

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

RECORD OF PROCEEDINGS

September 25, 2008

Chairman David Mueller called the meeting to order at 7:42 p.m., with a quorum present.

Roll Call was answered by Mueller, Bob Maxwell, Marquette Eilerts, Mary Avery, Glen Unrau, Kent Becker, and Vida Bartel. Jeff Bina and Ervin Ediger were absent. Zoning Administrator Bobbi Strait was present.

Mueller asked if there were any additions or corrections to the Record of Proceedings for the August 28, 2008, meeting of the Marion County Planning Commission/Board of Zoning Appeals. Mueller had two corrections on page four for the next two month's meeting dates. Eilerts also pointed about another correction with the dates, where with the correction the second date will no longer be the last meeting of the year so that statement was deleted. Maxwell asked for a clarification, also on page four, where the end of a sentence was removed talking about Maxwell reviewing some of the codes. Becker made a motion to approve the Record of Proceedings with the changes, and Bartel seconded the motion. In favor: 7; Opposed: 0; Motion carried.

Item 4: Mueller asked Strait to review the proposed zoning changes.

Strait said the first change is on page 16, Article I, #152, for the definition of a manufactured home. The change deletes the words, "or assembly," after the word "installation" in the first sentence. The change adds this to the definition: **A manufactured home is constructed so that the chassis is a permanent part of the structure as a load bearing support and will remain permanently attached to the structure after installation.**

The next change is on page 17, Article I, #161, for the definition of a manufactured home residential design. The change adds this to the definition: **A residential design manufactured home is constructed such that the chassis is a permanent part of the structure as a load bearing support and will remain permanently attached to the structure after installation.**

Next change is on page 18, Article I, #163, for the definition of a modular home. The change adds this to the definition: **A modular home is constructed such that the chassis is not a part of the load bearing support of the structure and, once the home is installed, the chassis is permanently removed from the structure.**

Strait explained that these changes are so there is a specific definition that identifies these three types of homes.

Strait referred members to Article 21-103, #29 for the next changes. The change adds this: **A manufactured home may be authorized for a period not to exceed six months for temporary housing during construction of a site built home if the Zoning Administrator determines that there is a substantial need for the owner/occupant to reside in close proximity of the construction project and the owner/occupant currently resides more than 50 miles from the site.** The words, "or temporary," are also added after the word "emergency" in the last sentence.

Mueller reminded members he applied for such temporary housing when he needed to live in a mobile home while he was building his home. Strait explained the goal is to try to alleviate the need to come in front of the planning commission for such a variance. Strait said the "50 miles" may be deleted if members so desire. Mueller asked members if they think the change sounds reasonable, and Becker said yes. Strait said there are a couple of these properties by Burns and one has a singlewide now for sale. An RV is temporary no matter where it sits, Strait said. A manufactured home has to be hooked up to water and sewer, she added. You don't need a permit to park an RV but a manufactured home does need a permit, she said. A manufactured home has to meet all requirements, Mueller said. Wouldn't you normally go ahead and finish it off?, Maxwell asked. Mueller explained how he used a mobile home while building. It's an exceptional case, Unrau said.

The next change is under Prohibited Uses in Article 21-110. The wording will now read: **After the effective date of these Regulations, no mobile home, nor any manufactured home that was constructed prior to April 1, 2001, as defined in these Regulations, shall be located, relocated, or otherwise installed in Marion County. All non-compliant or non-conforming mobile and/or manufactured homes that exist prior to January 1, 2009 regulations shall be allowed to continue in their current location for as long as they remain habitable and occupied. In order to continue to qualify as a legal non-conforming use, structures and lots shall meet the requirements set forth in Article 24 of these regulations.** Avery asked if the cut off date is going to be January or July, and Strait said it will be changed to January because we are not going to have these in place by July. What is the procedure for determining an uninhabitable home?, Maxwell asked. If it doesn't have adequate insulation, windows, floors, or if it is rodent infested, etc., Strait said.

The next change is under Purpose in Article 22-101. The change will add this to the end: **No manufactured home shall be permitted to be located within any Manufactured Home Park which does not bear a label certifying that it meets the requirements of the latest version of the National Manufactured Home Construction and Safety Standards (24 CFR 3280 et seq) or that was constructed prior to April 1, 2001.**

The next change is under Structural Quality of Manufactured Homes in Article 22-106. The change replaces the "manufactured after" date from September 1, 1973 with April 1, 2001. The change also replaces the "K.S.A." number from 75-1214 with 58-4212 et seq. The change also adds this as the last sentence: **Installation**

of all manufactured homes shall comply with K.S.A. 75-1226 et seq. and these regulations. Strait explained this state statute was rewritten in July. The only part we are not going to be able to enforce is that a licensed contractor has to do the installation, Strait said.

The next change is in Article 23-105, #1-A. The first sentence remains the same. After the first sentence, it will read: **If public sewer service but not public water service is provided, a Manufactured Home Subdivision shall not be developed at a gross density greater than one manufactured home lot per 43,560 square feet (one acre), excluding road rights-of-way and common open spaces.**

If public water, but not public sewer service is provided, a Manufactured Home Subdivision shall not be developed at a gross density greater than one manufactured home lot per 87,120 square feet (two acres), excluding road rights-of-way and common open spaces.

If neither public sewer nor public water service is provided, a Manufactured Home Subdivision shall not be developed at a gross density greater than one manufactured home lot per 130,680 square feet (three acres), excluding road rights-of-way and common open spaces.

Strait explained that set backs on a water well do not take up as much space as a sewer does. If you have a septic system, or a lagoon, it takes up more space so you need more acreage, Strait said. A private sewer system must have two acres, and if you have a well, too, you must have three acres, she said. Maxwell asked if that is a change in the state regulations, too, because it was a minimum of three acres. If the sewer system fails and there is not enough room, the house is worthless, Strait said. There are two in the county now that are failing, she added. Are the homes already built, or are they being built?, Maxwell asked. They are already there, Strait said. One is a single mom, so she can't afford an expensive solution, Strait said. Becker asked if the adjacent landowner would give an easement?, and Strait said no. And he won't sell any more land, either, because he is farming it, Strait added. Bartel asked how Strait finds the places with problems and Strait said people call her for help. Strait said she is looking for funding to train people.

The next change is in Article 23-105, #3-A. The first sentence remains the same. After the first sentence, it will read: **Each lot served by public sewer service but not public water shall consist of at least 43,560 square feet (one acre). Each lot served by public water service but no public sewer service shall consist of at least 87,120 square feet (2 acres). Each lot not served by public sewer or public water shall consist of at least 130,680 square feet (three acres).**

The next change is in Article 23-107. It will read: **All manufactured homes proposed to be placed in Marion County, Kansas, shall have been manufactured after April 1, 2001, and the owner must show verification of such to the Zoning Administrator to assure said Administrator of compliance with K.S.A. 58-4212 et**

seq, as amended, and these Regulations. Installation of all manufactured homes shall comply with K.S.A. 75-1226 et seq. and these regulations.

The next change is in Article 32-102, #7-E. It will read: **All towers shall be surrounded by a minimum 6 foot high fence as necessary to restrict access to the tower. Fences may be designed to provide privacy and restrict the view of activities or equipment inside the fence, such as concrete or masonry walls, or they may be designed to be less intrusive to the surrounding area, such as chain link fencing.**

The next change is in Article 32-102, #7-I, under #5, "health department" is changed to "zoning department."

The last change to the zoning regulations is a typo, Strait said. It is in Article 32-103, #2, where the words, "to the" are inserted before the word "surface. "

Next, Strait reviewed changes to the Subdivision Regulations. Strait said these changes involve replacing one acre, with two acres and three acres. The first change is in Article 4, #1-B. It will now read: **If the proposed subdivision is served by a public water and public sanitary sewer, the minimum lot area requirements shall be subject to those set forth herein in the Zoning Regulations.**

The next change is in Article 4, #1-C. It will now read: **If the proposed subdivision is served by public water supply, but not public sewer, the minimum lot size shall be two acres (87,120 square feet) or as determined by the county; provided, however, that additional lot area may be required if the area has or is suspected of having a high water table or if soil conditions prove to be unsuitable based on standards of the Marion County Sanitation Code.**

The next change is in Article 4, #1-D. It will now read: **If the proposed subdivision is served by public sewer but not public water, the minimum lot size shall be one acre (43,560 square feet) or as determined by the county; provided, however, that additional lot area may be required if the area has or is suspected of having a high water table or if soil conditions prove to be unsuitable based on standards of the Marion County Sanitation Code.**

The next change is in Article 10, #1. Ending to a sentence is changed to, "the planning commission may recommend (changed from authorize) variances to (changed from of) these regulations." And in the last sentence "planning commission" is changed to "governing body." Also changed is Article 10, #1 – A, which now will read: **That there are special circumstances or conditions affecting the property or that a variance would enable the development to keep with the character of the existing surrounding neighborhood.**

Under Article 10, #2, "planning commission" is again changed to "governing body."

Strait explained that a waiver needs to be handled by the governing body. Typically, the governing body will consult before granting a waiver, she added. This is it for changes for the Subdivision Regs, Strait told members. She asked if there were any comments, or other changes. Maxwell asked about reinforcement on concrete foundations. He said it is pretty well listed as rebar, and he would rather use the word reinforcement. That would also be in building codes, Strait said. If you are ready we can have a motion for publishing the changes and have a public hearing, Strait told members. Avery made a motion to publish the changes and schedule a public hearing for October 23, 2008. Eilerts seconded the motion. Mueller asked if there were any questions. It will be good to have the changes we've been dealing with for years to be done, Mueller said. Eilerts said she is glad to see the changes in the mobile home regulations. In favor: 7; Opposed: 0; Motion carried.

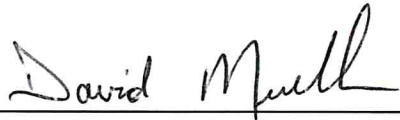
Item 5: Permit Fee Changes. Strait told members they should be pleased to know her secretary has been working very hard to put together a spread sheet comparing fees and operation costs for Marion County and four other counties. Even the county commission was impressed by her thoroughness, Strait said. We have to publish a notice of hearings and mail out notices to the notification area, Strait said. She said the cost was over \$200 when we had to notify the entire City of Goessel about a cell tower application. Strait said it costs \$50 for a resolution, not counting postage or the initial publication, so we need to increase fees to cover the costs. There is also employee time involved, she added. We don't charge mileage when the sheriff responds, so County Commissioner Randy Dallke thinks this needs to be kept as part of a service the county provides, but if you figure approximate postage, employee time, and the number of trips we make, it costs approximately \$200 for a rezone, Strait said. Members discussed the current Lot Split cost is \$25, but the actual cost to the county is \$28, so it should go up to \$30. A Rezone has an actual cost of almost \$100, so the fee should go up from \$75 to \$100. We have been trying to map out our driving routes and it has cut almost \$50 off our gasoline bill each month by planning out our trips, Strait told members. It was questioned that maybe we should not worry about mileage or employee time, so we could figure raising fees to \$100 for all that are currently either \$50 or \$75. This would put us close to what Dickinson County charges, but their zoning permits are higher than ours are, Strait told members. Is this gospel?, Maxwell asked. The county commission does not want to go up too much, Strait said. Base units for the county can help Marion County, because Marion County has been the last pig in for a long time, Maxwell said. It is really not a service in my mind, it is part of living in the county, and Wichita and others are compensated with some pretty big dollars, Maxwell said. You don't need a public hearing to set fees, Strait said. It is just an action item?, Mueller asked, and Strait said yes. The residential average is \$115, Maxwell said. You hate to multiply the current fee by five, Mueller said. You don't have to make a decision tonight, Strait told members. It seems

taking the average is the way to go, Becker said. This is different than a service, Unrau said. I think we need to make it clear to the county commission that there is a different way to look at this, Unrau said. I don't agree with not including the employee time, Maxwell said. That all costs somebody something, he added. We didn't include office supplies, Strait said. You could even include part of the cost of the building the office is in, Maxwell said. My air conditioning people include mileage, etc., Unrau said. You don't have to call it mileage, Maxwell said. Keep it simple, Mueller said. If you build a \$100,000 to \$200,000 house, \$100 is peanuts, Bartel said. I see it both ways, Strait said. But, this is a benefit, she added. Strait suggested members look over the fee information at home and discuss it again at next month's meeting. Bartel suggested Maxwell come up with projection figures for the next meeting. Changes would not go into effect until the first of the year anyway, right?, Mueller asked. We can do it whenever, Strait said. It is nice to have it (the changes) all together, Avery said. Strait pointed out they do not have test supplies included in the figures, either. Maxwell asked if the tests go in to KDHE (Kansas Department of Health and Environment)? No, I do it here, Strait said. I am hoping for grant money to get some new testing equipment, Strait said. Strait explained what all she tests water for. Bartel asked if the tester is portable, and Strait said the new one will be. Maxwell pointed out wear and tear on vehicles is another reason to include mileage. Avery asked if it is possible to get figures from a more comparable county. Maxwell said the costs are higher here. Others can plan their day and save on travel, but here you may only have one trip but you need to get it done that day because of a closing, etc., Maxwell said. County Commissioner Dan Holub was now in attendance and he explained to members what the county commission's thoughts are on this matter. I think we all agree our fees should increase, Avery said. Avery suggested rounding up the figures of the costs of operations. Maxwell said that still will not cover all the expense. Would you increase the fees with the cost increases each year?, Unrau asked. Publications and postage goes up each year, Mueller said. We have the same fees we had in 1992, Strait said. Mueller asked if there were any other questions about fees.


Off Agenda Items. Strait reviewed the history of the Vinduska property. She explained this property involves several permits and several families. They all own one parcel of 160 acres, she explained. And, they want a Lot Split, she added. They have three daughters and a son, and two of the daughters and the son all built a house out there, she explained. Strait showed members the property and the homes on an aerial photo. They all look pretty close together, Mueller said. Strait said at one point there is only 32 ½ feet separating the homes. And, they have a communal sewer system, Strait said. They don't want easements, she added. So, they just want what they want, Avery said. Strait said in 2002 they went to David Brazil and he said they have the right to build four houses on their property, and he permitted three of them. Dave Yearout said there is no legal way except to plat it, and the rest stays in communal ownership, but they don't want to pay for the engineers, Strait said. I have been out there two Saturdays for two to three hours each time, and they want me to come again this Saturday, Strait said. Members suggested Strait tell them her regular office hours. Every year they argue

about why their taxes are higher than their other family member's taxes, Strait said. Dave Yearout said no, not even one Lot Split, Strait said. It sounds like a nightmare all the way around, Eilerts said. I think their original train of thought was that they want to look after their dad, Strait said. That goes back to personal problems, not legal problems, Eilerts said. Maxwell asked about a cell tower that was recently constructed off the highway. Maxwell asked if the tower is set back from the road like it should be. Strait said she questioned it, too. Eilerts also remembered the conversation (at the time of the application) including the fact that the tower would be almost out of sight from the road. Strait said she will check on it. If it is not in the right place, then what?, Strait asked. Eilerts recalled a tower years ago where the color of lights on the tower was disputed. Avery asked if the cell tower by Peabody is ever going to go up. They have had three building permits, and all three have expired, Strait said. The one by Florence is still not started, either, and it is the same company as the one by Peabody, Strait said. Members discussed further what if the tower is in the wrong place. It is a safety issue, Mueller said. It would take an exorbitant amount of money to move it, Strait said. They may take it down and not put it back up, Becker said. It may be playing tricks on the eye, Maxwell said. Strait told members their mileage is no longer limited to \$100 per year. The next meeting is October 23, 2008. Becker made a motion to adjourn and Maxwell seconded the motion. In favor: 7; Opposed: 0; Motion carried and the meeting adjourned at 9:42 p.m.

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS



David Mueller,
Chairman



Margo Yates,
Secretary

