

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

RECORD OF PROCEEDINGS

January 27, 2000

Chairman Eileen Sieger called the meeting to order, apologizing for the late start, and explaining that minutes will be done from the tapes, as Margo is ill.

She informed members that they have been handed a list of planning commission members for the year 2000, as well as a kind of diagram of member's terms. It has come to our attention a couple of days ago, or so, that the appointment of Dan Ludwig for District Three, according to the Bylaws, which you should have a copy of, which we intend to review tonight, it states that one member from each commissioner's district may reside within the corporate limits of an incorporated city, Sieger explained to members. And so, the conflict was that with having two people from District Three from incorporated cities, which is not allowed according to our Bylaws, Sieger explained. So, we contacted Jack Bruner, whose district this is, and he did not realize this, as none of the rest of us did until just a couple of days ago, Sieger said. So, he contacted Mr. Ludwig and explained, and so this position is vacant again because of this conflict with the Bylaws, Sieger said. So, we'll have to wait for another appointee and it'll have to be someone from the rural district, because Marquette is in Peabody and he would have been in Florence, so this was the problem, Sieger said. And with this I'd like to welcome our new member, Elora Robinson, Sieger said, adding she is looking forward to working with Robinson.

Roll Call was answered by Sieger, Herb Bartel, Bob Unruh, Dean Fincham, Elora Robinson, Terry Eberhard, and Marquette Eilerts. Sieger determined there is a quorum. Zoning Administrator David Brazil was also present. Eldon Pankratz was absent.

Sieger asked for any questions or additions to the off agenda items. Sieger said one thing is to kind of review our meeting date as customarily being the fourth Thursday. Sieger said she hates to change this meeting date, but if there is a problem with it, it needs to be looked at.

Sieger asked for corrections to the minutes of the November 18, 1999 meeting of the Marion County Planning Commission/Board of Zoning Appeals. Sieger requested a new paragraph be started near the bottom of page six, where discussion shifted to the Kruse application. Eilerts pointed out that "sister's" should read "sisters," which changes the meaning, near the top of page three. Unruh made a motion to approve the minutes with these two changes and Fincham seconded the motion. In favor: 7; Opposed: 0; Motion carried.

Sieger said the next order of business is election of a chair and vice chair for the year 2000. There was a motion by Unruh to re-elect Sieger as chair, and the motion was seconded. Sieger asked for any other nominations. Fincham made a motion to close nominations and cast a unanimous ballot. In favor: 7; Opposed: 0; Motion carried. Sieger opened the floor for nominations for vice chair. A motion was made by Eilerts to re-elect Eberhard as vice chair, and the motion was seconded. Sieger asked for any other nominations. Unruh made a motion to close nominations and cast a unanimous ballot, and Fincham seconded the motion. In favor: 7; Opposed: 0; Motion carried.

Sieger moved on to review of the Bylaws. In reviewing the Bylaws, we did discover the problem with Jack's district, Sieger said. She said she felt bad, that she has not met Dan Ludwig, but hopes he will still consider a position some day, if it would ever work out. Sieger asked members for questions or concerns with the Bylaws. Sieger asked if the restriction on membership is a concern? But, if it was not written that way...we have been chastised and given newspaper flack in the past for being too rural, and the point should be made that we have no jurisdiction within incorporated cities, Sieger said. And, I also think that sometimes things in the areas around cities does concern cities, so I think it's fine to have some members from cities, but if we would change the Bylaws in any way, then we could end up with the majority from towns rather than rural areas, Sieger said. Each municipality can form its own commission, if they haven't done so, they have the right to do this, Bartel said. I know Marion has a planning commission, Hillsboro has a planning commission, but I don't know about Peabody or Florence, Sieger said. So, they have some jurisdiction over their own area, Sieger said. If there are no questions or suggestions about the Bylaws..., Sieger said. Bartel commented that under section five, number four, he thinks

we should spend some time with this. I think it's very important for us to keep up to date on national and state land use issues, and we really don't take time for this, Bartel said. Sieger pointed out that members need to be sure their Bylaws are current. On the last page, page seven, it should be dated January, 1999, because this was the last revision, Sieger told members. She suggested members verify this to be sure they have a current copy. Sieger asked Brazil to comment on his recent work on updating county maps. Brazil said we are going to be updating our maps, but the mapping department is a little bit behind. But, we hope in about three weeks we should have updated maps, Brazil said. We are going to continue to feed them the latest information and make adjustments monthly, he said. Also, we are going to provide smaller versions, for members, Brazil added. Sieger questioned if Bartel is talking about other areas, broader than just our own, and Bartel said yes. Eberhard said members try to follow newspaper articles from other counties. Bartel said there is important reference material concerning national land issues such as sprawl, and what's going on in different parts of the country about this issue. Things going on in Oregon, in response to land use, Bartel said. These are all things you should have a chance to look at, or know how to get them to look at, Bartel said. There's been a lot of things in the Wichita paper about the "doughnut affect," where cities keep moving out and where the hole in the middle keeps growing because of people moving out, Sieger said. There are professional publications that list these documents and it would just be a matter of picking some out as a group and asking that they be purchased, Bartel said. We need to get in better contact with the planning school at K-State, and some things like that, Bartel said. Would we have this material accessible to the public?, Sieger asked. Yes, Bartel said. I wish there was a good way of keeping our track record, Eberhard said. There are only three original members still on the planning commission, and Herb has been with us, but remember we've had cases come before us and we've said remember this case over here..., Eberhard said. It would help us recall past cases, as time goes on, Eberhard said. An index would help. Brazil said he is talking about organizing a data base for such use. We're putting all the years into folders by month, and are hoping to use a lap top as a reference with numbers so we can go back and find the information, Brazil said. Why couldn't you have it all on computer?, Fincham asked. We're thinking about using a lap top as the data base, and then pulling up the folders, Brazil

explained. Eberhard said something like this would have been helpful to Brazil when he came on board. Sieger asked if there is anything else concerning the Bylaws? Eilerts asked if there has been any more discussion about updating our plan, as a whole? The comprehensive plan that we made a formal recommendation about to the county commission about a year ago?, Sieger asked. Eilerts asked Brazil to inquire about it on behalf of the planning commission. There is a cost involved, which is probably part of the problem with getting it going, Sieger said. But this is something we need to keep in mind and keep asking about, Sieger said. As a matter of record, we'll keep bringing it up, Sieger said. Shall we make the statement that the Bylaws have been reviewed?, Sieger asked members. Unruh questioned page three, under special needs, the 20 day notice period. If we meet on the fourth of every month, and if we need to have a special meeting, there won't be enough time, Unruh said. I don't think the school board operated this way, Unruh said. In Kansas, the notice period is 20 days to other land owners, Bartel said. If it's a meeting where we're going to have a work session, this won't apply, Bartel said. Do we need to spell out the difference, then?, Unruh asked. The only thing I can think of is if we were doing a work study type of meeting, that's not the same as a public hearing, Sieger said. But, you're right, it doesn't say the difference, she added. What about zoning?, Unruh asked. Sieger pointed out that on the front cover it includes zoning, and this board is one and the same. I think we had a special meeting on the one hearing on the property out here, the rock quarry, Unruh said. That's because we didn't have a quorum and it was a continuation, Sieger explained. And, you'll notice on the next page it says the announcement of a special meeting at a regular meeting shall constitute the notice, Sieger added. So, whether this means you'd have to wait 20 days after the regular meeting?, Sieger questioned. But, if it's a continuation then I wouldn't think so, because notice had already been given, she said. So, it would just be announced that it would be a continuation, she added. I think that's how we had to do it that one time, she said. But, if you think there are some more things we need in there, we can look at it, Sieger said. What does it take to change the Bylaws?, Unruh asked. It tells us here that it takes a two-third's majority vote, Sieger said. We have to have notice, and then take action at the next meeting, Sieger said. And, we would need to inform the county commission, she added. Whether it needs to be published in the paper?, Sieger questioned. It doesn't really

state if it has to be published in the paper, Sieger said. I don't really remember that we published changes last year, Eilerts said. Did we make any changes last year?, Sieger asked. Do you think we need to change some wording, then?, Sieger asked. It seems a little cumbersome, but whether it's a big issue, I don't know, Unruh said. We should stick to the 20 days, because this is state stature, Sieger said. Let's just leave it the way it is now, Unruh said. Sieger read the portion which states that once notice is given, no further notice is needed. What about the issue Bartel brought up?, Unruh asked. He just wanted attention drawn to his point so we work on this, Sieger explained. We need a motion that we have reviewed the Bylaws and we recommend they stay as they are, Sieger said. Unruh so moved, and the motion was seconded. In favor: 7; Opposed: 0; Motion carried. Eilerts asked for an updated copy of the Bylaws. Sieger instructed the date be changed showing the Bylaws were reviewed January 27, 2000, and have an official copy for signature and additional copies given to members.

Item 6: Application for Brad and Patricia Putter for a rezone from rural residential to village one in Centre South Township. Sieger said this application was published wrong in the Hillsboro Star Journal, which is the official publication for this year. It had been corrected, but the first publication stated it was to be a hearing on January 21, 2000, if you'll notice on your copy, Sieger told members. And, so Angela called the newspaper and they re-published it. Is the applicant here?, Sieger asked. No?, Sieger questioned. Brazil said he just spoke to Brad Putter yesterday. Bartel suggested continuing this application to next month's meeting. Sieger asked for a motion to continue it to the February 24, 2000, meeting, saying she hopes this wasn't a mis-communication. But, if you just talked to him, he knows it didn't happen on the 21st, Sieger said. This misinformation didn't go to him, so is there a motion to continue this?, Sieger asked. Eilerts made the motion to continue the Putter application to the February meeting, and Fincham seconded the motion. In favor: 7; Opposed: 0; Motion carried. Sieger asked members to review the section on village one, for next month's meeting.

Item 7: Application for Randolph and Meribeth Schmidt, in West Branch Township, requesting a rezone from agricultural to rural residential. This was also published wrong as far as the date, but was then re-published correctly, Sieger said. Who is here to

speaking to this application?, Sieger asked. Randolph Schmidt introduced himself, saying the property in question was struck by the 1990 tornado. He said there was a dairy business on the property, at that time. He said the tornado took up most of the fencing, which was not replaced. He said then it became wasteland, and that he would like to sell it for a home site. He said he was at a ball game one night and met a man currently living in Newton, whose daughter attends school in Goessel. He said this man was looking for a place to live in the Goessel school district, and he became interested in this property. Schmidt introduced Murry York. York has developed maps and plans to build a home on 16 acres of this property, so they are requesting a rezoning to rural residential. York said he did pursue looking for existing homesteads to purchase, but have not found anything for sale, over a three year period. York said he hesitated to look at a 40 acre tract, because of the expense and because he does not wish to remove acreage from production, so he continued to look, and Schmidt made him an offer. York said the original proposal was for the entire area, which is outlined in blue and yellow. After speaking with Brazil, York said Brazil indicated there would probably be some concern on your part, considering the dual road frontages and the shape of the tract. So, York said, we were willing to reshape it to the 16 acres you see indicated in yellow. There never was an application for 26 acres, York said, as we modified it before we got to that point. You can see on the map where we propose a gravel driveway to a house location, and a lagoon, York said. On the front page, York told members, there is information on setbacks, and our proposed land use for this property. We're trying to establish a residential rural setting for our family, York said. A couple of horses, a garden, a small orchard, this type of thing, he said. We plan on planting shelter belts along the north line, from east to west, and on the south putting a couple of acres in native grass as a buffer between the road and the house, he said. And pasture along the back, up to the creek, he added. We'd ask Mr. Schmidt to continue farming the ground until we're ready to build, and then even continue farming the front couple of acres in front of the house, until he retires from farming, York said. At that time we'd put it in native grass, he added. York showed members a sample design of the home he hopes to build, and letters of support from James Voth and Mr. Roberts, school principal. He also had a map showing the relationship of this property, to Goessel. I understand you all have concerns about a

few issues, such as the proximity to town, and access to rural water, and I checked up on these things and as you can see it's only about two and a half miles from Goessel, York said, and rural water runs on the road frontage right in front of the property. It is a multi-use section, he said. York said someone living near this property applied a while back and got a 30 acre tract rezoned. He said 25 remained agricultural and five acres was granted rural residential. It's just a quarter section to the south, he said, along 120th and Diamond. There may be others in the area, but I'm not aware of any, he said. But, maybe Brazil has this information, he added. Fincham asked York where he is living, now? We live in Newton, now, York said. We moved here seven years ago from Houston, Texas, and share your concern about urban sprawl. I transferred up for Koch Industries, which bought a company I worked for, he told members. My wife is from Hutchinson, and her family is all here, he said. We are committed to remaining in Kansas, York told members. Sieger asked if he or his wife ever lived in the country? Yes, York said, we both grew up in country settings. I grew up on seven acres outside of a small town in Texas, York said, about 100 miles from Houston. My wife grew up on a couple acres outside of Hutchinson, he added. We are aware of the issues, he said. There is an active dairy just north of Mr. Schmidt's place, York said, and we are aware there will be manure spreading from time to time, with an odor. We'll have an open mind and closed windows, so this won't be a problem, he said. As to the creek area, we plan on leaving this and not doing any development, other than preservation and enhancement, York said. The home site and the lagoon are not in the flood zone, and I think Brazil can speak to this, York said. The lagoon is approximately 400 feet from the closest point to the creek, and set backs are all well in excess of the required minimum, York said. Unruh said he viewed the property yesterday, and there is no way this should be a problem. York called me a week ago Sunday, and I drove by and viewed the property, Unruh said. Sieger asked about surrounding roads. Diamond is a gravel road, 120th to the south is paved, and 130th runs east to west on the north and is gravel, also. All neighbors I've spoke to are in favor, or not opposed, to our proposal, York said. York asked Sieger if she knew of any objections. Sieger said she will open discussion to the public to hear any comments in a minute, to see if anyone wishes to speak, but there have been no written objections received. Sieger said members received copies of the letters of support from two Goessel residents. Bartel asked York

if he is aware that the model for land use along drainage systems is cropland, and grazing land, and not residential home sites, and this model is the building block for maintaining water quality, and a home site generates significantly more and different run off elements than agricultural or grazing land. The house site will continue to drain back to the water way, York replied. And what I'm saying is, this is not the model, Bartel said. The model along the drainage system is cropland and grazing land, not residential land, Bartel said. It's also interesting for me to note that each person that wants to build on fresh ground is opposed to sprawl, yet in fact is contributing to sprawl development, which is using over a million acres a year, which is a matter of national interest, it's a matter of state interest, it's a matter of Marion County's interest, it's a matter of West Branch Township's interest, and it's a matter of the neighborhood's interest, Bartel said. I agree, I actually support the preservation of ag land, York said. I'm hoping there is a balance which may be reached and hoping this fits within the model of balance, York said. Your interest is to build a home, and you're not thinking of other buildings, at this point?, Sieger asked York. Possibly a small barn, or shed, York said. There are no other buildings on this property?, Sieger asked. No. Sometimes, too, I think that term wasteland, which we've brought up before, it seems that the general idea of wasteland is something that's not in active production, but actually this kind of land can be adding a lot to the preservation of the ground water, and all kinds of things, so I have to object to the use of this term wasteland, Sieger said. I actually find the term offensive, myself, York said. I did a GIS geography day presentation at Goessel Elementary back in November, and I got with the mapping department here at the county and asked for data to overlay on photos to show the kids, and the county's terminology for this ground is wasteland, York said. There is a state tax code which requires this, Bartel explained. Waste ground, in fact, is ground that has been contaminated with such things as oil field waste and other petroleum products, and it is not suitable for any microbial activity in the soil, Bartel said. So, waste ground is different when referring to tax purposes, Bartel added. Sieger asked if anyone from the public wished to speak about this application. Lynel Unrau introduced himself, saying he is speaking on behalf of the landowners on the immediate south of the proposed zoning change, Jacob and Esther Flaming, who have lived there for nearly 20 years. Unrau said he



has respect for the parties involved, and he realizes that folks wish to have a chance to live in wide open spaces. He said he grew up in the country, and has farmed all his adult life, so he understands the desires, but he has concerns when you begin to carve out areas of productive farm ground, and also wooded areas, for folks wishing to move to the country. First of all he is concerned about agricultural production, Unrau said. This will be another piece of property that I will farm, along with my brother and father, where we will be up against another new property line zoned rural residential, he told members. We are very responsible and careful farm operators, Unrau said. We take care to closely follow EPA rules for herbicide and pesticide spraying, and also on fertilizer application, he said. I can see instances where I'm already involved in some other areas in the county where we farm, where we've come up against prevailing winds, where we've come up against dust during harvest operations, where we've come up against working late at night with bright lights and being requested to quit at a certain time of the night so not to disturb sleep habits, Unrau said. So, I see all these things and when I see or hear what kind of plans are being thought of here, with an orchard, with animals, with a garden, and a shelter belt, it'd be another area where we're saddled with some more requirements, self-imposed requirements, to be very careful when we're in this area - which we should be, but I see it as being another infringement on ag production ground, he said. Secondly, I ask if it's really okay about the flood area, Unrau said. In respect to the creek that goes through there, I've known over the years that if you get a very large rain, a large amount of water goes through there in a short amount of time, and we've experienced crop loss due to this, and debris spreads, Unrau said. One last area, he continued, is if we continue to dot our county's landscape with these small acreages, and provide the space that I mentioned earlier, then the space will become smaller and smaller, even for those who moved out to get to the space, Unrau said. I question how it will effect our rural fire protection, our drinking water and our water district, and how they will be able to continue to provide for such expansion, including our sewer, utilities, and other issues that the county, or someone, will have to provide, Unrau said. So, with these comments I respectfully rise in opposition to this request for a change in zoning, and ask commissioners to carefully consider this matter, and I respect your decision, Unrau concluded. Sieger thanked Unrau, and asked if anyone else has any comments. York

asked how many acres Unrau farms, and on which side of the Schmidt property? Unrau said both sides of the creek, on an 80 acre tract. This property was viewed on a map. I would like to add to your concerns about self-imposed limitations on your activities, York said, that we have lived in areas in the past where we have butted-up rural residential against ag land, and it's not a problem for us. The noise, lights at night, are all understandable actions and not a problem, York said. The concern to anybody would be pesticides, and things like that, and I don't think this would pose a health risk to us as a family, York said. We'd be indoors during those times, and I think an enhanced shelter belt would help inhibit the flow of anything airborne, he said. Eberhard explained that part of the rezone is we're not rezoning just for the people who live there, we're rezoning the land, so if you move away the next person who lives on the land gets the rezone. I can't control everything, York said, but I don't plan on moving away for a very long time. I plan on dying there, York said. We've had other applicants say the same thing, Sieger commented. These things are beyond our control, Bartel said. I'm helping my neighbor lady this week, who with her husband wanted to farm the rest of their lives, but they're having a sale and they have to leave, so there's going to be a change. You have to recognize that this is what's happening, Bartel added. We try hard not to make decisions based on the people, Sieger said. We try to make decisions based on the best use of the land, she said. Fair enough, York said. If we were to sell the property, it would be to sell it to a local Goessel area farm family where one of the children would want to have a home rather than part out any of their farmland, York told members. There is a current farmstead on this property, and we did explore the old home site, York said, but there is a natural gas pipeline to consider. I don't want to build a home on top of one, York said. They won't let you build on top of one, Bartel said. Sieger asked how many total acres Schmidt owns? A total of 95 acres. So, it's 16 coming out of about 95?, Sieger asked. Yes. Sieger asked for other concerns or information needed. Unrau had a few more comments, including pointing out the two letters of support came from two men who live inside Goessel's city limits. Bartel said agriculture is changing all the time, very rapidly. We now have a whole new set of experiences, with bio-engineered plants, he said. Nobody really knows what's going to happen with these plants, he said. They're already talking about maybe there might have to be buffers, or other plant requirements, Bartel

explained. So, the point I want to make is, agriculture is not static, either, and it's going to change in a way that may not be compatible with sprawl development, and that's what this is, just as the application of Mr. Meyers was, which was pointed out to you at that time, Bartel told members. Yes, I think it was, Sieger agreed. I want to point out to you that we've tried for three years to find a suitable property to purchase, York said. There's no available housing in town?, Sieger asked. You mean there's nothing available which you felt suited your needs, Bartel said. There probably are lots around Goessel, Sieger said. There is a tract to the southwest of Goessel, where the owner is talking about putting in a subdivision, York said. Have you searched in Harvey or McPherson Counties?, Eilerts asked. Our daughter goes to Goessel's school, so this is where we choose to make our home, York said. School districts overlap, some, Eilerts said. Sieger asked for other comments, or questions. I think the letters of recommendation are more letters of personal recommendation, and nothing to do with the land, Eberhard said. And, I want to point out that the principal used school district stationary and time to write his letter, Eberhard added. I don't think it took him a whole long time to write it, York said. The point you mentioned about the elevated tax base on this piece of property will benefit the county and school, York said. It takes approximately \$400,000 of assessed value for a home to meet its cost of service requirements to the local government, Bartel said. That's just one part of the impact, he said. The impacts are cultural and environmental, Bartel said. I would venture a guess there are not very many houses in Marion County that pay their way, York said. No, there are not very many houses that do, and that's the problem because spiraling taxes ultimately fall on ag lands, which do not require the services, Bartel said. That's one of the basically underlying issues, he added. We would pay the costs of installation, so I question how this is a problem for the rural water district, other than the cost and installation, I don't know, York said. There have been studies that show the cost of services to provide for such a residence is more than the increase of tax that it brings into the county, Sieger said. As we stand now, ag lands do not have a tax exemption, and this is an issue which should be discussed, Bartel said. I guess Dan Glickman's working on this, huh?, someone said. If you go to the corner of Diamond and 30th, and you turn and go west, I think a mile and a quarter, you'll find a very nice new home kind of sitting up on a knoll in a piece of grassland which

sits on 40 acres, and probably all that gentleman did to build this home was get a permit, Unruh said. I don't know that this benefits the land, or what it did, but these things are accomplished in this matter in Marion County due to our zoning regulations, and in terms of the numerous ag issues, I doubt that this property is any more protected or vulnerable than perhaps this one could be, Unruh said. I don't know if the issues are so much vulnerability, he said. I think as agriculturists we're concerned about whether or not we have the elbow space that we were accustomed to having in the past, Unruh said. But, the other said of the coin is, if we look long term at economic development, and we look at tax bases and the growth of our county, infrastructure and costs thereof, ag lands won't be able to bare the costs in the future unless we do certain things along the way to make some kind of effort to enhance the whole tax base, as well, Unruh said. It's a challenge, it's a catch 22, Unruh said. In driving by the property, and I'm not an expert on soil conditions, but it did appear there are some limestone outcroppings, Unruh said. It doesn't appear, not to be critical, but it may have been better for the soils long term, if the soils had never been broken out, Unruh said. But, in the attempt for development, we all have broken these kinds of soils out and farmed them over the years, he said, and even the farmer's efforts have from time to time polluted the water. There is more to this whole issue, and we beat up sometimes unfairly on people who do want to be good citizens, and yet you can go buy a quarter section of land today that has an old farmstead on it and you can rent this out and sometimes, not always, but there are certain situations where this is not desirable either for the county and for this commission, Unruh said. So, your point is?, Sieger asked. I challenge us to look at these issues, maybe for the value of the people as much as for the value of the land, Unruh said. I agree with Terry..., Unruh began. But I don't think that's what we've been charged with to do, though, Bob, Sieger said. I really have to disagree, she added. If, for instance, this nine acres is all in grass and put into a permanent cover and a home and farmstead built within the grass, there will be extremely little runoff from the living standards getting into the stream, Unruh said, and there would be plenty of distance for a filter. Keep these thoughts until we get into our discussion phase, Sieger asked Unruh, but, right now we need to be sure and get all our information and questioned answered before we close the public hearing, and then you can continue with your points. So,

any further comments, or questions?, Sieger asked. Unrau commented that Harvey County's Rural Water District #1 has been struggling to provide enough water pressure. A lot of these things are not designed for such expansion, Unrau said. Is this property in that water district?, Sieger asked. No, just using it as an example, Unrau said. At this point, Sieger closed the public hearing. Sieger asked York if he understands that this body only makes a recommendation, then it goes to the county commission where the final decision is made. Sieger thanked York for all the information he provided, saying such material is a great help to members, in making their decision. Sieger told members of the public that they are welcome to stay until a decision has been made, or they may call Brazil in the morning to find out what happened.

Sieger opened the matter up for discussion, asking Brazil to comment. I had checked on the flood zone, and the house would be positioned outside the flood zone, he said. And the lagoon site?, Sieger asked. Yes, Brazil said. Every situation presents some unique things, and others are not unique with some of the same basic issues, Sieger said. It is a land use issue, Eberhard said. Like Unrau was saying, there is a good turn over rate, and I can give you story after story about my city neighbors, and they're not bad neighbors, but I'm home during the day and they're gone to work, so when their pets get out, who gets them in? And on weekends, you know, they're gone, and when my animals get out, who gets them in?, I get them in, Eberhard said. If I drive home late at night, I've been threatened to be shot, and one night I had the sheriff call on me because one neighbor thought the speed limit was 45 on their road, so I had the sheriff waiting on me, he said. They don't like the farm issues, and agriculture, as time goes on, is going to get bigger and bigger and bigger, and this is going to create another problem that I don't know how is going to be handled, Eberhard said. I think the other thing happening is the rural residential district is having applications made for it that really were not the interest of the district when it was put in the ordinance, Bartel said. We did this in '92, and the rural residential district was used for farmsteads where the family farm had already been in transit because of health, or age, or other reasons, Bartel said. But, that district was never put in there for people to move out into the country, he said. The intent of the 40 acres was if people want to go in the country, then the rule is 40 acres, Bartel

said, and this didn't mean that this was the final rule. Because if this becomes something that sets a significant trend that impacts the tax system, it impacts the cultural values of the community, and it impacts the environmental values, then the 40 acres has to be looked at, Bartel said. I can tell you that 160 acres has been upheld as a minimum ag district in parts of the country where significant efforts are being made to protect the ag resource, Bartel said. So, the biggest thing I see going on is, that the rural residential district is being misused from what it's intent was, Bartel said. Sieger pointed out pages 26 and 27 in the zoning regulations, where it sets forth the application of the rural district and what the purpose of it is. I've had a lot of people call me about the 40 acre piece that Unruh talked about, Bartel said, and the development of this, and why there wasn't more opportunity for ag interests to have commented on this, Bartel said. But, you might remember that this piece was sold and it got cut up in a wave and the 40 went without application except for a zoning permit application, and the other part of it came to you as a commission, and I was staff then and recommended that it not be approved, but it did pass with a split vote, and that's the history in this section, Bartel told members. I remember hassling and working through that one, Sieger said. Sieger told Unruh she did not mean to cut him off, but thought his comments were more appropriate in this discussion, rather than in the public comment period, and she invited him to continue at this point. There are inconsistencies in our zoning issues, Unruh said. I'm not sure sometimes whether our zoning issues are really very purposeful, he said. As an example, the property I live on, which I no longer farm, granted I grew up a farmer, granted I farmed for 18 years, and I think that I know probably about as much about it as most of you do, he said. Today, I'm in the business of financing a bunch of it for various people, but I don't think that I'd be dis-advantaging the real estate I live on if I sold it down to, maybe 10 acres, or something, Unruh said. I think it'd make a very nice living quarters for someone and I don't think there'd be a pollution issue, or an erosion issue, and I don't know if this is on something like that, but if it is appropriately handled..., Unruh said. I think Unruh has issues that producers struggle with, but there are two sides to the coin and that's part of the challenge, Unruh said. But, the other fear I have is what suppose we spun the other way and we are going to simply be a very rural county, and we didn't do any building, and we didn't grow, Unruh said.

There are lots of areas for growing, and that's part of what a comprehensive plan can do for us, Sieger said. We would be able to design some growth areas, so we don't have hodge podge type development, Sieger added. Today, we don't really have that identified in the county, and we have people coming and going all the time and they're buying 40 acres, or maybe buying a quarter and it has an old farmstead on it, Unruh said. We can all drive around the country and see some really bad situations, and they're renter situations, and they're not benefiting our community development, either, Unruh said. There's just so many issues here, and I know the issue is long term land preservation, but we can't control how long this family, or any other family, we don't know how long I'll live on my property, or you on yours, but one thing I think we all do want is for what we consider to be good solid citizens to be part of our community, Unruh said. I really struggle with the issue of telling people that more or less, maybe they don't feel welcome when they move into a community, he said. Well, we're not the Welcome Wagon, Bob, Sieger said. I think this is what leads to our need to ask for new guidelines, so we can set some designated areas for growth, and until this happens with the commission, we just have to follow the rules we have, Eilerts said. I called the banker in Goessel this afternoon to discuss this issue, and he said from where the new home is built, there are now three or four new homes within a mile, or two, of there, Unruh said. But, this community is probably one of the more growth oriented communities in our county, Unruh said. Which makes the point..., Bartel began. I know, Herb, you're concerned about sprawl, you're concerned about dotting up the countryside, you're concerned about chopping up the real estate, Unruh said. I'm concerned about the building blocks for this county, and those building blocks are land, ag resources, and water, and if we don't..., Bartel said. I'm concerned about the future tax base, as well, Unruh said. We won't be able to afford good schools, we won't have people that will attend our churches, Unruh said. I think Herb is concerned about the tax base, too, if you want to bring up that issue, and the point is the ag land bares the brunt of the taxes, Sieger said. Every time, Bartel agreed. Diamond road is already a gravel road, there is rural water running by it, and I believe I'm correct in saying the utility company runs a line along 130th, Unruh said. I don't see that this particular spot would require a lot of infrastructure investment if these folks want to live there, but I'm not an expert in that area, either, Unruh said.

One single application doesn't trip the scale, Bartel said. It's a situation where this is a significant change which then is at a scale that this community cannot adjust or refocus, and that's what happens every time, Bartel said. But, if we talk about a tax base, and we talk about a particular rural home providing such a cost, then where we take a 10 acre piece out of a productive piece of farmland, then somebody bought it and wants to sell it off as an old farmstead, then we're talking about the farmstead itself because they no longer have a use for it as a farmstead, then we shouldn't do those deals because we have the same cost, then, Unruh said. That's right, Bob, Bartel said. So, if this is the case, then, let's not build any homes out in the country, let's all live in town and be suitcase farmers, Unruh said. If we want the least cost perspective, that's how we'll get it, Unruh said. Each time there is a residence developed, it does not pay its way, and it does not matter whether it's my farm house or a house that's built for someone that works in Wichita, it doesn't pay its way, Bartel said. It's important to know this and the difference between what the structure pays, and what the ultimate cost of services are, Bartel said. Every time it ends up falling on the ag land, which are not generating the services, Bartel said. Again Herb, I haven't studied this issue and I'm sure you've read more on this than I have, but I have a hard time thinking that infrastructure costs - sure if we have to run utility lines for two miles, or a water line for a mile, or two, or if we have to upgrade a road, those kinds of things - but, in a lot of instances we have a lot of these things close by and this is one of those, Unruh said. I don't see a lot of infrastructure investment, here, he said. You can't do this based on a single case, Bartel said. You've got to look at the pattern, what's the pattern?, Bartel said. What ultimately is going to be the pattern of development in Marion County?, Bartel asked. That's the issue for agriculture, and it's the issue for water quality, and it's the issue for wildlife habitat, riparian areas, all of these things need to be identified as important building blocks for the land use plan that the zoning map made a first cut at doing, Bartel said. Would agriculture be better served then if people like these folks would come in and buy 40 acres and build their home, and it's not an issue for us?, Unruh asked. Is agriculture served in this content?, he asked. I think agriculture is less served in this content, because we've now given up more land, Unruh said. It depends on the significance of the particular development pattern, Bartel said. If it has such a



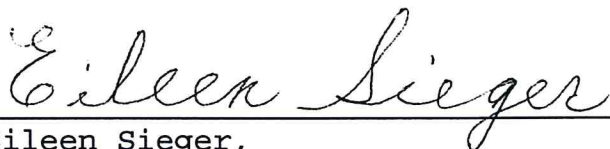
scale that it is proceeding very rapidly, the yes, it needs to be addressed, Bartel said. If it is an occasional thing, then the way it is you lose 40 acres at a time, because you can't afford it or don't want it as an ag production, Bartel said. We've talked about this issue, too, about the change in the use, Sieger said. In this case it definitely comes out of farm production on this part of the partial, Sieger said. Eberhard said county tax payers had to gravel a road near him, because a lady couldn't get her kids to school because of water on the road. In my area, a surrounding farmer sprayed his pasture and killed all the trees around someone's home, Sieger said. As far as that goes, when I was farming I routinely wiped out the rose bushes, if I wasn't careful, Unruh said, but folks that move to the country have to understand these issues. Sedgwick County has done some real planning, and they hosted a country living workshop, and I wish there was a way of sharing this whole perspective, Sieger said. It was presented by the extension department, and they invited people who were considering moving to the country, she said. Over 350 people showed up for it, and they gave a lot of good information, and as a result a number of the people reconsidered moving, and decided not to do it, Sieger said. Unruh made a motion to approve the application, subject to the nine tillable acres being seeded to a native grass. No one seconded the motion, and it died for lack of a second. Bartel made a motion not to recommend this request, based on the following reasons: the location is not consistent with the intent of the zoning resolution, map, and plan; there have been no changes in the area adjacent to this property that makes this rezone necessary; the application includes a land development pattern in agricultural areas that is not in the county's interest; and the application contributes to sprawl development which is not in the nation's interest, the state's interest, the local interest, the township's interest, or the neighborhood's interest. Fincham seconded the motion. There was no further discussion. In favor: 5; Opposed: 1; Abstained: 1; Motion carried not to recommend approval. Robinson abstained, as she did not feel well enough informed to vote, having just joined the commission tonight and not having received any materials yet, to review. Sieger asked Brazil if he informs county commissioners about activity at planning commission meeting. Brazil said he gives the commissioners copies of the meeting minutes.

I think it would be helpful to do some training on resource

management and it's possible to do this in absence of updating the plan, Bartel said. We can do this with people from K-State, he added.

Bob Maxwell, resident at Eastshore at Marion Reservoir, explained there is an area of confusion between platting, and covenants, and this board. Maxwell said there is a person moving a new double wide unit in, all in accordance with our plat and our covenants out there. But, this man received written information from the planning commission that is not in agreement with our covenants, nor the plat that was done on these properties, Maxwell said. This is not the first time this has happened, he added, so they would like to get some kind of consensus to go by so everyone is on the same page. We don't have jurisdiction on the covenants, unless we specifically make those as part of the regulations, Bartel said. So, if it's not consistent with the covenants, but is consistent with zoning, we're not in a position to help you unless the commission wants to make it a special project and we amend the regulations, Bartel explained. I was told we are zoned as a village one, and no one is aware of that, Maxwell said, because the requirements are more restrictive than our covenants are and we've had two or three folks want to develop the area and then see the rules and they back out. So, we need to get something straightened out, Maxwell said. You obviously are not incorporated out there, Sieger said. Sieger suggested Brazil investigate this matter, further. Fincham and Unruh already left the meeting. There was a motion to adjourn, which was seconded. In favor: 5; Opposed: 0; Motion carried.

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS



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Eileen Sieger,  
Chairman