

**Planning Commission Meeting
January 8, 2019**

Meeting called to order: 7:00 p.m.

Board Members Present: George Teagarden, David Berglund, Charlene Sims, Ed Andersen, Richard Morrell, Fred Kautt, Melanie Staton, Tate West and Secretary Courtney Calkins.

Also present: Andy Mayhugh, Planning & Zoning Director.

Pledge of Allegiance led by Fred Kautt.

Minutes were discussed. After discussion, motion by Ed Anderson to approve the minutes of the December 11, 2018 meeting as written. Seconded by George Teagarden. Motion passed 8 - 0. Secretary and Chairman signed.

New Business:

2019 ELECTION of OFFICERS: Ed Anderson Motion, Fred Kautt 2nd. Motion Passed Unanimously.

Chairman: Charlene Sims nominated **Dave Berglund**. Ed Anderson 2nd the motion. Richard Morrell moved to cease nominations. Vote passed 7-0 approved (1 non-vote).

Vice Chairman: Ed Andersen nominated **Richard Morrell**. George Teagarden 2nd the motion. David Berglund moved to cease nominations. Motion Passed Unanimously.

Secretary: Dave Berglund nominated Courtney Calkins. Fred Kautt 2nd the motion. Motion Passed Unanimously.

- Approval needed by each member for 2018 mileage reimbursement. Members signed and/or corrected mileage form for submittal to accounting.

Old Business:

David Fisher: Provided a new presentation (*See Enclosure*).

- KS Statute 12-741 is for the "protection of the public health, safety and welfare".
- Setback Considerations.
- Property Values.
- Conclusion

David Berglund asked for any other comments. None given.

Andy Mayhugh discussed the following:

Proposed Amendments to Zoning Regulation.

APPENDIX A:

- Page 2 - § D - ¶ 1 - Sub§ A.

Commercial Wind Energy Conversion Systems shall be set back from public roads a distance equal to at least **1.5 times** height of the system and from any **Participating** commercial or residential structure...

Planning Commission Meeting
January 8, 2019

- Page 2 - § D - ¶ 1 - Sub§ B.

No turbines shall be located closer than **1.5 times** the height of the system from the lot lines of any property....

- Page 2 - § D - ¶ 1 - Sub§ C.

All turbines will be set back from any residential structure of a non-participating landowner **existing at the time of application**, a distance equal to at least three times the height of the system or **2000 feet**, whichever is greater.

- Page 3 - § D - ¶ 7. **on Demand Lighting** approved by the (FAA).
- Page 3 - § E - ¶ 1.

...matter is heard by the **planning commission**,

- Page 3 - § E - ¶ 1 - Sub§ B.

Applicant must provide the names and addresses of all landowners within the WECS project area and all landowners within **1 mile of exterior perimeter** of the WECS area. Staff recommended changing this 1 mile listing to 1000' as is provided in State Law for rezoning cases.

- Page 4 - § F - ¶ 1.

A topographical map with contours at intervals of **10 feet** at a 1: 2000 Scale....

- Page 5 - § I.

Applicant shall comply with all requirements provided by law and obtain all permits required by..... and the Farm Service Agency (FSA) regarding the protection of wildlife and **identification of** wetlands.

- Page 5 - § L - ¶ 1.

The applicant shall provide 24-hour contact information to the Linn County Emergency Management Department and shall post emergency contact information on site.

- Page 5 - § L - ¶ 2.

Any equipment so identified shall be **purchased or provided by the applicant**.

DECOMMISSIONING AGREEMENT – Allen County Example Provided. *(this document is not part of their application, it is a separate document. It is a legal document between the County Commissioners and the applicant. It must be approved prior to construction.)*

WIND FACILITY DECOMMISSIONING – North Dakota Example Provided.

- **Andy Mayhugh** Recommends setting Appendix A for Public Hearing. The commission can always require more information from an applicant, but this will allow us to be more prepared than other counties have been previously.
- **David Berglund:** Came back from Washington recently watched wind turbines for hours. This made him aware of the way energy is going. He is glad we are taking these steps to be prepared. No one will be able to throw an application on Andy's desk and start building.

**Planning Commission Meeting
January 8, 2019**

Vote on Changes to Appendix A: A motion was made by Charlene Sims to approve, Richard Morrell 2nd.
Motion Passed unanimously.

David Berglund would like to have more time to study before setting a public hearing for Appendix A.

Ed Anderson: Let David Fisher know that he appreciates all the work David has done as well as his input. It's not gone to waste.

Frank DeRemus of Blue Mound stated he was unclear if the decision had been made to allow windmills in Linn County.

David Berglund: There has been no decision not to allow them. Right now, we are trying to accomplish the regulations.

Frank DeRemus: Research from the World Health Organization and universities is being released on wind turbines. Just because everybody's doing it doesn't mean it's the right thing to do. The health effects and effects on wild life are scary. They have seen an increase of Cardio Vascular disease. There are also economic concerns. It seems like a corporate move to feed from government subsidies. Wind turbines have the largest subsidies and lowest energy production (about 2%.) Germany is shutting them down in their own country and now a German Company is coming here to set them up. The feasibility is not there, and the technology is not there. We have a lot of people that survive on animals and farming here. There's noise pollution affecting trees and animals. Plant life dies, and wild animals move out of those areas. This creates changes in the eco environment. The noise pollution is 48 decibels at their peak. There's also sound radiation emitted. The World Health Organization is starting to recognize these issues now.

David Berglund: We are a long way from Government Subsidies. We will do our best to make it as safe as possible and have our home work done.

Andy Mayhugh: If an application is made and completed then there will be a Public notice issued in the newspaper and the property owners will receive a notice. This board can only make a recommendation to the County Commissioners to consider.

A motion was made by Richard Morrell to adjourn and Charlene Sims 2nd which passed unanimously.

Attest:



Secretary – Courtney Calkins


Chairman – David Berglund

Clc

1 Enclosure

**Planning Commission
February 13, 2018
Linn County Annex**

Members Present: Ed Andersen, Dave Berglund, Jo Ernst, Fred Kautt, Andy Mayhugh, Charlene Sims, & Tate West

Staff Present: Jackie Messer & Sheri Loveland

Fred Kautt called the meeting to order at 7:00 pm.

Dave Berglund led the Pledge of Allegiance.

Ed Andersen motioned to approve the minutes of the previous meeting, Tate West seconded. All in favor, 7-0 vote.

CUP 18-002, M&M Adventures LLC

Request to construct RV & Boat Storage Building.

Mike Page stated that M&M would like to start the RV & Boat Storage Building this spring with a possible addition of a mini storage by the end of the year as needed. The property is located at 2200 Valley Rd at the NE corner. There is just under 10 acres there, located just east of the cabins and restaurant on K-152 at the Hwy 69 K-152 exit at La Cygne.

Mike Page stated that the building trusses will take a 40 lb. dead weight, a 15 lb. live load which is the standard load for a pole barn. The columns will all have a concrete base, and each will include anchor bolts.

Tate West was concerned that the weight of the heavy type RV's entering and exiting the property could cause excessive wear to the pavement and along the edges of the pavement where it meets the gravel proposed entrance to the property.

Charlene Sims asked if the property would be accessible 24 hours a day. Mike Page stated that for now yes it would, later a gated secure entrance would most likely be added. Mike also stated that M&M has already applied to KCP&L for the electricity. The electricity will be at the residential level.

Tate West suggested that 2 conditions be put on the property:

- 1) That is the edges of the pavement along the road and into and out of the entrance deteriorate M&M be responsible to repair the damage and remedy the problem.
- 2) That signage for the business be attached to the side of the building facing to the westerly direction.

Charlene Sims stated the following findings:

- 1) The proposed business conforms to the character of the neighborhood.

- 2) The zoning is appropriate.
- 3) The proposed business won't negatively affect nearby property in any adverse ways.
- 4) Health, safety, and welfare are in compliance.

Andy Mayhugh recommended the following conditions:

- 1) The entrance be created per requirements of Linn County Public Works Department.
- 2) A building permit for the cost of the proposed business be issued within the next 365 days.

Dave Berglund motioned to approve CUP permit 18-002 for M&M RV and Boat Storage be approved.

Ed Andersen seconded the motion.

All in favor, 7-0 vote.

CUP 18-001, Tanglewood Lake Owners Assoc. Inc.

Request to install a solid waste compactor site.

Jackie Messer stated that the compactor was put in before it had been approved so it needs to be approved or taken back out. The compactor was added because prior to this Tanglewood had been using open topped dumpsters and it was costing \$20,000 a year to have them dumped. It was then decided that for that amount of money Tanglewood could purchase and maintain their own compactor. Linn County has agreed to provide the compactor containers and dump the trash at no cost to Tanglewood.

It has been discovered that these compactors are required to have a transfer station permit, per the State of Kansas. This needs to be looked into.

Jackie Messer showed pictures to the Planning Commission of the way a cage was constructed around the compactor. There is a walkway up to the compactor and vehicles cannot access the compactor. Robert Lawrence from Tanglewood stated it was done this way in hopes of keeping contractors from dumping their trash into the compactor. Robert also stated that there are surveillance cameras that are marked with signs, stating their presence, at the compactor. Jackie Messer stated that tires should not be allowed to be put into the compactor, there are other options for tire pickup and removal.

Ed Andersen asked if the area is chip and seal or gravel and it was stated that the area is gravel.

There has been an agreement signed with Tanglewood Lake Owners Assoc. Inc. that Tanglewood will be responsible for all the maintenance. There should be a clause added that Tanglewood will also be responsible to maintain and upkeep the road.

Tate West stated that 1650 Rd and Mills Rd might need more upkeep with the travel of the compactors in and out of the Lake. Jackie Messer stated that he believes the one large compactor will be less wear and tear than the open topped compactors that were being transferred in and out prior to the compactor.

Charlene Sims wonders if the State of Kansas requires a recycling center with every transfer station.

Fred Kautt asked if the compactor will be open 24 hours daily. Robert Lawrence stated that it would be.

Charlene Sims discussed that the only addition besides the compactor and container was the 12 X 50 concrete pad, the cage, and the walkway. It was stated that the area has been used historically as a dump station for at least the last 17 years. The surrounding owners have been notified and are aware of the change to the new compactor system and were invited to this meeting. Tanglewood pays the insurance and a copy of the insurance is and will be kept on file with Linn County Zoning and Planning.

Charlene Sims stated the following findings:

- 1) Fits the character of the neighborhood.
- 2) The area surrounding is used in a similar way. There is a shop and maintenance nearby.
- 3) The site is suitable, has been used for a similar use for a long time.
- 4) This is a gain for the public health concerning safety and welfare.
- 5) Conforms to Compliance Plan.

Additional Conditions are:

- 1) Tanglewood maintain the road repairs.
- 2) Tanglewood provide and maintain insurance and have their insurance provider send a yearly copy to Linn County so the county does not have to ask for it yearly.
- 3) Area kept free of litter and blowing trash.
- 4) Must follow all KDHE and County Solid Waste requirements.
- 5) Absolutely **NO** CD material in compactor.
- 6) Rules and regulations must be posted.
- 7) No tires, chemical waste, hazardous, or commercial type waste.

Dave Berglund motioned to approve CUP permit 18-001 for Tanglewood Lake Owners Assoc., Inc. be approved as conditioned.

Andy Mayhugh seconded the motion.

All in favor, 7-0 vote.

New Business-

Compliance Plan review. It was agreed to postpone this discussion until the next meeting when we have a full staff on hand.

Dave Berglund suggested that the board needs to try to find a way to get young people involved in some of Linn County boards. Perhaps go to the schools and involve the kids in an apprenticeship program where they attend meetings and get involved. Jackie Messer stated that the County Clerks office is holding a Government Day on March 15th and perhaps there should be a Planning and Zoning stop

added. The children from the schools will be attending this function. Perhaps this would spark some interest in the youth.

Tate West thinks that pertaining Code Enforcement we need to look at the minimum residential code standards and try to enforce them within Linn County. He suggested that we increase the code requirements towards safety. Such as requiring egress in basement windows for fire safety.

Mike Page stated that we have the codes but need to find a way to enforce them.

Tate thinks that we need to address minimum code standards now or it will cause more problems if we wait until later and things keep getting built that are not up to code.

Tate also stated that La Cygne wants to prohibit the shipping container types of homes. The board members agree these homes can take away from the value of other stick-built properties when allowed in the neighborhoods.

Mike Page stated that the County also needs to address the Tiny Homes.

Robert Lawrence talked about the need to clean up the abandoned vehicles in Linn County.

Tate West stated that we need to encourage more residential building in Linn County. The only building going on seems to be at the Lake communities. La Cygne only had 2 new homes built last year and one was a modular. He thinks by enforcing the codes it will help make the community more presentable and encourage the building of nicer communities.

Dave Berglund motioned to adjourn at 9:00 p.m.

Tate West seconded the motion.

All in favor, 7-0 vote.

Linn County Planning Commission Meeting

April 10, 2018

Linn County Annex Building

Present: Members-Richard Morrell, Dave Berglund, Jo Ernst, Charlene Sims, Ed Andersen,
George Teagarden, Melanie Staton
Planning Director- Andy Mayhugh
Linn County Staff- Jackie Messer & Sheri Loveland
Guests- Dezerae & Cory Poole and Kathleen Stone

Meeting called to order at 7:00 p.m. by Charlene Sims followed by Pledge of Allegiance.

Ed Andersen motioned to approve the minutes from the February 13, 2018 minutes with a change from Fred Kautt to Charlene Sims being the person that called the meeting to order. Dave Berglund seconded the motion. All in favor 7-0.

Case #CUP18-003

Discussion on CUP 18-003 for Linn County Dance and Cheer per Dezerae & Corey Poole.

The Poole's have been having dance and tumbling classes for the youth of the community in Studio 9. There is not enough room and they would like to build a 40 x 50 metal building on their own home property to be able to continue growing their business. They will remove 2 old buildings and build the new building. The building will have an open floor plan with a restroom and waiting area with a one-way window, so parents can observe their children. Classes will be mostly in the late afternoon and evenings and none on the weekends. Charlene Stone, concerned neighbor questioned the parking and wanted to know what kind of signage was anticipated. The most vehicles they anticipate being there at one time will be 12 but they can currently park between 15-20 vehicles comfortably. Poole's do not anticipate a lot of traffic as the classes will be staggered in time. Dezerae stated that signage will be hung on the building and that any to be put at the driveway has not been discussed yet. If there was signage later, it will be at the corner of 1050 Rd and Hwy K7. Richard Morell questioned the type of sewage system in use and Corey Poole stated that is sewage with laterals. Mike & Wendy Morlan sent a letter in stating that the only thing they wish is the business to not cause degradation to the neighborhood and if that was the case they objected to the business. They also stated that if it was as innocuous as the Brownback business then they have no objection. Christina & Nicholas Yosick sent a letter in stating that they have no objections to the Poole's permit being granted. Dezerae stated that the only other thing they might do is install a garage door that can be opened for air flow to keep the building cool during dance sessions.

After discussion, Andy Mayhugh gave the following staff findings:

1. That the proposed use would conform to the character of the neighborhood 40 X 60 accessory buildings are common on large lots and generally host a variety of uses.

2. The proposed use is similar to uses nearby. One similar use is Lloyd Brownback to the Northeast of this location. He has a large metal building in which he operates a personal mechanic shop.
3. The proposed use will not adversely affect nearby property.
4. There is relative gain to the public welfare in providing athletic training to youth.
5. The application conforms to the County's Comprehensive Plan.

Staff then recommended approval with the following conditions:

1. Applicant shall provide sufficient on-site parking covered with an all-weather surface. Parking for this use shall not be allowed on 1050 Road.
2. Signage for the proposed use shall comply with County Resolution 2011-12 (Linn County Sign Regulation).
3. On-site wastewater systems shall comply with the Linn County Sanitation Code.

After further discussion, Dave Berglund wished to attach an additional condition. That being:

4. A 5-year renewal permit be issued at this time with option to renew upon review.

Dave Berglund stated this is a great business for the community and good for the youth to have something to do. Jo Ernst agreed with Dave. Ed Andersen stated that dance is a great incentive.

Dave Berglund moved to grant CUP 18-003 with the conditions and findings as stated.

Ed Andersen seconded the motion. All in favor 7-0.

Andy Mayhugh stated that the County Commissioners will hear on this on April 30, 2018.

The Linn County Planning Commission has 2 new members. Richard Morell from Mound City and Melanie Staton from Pleasanton. The Commission had a round table event introducing themselves to each other and discussing their life involvement and accomplishments.

Comp Plan Review

Discussion led by Andy Mayhugh on the "Comprehensive Development Plan 2006-2026 by JEO.

Dave Berglund and Charlene Sims discussed updates in Linn County and things that have changed. Dave stated that he wasn't sure the requirement to have 10 acres to build in Linn County was such a good thing and maybe discourages people from building here. 10 acres is too little land to farm and more land than a house requires. Dave thinks this needs to be reconsidered. Dave would like to encourage more upstanding people to come live in the country in Linn County.

Andy state that is not a "Comprehensive Development Plan" issue and that perhaps the discussion should be tabled for the future.

Andy asked the Commission to go to P. 12 & P. 13 in there "Comprehensive Development Plan" books.

The Commission looked at the fact when the population in the book was projected we were growing as a County and currently we are not. Next looking at pages 125-149 they looked at Future Land Use. There is discussion of General Policies and Agriculture. Under Industrial development policies please review "Future Land Use" and notices the sections; Ag, Tran Ag, Commerce, Industry Village, Residential,

Public, Watershed and Flood Plain. They looked at the Future Land Use map attached and discussed what needed to be reviewed.

Dave Berglund stated that the 69 Highway access on and off ramps were supposed to be conducive to development of the County as strategically placed. Charlene Sims stated that in her opinion this is not always good for the neighborhoods. Andy stated that this can be dealt with if the areas are zoned according to what needs to be developed and how it needs to be developed. CUP permits should not be pulled after someone has put thousands of dollars into their business as they would have an investment backed expectation., so it needs to be looked at prior to the issuance of the permits. Andy asked everyone to turn to P. 162. This has not been reviewed since December of 2016 and the commission needs to do a review and sent a current report to the County Commissioners.

Melanie Staton and Jo Wentz were excused due to prior engagements.

Ed Andersen made a motion to review the "Comprehensive Development Plan 2006-2026 by JEO and make any needed changes by a deadline of January 2019, but no changes at this time.

Richard Morrell seconded the motion. All in favor 7-0.

Andy Mayhugh passed out documents on the current Population Trends to the Planning Commission.

Dave said a problem he sees is the LaCygne Power Plant is now a peaking station and that will affect jobs and development in the La Cygne area. Discussion that there isn't much to attract outsiders to Linn County was made. How people come here and realize there isn't any major chain stores or much entertainment for families available.

The last Census states that for Linn County:

Majority Race 95.9% Caucasian.

Education is 89% with a High School Education and 16% have a Bachelor's Degree.

Economy is 56.2 Civilian with a labor force of 16+ years of age.

Transportation to work is an average travel length of 32.6 miles for a labor force of 16+ years of age. This means a lot of our workers are traveling out of Linn County for work.

Average household income is \$45,790. Percentage of people living in poverty is 16.6%. Population per sq. mile is 16.3 people.

Andy Mayhugh suggested that a drop in population does not mean we should not be looking at planning for the future. If anything, it should place greater emphasis on proper development techniques as there will be fewer people "in county".

Dave Berglund stated that the County has a lot of improvements that need to be done but no one wants to pay for the improvements. The Courthouse is in sad shape and there are 2-3 old brick buildings in Mound City that could collapse as the brick constructed building in other towns. One building in La Cygne has collapsed in the past as well as one in Pleasanton. He feels if we had building codes things would be different and he wants to see Linn County grow.

Andy Mayhugh thinks the zoning regulations need to be updated. Suggests the County start with a Village Plan focused around the lake communities. The County Codes and Lake HOA rules need to mimic each other. Currently, they contradict one another. The State of Kansas has statutes on zoning and land use changes. and Linn County needs to amend portions of the regulation so we are consistent with the Kansas State statutes. Linn County needs to become diligent on following up on these things.

Andy Mayhugh stated that there are Wind Generated power test towers of 300 feet coming into Blue Mound area. They will be testing for wind for about 1-3 years. They will probably be back wanting to put in the true towers within about 3 years. We need to be prepared for any requests they will have to make sure we cover our bases on what conditions need to be required of these companies in CUP permits and what regulations and codes need to be enforced. We need communicate with other counties and find out what has or has not worked for them in allowing Wind Generation to come into their counties. Need to specifically look at what building codes and zoning requirements Linn County needs to have in place prior to their applications to do business here. Also need to look at requirements needed in sewage, living quarters, dwellings, and work quarters.

Jackie Messer stated that we need to look at minimum codes for Linn County and that he has been discussing the legalities of minimum codes with Gary Thompson, Linn County Attorney. He agrees that the minimum code requirements need to mimic the lake community covenants and that County and the lakes codes need to be alike. Right now, Sugar Valley Lakes requires a minimum 600 sq. feet residential to build a home. Linn County has no minimum size requirement in place.

Richard Morrell stated that there are 5 lake communities. These communities and Linn County must come together and agree so that the codes can be enforced. Andy Mayhugh stated that we can compare Linn County codes with the lake community covenants/rules, but we cannot enforce private covenants unless we adopt them. He didn't think every provision should be adopted by the county but, it could be a little closer to each other.

Richard Morrell stated to change any of the rules at Sugar Valley Lakes there must be a 2/3 owner vote for that change or it cannot be changed.

Another issue that needs to be addressed between the county and the lakes is currently there is a minimum of no more than 5 vehicles per owner/property allowed in Linn County but that is not the same as what the lake communities state. 5 vehicles on a 100' x 100' lot has a greater impact on adjoining properties than on 40 acres.

Dave Berglund stated that we must start somewhere. So perhaps we start with some small items first and work from there. Jackie Messer stated that he thinks the County Commissioners would be open to starting with a minimum code.

Jackie wanted to know what the next step should be. He suggested that we start by inviting some of the people from each lake community to a meeting. This includes: Sugar Valley, Linn Valley, Tanglewood, Chaparral, and Holiday Lakes. There is a need to have a gathering first and sit down and talk about what the issues are and get some ideas of where to start addressing these issues.

There was discussion that Chaparral Lake is about to lose their HOA (Home Owners Association) due to lack of funds. They have gone to collections and gotten some of their past Home Owners past due annual dues, but they have very little money left to operate on and probably will be lucky to make it

through 2018. Linn County is not sure what becomes their responsibility at the point of bankruptcy to a lake community. This issue needs to be investigated.

Tanglewood has about a ½ million dollars in dam renovations that will be coming their way and they do not have the money to repair the dam.

Richard Morell stated that Sugar Valley Lakes got a letter from the State of Kansas that says the dam for that lake is currently okay.

Richard Morrell thinks the Planning Commission has a priority in getting the codes for the Wind Generation Plants in place with this type of business coming into Blue Mound. Tower height is already covered in the codes. So, research needs to be done into what other codes need to be added.

Charlene Sims made a motion to adjourn. Dave Berglund seconded the motion.

All in favor 5-0.

PLANNING COMMISSION MEETING

May 8, 2018

PRESENT MEMBERS: Ed Andersen, Dave Berglund, Joe Ernst, Fred Kautt, Charlene Sims, George Teagarden, Tate West

GUESTS: Andy Mayhugh, Jackie Messer, Randy Adams, Bobby Flowers, Damon Leonard, Mona Palzer, Thomas Palzer, Bruce Holt

Meeting called to order by at 7:00 p.m. by Charlene Sims

Pledge of Allegiance led by Fred Kautt 7:01 p.m.

Two corrections were to be made per Charlene Sims. Dave motioned to approve minutes with corrections, Ed seconded.

At the request of the Planning Commission, Andy Mayhugh invited members of the lake communities to the meeting. He mentioned that he would like to review draft zoning districts that would more closely mimic lake communities' covenants and restrictions so it's more cohesive. Jackie mentioned that our County codes do not match the lake community covenants.

Randy Adams introduced himself as President of the HOA of Tanglewood Lakes.

Tom Palzer introduced himself as President of HOA Holiday Lakes.

Jackie discussed the new position of Code Enforcement that the County Commissioners have approved. Currently we have no way of enforcing the codes. This will allow us to follow the violations all the way to Codes Court, so it can be followed up on and enforced.

Randy asked if this is going to allow the Lake Communities to let up on having to try to enforce the violations among the Lakes.

Jackie says the county will go with a documentation procedure to clean these violations up first and then go to litigation if the violations are not resolved.

Dave Berglund questioned how it will be decided on who is or is not following the rules or violating codes.

Jackie said that this is the problem and the County would like to see that the people from the lake property owner's covenants are in alignment with the county so both entities agree.

Tanglewood & Sugar Valley both need a high percentage quorum of homeowners to change any of their by-laws. It is almost impossible to make any changes at these levels. Linn Count

can't change their covenants but if the County adopts a minimum code requirement then the Lake Properties will have to follow the counties code.

Tate West stated that the issue at Tanglewood in enforcing the codes is not being able to get enough people involved to change the rules and that Tanglewood is growing at a very rapid pace. The properties that have been built in the last 10 years a lot of them do not adhere to the 600 sq. ft living area minimum dwelling size. Tanglewood lacks the financial ability to take the violators to court. Nuisance abatement is an issue at Tanglewood, some of the property owners have even threatened the board members who try to enforce the rules. The County does not have a code that enforces property owners or others for the shooting of guns within residential communities.

Randy says the lack of coordinating codes and rules have created these problems. All Tanglewood has ever asked the County is to help enforce the laws and rules & regulations of the Lake. The lake community rules state that they have control of the common property but once it is owned by an individual then it is no longer common property it becomes personal property. Tanglewood requires 600 sq. ft. if the people are living there full time. The weekenders do not have to have 600 sq. ft. but there are limits to how and how long the property can be stayed in. Randy tried to compare the county requirements with the rules and definitions of the lake, including sanitation, nuisance abatement, etc. He stated that the County has nothing in place on the subject of sanitation and that he couldn't even find anything at the State level.

Dave Berglund brought up rock quarries and other issues and wanted to know if he was right in stating that the State supersedes the County in all codes and laws.

Dave wanted to know if it was true the police couldn't enter the lake properties without being called.

Tate West stated that the police can come into the lake property to patrol without being invited. Tate stated that housing, nuisance, and gun use are some of the examples of the codes that need to be looked at and enforced. He would like to see the County make a list of top 10 and start working on them.

Dave stated we really need to do some serious thinking about getting this going.

Jackie feels like the last Commission had been leery about getting into this minimal code structure. Some of the issues we have been hamstrung on such as sanitation have been hard to deal with since he has heard that if property owners put a No Trespassing sign on their property no one can enter the property. Jackie would like to get KDHE involved in helping us to get to where we can enforce these codes. Jackie feels that there is going to have to be limitations perhaps on 1-acre parcels or larger and start from there. A "dwelling" must be defined as well as other terms we will be using in writing these minimal codes.

Randy and Jackie agreed that the County and the lake properties should be able to come close to being agreeable on minimum codes.

Dave suggested perhaps we start out with 5 things and go from there. The County enforcement officer will have trouble enforcing if we do not get something that is cohesive between the county and the lake properties.

Tate stated that if the problems are small that the HOA tries to solve it. Where they need the help is when they can't get the people to comply. In addition, Tiny Homes is an issue that needs to be addressed.

Randy stated that RV's and campers i.e. are only seasonal at Tanglewood and are supposed to be removed at the end of the summer.

Andy stated we also need to look at container homes.

Jackie stated that the only portion of a building code the County has written currently addresses the installation of a "Single Wide" or "Double Wide".

Jackie feels we can start with Nuisance as there shouldn't be a lot of discrepancy between the County and the Lake property rules. Abatement is a problem since for example the Lake Properties have a different view for what is acceptable than the County does.

Tate thinks that the focus should be on "does the problem adversely affect other peoples property values" in writing minimal codes.

Tate suggested Andy start a template, since he is the one with the experience, and it's brought back to a meeting and we start working on it.

Andy suggests perhaps more than one zoning district be created within the County. This would allow for better coordination with the Lake rules. He suggested allowing CUP's in the Lake Communities such as a Mom & Pops allowing such Commercial businesses. Tanglewood and Sugar Valley lakes rule say no businesses are allowed on private property.

Bobby stated that the Marina is an RV park. He stated that there are rules at the Marina. Bruce Holt says that he tells the people that live there they get one warning and they're out if they break the "rules". But the County is a whole different story than private property. Charlene asked if they have a limit on how long the people can stay and Bruce stated that as long as the people abide by the rules and pay their dues they can stay as long as they want. To make money they need the long term leasors.

Jackie stated that there are grants for getting street name signs currently available. He is going to get with Pam Cannon in mapping with the County about it. This could be a good grant for the Lake Communities.

Randy is very appreciative of being invited to this meeting. Would like to be included on an email list for zoning changes and codes that affect the Lakes.

Dave requested information from Andy on more detail about what a "Village Community" definition should be. Andy said maybe we have Z-1, Z-2, etc. so that each area encompasses the rules within the Lake communities.

Tate stated that perhaps enforcing the RV & trailer type properties that are not current on their tags be a place to start.

Tate said that In Section 4 it talks about sewage and water systems.

Tom Palzer said that at Holiday Lakes there are some of the old septic tanks that are just sitting there overflowing. There has been people that have tapped into their tanks and run their sewage across the road into the ditch. Andy asked if the Holiday Lakes have bought back enough lots to create their own sewage system for the community. They stated that no they hadn't. Andy stated that they could be replatted and put into a single property lot. They said this being done in the past has hurt them. When combined the County still taxes them at a single rate and this is actually a loss of revenue for the County.

Andy said he would review the minutes and also amend the proposed zoning districts and send them to the members.

There are some people Jackie is in touch with that have information on the wind generators that are willing to help lead us. He has a disc drive that tells the things the County needs to look into before allowing the wind generators into the County.

Fred stated there are no wind generators in Andersen County. He also thinks we should talk to the Counties that have put them in to get more information.

Dave Berglund says that these new developments are good for the community. Otherwise as things dwindle each of us will be paying more taxes due to a continually lower population within the County.

Charlene says she heard that 30% of the energy is currently coming from wind generation in Kansas.

Tate questioned what the downfalls are.

Fred Kautt showed a picture of the tower we approved at 1350 Rd and Botkin. Was suggesting that the wind generation would be a eyesore.

Ed Andersen said he really appreciated the Lake Property representatives coming to the meeting.

Tate motioned to adjourn. Dave Berglund 2nd. All in favor 7-0

Planning Commission Meeting

June 12, 2018

Meeting called to order: 7:00 p.m.

Pledge: Charlene Sims

Minutes were discussed. After discussion, minutes approved with changes.

By: Ed Andersen

Seconded: George Teagarden

Board Members Present: Fred Teagarden, Tate West, David Berglund, Charlene Sims, Ed Andersen, George Teagarden, Richard Morrell, and Fred Kautt

Absent: Melanie Staton and Jo Ernst

Also present: Andy Mayhugh, Jackie Messer, Sheri Loveland

Motion to move CUP 18004 EON Climate & Renewables NA LLC to the end of the agenda per Ed Andersen. Seconded by Charlene. Motion 7-0

Charlene Sims asked the public attending to please state their name and where they were from prior to speaking.

Case #SD18-01. Paul and Barbara Baird were present, son and mother respectively. Paul said that the property in discussion is family property and as such will stay in the family. He mentioned that they don't intend to split the property any further. Barbara said that it was her husband's wish that it stays in the family.

Dave Berglund said he sees 10 ft side yard setbacks but no utility easements in setback. Dave suggested the utility easements need to also be included in the plans. Jimmy Schmitz approached the committee with the survey plans. Jimmy stated the easement request is not a problem. Dave mentioned the utility easements are shown on the front of the property, but the plan does not show utility easements anywhere else around the proposed plan. Dave thinks utility easements should be shown all around the property. Jimmy Schmitz replied that these are 20 acre lots and thought maybe it should not be a problem. Dave suggested the setbacks be set up now so that in the future they are pre-planned. Barbara Baird mentioned that they are already zoned for agriculture and Dave Berglund replied that this is not really the issue. It was agreed that 10' easement on the west side will be changed to 15'. Setbacks on lot 1 and the east line of lot 2 also south building setback lines on lot 1 and also building setback limits on the north end of lot 2 will become utility with building setbacks combined. Andy Mayhugh asked that the change in these lots to be voted on.

Dave Berglund moved to have the changes reflected on the plat. Ed Andersen seconded the motion. All in favor 7-0.

Dave made a motion to accept the plat with changes. Seconded by Tate West. Vote 7-0. County Commissioners will hear this when changes are made and plat is signed.

Case #CUP 18005. Rich Eckert spoke on behalf of Mid-West Materials, LLC. The Cadmus quarry is a Kansas owned and operated quarry. This quarry does everything that quarries do, deliver rock, sell rock etc., Mid-West is asking for a renewal of a 4-year permit that expires in September of this year. Mid-West bought out Wade Quarries last year. This quarry also supplies rock to Miami and Anderson County in Kansas. It is a large regional quarry. Are wanting to talk about an expansion request also which is CUP-18006 and will be discussed after this request. Rich Eckert stated that reclamation is a very big deal to our corp. Mid-West intends to leave the site better than before it was mined. Mid-West is 3-time winner of the Mine Land Reclamation Award. Video was shown of Mid-West Materials, LLC reclamations. Rich stated that Mid-West is compliant with MSHA (Mine Safety and Health Administration). Rich Eckert stated that probably the most hinderance is the blasting. Can assure that the residence surrounding might hear the blast but there will be no property damage. Zoning schemes for mining are usually in an agricultural area of course not in the cities. Traffic safety is an important aspect to Mid-West. There is no parking along K-7 and they try to keep our traffic at a minimal. There is not any excessive lighting at night. If we do operate at night, we use specific lighting to keep the glare down. Ed Andersen asked if explosives will be stored on-site or brought in. Mid-West said that they are brought in and none would be stored on-site. Mid-West has to have a special permit to store them and they have no intentions of storing any explosives.

Staff recommended findings:

- 1) The use of the property as a quarry has existed for many years and quarries are commonly found in agriculture zoning districts.
- 2) The underlying zoning conforms to the character of the neighborhood.
- 3) The property is suitable for use as a quarry.
- 4) The continuation of the use will not detrimentally affect nearby properties.
- 5) There is a public gain to the public welfare by providing rock to this portion of the county.
- 6) The use conforms to the Linn County Comprehensive plan.

Recommended Conditions:

- 1) Quarry shall be operated in conformance with submitted plans and documents.
- 2) Property shall be used as a quarry, asphalt, and concrete plant location.
- 3) Conditional Use Permit shall be valid for a period of ten (10) years.

Charlene Sims asked if anyone wanted to speak against the quarry. No one spoke. Tate asked if we have records of their permits. Andy said he would check to see and if not, Mid-West stated that they will get them to Linn County.

Andy recommended that we approve CUP-18005, renewal of Cadmus Quarry.

Charlene wanted to know the life of the quarry and Rich Eckert said there is no way to truly know. Rich said they do not want to lose the site, so they would like to keep the permits up to date.

The request for CUP-18005 asked that it valid for 10 years. Dave Berglund opposes 10 years, thinks 5 years would be a better time allotment. Richard Morrell replied that is what the Counties guidelines that allow at maximum 10 years. That is why Mid-West has asked for a 10-year extension on the permit.

Charlene stated there have been complaints about the Cadmus Quarry and so she thinks 5 years might be a better solution so that it can be again looked after the 5 years. Dave Berglund stated that the types of complaints we receive are such things as chickens not laying eggs in the surrounding area.

Dave Berglund motions for a 5-year permit. With no additional conditions.

Ed seconded.

Charlene asked for anymore discussion. Richard Morrell wanted to know how long the quarry has been there. Rich Eckert stated it has been there 16 years. Richard asked if the last time it was approved that was that the time of the previous complaints? Dave Berglund said there are no complaints tonight, and that the previous complainants are not here tonight so the problems must have been resolved during the last 5 years. Richard states he doesn't think that 10 years is unreasonable but if the committee believes that 5 is a better decision then 5 years it should be.

7-0 vote approval for the CUP extension of 5 years.

This will be submitted for approval to the County Commissioner on July 2.

Case #CUP-18006, also Mid-West Materials

Dave makes a motion to give them a CUP extension for 5 years also since it's the same issues as were just discussed for CUP-18005.

Charlene Sims asked that in addition the quarries shall provide an environmental assessment. Charlene asked that it is stated that a reclamation plan & environmental plan be sent to the Zoning office of Linn County.

Rich Eckert state that no one can open a quarry without the reclamation plan in place with the state Kansas. Tate said the question is did they meet the requirements of the proposals? Rich Eckert said that they are ultimately responsible if they do not meet the requirements of the Permits. Tate stated that there is no water or wildlife areas surrounding the quarries only a line of trees and so there is nothing in that topic to have to be considered.

Scott Carlson, Assistant Director Division of Conservation for the State of Kansas. Anyone that has questions feel free to call him. He offered his business card to anyone that had any questions about Mid-West Quarries reputation. Scott stated that Mid-West always conforms to the regulations.

Conditions need to be the same as CUP 18005.

Dave Berglund motioned for a 5-year permit renewal. Fred Kautt seconded. All in favor 7-0.

Case # CUP#18004 Charlene Sims asked who was there to speak on behalf of CUP-18004.

Garrett Ketchum EON Climate and Renewables presented himself and his application. Garret stated that EON is asking to put up a meteorological tower to measure wind speeds.

Andy Mayhugh asked if this approved what is maximum amount of time needed to test?

Garrett stated 2-3 years. 1 year is not enough to judge the results.

Charlene asked who was present to speak against the wind test tower.

Bert Peterson from Garnett stood up to speak against. Stated he has lived in area for many generations. He had fought against the Anderson County test tower that was put up and then was vandalized. States that they know what the test towers lead to. Problem is the towers should not be built in the middle of agriculture areas. He has handouts to for others to review and consider the adverse effects of wind towers or test towers.

Jess Kinder spoke about the test towers. He has property in both Anderson and Linn County.

Jess stated that most wind farms are government subsidized.

Charlene Sims stopped this discussion as it was not on test tower but on the actual wind generators. The CUP request is for a test tower at this time.

Jerry Peterson asked what happens if there is not enough wind after the testing is done.

Tammy Veltman stated that it looks as if most attendees are opposed to the towers. It was also noted that many attendees opposed were not from Linn County but rather from Anderson County.

Fred Kautt asked why they chose the site they did. Garrett said that the Blue Mound area has more winds than other areas and that is why it was picked.

Charlene stated that if they do go forward with an application for a wind farm that these people come and attend again. Bert Peterson asked that the Planning Commission do some research into these test towers and that the wind generators have the same adverse effect as the test towers. Asks that the Planning Commission review information on towers before they make a final decision.

Location of test tower legal description: NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 15, Township 22, Range 22.

Mike White spoke, a Linn County citizen. Wanted to know if the landowner asked for this test tower or did EON ask the landowner. Garrett stated that he is not at liberty to divulge that information. Tammy asked what happens with towers after they are done with them. Brett stated that they take them out and leave the area as pristine as when the tower was placed. Fred Kautt said if anyone wants to see what they look like he has a picture of one.

Another citizen asked how they affect the adjacent landowners. Garrett stated that all data is compiled per satellite. He also stated that the towers are 60 meters or 197 feet tall.

Andy explained that before the actual generators could be installed and used EON would have to go through another complete application process. This is just the test, this does not approve an application of a wind generation farm.

Bert Peterson approached Planning Commission and passed out his research. He stated that sometimes these types of Wind Generation businesses approach elderly landowners and take advantage of these people. Garrett Ketchum stated that their contracts offer free legal counsel to anyone that signs a contract with them and are not happy with the results of the contract and wind farm that they have agreed to. Bert Peterson stated that if you allow even one tower in it leads to more towers coming in afterwards.

Jim Rutherford wanted to know why these people are here if they are not from Linn County? He stated that this is not the same company that had the adverse results at a farm in Anderson County. Jim wants to hear what Garrett with EON has to say, not what a group of people from Anderson County are here to say. A citizen from Anderson County stated that they were there as concerned citizens to make sure that Linn County does good research before they decide on allowing Wind Generation.

Bert Pearson wanted to know how much land this will affect. Charlene Sims stated 2.5 acres.

Garrett Ketchum told the audience that EON is a company out of Germany, but they have numerous branches throughout the U.S.

Dave made a motion for a 2-year conditional use permit and that after 2 years there will need to be further discussion.

Findings:

1. The application conforms to the Linn County Comprehensive Plan.
2. Towers are commonly placed in Agricultural Zoning Districts and therefore conform to the character of the neighborhood.
3. The application does not change the parcels' Agricultural designation and therefore it matches the zoning of the nearby properties.
4. The temporary placement of this tower will not negatively affect nearby properties to any great extent.
5. This proposal is encouraged by the landowner and is a positive to the public welfare by providing recorded data on existing winds.

Staff recommended conditions:

Time limit of 2 years then tower must be removed or an application for an extension must be filed.

Sign be attached with tower owners contact information.

Comply with any FAA requirements.

The commission was asked why they are even considering this CUP. Dave Berglund stated that there appears to be no harm in doing the testing. In 2 years it will be looked at again. The County needs to go forward into the future and prosperity possibilities for this County.

Garrett stated this process takes about 5 years and so you can't wait if you want to consider going forward with it. Garrett also stated that after 2 years they will come back and if all good perhaps we can go forward if not or it's opposed then apparently, we have wasted our money. EON takes that chance financially in doing this when making these leases.

Dave Berglund stated that since there aren't Linn County people present that are opposed to the test tower that most likely Linn County citizens are not against it.

Dave made a motion to pass the CUP for EON Climate and Renewables with staff's recommended conditions. Seconded by Ed Anderson.

All in favor 5-1, and 1 abstention.

Tate West stated that he voted for it because he feels that each landowner has a right to do with their property what they want.

July 2nd will be the County Commission meeting, do not know the time currently.

No Old business.

Dave Berglund motioned to adjourn. Richard Morrell seconded. Motion passes 7-0

Planning Commission Meeting

July 10, 2018

Meeting called to order: 7:00 p.m.

Board Members Present: George Teagarden, David Berglund, Charlene Sims, Ed Andersen, Richard Morrell, and Fred Kautt

Absent: Melanie Staton, Jo Ernst, Tate West

Also present: Andy Mayhugh & Sheri Loveland

Pledge of Allegiance led by Fred Kautt

Minutes were discussed. After discussion, motion by Richard Morrell to approve the minutes of the June 12th meeting as amended. Seconded by George Teagarden. Motion passed 6-0.

Case #Z18-01

Ralph and Barbara Hines

Application to rezone 6.45 acres from Agricultural to Ag/Residential.

Dave can understand the Hines position on this needed change. If approved, it would retain a larger amount of the parcel as Agricultural. If it doesn't interfere with the laterals, he didn't see any problem with these changes.

Staff agreed stating that we need to look at lot size requirements versus dwelling densities.

Charlene read the findings in the staff report and the Planning Commission discussed them and approved them. The findings are as follows:

- 1) No additional dwellings are proposed so no burden will be placed on existing infrastructure,
- 2) The creation of a 6.45-acre lot is not unique as there are several smaller lots East of the affected area,
- 3) The creation of 1 additional lot will not adversely affect nearby properties,
- 4) Approving the smaller lot retains more land in the larger tract. This fits the language in the adopted Comprehensive Plan. (page 149 Ag Uses, also pages 125 and 126).
- 5) The property is suitable for the proposed use.
- 6) Staff recommends approval of the application.

Motion made by George Teagarden to approve the application.

Fred Kautt seconded.

All in favor 6-0

Old Business:

Discussion - Proposed Amendments to Zoning Regulation

Staff recommends a 2 part action on amendments to the regulation. The first part would address wind powered generating units, cell towers and associated definitions. Once that is in place, address the document as a whole, including conformance with the Comprehensive Plan.

Andy passed out guidelines from Franklin County addressing Radio, Television, Telecommunications, and Microwave Towers. Andy likes sections of their requirements for cell towers. It seems to address some things we have seen in the past such as requiring co-location. The Planning Commission and Staff discussed several sections of Franklin County's requirements for towers.

Andy handed out Guidelines set out by the Kansas Energy Council on Wind Energy. He stated this is designed to help us recognize items of concern. The guidelines state we should consider: 1) Land Use 2) Noise Management 3) Natural and Biological Resources 4) Visual Impact 5) Soil Erosion and Water Quality 6) Safety 7) Cultural Archeological and Paleontological 8) Socioeconomic, 9) Public Service and Infrastructure, and 10) Public Interaction. Andy suggested we look these over and decide if we want all of these included in our proposed amendments or only particular ones.

Dave Berglund stated that some question if this is a good idea. Stated that it is either the turning to a greener type energy source or staying with the present coal type producing plant.

Andy Mayhugh stated that on EON's last completed field over 300 jobs were created and nearly 50 million dollars was paid in local taxes, owner payments, etc. The Planning Commission and the people of Linn County need to think about the impact this could have including revenue and taxes. At least, it should be considered.

Dave Berglund stated there will be issues to address on getting the power to other places. He talked about the science involved in getting the power to the correct areas according to supply and demand. Dave questioned that if you start producing energy from Windmills in Blue Mound where is it going to be sent from there? Dave believes we need an overall plan if we go forward into wind towers after the testing is done. Andy introduced a 2008 map of Wind Generation in the state of Kansas.

Andy stated that he has example agreements for road maintenance and construction and turbine decommissioning.

Andy passed out a KDWPT handout which is their Position Statement on Wind Energy and Wildlife Issues in Kansas, November 2017.

There was discussion on the future of energy. California now requires that if you build a new house that a part of the roof must be solar. Dave Berglund stated that Kansas does not have enough daylight hours to make solar as viable as wind. Maybe as technology improves, solar energy may become feasible.

Fred Kautt would like to know what economic changes have come from the wind generators that have been installed in the other counties.

Other discussion:

Dave discussed that it appears that we are going to go forward on the development of a new jail.

Dave also discussed the feasibility study that will be done at Sugar Valley Lake to see how many people are interested in having rural water run to their residences. The study will cost \$250 per lot for the study. Mailings will be sent out soon to see what the interest level is.

Plat of Baird Family Farm:

Changes to Plat approved, Dave motioned for the Chairman to sign the plat, Richard seconded the motion. Motion passed 6-0. Chairperson Charlene Sims and Secretary Sheri Loveland signed the revised plat.

After further discussion, motion was made to adjourn by George Teagarden. Seconded Richard Morrell
Motion passed 6-0.

Planning Commission Meeting

July 10, 2018

Meeting called to order: 7:00 p.m.

Board Members Present: George Teagarden, David Berglund, Charlene Sims, Ed Andersen, Richard Morrell, and Fred Kautt

Absent: Melanie Staton, Jo Ernst, Tate West

Also present: Andy Mayhugh & Sheri Loveland

Pledge of Allegiance led by Fred Kautt

Minutes were discussed. After discussion, motion by Richard Morrell to approve the minutes of the June 12th meeting as amended. Seconded by George Teagarden. Motion passed 6-0.

Case #Z18-01

Ralph and Barbara Hines

Application to rezone 6.45 acres from Agricultural to Ag/Residential.

Dave can understand the Hines position on this needed change. If approved, it would retain a larger amount of the parcel as Agricultural. If it doesn't interfere with the laterals, he didn't see any problem with these changes.

Staff agreed stating that we need to look at lot size requirements versus dwelling densities.

Charlene read the findings in the staff report and the Planning Commission discussed them and approved them. The findings are as follows:

- 1) No additional dwellings are proposed so no burden will be placed on existing infrastructure,
- 2) The creation of a 6.45-acre lot is not unique as there are several smaller lots East of the affected area,
- 3) The creation of 1 additional lot will not adversely affect nearby properties,
- 4) Approving the smaller lot retains more land in the larger tract. This fits the language in the adopted Comprehensive Plan. (page 149 Ag Uses, also pages 125 and 126).
- 5) The property is suitable for the proposed use.
- 6) Staff recommends approval of the application.

Motion made by George Teagarden to approve the application.

Fred Kautt seconded.

All in favor 6-0

Old Business:

Discussion - Proposed Amendments to Zoning Regulation

Staff recommends a 2 part action on amendments to the regulation. The first part would address wind powered generating units, cell towers and associated definitions. Once that is in place, address the document as a whole, including conformance with the Comprehensive Plan.

Andy passed out guidelines from Franklin County addressing Radio, Television, Telecommunications, and Microwave Towers. Andy likes sections of their requirements for cell towers. It seems to address some things we have seen in the past such as requiring co-location. The Planning Commission and Staff discussed several sections of Franklin County's requirements for towers.

Andy handed out Guidelines set out by the Kansas Energy Council on Wind Energy. He stated this is designed to help us recognize items of concern. The guidelines state we should consider: 1) Land Use 2) Noise Management 3) Natural and Biological Resources 4) Visual Impact 5) Soil Erosion and Water Quality 6) Safety 7) Cultural Archeological and Paleontological 8) Socioeconomic, 9) Public Service and Infrastructure , and 10) Public Interaction. Andy suggested we look these over and decide if we want all of these included in our proposed amendments or only particular ones.

Dave Berglund stated that some question if this is a good idea. Stated that it is either the turning to a greener type energy source or staying with the present coal type producing plant.

Andy Mayhugh stated that on EON's last completed field over 300 jobs were created and nearly 50 million dollars was paid in local taxes, owner payments, etc. The Planning Commission and the people of Linn County need to think about the impact this could have including revenue and taxes. At least, it should be considered.

Dave Berglund stated there will be issues to address on getting the power to other places. He talked about the science involved in getting the power to the correct areas according to supply and demand. Dave questioned that if you start producing energy from Windmills in Blue Mound where is it going to be sent from there? Dave believes we need an overall plan if we go forward into wind towers after the testing is done. Andy introduced a 2008 map of Wind Generation in the state of Kansas.

Andy stated that he has example agreements for road maintenance and construction and turbine decommissioning.

Andy passed out a KDWPT handout which is their Position Statement on Wind Energy and Wildlife Issues in Kansas, November 2017.

There was discussion on the future of energy. California now requires that if you build a new house that a part of the roof must be solar. Dave Berglund stated that Kansas does not have enough daylight hours to make solar as viable as wind. Maybe as technology improves, solar energy may become feasible.

Fred Kautt would like to know what economic changes have come from the wind generators that have been installed in the other counties.

Other discussion:

Dave discussed that it appears that we are going to go forward on the development of a new jail.

Dave also discussed the feasibility study that will be done at Sugar Valley Lake to see how many people are interested in having rural water run to their residences. The study will cost \$250 per lot for the study. Mailings will be sent out soon to see what the interest level is.

Plat of Baird Family Farm:

Changes to Plat approved, Dave motioned for the Chairman to sign the plat, Richard seconded the motion. Motion passed 6-0. Chairperson Charlene Sims and Secretary Sheri Loveland signed the revised plat.

After further discussion, motion was made to adjourn by George Teagarden. Seconded Richard Morrell

Motion passed 6-0.

**Planning Commission Meeting
September 11, 2018**

Meeting called to order: 7:02 p.m.

Board Members Present: George Teagarden, David Berglund, Charlene Sims, Ed Andersen, Richard Morrell, and Fred Kautt. **Absent:** Melanie Staton, Jo Ernst, Tate West.

Also present: Andy Mayhugh & Courtney Calkins. Appointment as Secretary of Planning Commission for Courtney requested by Andy. Motion by Dave Berglund, second by Richard Morrell. 6-0 Approved.

Pledge of Allegiance led by Fred Kautt.

Minutes were discussed. After discussion, motion by Ed Anderson to approve the minutes of the July 10th meeting. Seconded by Dave Berglund. Motion passed 6 - 0.

Dave Berglund asked the board to give Jessica Hightower, the new Economic Development Director, their vote of confidence. second Richard Morrell. 6 - 0

Findings of this hearing are scheduled to be heard by the County Commissioners on 10.1.18

Case #Z18002

(V & H Enterprises LLC) Application to re-zone 60 Acres from 1-2 Heavy Industrial to A – Agricultural in Section 27, Township 22, Range 24.

Present: Kathy of V & H. The property is no longer used for mining. There's been no quarry work since 2010. She is selling the property and the buyer would like it to be Agricultural.

Charlene Simms asked about Reclamation for the property. Kathy stated that Scott Carlson from the State of KS has been down to site. The purchaser just wants the property for hunting and it's Scott said the land has almost reclaimed itself. In another 10 years it will be completely reclaimed.

Kathy stated that her Bond is still in place, but the State is fine with no reclamation. The State cannot make final say until the property is sold. Her bond will be kept in place until the sale.

Andy Recommended approval and read the findings.

The findings are as follows:

1. The proposed change conforms to the character of the neighborhood.
2. The proposed change conforms to the Comprehensive Plan.
3. The proposed change matches the zoning nearby.
4. The change will not detrimentally affect nearby properties.
5. The proposed change will benefit the public health, safety and welfare.

6) Staff recommends approval of the application.

Motion made by Dave Berglund to approve the application. Ed Anderson seconded. All in favor 6 - 0.

Case #Z18003

(M&M) Application to re-zone 8.76 Acres from A/R Agricultural/Residential to HR Highway Retail in Section 32, Township 19, Range 19.

Mike Page of M&M is requesting a highway retail rezone. He has nothing specific planned right now. This is concerning the South half of that 10-acre property. It is currently zoned as AG Residential. It is a prime retail area.

Dave Berglund mentioned there are limited amounts of access to rural Linn County – future growth will come through that major artery. A good overview example is the Pleasanton Casey's.

Charlene Sims Stated that regarding Highway Retail Zoning there are so many things can be added without any conference with the county.

Andy would like to update the zoning regulations in 2 parts one dealing with definitions and one with wind generations. Currently they have 6 months to build on a permit. What if they sell it? Asked Charlene Sims. Andy: We need to make sure to include the ideas of what they want to build. The East side of Highway 69 is more conducive to commercial development.

Richard Morell: We didn't address pulling off the highway and seeing storage units. It's not the most pleasant thing to see. Landscaping could make it more attractive. That's something we should consider as a condition on any project for the Beauty of Linn County. Mike has a property where they built a berm and added landscaping.

Mike Page: Legally you can't sell anything on that property right now. It's an obvious place for retail sales. Dave Berglund: It needs to be developed. What we let happen in Linn County will go on for a long time.

Andy: Zoning districts are set, but the regulations were never changed. I think it is time we address those things. Dave Berglund: Charlene Sims and I have struggled with this for a long time. We need guidance; to see what other people are doing.

Andy: Miami County has AG/Trans AG which is an AG preservation subdivision provision. Tiny lots clumped together but they must retain the bulk of the property for AG use. Charlene Sims: It sounds like so much use for Green area.

6) Staff recommends approval of the application.

Motion made by Dave Berglund to approve the application. Fred Kautt seconded. All in favor 6 - 0.

Case # CUP 18007

(Schendel Ventures LLC) Application for a Conditional Use Permit to install and operate Storage Units and Boat/RV Storage in Section 31, Township 19, Range 25.

Present: Robert Schendel, and Joe Schendel of Schendel Ventures. Joe moved in April and is building a house on the hill there and will have some agricultural use on the adjoining property.

They are proposing to place the storage facility on 1.5 acres in west corner. 120x30 feet with 2 concrete pads. They are just planning to build one at a time based on demand.

They have requested the CUP to maintain Agricultural Zoning on rest of the property. Joe will be putting cattle on the property in the next few weeks.

They intend to be good neighbors to the folks around them. They feel they can offer higher security with the manager living on the property. They are choosing neutral colors and low-profile roofs and low level down pointing lights. Robert believes they will have a low level of traffic because it's storage.

They are proposing modest signage that would follow ordinances set by the county. It is going to be fenced and the gate is moving north 140 feet into the property. Patrons must turn off the roadway to get to the keypad. The house is 480 feet from the storage area and part of the reason for the name Security Storage. The first unit is for 24 proposed spaces in a variety of sizes depending on demand. They will have to level the ground. Runoff hits the gravel surface roadway and runs to the ditch by the highway. No sanitation or electric will be run to the units.

Present: Delores Stainbrook, spoke against the CUP. She is the neighbor to the West. Her farm is mostly cattle ranch with a stable and a rental house. Crop across the road. There are 3 storage units in Linn Valley and one across the highway. This upsets her plans with cattle. There are also two more storage units in LaCygne. Delores believes storage units create large amounts of traffic, especially when they hold garage sales. Patrick Foreman, president of Labette County Bank, told her that close to the restaurant would be fine.

Present: Karen Martin, daughter of Delores. The lighting is a concern for renters trying to sleep at night. She also asked about the Schendel's having cattle on the property and how that would work with the storage units. Robert Schendel stated they would fence off 1.5 acres for storage units. The Schendel's are starting with 2 calves and a few sheep.

Stainbrook & Martin are concerned about the hours of operation and the noise. Is it 24 hours? Schendel said they would be open to adopting a time restriction for the property. Delores stated they feel like the farmers are getting crowded out. Land is being taken away from farmers. Brad Lund has award winning cattle and she would hate to lose her tenant because his cattle are disturbed in some way.

Dave Berglund asked if Delores sold them the property and she said no.

Schendel's bought property in January 2018. The LLC formed in December.

Charlene Sims Read opposition letters from Steve Koperski, Delores Stainbrook, Janet Burch and Richard Tynes.

Dave Berglund mentioned that the comprehensive plan for Linn County was taken very seriously. There are a limited number of accesses off that limited access highway. If they felt, there was future growth in Linn County it would be from the traffic coming from that highway. It is zoned planned commercial. They almost had a whole bunch of building on the other side. He stated that in his opinion those are not front-line buildings. This is one of 4 accesses off that highway. Charlene Sims asked if they discussed making that highway retail in the past. The opposite side is already retail and additional properties are being rezoned on that side.

Andy stated that this application doesn't change the zoning of the property. The only thing it will change is the zoning of the 1.5-acre section. Dave Berglund questioned setting a time limit. Andy was hesitant to set a time limit that would force them to take it out everything they build. Dave Berglund –

didn't think we had ever set a time limit on zoning that involved construction. Charlene Sims asked if they had ever denied a renewal request. Dave Berglund didn't believe so, that they had simply made corrections to solve problems at the time of renewal.

Andy stated that if the property is developed to the maximum as proposed he doesn't want lights on traffic areas or to intrude on adjoining properties. Dave Berglund stated the fence line is way back and a major county road. Andy stated that he firmly believed with this type of use on a property, people don't come back and check their units every day.

Ed Anderson stated in agreeance that it's usually a one-time parking for the winter. Dave Berglund thinks this will open the door to more growth in Linn County.

Andy mentioned that just to the north is a radical vertical and that he feels it will require massive excavation to accomplish their goal and they may have some soil erosion. He suggested that SWP plan could be submitted. Dave Berglund stated that he would like to see how they are going to control that. They may have to put a place to contain runoff, so silt can settle, like waddles. Dave felt that thinks we need to look at.

Charlene Sims suggested putting it into the conditions. George Teagarden asked where the run off goes now? Schendel responded, just in the field because it's not that severe.

Andy asked if they could they build a terrace? Dave Berglund stated that's not his area of expertise, but it needs to be address.

Andy stated that he would be happy to work with the applicant and the state of KS to get an acceptable provision. Dave Berglund expressed his concern about voting for something and finding out the recommendations were ignored after the fact. He would like to see a Condition that says Storm Water Protection Plan must be in place.

Richard Morrell would like more information on findings 1 & 2. Andy provided the clarification that the underlying zoning is still AG. The CUP just allows special use as proposed on the property. It is in the guidelines of the comprehensive plan for commercial development.

Dave Berglund spoke about the two storage units on Jingo Rd. Were they also granted CUP? Andy stated he would have to look it up.

Ed Anderson thinks it was rezoned and given a CUP, at least the one outside of city limits.

Dave Berglund wants them all to be the same in the future. We need to ask how was it done for these others? He doesn't want to do this incorrectly. He wants to know if Rick Hurts unit is in the city or not. Andy will check into it and get back with Dave.

Andy recommends approval of the application.

Charlene Sims – In addition to the Recommended Conditions (in the agenda) the Applicant must submit storm water pollution (SWP) control plan prior to issuance of building permit.

Delores Stainbrook: That farm is not made for road crops. If I lose my tenants due to construction, it would not be good.

Robert Schendel: HWY department requires a lot of space – it's going to be clustered as near to the highway as possible. It was always their intention to have a terrace to access the units. Robert believes there are other farms in the county that have buildings built without too much upset being caused to surrounding neighbors.

Joe Schendel: Just got his AG degree and intends to be a farmer and use the units to supplement the income and bring AG jobs to the community. He requested that the commission accept the application.

The findings are as follows:

1. The proposed use conforms to the Linn County Comprehensive Plan.
2. The application does not require a change in Zoning from A – Agricultural and this zoning matches other zoning on this side of US 69.
3. Staff does not believe the approval of this CUP will negatively affect nearby property to any great extent.
4. Staff recommends approval of the application.
5. The subject property has historically been vacant for a long time as zoned.

Recommended Conditions:

1. The use shall be operated in conformance with submitted plans and documents.
2. All roads and on-site parking areas shall be covered with an all-weather surface.
3. Lighting shall not interfere with traffic or intrude on adjoining properties **or homes**.
4. Signage shall meet the requirements of the Linn County Sign Regulations.
5. **Applicant must submit storm water pollution (SWP) control plan prior to issuance of building permit.**

Motion made by Ed Anderson to approve the application with findings, a SWP and that the lighting shoots away from the house to the West. Dave Berglund seconded. All in favor 5-1. (George Teagarden opposed)

Charlene Sims Chairman signed & Courtney Calkins attested to the approval of Case #Z18002, Case #Z18003, Case # CUP 18007.

Old Business:

Discussion - Proposed Amendments to Zoning Regulation

Andy has definitions added in "Red" in Article 2 Section 2.01.

WEC Definitions Page 22.

Section C – Height and must show that they don't have space on their own property for the tower.
Page 61.

Page 81 Radio, Cellular, TV Broadcasting towers 80 or more feet in height, subject to: setbacks 50 ft, lighting, no strobes, evidence no available space on existing approved facilities.

Discussed KCPL Towers.

Adopted County Regulations on WEC and picked out some things to put in there. Consulted with our counselor. Better to attach an Appendix that addresses Wind Farms because Andy has looked at several counties' regulations. It looks like they have all copied each other's regulations.

Newest windfarm near us has adopted this, it's just north of Moran. Provided CWEP Criteria and conditions for Special Use Applications Allen County. Compare it to what we have had previously. The wording is almost identical. Dislikes on Page 3 under general introduction. Development plan written in a style that can be understood with back up. Has Setbacks included. Cultural Assessments, Topographical maps requirements. Wildlife and wetlands. Avian impacts birds/bats.

Page 8 – Visual impact. Reasonable measures such as planting trees. Primarily ground equipment or substations, not to hide it.

If it's approved, road use agreement and maintenance and decommissioning. Because most of the board will not be here 30 years from now when it comes time to tear it down. Discussed the Ferris wheel style.

Topeka has a wind turban, a small one next to the "Welcome To Topeka" sign.

Doug Bartlett said they won't train their fire fighters for high angle rescues. Dave said it's their problem, just like coal mines.

Ed Anderson discussed a farmer's story who lives near wind turbines gets more rain and turbines keep the hail away too.

Charlene Sims doesn't like Bed & Breakfast section. Andy was copying from other counties. Issues with food. We need to look at Health Department regulations on this.

Adult Entertainment business needs to be listed and defined.

Andy asks do you all want another month to go over and come to some conclusions? Charlene Sims answered yes, to have a conclusion in October.

Andy asked all commissioners to call him with changes that he can wrap in. We must have a Public Hearing to amend the Zoning Regulations and then present to the commissioners, so we need to get these finalized, hopefully in October.

Other discussion: We need to bring some food/drinks for the next meeting.

**Planning Commission Meeting
November 13, 2018**

Members Present: David Berglund, Ed Andersen, Richard Morrell, Melanie Staton, Tate West and Fred Kautt. **Absent:** Charlene Sims, George Teagarden

Staff Present: Andy Mayhugh - Planning & Zoning Director, Jessica Hightower - Economic Development Director, Jackie Messer - Public Works Administrator & Courtney Calkins - Secretary.

Ed Anderson Meeting called to order at 7:00 p.m.; Pledge of Allegiance led by Fred Kautt.

Chili Dinner provided by Andy & Karla Mayhugh.

Dave Berglund motioned to approve the minutes from September 11, 2018, Richard Morrell Seconded. 6-0.

NEW BUSINESS:

- **Attendee: Paul Werkowitch** asked to speak regarding Windmills. Paul lives in 2 Miles North of Blue Mound and can see the test tower from his window. Fred Kautt provided a photo of the test tower for review.

Paul expressed his concerns about having windmills near his property which included economic feasibility for the county, the 30% tax credits for the company, validity of facts about jobs and revenue produced and reduced property values which lead to less tax revenue for the county.

Paul asked Dave Berglund to stand with them against the windmills. Dave Berglund responded that farmers are facing economic hardships and will need income from somewhere to survive.

There was a brief discussion about the pipeline project that helped reduce the debt in the county.

Paul questioned the facts regarding out of county attendees at the last meeting regarding windmills. Ed Anderson confirmed that he asked for residential information at that meeting.

Fred Kautt: Brought a magazine from Kansas Commerce, article by Amber Frailey called "*The Wind Way*" https://issuu.com/sunflower_publishing/docs/kdc17fa . The photo shows no one living around the windmills. Fred is in agreeance, one person gets one windmill makes money, it's a windfall. You don't have to drive very far in Linn Co. to see a farm in this county. When people try to sell their property and there are 4-5 windmills next to them, they will have trouble selling their farm.

- **Attendee: David Fisher** asked to speak regarding Windmills also. He is a land owner in Linn County and shares a lot of the concerns that Paul has. David expressed his concerns about the view from his property and windmills. David brought his research handout titled "*Proposed Amendments to Zoning*" to the Planning Commission.

Handout Items discussed:

- Distance from wind turbines. Sound is 107 decibels. At 3000 feet away, you will still hear it.
- Adverse impacts from sound include nausea, headache and vertigo.

Andy Mayhugh questioned at what wind speed those numbers were based off, but the information was not known.

- Shadow Flicker.
- Ice projectiles that can fly 1000 to 1600 feet. Defining Rime Ice, when blades develop ice without precipitation.
- Fire. They are 500-600 feet tall and you must let it burn and then it falls.
- Proper setbacks must be put in place to protect our residents. David asked that the commission not just copy regulations from other counties but do their own research. In Denmark the setbacks are 2 times the turbine height.
- The handout lists current setback regulations in other locations such as Germany's 1 mile set back.
- This room to the Linn County jail is 500 ft. If you considered that as a setback, it would basically be right on top of you. (*Handout provided of windmill next to house distributed*).

The group then discussed the following topics:

Ed Andersen asserted that right now the only thing being done is a study. The company will have to apply for a permit to have a wind farm and these regulations are being quantified to protect Linn County and its residents.

Fred Kautt proposed that the people in that townships where the wind farm is attempting to locate should be the ones to vote on the issue, not all of Linn County.

Tate West responded the problem with that is there aren't township regulations, they are county regulations. He also pointed out that the people didn't buy their property with the understanding that they have the right to control their neighbor's property.

Paul Werkowitch mentioned that the studies show that these windmills drop property value by 30% and that he could provide those studies for review.

Tate West countered that as far as he is concerned, if windmills don't drop the value of your property then there is no argument if it's simply about aesthetics.

David Fisher remarked that the Denmark study shows that the land owners are paid for the loss in property value.

Jessica Hightower asked to know who paid that fee, the country or the company. David Fisher said he would have to find out.

Paul Werkowitch passionately discussed Chicken farms and property tax bills directly being affected by dropping property values.

Tate West replied that dropping tax revenues are a valid concern and stressed the need to minus the emotions from the subject and look at the facts. Stating, "I understand it's difficult, I do it at Tanglewood. Let's fight with facts! There are real concerns for health issues, property values, etc."

Old Business:

Discussion - Proposed Amendments to Zoning Regulation – Andy Mayhugh Reviewed all.

- 2.01 Definitions Preface
 - Adult Entertainment Business
 - Agricultural Purpose
 - Agricultural Uses
 - Basement
 - Bed and Breakfast
 - Board of Co. Commissioners
 - Board of Zoning Appeals
 - Bulk Regulations
 - Campground
 - Certificate of Occupancy
 - Code Enforcement Officer
 - Comprehensive Plan
 - Confined Animal Feeding
 - Conditional Use
 - Contractor's Shops/Yards
 - Density
 - Floodplain Regulations (standalone document)
 - Modular Home
 - Nonconforming Lot
 - Planning Director
 - Public Nuisance
 - Recreational Vehicle
 - Salvage Yard
 - Sanitation Code
 - Solar Array/ Panel (*Right now we don't require permits for solar panels or roofs. They don't add sq. ft to the structure. Solar array could be 25 acres.*)
 - Trailer
 - WECS Commercial & Non-Commercial
 - Wind Farm
 - Wind Turbine
- **Article 10** - Conditional Uses (Removed Enumerated) and changed to "Listed". Adult entertainment business was not listed. The ones in red are the amendments. Andy added Solar Array Comm. Vet Clinic was not included. WECS/Windfarm for CUP also. Daycare regulations were briefly discussed.
 - **Article 13** – Changed back to Planning Commission. Home Occupation Standards. Previously hard to find and are now in the correct chapter. Radio, Cellular, TV towers. Andy Has received an application for a cell tower and he sent these regulations to the applicants. Wind Energy: *See Also Appendix A* it addresses intent. Andy Found similar regulations with several other counties.
 - **Fred Kautt**: Questioned Article G and how many towers can be erected. It is 1 tower per 10 Acres or it would require a CUP. Minimum set back 1.1 x the total height. That means set back from the property line.
 - **Dave Berglund**: asked about regulations stating that no MFG home be attached to another MFG home. Should that also include attaching a MFG home to another structure? Andy and Dave discussed building in compliance with 1-2 family building codes in terms of attaching MFG homes to structures. Anything that doesn't comply with the code would not be allowed. Andy Mayhugh is searching for a copy of the code currently.
 - **Appendix A** – Commercial Wind Energy Conversion. This appendix was modeled from Anderson, Allen and other counties. There are 50 or less counties in the state have adopted county wide zoning. Andy contacted the Allen County Zoning Dept. They have started North of Moran working on their Wind farm. (*This is not the same company testing in Linn Co.*)

The Appendix requires any commercial wind energy company to address land use, birds, reception, native vegetation, wildlife, cultural heritage (*Indian artifacts or site history*) public health & safety, decommissioning and has a financial security agreement. Andy Mayhugh had several other counties review the Linn County Appendix. The main feedback was to omit "Industrial" because the County may have higher and better use for industrial zoned properties. Andy would like to strike Industrial (*he initially added it*). Anyone wishing to bring a wind farm to Linn County will have to compile all the required information before the application will be considered. Fred Kautt asked to have the process clarified. The steps are as follows:

- 1) Planning Director OK's the application.
- 2) The Planning Commission hold a public hearing on the application and makes a recommendation to the Board of County Commissioners.
- 3) The application is presented to the Commissioners for a vote. (The vote will pass with majority, it doesn't have to be unanimous.)
- 4) If the owner(s) of 20% of the area required to be notified file a protest petition, then it must be a unanimous vote. (*Technically, 1 land owner could equal 20%*).

Comments and discussion – Appendix A:

Ed Anderson expressed his gratitude to Andy Mayhugh for going through all the codes and updating them. Richard Morrell discussed the definition of Wind Farm and the possibility of clarifying it. Tate discussed the term "same location" as meaning "same piece of property" and potentially changing that to "Constructed for the purpose of" in order to clarify the meaning.

Other discussion:

Tate West: Did you define "Tiny Homes"?

Andy Mayhugh: No, we don't have a building code for them and we don't have a minimum sq. foot in the county.

Dave Berglund: We've discussed min sq. ft. so many times and the people from the lake communities have so many regs. They didn't come back. 600 Sq. ft. is the min at Tanglewood, Sugar Valley and Linn Valley.

Tate West: Also, the prefab structures are not all built the same, some of the structures can be repossessed and hauled off. These are built off site.

Melanie Staton: We run into a terrible amount of issues trying to insure these things as well.

Tate West: if we don't wrap our hands around it we are going to live with these structures for the next 20 years.

Dave Berglund: Are there foundation requirements for the tiny homes?

Tate West: We are trying to start there at Tanglewood, with footings. We've made some strides. We'd like to see it county wide, but then comes in Enforcement. Tanglewood has a semi-container and the owners are modifying it as a dwelling. We are suing them in court because there's no other form of

enforcement. County policy says the lakes must try to litigate and abate the situations on their own. What is the definition of litigate? Lakes have the highest building rates in the county.

Ed Anderson: That's where lakes and the Planning and Zoning Commission need to come together and agree that we all need to have the same regulations.

Tate West: It must be the county. Tanglewood covenants requires 2/3rd of the residents to vote to change a covenant. Based on actual voting numbers, that will never happen.

Richard Morrell: The out is the covenants must capitulate to higher regulations.

Andy Mayhugh: The 1st way to accomplish this is to Change Zoning regulations. The 2nd way is to form district regulations.

Tate West: District regulations is the most interesting thing he has heard. Right now, there's no way to enforce gun discharge in Tanglewood beyond turning someone's gate card off.

Andy Mayhugh: We can table this until next month and we will have applications to review as well.

The group discussed escrow funds being enough to decommission Windfarm's 25 years after they are erected. It was suggested to contact the state office and see if they use a projection formula of some sort to account for inflation. They also discussed the pitfalls of trying to re-estimate decommission costs every 10 years. The commission also discussed tying the decommission to gross revenue like a percentage of megawatts produced. Additionally, they discussed direct competition for windfarms and the powerplant's responsibility to contribute to "Green" projects.


The group discussed the process and time line for deciding on the revisions. The commission needs to make a recommendation (all/part/none) in December. *(Any correction requests/suggestions can be sent directly to Andy Mayhugh, so they can be worked up before the December meeting.)* Then it will be submitted to the Board of Commissioners for Public Hearing in January. The required Notice of Public Hearing must be published 20 days in advance. Once the County commissioners review the changes they can approve by Resolution or send it back to the Planning & Zoning Commission with a written statement as to what they want reviewed and why.

Richard Morrell motioned to adjourn, Tate West seconded at 9:20 PM. 6-0.

Attest:


Secretary

clc


Chairman

**Planning Commission Meeting
December 11, 2018**

Meeting called to order: 7:05 p.m.

Board Members Present: George Teagarden, David Berglund (7:20 PM), Charlene Sims, Ed Andersen, Richard Morrell, Fred Kautt and Secretary Courtney Calkins. **Absent:** Melanie Staton, and Tate West.

Also present: Andy Mayhugh, Planning & Zoning Director.

Pledge of Allegiance led by Fred Kautt.

Minutes were discussed. After discussion, motion by Ed Andersen to approve the minutes of the November 11, 2018 meeting as written. Seconded by Richard Morrell Motion passed 5 - 0.

Staff presented cases to be heard tonight and announced that any case that a recommendation is made by the Planning Commission will be scheduled to be heard by the County Commissioners on 1.02.19

Case # CUP 18008

Midwest Connections Inc. Application to install a 160-foot internet tower.

Present: John Terry GM of Midwest Connections Inc.

Tower to be erected at 24203 1077 Rd. North of Parker. The internet tower's purpose is to serve the immediate area with high-speed wireless internet. They will run a single 20A electrical circuit from the existing main service panel to the tower. This is a community funded tower program for hard to reach areas. They built a tower on the road to Parker about 1 year ago. They have a handful of customers that approached them about helping to build and finance the tower.

Midwest is focusing on a small area (about 2 miles around the tower). Reaching beyond that area is based on terrain. It's wireless high-speed internet. They will not be able to broadcast beyond something like a bluff.

Andy Mayhugh: Since the tower is under 200 feet the FAA doesn't require it to be lit.

Ed Andersen: Where is the access road? It is the Stifter's drive way. Midwest will have 3 days of construction. They will not have any heavy equipment back there other than a 1-ton truck to raise the tower with a winch.

Charlene Sims: We want them (Midwest) to reach as many people as they can. The Parker tower has green Christmas lights on it for decoration purposes.

Fred Kautt: Are towers like this prone to lightning strikes?

John Terry: Yes, all three legs are grounded. The Parker tower had arcing on the guide wires that knocked out the top towers, so lightning can cause issues.

Charlene Sims: How is it powered?

John Terry: A 20-amp circuit by regular electricity. It is not solar. Midwest has one solar powered tower and has had lots of trouble with it.

Fred Kautt: Is this tower considered broad band?

John Terry: Yes, this is broad band. Our company will be the only company on the tower. The owner could change the lease in the future, but optimally Midwest will be on the tower long term.

Staff gave report with recommended findings of:

- Installation is a gain to public welfare.
- It will not detrimentally affect nearby properties and will meet the setback requirements.
- No change in zoning classification is required so the current zoning will continue to conform to zoning nearby.
- Staff recommends approval

And recommended the conditions of:

- A building permit for the tower's construction to be obtained within 1 year of approval.
- If the tower ceases to be used for a period of one year, it shall be removed.
- The applicant shall at least consider co-location of other antenna as they arise.

John Terry: Midwest has worked with other counties on EMS. We want to make sure it is safe and not just leasing tons of space.

Fred Kautt: The tower will not have lights?

John Terry: No lights.

Ed Andersen: Have you had to take towers down?

John Terry: Yes, it's easier than putting them up. They have taken down two towers.

Richard Morrell: Would you re-use the material after a tear down?

John Terry: Yes.

Charlene Sims: Anyone else that wants to speak for or against this issue?

Paul Werkowitch: I use their service in Blue Mound. Are they taking an existing tower down to place here or is this an additional tower?

John Terry: Additional.

Ed Andersen: If the tower isn't in use for one-year Midwest will remove it? Midwest will consider other applicants for use as they come up?

John Terry: Yes, to both.

Andy Mayhugh: Recommended approval.

Motion made by Ed Andersen to approve the application with staff findings with tower removed after 1 year of no use and Midwest to consider other applicants to lease space if it doesn't interfere with signals. Additionally, Midwest will have their permit within the year. Fred Kautt seconded. Motion passed 6 - 0. Approval goes before the Commission January 2, 2019.

Old Business: Proposed Amendments to Zoning Regulation.

Andy Mayhugh: Just a reminder, we are working on what the applicant must provide to apply for a permit.

David Fisher: Is a land owner near Centerville. David asked to show a PowerPoint Presentation about his safety concerns.

David covered various topics:

- | | | |
|-----------------------------|--------------------------------|-------------------------------|
| 1. Shadow Flicker. | <i>Wright spoke about</i> | <i>ice damage. David</i> |
| 2. Fire. | <i>having friends in</i> | <i>Fisher has called his</i> |
| 3. Noise. | <i>Iowa whose property</i> | <i>insurance agent. He</i> |
| 4. Projectiles/Ice. | <i>values have</i> | <i>doesn't currently</i> |
| 5. Wildlife | <i>increased every year</i> | <i>have an answer.)</i> |
| 6. ADLS system – on | <i>for the last 20 years.)</i> | 10. Midwest zoning |
| demand lighting. | 9. Turbine Mapping. | regulations. |
| 7. Independent avian | <i>(Danny Whitcomb</i> | 11. Setbacks |
| impact study. | <i>asked if there was</i> | 12. Height Limitations |
| 8. Reduced property | <i>any information</i> | |
| values. (Vern | <i>about who pays for</i> | |

The board discussed the presentation at length with public attendees and heard comments from Michael White, Vern Wright, Kevin Sutterby, Hal Aggers and David Fisher.

Charlene Sims ended the discussion with requests for final questions.

The Board took a 10 Minute break at 7:57 pm.

Old Business Continued:

Appendix: Overview: The appendix is based on Allen County. Andy Mayhugh sent it out to other counties and officials for review.

A. Removed “Or industrial” in Intent. We can’t restrict Ag use. Would like to insert the word “*Exclusively*” for Ag purpose.

D. Setbacks. 1.5x is common. Andy Mayhugh recommends making the setback 2000 ft. from non-participating residential structure. Ed Andersen and Fred Kautt agreed.

Richard Morrell asked about height requirements and Andy Mayhugh indicated that everyone should do more research as they haven’t set any.

Topographical map: The board discussed 10 ft. intervals as being a better fit for the requirement than the 20 listed.

They then discussed the choice of location for the testing tower and the reasons for the location.

K. This covers the storm water pollution prevention plan.

The next discussion was the fire department’s role in fire prevention and responses to fires as well as training that might be needed.

L: Doug Bartlett had a comment about providing emergency information. It should be posted on the site as well. Equipment – The company will purchase or provide any special equipment.

The next discussion was focused on the need to submit information on the effect of burning a Conservation Reserve Program (CRP) off or a pasture. They also discussed CRP fields that might forego contracts for turbines and the cost comparison of turbine payouts and the resulting tax effects on properties.

Charlene Sims: Checked a news article wherein former senator Brownback called for the state to be 50% turbine powered by January of 2019. We are currently at 36%, so we are close.

The board discussed decommissioning turbines. Andy Mayhugh is not seeing what he needs. Costs are not going to be the same in the future. He hasn't found anything comparable.

Dave Berglund talked about the needs to increase every year or have some type of system tied to inflation. Putting money back each year into a trust fund. Similar to rock quarries putting money from sales into a reclamation fund.

Richard Morrell asked about requiring a percentage of the energy, which would keep it current if you used an average of the last 10 years.

Andy Mayhugh discussed having these requirements upfront, so the applicant can walk away if they aren't willing to meet the requirements.

Fred Kautt asked about who the applicants will they sell the energy to. The group discussed energy trading and imminent domain over power lines that would fall into court jurisdiction.

Site Clearance: Andy Mayhugh recommends changing the term to "And any applicable"

Andy Mayhugh would like to get the Appendix where everyone is comfortable with it. He asked to talk about Mr. Fisher's presentation because he had some good points. The board went on to discuss the presentation points of fire, wildlife and contingency plans for the unexpected or unknown as well as insurance requirements.

Andy Mayhugh: Suggested making some tweaks after looking at Mr. Fisher's submittal and try again next month. The definitions and section's in red will be the easy part to approve.

The group then discussed new energy developments and the progress of solar power in the state.

Danny Whitcomb: Stated that solar companies have approached his mother about leasing 160 acres of clear ground. So, they are looking in this county.

A motion was made Fred Kautt to adjourn and Richard Morrell seconded which passed unanimously.

Chairman

Attest:

Secretary

clc