

**BOONE COUNTY PLANNING COMMISSION  
BOONE COUNTY ADMINISTRATION BUILDING  
FIRST FLOOR FISCAL COURTROOM  
BUSINESS MEETING  
JANUARY 8, 2020  
7:00 P.M.**

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Chairman Rolfsen opened the Business Meeting at 7:00 p.m. and welcomed the audience to the Planning Commission's January 8, 2020 Business Meeting. Chairman Rolfsen then invited everyone to join him in reciting the Pledge of Allegiance.

**COMMISSION MEMBERS PRESENT:**

Mr. Randy Bessler  
Mr. Kim Bungler, Secretary/Treasurer  
Ms. Corrin Gulick  
Mr. Steve Harper  
Mrs. Lori Heilman  
Mrs. Janet Kegley  
Mr. Rick Lunnemann  
Mr. Don McMillian  
Mrs. Katie Nolan  
Mr. Kim Patton, Vice Chairman  
Mr. Charlie Rolfsen, Chairman  
Mr. Bob Schwenke  
Mr. Tom Szurlinski  
Mr. Steve Turner, Temporary Presiding Officer

**COMMISSION MEMBERS NOT PRESENT:**

Mr. Brad Shipe

**LEGAL COUNSEL PRESENT:**

Mr. Dale Wilson

**STAFF MEMBERS PRESENT:**

Mr. Kevin P. Costello, AICP, Executive Director  
Mr. Kevin T. Wall, AICP, Director, Zoning Services  
Mr. Todd K. Morgan, AICP, Senior Planner  
Mr. Michael Schwartz, Planner

**Approval of the Minutes:**

Chairman Rolfsen stated that the Commissioners received copies of the Minutes from the December 18, 2019 Business Meeting. Chairman Rolfsen asked if there were any other comments or corrections? **Mr. Patton moved to approve the Minutes as presented. Mr. Turner seconded the motion and it carried unanimously.**

**BILLS:**

Mr. Kevin P. Costello, AICP, Executive Director, advised the Commissioners of the **Bills to be Paid**, which included a list of **Expenses** and **Salaries and Benefits** for a time period between December 5, 2019 and January 8, 2020

**EXPENSES:**

Accounting Fees	\$	611.71
Attorney Fees		3,900.00
Auto Expense		111.65
Consultant/Professional Svcs Fees		1,677.50
Filing Fees (CLURs)		224.00
Legal Ads/Recruitment		182.52
Miscellaneous Expense		204.65
Office & Board Meeting Supplies		786.39
Office Equipment/Expense		8,268.80
Office/Liability Insurance		527.32
Postage Expense		673.70
Printing/Pub/Dues/Subscriptions		<u>180.00</u>

**TOTAL: \$17,348.24**

**SALARIES AND BENEFITS:**

FICA-BCPC Portion	\$	7,812.22
Health / Dental / Life / LTD		15,812.83
Retirement - BCPC Portion		20,098.03
Salaries - Staff Expense		107,360.86
Salaries BCBOA		175.00
Salaries BCPC		1,810.00
Salaries FBOA		<u>175.00</u>

**TOTAL \$153,243.94**

**GRAND TOTAL: \$170,592.18**

**Mr. McMillian** moved that the bills (expenses and salaries and benefits) be approved and paid as presented and indicated approval of those items, which have been previously paid. **Mr. Patton** seconded the motion and it carried unanimously.

**ACTION ON PLAN REVIEWS:**

**UNIFORM APPLICATION - Lori Heilman, Chairwoman, Todd Morgan, Staff**

1. Request of **John Wallace for Tillman Infrastructure (applicant)** for **Steven A. Brown (owner)** for a Wireless Communications Facility at 3634 Turfway Road, Boone County, Kentucky. The request is for a 135 foot high monopole tower and associated antennas and ground equipment.

Staff Member, Todd Morgan, reminded everyone that a Uniform Application is before the Planning Commission. The Planning Commission takes final action. It is not a Resolution to the Boone County Fiscal Court. He mentioned that the Technical/Design Review Committee met prior to the Business Meeting and voted 5-0 for denial of the Uniform Application. Mr. Morgan read the Committee Report (see Committee Report).

Chairman Rolfsen asked if there was anyone in the audience who wanted to speak in favor or against the request?

Mr. John Wallace, LCC Telecom, offered to landscape the area on the west of the site and also to install wooden slats in the fence. He distributed a drawing of the changes (see Exhibit A). Also, it was recommended that Verizon contact SBA to work towards a solution. It now appears that it won't happen. SBA did respond to Verizon with a rent proposal. It was 163% above market rate. That is a response from Verizon and he distributed it to the Board (see Exhibit B). In summary, Verizon is looking ahead. The tower can barely handle the current proposed loading. How will the tower be beefed up in the future plus the financial issues. Why throw good money after bad? What is the long term solution for this critical area? It is to cover the Airport and business park. There is no solution. The decision to upgrade is in jeopardy. There is no clear future for that site.

Mr. Jacob Walborn, attorney for Tillman Infrastructure, stated that he thought the Committee read more into the regulations. The structural analysis is not the only thing that the Committee can consider. The Board is permitted to consider economic arguments. The statutes and zoning regulations don't limit your consideration to the structural issue. The rent is 163% above the market rate. This body can consider it. Also, the idea of having a long term policy of waiting until you have a failing structure could result in compromised service in the area next to the Airport and the industrial park.

Ms. Tia Combs, legal counsel for SBA, stated that there has been some negotiation between SBA and Verizon. SBA did not hear from Verizon concerning their last proposal. She has learned from the Staff that Verizon is not willing to make a counter proposal to SBA's last proposal. SBA did not know as of 2:00 p.m. today that negotiations had failed. As of March, 2019, Verizon asked SBA if it could put new equipment on the tower. SBA's structural engineers reviewed Verizon's request and approved it. A report was provided. If other Verizon equipment is speculated in the future, it would be evaluated like before by SBA. A new structural analysis would be performed and changes to the tower could be made. Tillman and Verizon admitted at the Public Hearing that coverage maps given to the Planning Commission show that the coverage on both towers are identical. There is no evidence of coverage issues now. There is no evidence that the new Tillman tower will provide additional coverage or lower rates.

Chairman Rolfsen asked if there was a motion to take action? **Ms. Heilman moved to deny the Uniform Application based upon the evidence presented and the Committee Report previously read. Mr. Patton seconded the motion.**

Chairman Rolfsen asked how the figure of 163% above market rate was possible?

Ms. Combs responded that it is an assertion made by Tillman. She doesn't know how it is being calculated. Tillman or Verizon haven't told her. It is obvious that what Tillman is proposing in terms of rate is lower.

Mrs. Heilman stated that under State law and Planning Commission's regulations, the rent is not a consideration for approval or disapproval of the application. Mrs. Heilman noted that the Committee looked for any evidence related to a gap in coverage or dropped calls. There were none. The second item relates to the Boone County regulations and a suitable structure to accommodate a carrier's equipment. There was no evidence that the SBA tower will not accommodate additional Verizon equipment and this fact was acknowledged by Tillman. Whether or not it could be accommodated in the future, we don't know. Verizon and Tillman were not able to tell the Board about the future. That is why the application might be premature. Under State law there is no economic consideration in terms of what a carrier is being charged. It is really a policy issue. Can a new tower be considered for the sake of a lower rent for a specific carrier or multiple carriers? That will change the landscape of our County.

Chairman Rolfsen stated that he agrees with Mrs. Heilman and the Planning Commission is not in the business to make a company money by putting up cell towers 50 feet apart. It is a precedent. **Chairman Rolfsen asked for a vote on the original motion made by Mrs. Heilman and seconded by Mr. Patton. The motion carried unanimously.**

Mrs. Janet Kegley stated that she has a conflict of interest with Item #2 and left the meeting room.

**CHANGE IN CONCEPT DEVELOPMENT PLAN - Kim Bunger, Chairman, Michael Schwartz, Staff**

2. Request of **Ken Butler (owner by contract)** for a Change in Concept Development Plan in Commercial Two/Planned Development (C-2/PD) and Office One/Planned Development (O-1/PD) zones for a 0.97 acre lot located on the south side of US 42, to the immediate west of the property at 8741 US 42 and immediate east of the property at 8755 US 42, Florence, Kentucky. The request is for a Change in Concept Development Plan to allow a multi-tenant commercial building with two drive-through facilities.

Staff Member, Michael Schwartz, read the Committee Report, which recommended approval based upon Findings of Fact and Conditions (see Committee Report). Mr. Schwartz noted that the Committee voted unanimously to approve the request with Mr. Lunnemann, Mr. Bunger and Mr. Shipe voting in favor of the request. A letter from the property owner has been received agreeing to the conditions.

Chairman Rolfsen asked if there was anyone in the audience who wanted to speak in favor or against the request?

Mr. Mike Ruppert, Jimmy John's stated that his company is excited about the project especially with the drive-through feature. There is no tenant yet for the other space.

Mr. Sal Jones, Jimmy John's, stated that the owner brings a lot to the community. He helps high schools. Mr. Butler is part of the community. He brings great jobs. It is a great place to work.

Seeing no one else, Chairman Rolfsen asked if there was a motion to take action? **Mr. Bunger moved to approve the Change in Concept Development Plan request by Resolution to the City of Florence based upon the Committee Report and subject to conditions. Mr. Lunnemann seconded the motion.**

Ms. Gulick asked if Jimmy John's would be agreeable to consider changes if the number of vehicles in the drive-through becomes an issue where traffic regularly backs up onto the public street or in the development resulting in a safety issue? Would Jimmy John's consider making modifications to the site to improve the queuing of vehicles? Mr. Ruppert replied yes. Most of the stores that have drive-throughs have between 90-125 cars a day in a 13 hour period. Lunch is their busiest time from 11:00 a.m. until 1:00 p.m. Typically, it takes 2 minutes and 25 seconds to pick up an order from the beginning of the queuing area. Usually, they have 2-3 vehicles in the queue. The other peak time is at dinner but it is not as bad as lunch time.

**Chairman Rolfsen asked for a vote on the original motion made by Mr. Bunger and seconded by Mr. Lunnemann. It passed unanimously.**

Mrs. Kegley returned to the meeting room.

**CHANGE IN CONCEPT DEVELOPMENT PLAN - Rick Lunnemann, Chairman, Todd Morgan, Staff**

3. Request of **PHOTA Florence LLC (applicant)** for **Meijer Stores Ltd. (owner)** for a Change in Concept Development Plan in a Office Two/Commercial Two/Planned Development/Houston Donaldson Study Corridor Overlay (O-2/C-2/PD/HDO) zone for an approximate 2.88 acre portion of the 26.32 acre lot located at 4990 Houston Road, Florence, Kentucky (Meijer). The request is for a Change in Concept Development Plan to allow a hotel.

At the request of the applicant, the Committee recommends that the request be deferred until the January 22, 2020 Business Meeting. **Mr. Lunnemann moved to defer the request to the January 22, 2020 Business Meeting. Mr. Patton seconded the motion and it passed unanimously.**

**CHANGE IN CONCEPT DEVELOPMENT PLAN - Brad Shipe, Chairman, Todd Morgan, Staff**

4. Request of **Anne F. McBride, FAICP (applicant)** for **Spiral Drive, LLC (owner)** for a Change in Concept Development Plan in a Industrial One/Planned Development/Houston Donaldson Study Corridor Overlay (I-1/PD/HDO) zone for an approximate 2.8 acre lot located at 5 Spiral Drive, Florence, Kentucky. The request is for a Change in Concept Development Plan to allow modifications, sales, and service of vehicles and equipment for the mobility challenged.

Staff Member, Todd Morgan, read the Committee Report, which recommended approval based upon Findings of Fact and Conditions (see Committee Report). Mr. Morgan noted that the Committee voted unanimously to approve the request with Mr. Bunger, Ms. Kegley, Mr. Lunnemann and Mr. Shipe voting in favor of the request. A letter from the property owner has been received agreeing to the conditions.

Chairman Rolfsen asked if there was anyone in the audience who wanted to speak in favor or against the request? Ms. Anne McBride, applicant, thanked the Committee and offered to answer any questions.

Seeing no one else, Chairman Rolfsen asked if there was a motion to take action? **Mrs. Kegley moved to approve the Change in Concept Development Plan request by Resolution to the City of Florence based upon the Committee Report and subject to conditions. Mr. Bunger seconded the motion and it passed unanimously.**

**NEW BUSINESS:**

**ZONING MAP AMENDMENT AND VARIANCE - Kevin Wall, Staff**

5. Request of **Lee Rickey (applicant)** for **Paul F. Michels Trust c/o Catherine Michels (owner)** for a Zoning Map Amendment from Commercial One (C-1) to Commercial Services (C-3), and a dimensional variance, for a 2.752 acre tract located on the northwest corner of the Pleasant Valley Road/Haines Drive intersection, and across Pleasant Valley Road from the intersection with Lendale Drive (8495 Pleasant Valley Road), Boone County, Kentucky. The request is for a zone change to allow a commercial recreational vehicle parking facility and mini-warehouses, and a variance for fence height in the front yard area.

**Mr. Bunger moved to schedule the Public Hearing for item #5 listed above on February 5, 2020 at 7:30 p.m. Mrs. Heilman seconded the motion and it passed unanimously.**

**EXECUTIVE DIRECTOR'S REPORT:**

No Report

**COMMITTEE REPORTS:**

**AIRPORT:** Mr. Bessler  
No Report

**ADMINISTRATIVE/PERSONNEL:** Mr. Lunnemann  
No Report

**ENFORCEMENT:** Mr. Bunger  
No Report

**LONG RANGE PLANNING/COMPREHENSIVE PLAN:** Mr. Schwenke  
No Report

**TECHNICAL/DESIGN REVIEW:** Mrs. Heilman  
No Report

**EXECUTIVE:**

Chairman Rolfsen welcomed the Planning Commission's newest member, Mrs. Katie Nolan. She described her background - received Bachelor's and Master's degrees in Civil Engineering from the University of Louisville. She specializes in storm water, waste water and drinking water planning and design.

**CHAIRMAN:**  
No Report

**OKI:** Mr. Patton  
No Report

**OTHER: 2020 Election of Officers**

Mrs. Kegley explained that she and Mr. Schwenke served on the Nominating Committee and that all the current officers are willing to serve another term in 2020. They are the following:

Charlie Rolfsen	-	Chairman
Kim Patton	-	Vice-Chairman
Kim Bungler	-	Secretary/Treasurer
Steve Turner	-	Temporary Presiding Officer

She noted that she did not receive any other nominations. Mrs. Kegley asked if there were any other nominations from the floor? Seeing none, **Mr. Schwenke moved to elect the above individuals as presented by the Nominating Committee, as officers of the Boone County Planning Commission for the year 2020. Mrs. Kegley seconded the motion and it carried unanimously.**

**There being no further business to come before the Planning Commission, Mr. Patton moved to adjourn the meeting. Mr. Schwenke seconded the motion. The meeting was adjourned by unanimous consent at 7:45 p.m.**

**APPROVED**

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**Charlie Rolfsen**  
**Chairman**

**Attest:**

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**Kevin P. Costello, AICP**  
**Executive Director**

Exhibit A - Tillman Site Drawings  
Exhibit B - January 7, 2020 E-mail from Verizon