CRYSTAL LAKE PLANNING AND ZONING COMMISSION
WEDNESDAY, AUGUST 27, 2014
HELD AT THE CRYSTAL LAKE CITY COUNCIL CHAMBERS

The workshop started at 7:00 p.m. Members in attendance were Batastini, Esposito, Gavle, Goss, Jouron, and Skluzacek were present. Members Hayden and Greenman were absent.

Michelle Rentzsch, Director of Community Development, James Richter II, Planning and Economic Development Manager, Elizabeth Maxwell, Planner, and David Pardys, Special Council to the City of Crystal Lake, were present from Staff.

Mr. Richter thanked everyone for attending this workshop. He said Mr. Pardys is here to bring us up to date on legal issues, case law, and to answer any questions you may have.

Mr. Pardys said he is the Special Council to the City of Crystal Lake and is a member of the law firm of Swanson, Martin & Bell. He will be giving an overview of procedural matters and other items under the purview of the Planning and Zoning Commission. It is always good to be updated on recent matters and it never hurts to have a general review. Mr. Pardys said there are always gray areas. Nothing is ever black and white.

Mr. Pardys said zoning rules are intended to establish districts or zones to prevent congestion of the population and primarily to promote the well being and safety of the community. Crystal Lake is a Home Rule community. Our zoning laws are to be consistent with protection of the public health, safety, and welfare of the community. He stated that it is a balancing act between individual property rights and the general welfare of the Community. Mr. Pardys said the PZC needs to be sure the UDO and the PZC's decisions aren't challenged. It is listed in the State Statutes as to what can be done.

Mr. Batastini asked about political signs – if they can regulate where they are placed, the size, and direction. They are told it is freedom of speech but every sign can fall under that. Mr. Pardys said the highest form of speech protection is for political signs and the State has passed statutes on political signs. He added that setbacks and size restrictions are only enforceable if it is to prevent clutter for safety reasons.

Mr. Batastini said they are trying to clean up the signage along the major roadways so they are tasteful. They have been working very hard on it and when a business opens they put interior neon signs all over and it looks bad. Mr. Pardys said there are some municipalities that regulate signs that are visible from the street whether they are internal or external.

Mr. Goss asked what protects his rights to have someone's views pushed onto him in signs. Mr. Pardys said political signs enjoy the highest protection by the law and in jest, he suggested that the courts will tell you that you don't have to look at that sign. He added that there are limits to free speech and commercial speech is lower on the spectrum while Political speech is the highest. Mr. Batastini said he

has a problem with allowing a 4 foot by 4 foot signs in a residential neighborhood. Ms. Rentzsch said they have checked into case law and the City has adopted the most conservative restrictions that confirm the Council's direction on this. Mr. Batastini said there is no need for that large of a sign to be in a residential area. It's a billboard. Mr. Pardys said the sign regulations must be content neutral if it is not about political signs.

Mr. Jouron asked about setbacks on structures with school districts. Mr. Pardys said schools have their own building codes. Ms. Rentzsch said the City does not inspect public schools they have their own building inspections. She said schools (MCC, elementary and high schools) have always gone through the City's approval process for zoning matters like signs, etc.

Mr. Pardys said the City does not enforce Homeowners' Association Covenants. The City does review them for detention areas, private roadways, etc. and we do require certain language within the Covenants. Mr. Batastini asked about detention areas. He said the HOA in his subdivision is responsible to maintain their detention areas. Why would the City put that on private owners to maintain that area. Mr. Pardys said it is mostly a matter of cost. Mr. Batastini said in the older sections of town, those subdivisions do not have covenants and are not required to maintain any detention areas. They have storm sewers which the City maintains. He said it doesn't seem fair. Ms. Rentzsch said the properties that do not have detention areas and the grading is not designed for the rain run-off to go to a specific area are prone to flooding whereas the newer subdivisions' homes are less likely to have any flooding. If the HOA does not repair the detention areas, the City can repair the area and lien the properties.

Mr. Pardys reminded the members to be very careful what is said in the hearing that is not covered by the UDO. Those statements can be brought up in a court case. As for the PZC's purview and responsibilities – the City Council can refer anything back to the PZC for review. Any PZC member should not request information from a governmental body on a particular item if they know it will be coming before them for a vote. They should ask Staff to request the information. Mr. Batastini asked if the City and/or Park District want to put up something, would they need to go through the necessary process if it needed a Special Use Permit, variation, etc. Mr. Pardys said yes. They are subject to the UDO.

Mr. Pardys said reviewing the standards for a variation, Special Use Permit, etc. are very important; especially variations since they are exceptions to the UDO. Mr. Batastini asked about self created variations. Mr. Pardys said, in some cases, the property owner did not create the lot but did purchase it that way. Mr. Richter asked about setting a precedent with variations. Mr. Pardys said each request is looked at individually; however, to enforce the standards set in the UDO inconsistently would be trouble. He said the standards are the same in the UDO and State Statutes.

Mr. Pardys said when considering a text amendment to the UDO and a Zoning Map amendment, also known as rezoning, you need to look at all factors including what the Comprehensive Land Use Plan shows. This goes back to the rules provided for the betterment of the public interest. Everything goes

back to that. Mr. Batastini said applicants say "this is the highest and best use for the property" all the time. Mr. Pardys said it is the petitioner's burden to meet the standards set in the UDO. Each needs to be met before the map is changed. He added that if the same variation is granted repeatedly, then perhaps the UDO needs to be changed. Half of the lawsuits out there are from unhappy neighbors. It is very important to stay within the set standards.

Mr. Pardys said the PZC has procedural guidelines. The PZC can't refer to another board. Mr. Goss asked if the PZC can ask the City Council to refer something back to them if they see a problem. Mr. Pardys said actually the PZC shouldn't because it is not within their scope. The City Council looks for the PZC's advice and they are a valued part of the process. Mr. Pardys said the petitioner has a right for the PZC to vote on the request. If the PZC wants to add conditions to that approval, the Chairman should ask the petitioner if they agree with the conditions as a matter of practice. If that is not asked, the petitioner can come back and say the PZC didn't vote on their request. He said the vote needs to be consistent with the public notice so a neighbor doesn't come back and say they had no idea they were requesting "that." If the petitioner doesn't agree with the recommended conditions, give them the vote on their original request without the conditions.

Mr. Batastini asked about substantial compliance between the Preliminary and Final PUD. Why have a Preliminary PUD at all. Mr. Pardys said that is a gray area and a judgment call. Ms. Rentzsch stated that the two-step process is designed to gather as much input from the adjoining neighbors as possible and give everyone, City and PZC included, two bites at the apple.

Mr. Pardys said to use continuations judiciously. Reconsiderations of a vote should be on the same meeting date and initiated by a prevailing or winning vote. He suggested that the PZC adopt rules to conduct a meeting. Some municipalities conduct their public hearings like a court room with cross examination of the objectors and/or petitioners by each other. Rules need to be set for that type of action.

Mr. Pardys explained when a PZC member should recuse themselves from discussing a petition. He said if the member has a financial interest in the request. He said the Council members would recuse themselves more than a PZC member since they vote on contracts, bids, etc. The best rule is there is a doubt, ask staff and they will check into it. Mr. Pardys said it is mostly a judgment call. Also, it is best to leave the room during the discussion. That way your presence doesn't influence the vote.

Mr. Batastini asked about religious institutions. Mr. Pardys stated that is a highly protected right and covered by a separate Act. Ms. Rentzsch reminded members of the Religious Land Use and Personalized Persons Act.

Mr. Pardys explained the Gift Ban Act. He said "friends" and "family" are defined in the State Statute. It is always best to say no. Mr. Esposito said there have been petitioners who after the vote say to come over to their place for an ice cream or dessert. He said the Commissioners don't take the petitioners up on their invitation, but since this is televised, that looks bad. He asked if there is a way to stop that. Mr.

Pardys said it is allowed by law but it does look bad. That also could be added to the rules. Again – when in doubt contact staff.

Mr. Pardys explained the Open Meetings Act. He said a meeting is broadly defined. Be very careful with e-mails. Reply to the sender only and not reply all. That could be considered a violation of the Open Meetings Act. Site visits are allowed but do them independently and don't ask questions of the petitioner.

Mr. Pardys said finally the Statement of Economic Interest must be filled out and filed annually.

Mr. Richter asked if there were any other questions from the Commissioners. There were none. Mr. Richter thanked Mr. Pardys for his presentation and thanked the Commissioners for attending. If the members had any questions, please contact staff.

The meeting was adjourned at 8:30 p.m.