

CITY OF KIRTLAND
MINUTES OF COMBINED MEETING
JANUARY 11, 2021

PLANNING AND ZONING COMMISSION
CITY COUNCIL
BOARD OF ZONING APPEALS

The meeting was called to order at 6:05 p.m. by Planning and Zoning Commission Chairman Michael Denk. Due to the current state of emergency regarding COVID-19, the meeting was held virtually via Zoom. Present were the following Planning and Zoning Commission members: Richard Blum, Richard DeMarco, Michael Denk, Rick Loconti and Joseph Vinciquerra.

The following Council members were present: Scott Haymer, John Lesnick, Richard Lowery, Jeffrey Ruple, Matthew Schulz, Joseph Smolic and Kelly Wolfe.

Present from the Board of Zoning Appeals: Ronald Fenstermaker, Suzanne Grazia, Lita Laven and Robert Murch. Absent: Harry Keagler.

Also present were the following: Mayor Kevin Potter, Law Director Matthew Lallo, City Engineer Douglas Courtney and Economic Development Manager Monica Drake.

The following issues were addressed:

HIGHLIGHTS OF 2020

Using the screen sharing function of Zoom, Mr. Denk shared a report he prepared providing highlights from the Planning and Zoning Commission meetings in 2020. He reviewed the public requests that were brought before the Commission throughout 2020. He noted that the Commission has been reviewing and discussing the sign ordinance, and a recommendation will be submitted to Council soon. Mr. Denk noted he can send the highlights report to anyone that would like a copy. There was discussion regarding some of the public requests, and Mr. Lallo addressed the need for “proof of compliance” with regard to an application for streambank stabilization.

SOLAR ENERGY

It was noted that Aaron Godwin, a Kirtland resident and expert in the field of solar energy, has made some presentations to the Commission for installation of solar panels by his company. Mr. Godwin had mentioned that Kirtland is the only city that has required a conditional use permit for solar panels. Noting that Mr. Godwin has offered to provide assistance in a review of the code section relating to solar panels, Mr. Lallo advised that he sent him a copy of the code section and will set up a meeting with him to address his concerns, while still maintaining the oversight of the City.

SIGN ORDINANCE

Mr. Denk noted that the Commission prepared a spreadsheet of the existing signs throughout the city, noting that some are in poor condition and some are in excellent condition. Mr. Denk noted that the Commission has been discussing temporary signs, multi-tenant signs, illumination of signs, maintenance and condition of signs, and non-conforming signs, including the sunset provision from 2004 that is in the code. He noted that the Commission has discussed clearing up some of the language in the ordinance.

Mr. Denk stated the Commission had discussion regarding enforcement, noting that the Law Director made it clear that enforcement is not the Commission's responsibility. However, the Commission recognizes that if someone has signs that are not in compliance, they should be advised how to bring their signs into conformance.

With regard to enforcement, Mayor Potter stated he and Mr. Baumgart discussed sending out a warning letter for non-compliant signs. He noted there was concern last year due to the effect that COVID has had on small businesses, but in moving forward, letters should be sent to those that are not in compliance.

Mr. Denk noted that upon his invitation, Kimberly Hoffman, owner of FastSigns, attended a Planning and Zoning Commission meeting to provide her point of view relating to signs. He noted that Ms. Hoffman has been before the Commission with various applications in the City.

Mr. Denk shared a document that summarizes the Commission's sign discussions throughout the year, including specific issues to be addressed. Mr. Denk noted that the Commission does not intend to make changes to make the code less stringent.

Mr. Denk stated the Commission hopes to have a recommendation to Council within the next couple months.

CHARTER REVIEW (REFERENDUM ZONING) - SUMMARY

Mr. DeMarco stated that the Charter Review Committee broke into three groups to look at the Charter and determine whether any changes should be recommended to the voters. He noted they came up with three items they felt were worthy to be presented to the voters. He noted the first recommendation related to when the Charter review occurs; it is currently every ten years. Mr. DeMarco stated that the Committee determined the Mayor should have the opportunity to have a review done more frequently if needed. Mr. DeMarco noted that this recommended amendment was passed by the voters.

With regard to the second recommendation, Mr. DeMarco stated the Charter currently contains a Lake County residency requirement; the Committee felt there may be consultants that would benefit the City but do not live in Lake County. Mr. DeMarco noted this was voted down by the voters.

Mr. DeMarco stated the third recommendation from the Committee related to referendum zoning. He noted that currently, in order to change zoning, the Charter requires a referendum. Mr. DeMarco noted that after discussing this in the Committee and with Monica Drake, it was noted that it takes close to 19 months to achieve a zoning change. The Committee felt that the cumbersome time frame limits development, and the Committee recommended an amendment to the Charter that would eliminate the required referendum, but any rezoning requests would still go through the Planning and Zoning Commission and City Council. In their recommendation, the Committee included a provision that City Council cannot pass a zoning change as an emergency, thereby providing 30 days in which someone with an objection could file for a referendum. Mr. DeMarco stated it was anticipated that eliminating the required referendum could cut the time frame of the process in half. Mr. DeMarco noted this was voted down by the voters.

Addressing the residency requirement in the Charter, Mr. Lallo stated that those provisions in the Charter are unenforceable legally. He noted there is a State law that bans the residency requirements and an Ohio Supreme Court case that affirms the invalidation of these types of laws that require residency. Mr. Lallo stated that although it is still in the Charter, it is unenforceable. He noted the Charter Review Committee was trying to clean up those sections of the Charter so that it is properly written.

Discussion ensued regarding the failed Charter amendment to eliminate the required referendum, and the possibility of bringing this before the voters again. Mr. Smolic stated there was a lot of confusion among residents and concern related to the City changing someone's zoning. Mr. Lesnick noted there was a lot of misinformation; he stated that the elimination of the required referendum would have helped economic development in the City. Mr. Lesnick noted that the language on the ballot was not clear.

Mr. Vinciguerra stated that some residents he spoke with had concern that if a property owner could get a majority of Council behind them on a proposed rezoning, they could push it through; they felt the proposed amendment did not provide adequate checks and balances. He stated residents expressed concern that although the Planning and Zoning Commission can make a recommendation, the decision to rezone property would be made by four Council members voting in favor. Mr. DeMarco stated that the amendment proposed by the Charter Review Committee included the provision that Council could not pass a zoning change as an emergency; therefore, if a rezoning was pushed through, the voters would have 30 days to file for referendum. Mr. Vinciguerra noted that residents indicated to him that they understood that option, but then the onus would be on them to obtain signatures and file for a referendum. Mr. Vinciguerra stated that he believes many voters understood the proposed amendment.

Mr. Fenstermaker commented that residents had concerns that 30 days is not enough time to collect signatures and file for a referendum. Mr. DeMarco stated that he does not believe the Committee could have provided a longer time frame. Mr. Lallo confirmed that the referendum must be filed before the law goes into effect, which is 30 days (unless passed as an emergency); he noted it is written in the Statute, the Ordinances and the Charter. Mr. Smolic suggested a three reading requirement could be included.

With regard to the process for a zoning change, Ms. Drake stated it can be requested by the property owner or recommended by the Planning and Zoning Commission or Council. She noted the concern she heard was that rezoning could be passed by a simple majority of Council. Ms. Drake noted that in some cities, in order to override a recommendation by the Planning and Zoning Commission, a super majority of Council is required for passage. She noted that in all cities she has worked with, the Planning and Zoning Commission makes the recommendation and the decision is made by City Council.

Mayor Potter discussed the need for some balance in the language if it is decided to re-address the proposed Charter amendment in the future. Mr. Lesnick requested that specific concerns be provided to Council, in the event Council decides to move forward in re-addressing this matter in the future.

Answering Mayor Potter, Mr. Lallo confirmed that Council can vote to place a Charter amendment on the ballot, without reconvening a Charter Review Committee.

Mr. Lowery suggested that a change in zoning could require a vote of more than a majority of Council, perhaps the entire Council.

Mr. Lallo stated that there were discussions by the Charter Review Committee addressing a super majority vote of Council, but that would also require a change in the Ordinances. As an example, he stated if there was a recommendation by the Planning and Zoning Commission to deny a zoning change, unanimous Council approval could be required to override that recommendation, otherwise requiring a 2/3 vote of Council. He suggested that the Ordinances could be amended, and once that goes into effect there could be a potential Charter amendment, addressing those concerns.

Mr. Murch stated he read the ordinance for the proposed Charter amendment several times; he believes the City needs to be cautious with such a change. He stated he was not in favor of the amendment, noting that there was a great deal of thought put into the 55 percent majority required for a rezoning referendum. With regard to the proposed amendment, Mr. Murch stated that his opinion, and the opinion of a few lawyers that looked at it, is that it could give four people the right to do what they want in the City, putting the onus back on the voters and taxpayers to have to fight it. Mr. Murch stated that in his opinion, zoning should not be the decision of only four or five people.

Mr. Smolic noted that if this is re-addressed, clarity is important, specifically with regard to the Council readings and the majority or super majority vote of Council.

There was no further discussion, and the meeting adjourned at 7:11 p.m. upon the motion of Mr. Lesnick and second of Mrs. Wolfe.

CHAIRMAN

SECRETARY