

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

RECORD OF PROCEEDINGS

January 24, 2002

Chairman Eileen Sieger called the meeting to order at 7:30 p.m.

Roll Call was answered by Sieger, Marquetta Eilerts, Oliver Unruh, Elora Robinson, Ervin Ediger, David Mueller, and Bob Unruh. Glen Unrau and Mary Avery were absent. Zoning Administrator David Brazil was present. At Sieger's suggestion, members introduced themselves.

Sieger told members their meeting schedule has been revised, and new copies have been distributed. She explained meetings are usually the fourth Thursday, except in November, because of Thanksgiving. She also explained members usually do not meet in June or December. Sieger told members special meetings are rare. Sieger asked members to please let Margo at the health department know, if they are unable to attend a meeting. Sieger explained it is necessary to be sure there is a quorum at meetings. Mueller asked if members should call if they can come to meetings. Sieger said no, we will count on you, unless we hear from you. Sieger explained the meetings are open to the public, and said members should encourage people to attend.

Election of Chair and Vice Chair. Sieger opened the floor for nominations for Chairman. Robinson nominated Sieger. Unruh made a motion to cast a unanimous ballot and to move that nominations cease, and Ediger seconded the motion. Sieger asked for discussion, but there was none. In favor: 7; Opposed: 0; Motion carried.

Sieger opened the floor for Vice Chair. Ediger asked who was Vice Chair, last year? Sieger said Terry Eberhard was. Ediger nominated Bob Unruh for Vice Chair. Sieger asked for any other nominations. Sieger asked for a motion to close nominations. Oliver Unruh made a motion to cast a unanimous ballot and to move that nominations cease, and Robinson seconded the motion. In favor: 6; Opposed: 0; Abstained: 1; Motion carried.

Record of Proceedings for the November 15, 2001, meeting of the Marion County Planning Commission/Board of Zoning Appeals. Bob Unruh had two corrections, one on page three and one on page five, both typographical errors. Bob Unruh made a motion to approve the Record of Proceedings with two corrections. Robinson seconded the motion.

In favor: 7; Opposed: 0; Motion carried.

Item 5: Continued application for Cottonwood Valley Development, LLC, requesting a Conditional Use Permit for recreational cabins, and requesting a rezone from agricultural to rural residential, for property located in Fairplay Township. Sieger took a minute to review the application with members. She explained this is two requests, and members will be acting as the planning commission for both requests. Sieger explained that actions by members as the Board of Zoning Appeals are final. When members are acting as the planning commission, they are making recommendations only, which then go to the county commission for final approval, changes, or whatever. Sieger explained that Brazil provides members with a staff report to refer

to for each application. Sieger pointed out that certain factors are what members use to make determinations, and land use is the main reason for zoning. The motion made in November was to continue this application in order to give the applicant a chance to withdraw his application, because he stated if people were opposed to his application, he would withdraw. Stan Brodhagen, the applicant, contacted Brazil requesting members continue the application another month, as he could not be here tonight. Sieger said members would not be required to continue it, as we had closed the public hearing for this application. But, Sieger said she thinks it would only be fair to continue it, as he requested, and members could even reopen the public hearing, if he has new information to give members. Eilerts asked what the neighbors have been told about this application. I contacted the Seifert's, because they were planning to come tonight, so I called them to say he would not be here, Sieger said. I also drove by the property, yesterday, and it would be good if you could go by, Sieger told members. It's actually on a dead end road, but seeing it does give you a perspective, she said. Sieger said the river divides the 10 acres. Take Sunflower to 140<sup>th</sup> to Timber. Timber dead ends, and the house and barn are just east of Timber. On back to the east is the property that has the recreational cabins, Sieger explained. You can't see those cabins, Robinson said. No, Sieger agreed. Sieger said she should ask Seifert's how you access those cabins. Sieger was told the access is now on property purchased by Brose's, which would need an easement. When I accessed the property, it's across rural property on the south end, Brazil said. One of my staff recommendations will be for an easement, Brazil said. Oliver Unruh asked if someone is living there? Someone is renting it, Sieger said. I drove out there this morning, Oliver Unruh said. Bob Unruh said his conflict of interest with this application still stands. Sieger thanked Bob Unruh for restating this. Sieger explained to members to be sure they have a true conflict of interest and not just a casual acquaintance with someone. Sieger said Bob Unruh would not enter discussion, or vote on this application. Eilerts asked if new members received materials that other members received in November? Sieger said they have received the materials. Sieger said the applicant does not seem to be in a hurry. Sieger asked if members wished to continue this application? Ediger said members need more information about what the applicant intends to do. Eilerts said she would like the neighbors to have a chance to be informed. Eilerts made a motion to continue this application to the February meeting, and Ediger seconded the motion. In favor: 6; Opposed: 0; Abstained: 1; Motion carried.

Item 6: Reconsideration of the Marion County Comprehensive Plan. At the beginning of 2000, there were four different companies of consultants who made presentations to the county to do the comprehensive plan, Sieger explained. There were public meetings in the fall of 2000. A draft of the plan was compiled and planning commission members worked with it, and went over it, and made changes and corrections and recommendations, and worked with it some more, Sieger explained. Finally, she said, we got it to the point where we did a publication for a public hearing in November. Then, after the November 8 public hearing, we left the public comment period open for one week, but there were no written comments received, Sieger said. On November 15, we took action to accept the plan and it went to the county commission for consideration, she explained. If they approve it, the county commission may adopt it, but if not, they have to return it to the planning commission for further consideration, with a written statement of what the county commission's concerns are, Sieger said. She explained the county commission has taken no action and have individually submitted comments which members have copies of. The comprehensive plan is suppose to be yours, Brazil said. Sieger explained that one commissioner's idea was instead of them just sending it back to us, they would provide us with

some informal comments for our consideration. If we need to change a few words, I can get an electronic copy and change it, but if we make big content changes, we will need to work with the consultant, again, Brazil said. Sieger explained to members that this plan replaces the plan done in 1972, and it will be revised each year. My goal is to see something added to the comprehensive plan each year, and it will be continually added to, and it will continue to grow, Brazil said. Sieger explained that planning and zoning was enacted in Marion County in 1992.

Members reviewed comments from county commissioners. Beginning with "Section One": The first paragraph is confusing to members. In reference to "Chapter 1, Page 5," members think it is okay as written. Members tried to decide what was meant by the other chapter one comment? Members decide it means a need is there to improve for existing farmers, but members are not sure why this comment was made? Members agreed larger bridges and better roads are a need for the farm community, and this also benefits everyone. "Chapter 2": Members understand the thinking that a more proactive stance may be needed, but members took this as a general statement. "Chapter 3": Brazil gives out a Notice of Agricultural Operations, which is similar to what is listed in this suggestion. Eilerts asked if county commissioners are aware of this, and Brazil said he is not sure. Original thinking was to encourage development in growth corridors, rather than off the beaten path, Sieger said. Maybe we should say along developed roads, Bob Unruh said. I think he's used improved road, Sieger said. If you put improved or gravel, you open a big gray area, Sieger said. I know some roads where grass grows in the middle, Bob Unruh said. So, how are you going to determine what is an improved road, and what isn't?, Sieger asked. What about improved roads, as defined by designated county maps?, Eilerts asked. You do have to balance out expenses to keep the roads up, because it is going to be a major outlay, Sieger said. Brazil said it is \$2,000 a mile to gravel a road and \$1,000 a mile to keep it up. You essentially double the area you're including with the five-acre parcel, Brazil said. Why not put five acres in to start with, and we could easily open it up to improved roads, but let's see how it works on paved corridors, first, Sieger suggested. To me, this would be a beginning of a gradual way to start, she said. Regardless of whether we stay with paved roads, or go to gravel roads, I think we need to request zoning changes so permits can't be automatically issued, Brazil said. I never dreamed it would come to this, Sieger said, meaning that permits would automatically be issued. If it's not a zone change, it's just handled administratively, Brazil said. Ediger asked and Brazil explained that unless you have a grandfathered-in property, you need 40 acres, and the road and bridge department does work with you to get a gravel road, once they have an address. I think we need to encourage development, but it needs to be responsible development, Sieger said. When you develop next to a paved corridor, persons you develop next to will spend less and the county will spend less on services, Brazil said. Members discussed weighing tax increases from new residences against the cost of providing services, which has been said to be a wash in the end. Brazil said again he wants something to say rezoning is required for a five-acre sell off. We would have to consider sewer disposal for five acres, as now regulations state one lagoon per 10 acres, Sieger said. Do we all think the five acres needs it's own category?, Sieger asked. Yes, Eilerts agreed. I wouldn't limit yourself that it has to be a certain kind of zoning, I would just recommend it needs to require a zone change, Brazil said. Make the recommendation that it requires some review, Brazil said. "Chapter 4": Insert Marion County roadway system?, Mueller asked. Bob Unruh suggested changing "local roadways" heading to "Marion County." On page 42, Mueller pointed out there may need to be more definition on improved roadways, on that page, and Bob Unruh agreed. "Chapter 5": Bob Unruh

questioned how quick do members need to respond to the county commission on this? What does next month's agenda look like?, he asked. Fairly full, Brazil said. I'd just like time to think about our discussion, Bob Unruh said. Because they did not make a decision, they did not want to start the clock for you, Brazil explained. Site assessment on page 61 was discussed. The land evaluation and site assessment (LESA) system does give us some guidelines, Sieger said. Those issues are addressed in the LESA system, Brazil said. We would be using the soil survey to accomplish these points, Brazil said. Members decided suggestions with "Section One" have pretty well been covered.

"Section Two": 1. This issue was raised at the public hearing, Sieger said. At one point we asked Brazil to go to the county commission and ask if they wanted to relinquish control to the cities and the county commission said no, she said. The problem is, you would relinquish control for land to cities and take away from county resident's right to vote, Sieger explained. Bob Unruh pointed out the word "regain" control by cities. Sieger explained that because before 1992, they did have it. But, actually it was unwritten, but the county cooperated, Eilerts said. We didn't decide what areas of urban influence are, because we went to the cities and asked them what they think the areas are, Brazil said. I think both parties have a stake, Brazil said. We want to set the cities up for success, he added. If cities are concerned that agricultural operations are going to happen near cities, they have more protection today than ever before, Bob Unruh said. Such as KDHE, Ediger said. My feeling is it not be recommended to give cities total control of the area, because it's been proven not to work, Sieger said. I agree, Ediger said. Because people in the area do not have voting rights for things turned over to cities, Sieger said. I have neighbors that would not go for that, Ediger said. 2. Members already discussed LESA. 3. This is too general of a statement, Bob Unruh said. 4. Bob Unruh talked about the silting problem, because our soils are prone to erode. There are some good practices going on at the north end of the lake, Brazil said. It's being addressed, Mueller said. I think it's really positive to have the Kansas Water Plan referenced in our plan, Brazil said. Ninety percent of the county already using the reservoir for drinking water, Brazil said. 5. Could use more of a general statement, Bob Unruh said. Members discussed paved roads again, and restated that an improved road will be as defined by a county map. Sieger reinstated to think about trying paved roads to start out and reviewing it in one year. Ediger questioned if there is information that shows five acres has worked other places, or not? I know planners like the improved corridor idea, Sieger said. 6. Not sure how this relates to the plan? 7. It is utilized on page 31 in the last action step. Did anyone work on the strategic plan?, Bob Unruh asked and Mueller said he did. It's all very general, Mueller said.

"Section Three": After some confusion, members determined "R" means paragraph. Sieger questioned what Marion County plan is being referred to? Brazil thought it meant the comprehensive plan. Members agreed "Page 8, R3" is okay. Members also agreed "Page 9, Figure 1.1" is also okay. As to "Page 9, R1" members said they don't know how we can or cannot say these are proven points. "Page 30" was previously addressed. "Page 41" seems to contradict the previous point, members thought. Members decided it says if you already have a house there, it's okay to put another house there. But, we do look at surrounding residences, Sieger said. "Page 53, first sentence": For a CUP, the applicant is suppose to submit a plan for proving the information the planning commission is absolutely going to need, if other information is asked for, your applicant could be contacted, Brazil said. Members discussed businesses located in the country, and requirements for such. Brazil already addressed this. "Page

54, Item L”: same situation. “Page 56”: Members agree to remove “and consent” wording. “Page 60 & 67”: There are references to the soil survey of Marion County, Kansas, which should cover soil groups. Need to go into the soil survey for further definitions. I use the soil survey almost daily, Brazil said. Bob Unruh asked Brazil to do a LESA on the next few applications, as a test. There is software you can use, Brazil said. It’s an excellent system, but what we’ll want to do over time is fine tune it, Brazil said.

Annual review of by-laws. Brazil recommended making changes under Section 2, Membership, to change nine to seven for board of zoning appeals. Sieger explained that all nine members would be planning commission members, but only seven would be on the Board of Zoning Appeals. In order to change the by-laws, we need to look at it tonight, for your consideration, and then take action next month, Sieger explained. Bob Unruh pointed out changing “an” vacancy to “a” vacancy. If anything else, please review them and next time we’ll determine who will be on the Board of Zoning Appeals, Sieger told members. Bob Unruh pointed out you could have a situation where you have a quorum for planning commission, but not for the Board of Zoning Appeals. Ediger asked and it was explained that planning commission members fill a vacancy for un-expired terms, using other existing planning commission members. The county commission gets notice of by-laws changes 20 days before our next meeting. Brazil has provided 2001 report for members. There were 113 applications last year. I always think it’s interesting to see how many are in each category, Brazil said. Income reported is \$2,990.00, and expense for postage is \$1,200.00 and for legal publications is \$2,200.00. We should not need to raise things this year, and probably not next year, Brazil said.

Off agenda items: Sieger said people find articles of interest and she suggests if members bring such articles, we could make copies for review and make a folder as a comparison tool, and also provide copies to the county commission. We could file the article as to the date of publication and the date it was presented to the county commission, she said. Is there anything else?, Sieger asked. She informed members the next meeting is February 28, 2002. Bob Unruh made a motion to adjourn and Ediger seconded the motion.

In favor: 7; Opposed: 0; Motion carried and the meeting adjourned at 10:50 p.m.

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

  
Eileen Sieger,  
Chairman