

APPROVED MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
FEBRUARY 3, 2009

The Jefferson County Planning Commission met on Tuesday, February 3, 2009, with the following Commission members present: Robert Reynolds, President; Arnold Dailey, Vice President; Lynne Deming, Secretary; John Sidor; Edward Dunleavy; John Maxey; Ellen May; Tom Kane and Jim Surkamp. Staff members present included Kirk Davis, Acting Director of Planning; Jennifer Snyder, Acting Zoning Administrator; Tom Hall, Planner and Shannon Phillips, Planning Clerk.

Mr. Reynolds called the meeting to order at 7:03 PM.

1. Approval of minutes.
 - a) December 9, 2008.
 - b) January 13, 2009.

There was discussion between the Planning Commissioners, and it was determined that not all Commissioners had their marked-up minute drafts for comment and/or approval.

Mr. Maxey moved to postpone the approval of the December 9, 2008 and January 13, 2009 Planning Commission Meeting minutes until the February 10, 2009 Planning Commission meeting. Mr. Daily seconded the motion, which carried 9 for and 0 opposed.

2. Citizen Communications. None.
3. Requests for postponement. None.
4. Consideration of planning issues, discussion and possible action on the County Commission's Directive regarding the proposed Incorporation of Mannings. Mr. Casimiro distributed and reviewed with the Planning Commission an Outline of Process for Municipal Incorporation.

Mr. Kane stated that the County Commission specified four points for the Planning Commission to address, and he felt the Planning Commission should concentrate on those four points only. Ms. Deming moved to have Item #4 removed from the Agenda.

Mr. Kane seconded the motion for the purpose of discussion. Ellen May stated she would like time to review the Planning Department's report of findings before she made a decision.

Mr. Maxey questioned what the law required with regard to describing in the petition what services would be provided by the municipality and what the cost would be. Mr. Casimiro replied that the law is narrow in the sense that it specifies items, but broad in that it doesn't state how it should be addressed, just that the items are addressed in the petition. He stated it would be up to the County Commission to determine whether those items were addressed in the petition.

Mr. Kane said he felt the discussion was irrelevant to what the County Commission had asked the Planning Commission to do. The County Commission requested the Planning Commission address four specific points only and those should be the focus of consideration. Ms. Deming stated, as far as the issue of services to be provided to the municipality that would be something that could not be addressed by the Planning Commission; she believed those issues are to be researched and decided on by the service providers.

Ms. Deming again moved that this Item be removed from the Agenda. Mr. Dailey seconded the motion. Mr. Sidor stated that he could not support the motion because of the reports that were submitted and he believed a response should be handled by the Planning Commission. Mr. Surkamp stated the County Commission asked for a recommendation based on countywide planning, and responding to that request would be within the Planning Commission's best interest. Mr. Surkamp also stated the County Commission would be trying to determine if the project would benefit the county as a whole, so any services to be provided would be of interest in their decision making process. Mr. Kane said he felt it was in the Planning Commission's purview to address these issues and they would be remiss not to do so. Ms. May and Mr. Maxey expressed their agreement with Mr. Kane. Ms. May offered an amendment to Ms. Deming's motion to consider the last two points of the County Commission request. The amendment died due to a lack of a second. Mr. Reynolds called the question. The motion failed with 3 for and 6 opposed (Mr. Surkamp, Mr. Kane, Mr. Sidor, Mr. Maxey, Ms. May and Mr. Dunleavy).

Mr. Reynolds asked Mr. Davis to give the Planning Commission an overview on the Planning Department's Report of Findings of Consistency of the Proposed Petition to Incorporate Mannings as a Class IV Town with the Jefferson County Comprehensive Plan. Mr. Davis provided an overview of the report and stated that it was the determination of the Planning Department Staff that the petition of incorporation would not coincide with the Jefferson County Comprehensive Plan. Mr. Hall provided the Planning Commission with more report details and stated that the application for incorporation of Mannings appeared to be incomplete because it did not provide all the required information for an appropriate application. Mr. Hall also stated that the Department's report of findings was an incomplete draft. Mr. Reynolds asked Mr. Hall if the report could be completed in time to forward it to the Planning Commission prior to the February 10, 2009 Planning Commission meeting this would allow Commissioners time for review before discussion that night. Mr. Davis stated the completed report would be provided to the commissioners in their Friday packets.

Mr. Maxey moved to have the Planning Commission send a letter to the County Commission for the Director to present to the County Commission at the public hearing a request that the public record for that hearing be held open until next Wednesday in order for the Planning Commission to present a final copy of a report that is currently in rough draft. Ms. May seconded the motion. Mr. Kane offered a friendly amendment to state the record be kept open in order for the Planning Commission to adequately respond to the County Commission's request. Mr. Maxey accepted the friendly amendment and the motion carried 9 for and 0 opposed.

Mr. Dunleavy gave a review of his draft summary and conclusions to the Petition to Incorporate Mannings and also gave comment on the financial analyses prepared by Mr. Maxey. There was further discussion on the process of a Petition for Incorporation.

Mr. Reynolds called a break at 8:24 PM to change the CD. Mr. Reynolds called the meeting back to order at 8:31 PM.

5. Discussion and possible action on the issues related to the conflicts between the current Zoning Ordinance and the current Subdivision Regulations.

Mr. Reynolds addressed the issue of the referendum on the Zoning Ordinance and stated there was a question as to when it would be held. Mr. Reynolds stated he had asked Mr. Casimiro about the possibility of moratoriums in regard to the Subdivision Ordinance. Mr. Casimiro stated West Virginia Code and case law would not allow for a moratorium. He continued to say Jefferson County is presently under W.Va. Article 8A exclusively and to amend the Subdivision Ordinance the County Commission would need to simply hold a public hearing. They could then amend the Subdivision Ordinance after considering any testimony. The Planning Commission input that was required previously under W.Va. Section 8-24 was no longer necessary for amending the Subdivision Ordinance. Mr. Casimiro stated in regard to the subdivision approval process, if a requirement was not stated, then it would not have to be met. Mr. Reynolds asked Mr. Davis if the Planning Department has developed any processes based on the current Subdivision Ordinance. Mr. Davis replied that the process for a minor subdivision has been developed and was currently being used. Mr. Davis distributed and reviewed the procedure with the Planning Commission.

6. Director's Report.

Mr. Davis presented. Ms. Snyder distributed and explained to the Planning Commission that the Planning Department had incorporated all of the amendments to the text of the 1988 Zoning Ordinance to make a complete current copy for use.

Mr. Davis updated the Planning Commission on the search for a new Director. Eight new resumes were submitted since the last update, and the resume submission deadline was extended to February 20, 2009.

Mr. Davis informed the Planning Commission that a Citizen Communication form had been created by the Planning Department for use at Planning Commission meetings. The form would be available prior to and during the meetings for citizens to fill in their name and the item they are interested in speaking about. The form would be given to the Clerk and made part of the public record. Ms. May suggested that a note be put on the form to inform citizens that any written materials they present at a Planning Commission meeting must be left with the Planning Clerk. Mr. Davis agreed to add such a statement.

Mr. Davis pointed out his interest in correcting any issues with employees working outside of their classification and without salaries to commensurate. Mr. Reynolds stated that he would incorporate the issue in the Planning Commission Annual Report.

Mr. Davis also stated that he would like to get started on the 340 Corridor Plan and the Mountain Study. Mr. Reynolds informed Mr. Davis that the County Commission would determine the order of priorities; the Planning Commission can only simply recommend to the County Commission.

8. Planning Commission Exchange.

Ms. May asked for an update on the Planning Department's success with scheduling staff meetings with the PSD. Ms. Snyder stated that she had been in communication with the PSD and would be scheduling staff meetings once the process for handling the old Zoning Ordinance and new Subdivision regulations was more established. Ms. May stressed the importance of moving forward and assisting the PSD during the process as opposed to waiting. Mr. Reynolds asked that the Planning Department distribute the correspondence from Joe Hankins to the Planning Commission.

9. Reports from Legal Counsel and legal advice to PC.

Mr. Casimiro stated that earlier discussions covered everything he had to speak on.

10. Actionable Correspondence. None.

7. President's Report.

- a. Executive session to consider legal issues related to decision #33438 (Far Away Farm) of the West Virginia Supreme Court of Appeals.

Mr. Surkamp and Mr. Dunleavy recused themselves and left the room at 9:39 PM. Mr. Sidor moved to go into executive session. Ms. May seconded the motion, which carried 7 for and 0 opposed.

Mr. Sidor moved to adjourn executive session and return to regular session. Mr. Maxey seconded the motion, which carried 7 for and 0 opposed. The meeting commenced at 9:50 PM.

Mr. Sidor moved to adjourn at 9:52 PM. Mr. Kane seconded the motion, which carried 7 for and 0 opposed. A detailed transcript of the meeting may be found on CDs #3 & #4. These minutes were prepared by Shannon Phillips.