

**MINUTES OF THE
SHAWNEE COUNTY PLANNING COMMISSION**

**Monday, April 16, 2018 – 6:00 PM
Shawnee County Annex**

Roll Call and Announcement of Hearing Procedure: Judy Moler, Chair, called the meeting to order at 6:02 p.m., reviewed the hearing procedure and asked for roll call to be taken.

Members Present: Jerry Desch, Matthew McCurry, Judy Moler, Chad Depperschmidt and Brian Aubert. With five members present, a quorum was established and the meeting was called to order. Christi McKenzie and Jake Fisher arrived shortly after roll call.

Staff Present: Barry T. Beagle, Planning Director; Joelee Charles, Administrative Assistant; Joni Thadani, Assistant County Counselor.

Approval of March 12, 2018, Public Hearing Minutes: Ms. Moler indicated the minutes were not completed.

Communications: Mr. Beagle indicated the copies of the following documents were provided to them for review: the first three chapters of the Comprehensive Plan were converted to Word documents in order to track changes; two other documents from the USDA regarding farm soils, prime agricultural land, etc. Also, recently the County Commission approved a resolution establishing An Active Meeting Policy. It applies to all county officials, employees, members of a board or commission and meeting attendees as a health and wellness type of provision.

Ex Parte Communication by Members of the Commission: None were indicated.

Declaration of Conflict of Interest by Members of the Commission or Staff: None were indicated.

Zoning and Subdivision Items:

1. **CU18/01 by Rural Water District #8** seeking a Conditional Use Permit to establish a public use facility on property zoned "RR-1" Residential Reserve District and located at 3260 SE Tecumseh Road in Tecumseh Township. **(Continued To 05/14/18 Public Hearing)**.

Mr. Beagle stated the applicant was requesting to continue until the May meeting.

Public Comment on Non-Agenda Planning and Zoning Items: None were indicated.

Discussion of Planning Related Issues:

Discussion of Comprehensive Plan

Ms. Moler said the County Commission approved their ninety day extension with a vote of 2-1. The dissenting member indicated the plan would probably not pass and felt the ag use portion was not consistent with what was needed. She thought it would probably require extra meetings in order to complete it by July 4. She asked for comments.

The Planning Commissioners discussed whether to continue their work on the Comprehensive Plan. One Commissioner was not in favor and another was not sure if they could approve it unless some changes were made. Both indicated they would continue the work if there was consensus to continue. Comments indicated a lot of money had been spent to prepare the Comprehensive Plan as well as the Planning Commission had spent a number of hours working on it. Their time was valuable. One Commissioner expressed their anger as a taxpayer with the comments that it was a waste of time and effort. There were several who thought Shawnee County needed a Comprehensive Plan to create a vision for Shawnee County's future. The Comprehensive Plan could be amended as needed in the next twenty years. One Commissioner thought they should just provide answers back to the County Commission's questions.

Ms. McKenzie moved to continue the planning process and schedule additional meetings as needed, seconded by Mr. Depperschmidt. Discussion was held on the number of meetings to be scheduled. A public hearing would be needed for them to vote on the Comprehensive Plan.

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With a vote of **6-1-0, Commissioner Desch dissenting**; a request for the Planning Commission to schedule additional meetings and to continue their work on the Comprehensive Plan was **Approved**.

Ms. Moler requested public comment.

Evelyn Davis, 2928 SW 103rd Street, Wakarusa, KS 66546.

- A resident since 1949. Owns a small farm on the southern border of the county.
- The Planning Commission had put in a lot of effort and a lot of money was spent to develop the plan.
- Thought some of the County Commission's questions were fairly ridiculous.
- It is a policy and a plan. It wasn't rules and regulations. Those would be established later.
- Thought the plan should be available for a more progressive group in the County Commission who would actually like to use it. Shawnee County was so far behind other counties.
- Mentioned a 2005 newspaper article that described a development at 46th and Brickyard which included fairly small lots that had septic systems that failed over time. Those who lived there got stuck with the cost, not the developer or the builder. The developer skipped out and had the advantage of being able to build in the county in a situation that was not adequate for growth.
- Mentioned that in her neighborhood, a developer had purchased a ½ mile strip of land and created long, skinny spaghetti lots with no road system. It was in a wetland and should never have been developed for housing. No culverts were put into the driveways. Dirt was used instead and it blocked up the ditch. She had to call Public Works every time it rained, because it didn't drain. Finally, the County put culverts in. There were probably other similar situations in the County.
- She asked them to be present when the plan was considered by the County Commission and remind them the plan cost taxpayers a lot of money and deserved to be adopted.

Mr. Desch asked Ms. Davis if she had sent any information to the County Commission. They had heard from two or three people in favor and a multitude that were not at their public hearings. Support could not only come from the Planning Commission but also was needed from the public. Ms. Davis said she had not provided the County Commission any information but planned to attend the meeting when the plan was considered. She recalled attending one of their meetings when they approved a case. Later in the meeting it was mentioned that it wasn't what they wanted to approve but they had to because it had to be done by the rules. If they didn't want to approve things they didn't want and wasn't good for our county, they needed to stay engaged. The County Commission noted their absence since no one was present to talk to them the day they considered the plan.

Marge Ahrens, 1238 SW Mulvane Street, Topeka, KS 66604.

- Has asked the County Commission a number of times to prepare a Comprehensive Plan.
- The county got a bargain with the plan created by the consultants because it took a lot of expertise.
- The plan was worth paying for and would help to create a vision for the county.
- Economic development and tax issues were making it harder and harder for the city to take care of.
- Lives in the city but pays the same mill levy that everyone does who lives outside the city in the county and also pays city taxes which were probably higher than for those living out in the county.
- For a county this size, how can we talk about how good it is and try to sell it to businesses without getting a vision and getting some control.
- The idea that people should do what they want with their property because they live outside the city limits was prehistoric. It was just not the way we can live any longer. Resources were limited.
- Urged them to continue and consider it seriously. Was grateful they voted to keep working on it.
- The county couldn't really operate without working at some point with the city and their planning.
- The county doesn't exist without the city economically. Very concerned about economics.
- The County Commission's questions were impossible to answer because money wasn't provided to do the research. A small sum was paid for a huge planning process. It was a way of killing it. Considered it contrived because the questions couldn't be answered legitimately. They were not planning to provide

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more money to get those answers. Specifically the ones about the difference between planning and not planning and how much it cost. Thought they were asked without an expectation of an answer.

- They did have the USDA information about agricultural lands which are precious and not replaceable. The whole world was now paying attention to them because of the warming that is taking place.
- The County Commission was negligent and not managing the county property if there was no plan. To say they were mismanaging was a pretty strong indictment but that was how she felt.
- If you looked at the plan as a management tool, corporations and small businesses create visions and plans. They put restrictions on themselves and on the way they operate.

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

- Has been attending the meetings since they were made public at the schools.
- Her first criticism of the way the plan was put together was no one in the group was an actual farmer whose livelihood came from farming.
- There was one farmer who was also a retired school teacher who had a retirement. Her husband didn't.
- Their farm and land will hopefully not have to be sold to provide for them in their twilight years.
- Didn't think the farmers would have said they wanted someone who was not a farmer to tell them what they could do with their land. For the majority of farmers, you could not find better stewards of the land.
- If a policy was made, it was a rule. If the plan was passed with policies, it meant they had to be enforced so they can't just sit on a shelf.
- Spoke with a lot of people. She was paying more taxes compared to what was being paid for a house in town. Their property taxes had increased 2 to 3 percent. The mill levy did not go up for people who had property in the city. Economic development had a lot to do with that.
- Was involved in a discussion about Parks and Recreation and how valuable that was to the economic development of housing areas within the city.
- Didn't feel she would be sold on it. They have spent their whole life paying for their land.
- No one should be able to tell them that their children could not build on their land.
- We don't have to be like other counties. Can't we be unique? Why do we want to be a clone for another county? What works well for them does not necessarily work for us.
- Thought they had a monumental task and appreciated that they wanted to tackle it.
- Honestly believed it was doomed for failure from the beginning because everyone was not represented in that group.

Mr. Desch complimented Ms. Marple for her attendance. He thought her objections were concerning the development and stripping off three acre lots. Land could be platted and sold. They weren't restricting the use of property. There was a proviso included in the plan regarding land but it couldn't be done without some type of control. Most of the pushback was coming from that. The thought process seemed to be that some governmental agency was telling them that they couldn't develop their property. That was the farthest thing from what was being discussed. It was a procedure to plat property. He had converted a house to an office in town. The city would not allow that so he had to plat it and conform to the use as set by the city. Property could be sold but needed to be platted and there was some expense to do that. Ms. Marple stated if she split her 320 acres in three acre tracts, she couldn't do it without making it a development. She didn't want to do that. Mr. Desch said her property wasn't being restricted and could be sold. It would have to be reviewed to make sure it conforms to the regulations. When Indian Hills was platted into half acre tract lots, there was no agency who reviewed it. He has voted for some things that he disapproved of because they had no control. Ms. Marple stated the plan was going to restrict prime farm land.

Ms. McKenzie asked for the definition of "policy". Ms. Thadani stated a policy was defined as a course or principle of action adopted or proposed by a government party, business or individual. The statute for Comprehensive Plans for urban areas specifically states, "Such plan or part thereof shall constitute the basis or guide for public action to ensure a coordinated and harmonious development or redevelopment

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which will best promote the health, safety, morals, order, convenience, prosperity and general welfare as well as wise and efficient expenditure of public funds.”

Discussion was held on how the implementation process would work if the plan was approved. It was indicated that there could possibly be a one or two year gap between the adoption of the plan and when the new and amended regulations would take effect. Nothing had been discussed about how to handle any specific situations in the interim. The Planning and County Counselor's offices would need to discuss how the terms and conditions of the Comprehensive Plan would be followed in the interim. The Comprehensive Plan would be used as a guide to make modifications in the future. The current regulations would not change. If a current regulation says one thing and the Comprehensive Plan says another, the current regulation stands. In order to change the regulations, the statute requires certain steps to be followed. Changes could not automatically be imposed just because the plan recommends that they be done. The county does not have the authority to change processes without a regulation in place. The regulations would still have to be followed unless it was deemed to be unconstitutional or illegal. Some regulations may have to be modified sooner than others to allow us to do what we need to do to follow the plan.

Ms. McKenzie found it interesting that people think of the plan as a document that says “no”. She saw it as a document that says “yes”. She could vote yes on something with confidence because she knew it would be for the benefit, the health, the future of our county. Ms. Thadani said they wouldn't necessarily be looking at the plan to say yes. It is a guide document in the sense of what is it that the county wants to do or what has been approved by the county. They would still have to say yes based on the regulations. She heard people say that they were hopeful the plan would give them direction on what to do in reviewing a case. It may not change that. The next step would be to get the regulations in place and it wasn't for certain the regulations will get approved. The current approval process would still be followed. It was possible a case could be approved and not necessarily follow the Comprehensive Plan.

Ms. McKenzie mentioned how they had hoped to have this finished in a year. They thought the Comprehensive Plan process would be much quicker than it has been. If it takes time to get it right, then it takes time to get it right. She wanted the regulations to be correct and for the good of the county.

Mr. Aubert stated he has served on the Commission for a short time. They have not denied any proposals so far. Ms. McKenzie stated the Planning Commission has voted no. The Planning Commission has voted and the County Commission overruled their vote. The Planning Commission has voted yes and the County Commission then said no. She then indicated she needed to leave to attend another meeting.

The Planning Commission proceeded with their review of the proposed revisions in the Forward and Vision Statement. A number of questions were raised. Discussion followed regarding how to proceed with the review and approval process for the proposed chapter revisions and the responses to the County Commission's questions. It was noted that the two new Planning Commissioners were not present when the Forward and Vision Statement, Chapter 1 and Chapter 2 were originally reviewed. It was determined they would not need to vote on the misspellings and or typographical error.

Mr. Depperschmidt moved to accept the proposed changes, seconded by Mr. McCurry. Based on discussion of how to proceed with the review, revisions and approvals for the changes, Mr. Depperschmidt withdrew his motion and Mr. McCurry withdrew his second.

With their approval, Ms. Moler assigned the Forward and Vision Statement to Mr. Fisher and Chapter 2 to Mr. Depperschmidt.

Mr. Desch moved to proceed with their review of the Forward and Vision Statement and review Chapters 1 and 2 at the May meeting, seconded by Mr. Depperschmidt. During discussion, Mr. Fisher indicated he

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was not prepared to complete any wordsmithing without taking additional time. Mr. Desch withdrew his motion and Mr. Depperschmidt withdrew his second.

Mr. Fisher moved to review the Forward and Vision Statement, Chapter 1 and Chapter 2 at their next meeting, seconded by Mr. Depperschmidt. Additional discussion was held to work out the meeting dates.

With a vote of **6-0-0**, the review of the Forward and Vision Statement, Chapter 1 and Chapter 2 will be completed at their next scheduled meeting was **Approved**.

The schedule for the review of the chapters is as follows:

Jake – Forward and Introduction Due to Planning Dept 4-25-18 – Meeting 4-30-18 @ 5:30

Judy – Chapter 1

Chad – Chapter 2

Jerry – Chapter 3

Christi-To Be Asked – Chapter 4 Due to Planning Dept 5-3-18 – Meeting 5-8-18 @ 5:30

Matt – Chapter 5 Due to Planning Dept 5-17-18 – Meeting 5-22-18 @ 5:30

Brian – Chapter 6

Barry – Chapter 7 Due to Planning Dept 5-30-18 – Meeting 6-4-18 @ 5:30

The Planning Commissioners agreed to redline their revisions in the Word document provided to them by Planning. They will email them back to Planning so they can be provided to the rest of the Planning Commission before each meeting. The minutes will also be emailed to them as a reference. The public hearing was tentatively scheduled for June 25.

Adjournment:

Mr. Desch moved to adjourn, seconded by Mr. Fisher, a unanimous voice vote declared the public hearing be adjourned, which was at 8:29 p.m.