

**MINUTES OF THE
SHAWNEE COUNTY PLANNING COMMISSION**

**Monday, March 13, 2017
Shawnee County Annex
6:00 PM**

Roll Call and Announcement of Hearing Procedure: Christi McKenzie, Chair, called the meeting to order at 6:01 p.m. and asked for roll call to be taken.

Members Present: Christi McKenzie, Pat Tryon, Brian Jacques, Jerry Desch, Judy Moler, Matthew McCurry and Brian Aubert. With seven members present, a quorum was established and the meeting was called to order.

Staff Present: Barry T. Beagle, Planning Director and Joelee Charles, Administrative Assistant.

Election of Officers:

- **Election of Chair:** Ms. McKenzie called for nominations for chair. Mr. Jacques moved to nominate Mr. Tryon as Chairman; seconded by Mr. Desch. After a roll call vote, Mr. Tryon was elected as Chairman.
- **Election of Vice-Chair:** Ms. McKenzie then called for nominations for vice-chair. Mr. Tryon moved to nominate Mr. Desch as Vice-Chair; seconded by Mr. Jacques. After a roll call vote, Mr. Desch was elected as Vice-Chair.

Mr. Tryon assumed the Chair and welcomed the new members of the Planning Commission: Brian Aubert, Judy Moler and Matthew McCurry.

Approval of September 12, 2016, Public Hearing Minutes: Mr. Jacques moved to approve the September 12, 2016, Public Hearing minutes, seconded by Ms. McKenzie, and with a unanimous voice vote, the minutes were approved.

Communications: Mr. Beagle referenced the Planning Commission agenda packet included three (3) recent issues of *The Commissioner* as produced by the American Planning Association (APA). The publication is designed for planning commission members and free with Mr. Beagle's membership in APA. Mr. Beagle said new issues will be included as part of future agenda packets.

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: Mr. McCurry stated his brother worked for Kansas Gas Service. Mr. Beagle said Mr. McCurry had informed him prior to the meeting. It did not rise to a conflict of interest so he could participate in the discussion.

Zoning and Subdivision Items:

Mr. Beagle stated the next two items appearing on the agenda were filed on behalf of Kansas Gas Service ("KGS") to establish two separate but similar public utility facilities.

1. **CU17/02 by Dennis R. & Ann E. Keller** seeking a Conditional Use Permit (CUP) to establish a public utility facility (Kansas Gas Service Town Border Station) on property zoned "RA-1" Rural Agriculture District and located on the south side of NW 46th Street, approximately 210-feet west of NW Rossville Road in Rossville Township.

Mr. Beagle stated the subject property consists of a 50-foot square leased parcel that is currently part of 15-acre tract of land devoted to agricultural land use. The proposed town border station will be built

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adjacent to and tap into an underground natural gas transmission line that will enable Kansas Gas Service to isolate portions of their pipe network and launch inspection equipment directly into the pipeline where it can be viewed internally. The subject property will be enclosed by a 6-foot tall chainlink fence with gated access on NW 46th Street. The compound will include piping brought to the surface and an unmanned 16'x18' single-story utility building.

With the area being mostly agricultural, the site conditions were not anticipated to change and its present classification was similar to the area and ag land use. These type of facilities were not uncommon in the unincorporated area. A CUP process was needed when operating characteristics and functions may not be compatible with an area. Reasonable conditions can be attached to a CUP if the proposed uses were generally consistent and compatible with area property.

Properties on 46th Street were predominantly ag land use with the exception of a Westar electric substation on the north side and a sanitary sewer pump station. The unmanned station would only require occasional site visits. It would not generate environmental impacts (noise or odor) that would be perceptible beyond the subject property. It was anticipated that the station's presence and operation would not negatively impact neighboring property.

Staff recommended approval subject to the four conditions outlined in the staff report: The site be developed in accordance with the submitted site plan; compliance with the applicant's written narrative; no exterior lighting be provided at the site; and that no portion of the property be used for the exterior storage of materials, supplies, equipment or vehicles.

With no questions for Mr. Beagle, Mr. Tryon asked if the applicant had a presentation.

Mr. Todd Anderson, SMH Consultants, 2017 Vanesta Place, Suite 110, Manhattan, KS 66503.

- Hired by KGS to expedite the procedure.
- Developed the site plan and completed the CUP application.

Mr. Tryon asked if there were any questions from the Commission for the applicant.

Mr. Desch asked what was kept in the building and if there was any exposed piping. Mr. Anderson said it wouldn't be used for storage. The interior working space would provide some protection when they needed to work and operate on valves and other areas of the piping network. Some exposed piping was present.

With no one else to speak in favor or in opposition, Mr. Tryon closed the public hearing.

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

2. **CU17/03 by Nancy L. Thomas Trust** seeking a Conditional Use Permit to establish a public utility facility (Kansas Gas Service Town Border Station) on property zoned "RA-1" Rural Agriculture District and located immediately west of 10624 NW Parr Rd in Silver Lake Township.

Mr. Beagle said this request was the same as the last one but placed on Parr Road adjacent to 10624 NW Parr Road. KGS would be able to access the pipeline as it terminated into this location. It would allow them to close off sections of the pipeline or to gain access for maintenance. It was not anticipated to generate any environmental impacts in the area. They planned to replace the existing Silver Lake town border station across the street with the new one. The area was primarily agricultural and included a cluster of rural residential homes immediately to the east and south. If the facility's appearance was a concern, screening could be added to the proposal.

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Staff recommended approval subject to five conditions outlined in the staff report: The site be developed in accordance with the submitted site plan; compliance with the applicant's written narrative; no exterior lighting would be provided at the site; no portion of the property would be used for the exterior storage of materials, supplies, equipment or vehicles; and, with the completion of the new facility, the existing town border station would be removed.

With no questions for Mr. Beagle, Mr. Tryon asked if the applicant had a presentation.

Mr. Todd Anderson, SMH Consultants, 2017 Vanesta Place, Suite 110, Manhattan, KS 66503.

- Hired by KGS to expedite the procedure.
- Developed the site plan and completed the CUP application.
- Almost exactly the same as the previous request with the exception of the location. This station was basically straight across the road from the old one.
- The old station was becoming obsolete and a portion of it resided within the existing road easement.
- The new facility will be completely off of any County road right of way.

With no questions for the applicant, Mr. Tryon asked if anyone wanted to speak in favor.

Arthur Thomas, 6148 NW Carlson Road, Rossville, KS 66533.

- Farms the parcel with his two brothers. His mother owns the parcel.
- Noted there was a center pivot irrigation system that acts like a windshield wiper.
- When the gas company met with the family, they discussed the issue of the end of the center pivot and found there would be no issue with the proposed location.
- The location was out of the flood plain.
- There was currently some above ground piping.

With no questions for Mr. Thomas, Mr. Tryon asked if anyone wanted to speak in opposition.

Gary Roberson, 10623 NW Parr Road, Silver Lake, KS 66539.

- Houses have been built since the current station was built.
- The station was not pretty to look at and emitted an offensive odor.
- Thought their proposed location was unfavorable to the adjacent landowners.
- Concerned about the westbound traffic going around the curve on Parr Road.
- Proposed moving the station ¼ mile west down the road where it would not be seen, the odor would be reduced and a location where houses would not be built.
- Paid property taxes for a nice home. Thought it would be a detriment if he wanted to sell his home.
- The Thomas family has lived in the Silver Lake area for many years.
- Knew it would be easier for them at their proposed location, but wanted to protect his property.
- Didn't want there to be hard feelings over the situation.

Ms. Moler asked if KGS was contacted to propose the new location. Mr. Roberson said he hadn't.

Ms. McKenzie asked if a fence or plants were to be placed around the compound would that make it more appealing. Mr. Roberson didn't think so. The odor was the biggest issue. It was a good opportunity to move it down the road out of sight where homes would probably not be built.

Mr. Aubert asked if there was an existing gas line in the location suggested by Mr. Roberson. It was proposed as an end of the line. Mr. Beagle said KGS would need to comment.

Mr. Desch asked if the odor was caused by a leak. Mr. Roberson didn't think so. It smelled like rotten eggs. Mr. Desch felt there had to be a reason for the odor. Mr. Roberson thought something was

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mentioned about the odor during the staff report. Mr. Beagle said the information he was provided indicated there would be nothing perceptible beyond the property itself.

Mr. Tryon asked if the station was present when their home was built. Mr. Roberson said it was.

Russell Kalcik, on behalf of Betty Kalcik, 10624 NW Parr Road, Silver Lake, KS 66539.

- His 87 year old mom's home at 10624 NW Parr Road was adjacent to the new location.
- His mom saw them surveying/digging and thought it would be located in the middle of the field.
- They reviewed the notice and realized it was going to be located right next to her driveway.
- They were not in favor since there were houses and a curve.
- Suggested putting it on 35th Street where there were no houses.
- Knew progress had to continue but was not fond of having it located in her front yard.

Ms. McKenzie asked if his mom would like it if there was a fence or shrubbery. Mr. Kalcik didn't think so. Gas can blow up. The location across the street was bad enough. They knew it was there before the house was built. He thought if it was on the other road, it would be away from the neighbors and houses. He was also concerned about the curve.

Mr. Desch wanted to know if his mother complained about an odor. Mr. Kalcik said she had and knew when personnel were out there working. Mr. Desch thought they needed to get some answers about venting. He would be bothered knowing it was natural gas and he could smell it. He wondered why the gas could be smelled out in the open air.

Mr. Tryon asked if there was a rebuttal from the applicant.

Mr. Todd Anderson, SMH Consultants, 2017 Vanesta Place, Suite 110, Manhattan, KS 66503.

- Had hoped KGS would have a representative to speak since he couldn't speak to their operation as far as the technical aspects.
- They were an engineering/surveying firm and hired by them to survey the route, write the legal descriptions and complete the application.
- Would relay whatever the decision was to KGS.

Mr. Beagle asked if the project was time critical and if it could be delayed a month. Mr. Anderson said KGS wanted to proceed as rapidly as possible. If a different route was proposed, they would have to come up with a different plan.

Other specific questions regarding the odor, site location, safety and ownership were asked by Commissioners and Mr. Beagle. Mr. Anderson said KGS handled the engineering aspect as far as their pipeline and engineers. SMH Consultants, a civil engineering and land surveying firm, completed the surveying and complying with the permit application process. He couldn't answer their questions and didn't want to mislead anyone. KGS would have to answer those questions.

Mr. Tryon thought he had heard Mr. Anderson say it wasn't time critical. Mr. Anderson agreed and like with any other construction entity, they want to move as soon as they can. They understood there were hoops to jump through in order to proceed.

Mr. Thomas indicated the 35th Street location suggested by Mr. Kalcik wouldn't interfere with their irrigation. The location Mr. Roberson suggested on Parr Road would interfere with the pivot. Mr. Roberson wasn't against the project because he knew they needed it. He would support the location as Mr. Kalcik had suggested but didn't want it placed where it would cause problems.

With no further comments and rebuttal, Mr. Tryon closed the public hearing and opened it for discussion among the Commissioners.

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Mr. Tryon was disappointed that there was no representative from Kansas Gas Service.

Mr. Aubert stated items dealing with propane had diaphragms in them to off gas every so often to deal with pressure fluctuations. He didn't know if it was happening in this case.

Ms. Moler was also disappointed that Kansas Gas wasn't present. She thought they should postpone their decision until next month and request they be present to answer the questions.

Ms. McKenzie also would like to have more information from Kansas Gas Service to answer questions and talk about another location that would be more favorable with the community.

Ms. Moler moved to defer the item until April 10, 2017; seconded by Ms. McKenzie. With a vote of **7-0-0**, the item was Deferred.

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

Mr. Beagle stated the building code committee (including Brian Jacques) had been working two years on a code for the unincorporated area. Recently, the County Commission adopted a building code which places the responsibility between the homeowner and contractor for resolving disputes regarding code compliancy. The code basically adopted the current City codes knowing that most contractors work both sides of the corporate limit line. A building code program designed to administer and enforce was not approved but may be considered in the future. Anyone now filing a building permit application has to submit an affidavit verifying they will build in accordance with the adopted code. The Planning Department will not be responsible to inspect, field verify the construction, etc. Mr. Tryon commended the work of Mr. Beagle and Mr. Jacques. Mr. Jacques said it was a step in the right direction.

2. Comprehensive Plan

Mr. Beagle thanked Ms. Moler for her participation on the steering committee. The consultant had provided them a summary update for review. He stated the drafting of the Plan document has commenced; however, he wasn't satisfied with the level of public engagement and planned to work with the Topeka Capital Journal on an eight week series of "big idea" summaries covering land use, economic development, natural resources, etc. It would provide an introduction and overview of each issue as well as outline some of the key findings and recommendations to be included in the Plan. They wanted to make sure the public was engaged and understood the Plan. At the March 7th steering committee meeting, they decided to take more time to issue the big ideas. Mr. Aubert asked about the Plan results. Mr. Beagle said the Plan would provide a 20 year vision for the future of the County. A Plan implementation chapter would cover the strategic action items to complete it. Rewriting the Zoning and Subdivision Regulations may also be recommended.

During further discussion, a concern was raised on how the Planning Commission would be part of the review/approval of the Plan. It was decided they needed to be part of the review and discussion of the draft chapters of the Plan. They would be invited to participate in the last three (3) steering committee meetings as well as a joint Planning Commission/County Commission meeting following one of the County Commission's regular meetings. A final public open house would be held to solicit public input on the draft Plan. They would also move toward the Planning Commission holding a public hearing on the Comprehensive Plan at a regular meeting. Mr. Beagle stated a new schedule would be sent.

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Adjournment:

Mr. Aubert moved to adjourn, seconded by Mr. Jacques, a unanimous voice vote declared the public hearing be adjourned, which was at 7:26 p.m.