

**MINUTES OF THE
SHAWNEE COUNTY PLANNING COMMISSION**

**Monday, August 14, 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; Joelee Charles, Administrative Assistant; Joni Thadani, Assistant County Counselor.

Approval of July 10, 2017, Public Hearing Minutes: Ms. Moler moved to approve the July 10, 2017, Public Hearing minutes, seconded by Ms. McKenzie, and with a unanimous voice vote, the minutes were approved.

Communications: There were no communications from staff.

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.

Public Hearing Item:

1. A Public Hearing on the Shawnee County 2037 Comprehensive Plan

Mr. Beagle welcomed everyone and summarized some of the events from the year-long process.

- Various public engagement exercises were held.
- Progress of the plan was made available to the public through a website.
- A 22-member steering committee, appointed by the County Commission, assisted in making decisions for the county's future and defining the issues to be addressed.
- An online community survey with 300+ responses identified issues that formed the plan's framework.
- At the key stakeholder meetings, participants refined the information received from the community survey.
- The Planning and County Commissions participated in a joint workshop to discuss the plan.
- In partnering with the Topeka Capital Journal, a Big Ideas series was produced highlighting the plan's major topic areas was published.
- Planning Commission needed more information from the public.
- Hoped the plan would be adopted.
- If plan was not adopted, they wouldn't be able to: define issues, set standards/criteria for future development and know how to wisely expend public dollars.

Thomas Dow, Consultant, RDg Planning and Design, provided a report covering the land use recommendations. Comments were as follows:

- A vision statement was developed to describe how the plan would enhance the residents' quality of life.
- Shawnee County's success would include the success of the five incorporated cities.
- Many of the public services provided in the county were provided by other levels of government.
- Even though Shawnee County was one of the largest counties in Kansas, the population forecast prepared indicated the county was expected to grow by 14,600 people over the next 20 years.
- The city's plan anticipated 11,000 people would be added to their population in the city limits.
- Multiple growth areas (unincorporated towns, area by Auburn, Half-Day Creek area) were proposed.

**MINUTES OF THE
SHAWNEE COUNTY PLANNING COMMISSION
Monday, August 14, 2017**

- The urban rural transition areas outside the city's urban growth area would likely see continued growth but would not include city services due to the city's established policies.
- Most of the county was shown as an exclusive agricultural use area or an agricultural conservation area.
- There was already a lot of residential development in the agricultural conservation areas.
- There has been a lot of discussion about the three mile area which is where the City controls the division of the land but the property owners are not able to vote for the City Council.
- Questioned if the City needed to exercise land division authority in the whole three mile area if they were going to focus on developing the urban growth area over the next 20 years.
- It was suggested that the County Commission would have a basis to talk with the City Council about reducing the size of the ETJ with the adoption of the Comprehensive Plan.
- Growth areas were recommended for each of the unincorporated towns and would be denser development not consistent with the existing three acre parcels. There would be relatively smaller lots requiring a need to build wastewater lagoons. More discussion was needed about who might publicly manage those whether it was the county, the township or the creation of a sewer district.
- The final growth area was around the City of Auburn. Their wastewater treatment facility was expanded a few years ago and had plenty of capacity to accommodate additional growth. It was suggested that it could be an opportunity to take advantage of that additional wastewater capacity; however, their access would be limited with no interchange on the Kansas Turnpike.
- Different areas had been recommended for development.
- If the unincorporated area of the county grew by the forecasted 14,600 people over the next 20 years, enough land was shown to accommodate all the growth in the proposed growth areas.

Mr. Aubert asked for clarification of the ETJ's location. Mr. Beagle pointed out the boundaries of the ETJ and city's urban growth area. With the recommendation of the urban-rural transition, agricultural conservation and exclusive agricultural areas to remain for agricultural land use only, it was hoped the city would reduce their jurisdiction to only those areas planned for future residential development.

Mr. Jacques asked why houses shouldn't be built everywhere and why higher density made more sense. Mr. Beagle stated the public's response was to keep the rural areas rural and direct the urban scale development toward the cities with services. Future urban development, including utilities/infrastructure, was likely to occur in the recommended urban-rural transition area. Residential development was avoided in rural areas since infrastructure was not available. Public services were being demanded with low density development but there was no way to pay for it. If development was confined to areas where future growth was planned, agricultural land uses could be protected and help minimize taxpayer expense to support improvements further out from the main core areas.

With no further questions, Mr. Tryon opened the meeting for all public comments.

Jim Kaup, 3128 NW 43rd St., Topeka, KS 66618.

- Served on previous Planning Commission and on the present steering committee.
- The Planning Commission has had difficulty making informed decisions on proposed development.
- Appreciated their effort and encouraged them to follow through with the recommendation of the plan.
- Practiced land use law around the state and thought a plan was needed to make land use decisions.
- Wasn't 100 percent satisfied with the proposed plan but it was progress.
- Was pleased the plan addressed the preservation of agricultural lands as well as trying to achieve economies for the taxpayers by encouraging growth to occur by planned or existing infrastructure.
- It was important that it dealt with the three acre exemption to subdivision process. It was adverse to the public's interest in the growth/development of the county. Lots of three acre lots were scattered around the unincorporated area that weren't developed.
- If adopted, the plan should be used for all cases. Encouraged an annual review of the plan to keep it current.
- The plan was most important since it was the guide for the development of land use regulations.

**MINUTES OF THE
SHAWNEE COUNTY PLANNING COMMISSION
Monday, August 14, 2017**

Al Ward, Mission Township Trustee, 1423 West 6th, Topeka, KS 66610.

- Asked if septic tanks and lateral systems were going to be allowed in the plan.
- Suggested they visit people in the coffee shops in the small towns and listen to their opinions.

Mr. Beagle said lagoons were used for larger, multiple unit types of improvements. Those were being recommended for development in proximity to the unincorporated towns or small growth residential areas. Some type of wastewater/sewage lagoon system would be anticipated. On traditional three acre lots, a septic tank and lateral field system would probably be used.

Carol Marple, 10249 SW Wanamaker Road, Wakarusa, KS 66546.

- Opposed to the plan.
- A property owner whose livelihood was farming/agriculture. Worked hard to pay for it and the taxes.
- Didn't think anyone had the right to tell her how to use her property and didn't want it developed.
- 160 acres of their land was proposed to be zoned light industrial a few years ago and now it was being proposed to be zoned for exclusive use of farming.
- The farmer should have more input.
- Didn't know anyone in Shawnee County who owned a section of land.
- County residents dealt with water and sewer and knew they weren't going to have paved roads.
- The owner should be responsible for checking on the utilities when building a house in the county.
- There were a lot of septic systems. She had several and didn't have any problems.
- Unless Auburn rezoned some land, it has grown about as far as it was going to grow. The city has been built up and there was no land available there.

Joe Ledbetter, Attorney, 1734 SW Van Buren Street, Topeka, KS 66612.

- Opposed to the plan. Was also speaking for two clients, The House of the Lord and Fred Sanders.
- Personally owned 40 acres and recently moved back by Berryton.
- Has a MPA and understood zoning/comprehensive plans but didn't understand the need for one.
- The three mile area has existed for years. It was state statute.
- Didn't think the city would give up its authority for any reason and didn't know why they would.
- Would have to go to the legislature to get that changed.
- Had opposed a request by an entity wanting 4,000 acres for industrial use in southern Shawnee County. Was told it was needed for the growth of the city. It hasn't been used. Couldn't have absorbed that much industrial land in that location in 300 years.
- A ridiculous idea. Not thought out well. Even with public input, people told him they were opposed.
- Opposed to the exclusive agricultural. Right now commodity prices were low. Farmers may want to sell out and retire. A land developer may be their best option depending on its proximity to utilities.
- Landowners should have the right to choose and request their own utilities. The city signed an agreement to not extend their utilities further out.
- Didn't need an additional expense. The county was operating just fine in the unincorporated areas.

With no one else rising to speak, Mr. Jacques encouraged the crowd to ask questions, make comments or state their concerns. Mr. Tryon said the Planning Commission was there to listen and an opportunity for them to speak.

Jim Houchins, 5236 NW Landon Road, Topeka, KS 66618.

- Opposed to the plan.
- Owned property/farm in the county for about 30 years.
- Thought their freedom was being jeopardized.

**MINUTES OF THE
SHAWNEE COUNTY PLANNING COMMISSION
Monday, August 14, 2017**

Alan Ribelin, 4920 NW Landon Road, Topeka, KS 66618.

- Opposed to the plan.
- Homeowner with 40 acres in northwest Topeka and a Menoken Township trustee.
- Attended some of the meetings. Not familiar with all the changes that were proposed.
- Thought they had the right to do what they want.
- Didn't like lagoons but didn't have a problem with someone else having one.
- Couldn't say what was right for someone else.
- America was based upon the fact that we had freedoms to do what they wanted.
- Thought they were taking away another freedom. There were so many being taken away now.

Mr. Tryon knew some of them had helped in the process and thanked them for taking their time to come to the meetings and offer comments. It wasn't easy and took valuable time.

Riley Rees, 2222 NW Huxman Road, Topeka, KS 66618.

- Opposed to the plan.
- Managed one of the rural water districts.
- Could they afford to do this and what was the cost.
- Served on one of the committees. They talked about parks and places of interest. He didn't hear anything about that. Basically heard that someone wanted to control his piece of ground.
- Owned property in the city too and trying to get anything done was just a nightmare.
- Needed to treat the people a little better.

Mr. Desch only heard people saying they didn't like it and thought they would provide more input. He didn't expect a whole lot of positives. The public meetings were poorly attended. He asked if they had looked at the document. He urged them to provide specifics about what they didn't like about the plan.

Mr. Jacques stated by statute, the county should have a plan. Rules were already in place that related to items included in the plan. These weren't new regulations. Shawnee County was already governed by land use regulation but overall direction was needed.

Carol Marple, 10249 SW Wanamaker Road, Wakarusa, KS 66546.

- Needed to enforce the existing rules and laws. A plan would create a new set.
- The plan was 163 pages, only available online and not easy for the general public to look at.
- Didn't think the plan was evaluated enough.
- Should have the choice to do with their property for what they want.

Randol Walker, 2326 SW Hodges Road, Topeka, KS 66614.

- Thought there would be more discussion about the three acre lots.
- A plan was designed to avoid situations like the one with Mars by encouraging planned growth.
- Loved being in the country and understood why other people liked it.
- Told the County Commission not to over regulate so people moved to another county.
- Growth needed to be planned and the infrastructure could not afford the development if it continued.
- Part of Dover Township recently moved to another township so residents could get paved roads.
- People shouldn't move to the country and expect the township to pave the roads.
- The consultant listened to the farmers who wanted prime farm ground protected in Shawnee County as well as the issues they dealt with when three acres parcels were located around their land.
- Most people had internet access. The information on the plan was on the website.
- Lots of three acre lots were unused around Shawnee County.
- There are 820 farms located in Shawnee County. Under this plan, you could have 820 more.
- Farmers could have one more home on their property if they had 80 acres. That could be adjusted and solve some of the concerns that some of the people had.

**MINUTES OF THE
SHAWNEE COUNTY PLANNING COMMISSION
Monday, August 14, 2017**

Randy Wolf, 5348 NW Valencia Road, Silver Lake, KS 66539.

- There was a lot of commercial property sitting idle and thought something should be done with those.
- Shawnee County couldn't take care of the roads so they didn't need more traffic on them.
- Wondered why a consultant wasn't hired locally.

Mr. Tryon couldn't say if something was addressed specifically. The consultant took everything into account as part of the written process. He thought the plan dealt with issues in a broad spectrum. Obviously, certain priorities and decisions had to be made on what to concentrate on.

Mr. Desch struggled to make decisions on cases as a Planning Commissioner. He believed in property rights but there had to be some uniform development. His son was asked to appraise land that had no access and was landlocked in Shawnee County. That wasn't supposed to happen. They were trying to manage those types of issues. Other things needed to be considered such as law enforcement, fire protection, road maintenance. There was a cost to the community. It wasn't just restricting land use. He believed the city shut off the water because developed subdivisions with services were empty. He wanted them to provide comments. The plan was a big document and they wanted to make it more acceptable. It would never fit everyone's needs and would restrict some property rights.

Alan Ribelin, 4920 NW Landon Road, Topeka, KS 66618.

- Asked if the plan required a township to pave the roads if a certain amount of houses were built.
- There was some confusion because they didn't have the knowledge to provide specifics. Anything new always caused people to be apprehensive.
- Asked if the plan could be amended if something needed to be changed.
- Wanted to know how it would be paid for and where the money would come from.
- Wanted to know how they would get the public's input to fix an issue identified in the annual review.
- Asked for an improved meeting schedule. People cared and wanted to be heard but were busy.
- Suggested having an email address where the public could submit their suggestions.

Mr. Tryon stated it was really important for the Planning Commission to hear any and all concerns. But also the public needed to complete their due diligence if they had a specific concern.

Mr. Beagle stated the plan may require adjustments over time based on changes in community character, population, land use, etc. An annual review would check if the plan was still meeting its objectives or if changes were needed. Changes would be brought to the Planning Commission and the County Commission. Something new outside the scope of the plan could be flagged and addressed in a future plan amendment.

Mr. Beagle said there would be a cost of \$100,000 to rewrite the 1992 zoning and subdivision regulations and possibly another cost of \$40,000-\$45,000 plus benefits to add an additional planner in the future. It would be general fund supported. Money was budgeted and set aside in a special project fund to complete this project. There was money in the 2017 budget to use to rewrite the zoning and subdivision regulations. A similar request was made in the 2018 budget. Combining those two would provide the necessary funds.

Ms. McKenzie felt the plan was important. She served on the Planning Commission during the Mars chaos. They needed a plan to guide them. The Planning Commission wanted to do what was right and what the people wanted. She was proud of the agricultural area she lived in. She had served on several committees/boards and it was hard to get information out to reach everyone because they didn't know what outlet (television, newspaper, internet, etc.) to use. Different meeting times and locations in the county had been scheduled for the public to provide input. She hoped they would read the plan. It was long but had lots of great information.

**MINUTES OF THE
SHAWNEE COUNTY PLANNING COMMISSION
Monday, August 14, 2017**

Mr. Beagle stated the whole plan was originally posted on the project website. Because of its size, we heard from people that it was too large for them to download. As a result, each chapter can now be downloaded separately.

Carl Hubener, 8633 NW Landon Road, Topeka, KS 66618.

- Had to obtain a special use permit to put a double wide classroom on his farm so his wife could raise Persian cats. Could have raised hogs with no permit.
- Had to get approval from surrounding neighbors.
- Asked if the same restrictions would apply to a farm.
- As a licensed facility, it was regulated and inspected through the Department of Agriculture.
- It was out in the country and not in the city's jurisdiction.
- Once regulations were established, the more freedoms that were taken away.

Mr. Beagle stated under the current zoning regulations passed in 1992, a conditional use permit was required for a kennel which was defined as any commercial operation where domestic animals were raised, boarded or bred. Any commercial activity required a special review to make sure it was compatible in a proposed location. When agricultural land was utilized for a viable agricultural operation, local zoning did not apply and was exempt by state law.

Mr. Dow indicated the biggest expense for plan implementation would come from the provision of infrastructure. Cities typically provided the infrastructure within their jurisdictions. Counties are comprised of different jurisdictions that provided different types of infrastructure services.

There were certain areas where plat exemptions would not be allowed. Dividing land for non agricultural purposes would go through the regular subdivision/platting process. It was anticipated that the Planning and County Commissions would set expectations through the zoning code as to the roads. Developers would build the roads at the time of subdivision. It was thought that most of the roadways would be dedicated to the townships and some to the county who would then take responsibility for the maintenance. Typically, there would be no upfront costs to either the county or townships for the roads.

The various entities (water/fire districts, townships, etc.) needed to be aware of proposed development. The Planning Department didn't always know when property was being divided until it was recorded with the Register of Deeds or a building permit was being applied for. There was no prior public review.

It was being recommended that every farm and ranch be allowed to have a primary residence and an accessory residential structure as well as the ability to divide off at least one three-acre homesite. It was realized that a majority of the agricultural community wanted the ability to sell off at least some of their land for development. There would be more development and opportunities when you got closer to the city because infrastructure was in place. There was residential development throughout the county and beyond what was needed for farming and ranching purposes. Most of the public roads had a few homes on them already that were not associated directly with a farm or ranch.

In regard to vacant commercial development, they did look at all the vacant residential parcels and vacant commercial and industrial land/buildings. Most of the commercial and industrial development outside the city limits should occur within the employment tier of Topeka's Urban Growth Area. There was also a need for some commercial development to occur outside the existing cities and near the unincorporated towns where agricultural related commercial development may be needed. On a more limited scale, there should be opportunities for commercial development in the existing unincorporated towns. Some of the unincorporated towns have schools, post offices, food vendors and it was thought those kinds of commercial development should be allowed. They were not suggesting that any existing land uses be discontinued.

**MINUTES OF THE
SHAWNEE COUNTY PLANNING COMMISSION
Monday, August 14, 2017**

The plan was very general in scope, covered a wide range of topics and made general recommendations. The plan would not establish regulations. Regulations would result when the zoning and subdivision regulations were updated. A Kansas Supreme Court decision on Golden talked about how the Planning Commission and the County Commission needed to base their decisions if a party wanted to rezone land. There should be reasonable expectations for how that should occur. They tried to articulate that in the plan based on the public input received. They really tried to seek a balance because they heard the urban areas should remain urban and the rural areas should remain rural. They should respect there were two different types of areas within the county.

They should not only think about the cost of plan implementation but what the cost to the county and to the other local governments might be should there not be a comprehensive plan. Converting gravel roads to paved roads, reconstructing an existing paved road and running water or sewer lines along a roadway was very expensive. Someone commented that there should be no expectation of a paved road when buying a house on a gravel road. He thought most of the townships would agree that there wasn't a lot of money available to pave the roads. As a community, it was smart to have some guidance as to where services would be provided. If there was a 300' minimum lot width inside the Topeka ETJ or 200' outside the ETJ, it would really spread the houses out and increase the cost of the homes to provide those services. The plan articulated where denser development should occur and where development should be more sparse. It was difficult to achieve a balance in the rights of private property owners to do what they want with their land with the need for the public sector, county, townships and rural water districts to provide the types of services the property owners expected.

Mr. Tryon said they normally would close the public hearing, offer comment and vote on it. They understood this was an important issue for everyone. He suggested leaving the public comment open and reconvening August 28. It would give the Commission the opportunity to reflect on the current meeting and would give the public the chance to review the plan.

Mr. Tryon stated the plan was a lot to comprehend. On a broad base, he had a pretty good understanding of it but was still concerned about a couple issues. It was their job to try to get a comprehensive plan in place. They were required by law to do so.

Mr. Tryon opened the meeting for comments from the Planning Commission.

Ms. McKenzie requested the public send their comments to Mr. Beagle if they could not attend the next meeting. They wanted to hear their considerations. They sincerely and genuinely want to know their ideas, what works and what doesn't.

Mr. Jacques said they were required to have a comprehensive plan. Hopefully, they were going to adopt something. Hopefully it would be something the majority would agree too. It was a great Planning Department and they work hard. They regularly share information with them about concerns, issues that come up. If something was implemented and it doesn't work well but they get no feedback, they would get to the next yearly review and if there weren't any comments, nothing would change.

Ms. Moler requested comments whether it was loved or hated. They need to know specifically because chances were they weren't going to throw the whole thing out.

Mr. Aubert asked about the requirement of having a comprehensive plan.

Mr. Beagle said they abided by K.S.A. 19-2958. It allowed all counties to adopt planning and zoning regulations. It was if the county wanted to do it.

**MINUTES OF THE
SHAWNEE COUNTY PLANNING COMMISSION
Monday, August 14, 2017**

Ms. Thadani stated the comprehensive plan was not required. It may make or cause to be made. There were requirements if they adopted a comprehensive plan in what would need to be considered.

Mr. Tryon requested a motion to defer the meeting to reconvene on August 28 at 6:00 p.m.

Ms. McKenzie moved to defer the meeting until August 28 at 6:00 p.m., seconded by Ms. Moler. With a vote of **7-0-0**, the meeting was deferred.

Mr. Beagle asked everyone who was interested to call his office to request a copy of the plan.

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

There was no discussion of Planning related issues.

Adjournment:

Mr. Jacques moved to adjourn, seconded by Ms. Moler, a unanimous voice vote declared the public hearing be adjourned, which was at 8:00 p.m.