

# MINUTES OF THE SHAWNEE COUNTY PLANNING COMMISSION

Monday, September 14, 2015  
Shawnee County Annex  
6:00 PM

**Roll Call and Announcement of Hearing Procedure:** Dave Macfee, Chair, called the meeting to order at 6:00 p.m. and asked for roll call to be taken.

**Members Present:** Dave Macfee, Pat Tryon, Nancy Johnson, Brian Jacques, Lynn Marolf, Matt Appelhanz and Christi McKenzie. With seven members present a quorum was established and the meeting was called to order.

**Members Absent:** There were no members absent.

**Staff Present:** Barry T. Beagle, Planning Director; Joelee Charles, Administrative Assistant; and, Ashley Biegert, Assistant County Counselor.

**Approval of June 8, 2015, Public Hearing Minutes:** Mr. Macfee asked for approval of the June 8, 2015, Planning Commission public hearing meeting minutes. Ms. Johnson moved to approve the June 8, 2015, minutes, seconded by Ms. McKenzie, and with a unanimous voice vote, the minutes were approved.

**Communications:** Mr. Beagle said he had provided them with a memo regarding the items to be discussed under the Discussion of Planning Related Issues.

**Ex Parte Communication by Members of the Commission:** There were no Ex Parte communications expressed by members of the Commission.

**Declaration of Conflict of Interest by Members of the Commission or Staff:** There were no declarations of conflict of interest by commission members or staff.

## **Zoning and Subdivision Items:**

1. **CU15/04 by Soldier Township** was seeking a Conditional Use Permit (CUP) to establish a public use facility on a 9.19 acre parcel generally located 220 and 334 NW 62<sup>nd</sup> Street. The property was zoned "RA-1" Rural Agriculture District.

The Soldier Township's road maintenance facility at 334 NW 62<sup>nd</sup> Street included 6.10 acres and was established in the early 1950s. The western portion was contained within the 100 year floodplain of Indian Creek which ran along the west side. Four structures were located on the property: a 4,480 sq. ft. main shop, a 2,430 sq. ft. equipment storage building, a 1,710 sq. ft. salt storage shed and another 585 sq. ft. storage shed. A fuel station was also located on the western portion.

The applicant wanted to expand the facility by including the adjacent 3.09 acres to the east at 220 NW 62<sup>nd</sup> Street. The CUP would bring the existing operation into compliance with the zoning regulations. It was thought to be a grandfathered use because it predated the adoption of the zoning regulations. The CUP would provide for the expansion onto the adjoining tract of land.

No changes were anticipated in the current operations with the proposed expansion. The expansion included the relocation of buildings, facilities, equipment and material stock piles to the east outside of the flood plain. Over time they wanted to replace the existing single family dwelling with a new 875 sq. ft. office building. In the future they wanted to build a 6,000 square foot maintenance building, relocate the salt shed out of the flood plain by constructing a new salt shed and relocate the existing gas pumps out of the flood plain to a new location.

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The existing facility had three points of access onto 62<sup>nd</sup> Street and was encompassed by a 6 foot chain link fence topped with 3 strands of barb wire. The fence would be extended to include the additional property. The facility was located approximately 4 miles north of the city and in an area that was largely comprised of a diverse mixture of both large acreage agricultural land and single family residential development. The residential development consisted of both platted residential lots and rural residential home sites. It was anticipated based on the established pattern of development that this area would continue to transition for low density residential land use over an extended period of time.

The proposed CUP wouldn't result in the removal of present restrictions of the RA-1 District but would specifically authorize the additional use of a public use facility. A public use facility could comprise a variety of different government functions including a small pump station, an airport or a road maintenance facility. Given that tremendous variability they were subject to a CUP process to ensure they were compatible in any proposed location. The existing facility didn't seem to deter residential development of neighboring property along 62<sup>nd</sup> Street or have a negative impact on the use and enjoyment of neighboring residential properties.

The applicant submitted a written description defining their existing operations. In the summer months, the facility operated Monday through Friday from 6 a.m. to 4:30 p.m. The balance of the year they operated Monday through Friday from 7 a.m. to 3:30 p.m. Occasionally, due to inclement weather, they had extended hours of operations.

The principal impact associated with onsite operations was the noise from trucks and equipment moving materials or trucks leaving and entering the site; however, the property was buffered by a farm which encompassed the site to the north and west.

Staff did not anticipate this proposal would dramatically change the character of this area or would have any greater impact with respect to that of neighboring residential property.

Staff recommended approval subject to the five conditions outlined in the staff report: Compliance with their site development plan; Compliance with their written description and installation of the perimeter fencing for 220 NW 62<sup>nd</sup> Street prior to any commencement of any use of the property; If a concern was expressed during the public hearing with regard to operation on 220 NW 62<sup>nd</sup> Street, screening would be provided along both the east and south property lines if it was deemed to be warranted; If the property ceased use as a public use facility over a period of 24 consecutive months, the CUP would automatically expire and become null and void.

Mr. Macfee asked if anyone on the Commission had any questions for Mr. Beagle.

Mr. Macfee asked about the gas pumps and if there was a buried tank. Mr. Beagle said they used them for fueling their equipment. The applicant said it was an above ground diesel pump. Mr. Macfee asked if the primary reason for the proposal was to have the option of moving out of the flood plain. Mr. Beagle said it had been expressed that because of continued growth in northern Soldier Township, the road maintenance facility needed to expand or look at expansion opportunities and this was an opportunity to do so. It would also allow the relocation of certain facilities outside of the flood plain such as the existing fuel pumps and the salt shed. Mr. Macfee asked if this was the only road facility for the township. Mr. Beagle said it was.

Mr. Macfee asked if the applicant had any comments.

Mike Adams, Cook, Flatt and Strobel Engineers, 2930 SW Woodside Drive, Topeka, Kansas 66614.

- Applicant indicated everything had been covered.

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Mr. Macfee asked if anyone on the Commission had any questions for the applicant.

Mr. Jacques asked if they were removing all the current buildings and moving them to the adjoining property or would some of the old buildings be maintained. Mr. Adams said the original building and the storage shed on the right would remain. They were having issues with the KDHE over the salt shed and it being close to the flood plain as well as the fuel storage. Mr. Jacques asked if there were any immediate plans for the house. Mr. Adams said they were going to try and sell it and move it off the foundation. They would try to utilize the existing foundation to construct the office building. Mr. Marolf asked what the time frame was for moving the house. Mr. Adams said they were hoping to auction it within the next year. They would be working on the fence first.

Mr. Macfee opened the public hearing and asked if anyone wanted to speak against or in favor of the proposal.

Jim Gorman, 245 NW 62<sup>nd</sup> Street, Topeka, Kansas 66617.

- Has a house across the street to the west of the facility.
- Asked if there were any plans to do anything to the creek and the drainage.

Mr. Beagle said it wasn't part of the proposal. Mr. Gorman said the facility has never bothered him with noise. Living on the road in the winter, it was really nice being that close.

With no further comments, Mr. Macfee closed the public hearing and asked for comments from the Commissioners or a motion. There was no comment.

Ms. Johnson moved to recommend Approval of the proposed Conditional Use Permit subject to staff conditions; seconded by Mr. Jacques. With a vote of **7-0-0**, the item was recommended for **Approval**.

### **Public Comment on Non-Agenda Planning and Zoning Items**

There were no comments on Non-Agenda Planning and Zoning items.

### **Discussion of Planning Related Issues**

#### **1. Building Code Exploratory Committee**

Mr. Beagle said on May 14<sup>th</sup>, the County Commission approved to form an exploratory committee to look at the feasibility of adopting a building code. Thirteen members were appointed including Commissioner Archer, Brian Jacques, Nancy Johnson and ten others who were comprised of builders and trades people. Thus far, there have been four meetings that resulted in tremendous conversation. Many pages of resource materials were provided to the committee for review.

Guest speakers had come to the meetings and provided pertinent information. Two insurance agents provided their perspective on the impact of a building code relative to homeowner's insurance policies and its effect. The Miami County Chief Building Officer gave a presentation on their department's operation. It was helpful to understand how a small building code program worked efficiently. A representative from the International Code Council provided information on building codes, their history and how communities stand to benefit from their adoption.

The committee also completed a SWOT (Strengths, Weaknesses, Opportunities, Threats) analysis associated with the implementation of a building code. At the next committee meeting, they will continue to define the items identified under each category of the analysis.

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At the September 30<sup>th</sup> meeting, the committee will solicit the input of community builders and developers on the advantages/disadvantages to the implementation of a building code. On October 14<sup>th</sup>, the committee will visit with the public to provide them with information about the committee's work and receive comments from them on the adoption of a building code.

Mr. Beagle said the committee was tasked with sifting through all the information and preparing a final report with their recommendation by December. It had been a beneficial experience and he was encouraged by the committee's discussion. When the final report was submitted, it would be up to the County Commission to decide on the outcome of the recommendation. He thought enough information would be provided so the County Commission could take future action based upon the committee's findings.

Mr. Macfee thanked Mr. Beagle for his leadership, professionalism and setting the guidelines. He also thanked Commissioner Jacques and Commission Johnson for their time.

Ms. McKenzie requested the meeting locations/start times for the two meetings and asked how people would be informed. Mr. Beagle said they were hoping to secure Garfield Community Center since they were anticipating larger groups. The meetings would start at 5:15 p.m. He said a website had been created and it included information concerning the committee and encouraged them to visit it. A press release was prepared and being reviewed by Mr. Jacques and Ms. Charles. He provided information on the committee to a reporter from the Topeka Capital Journal. He thought there would be plenty of exposure. Mr. Macfee asked about the website location. Mr. Beagle said it was included in his memo and could be accessed from the county's main website or the Planning Department's website.

Mr. Macfee said the code itself was a universal reference. Mr. Beagle said if they got past the first stage, then they would be looking at a national model code such as the International Code series. The specific details in deciding on a code and code program would be discussed in the next stage of the process.

Ms. Johnson said she was surprised by how much the builders wanted a code. Mr. Macfee asked what their primary argument was. Ms. Johnson said it was consistency and quality. There was concern about the unlicensed builders. They also had to consider the cost from both sides. Again their contention was that it was the right thing to do. People who came from out of town and looking to build or buy a home were surprised that we did not have a building code. People were buying houses that couldn't pass inspection because they didn't pass inspection the first time because there was no inspection. One of the main arguments was the houses couldn't be sold since they didn't pass inspection.

Mr. Macfee asked if there were any realtors on the committee. Mr. Jacques said there were no realtors but Chuck Dultmeier, a committee member, was very active in the building community. He felt the committee members who were builders and worked in the city and county were building homes the right way. They didn't change the way they built houses in the county. It just meant everyone else would have to.

Ms. Johnson said Mr. Faulkner from the City who was on the committee was very helpful. Mr. Beagle said Mr. Faulkner ran the City's inspection program and had provided invaluable information. Ms. Johnson said she thought the City was more than willing to work with the county. Mr. Beagle said there was no agenda for the county adopting a building code and letting the City administer it even though it had been mentioned. They have tried to steer away from that level of specifics.

Mr. Beagle said the Topeka Home Builders Association wanted to see the adoption of a building code for the benefit of their members. As Ms. Johnson had expressed, they wanted a level playing field. They didn't want to be under bid for a project that another was claiming was of equal construction as a code built home. He thought there would be a number of arguments in favor of the adoption of a code. Ms. Johnson thought it was beneficial to have Commissioner Archer on the committee because he has heard some ground floor arguments. Mr. Macfee thanked them for their work.

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**2. Fifth-Year Community Rating System (CRS) Recertification Update**

Mr. Beagle said the county entered into the Community Rating System (CRS) in 2010 and has been part of the National Flood Insurance Program (NFIP) since 1982. The CRS was a voluntary incentive program that awarded credit points to communities who completed work beyond the administration of the flood plain regulations. The additional work included providing: advice to owners, mitigation techniques to owners, financial advice, resource materials, etc. A class rating was then given based on the credit points rating. When we entered the CRS in 2011, we were designated a Class 9 community which translated into a direct benefit of a 5 percent premium reduction to county flood insurance policy holders.

Every five years a recertification was completed. Staff has compiled documentation since January to submit to the Insurance Services Office (ISO) who completed the evaluation and provided a rating. The five year site visit took place on August 19. The documentation submitted was well received but additional documentation was requested and would be provided. Mr. Beagle hoped to retain the Class 9 rating but thought a Class 8 rating might be achieved. If it was, the county flood insurance policy holders would then get a 10 percent premium reduction.

As part of the process, a Floodplain Management website was created for the public who has property in the floodplain to access information about flood risks, hazards, how to protect themselves and access to a vast amount of resource materials. He anticipated getting the results in early January. It has been a laborious and time consuming process.

Mr. Macfee asked if the premium reduction was a rebate and if the policy owners knew they got a discount. Mr. Beagle said it was in the administration of their policy. Staff got the FEMA spec sheets which indicated the total number of policies that were in force. It provided a rating to show the people within the floodplain that had a standard rated policy which included the 5 percent reduction. He wasn't sure how that was administered at the insurance level. He didn't know if they paid their premium up front and got a rebate. He thought their premium was automatically reduced with the 5 percent reduction.

Mr. Macfee wondered if policy owners knew they received a discount. Mr. Beagle thought it would be referenced in their policies. Ms. Johnson asked how many had to buy flood insurance. Mr. Beagle said there were currently 69 standard rated policies for properties within the 100 year floodplain. Ms. Johnson asked if that included the city. Mr. Beagle said it did not. There were a total of 350 policies in force in Shawnee County but that was due to the map changes in 2011. If a homeowner purchased a preferred risk policy in advance and was now included in the floodplain, they might be grandfathered in. Also, because of heightened awareness, some people acquired a preferred risk policy which was only available for properties outside of the 100 year floodplain. It really boosted the number of people who acquired policies.

Mr. Beagle said each community in the county could participate in the CRS. The City did not. It was a voluntary program. If you were in the city, you had to pay the full standard rate on a flood insurance policy. If you were outside the city limits and you were in the floodplain, you automatically got the premium reduction. Rossville recently applied to get into the CRS. He was glad they were participating. They would benefit directly from it. Only two entities in Shawnee County participated in the program.

Mr. Macfee said staff had spent a lot of time working to get the improved ratings and not a lot of people knew about the program and that it would save them a lot of money.

Mr. Beagle said when he received notification from the ISO on our rating, he would present the information to the Planning Commission and the County Commission. He wanted to cover the full scope of the Community Rating System and the different areas for which we received credit points. It would draw attention to what was completed above and beyond just simply administering the floodplain regulations. Mr. Macfee said it wouldn't hurt to provide the facts.

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**3. Comprehensive Plan Proposal**

Mr. Beagle said in addition to the building code committee, Commissioner Cook had requested him to prepare and submit a proposal for a Comprehensive Plan and place it on the agenda for their consideration. He said his current proposal was similar to the one he submitted in 2013 to the County Commission. It defined what a Comprehensive Plan was, the benefits, the projected cost for development and the expected time frame for completion. It was due this month if possible. A copy would be provided to the Planning Commission upon completion.

At this point, the most realistic way to develop a Comprehensive Plan was to utilize a professional planning consultant much like Parks and Recreation used to develop the County Parks and Recreation Master Plan. It would require a budget of \$100,000-\$150,000 and take 18 to 24 months before there would be a finished product. Public support and input would need to be solicited throughout the process. In order to fund the proposal, he was going to propose to encumber the \$50,000 from the 2015 budget. If that amount could be encumbered and combined with the \$50,000 that was allocated in the 2016 budget, there would be approximately \$100,000 to go out for bid to retain a consultant. He said there was no guarantee as to the County Commission's decision but hoped they would see the benefit in having a Comprehensive Plan and being a positive thing for the county.

Mr. Marolf asked what happened with the professor who offered to help them when the group visited the Manhattan Planning Commission. Mr. Beagle said K-State Professor John Keller had retired and the program went with him. The program had been in place for the last 20-30 years and utilized a graduate student planning team who would work with a community to develop a Comprehensive Plan. Their proposed Plan wouldn't be as elaborate as what hiring a consultant would be but it would cover everything and cost about \$5,000. He wasn't aware if K-State had continued the program. He would contact them if that was the direction the County Commission indicated. When he made his proposal to the County Commission in 2013, no action was taken. The professor then announced he was retiring and didn't know if the program would continue. Mr. Beagle has not had any contact with K-State since then.

Ms. Johnson asked why there was such a rush to complete this now. They had been bringing this up. She asked if they had \$100,000 in 2013. Mr. Beagle said they didn't. Ms. Johnson thought they had that amount at one time. Mr. Beagle said in 2003 when the Planning Department originated, the money that was earmarked for the Joint City-County Planning Program was used for the Planning Department's operating budget. After the first year of operation, he requested to encumber the unexpended balance which was a little over \$100,000 and earmarked for a Comprehensive Plan. By unanimous vote, the County Commission approved it. The following year when he approached the County Commission to start the process of comprehensive planning, he didn't get anywhere with that. The money sat for about three years before they absorbed it back into the General Fund.

Ms. Johnson questioned why Commissioner Cook needed it by the end of the month. Mr. Beagle didn't know. The County Commission had given him four directives to accomplish. Mostly they were the result of his continued insistence that if there was going to be a fully functional and operational Planning Department and planning program, certain things needed to be accomplished which included the adoption of a Comprehensive Plan, the adoption of a building code and then also possibly a code court which would be a different means by which to adjudicate violations of county adopted rules and regulations. Then they threw in also an analysis of the pros and cons associated with reconsolidating the planning programs.

To date, he had submitted three of the requests. The Building Code Exploratory Committee was underway. He had submitted a background paper on the development of a Comprehensive Plan. He also submitted background information about the development of a code court.

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Commissioner Cook called him and said he wanted the question of a Comprehensive Plan at least addressed and wanted it put on the County Commission Agenda for consideration. At least there would be some formal discussion on the Plan. He said he would appreciate any input of the Planning Commission in identifying individuals who would support the possibility of a Comprehensive Plan. He had talked to the Shawnee County Conservation District with regard to natural resource conservation as well as agriculture land preservation. They were supportive of the idea of a Comprehensive Plan and wanted to be involved in any future discussion. He said any testimony before the County Commission would be welcomed. The Comprehensive Plan was the foundation for decision making and set a consistent policy for looking at the future of Shawnee County.

**Adjournment:**

Mr. Marolf moved to adjourn, seconded by Mr. Jacques. A unanimous voice vote declared the public hearing be adjourned, which was at 6:47 p.m.