

**MINUTES OF THE PLANNING COMMISSION MEETING**

**PLANNING COMMISSION/  
BOARD OF ZONING APPEALS**

**June 18, 2013**

**Commissioners Present:** Cowman, McLean, Hardwick, Pfefferkorn, Meinig, Benton  
**Commissioners Absent:** None

**Others Present:** Mike Gotfredson, Amy Barenklau, Jay Wieland, Mayor Stuteville, Brian McCauley, Pete Bell, Alan Hire, Elizabeth Sweeney-Reeder, Don Morris, Jim Mitzner, Robert Zoller, Laurie Appier, Jim Pritchard, Laura Epp, Gilbert Hermes

**Item 1: Pledge of Allegiance**

**Item 2: Consider minutes from the April 16, 2013 meeting.**

Chair Cowman called the meeting to order. The first order of business was the consideration of the minutes from the April 16, 2013 meeting.

*Commissioners Pfefferkorn and McLean made a motion to approve the minutes as submitted, with Commissioners McLean, Hardwick, Pfefferkorn, Meinig and Benton voting in favor. Commissioner Cowman abstained as he was not in attendance at the April meeting.*

**Item 3: Public Hearing:** Consideration and vote on amendments to the Land Development Ordinance related to the creation of a Public Use zone, City of Paola, applicant.

*Commissioners McLean and Pfefferkorn made a motion to open the public hearing with all Commissioners voting in favor.*

Chair Cowman reminded those in attendance who wished to speak to please step to the podium to state their name and address so it can be recorded in the minutes of the meeting.

Planner Gotfredson stated that the request was to potentially create a new zoning district, but that the process for Miami County remains unchanged regardless of the outcome of this public hearing. He presented the background of the request for the Public Use zone and reviewed the general use table and how the new zone would impact uses allowed in the new zone. He referred to the criteria for approving text amendments as stated in the Land Development Ordinance. He indicated that in his opinion items A and F were applicable at this time. He assured

Commissioners that if they needed time to work through this request it was a not a problem and could be continued to another meeting.

Chair Cowman asked to clarify that this new zone would include any city buildings and parks, not just a county jail. Planner Gotfredson confirmed and indicated that the jail could use the new district if created, but that the zoning district had use for the City as well as the County.

Chair Cowman asked if there were anyone in attendance that wanted to speak in regards to the proposed text amendment.

Elizabeth Sweeney-Reeder, 23180 West 311<sup>th</sup> Street, Paola, Kansas. She stated that her home is at 311<sup>th</sup> and Hedge Lane and her property abuts city limits as well is right next to the property being proposed for the new county jail facility. She indicated that she and her husband had previously been required to obtain a Conditional Use Permit when they remodeled their home as it was a legal non-conforming structure and had it burned they would not have been allowed to rebuild after renovations were complete without going through the process. She stated she felt this request was directly related to the jail and requested that Commissioner Pfefferkorn recuse himself from the vote due to his involvement with the jail project and his relationship with the county.

Mrs. Reeder stated that the city had recently renovated several buildings and built a new building without the need for the Public Use zone, so it seemed that the only reason to need it now was the county jail. She requested the Commissioners not approve the Public Use zone or if they choose to approve it to exclude protective care as a Conditional Use under the zoning district. She indicated she did not feel that protective care was what the writers of the Comprehensive Plan meant when suggesting the proposed zone.

Alan Hire, 15895 Lake Shore Drive, Paola, Kansas. He stated he has lived in Paola since 1970 and though he does not live in city limits, he owns several businesses here. He stated he felt that Gabe should recuse himself from the meeting due to potential financial gain from the county jail project. He stated that Section 21.212 in the LDO, criteria for approving the text amendment, only two of the seven criteria could be met and the other five can't fit. He feels that the proposed amendment is for the jail only and the existing rules should be used to make it work, not create new ones to work with. He stated that he and others have been able to work through the requirements and system in the past without the public use zone. He did not feel there was a need for it now. Mr. Hire also stated that he feels setbacks should be set with minimums as they are currently in place and applicants can present their case for any changes if the zone is approved.

Pete Bell, 209 North Castle, Paola, Kansas spoke. He stated that about fourteen or fifteen years ago he built a shop and he had to comply with requirements to get the building approved. He stated he feels this application is to help the sale of the land for the county jail to go through so that it will be too late for the location to change. He resents the ability of government to have to do less than citizens. He stated the loss of tax revenue on this property is a huge concern as are

operating costs and he feels that no consideration has been given to these items by the County Commissioners. He would like to see facts presented on the proposed jail.

Laurie Appier, 30743 Victory Road, Paola, Kansas. She stated she was not sure she understood the need for the Public Use zone, other than for the county's proposed jail. She felt that Public Use by name should be brought forth to the public for input. She stated she feels like the jail is being streamlined and the system circumvented so there is no public input or opinion allowed on the project.

Robert Zoller, 29580 Lone Star Road, Paola, Kansas. He stated he is a realtor with Keller-Williams Realty and represents the Hermes's family. He stated he felt this is a conflict of interest and that Mr. Pfefferkorn sits on the Planning Commission for this proposal.

Chair Cowman interrupted and stated he understood Mr. Zoller's feelings about Commissioner Pfefferkorn's position on the Commission, but he asked that he stay on subject and not infer that Commissioner Pfefferkorn is here to move the project through for the county. Mr. Cowman stated that Mr. Pfefferkorn was welcome to listen to the public comment during the public hearing.

Commissioner Pfefferkorn stated that everyone was making valid points but he stated the applicant is not his client. He stated he wanted to hear comments and would make his decision to vote, or not, once he had heard comments.

Chair Cowman then told Mr. Zoller that he was welcome to make any additional comments in regards to the proposal. Mr. Zoller stated that he wanted to make the point that the decision on proposed jail location had been made based on estimates provided by Mr. Pfefferkorn.

Jim Mitzner, 1516 Main Street, Osawatomie, Kansas. He stated that he attended schools and spent a lot of time in Paola and had also been employed by the Miami County Sheriff's Office for twelve years and was a life-long resident of Miami County. He stated that he is concerned that if the jail is built at the proposed location that there is a loss of potential commercial development and that most people don't want to have a jail be the first impression of Paola. He stated he understands that jails do not look like jails, but they are still jails. He urged Commissioners to vote no on the proposed zone or to table a decision until more citizens were aware of the proposal. He stated there had not been much in the paper and not many people read the legal section.

Planner Gotfredson stated that there had been a lot of good comments made by those in attendance, and many were good arguments. He indicated that as far as proposing protective care as a Conditional Use Permit under Public Use zoning, he felt it appropriate for a county seat to house a jail and that it could be helpful in locations other than the currently proposed location for the new jail. He suggested that based on comments during this hearing that it might be wise to continue the issue until Miami County makes some decisions, or to remove the option for protective care as a conditional use in the proposal.

Laurie Appier asked for a better understanding as to the need for the Public Use zoning district. She wanted clarification as to what it would cover that was not already addressed in current zoning. She is concerned that the proposed zone makes it easier to do things like a jail without public input.

Planner Gotfredson explained that the proposed zone would allow some uses that previously would require a conditional use permit.

Elizabeth Sweeney-Reeder stated that she noted that recycling/storage uses are also allowed as a conditional use in the Public Use zone. She expressed concern about other uses that might be allowed besides protective care that would be allowed or made easier to develop that might not be the best fit for specific locations. She stated that she felt the proposed zone was not needed, or that it should at least be tabled to allow time to remove some items from the allowed uses.

There were no further comments from those in attendance.

*Commissioners Hardwick and McLean made a motion to close the public hearing with all Commissioners voting in favor.*

Commissioner Cowman stated he did not know if the application was predicated by the jail, but it seems it might have been. He indicated he was on the commission when the Comprehensive Plan was updated and spoke about the concerns there could possibly be issues when/if city buildings were renovated or built in new locations without a Public Use zone. When the time came to work on buildings the city went through the process to meet requirements of existing zoning districts.

Commissioner McLean agreed that he had the same memories from the Comprehensive Plan update and the city meeting requirements of existing zoning districts when work was done. He stated there were some concerns brought up during the meeting that he felt deserved time to review the information and come back another time to address.

*Commissioner McLean made a motion to table the recommendation on the proposed text amendment for a Public Use zone. Commissioner Meinig seconded the motion.*

There was discussion that tabling the recommendation would require action at the following meeting. It was determined that continuing the item would be the best course of action at this time.

*Commissioner McLean moved to amend his motion to continue the hearing to make a recommendation on the proposed text amendment to a future meeting. Commissioner Benton seconded the motion. Commissioners Cowman, McLean, Hardwick, Meinig and Benton voted in favor. Commissioner Pfefferkorn abstained from voting.*

**Item 4: City Planner Report and Items from Commissioners**

Planner Gotfredson gave an update on the trails project and notified Commissioners of a recent grant from the Wal-Mart distribution center near Ottawa. The Sunflower Grant will be announced later this week and those involved with the project are cautiously optimistic about being named recipients of the grant.

He indicated that the senior townhome project on Hospital Drive continues to move forward swiftly and inspection staff performs several inspections daily at the location.

Planner Gotfredson welcomed Callie Benton to the Commission and thanked her for volunteering to serve in this capacity.

There were no items from the Commissioners at this time.

**Item 6: Adjournment**

*Commissioners Cowman and McLean made a motion to adjourn the meeting. All Commissioners voted in favor.*

Meeting was adjourned at 5:50 pm.