can by omission create a powerful impression about the group.

Mr. Whyte assured the Commission that there are some extremely capable, good, honest people on the Panel. He said that several of them have forgotten more than he has learned about the Darby Accord. When members who have in-depth knowledge about a particular subject hear things presented that do not correspond to what they know, they feel compelled to ask questions.

Like it or not, Mr. Whyte said that there is a great deal of political power and financial backing related to some of the cases that are presented. Even so he thinks that most Panel members are going to act from their own personal views based on what they honestly interpret the Accord to mean.

Mr. Whyte asked the Commission to consider that the Darby Accord is an interpretive document. In reading the Darby Accord, just as in reading the Bill of Rights in the U.S. Constitution, there are differing opinions about the meaning of the words. Appointees to the Darby Panel have the responsibility to interpret the Accord the best they can. There are some Panel members who are interpreting the lengthy Accord, as well as all the numerous other documents related to it, with intelligent and professional understanding.

Mr. Whyte said that in his opinion the Darby Panel is far from dysfunctional. Members are really trying to do a good job. He cautioned that the minutes of a particular meeting can be misleading, and that there is more to the job than written in the minutes.

Next Meeting:

Mr. Balzer announced that the next meeting of the Prairie Township Zoning Commission would be Tuesday, December 18, at 7:00 p.m. at the Township Hall, 23 Maple Drive.

There being no further business, Mr. Balzer adjourned the meeting at 4:00 p.m.

Respectfully submitted,

Hulda Moffitt, Secretary
Prairie Township Zoning Commission