

**MINUTES OF THE  
SHAWNEE COUNTY PLANNING COMMISSION**

**Monday, April 10, 2017  
Shawnee County Annex  
6:00 PM**

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

**Members Present:** Pat Tryon, Christi McKenzie, 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. Mr. Brzon, County Counselor, introduced the new County Counselor, Joni Thadani.

**Approval of March 13, 2017, Public Hearing Minutes:** Ms. Moler moved to approve the March 13, 2017, Public Hearing minutes, seconded by Mr. Jacques, and with a unanimous voice vote, the minutes were approved. Mr. Beagle stated the March 13<sup>th</sup> Board of Zoning Appeals minutes that were included in the packet would be approved at a future meeting.

**Communications:** Mr. Beagle provided them a copy of an email he received from the applicants, David and Renee Stevens, of Item G3. They have chosen to withdraw their request.

**Ex Parte Communication by Members of the Commission:** Mr. Jacques spoke with Matt Bergmann who represents the Thomas family about the issues related to the gas substation. Mr. Bergmann said the Thomas family had no objections. The representatives from Kansas Gas would be present at the meeting. He would address any additional issues if needed.

**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. 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 the request was initiated on behalf of Kansas Gas Service in order to establish a public utility facility (town border station) on a 50' square parcel located west of 10624 NW Parr Road. This item was continued from the March 13<sup>th</sup> meeting so Kansas Gas could respond to concerns raised at the meeting. He had not received any additional information and his recommendation given at the March 13<sup>th</sup> meeting remained the same.

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

Derek Ackerman, Engineering Mgr.-Kansas Gas Service, 8551 N. 44<sup>th</sup> St. E., Valley Center, KS 67147.

- An easement was presented to relocate a town border station from the south side of Parr Road to the north side in conjunction with a current pipeline project.

Mr. Beagle stated there was concern about an odor coming from the existing station. Mr. Ackerman said an odor was added to the gas in order to detect leaks. The current station had one regulator. The new one would have three regulators. Gas was released if the regulator failed. A temporary odor riser had been added and maybe it had caused the odor. Under normal operations, there should be no odor. If there was concern about a leak, they should be contacted so they can check it and make repairs.

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Mr. Tryon asked what would happen to the old station. Mr. Ackerman said it would be removed.

Ms. McKenzie asked how the location was chosen. Mr. Ackerman stated the new site was across the street from the existing one. There would be no benefit of moving it since an intermediate pressure line would need to be run to a district reg station to drop the pressure down to a normal distribution pressure. It would look like a town border station and would have to be in the same location.

Mr. Desch asked how they responded to a report of a strong gas odor. Mr. Ackerman said a leak check would be performed to look for the source, determine the cause and then repair it.

Mr. Aubert asked if the 35<sup>th</sup> Street location was reviewed. Mr. Ackerman stated if it was moved further outside of town, a new pipe would have to be run from 35<sup>th</sup> Street to the current location at a higher pressure and require another regulator station to drop the pressure back down. From 35<sup>th</sup> Street to town, there wasn't enough pressure at that distribution to get the gas needed into town.

Mr. Tryon asked if there was a regulator station near or in town. Mr. Ackerman stated typically within a town, there were multiple reg stations. Each business or house has a regulator at their meter location. He thought there were other reg stations around town also.

With no one to speak in favor, Mr. Tryon asked if anyone wanted to speak in opposition.

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

- His mother's home was adjacent to the new location.
- Had suggested the 35<sup>th</sup> Street location.
- Questioned what the differences would be in the two locations and the surroundings of each.
- Concerned about potential accidents around the curve next to the road and the house.
- Suggested it be placed on another road where no houses were close in case there were any issues.

Mr. Jacques asked if any type of screening or fencing would help. Mr. Kalcik thought some sort of screening was needed. Bushes wouldn't work since they would not survive without care.

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

- Thought the stations were eyesores.
- Asked if they would consider moving it out of sight and out of mind.
- Asked if there would be a 100 percent guarantee of no gas smell and it was safe.
- Lived there for 27 years.
- Concerned about the traffic and the high probability of a rollover into the new station.
- Thought there was a better location for it and would prefer it be moved away from the houses.
- The existing station was there when he built his house.
- If Mrs. Kalcik sold her property, didn't think it would increase the property value.

Mr. Jacques stated earlier testimony indicated there should be no odor. Mr. Roberson said there was always an odor. Would they want it next to their home. Thought it could be possible to move the station a reasonable distance where it would be safer and not seen.

Mr. Desch asked Mr. Roberson if he had ever reported the odor. Mr. Roberson spoke with personnel at the station and they didn't seem to be concerned.

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

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Derek Ackerman, Engineering Mgr.-Kansas Gas Service, 8551 N. 44<sup>th</sup> St. E., Valley Center, KS 67147.

- A fence could be added to cut down on visual distraction.
- An odor indicated a leak and should be reported to them or 911. They were required to respond and determine the cause of the leak.
- The original station was installed in 1933 and maintenance had been completed over the years.
- The new station would have an updated design and modern equipment.
- There would be no benefit to moving the station further out since it would require much larger diameter pipe. With the pressure fluctuations, a station would be needed at the current location.

Mr. Jacques asked about the pressures as far as distance and release, moving the site location and for information on the pressure/release. Mr. Ackerman said the pressure decreased as the gas flowed down the lines. The new station would deliver 38 psi. When it reached customers in town, it might be down to 20-30 psi. If the station was moved out further, customers in town may get 10-15 psi and there would be trouble distributing it around town. The regulators at the businesses/homes need a pressure difference in order to operate correctly. No other site had been looked at due to all the implications of moving it. If the regulators were operating correctly, they should not release. Each house has a regulator and has a relief valve. It could be a regulator at an individual's house that was relieving. People needed to call them so they could find out where the odor was coming from.

Ms. McKenzie asked about the height of the station as well as if the concerns about a vehicle coming off the road had been addressed in the plan. Mr. Ackerman thought the station would be around 9 feet tall and had bollards (large diameter pipe) around it to help protect it and deflect vehicles away from it.

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

Mr. Tryon thought the applicant had done a reasonable job of making their case. It would be a different matter if it were somewhat new. It was an existing station. He planned to vote in favor.

Ms. McKenzie moved to approve the item with the addition of a metal fence with slats that was aesthetically pleasing; seconded by Ms. Moler. With a vote of **7-0-0**, the item was recommended for **Approval**.

- 2. CU17/01 by Christopher L. & Connie L. Noe** seeking a Conditional Use Permit on behalf of Verizon Wireless to establish a communication tower on property zoned "RR-1" Residential Reserve District and located at 4041 SE Shawnee Heights Road in Tecumseh Township.

Mr. Beagle stated Verizon Wireless wanted to lease land on the applicant's 10½ acre parcel to erect a new cell tower in a 47' square, fence enclosed compound with a 9' x6' canopied electronic equipment shelter. It would be accessible by a 20' wide access easement that connected to Shawnee Heights Road. It would be located immediately north of the Shawnee Heights Middle School and High School complex.

The tower was needed due to an increased demand for 4G LTE service in the area south of Lake Jivaro between their Big Springs and Tecumseh tower locations to improve coverage, capacity, performance as well as off-load capacity. Propagation maps were displayed showing the existing vs. expected coverage conditions. Cell towers were more common due to growth of the wireless industry. The proximity to towers could not always be avoided. Carriers wanted to provide the most effective coverage for their consumers. Tower locations that minimized visual and land use conflict were needed. Other locations were considered but no towers or structures of adequate height met their coverage objectives.

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The proposed location was in a rural area with a mixture of large acreage agricultural tracts, planned residential subdivisions and rural residential home sites. Shawnee Heights Road appeared to be a point of transition between predominantly agricultural land use to the east and developing low density residential development to the west. Over time, it was anticipated this area would experience increasing pressure for conversion of land from agricultural to residential land use.

A 150' monopole tower is proposed to be erected. Photo simulations were provided by Verizon to show the before/after effects of the tower from four different vantage points. Air hazard obstruction lighting was not required since it was less than 200' in height. The tower's appearance would be minimized with the location adjacent to school district grounds, separation from residential properties on Shawnee Heights Road and absence of lighting.

Tower regulations require the tower base be screened from view by a 6' high solid screening fence. The hedgerow that extends along the property lines would conceal the site. The Planning Department recommends the screening requirement be waived since it wasn't visible and also felt that Verizon had acted in good faith in attempting to find a tower site.

Approval was being recommended subject to the ten conditions outlined in the staff report. Condition #7 was consistent with communication tower regulations which said the initial CUP should be limited to five years and subject to renewal following demonstrated compliance with the renewal provisions at the end of that five year period. In the past two years, a new Kansas Wireless Siting Act was approved with new standards/limitations as to local government regulation of cell tower siting. The minimum term was changed to ten years. In order to not be in violation of Kansas Statute, ten years should be substituted for five years.

Mr. Tryon asked if there were any questions for Mr. Beagle. Mr. McCurry asked if the fence would provide enough safety. Mr. Beagle stated the compound would be fence enclosed and gated. It should deny reasonable access. Barbed wire was located at the top of the fence.

Mr. Tryon asked if the applicant had a presentation.

Scott Goble, 574 S. Barnstable, Nixa, MO 65714.

- Real Estate Site Acquisition Contractor representing Christopher/Connie Noe and Verizon Wireless.
- Stated the staff report was very comprehensive.
- A neighbor, Charles Laird, was also present in support of the request.
- Completing due diligence was very important and they did their best to find an existing structure.
- Nearest existing tower was two miles northwest and too far away to meet their coverage objectives.
- An approved tower would support other carriers' antennas and co-locations would be welcomed.
- A 6' chain link fence would be used with three strands of barbed wire above. The barbed wire was faced out as an anti-climbing security feature. The gate into the compound would be locked.
- In agreement with all the conditions included the report.

Mr. Tryon asked for the number of carriers. Mr. Goble stated the tower was designed for four carriers; however, if the third carrier utilized all the space, there would only be three.

Mr. Tryon asked if anyone wanted to speak in favor.

Charles Laird, 4031 SE Shawnee Heights Road, Tecumseh, KS 66542.

- Next door neighbor to the proposed property and in favor of the request.

With no one to speak against, Mr. Tryon closed the public hearing and opened it for discussion among the Commissioners.

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Ms. McKenzie moved to recommend Approval of the item with the amendment of Item #7 to replace five years with ten years; seconded by Ms. Moler. With a vote of **7-0-0**, the item was recommended for **Approval**.

3. **CU17/04 by David H. & Renee C. Stevens** seeking a Conditional Use Permit to establish an animal boarding facility on property zoned "RR-1" Residential Reserve District and located at 4840 SW Fairlawn Road in Mission Township. **(Continued from March 13, 2017 Meeting)**.

Mr. Beagle stated the applicant had requested the item be withdrawn. No further action was necessary. The applicant would possibly file for a new location.

4. **SE17/01 by Scott Bieker & Jon Roberts** seeking approval of a Type 3 Special Event Permit to hold an off-road motorcycle race event on property zoned "RA-1" Rural Agriculture District and located at the southwest corner of SE 37<sup>th</sup> Street and SE Woodring Road in Tecumseh Township.

Mr. Beagle stated the request, on behalf of Perry Keegan, was to hold off-road motorcycle races (Forward Motion Hare Scramble) on April 22 (11 a.m.-9 p.m.) and April 23 (8 a.m.-5 p.m.). Projected attendance was set at 500. This property located on the border of the Shawnee/Douglas County lines was used previously for off-road motorcycle racing. The surrounding area was predominantly rural and consisted of large acreage farm land and scattered residential home sites. The dominant land use in this area was the Big Springs Quarry.

Special Event permits would allow a temporary, short-term use of land/structure conducted on private property and open to the general public primarily for entertainment or amusement (i.e., concerts, performances, festivals, etc.) and attendance would exceed 400 persons. To reduce possible detrimental effects to surrounding properties and protect health, safety and welfare, Type 3 events would have to comply with twelve performance standards.

Details of the review of the performance standards for this request include.

- Traffic—Property was accessible by a single gated point on SE 37<sup>th</sup> Street. The township expressed no concern. With only one other property to access 37<sup>th</sup> Street between Stubbs and Woodring Roads, the event was not anticipated to interfere with traffic.
- Parking—14 acres would be used for off-street parking with two parking areas with 1,400 spaces. The organizer would be responsible for those attending to park onsite and not on the public street.
- Set Backs—A 30' set back would be met. The race course map referenced that no portion of the race course would be located within 50' of a property or street right-of-way line.
- Sight Triangle—There was no conflict with this standard.
- Health and Sanitation—Ten porta potties would be provided as required by the Health Department. The vendor will be responsible for the removal upon conclusion. Twelve trash containers will be placed in different locations and will be removed upon conclusion.
- Emergency Services--The public safety plan was reviewed and there were no concerns. Lecompton Fire and EMS will be on site during the course of the event.
- Lighting—There will be no lighting with the exception of one 12' tall portable light fixture pointed downward in the middle of the small oval course on Saturday. Would be used from sundown to 10 p.m.
- Signage--There would be no signs with the exception of an inflatable Red Bull arch sign that would be placed over the finish line. It didn't seem that it would be visible from 37<sup>th</sup> Street.
- Other Permits/Laws--Applicant has satisfied all County required rules and regulations and licenses. The food vendor would have to obtain the appropriate state vendor license.

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- Site Restoration—The site will be restored upon completion of the event. As required, the applicant has submitted a \$1,000 security deposit. Upon satisfactory completion of site restoration at the conclusion of the event, the security deposit will be refunded to the applicant.
- Impact on Neighboring Property—Noise was the most notable offsite impact. No activity would take place before 8 a.m. or later than 9 p.m. All motorcycles competing would be required to be properly muffled. It was anticipated the noise would be dissipated by the parcel size, the rural setting, the dense stand of trees and the distance to nearby residential property. No sound amplification would be used except for playing the National Anthem at 11:00 a.m. on April 23.
- Overnight Camping—Camping was not allowed unless specifically requested by the applicant. The applicant requested permission for overnight camping on Saturday evening. It was anticipated to have no more than 100 people to camp. As required by the regulations, the applicant would provide onsite management and security during the overnight hours.

The Planning Commission amended the Zoning Regulations in 2012 to include special events in order to address temporary, short-term uses of land where they may be successful with minimal to no impact. Criteria would be reviewed to minimize potential conflict. Property owners within a 1,000' radius of the subject property would be notified. A public hearing would be held to determine if the applicant satisfactorily addressed the performance standards with or without conditions. Only if the request was denied or the decision of the Planning Commission was appealed by surrounding property owners would the request go to the County Commission.

The Planning Department believed this property to be a suitable location and result in minimal conflict with area property and otherwise be in compliance with applicable performance standards as outlined. The Planning Department was recommending approval of the special event subject to the 16 conditions as outlined in the staff report.

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

Perry Keegan, 15820 W. 147<sup>th</sup> St., Olathe, KS 66062.

- Excited to be the first to use the special event permit process.
- Lots of hard work went in to creating the process.
- Mr. Beagle provided a comprehensive description of the proposed two-day event.
- Asked if anyone had any questions.

Mr. Tryon asked if there would be any issues with the traffic on 37<sup>th</sup> Street. Mr. Keegan didn't think there would be any issues.

Ms. McKenzie asked where the participants came from and if it was a family event. Mr. Keegan said they came from all over Kansas and surrounding states and was very much a family event.

Mr. Desch asked for verification of the number of attendees. Mr. Keegan said there would be a total of 500 but they wanted as many to attend as possible.

Ms. McKenzie asked for clarification if the end time was 8 or 9 p.m. for the portable lighting. Mr. Keegan said it was anticipated that the event would be over at 9 p.m. but the light would not be on past 10 p.m. The light would stay on until 10 p.m. so people could get back to their cars.

Ms. Moler wanted to know if the request would go to the County Commission. Mr. Beagle said the Planning Commission would make the decision.

Mr. Aubert asked if the public would use the same parking as the participants. Mr. Keegan said it was not separated but tried to keep the folks with motor homes in one area and cars in a different area.

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Mr. Jacques asked how many events of this size had been held at this location, if they were prepared and had they contacted any of the neighbors since there had been issues in the past. Mr. Keegan said there had been one since 2010 and possibly a dozen prior to that. They knew what to expect. He had spoke to a few of the neighbors but hoped to talk to a few more.

Mr. Keegan asked if he could have permission to put up some small arrows to show the direction. Mr. Beagle said signs could not be placed in the public right of way and permission from property owners would be needed for other locations. The Planning Commission could grant the ability to place directional signs subject to the permission of the property owners. If Mr. Keegan secured property owner permission, he could forward the details to Mr. Beagle.

With no one to speak in favor or opposition, Mr. Tryon closed the public hearing and opened it for discussion among the Commissioners.

Mr. Jacques moved to recommend Approval of the item with the amendment for the applicant to provide proof to Mr. Beagle of property owner permission to place offsite directional signs; seconded by Ms. McKenzie. 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**

Mr. Beagle hoped the Planning Commission had received emails from the consultant regarding the five Big Ideas that were summaries of major topics addressed by the Comprehensive Plan. Hopefully those would draw more public attention. They would also be published in the Capital Journal and he appreciated their response in working with him. They were also posted on the Comprehensive Plan Project website. He encouraged them to look at those and ask questions.

The Planning Commission was invited to attend the next three Steering Committee meetings on April 11, May 9 and June 13. They would be looking at the draft chapters and addressing any issues or concerns for revisions to be considered on May 9 as well as to review new chapters. Hopefully by June 13, the final set of revised chapters would be reviewed before going to public hearing. There will also be a joint Planning Commission and County Commission meeting on June 12 after the regular County Commission meeting. It would provide the opportunity for both bodies to come together to review the draft plan in order to be prepared for the public hearing. Formal review by the County Commission would be in July.

Mr. Desch proposed they meet at 5:00 p.m. before the public hearing instead of 7:30 a.m. on the Friday before the public hearing since it was difficult for everyone to attend. All agreed.

Mr. Desch also proposed to move the Planning Commission tables for the public hearing in a different configuration in order for everyone to see and hear each other. All agreed.

**Adjournment:**

Ms. Moler moved to adjourn, seconded by Mr. Aubert, a unanimous voice vote declared the public hearing be adjourned, which was at 7:30 p.m.