

## SEVILLE ZONING & PLANNING COMMISSION

APRIL 27, 2009

Chairman Dennis Gordon called the meeting to order at 7:13 p.m.

**PRESENT:** Rich Demastes, Pete Fontana, Mayor Larry Landis, Ralph Smith, Mayors Office Manager Nancy Leonard, Zoning Inspector Keki Vania, and Assistant Solicitor Jennifer Hensal.

**Others in Attendance:** Council members Richard Barbera, Bonnie Gordon, Courtney Harlan and James Lovejoy, Board of Public Affairs President David Johnson, Fiscal Officer Jim Carrick, Guilford Township Trustee Glen Sheller, Medina County Economic Development Director Bethany Dentler, Westfield Trustee Carolyn Sims, Al Schrader, Medina County Planning Department Deputy Director Susan Hirsch and Medina County Commissioner Steve Hambley.

Mayor Larry Landis made a motion to approve the March 23, 2009 minutes as written. Gordon seconded. The motion passed with aye votes by all except Fontana who abstained due to absence.

### **NEW BUSINESS:**

Chippewa Creek Watershed Coordinator Deborah Russell was introduced. Russell said her primary job is to oversee the flood control project that was implemented back in the late 1960's and early 1970's. This protects Seville, Creston and Rittman from flooding and was the result of local business owners and farmers organizing to get some protections in place. This resulted in the construction of eight flood control dams (5 in Medina County) and the improvement of thirty-three miles of channel. The channel was widened and more than 600 structures were put into place to allow water to get into the channel faster. Russell pointed out the Chippewa Watershed area on a map that she provided. More than 1,200 parcels of land are assessed on their taxes and more than \$15,000 each year is generated to maintain the channel. The sub-district has easements along the channel. They are 100 feet from the top of the bank on any part of the channel where the bottom width is 60 feet or less, and if the bottom width is more than 60 feet wide the easement is 150 feet from the top of the bank.

Smith asked Russell to read a pamphlet that she provided entitled "How You Can Help." Russell read the brochure. Resident Gene Sulzener asked if her office will be evaluating the erosion of Chippewa Creek. Russell said, yes. Gordon asked how additional development affects the channel. Russell said anytime there is hard surfacing the water drains off the surface faster instead of gradually absorbing into the ground and entering the channel slowly. If someone wants to build within the easement area they need her office's approval. Her office is responsible for protecting the easements and controlling and protecting water quality and quantity. She offered to work with our community to assist us in any way she can. Her office is located on Guilford Road in the Buffalo Creek building that the Medina County Park District owns.

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### ANDY VIDRA, NOACA:

Gordon introduced Andy Vidra. Vidra is a Senior Environmental Planner with the Northeast Ohio Area Coordinating Agency. He has 35 years of water quality experience specializing in storm water management, pollution control, and water shed planning. Vidra said if the Chippewa project was built today it would be constructed differently due to the engineering changes that have occurred over the years. This year is the 40<sup>th</sup> anniversary of the 1969 flood that happened in this area. Communities used to have absolute immunity from damages from flooding, but the laws have changed. If communities take an action that allows development and damages occur later, they are now being held accountable legally. He cautioned the officials to proceed with caution in allowing development. The watershed district was formed due to the dangerous stream that is capable of causing considerable damage. The watershed has been studied extensively, and there's sufficient engineering data available to determine why flooding occurred.

Vidra said Medina County has a long standing program that requires retention basins and a program that addresses erosion and sediment problems. There's a new requirement that collects post construction data to measure run off. There are also controls on the storm water and riparian setbacks. He suggested that the local community be active in inspection since there are only two or three EPA inspectors for our area.

Vidra said the storm water programs currently in place are a result of 30 years of government studies that show that development degrades streams in terms of water quality and animal habitat. The amount of educational materials available is overwhelming and cumbersome to weed through. There are other communities that can help us. His warning is that if the community participates in an action that causes damage down stream, attorneys will be calling. It has been many years since we have had serious storms and he cautioned against complacency and said the flood control system in place minimizes damages from flooding but doesn't solve the issue of flooding.

Lovejoy asked Vidra to explain the difference between Medina County flood damage regulations and Seville's. Vidra said Seville's don't provide for compensatory storage, and Medina Counties do. Harlan asked about the drainage impact from the five year interstate that runs through the community. Vidra said the water goes straight into the creek and ODOT can't build retention basins along the highway for motor vehicle safety reasons, and has negotiated special rules for compliance. Resident Bill Carter asked if properly designed development would help in retention. Vidra said a properly designed system won't result in a significant change in the system; it's possible but difficult to design a system that will actually improve the drainage situation.

Al Schrader asked if it is likely that Seville would be held liable for flood damage since it hasn't adopted the more stringent Medina County regulations. Vidra said he believes that Seville would have difficulty defending the less stringent regulations, and he would

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recommend that we adopt Medina County regulations. Mayor Landis said we have had a presentation from Medina County Emergency Management Director Buck Adams and we are currently considering adopting the higher standards.

Resident Penny Rickard asked if the state and county rules supercede Seville's rules for floodplain development. Vidra said, no. Fontana asked if Vidra is aware of lawsuits due to incorrect decisions. Vidra said over twenty years ago Elyria was the first city in Ohio and it was a landmark decision, and there have been a number of other municipalities held liable over the years. For the most part municipalities have gotten smarter in the management. Vidra reiterated that he recommends that Seville pass the stricter standards.

Mayor Landis said the Board of Public Affairs utility department was just granted a variance for an equalization basin for 500,000 gallons to take excess storm water and sanitary sewer water into a dry basin when there is a heavy rain. The variance was granted because it's not a retention basin; it's designed to take over flow.

### **WESTFIELD TOWNSHIP TRUSTEE CAROLYN SIMS:**

Sims said Westfield Township is updating their comprehensive plan and looking at zoning issues. She referred to maps provided by Medina County and pointed out the FEMA floodplain in Westfield. Sims said much of Westfield's open space is dominated by the floodplain. The floodplain leads to the Chippewa canal or creek which leads to the aquifer that has received recent media attention. We are all connected and Westfield is located at the top of the watershed and Seville is downstream. She asked officials to take a regional approach to the environmental issues since the floodplain area acts as a natural sponge allowing water to naturally absorb into the ground and filters it and slowly releases it into the canal leading to the aquifer that is Seville and other communities' water source. Sims referred to the ODNR resource map in a packet she provided to council at an earlier date. She pointed out the area along the Chippewa creek which is identified as the highest potential for pollution due to the soil types.

She said the importance of the floodplain for all of us is the potential for flooding as well as water quality. Westfield is reaching out to adjoining communities for a regional approach. Medina County has recognized the uniqueness of the area due to a large area of floodplain area and development pressure. For this reason, they added the compensatory storage. She said Commissioner Hambley is a member of NOACA and aware of the environmental issues. She re-emphasized the importance of working together to ensure the best possible scenario.

Smith commented that Seville has had more than one presentation on the subject. Fontana asked why anyone would be opposed to the more stringent floodplain development regulations. Sims said according to comments made by developers at previous meetings, the more stringent rules can take away 20 to 30% of the developable density by setting aside compensatory storage. Fontana commented that he would consider it a necessary cost of doing business. Gordon thanked Sims for her presentation.

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### **119 - 121 ROYAL CREST DRIVE:**

Robert Crowley introduced his business partner Debbie, and is interested in purchasing the building that formerly housed the Bi-Rite Market and Ritzman Pharmacy. He wants to open a dance club/party center. Debbie has been teaching dance classes for more than 15 years and they plan to acquire a D1, D2, and D3 liquor permit. Initial hours of operation would be 6 p.m. Wednesday through Saturday evening. They would expand those hours as demand grows. Crowley said he is an investor, and runs a tight ship. He is happy that the Police Department is located across the street. Debbie said it will be a dance club and they want to rent out the smaller facility to the left to a restaurant. Until they do that, they will serve food themselves. They plan to rent space for wedding receptions, and have concerts, disc jockeys, and karaoke. They want to bring business to Seville and give people a clean, fun environment for entertainment. Fontana asked whether there are any plans for a sexually oriented business. Debbie said, absolutely not. Gordon visited the State of Ohio liquor license website, and said his understanding is that the D liquor permits require food to be served. He asked their thoughts on it. Crowley said his understanding is that it wouldn't have to be a full service restaurant. Debbie said it's generally appetizer type food. Crowley said there are clubs called the Dusty Armadillo and Mustang Sally's, and they don't have restaurants in them. Crowley said Debbie has been teaching dancing for more than 15 years. Debbie said they will make sure that their patrons have respect for the community and the law. Gordon suggested that the commission do some further inquiry before making a decision. Resident Penny Rickard referred to the fact that 120 Royal Crest (Seville Municipal Building) used to be a party center with a liquor permit. She asked if this would be a ballot issue. Gordon said, no. Liquor permits are available.

### **BILL CARTER, JUSTIFICATION FOR SEASONAL RV STORAGE:**

Carter said that this issue has been addressed since last October. He stated that he thinks he has been singled out and discriminated against, and we are residential unfriendly. He said they are more interested in his RV than cleaning up trash around town. He drove around town and documented violations that have existed for years. He said seasonal storage isn't unreasonable and surrounding communities have provisions for it. He asked if he is being singled out, and handed Gordon some photos. He gave Gordon a letter (attached to original minutes), and asked if he is getting the run around. His alternative is to pay for storage, and he said the storage facility isn't in compliance with our code. He said "you people are being so unreasonable that you won't look at someone's request to keep something that's nice in their drive." He said everyone else cited for RV's was cited because of him. Fontana said "for the record, it's because the commission enacted a code that prohibits front yard storage." Carter said we allow box trucks and school buses and the Police Chief even said the code is "unenforceable." Mayor Landis said the ordinance Carter is referencing has nothing to do with zoning; that's for parking in the right-of-way. Carter pointed out that the photos show violations that are more offensive than his RV.

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Gordon said the issue is front yard parking, and Brunswick and Wooster have much stricter codes than ours. He said there are variables and Carter is correct that Wadsworth doesn't prohibit it, but Lodi's code isn't clear, and Medina has enforcement issues with their code.

Gordon said some of the property owner's whose property is shown in the photos have been cited. Carter asked whether zoning requires registered up to date plates and the vehicle to be functional. Gordon said that's correct, but it's a difficult issue to enforce. Carter collected his photo's, and said he is moving his vehicle every 72 hours to avoid being cited. Gordon said he wouldn't advise that since it's not the intent of the code. Carter said he thought the commission was going to work on the issue. Gordon asked Carter the length of his RV? Carter said it doesn't matter. Carter asked whether the commission will consider the request for seasonal storage. Gordon said he doesn't have an answer at this time.

### **ZONING INSPECTOR'S REPORT:**

Permit number 1161 was issued to Roger and Joyce Crislip for a porch roof at 47 East Main.

Permit number 1163 was issued to Robert A. Yanke for an accessory building at 105 Greenwich Road.

Permit number 1164 was issued to David Wigham for remodeling for a Chinese restaurant at 9062 Center Street.

Property cleanup letters were sent to a property owner on Mill Street, and 21 Water Street. A letter was sent to 62 East Market for an accessory building with a caved in roof, and to Irene Jones of 83 West Main Street for unlicensed vehicles.

Assistant Solicitor Jennifer Hensal said they reissued a violation notice for the camper at 111 Cedar Court. It's being stored on the side of the home and there is no screening. The camper was moved to the side in an attempt to cure the previous violation. The resident doesn't own the property and the owner has been facilitating compliance. The trailer is deemed to be a construction vehicle and not technically a recreational vehicle. Hensal is looking at the issue in conjunction with the current parking ordinance that is pending before council and our more recent RV parking ordinances to make sure we have something comprehensive that doesn't conflict. She said she isn't saying that the parking of the trailer isn't a violation of the zoning code but believes that it is being hooked up to the back of the truck on a regular basis. Storage versus parking is a bit cumbersome and she wants to make sure we address the issue of pop up campers. When they cited the trailer they didn't discuss the trailer in the driveway because it complicates the complaint. It's an unclassified misdemeanor which makes it a criminal case. The complaint goes to the resident and the property owners. Hensal has had discussion with both parties within the last 30 days.

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### OLD BUSINESS:

Barb Schwartz asked how to interpret Section 808. Hensal explained that 808A talks solely about yard restrictions. Section 808B talks solely about vehicles stored or parked on residential property including yard and driveways. Section 808C talks about major recreational vehicles and defines them.

Mike Hill asked what “and the like” means in Section 808. Hensal said vehicles used for recreational purposes. Hill asked how a work trailer being stored in the driveway factors in. Hensal said it factors in terms of storage and hauling trailers. A resident asked about storing a trailer in the back of a church parking lot. Fontana said it’s not parked in front. Carter said it’s not screened. Hensal said screening is required in residential districts. She said that’s why they are looking at all the ordinances to make sure they are compatible. This was already done previously, but zoning parking ordinances have been passed after that, and there’s a pending right of way ordinance before council.

A resident that lives on the corner of Washington and Water Street said he has invested \$2,000 for a concrete pad to park their 5<sup>th</sup> wheeler and boat on. He said it’s a challenge to comply with the regulation as it will require him to pay for monthly off site storage. He asked if the commission considered this, and said screening will be a challenge. Hensal asked if he received an enforcement letter. He said he did not. Hensal said without specific details on his unique situation she can’t answer that. He commented that it’s not a gated community, and what he has isn’t an eyesore. He expressed his disapproval with the ordinance. Mayor Landis said if he’s on a corner lot he can park it behind his home, but if the RV’s are over 26 feet that’s a separate issue.

Carter said the newer lots aren’t large enough to store the RV’s on. Other residents in his neighborhood had RV’s in the past, and he didn’t know he couldn’t store an RV at his home when he purchased it. Smith said the zoning code was passed before Carter purchased an RV, and he isn’t being picked on. Carter said he did Smith a favor by not reading his letter in front of everyone.

Gordon asked for both parties to calm down. Hill asked if the commission will consider easing up on the regulations or provide for seasonal storage. He said he still hasn’t received an answer, and “this is America.” He said the rules are going to be changed, and he is disappointed in his community and is considering moving to another community. Mayor Landis reminded Hill that Hensal is considering his situation. Hill said “you aren’t my mother, and you aren’t the law.” Mayor Landis said “you are dismissed and you can leave.”

Schwartz said the way the code is written is that all three criteria in 808B must be met. She asked if a vehicle is longer than twenty-six feet but is single axle, are you in violation. Hensal said it’s talking about what is limited. Schwartz said “so anyone over 26 feet can’t even store it on the side.” Hensal said that’s correct, and it can be any one

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of the three criteria to be prohibited. Schwartz said it's difficult for residents to know what to do. Hensal said no, I think the commission has been consistent in its interpretation, but each case is different, so she recommends speaking to the zoning inspector. Schwartz said some people have already been told they are allowed to store a double axle trailer on their residential property. The code was adopted in August of 2007.

Gordon said this issue could be discussed all evening, and unless there is another issue to be discussed he wants to move on.

Mayor Landis made a motion to adjourn. Fontana seconded, and the motion passed with aye votes by all.

Susan Hirsch gave us copies of the Seville zoning map.

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Chairman Dennis Gordon

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