



**PLANNING & ZONING MEETING
Minutes of October 15, 2019**

Chairperson Dave Hart opened the regular meeting at 7:00 p.m. on the above date, with the Pledge of Allegiance and the following members answering roll call:

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|---------------|--------------------------------|--|----------------|
| Present: | Dave Hart, Chair | Sonny Markus | Ron Johnson |
| | Nick Reitman | Randy Nehus | Steven Shinkle |
| Absent: | Tom Wheeler | | |
| Also Present: | Stephanie Tarter, Admin. Clerk | Carol Hofstetter, Zoning Administrator | |
| | Mike Duncan, City Attorney | | |

APPROVAL OF MINUTES – October 1, 2019

MOTION: Steven Shinkle made a motion to approve the minutes of October 1, 2019, seconded by Nick Reitman. All in favor, the motion passed 5-0-1, Dave Hart abstaining.

VISITORS AND GUESTS

Bill Rachford, 153 Stonegate: Mr. Rachford gave the members of the commission a copy of an article from Time Magazine that discussed the dangers of vaping. He spent some time talking about the one vaping store located across from the Middle School and some of the concerns that were raised when they opened 6 years ago. He reported manufacturers are now beginning to put flavors into the devices and advertising them as a way to quit smoking. He is a concerned citizen desiring for the city to get in front of the problem rather than being reactionary as there have been multiple deaths throughout the U.S. associated with vaping. He pointed out that, since the Planning Commission is currently going through the Comprehensive Plan, this would be an ideal time to address the issue of vaping stores. Mr. Rachford made it clear he is not wanting to shut down the current vaping store or the gas stations who sell the juul pods. He would like to see vaping stores moved to a different zone in order to regulate them more within the city limits. He read some of the statistics from the article and shared some facts with the commission that he has seen in the news. He also stated that some stores are now no longer selling juul pods. Mr. Reitman asked for a little more clarification as to what he is requesting of the Commission. He explained he is asking them to halt the expansion of businesses that are dedicated to the selling of vaping materials.

It was asked of Mr. Duncan what the commission could do in regards to regulating or stopping the expansion of vaping stores. It was explained that Planning & Zoning does not have the policy making authority to outlaw vaping stores, their job is to regulate land use. As a zoning matter, they cannot prohibit a business if it is a lawful use. Mr. Duncan gave the commission some suggestions as to what they could do, but he would need to investigate the issue further. There are things the commission can do, and now is the time to make those changes.

NEW BUSINESS

Chapter 8 & Chapter 9: Mr. Hart mentioned Land Use (Chapter 8) is the spot that will have the biggest changes. It was brought up that vaping stores are not currently listed as a permitted use. Mr. Duncan explained that since it is a lawful use it would be permitted in any commercial zone that has a similar type of business and that means, any business that has the same impact and traffic. The P& Z commission has a narrow window of what they can do and he mentioned that if they took certain steps, they could be faced with litigation they would not win. He went on to say they could create more zones and make each of those zones more restrictive, similar to what they have done in Boone County where they have C1, C2, C3 and C4 in their commercial zone. Mr. Duncan stated, rather than moving vaping stores to the Industrial zone, they could move it to a HC1-HC4 zone which would

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restrict where they can go. The difficulty with those zoning changes, however, will occur when the city goes to rezone properties to fit within those zones, because list of permitted use will be restricted. It was asked what would happen if the city refused to make a zone that allowed vaping. Mr. Duncan gave an example of what happened to Boone County when they did the exact same thing. It ended in a lawsuit in which Boone County lost and they had 90 days to create a zone regulation.

Mr. Markus asked what would happen to the current vaping location if they were to change the zones, and it was stated they would be grandfathered in. There was further discussion in regards to, if the State passes a law rendering vaping stores illegal, then the commission won't have to do anything. City Council could possibly be able to pass an ordinance, but further research is needed. With the new public health concern there may be changes that come quickly.

Mr. Reitman asked if Chapter 8 could be trimmed down as there are a lot of details included in the chapter. He asked if all of it was necessary but also doesn't want to go overboard with the hyperlinks. There was further discussion about items to add and remove; Mr. Duncan chimed in stating all other chapters lead up to the land use element. There was some discussion on whether certain items were still relevant to the city. Mr. Duncan explained some elements may still apply but that each element should be read over as the city has changed drastically since the time the current plan was written. There was some discussion about trimming down the Comprehensive Plan.

UNFINISHED BUSINESS

Sign Ordinances & Regulations: Mr. Duncan gave a history as to why the city had to update their sign ordinances. There was a Supreme Court case that determined it was unlawful to regulate the content of signs and so the city needed to do some updating. Ms. Hofstetter has already been implementing the changes as new requests come into the office. There was also some discussion about political signs as well and how those cannot be regulated. He then went through all of the suggested changes line by line.

Mr. Reitman asked if they wanted to keep the sign ordinance for abandoned signs at 180 days or shorten that to 60 days. Mr. Duncan explained, no matter what number was placed there, they can only act on it if the business is truly abandoned. The Commission was encouraged to read through the changes to ensure all suggested changes are included in the latest version. Mr. Nehus pointed out some verbiage that needed to be updated due to the fact that technology has changed and people have switched over to LED lights and they are graded by lumens not watts.

Mr. Duncan mentioned that he spent a lot of time reviewing court cases that have happened in the Sixth Circuit to ensure the city is in compliance. He went over some of the recent cases that went into the changes mostly focusing on signs advertising business that do not take place on the property. As he was explaining the off-site signs, he realized there is nothing in the sign ordinances that addresses bench signs.

Mr. Duncan suggested having a public hearing for the sign ordinance, zoning ordinance, Comprehensive Plan: Goals & Objectives as well as the text amendment in the subdivision regulations. City Council suggested changes to the verbiage about the developer submitting the plans to P&Z and City Council for the street lights in a subdivision. Currently this is not happening so the suggested change is having plans submitted to the Zoning Administrator and Public Works Director for approval and then have the Mayor sign off on the plans. The commission was in agreement to have the public hearing after the first of the year to include all of the things listed above. Mr. Markus requested that Mr. Duncan come back out prior to the public hearing to review the changes with the commission.

INTERNAL BUSINESS

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Treasurer Report: Randy Nehus presented the Treasurer's Report for October 15, 2019.

Beginning Balance \$7,812.84

Receipts	+435.00	Final Plat, Arcadia Highlands Section 4, Lot 124
	+628.06	Replat, Arcadia Subdivision, Section 12
	+250.00	ID Plat, 9492 Jerry Wright Rd

Expenses	- 338.00	Ziegler & Schneider Inv. #226
	- 523.00	CT Consultants Inv. #190283-8

Ending Balance \$8,264.90

MOTION: Steven Shinkle made a motion to pay invoices as presented, seconded by Nick Reitman. All in favor, the motion passed 5-0-1, Mr. Hart abstaining.

MOTION: Nick Reitman made a motion to accept the Treasurer's Report dated October 15, 2019, seconded by Steven Shinkle. All in favor, the motion passed 5-0-1, Mr. Hart abstaining.


Correspondence:

Mr. Reitman asked how the survey was coming along to be presented to the ACBA next week and would like a copy emailed to him along with the link for Survey Monkey.

ADJOURNMENT

MOTION: Nick Reitman made a motion to adjourn, seconded by Steven Shinkle. All in favor, the motion passed with a 5-0-1 vote, Mr. Hart abstaining. Meeting adjourned at 8:34 p.m.

Attested to and submitted by:


Jan Johannemann, City Clerk

Dated 11/6/19


Dave Hart, Chair

Dated 11/5/2019