VILLAGE OF YELLOW SPRINGS
PLANNING COMMISSION
AGENDA

The Village of Yellow Springs Planning Commission will meet in regular session on Monday, June 13, 2011 at 7:00 PM in Village Council Chambers on the second floor of the Bryan Community Center, 100 Dayton Street, Yellow Springs, Ohio 45387

7:00 CALL TO ORDER

ROLL CALL

REVIEW OF AGENDA

7:05 REVIEW OF MINUTES –May 9, 2011

7:08 REPORTS
1. Council Update
2. Bike Enhancement Committee
3. Village Staff Report
4. Miami Township Zoning Commission Report

COMMUNICATIONS
Village Manager re: Solar Farm Zoning
Village Solicitor re: Zoning Code Amendment

7:20 CITIZENS' COMMENTS

7:25 OLD BUSINESS
Parks Master Plan—Tobey (History, Background and Past Planning sections)
Internet Sweepstakes Café Proposed Legislation

7:40 NEW BUSINESS

8:55 AGENDA PLANNING

9:00 ADJOURNMENT

VILLAGE OF YELLOW SPRINGS
PLANNING COMMISSION MINUTES

In Village Council Chambers **May 9, 2011**

CALL TO ORDER

Planning Commission Chair John Struewing called the meeting to order at 7:00 p.m.

ROLL CALL

John Struewing, Tim Tobey, Bill Bebko, Chris Till and Lori Askeland, were present. Village Manager Mark Cundiff was also present. Matt Reed was not in attendance.

There was a brief discussion of the voting procedures when the alternate is sitting in, and the group concurred that the alternate does have the right to cast a vote.

REVIEW OF AGENDA

There were no changes to the agenda.

REVIEW OF MINUTES

Bebko MOVED and Askeland SECONDED a MOTION to APPROVE the minutes of April 11, 2011 AS WRITTEN. The MOTION PASSED 4-0, with Till abstaining due to absence from the meeting in question.

REPORTS

Council Update—Askeland reported that the levy passed; that Council passed legislation approving a contract with AMP for inclusion of Landfill Gas in the energy portfolio; that Council did approve the Manager and Solicitor to sign a contract with SolarVision for a solar farm at the Glass Farm, should a mutually satisfactory agreement be reached.

Askeland noted that the RFP for sidewalk repair was passed, and that, per resolution, Yellow Springs will again participate in the county-wide paving program.

Council heard from an AMP representative regarding participation in a combined cycle natural gas facility in Fremont Ohio.

Askeland stated that the primary focus of the meeting was to discuss the solar farm proposal.

Bike Enhancement Committee—Tobey announced that he has nothing new to report, but that the "Over the Road" bike race will be held on May 21st.

Cundiff added that they will likely follow the same route and time schedule as in previous years.

Tobey announced that the Bike Committee is seeking volunteers to serve as corner marshals during the event.

Village Staff Report—Cundiff reported on recent developments with the Center for Business and Education as follows:

The design engineer, Jacobs Engineering, has begun work on the Stage II submittals. These engineering plans are the details of the utility work and roadway construction. Once they are completed, ODOT will determine either that a Stage III submittal is required, or to allow release of the plans for

bidding.

The first step in the annexation process of the Dayton-Yellow Springs ROW has been completed, by obtaining the signatures of all three property owners on the annexation petition. The next step is the filing of the petition with Greene County.

According to the OPWC web site, the Village's OPWC grant application for statewide Small Government funds for the construction of the left-turn lane was approved.

ODOT has granted the Village permission to bid out the ROW acquisition at the CBE locally, rather than have ODOT handle the bidding, which should speed up this process.

Finally, a productive meeting with representatives from Community Resources about the status of the project was held on Thursday. That group will continue to meet once a month until the project is completed.

Solar Farm Proposal - Village Council has approved legislation that would authorize the Village Manager to enter into a Solar Purchase Power Agreement and a Solar Licensing Agreement with a company called Solar Vision regarding the development of a solar installation on the Glass Farm from which the Village would purchase and receive electricity. It is anticipated that this will be a 2.0 – 2.5 MW installation occupying approximately 12-16 acres. SolarVision will pay the Village $500,000 for the licensing agreement for a 2.5 MW installation.

Cundiff noted that he will be meeting with the farmer who leases the land currently to inform him of the change, and to determine whether there may be any remaining farmable land on the property after the installation is completed.

Bebko inquired as to whether the land would need to be rezoned. Cundiff responded that there is an exemption for public facilities, and agreed to send this information to Planning Commission.

Amhrein noted that buildings are not included in the exemption, but that there is an exemption which exists primarily to allow governments to put in utilities without requiring rezoning.

Bebko commented that it appears there are Community Gardens in the detention basin area on the property. Amrhein confirmed this, noting that gardens are a permitted use in conservation areas, and this should prove a good use of the land.

Till inquired as to how much of the land would remain after the solar farm installation.

Cundiff stated that the contractor for the panel installation was in last Thursday to walk the site, and the Village has asked them to provide information regarding the exact location of the solar farm once they complete their work. This will let the Village know whether or not easements will be needed for maintenance access. A better-defined map should be forthcoming.

Bebko asked whether there is a fence running along the tree line in the center of the property, and this was confirmed by Amrhein.

Cundiff asked the group if they would like to continue to receive the Planning Commissioner's Journal. Members weighed in on the matter, discussing cost and usefulness of the publication, and the decision was made to renew the subscription.

Miami Township Zoning Commission Report. Struewing reported that there is nothing new to report.

COMMUNICATIONS

Cundiff explained a flier advertizing webinars and seminars on historic preservation, and Struewing invited interested Commission members to participate.

Struewing asked that any interested members contact the Clerk for registration.

CITIZENS' COMMENTS

There were no citizen comments.

OLD BUSINESS

Election of Officers. Struewing recalled that there are two motions on the table. The first of those is a nomination of Reed and Struewing as co-chairs. The second is a motion to elect Reed chair.

Struewing CALLED THE VOTE on the motion to elect Reed and Struewing co-chairs. The MOTION FAILED 4-0, with Till abstaining.

Struewing CALLED THE VOTE on the motion to elect Reed chair. The MOTION PASSED 4-0, with Till abstaining.

NEW BUSINESS

Discussion of Parks Master Plan. Cundiff introduced the topic, stating that he had broken the document into sections for examination, as below:

History and Background: This section appears to need only to be updated. The Village did at one time have a Council-appointed Board advising them on parks and recreation matters.

Past Planning Efforts: This section also appears only to need to be updated. There needs to be some mention of the recent Comprehensive Plan Update as well as the development of the Visioning Plan.

National Standards and Trends for Parks: Much of this text appears to be taken straight out of a textbook. It should be looked at and updated if needed. Perhaps some additional demographic data would be helpful here as it relates to trends. The timing is good with the data from the 2010 Census starting to be released. Also, any information on possible parks and recreation grants or other funding sources would be useful information.

The Village Park System: Present and Future: This section needs to be reviewed and updated as there have been improvements made at several of these parks. Additionally, new facilities such as the Skate Park need to be included. I also would recommend splitting this section into two sections. The first would be part of an inventory of parks and recreation facilities, and the second would be any recommended improvements to the various facilities. This could also identify any needs for additional facilities.

Other Park/Open Spaces in the Village: This section needs to be expanded. I think there should be more information on other parks/open spaces. Additionally, I think it should include a section about the activities inside Bryan Center. This is a unique recreational resource and should not be limited to a paragraph. Non sport recreational spaces (pottery shop, dance studio, community gardens, public art etc.) also need to be described. Recreational spaces outside of the Village limits such as area golf courses, Youngs, Glen Helen, John Bryan State Park, Clifton Gorge, Twin Towers Park, etc., should also be

discussed. While these may not be entirely in the Village, they do provide recreational opportunities for our residents.

Future Needs: This section will need to be completely rewritten as the future needs of 1998 may not be the future needs of 2011. These needs should become clear if we embark on this process.

Financial History and Future Needs: This section will need to be completely rewritten and updated.

Graphics: The plan has some graphics (plans/layouts) of the various park facilities. This service will need to be provided, particularly with creation of the plan itself.

Here, Tobey asked whether Cundiff could provide a cost estimate for maintenance of the park areas. Cundiff agreed to do so for the following meeting.

Public Input: Some communities have surveys performed asking their residents what type of parks and recreational facilities they use and what type they would use if available. Other communities use a series of public forums to solicit this input. Given the controversy over the proposed Dog Park, it would be advisable to build in opportunity for extensive public input in the overall planning process.

Conclusion: The Draft Plan will need to be substantially updated, and there may be new data to gather, analyze and report. If Planning Commission takes on this project, it likely will dominate the agenda for the next 12-18 months. Staff could not devote more than a day each month to this process. When this draft was originally developed, there was a Parks & Recreation Director position staffed. An update could be done, but not as quickly as it might using a consultant.

Struewing asked the group if they were willing to devote the next one-to-two years to this project, and asked why the Village has not moved on the Plan in all these years.

Askeland responded that the answer seems to be that the Village has eliminated the Community Activities Board and a Parks and Recreation Department, and that has left no one in charge of the project.

Tobey interjected that it may be the case that the Village is missing out on potential grant monies by not forwarding the Plan.

Streuwing brought the discussion back, pointing out that the group needed to start at the question of whether or not to commit to the project, stating that such a commitment will involve a great deal of work.

Bebko remarked that the economy hit a downturn shortly after the Plan was started, which may explain why the Parks Master Plan was shelved for so long. Bebko pointed out Planning Commission is responsible for shepherding the zoning code update process, which is of primary importance. The Parks Plan will necessarily take a back seat if this group needs to deal with zoning code issues. That said, Bebko stated, I think it is a project we should take on.

Tobey commented that there is a lot of research that will need to be done to move the plan into the present, and that the bulk of this will involve staff.

Askeland asked the Clerk if she could convert the document into a Word document so that the group can more easily work on it. She expressed her belief that a parks Master Plan would be a useful document, and that she would like Planning Commission to take it on, but only if it is taken on slowly.

Till wondered what the return would be on the work put in to such a plan.

Cundiff responded that it would be useful to have an inventory of resources available for use as a "roadmap".

Askeland clarified that she is comfortable taking on the document for revision, but once that process is underway, it will need to be understood that it will be a lengthy process.

Till commented that he sees the solution as a minor update rather than a major overhaul.

Struewing commented that the process will indeed be time consuming, and wondered if this is a document that Planning Commission can undertake without more extensive staff support. He stated that he supports the idea of another group, which has the time and enthusiasm, taking on the task of reworking the document, which could then come back to PC in a finalized form for critique and approval.

Struewing raised the idea of another task force being formed which could serve the purpose above, reminding the group of the length of time it took them to complete the Comprehensive Plan.

Cundiff pointed out that a task force might approach the plan with "an agenda".

Tobey offered to take a shot at updating the document for the next meeting, stating that it might provide the group with a better sense of just what it will take to complete a re-worked Plan. He noted that there is a great deal of history included in the current document, and stated that he believes he can cut the document down a fair amount.

Ed Amrhein offered to assist Tobey with historical aspects of the document.

The group agreed to revisit the idea of reworking the document at their June meeting, with the added input from Tobey.

Internet Sweepstakes Cafes. Cundiff introduced the topic as follows:

Village Solicitor John Chambers has alerted the Village that there is a new business that has been created in other communities called a "Computerized Internet Sweepstakes Café". These businesses appear to be nothing more than a place for gambling, but their operation has thus far been found to not run afoul of state law. Mr. Chambers feels it makes sense to regulate this use now before one decides to locate in the Village. We cannot prevent them, but we can regulate them. These businesses have been shown to create problems similar to those found at Sexually Oriented Businesses (SOB). While this is not a critical project right now (we do not have anyone proposing this type of business), we feel we should get regulations in place before this type of business comes to the Village.

Mr. Chambers has drafted a piece of legislation which would create a new Chapter 850 in the Business Regulation and Taxation Code of the Codified Ordinances. This new chapter does not indicate what zoning district or districts a Computerized Internet Sweepstakes Café would be a permitted, whether they will be conditional use, and in which districts this use could be prohibited. Since this ultimately will result in an Amendment to the Zoning Code, I wanted to have a discussion with the Commission prior to drafting any language.

It appears that this type of use is most similar to those already permitted in the Central Business District or the General Business District. Cundiff indicated that these would be the logical districts in which these uses would be permitted. He further suggested that this type of use be prohibited in any residential district and as a Home Occupation. Finally, he commented, it does not appear to be a good fit

in the Agricultural, Conservation, Educational Institution, Office/Research, or Mixed Commerce Districts or Light Industrial Districts, and perhaps should be prohibited in these districts as well.

SOBs, Cundiff remarked, are a Principally Permitted Use in the Light Industrial District. He elaborated further, quoting from the zoning code:

"The Central Business District shall serve as the focal point for the social and commercial activities of the Village. A variety of business, institutional, public, quasi-public, cultural, residential and other related uses is encouraged to support both local and regional commercial and cultural activities. An appropriate mix of activities to retain a vital environment is encouraged. Activities occurring in this District are, for the most part, pedestrian oriented, and, therefore, the safety, mobility and well-being of persons using this area shall be protected and supported by these regulations."

These cafes, Cundiff stated, would appear to fit into the stated purpose of the Central Business District. He expressed doubt that a typical resident would want to see this kind of business in the downtown, however, and recommended that Planning Commission not allow this use in the Central Business District.

Quoting again from the zoning code, Cundiff noted that the stated purpose of the General Business District is:

"Intended to accommodate the needs of large-scale and/or automobile-dependent enterprises." Such business interests frequently represent high volume outlets with special requirements for access, visibility and parking. It is the intent of this zoning district to provide for the legitimate needs of business while protecting nearby residential areas from adverse off-premises byproducts of such activity."

He commented that this use would fit into the stated purpose of the Central Business District. These uses tend to be somewhat automobile oriented and therefore need dedicated parking areas. This District does allow SOBs as Principally Permitted uses. Cundiff recommended that Planning Commission designate this District as the one which Computerized Internet Sweepstakes Cafés would be permitted.

Cundiff noted that this matter is only to be discussed tonight, and hopes to get direction from Planning Commission as to which Zoning District or Districts it wants to recommend allowing a Computerized Internet Sweepstakes Café as a permitted use. He noted that the group may wish to discuss the merits of a Principally Permitted Use versus a Conditionally Permitted Use, as well as which District(s) are the most appropriate for this type of use.

Struewing asked why the legislation is coming before PC now, and Askeland replied that according to the Solicitor, this issue is just now surfacing around the state.

Till asked whether there were actually any such facilities in Ohio.

This was answered in the affirmative.

Bebko likened the situation to SOB's, which may not be a desired business, but need to be a regulated business. He stated that Planning Commission should address the issue and make a recommendation to Council.

Tobey suggested that internet cafés be dealt with in the same manner as SOBs.

Askeland concurred with the Village Manager's recommendation.

Till asserted that passing any ordinance acknowledging the internet cafés as legitimate businesses is tantamount to inviting legalized gambling into town. He suggested that the only reason these businesses are permitted in Ohio is that they have not yet been challenged. There are strong anti-gambling laws in the Village, he said, and I believe we would prevail if we challenged these businesses.

Struewing asked Till if he believed the Village would be inviting these businesses in if it passes this legislation. Till responded that the legislation provides a roadmap for setting up such businesses.

Tobey interjected that the Village has laws regulating SOBs on the books, and there are as yet no such businesses in town.

Struewing brought the discussion around to principally permitted uses versus conditional use. He likes the element of control and community involvement in conditional use, he stated, and would like to propose that internet cafes be subject to conditional use restrictions. While Planning Commission cannot be arbitrary or capricious in making decisions, he stated, the group can determine whether or not a business will be an asset or detriment to a neighborhood, and conditional use hearings permit that latitude.

Bebko agreed with the Conditional Use rather than Principally Permitted Use.

Cundiff clarified for Struewing that the legislation will go before Council for a first reading on May 16th, and is looking for Planning Commission to advise them regarding the district or districts in which such activity shall be permissible, and are there standards PC wishes to set regarding the conditions for a Conditional Use.

Cundiff clarified for Tobey that the Conditional Use restrictions would be along the lines of screening, parking, light pollution, etc.

Till referenced section 630 of the Municipal Ordinances, which he stated prohibits gambling houses. He explained that the businesses purport to sell phone cards, and with each “phone card” a player gets “sweepstakes points” which the customer can then use at the slot-type machines.

Struewing pointed out that the Solicitor has recommended this legislation.

Cundiff explained that the Solicitor has recommended amending chapter 850 of the Codified Ordinances, and amending the zoning code to note which district or districts internet cafés can be permitted.

Askeland stated that she is torn regarding this legislation, but that if the Village Solicitor believes that this legislation is necessary to achieve some control over the situation, she believes PC should limit the permitted districts, and should require Conditional Use hearings so that the level of control is as high as possible.

Askeland noted that she would like Till to attend the following Council meeting so that he can ask some of his questions to the Solicitor.

Bebko stated that there is an issue at hand of being able to deny people the right to do something with their property. “I do have a problem with this gambling business,” he stated, but we have to be aware that the property is owned by a private individual. This ordinance gives us the right to control and make public this process. It does take away some rights of the land owner in that he has to come before us in a public meeting, but this is one of the tools that society has to exert some control and limits over the situation.

Bebko noted that if there is nothing in place in writing, then the issue becomes one of how good your lawyers are.

Askeland stated that if the Village ordinances state that there be no gambling houses, than the Village should be able to follow that mandate. "It does feel like we're playing along with this game that says this is a sweepstakes," Askeland said, if we pass this legislation.

Struewing asked the group if they wished to be able to have control over any proposed internet café businesses.

All agreed that they do wish to have control, though Askeland and Till expressed some frustration over having to "play the game".

Struewing then asked whether the group recommended Conditional or Principally Permitted Use.

All agreed to Conditional Use.

Struewing then asked in which of the districts the businesses should be permitted.

All agreed that General Business was the clear choice, although Tobey stated that he would like to be able to select Light Industrial.

Struewing stated that he group is not yet ready to impose specific conditions.

Cundiff offered to write up the conditional uses, parking spaces, living quarters, floor plans, screening, etc. and have it ready in ordinance format for the next meeting of Planning Commission.

In answer to a question from Askeland, Cundiff noted that Council will consider Ordinance 2011-12 regarding Chapter 850, and Planning Commission will consider an ordinance amending the zoning code at their next meeting.

Replat: Amrhein introduced this topic, explaining that the replat would:
*Move the western edge of the Bush Works property 25 feet to the west, which would make the lots 125 feet instead of 150 feet deep.
*Move the lot line between parcels "A" and "B" ten feet to the south, so that one lot would be 60 and the other 40 feet wide, and
*Erase the lot lines between the front and rear lots.

These actions would result in:
*Only one substandard lot.
*The existing house would no longer encroach across a lot line, and
*The out building associated with Bush Works would be located entirely on Bush Works property.

Amrhein noted that the newly created parcel "B" would comply with Chapter 1266.06 Non-Conforming Lots of Record, which permits construction of a single family dwelling on a substandard lot of record if it meets two thirds of the area and frontage standard for the district in which it is located.

Before Mr. Bush expends funds on surveying, Amrhein stated, he would like some indication that Planning Commission will consider the replat favorably.

John Bush noted that one of his parcels is now landlocked, and the replat will eliminate this

problem.

Bebko noted that the replat will create a very small parcel for a very small family dwelling, but that it achieves progress towards the goal of increasing density, and eliminates some problems along the way.

Tobey agreed, stating that the property is fairly typical of Yellow Springs, and that the replat should allow more options to the property owner.

Askeland stated her support of the replat.

Till stated that he strongly supports infill, and supports the replat.

Struewing added his support to the proposal.

Cundiff cautioned PC that they cannot rely upon the auditor's map provided, and asked Amrhein if he has run the idea of creating a non-conforming lot past the Village Solicitor.

Amrhein responded that he has not broached this specific idea to John Chambers, but that Chambers has supported similar projects in the past, specifically, creating a non-conforming lot and replatting it into an existing non-conforming lot of record.

Askeland suggested checking specifically with Chambers.

Struewing remarked that if PC does approve the replat, they may ask that the shed, which would still straddle two properties, be moved or torn down. Bush agreed to this possibility.

AGENDA PLANNING

Parks Master Plan—Tobey (History, Background and Past Planning sections)
Internet Sweepstakes Café Conditional Use Criteria (Legislation)
Replat

ADJOURNMENT

Having no further business, Bebko MOVED and Askeland SECONDED a MOTION to ADJOURN. The MOTION PASSED UNANIMOUSLY at 8:50 p.m.

_____
John Struewing, Chairperson

_____
Attest: Judy Kintner, Clerk

Please note: These minutes are not verbatim. A DVD copy of the meeting is available at the Yellow Springs Library during regular Library hours, and in the Clerk of Council's office between 9 and 3 Monday through Friday.

MORPC Announces New Density Guide

MORPC has released the new guide, *Dense by Design: A Compact Guide to Compact Development*. The booklet, funded by the Ohio Environmental Education Fund, shows how urban density can make cities and towns more attractive, provide more cost-effective public services and prepare communities for the next generation of homebuyers.

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> Sprawl is the process of urban and suburban developments spreading outwards of a city and into rural land. Sprawl can result in increased tax dollars to build and maintain sewer and water lines; greater costs for private utility lines; increased distance to schools, stores and other amenities; longer commutes; and loss of farmland.

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> Conversely, density allows for compact and efficient use of land; efficient delivery of services; ease of travel on foot; and vibrant activity. Elements of well-designed density include attractive buildings, transportation options, parks, plazas, and streets and sidewalks bustling with busy neighbors. Density can be visually appealing and, when combined with a mix of commercial and office uses, can provide a convenient, cost-effective lifestyle.

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> "Density does more than help cities become more vibrant and efficient. It also helps preserve farmland and open space. If cities are strong and desirable, people are less likely to seek new homes in rural subdivisions," said Brian Williams, Agriculture Specialist for MORPC.

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> *Dense by Design* was written by Brian Williams, with input from planners, consultants and developers around the state. For more information contact Brian Williams at 614-233-4187 or bwilliams@morpc.org.

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Public Meetings Scheduled to review Sewer Planning Areas and Known Water Pollution Sources

Logan, Union & Champaign County Public Meeting

> Wednesday, June 1 from 6:00 p.m. - 7:30 p.m.

> Union County Service Center

> 940 London Avenue, Marysville, OH 43040

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> Licking County Commissioners Meeting

> Thursday, June 16 from 2-2:30pm

> 20 S. Second St., 4th floor

> Newark, OH 43055

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> Franklin County Public Meeting

> Wednesday, June 22 from 6:00 p.m. – 7:30 p.m.

> MORPC

> 111 Liberty St., Ste. 100, Columbus, OH 43215

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> Access to abundant, clean water will be key to future growth, and planning for sewer and water needs is necessary to insure an adequate supply of clean water is available. MORPC is gathering and presenting information about sewer service areas and water quality in the Scioto River Basin. This information may be utilized by the Ohio Environmental Protection Agency (OEPA) to update the 208 Water Quality Management Plan.

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> MORPC will present this information for Logan, Union, Champaign, Licking and Franklin Counties in June. Members of the community are invited to attend.

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> For more information on Water Quality Management Plans and to view data maps, visit www.morpc.org/OurScioto.

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> Please contact Brandi Whetstone at 614-233-4174 or bwhetstone@morpc.org for questions or to RSVP.

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MORPC Staff and Members of the Community Learn about Bicycle Safety

To celebrate Bike Month, MORPC hosted a free Bicycle Safety Training Monday, May 23 with the goal of providing basic training to MORPC employees and other interested members of the community. Participants in this brown bag event enjoyed lunch as they learned about bike commuting safety, laws of the road and commuter tips. Randy Dull, an experienced local commuter and League Certified Instructor (LCI) lead the training. Novice riders, frequent riders and non-riders alike received guidance and instruction on how to safely ride.

> One way to ride safely is knowing your route. Riders can consult MORPC's interactive Bike Users Map online to view safe routes.

From: Mark Cundiff
To: Clerk of Council;
Subject: Planning Commission Question
Date: Tuesday, May 24, 2011 4:27:26 PM

Judy:

Would you please forward this to the Planning Commission. Thanks.

MEMORANDUM

DATE: May 24, 2011
TO: Yellow Springs Planning Commission
FROM: Mark Cundiff, Village Manager
SUBJECT: Solar Farm Zoning

At the last Commission meeting, a question was asked as to whether the current zoning at the Glass Farm would accommodate a Solar Farm. I initially answered that I thought there was a clause in the Zoning Code that exempted "Essential Facilities" from the provisions of the Zoning Code (this is a common clause in most codes). While our code defines what an Essential Facility is, there is no mention of them being exempt.

Upon further investigation, the area of the Glass Farm that will be the solar farm has never had Village zoning established. This property was annexed into the Village in 1998, and Residence B zoning was established for the eastern 15 acres in August of 2001. The remainder of the Glass Farm still has township zoning (industrial). It is my understanding from talking to Ed that the township zoning does allow the Solar Farm.

Perhaps one of your goals should be to identify other areas of the Village that have not had Village zoning established and to recommend to Village Council an appropriate village zoning district.

From: John C. Chambers [mailto:Chambers@coollaw.com]
Sent: Monday, June 06, 2011 4:10 PM
To: Mark Cundiff
Subject: RE: Zoning Code Amendment - Internet Sweepstakes Cafes

Mark,

Making this a conditional use is not OK. It is just like making adult entertainment establishments conditional uses. All it really does is provide a way for the community to say "No". The courts have ruled again and again that establishments like adult entertainment establishments that are clearly not favored by communities but protected by the First Amendment cannot be a conditional use. So tell them to pick a zone.

John Chambers

From: Mark Cundiff [mailto:mcundiff@yso.com]
Sent: Monday, June 06, 2011 3:36 PM
To: John C. Chambers
Subject: Zoning Code Amendment - Internet Sweepstakes Cafes

John:

Attached is my first cut at the Ordinance that will amend the Zoning Code to regulate Computerized Internet Sweepstakes Terminal Cafes. The Planning Commission wants it to be a Conditional Use in the General Business District. I added two definitions (picked from the other Computerized Internet Sweepstakes Terminal Cafes ordinance), amended the General Business District Conditionally Permitted Uses section to include Computerized Internet Sweepstakes Terminal Cafes, and established specific conditional in the Conditional Use Chapter for Computerized Internet Sweepstakes Terminal Cafes. I pulled most of the conditions out of the other Computerized Internet Sweepstakes Terminal Cafes ordinance as well.

I'm hoping the PC makes a recommendation on this language to the VC at the PC meeting next Monday. I'm off this Friday so if you would please review this and get it back by end of business Thursday it would be greatly appreciated.

Mark

YELLOW SPRINGS PLANNING COMMISSION – JUNE 13, 2011
VILLAGE STAFF REPORT

There are several planning-related items that Staff wants to provide an update on to Planning Commission.

CBE Update – This project is moving forward. We expect the Phase II submittals within the next few weeks. Ed Amrhein is working on the selection of a firm to do the ROW Acquisition within the CBE and I am working on the annexation of the Dayton-Yellow Springs Road ROW. Staff had another meeting with representatives of Community Resources to keep everyone up-to-date on the project and we will continue to meet monthly until the project is completed.

Solar Farm Proposal - We got the survey from Melink this week and the signed contracts were picked up by Solar Vision so their President/CEO could sign them. I will be trying to get a construction schedule from them and will pass it along.

Safe Routes to Schools – Ed Amrhein reports that the Village's Safe Routes to School Plan has been approved at the ODOT District Level. The Plan has been sent on to Columbus for approval. Once this approval is received, we will be eligible for potential grant funding for both infrastructure and non-infrastructure projects that achieve the Plan's objectives. All the hard-working members of the Safe Routes to Schools Committee deserve a big "Thank You" for their efforts with this project.

Vectren Gas Mains and Lines Replacement – Representatives of Vectren and their contractor, Miller Pipeline, met with Staff this week to discuss Vectren's plans to replace gas mains and services in certain areas of the Village. These areas include: Brannum Lane, North College, West Davis Street, and Xenia Avenue (from South College to Limestone). The gas main in the street ROW will be replaced, and then the service lines serving the residential and commercial customers will be replaced. This will involve the cutting of street pavement and sidewalks and the digging up of yards. All areas disturbed by this project will be restored. Vectren representatives will be contacting their effected customers prior to the service replacement. This work will begin the on Monday, June 13th. For more information, please go to www.vectren.com and click on the Public Safety tab.

VILLAGE OF YELLOW SPRINGS, OHIO
ORDINANCE #2011-18

AMENDING SECTION 1242.09 GENERAL PROVISIONS & DEFINITIONS, AND SECTION 1258.02 PRINCIPALLY PERMITTED USES, OF TITLE FOUR – ZONING OF PART TWELVE – PLANNING AND ZONING CODE OF THE CODIFIED ORDINANCES OF THE VILLAGE OF YELLOW SPRINGS, OHIO.

WHEREAS, based on investigation and reports of staff, news reports, discussions with representatives of other communities, and on findings incorporated in cases decided by Ohio courts, Village Council finds that in other communities where businesses such as Computerized Internet Sweepstakes Terminal Cafés currently exist in the State of Ohio, there has been numerous incidents of illegal gambling at such Cafés, an increase in reports of criminal activities in the areas near the Computerized Sweepstakes Terminal Café, an increase in the number of constituent complaints related to the businesses, and an increase in the need for police oversight to ensure illegal gambling is not occurring; and

WHEREAS, Village Council finds that the enactment of this Ordinance to regulate Computerized Internet Sweepstakes Terminal Café is a substantial government interest for the Village in preserving the quality of urban life and that it is in the interest of the health, safety, morals, and general welfare of the citizens of Yellow Springs; and

WHEREAS, on May 16, 2011,Village Council passed Ordinance 2011-12 which established Chapter 850 of the in the Business Regulation and Taxation Code of the Codified Ordinances of the Village of Yellow Springs which established standards for licensing, regulation and control of Computerized Internet Sweepstakes Terminal Cafés and premises upon which they are located and operated.

WHEREAS, there is a need to determine in what Zoning Districts Computerized Internet Sweepstakes Terminal Cafés should be permitted and the Planning Commission has recommended allowing these as Permitted Uses in the General Business District.

NOW, THEREFORE, THE COUNCIL FOR THE VILLAGE OF YELLOW SPRINGS, OHIO HEREBY ORDAINS THAT:

Section 1. New Section 1240.09 (27A) is hereby enacted to read as:

1240.09 DEFINITIONS.

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(27A) "Computerized Internet Sweepstakes Terminal Café" means any premises upon which there are situated two (2) or more Computerized Sweepstake Devices that are available for the use or entertainment of the public within such premises, whether or not such premises has any other business purpose.

Section 2. A new Section 1258.02 (j) is hereby enacted to read as:

1258.02 PRINCIPALLY PERMITTED USES.

(j) Computerized Internet Sweepstakes Terminal Cafés.

Section 3. This ordinance will be approved and in full force at the earliest time permitted by law.

_____
Judith Hempfling, President of Council

Passed:

Attest: _____

Judy Kintner, Clerk of Council

ROLL CALL:

Judith Hempfling _____ Lori Askeland _____ Karen Wintrow ____

John Booth _____ Rick Walkey _____

DRAFT

MEMORANDUM

DATE: June 10, 2011

TO: Yellow Springs Planning Commission

FROM: Mark Cundiff, Village Manager

SUBJECT: Computerized Internet Sweepstakes Terminal Café

At your last meeting, the Planning Commission reviewed some proposed legislation that created a new Chapter 850 in the Business and Taxation Code of the Codified Ordinances. It was noted that a companion piece of legislation amending the Zoning Code would also be required. The Commission discussed what zoning district or districts would this use be appropriate and resolved to recommend that this use be allowed in the General Business District as a Conditionally Permitted Use.

Staff drafted legislation which would amend the Zoning Code to permit these uses as Conditional Uses in the General Business District and sent this draft legislation to the Village Solicitor for his review. He responded within one hour that it could not be a conditional use since the courts have consistently ruled that establishments like this that are clearly not favored by communities but protected by the First Amendment cannot be conditional uses. Therefore, I amended the draft legislation that would add Computerized Internet Sweepstakes Terminal Cafes as Principally Permitted Uses in the General Business District. This draft language, as well as Mr. Chambers e-mail response, is attached as part of your agenda packet.

All but one of the conditions I had proposed to be specific to this use came directly from the newly adopted Chapter 850. The only exception was a condition of screening of the parking lot, and the General Business District Chapter (1258) already requires screening of parking areas by a wall, fence or planting screen not less than four feet or taller than six feet in height. Therefore, with the existing screening requirements and the requirements of Chapter 850 I feel that the community is as protected from these uses as it is from any Sexually Oriented Business use.

Staff is recommending that Planning Commission recommend approval of this legislation to Village Council. I look forward to discussing this matter with you more fully Monday night.