

MARION COUNTY PLANNING COMMISSION

RECORD OF PROCEEDINGS

OCTOBER 22, 1998

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

Roll Call was answered by; Sieger, Dean Fincham, Eldon Pankratz, Marquette Eilerts, Jo Helmer, Terry Eberhard and Bob Unruh. Clark Wiebe was absent. Don Fruechting arrived late at 7:55 p.m. Herb Bartel and Karen Hurt were also in attendance.

Sieger asked for corrections to the minutes of the September 24, 1998 meeting. Eilerts had one correction on page four, Item 5, "metes" (not 'meets' and bounds). Unruh questioned the clarity of the sixth line down on page three, (members interpret the line to mean "from the entry point,") but there were no other corrections. Unruh made a motion to accept the minutes as corrected and Eberhard seconded the motion. In favor: 7; Opposed: 0. Motion carried.

Sieger had one off agenda item to add, telling members that County Commissioner Jack Bruner would be present to discuss the Operating Agreement for Martin Marietta Aggregates. Sieger said this would only be a discussion format, and not for any action.

Item 4 - Continued application for Justin Youk for a rezone pending from agricultural to rural residential. Sieger reminded members the last action was to table this application to this meeting, to enable the City of Marion more time to give details of airport expansion plans. Sieger asked for the city's presentation and Mayor Max Hayen showed members a map, marking a proposed expanded runway. Hayen explained the city plans to meet the basic requirements for a 4,000' runway, some where in the near future. This runway will be 75' x 4,000,' Hayen said. It will cross the road to the south of the current runway, into a pasture, and will also cross Youk's land, slightly to the north, Hayen said. Hayen explained this drawing is an estimate on his part, and the runway could go slightly one way or another. Hayen explained the slope of the land is taken into consideration when planning such a runway. Hayen said Youk's present building and Brad Putter's proposed home on Youk's land, would both be in the clear if the proposed runway were installed. Hayen said the city's present runway is actually too close to the hangers. When asked if the city wishes to control zoning around the airport, Hayen said officials do not wish to get into the Marion County Lake property, but would consider land around the airport. Hayen said the airport is officially annexed, including 160 acres. The county has to relinquish the right, in order for the city to control zoning around the airport. Hayen explained that part of the land would join existing city limits, if it were relinquished

to the city. Hayen said the present runway might be maintained as a taxiway. It is my honest belief that they are below the elevation line and not considered a hazard at this point, although I hesitate to recommend anyone build there, Hayen said of Youk's existing building and Putter's proposed home. Bartel asked Hayen if the city will do an official master plan, and Hayen said yes. Hayen said plans are to construct another hanger, as the airport houses 18 aircraft now, and with twenty the city can meet funding requirements. Sieger re-opened the public hearing at this point, because of new information. A letter from Thomas S. Wiencek, Fire Protection Specialist, with the Kansas State Fire Marshall's Office, was entered into the record. The letter contained information regarding the storage of propane and possible health and fire hazards. This letter was written on behalf of Earl Mueller of Cardie Oil, Inc. Mueller was present and said he believes it is his public duty to warn Putter about building near a propane storage plant. Mueller said he does not want to expose anyone to a possible hazard, when it is not necessary. Mueller said a risk management plan is coming out soon, and regulations are going to be even stricter. Mueller said the immediate danger area is within a half mile of the area. A safety director from Cardie Oil's insurance company was also present with Mueller. Fruechting arrived at this time. It was 7:55 p.m. Mueller said Putter's proposed home site could impede on his business. Mueller said in 1961 the tanks were moved out of town, to get away from everyone. It may never happen, but the possibility is there, and why expose anyone to it, Mueller said. The area within a half mile is what we are speaking to, Mueller said. That is the minimum we are talking about, he said. Mueller said he spoke with two insurance companies that said they would not look favorably toward insuring a home located near the tanks. Eberhard asked Mueller if it is a problem for him if Putter builds a home there, or is it a problem for Putter. Mueller said it is a moral issue for him, so yes it is a problem. Vandalism is a big consideration for us, Mueller said. Mueller's insurance agent said Environmental Protection Agency (EPA) guidelines are to stay 2.6 miles from such storage tanks. He said anytime the company is transferring the product, this is the biggest exposure. Putter said he appreciates the safety aspect involving the propane. Putter questioned why there are two homes within a half mile of the plant, and he assumes they were there before 1961 when the tanks were moved to the present location. Mueller said in 1961 there were not many requirements. Mueller said at that time, he could have set the plant behind a service station, without anyone questioning it. There were no further comments or questions, so Sieger closed the public hearing at this point.

Item 5 - Application for Harvey County Rural Water District No. 1 for a Conditional Use Permit (CUP) pending in West Branch Township, which was published in the Peabody Gazette Bulletin on September 17, 1998. Maurice Meirowsky was present to explain the

application for a 100,000 gallon, 120' tall, water tower. Bartel asked how tall the tower is, which is located a mile to the north. Meirowsky said it is 90' tall, and will probably be dismantled after the new tower replaces it. Meirowsky said the old tower is a stand pipe which does not allow enough pressure. He said the new tower would be more localized, where they need it. Bartel told members the site is about a mile from where the fiber optics regeneration station will be, and south of the existing stand pipe. It is the same landowner as on the application from last month for the fiber optic station, Bartel said. Meirowsky said the existing tower has been there since 1975 or 1976 and it was not designed correctly by the engineer. This rural water district has offices in Peabody, and serves part of Marion County. Normally, a 75' set back is required from the road and a 50' set back from the side, Bartel said. Meirowsky said wishes are to have the tower closer to the road, and asked for a 40' set back from the road, which is a 35' variance. Fincham asked if the tower will have lights on it, and Meirowsky said yes, two red lights. Sieger asked locations of surrounding residences, and Meirowsky said as the crow flies about a half mile. Sieger asked if the tower will be visually pleasing, and Meirowsky said yes, it will be painted white. Eberhard asked if it is a new or used tower, and Meirowsky said the district is bidding it both ways. Meirowsky said some folks say the older towers are built better than new ones, and some used towers are currently being used by the district. Bartel explained the planning commission makes a recommendation on a CUP, and the county commission makes the final decision. Fincham asked about painting a red or black stripe around the tower, so pilots can see it on hazy days. There were no further comments or questions, so Sieger closed the public hearing at this point.

Item 6 - Application for Delbert Mellott for a rezone pending from agricultural to rural residential in Catlin Township, which was published in the Peabody Gazette Bulletin on September 17, 1998. Bob Marshall and Mellott were present to explain the application for 1.1 acres. They said if 10 acres is required, an additional 8.9 acres could be purchased, with the property running parallel to the road, and it would continue to be farmed. Bartel asked Mellott to give the history of the home to be sold, as there are two homes on the property. Mellott said his dad built the home to be sold, around 1979 or 1980, with a full basement. His dad owned 80 acres, and died 10 years ago. His siblings wanted out, so Mellott bought all the property. His mom passed away a couple of years ago. Mellott owns a home in town, and needs to sell the property. The home is currently occupied, and plans are to switch homes with Ernie Gray, who was also present. The home was very much a part of the farmyard, Bartel told members. The older home on the property is used by Northview Developmental Agency. Whenever we rezone a farmyard it is one unit, and this is really one unit with two houses, Bartel said. I really feel it is proper to grant a variance for an

accessory building, (since they are wishing to build a garage), because of how it was built in the first place, or because of how it was part of the farmyard, Bartel said. It was a family situation and we can't really fix it by going 10 acres, Bartel said. If I decided to put a lagoon in there, I couldn't do it, Gray said. You have a sewer problem, now, Bartel told Gray. I recommend a variance for the structure and not changing the zoning, Bartel said. Because we did not advertise for a variance, we will have to advertise at our expense, Bartel said. This application will be published again, in order to properly notify the neighbors, and allow for a variance for a lagoon. It was determined there is enough time for a 20 day notice, so this application will be continued to next month's agenda. Unruh said he is not comfortable with the concept of having a lagoon sit on someone else's property. It was decided an additional acre, or two, will be purchased and the lagoon will be located there. There were no further comments or questions, and the application will be taken up again at the November 19, 1998 meeting, Sieger said.

Item 4 - It was decided to wait on discussing Item 4, and take Item 5, first.

Item 5 - There were no questions or concerns, so Unruh made a motion to recommend a CUP be approved for Harvey County Rural Water District No. 1, and Eberhard seconded the motion. In favor: 8; Opposed: 0. Motion carried. Eilerts made a motion to approve a variance of not less than a 25' set back from the edge of the right of way, and Eberhard seconded the motion. In favor: 8; Opposed: 0. Motion carried.

Item 4 - Eberhard said propane tanks are kind of like a feedlot. It is a business that he is trying to protect, Eberhard said. Unruh and Fincham reminded members they will abstain from voting and discussion of this application. Sieger reminded members to consider the propane storage factor and the city's possible plans. Fruechting questioned the liability as far as a homeowner is concerned, and if the home is built would it restrict expansion of the airport. Bartel said if the FAA has serious problems, they will require it be addressed by the property involved being purchased by the city. We are looking at one little house up there, when there are lots of people fishing and camping nearby, Eberhard said. Perhaps if it is a risk and a poor investment, then that is Putter and his banker's problem, Eberhard said. Helmer asked if another entrance could be made to the proposed home site, rather than entering near the propane tanks. Youk said the proposed home site on Hayen's map should be further south. Sieger said there are too many concerns to feel comfortable, and it sounds like requirements are going to become more strict for propane. Eberhard asked if someone owns 40 acres across the road from the propane plant, and was told yes. So, they could build a home across the road, Eberhard asked, and was

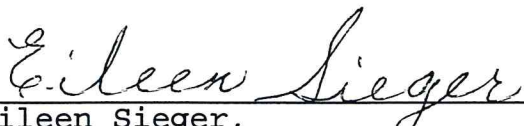
told, yes they could. Youk asked what would happen if Putter would buy 40 acres, and Bartel said the county would have to issue the permit to build. Sieger asked Bartel for a recommendation. He said he has no recommendation, except he feels the city should have an airport master plan, which is what he believes should happen next. Eilerts said she sees it as future planning. Sieger reminded members that the airport plan is not a new thing. Hayen said the city will try once again to have the road to the south of the airport closed. Hayen said federal funding looks pretty promising, now. Eberhard said changes do happen, but the city has not done anything yet, and it may be a bad investment on Putter's part, but let him and his banker worry about it. Residential uses can shut down an airport, usually because of noise, and that is why airports move, Bartel said. Hayen said the main concern is to prevent any structure from being built that would interfere with expansion. Farming is the most compatible use for an airport, Bartel and Hayen agreed. Hayen said again he can not really say it will interfere with airport operations and expansion, but he would prefer the proposed home not be there. Sieger said the other issue members need to discuss is the propane storage. Eberhard said he does not feel the propane is a hazard, and believes there are more chances of the home being hit by an airplane. Eberhard said there are propane tanks in Peabody, very near homes. Eberhard said members need to address the liability. "Hold harmless to airport operations," should be included, Bartel said. Eilerts made a motion to deny the application based on the city's expansion plans, the propane storage, and the light industrial area, and Sieger seconded the motion. In favor: 2; Opposed: 4; Abstained: 2. Motion failed. Fruechting made a motion to accept the application for Justin Youk, subject to hold harmless to the City of Marion, for airport operations, and Eberhard seconded the motion. Unruh questioned the implication of the hold harmless agreement, if a structure is outside of the boundaries of elevation. Bartel said this is an issue between the landowner and the City of Marion. Bartel said the homeowner gives up the right for compensation, if there are complaints about the airport noise, etc. Eberhard said a case could still be taken to court for a decision. Fincham reminded members that if the city gets a 4,000' runway, it will allow executive jets to come in and out, which involves more noise to think about. In favor: 4; Opposed: 2; Abstained: 2. Motion carried.

Off agenda discussion with Jack Bruner, concerning the Martin Marietta Aggregates Operating Agreement. Bruner said county commissioners have two concerns with the agreement: one being the cash amount of bonding in three different conditions; and the set back on the east boundary of 660', which might be excessive. Bruner asked if members would consider having commissioners send the agreement back, for another look, or if members think they have spent enough time on it already. Sieger reminded members that when county commissioners receive a recommendation from the

planning commission, they may approve it, disapprove it, or send it back. Fincham said he wants some teeth in the reclamation part of the agreement, as the holes left behind are sore to the eye. Bruner said commissioners were thinking about not requiring any cash bond. The state requires \$500 per acre in bond, which is just for reclamation. Eberhard said Martin Marietta is reliable today, but they could go broke, or they could sell to another company. Bartel reminded members that the agreement will stay with the land. Bruner said he does not remember Martin Marietta officials complaining about the cash bond, but they were unhappy about the set back. Eberhard told Bruner he would like a written reply to the commissioners two concerns. Martin Marietta agreed to a 600' set back from existing homes and from a proposed home site. Fruechting said he heard second-hand that Martin Marietta officials would not allow anyone to be closer than a quarter mile from where they were blasting, because of the possibility of flying rocks. A quarter mile is 1,300'. Helmer asked if the 300' set back from the north boundary is a problem, and was told no, just the 660' from the east boundary. Sieger said the east side of the Houser property is the only set back in question. Bruner said a cash bond is usually required when there is a risk, but commissioners do not think it is necessary with Martin Marietta. Bruner said commissioners would like to proceed with the agreement at their next meeting, on Monday. Eberhard said perhaps members should explain to commissioners why these decisions were made. Bruner asked for a poll of members to see if changes would be agreed to. Eberhard said he would agree to send it back for clarification, or reconsideration, but would not commit to changing it. Unruh said he could consider changing the cash bond, but would want performance bonds, and probably would not change the set back. Sieger asked if a landfill can be considered reclamation, and Bruner said no. Bartel said it could, if a state person recommends it. I am as much concerned about solid waste as everyone sitting here, and I do not think that is an issue, Bruner said. When asked, Bruner said the commission thinks the cash bonds are excessive, not Martin Marietta, and that Martin Marietta only wants the set back changed. Fruechting said set backs and property values are a concern. Sieger asked members if they want to make changes. Pankratz reminded members that a lot of people were in opposition of this, and questioned how long it should be dragged out. Sieger said she appreciated the commissioners discussing the matter with the planning commission, before making a final decision. I do not think the cash bond is an issue if Martin Marietta does not have a problem with it, Eberhard said. Look at the issue and not the people involved, he said. Martin Marietta could sell, Eberhard said. But they are not going to shut down because of the set back, Eberhard said. The county commission has not ever before gone against a recommendation from the planning commission, so I think this is part of the issue they are considering, Sieger said. Helmer said the idea for extending the recommendation for a CUP to 15 years was to give the company

Next month's meeting is November 19, because of Thanksgiving. There is no meeting in December. Sieger reminded members that three terms will expire the end of the year, in December, so decisions need to be made by the November meeting, whether these members wish to continue, or retire. These members are; Wiebe, Fincham and Eberhard. Pankratz made a motion to adjourn, which was seconded by Helmer. In favor: 8; Opposed: 0. Motion carried and meeting adjourned at 10:30 p.m.

MARION COUNTY PLANNING COMMISSION



Eileen Sieger,
Chairman