

**ORDINANCE REVIEW COMMITTEE
MEETING MINUTES
Mayfield Village
September 8, 2009**

The Ordinance Review Committee met in regular session on Tuesday, September 8, 2009 at 5:00 p.m. at the Mayfield Village Civic Center, Civic Hall. Bill Marquardt presided.

Present: Mr. Bill Marquardt
Mrs. Mary Ann Wervey
Mr. John Marrelli

Absent: Mr. Wes Marrotte
Mr. Jerry Catalano

Also Present: Ms. Diane Calta Assistant Law Director
Mr. Tom Cappello Village Engineer
Ms. Deborah Garbo Secretary

Fire Chief Dave Mohr

CONSIDERATION OF MEETING MINUTES: August 11, 2009

Mr. Marrelli, seconded by Mrs. Wervey made a motion to approve the minutes of August 11, 2009.

ROLL CALL

Ayes: All
Nays: None

**Motion Carried
Minutes Approved As Written.**

PROPOSALS

1. Gas / Oil Well Drilling (Ongoing Discussion)

- Review Draft Revision Chapter 1179; Oil & Gas Wells
- Review Draft Revision Solicitation Ordinance Section 739.01 (b)
- Review Summary by Eng Surrounding Municipalities - Road BONDS
- Discussion Residential Area Drilling Rules

2. Fence Ordinance; Section 1157.08

3. Golf Carts

OPEN PORTION

**Chapter 1179
Oil & Gas Wells**

Diane Calta said I made the changes from the Aug 11th minutes and John's comments. I think this probably fits into the general discussion of "Residential Area Drilling Rules". The next step I think we can take that would be enforceable but not necessarily popular is to impose requirements on the property owners. I didn't draft those yet. When Planning Commission was coming up with their recommendations to Council when Council was considering the leases with Seagull for Village property, there was a laundry list of items, i.e. insurances. I was thinking on putting all those into 1179 which would then apply to the property owners. We can go through them more systematically and say "How enforceable is this?" If we can't enforce, it's not worth putting it into legislation.

Bill Marquardt said that would say the property owner needs to get the permit? Diane said yes. It would totally change the dynamics. We're not looking at the drillers anymore. We're looking at the property owners.

Bill Marquardt said this is commercial. This is violating the zoning. Diane said that could be a slippery slope if we're going to tell the property owners that they need to get a Conditional Use Permit. Bill said we can't do that. We'd have to change the zoning. Diane said right. You can't get a CUP in a residential area.

Diane Calta said we can do any of these things and try and enforce them. If it doesn't work, it might end up in litigation. I wouldn't want to go down that path. Some of this is so uncertain and unknown. Someone's going to have to do it.

Bill Marquardt thinks going after the property owner is less risky. Diane agrees. You're really only trying to educate them. That's the purpose of requiring them to go through the whole process.

John Marrelli questions how the homeowner would get insurance on the gas well. Diane said the driller will list you as additionally insured.

Chief Mohr said I don't see how the safety issue one would be enforced, the one that states they'll have a person at the well head within ½ hour. How is that going to be enforced? If that doesn't happen, what is going to occur? That's in direct conflict with State Law. State Law doesn't have a time limit. Reality is these people need to ban together to come up with a response team among the drillers, to come out if there's an emergency.

- **Review Revisions**

Bill Marquardt suggests going through the ones that have changed and determine if they're enforceable.

1179.03

Participation in Pre-Permit Notification

Diane said there was a pre-construction site visit at 669 Echo. Application has been filed. Permit hasn't been issued yet. I was there, John, Tom, Doug, Chief Dearden, neighbors, drillers, and the Inspector (Norburt) from the State. It was a discussion on what will happen, how it'll happen, plan for access to the property, where the tanks and batteries will go, what trees will come down, what kind of trucks will need to come in, etc. For a bad situation, I thought it was a very good meeting. BASS is a very responsive driller. I heard nothing about needing to take down any utility lines. There was discussion on videotaping the roadway.

Tom confirmed a videotaping was done last year. Then we did our road program. We'll need to re-video again for a benchmark on the condition of the road.

Diane doesn't think this is anything that wouldn't be enforceable. You need to have coordination and cooperation. As far as **(b)** Provide educational materials to interested residents; there's information on the website and information available.

Consensus: Feeling is that 1179.03 is enforceable.

1179.04

Municipal Regulations

Bill Marquardt thinks if we have a cooperative driller, this is not a problem. What if they're not cooperative?

John Marrelli said then we have penalties.

- (f)** No well is allowed to be drilled within any distance of any structure or facility (e.g. a playground)..... Chief Mohr asked what that distance is. John thinks probably the same distance you can't drill from a house. Diane thinks the key here is the health, safety & welfare.

Consensus: Tighten up (f).

- (g)** Proof of Insurance

Diane said this is something else that we would require of the property owner.

Bill said this is asking for \$6 million. Does the State have any amount? Diane said the State doesn't have a requirement for the amount.

Consensus: Change to \$5 million.

- (i)** Chapter 1129 Erosion and Sediment Control

Diane Calta said I've been gathering information about who is doing what, i.e. Ohio EPA, USEPA. The USEPA kind of has their own battle with the oil/gas industry and did not fair very well. No one has to get a USEPA permit. They are exempted from those requirements. But if there's a violation, they can enforce that violation. That's something after the fact. When it comes full circle, yes the Village can enforce these ordinances.

Tom Cappello said there's something set up with ODNR. They have a storm water pollution prevention plan requirement. Requirements they have to meet. They do a field inspection to make sure the silt fence is up and they're not discharging off the site. They don't have to file a "Notice of Intent" with the EPA but they're not exempt from compliance.

Diane Calta said every property will be different. Echo Dr. for example has a pretty significant drop off area. Tom said remember they're disturbing less than 1 acre. That falls under their minimum requirement language of 1 acre. Most wells don't fall under the 1 acre disturbed area.

- (k)** At all times relative to the drilling, operation and capping of the well, the well and all tank facilities shall be secured from public access by sufficient fencing and/or vegetation.

Consensus: John suggested incorporating City of Mentor's Ordinance 735.09; Required Screening and Buffering (to include John's revisions) into the landscape requirements.

- (o)** A cash bond of \$15,000.00 per well, shall be filed with the Building Commissioner to ensure sufficient securing and screening.....
John questions if there's an option. Could there be an insurance bond or does it have to be cash? This is all restoration work, like holding the money back until everything's finished and the final inspection is done and all agree everything's back to normal.

Consensus: Diane said the advantage of the Cash Bond vs. Surety Bond is it's sitting there and you take it. Diane will look into this.

- (h)** Emergency contact information for all persons engaged in drilling and operating the well shall be filed with the Building Commissioner and Fire Chief, prior to the commencement of drilling. Such information shall be immediately updated upon any change of circumstance(s).
Chief Mohr said we've been very lucky we've had no incidence of magnitude in the community. The two times we've had to call was because of release of gas into the air in preparation of capping the well or the tie into the gas line. Could there be some sort of notification that we would know that they're doing that, that they're preparing the well?

When they're doing service on the well with any release of product into the atmosphere, they should notify us. The fracking is a different issue. They should tell us about the fracking too because that's a release. I'm concerned with what they're using to frack the rock underneath. Nitrogen? Some hazardous chemical? In Bainbridge they screwed up everything. Here they've been using nitrogen. Usually they use high pressured water. Different methods we should at least know, particularly if a company's going to use a hazardous material.

Bill Marquardt said maybe this goes into the plan you're asking them to submit.

Chief Mohr said for example, the 761 Beta well. They were using nitrogen and did not notify us. We got a phone call of the smell of gas in the area. Sure enough we go down. We look at this well and here's nitrogen bubbling off of it. It's a gas well, you smell gas and you assume the well is leaking. It was not, but we didn't know that and we evacuated 2 buildings.

Consensus: Law Dept to draft language;

1. Notification of method for fracking.
2. Notification of when they are going to tie into the gas line.

Bill Marquardt in summary of 1179 said I would say if this is aimed at the property owner and we publicize it, it's going to be a huge deterrent as far as getting involved with this stuff. The property owner, if they read the thing, I think they'd be more guarded in their enthusiasm.

John Marrelli said none of this is difficult. I'm sure the driller would say they have it all covered. Although it might have somebody think twice about signing a lease.

739.01 DEFINITIONS; (b) "Soliciting"

Diane Calta added; Soliciting also means a landman seeking to engage in negotiations for the acquisitions or divestiture of mineral rights and/or negotiating lease agreements or other business agreements for exploring for and/or developing minerals.

Diane said the landman would have to come in, register with the Police Dept and abide by all the requirements of the Ordinance.

Bill Marquardt doesn't think we've been enforcing the Solicitation Ordinance much at all. How do we enforce this? How do you know somebody's going to be out soliciting? Diane said if they haven't registered and they're out and about the only way will be if a resident calls and complains. If the Police go out there and they don't have a permit, they'll get cited and prosecute them from there.

Bill Marquardt asked if we make this change in the Ordinance, we would notify the oil & gas drillers that this change has been made and they need to be aware? If we notify just these drilling folks, will it appear that we are focusing specifically on them?

DECISION

Mr. Marrelli, seconded by Mrs. Wervey made a motion to approve revisions to Solicitation Ordinance as proposed.

Mr. Marquardt asked if any further discussion. There was none.

ROLL CALL

Ayes: Mr. Marquardt, Mrs. Wervey, Mr. Marrelli

Nays: None

Motion Carried

Recommendation to Council

Surrounding Municipalities - ROAD BONDS

Tom Cappello said I prepared this excel summary for comparison using 6 municipalities, Gates Mills, Hunting Valley, Orange, Mayfield Hts, Lyndhurst & Highland Hts. Tom reviewed with Committee. BOND amount ranges from \$5,000.00 to \$20,000.00.

Tom suggested adding a provision saying “Driller required to videotape the roadway”. That would be just city streets, not County or State routes. We’re having Echo Dr. videotaped. Bass Energy is paying for it (\$650.00).

- **Chapter 339**

Diane Calta said we have a section in the code already that deals with oversized vehicles under Chapter 339. I drafted language for review at our Oct meeting. I didn’t get into asking for a plan as to where they’re going to be driving to get to the location.

Diane Calta asked if everyone is comfortable with the 80,000 pounds. There are different kinds of rigs. One rig may not be 80,000 pnds, but another could be over 80,000 pnds.

Bill Marquardt asked, didn’t we talk about any vehicle that required a special permit from the State? Diane said yes. Bill said then we’re talking about any vehicle that has a special permit needs to put up a BOND. That won’t include garbage trucks, etc.

Consensus: Draft language as to a plan submission for “Proposed Truck Route”.

Fence Ordinance
Section 1157.08

John Marrelli said I had an issue at a property with two neighbors both wanting to put fences on the same property line. I have not been able to find anything in State Law or any local regulations that even talk about back to back fences. It's basically so you can cut the grass or paint the fence in between. Do you want to see fences next to each other 3' apart?

Diane Calta said there's a whole section in the State Code that has to do with fences. The requirements between properties had to do with agricultural and livestock, not what we're talking about.

Consensus: More research needed by Law Dept & Bldg Dept.

Golf Carts

Diane Calta said this was brought up by Jerry. If they are appropriately equipped with the right seat belts, lights, reflectors, etc then they are street legal. No Ordinance needed, but if you looked at our Ordinances, they say nothing about golf carts, but golf carts fit under the definition of a motorized vehicle. They have to be licensed. Any complaint would be referred to the Police Department. The Police Department would review the golf cart to see that it meets the requirements and that it's licensed.

DECISION

Mr. Marrelli, seconded by Mrs. Wervey made a motion to remove Golf Carts from future agendas.

Mr. Marquardt asked if any further discussion. There was none.

ROLL CALL

Ayes: All

Nays: None

Motion Carried

Golf Carts removed from future Agendas.

CONCLUSION

- **Insurance Provisions**

Diane Calta said the Village's insurance carrier went through some sections and gave some suggestions on updating the language. Some of it is pretty antiquated. Not that it doesn't hold true, just that there's different verbiage and limits. I will have this for review at the October meeting.

ADJOURNMENT

Ordinance Review Minutes

Sept 8, 2009

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Mr. Marquardt said I'd like to entertain a motion for adjournment. Mr. Marrelli, seconded by Mrs. Wervey made a motion to adjourn the meeting.

ROLL CALL

Ayes: All

Nays: None

Motion Carried

Meeting adjourned at 6:05 p.m.

Respectfully Submitted,

Deborah Garbo

Executive Assistant

Building Department

cc: Jean Triner
829 Hanover Rd.
Mayfield Village, Ohio 44040

Linda Butler
817 Hanover Rd.
Mayfield Village, Ohio 44040