

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

RECORD OF PROCEEDINGS

April 28, 2011

This meeting was held at the Marion County Park and Lake in the Lake Hall due to an expected large public attendance.

Chairman David Mueller called the meeting to order at 6:32 p.m., with a quorum present.

Roll Call was answered by Mueller, Dan Mount, Brad Vannocker, Bob Maxwell, Mary Avery, and Jim Schmidt. Nick Kraus and Lloyd Funk both arrived right after roll call. Marquetta Eilerts was absent. Zoning Administrator Tonya Richards and Consultant David Yearout were both present.

Mueller asked for corrections or additions to the March 10, 2011, Record of Proceedings of a Special Meeting of the Marion County Planning Commission/Board of Zoning Appeals. Mount moved to approve the Record of Proceedings as written and Vannocker seconded. In favor: 8; Opposed: 0; Motion carried.

Mueller asked for corrections or additions to the March 24, 2011, Record of Proceedings of the Marion County Planning Commission/Board of Zoning Appeals. Maxwell had two corrections on page one where the word "case" should have read "cast." Avery moved to accept the Record of Proceedings with two corrections and Funk seconded. In favor: 8; Opposed: 0; Motion carried.

Item 4: An application for Wildcat Creek Ranch, Klee Watchous, Owner, requesting a Conditional Use Permit (CUP) for an oversized identification sign in the "A" Agricultural District, located at 1858 80th, Peabody, Kansas, in the NE1/4 of 36-21-3. Eric Carroll, of OMMD in Newton, Kansas, was present with Watchous, to speak about the sign. Carroll explained due to the size of this entrance sign they need a CUP. He said they want to match the architectural design of the sign to the ranch. He said the sign will be located on ranch property, off highway 50. Mueller reminded members they are acting as the planning commission to make a recommendation to the county commission. Mueller noted this application was published in the April 6, 2011 issue of the *Marion County Record*. Mueller asked members if anyone had a conflict of interest with this application or if anyone had any outside communication concerning this application. No one did. Mueller noted this is application #PC 11-05 for an oversized sign in an ag district. Richards said the sign is approximately 20x12 and the outside structure is approximately 31x30. She said the CUP factors to consider were included in member's staff report information. She said this property is located in Harvey County Rural Water District (RWD) #1, and she has had no comment letters from the public concerning this application. Richards read her staff report aloud. Mueller asked members if there were any questions. Maxwell said you are looking at about a three story high structure that is 30 feet long, so it is a pretty good sized sign. They have planned the area to

accommodate it, Maxwell said. Mueller asked if there were other questions. Avery said most questions were covered in the prior meeting. Mueller asked if there were any comments from the public. Vannocker said members may wish to use the dimensions 32' x 31' to make sure they cover it. Mueller asked if there were any other comments or questions, and there were none. Mueller closed the public hearing for this application and asked members to begin deliberations.

Mueller noted the sign will be located in a wide open space and will be back away from the road so it will not be a hazard. Mueller also noted the historic location and that another oversized sign is already in the area. Mueller reminded members of the factors to consider when recommending a CUP. Mount asked about decommission requirements. Yearout said the county's current regulations talk about sign abandonment and certain things that are supposed to be done if the sign is no longer needed. There is a process to be followed for removal, Yearout said. So, that is already taken care of, Mount said. Mueller asked if there were other comments or discussion. Mount moved to recommend approving a Conditional Use Permit (CUP) for application #PC 11-05, for an identification sign as proposed on the portion of the parcel as presented in the development plan, with the specific authorizations beyond the requirements of the Marion County Zoning Regulations being approval of the sign in conformance with the specifications shown on the development plan materials, mainly a 20x12 square feet structure with outside dimensions not to exceed 32' x 31', as well as the sign be permitted to be indirectly lit by lighting to be specified, and all permits and other requirements for all signs within Marion County shall be obtained, as well as Kansas Department of Transportation (KDOT) permitting. Vannocker seconded. In favor: 8; Opposed: 0; Motion carried. Mueller asked Richards to go over the timeline with the applicant.

Item 5: An application for Alexanderfeld Mennonite Church, requesting approval to permit a variance from the east property line in the Rural Residential "RR" District for property located at 1806 Holly, Hillsboro, Kansas. Abe Ensz and Orlan Becker were present to speak about the application. Mueller reminded members they are acting as the Board of Zoning Appeals for this application. Mueller also reminded members this is a final action. Mueller noted this application was published in the April 6, 2011 issue of the *Marion County Record*. Mueller asked if any members have a conflict of interest with this application or if anyone had any outside communication concerning this application. Mount said he lives within the notification area but he does not have a conflict of interest. Ensz explained they would like to build an annex at the east end of their church. He said there is only one direction they can go as there is a parking lot on one side and a cemetery on one side. He said it will be within eight feet of the landowner on the east. Ensz said the landowner does not want to sell, but he is okay with the church's plan. Mount asked where the cemetery fence is located in relation to the edge of the building. Ensz said the cemetery fence is not part of the border. Yearout asked if there is just one lot there, and Ensz said yes. Mount asked where the power pole is in relation to the building. It would be about 40 feet north, Ensz said. Maxwell asked about documents from 2003 and 2005 that were included in member's information packets. Ensz was not sure about the documents. He said in 1975 they built a school, and he

showed where the land borders are. Ensz said the school was located on another owner's land for many years. Ensz showed the property on an aerial photo on the big screen up on the wall. Yearout asked if there were any additions to the property in 2003, and Ensz said no. Mueller asked if there were other questions. Schmidt asked about a landmark, and Ensz said it was a basketball court. Mueller showed members on the photo where the property line is. Yearout explained that looking at how the north/south road is on the photo, the lines marking the property are off compared to the road. It is not survey accurate, Yearout said. I think what is throwing everyone off is they are allowing someone to farm part of the property, Mueller said. Mueller held a piece of paper up on the screen to create a clean line on the photo so members could see easier. Maxwell asked, and was told it is between eight and ten feet to the farm line. Mueller asked if there were other questions. Mueller asked Richards to give her staff report. Mueller read aloud the list of conditions that must be met in order to grant a variance. Richards said on April 20, 2011, she inspected the wastewater system and it is currently compliant. Richards recommends periodic inspections, although said she realizes the number of church members is not changing. Yearout talked about the hardship issue, and having to find all five conditions in place in order to grant a variance. They are creating a self-imposed hardship, he said. The big dilemma is the desire to build a bigger building without a lot that will accommodate the plans. Yearout explained a similar application for a property near Florence was a request for a CUP, and that is not necessarily the same situation. It is flat and otherwise not restrictive, Yearout said. If it is challenged in court they could make a case that it did not create a hardship, he said. This technically qualifies as a rear yard so in essence they are required to build further in the rear yard, Yearout said. Mueller asked the applicant if the adjoining landowner would be willing to sell some additional land. It is a different landowner now and he does not want to sell any, but he is okay with our plans, Ensz said. Richards said if the variance is denied you do plan to move forward and try and buy a strip of land, right? Yes, Ensz said. What about building to the north?, Maxwell asked. They said it would not fit to the north, and there is no way to make it work, Yearout said. To the east is the only way they have enough space to add on, he added. It is not really the board's role to hammer out a solution, but in my mind it would be best to work something out with the adjoining landowner, Yearout said. The church boundary is now actually already into the field anyway, he said. Mueller asked if there would be a way to do this without actually selling any property. There could be a lease type thing for the purpose of granting the church rights to meet setbacks, Yearout said. So, is a lease an option?, Mueller asked, and Yearout said I think so. Mueller explained to the applicant that it is not that the board is not sympathetic, but the concern is down the road. Some kind of lease agreement would avoid a sale, and the cost, and would protect both the church and the landowner, Mueller said. Yearout told the applicant they will need legal advice to draw up an agreement. Ensz asked, and Yearout said they will need a legal description of the property. We can consider that, Ensz said. And they can still farm exactly what they are farming now, Richards said. You still have full rights to your property, Yearout said. Like an easement, Kraus said. Avery suggested tabling this application for a month and let them see if it will work out. Richards said they want to start construction. If they get an agreement done there is no need to come back here,

Yearout said. Kraus asked what the setback should be, and Yearout said 50 feet. Avery moved to table application #BZA 11-02 to the next meeting, and Mount seconded. In favor: 8; Opposed: 0; Motion carried.

Mueller said he will now adjourn the meeting of the Board of Zoning Appeals and he will call the meeting to order again as the planning commission.

Item 6: An application for Heather, Molly, Daniel C., and Tamra Holub, requesting a Conditional Use Permit (CUP) for a recreational cabin rental facility at 10 Heated Dock Road, Marion County Park and Lake, located in the Lake Lot "LL" Single Family Residential District. Mueller noted this application was published in the April 6, 2011, issue of the *Marion County Record*. Mueller asked if any members have a conflict of interest with this application or if anyone had any outside communication concerning this application. No one did. Marion County Commissioner Dan Holub was present to speak for his children, but he explained that contract-wise he has no vote and will have no part of the final approval, as he will leave the room when the county commission discusses this application. Holub showed the project plans using aerial photos on the projection screen on the wall. Holub showed three areas, and different size cabin plans. He said all will be completed using 2x6 construction, and all will be fully insulated. He said the cabins west of the heated dock will be larger with a front porch facing the lake. Holub said all cabins will be ADA (American Disability Act) accessible. Some of the cabins will have lofts for additional beds upstairs. Holub said they plan to use gas fire places, and it is legal, with oxygen sensors included in it. He said the smaller cabins will be like a basic motel room. Holub explained that preliminary plans had cabins situated in two rows, with seven in back and eight in the front row. He said since they changed the plans there will be five at the most, and they want to place them randomly, so it is not motel-like. Holub said the office is basically a cabin, and a proposed laundry facility may be used by anyone at the lake. He said south of the county lake office there would be two cabins at the most, and a facility more like a lodge with rooms, including a common area and a hot tub. Last on the list is a restaurant, he said. Maxwell asked if the #3 area is a smaller area, and Holub said yes, there would be smaller cabins with no lofts in there. Holub said they plan to use metal roofs on the structures. He explained the cabins can be picked up and moved, and will be situated on concrete slabs. He said they will be built strong enough they can be moved. He said they will put in all the utilities, and will work with the improvement district. He said they will pay for water and sewer, and everything, all at their expense. The county has no expense in this, Holub said. Maxwell asked if this is an all or none proposal. Would you do all, or if there is some opposition to part of it, would you do the other part?, Maxwell asked, and Holub said yes. Three people now have asked about an area for a restaurant, Holub said. They are just getting ideas, he said. They are leaning toward a lodge which would be built like a log cabin, he said. They are getting ideas from other areas around us, he explained. Yearout said this is a request for a CUP for a change of use, but it is not anything new or unique. This kind of facility is being developed around lakes, Yearout said. This lake is owned by the county, but the county is not building the facility, he said. Yearout asked about a lease agreement with the county, and Holub said they are waiting to get zoning approval first. Ultimately the county commission makes the final

decision, Yearout said. It is not part of zoning to get into lease agreements, he said. This is the same as any other zoning requires, and we pass this on to the county commission, Yearout said. You are dealing with land use only, Yearout reminded members. This requires a use for cabins that can be rented on site, and you should not get hung up on whether it is privately done, or if the county does it, Yearout told members. This is simply another alternative for dwelling facilities to offer temporary visitors to the lake, Yearout said. The lease we will use is the same as they use on federal reservoirs, Holub said. There will be money set aside for cleanup if the cabins are removed, Holub said. The county will be paid based on the income, Holub said. He said it will be based on 3.2 percent of the gross income, and the percentage goes up from there. The more they make, the more the county makes, including the Laundromat, Holub said. Richards gave her staff report, and said she has received four comment letters. The first letter was from Sharon A. Werner, in opposition to the plans. Yearout said Werner's letter also brought up the fact that the lake is registered with historic places, which brings up a whole new issue. There is a state historic review process that would need to be completed, Yearout said. We would not be able to issue building permits without the historic okay, Richards said. The second letter was from Michael Smalley. Smalley's letter discussed a public proposal versus a private proposal. Smalley also had tax questions, saying the property would be taxed on how the land is used, so it would be commercial. Holub said the land would not be taxed, but the structures would be commercially taxed. The third letter was from Debra Schwarz. She expressed a concern about a possible increase in crime connected with the project bringing more people to the lake. The fourth letter was from Paul White. He asked about boat rules and county funds used for the project. Mueller asked Holub to respond to the letters. Richards asked about what happens if the cabins are abandoned. They have to be removed, and they have to be bonded, Holub said. Holub was asked what Lake Superintendent Steve Hudson's role will be, and Holub said none, other than any landscaping, etc., would be approved by Hudson. Richards asked if Hudson would enforce the curfew, and Hudson said it would be same as with campers. When asked if this project violates any policy put in place when the lake was first developed, Holub said no. Yearout said it would have to be researched clear back to the original documents, and if no private enterprise is allowed, this project could not happen, otherwise it is the county's to do with as they so desire. When asked about boat rules, Holub said there would be no change, and no special considerations. When asked if the county will have any funds in the project, Holub said no. When asked how the structures will be built, Holub said they will be built to code. When asked about support staff, Holub said there will be part-time employees. Some places have keys under the mats or in lock boxes, which would have to be approved by the county, Holub said. As to the historical aspect, Holub said they will go through the motions, and they will not damage anything. Holub asked about the trailers, and the new outhouses, not being allowed because of the historic registration of the lake. If that is the case, we have bigger problems than the cabins that are not there yet, Holub said. Vannocker asked about plans for a lodge. It would be a larger building with rooms, Holub said. It is just a consideration, they have not even talked to the county commission about it, yet, he added. Vannocker asked if the lodge would be open to the public, with a restaurant inside. Yes, like the Laundromat, it would be open to the public, Holub said. This is a

change from the original information we had, Avery said. Can we give permission without final plans?, Avery asked, and Yearout said yes, the county gives the final approval. The details in the land lease are between the county and whoever opens the facility, Yearout said. It is unusual because the county is the landowner, Yearout added. This will not go up all at once, it will grow over time, Holub said. You're talking about granting permission for this use, Yearout said. The county could decide to run it, Yearout said. The details are not necessary, Avery said. The details are controlled by the county, Yearout said. You are talking about introducing a new activity to the lake, Yearout said. We can address things as they come up, Holub said. Mount asked what if someone wants a long-term lease on a cabin. That is not a zoning issue, Yearout said. That is part of the county's agreement with the operator of the facility, Yearout said. There are state limits on how long you can stay, Holub said. Can we use this as a design so far, with the areas identified as one, two, and three, and whatever the county wants to do from there, as to how many cabins on each area?, Maxwell asked, and Yearout said you can. Mueller opened the floor for comments from the public. Mueller explained the issue is the change with actual use. We are not talking about the roads, Mueller told the audience, with a chuckle. Gary Lewis, Lake Resident, said he has big concerns about the size of the development area for number three, and also about trailers in the area. There is a lot of activity in the grassy area, and I think it is a safety issue, Lewis said. Holub said there would probably be two cabins at the most in area three, and he has no argument about the concern with the size, and safety issues of that area. Dean Staver, Lake Resident, said there are three areas proposed, but what if he wants his lot included in the deal so he can rent his lot? To sub-lease your trailer would depend if you would be violating your lease agreement with the county, Yearout said. That is not allowed in your lease agreement, Hudson said. You do not own the land, Yearout said. Can I get it included?, Staver asked, and Yearout said no. Mike Mann said he is from Wichita, and he has leased a spot at the lake for 14 or 15 years. He said his trailer is the first one by the dam. He read a letter out loud. He said he owns a home, and a trailer, at the lake. He said he owns property directly across the street from area one. Mann said that area is already busy, and has safety issues. Mann pointed out that there is heavy traffic in that area because the road comes directly from highway 77, and people are pulling boats and trailers. Mann said he will not park his own vehicles along there because the road is narrow, so he pulls onto the grassy area to park, for safety in loading and unloading. Mann said it would probably work to safely park cabin renters along there, but it adds to the safety concerns for the current residents. Mann asked that cabins not be constructed closer than 100 feet east of Pine Tree Lane. He said the proposed area is 35 feet from the road. Mueller asked Richards about setbacks for the area. Richards said setbacks are 20 feet on the road side, eight feet on the side, and 10 feet on the rear. Holub said they are working to keep the view for the trailers, and they want to be off the main road. Holub said he agrees with the safety concerns with Pine Tree Lane. Mann said people drive too fast through there, even with a speed bump in place. Mann said he is more concerned with moving the cabins away from the road than he is with the proposed project itself. Holub said they already planned to move further down away from the road. Mann asked if more cabins are added, will they inch back up toward the road?, and Holub said no. Yearout said it will be contracted by the county in the lease agreement. Gordon Pendergraft, Lake

Resident, said before building would start, they would need a building permit for the different areas, and that would tell you how many cabins are proposed, and Mueller agreed. Yearout said the specific number of units, and how they will be laid out, will all be contracted by the lease agreement. Pendergraft asked if you start with the center of the road to measure, and how can you determine such measurements if you do not know where the property lines are at the lake. Yearout agreed there are no definite property lines at the lake. That is why you have mobile homes in a definite area at the lake, Yearout said. That is a lease agreement, Yearout explained, and Hudson agreed. Yearout also pointed out that although there may be private drives at the lake, the roads are publicly owned, but still considered a private drive. Pendergraft said he is gently concerned about encroaching on the only areas they have to park. He said zone three does not have enough room to park, and they play volleyball and everything there, too. Valerie Stout, Lake Resident, asked about limiting how many people can be in one cabin. Holub said the Fire Marshall determines that. Stout asked about how many vehicles would be allowed per cabin, saying she is concerned about parties. Yearout said two things come into play. The Fire Marshall limits how many can be in the cabin, under fire laws, Yearout said. We can't guarantee it will be policed, and that is always a risk whenever you open a facility, Yearout said. That is an operating issue, and has nothing to do with the zoning process, Yearout said. What if they put a restriction on how many people can stay at your house?, Yearout asked. Where do you draw the line?, Yearout asked. Holub said there will not be anyone under 21 allowed to rent cabins. They don't want their cabins torn apart, so they will watch that closely, Holub said. Richards said that would be the responsibility of the person checking the people in to control how many would be in each cabin. Stout said no one would be there at night to check people in if a lock box is used for the key. Holub said different people would be on call at all times. Wilma Gilmer, Lake Resident, asked about parking for a restaurant. Holub said that is a huge parking concern. Paul White, Lake Resident, asked if the county decided to put in more campsites, mobile home sites, RV (recreational vehicle) sites, etc., would they have to go through this process. Yes, if they are introducing something new, Yearout said. White asked if the Corps of Engineers would have to go through zoning. Yearout said they are federally exempt, but the Corps leases ground, and those folks would have to go through zoning. The only difference is cabins don't have wheels, White said. These are new structures, instead of just opening up grassy areas and saying go ahead, Yearout said. Staver said utilities at the lake presently need serious upgrading. I understand they are willing to pay for putting in utilities, but where will they get the power from if the power is an issue, now?, Staver asked. That is between them and the power company, Yearout said. If they have to pay for an upgrade, they will pay for it, but they will not pay for all lake service to be upgraded, Yearout said. Karen Spinden, Lake Resident, asked if the same provisions will apply as the previous application. Mueller explained the same factors apply to this application. Spinden asked why not try to develop the other side of the lake where there is open land. Why keep putting people in small, congested areas?, she asked. She said there is a lot of activity, and many vehicles to park there during holidays. She said it would be taking away areas that are currently used for recreation. She said she is not opposed to the cabin idea, but if there is money to be made she wishes the county would get involved in it, and the lake should benefit from the profits. Holub said installing utilities

on the east side of the lake would be astronomical in expense. Holub said the plans are not all, or nothing. If the plans interfere too much, they just won't do it, Holub said. Those are just two other areas they identified, he said. The original idea was just to have cabins over by the heated dock, Holub said. If these problems can't be resolved, it won't happen, he said. Spinden said the old baseball field is on the east side of the lake, and there are houses over there, so there are utilities over there. If no one ever pursues the other side, it will never get done, she said. Bill Townsley, Lake Resident, said he does not think the proposed project is compatible with the lake. He said the historic integrity is important, and he does not think the proposed new structures are compatible. I don't think motel type use and laundry facilities are compatible, he said. Townsley said he is also concerned about Hudson, as he read in the newspaper that the county commission is concerned about Hudson working too many hours, now. He said resources are taxed, and this would be an undue burden on the property, and he recommends the proposal as stated not be approved. What about 100 tents compared to five or six cabins?, Holub asked. Holub asked Hudson how many campsites are currently at the lake. Hudson said 36 hook-ups and over 100 tent spots. Townsley said those sites are already there, and adding six cabins is one thing, but you are talking about adding more than six. The county commission has not bought off on any, and we are a long way from finalization, Holub said. This is the first step, Holub said. We get feedback, and changes are made, Holub added. Townsley said it is not the number of cabins, it is the introduction of the structures to the area I'm opposed to. Sharon Werner, Lake Resident, asked about questions concerning her written comments. Werner proceeded to read additional comments, questioning the compatibility of the proposal on state and national historic registers. There may be other such developments on similar lakes, but not they are not on historic registers for that reason, she said. Before any project can go forward you must contact the state historic society, so you will eventually get there, she said. I don't think it is going to be easy, she said. The state statute I included in my letter says historic preservation mandates to be among the highest priority of government, she said. As a public official, it will be on you to make sure this is a priority, Werner said. Multiple cabins disrupt the environment and relationship of the lake, she said. This is not a minimal change, she added. Even if this is passed or accepted, state statute requires notification to the state historic society or you will be fined up to \$25,000, Werner said. Even if the state says this can be done, this does open up to lawsuits from anyone, Werner said. Mueller explained they will go through the process. They will request an on-site visit and they will take photos, Holub said. It will have to be gone through, no doubt, Holub said. Yearout said he was unaware until today the lake is on the state historic register. Yearout said everybody who owns a house out here could be subject to state requirements. You will have to go through a state review to change the color on your house, to change your shingles, etc., Yearout said. You are already out of line with the trailers, Yearout said. You are all under this, and if you elevate this to the full application, the impact of the law will affect all of you, Yearout said. Werner argued and yelled at Yearout, calling him a fear monger. I have dealt with this issue and have had to hold the hands of people because they just wanted to change the paint on their house, Yearout said. Mueller had to stand up and bring order to the meeting. Werner said she is concerned with the project because it is incompatible. Staver asked what the next step is. Yearout explained the

public hearing will be closed, and the board will deliberate. Yearout said the board's options are to approve, deny, approve with conditions, or continue, and then it goes to the governing body. If the board makes a final vote it will go to the county commission on May 16, 2011, Yearout explained. Again, I will have no vote, Holub said. Mueller asked if there are other questions. Mueller thanked the audience for bringing up the issues, saying he appreciated the comments, and the interest in what is going on. Mueller closed the public hearing for this application.

Mueller asked Richards to give her staff report for this application. Richards explained her staff recommendation changed some because the number of cabins changed. Richards said she no longer wishes to include a specific number of cabins in her recommendation, and she wishes to add the condition that the project be reviewed by the historic society. Richards also said if a restaurant is included, that part of the project would need to be considered for additional conditions. Maxwell said area three is located between a residential area and a long lease area, so he would have a personal problem with that area. Maxwell said area two falls along the same lines, as it could be kind of crowded. For me to go and vote for all three areas, I would find it difficult, Maxwell said. I could vote for area one, he added. Mount said he would like to see members approve a definite plan. Mueller said, that as Avery mentioned earlier, we are looking at a new recreational use and it is a more difficult decision when we do not know what the definite plan is. Maxwell said there are nine cabins, eight cabins and an office, planned for area one. You can recommend anything you want to, Yearout told members. Kraus said they plan to build on area one before any other site, so we could approve area one, and see what happens. I think area three is pretty small for something like this, Kraus said. They could come back and do this again to go to the other sites, and if this is a great thing, it should not be an issue next time, Kraus said. Avery said she is struggling with this. Avery acknowledged the Holub children, and their dedication to the county, and their thoughtfulness. Avery said she is glad to have the public comments because usually no one comes to these meetings. You came to help make this a better place, and I appreciate that, Avery told the audience. She said she is uneasy to give a CUP for all areas at once because a CUP stays with the land. If for some reason this is not fully developed, the CUP stays, unless the board removes it, so I would be more comfortable if this were in stages, Avery said. I came out here and drove around, and walked, and the first thing that came to me was the wisdom of this development of the lake, Avery said. There was even a Girl Scout Jamboree here one time, Avery said. It is because of how it was envisioned, she said. At Council Grove you can't see the lake because of the cabins, she said. This is public land with a private development, she said. We do have a precedent here, she added. Trailers are privately owned on county land, so that does say the county has given the right, she said. As I think about the areas, area one takes away from the atmosphere of the lake, having the feeling of openness, Avery said. If I was renting a cabin, that is what I would want, and I think number one takes away what the developers did, Avery said. Number two could be a little more open as it does not obstruct as much, Avery said. With number three you have what you already have here, so I'm more open to putting one, or two, cabins in that area because it is the same use, Avery said. It seems to me like the residents around the lake would like some time to see what area they would like cabins built on,

Funk said. This has been in the public eye for some time, unless the wish of the board is to postpone it, Mueller said. Maxwell asked if restrooms on the east side have power and sewer connections. All are outhouses with tanks, Hudson said. Avery said perhaps the first question is if we want to approach the separate areas, or all three, and she wonders where board members are on that. Kraus asked if one area is not approved, does the whole thing not fly. Holub said the number one area is the first they looked at for utilities, and one area at a time is okay, because this is going to happen over time. Number one was the priority, Holub said. Kraus said he is curious if the number one area was denied, do members then talk about area number two? This is just a recommendation, Yearout said. You could vote no on all three and the county commission could override your vote, Yearout told members. Avery explained to the audience that this is not a final decision. Mueller asked for a quick poll, and three members were for area number one. Mount moved to recommend approving a Conditional Use Permit (CUP) for area number three for the establishment of a recreational cabin rental facility and private boat rental operation at Marion County Park and Lake for up to three cabins as addressed in documents submitted, subject to staff recommendation and conditions, and subject to placement of the individual structures receiving approval from the Lake Superintendent, and subject to compliance with all setback requirements in the zoning regulations, and a survey showing the property embodied in the lease and the location of all structures and infrastructure supporting the operations shall be prepared and filed with the zoning office following construction, and all project plans must be reviewed by the Kansas State Historical Society. Avery seconded. Mueller reminded members that area number three is where the most concern is about traffic issues. Mount said he feels the area is suitable, with an open space, and he thinks it is an area that would be a good area to try because it is the smallest area. It is an area that has already been disturbed, Richards said. It goes with the neighborhood, Avery said. I did listen to the safety concerns, but this area is already designated for that kind of activity and it is compatible with the neighborhood, Avery said. It seems like a logical place to start, Mount said. If things go well, we can look at whatever area next, Mount said. It still requires a CUP?, Kraus asked, and Mueller said yes. A little area like that, for a developer to come in and try to make something out of it is a large investment, with little return, Maxwell said. They would have to see if they even want to attempt it, Maxwell said. There are people with annual leases of trailers, and across the road you have residents, Maxwell said. Cabins are for people coming in to visit, and their outlook is different from someone who has a trailer, or lease, or are a lifetime resident, Maxwell said. Maxwell told the audience he lives at Marion Reservoir and they have sewer problems, and traffic problems, and there are older residents there, and they have visitor problems. I do understand the problems that come up with being on lake property, Maxwell told the audience. It is a difficult problem, he added. We are trying to find a place that works for everybody, Avery said. There are two types of lake goers, Maxwell said. You don't know how it will work, and I guess you wouldn't know until you see how this happens, Maxwell said. Funk asked about the actual boundary line on area one, and Mueller explained. Kraus said area three is pretty small. If we approve area three, and nothing else, it is going to be hard to develop, Kraus said. We may need to tie them together, Kraus said. Mueller repeated the motion on the table and called for a vote.

In favor: 2; Opposed: 5; Motion failed.

Mueller asked if there was another motion. Avery said maybe they could go for area two. We are not approving what is on it, we are approving land use, and the county determines what happens, Avery said. Mueller asked how many cabins members would want on area two. I'm not sure we have to say, Avery said. Okay, Mueller said. I just don't want to approve area three, and nothing else, Kraus said. Kraus moved to recommend approving a Conditional Use Permit (CUP) for area number one for the establishment of a recreational cabin rental facility and private boat rental operation at Marion County Park and Lake for no more than six cabins as addressed in documents submitted, subject to staff recommendation and conditions, and subject to placement of the individual structures receiving approval from the Lake Superintendent, and subject to compliance with all setback requirements in the zoning regulations, and a survey showing the property embodied in the lease and the location of all structures and infrastructure supporting the operations shall be prepared and filed with the zoning office following construction, and all project plans must be reviewed by the Kansas State Historical Society. Vannocker seconded. Mueller discussed area one with members. Members discussed the area around the heated dock, which was the original intent. There were big cabins with lofts, and with the open space I'm not sure if that would be good, or not, Mount said. Mount asked Holub about the overall height of the structures in that area. They would not have a full second story, Holub said. The only difference between the lofts, and no loft, is the floor plan, Holub said. It is the same structure, with two floors, Yearout said. He is saying the roof peak is the same on both, Vannocker said. This is an example, and they may change this, Avery said. This is just an example of what a cabin looks like, Holub said. We are only talking about land use, Avery said. Members voted on the motion for recommending approval for area one. In favor: 2; Opposed: 4; Motion failed. Maxwell abstained from voting on this motion. Vannocker moved to deny this application, and Schmidt seconded. Schmidt said it is too congested of an area and is not an appropriate use. Vannocker said he thinks area three is the best site. Avery said this is a recommendation, and does not preclude the Holub children from coming back with a different proposal. Yearout added that it also does not preclude the county commission from overriding the decision. Members voted on the motion to recommend denial of this application.

In favor: 5; Opposed: 3; Motion carried, recommending the application to be denied. Yearout said this recommendation will be discussed at the county commission meeting on May 16, 2011, and Richards told the audience it will be discussed at 10 a.m. that day. Mount said his reason to oppose is there was no signed lease, which is required on all other applications.

Mueller reminded members of a scheduled work session on May 11, 2011. Mueller said there are no applications for the regular monthly meeting, so he asked members if they wish to make the regular meeting the work session, and members agreed. Unless the church comes back, Richards added. Members will meet at 7 p.m. on May 26, 2011, for a work session. Mueller said normally members do not have a June meeting. It was decided to wait and see how the May work session goes before deciding about June. Avery moved to adjourn, and Funk seconded. In favor: 8; Opposed: 0; Motion carried and the meeting adjourned at 9:44 p.m.

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

David Mueller

David Mueller,
Chairman

Margo Yates

Margo Yates,
Secretary