

MINUTES
HARVEY COUNTY REGIONAL PLANNING COMMISSION
HARVEY COUNTY BOARD OF ZONING APPEALS
Harvey County Courthouse
Community Room
April 7, 2014
7:00pm

Members Present: Larry Goering, Dorothy Thiessen, Bonnie Wendling, Wayne Alison, Philip Kimerer, Jack Bender, Duane Miles, Harlan Foraker, Teresa Thach, Lynne Vigil, and John Reed

Members Absent: None

Staff Present: Gina Bell, Karen Jacobs

Others Present: John Stutzman, Espiridion Guevara, Adela Gutierrez, Abbie Guevara, Daphne Lee, Terry Jacob, Martha . Sadiq, Marshall Sadiq, Jenna Quentin, Gregory Nye, Jane Kill, Ivan Thiessen, LouAnn Voth, Sarah Pratt, Pete Aversh, Susan Davidson, Ronald Voth, Ruth Jacob, Drew Hill, Donald Davidson, Catie Shaffer, Beth Vannatta, Paige Rathburn, Ileen Weber, John Weber, Jay Sizemore.

At 7:00pm, Larry Goering called the meeting to order.

Goering opened the discussion on Case #CUP 14-02 concerning a request by Espiridion Guevara (Speedy) and Adela Gutierrez requesting a Conditional Use Permit to operate a Horse Racing Track on property located in the A-1 Agricultural zoning district. The property use has been in existence for a long time, but with the expanded use, it is being brought before the board. Gina Bell was unable to read the staff report due to illness so Jack Bender read the staff report. Bell's recommendations were to deny the permit due to safety, environmental and health issues. Goering asked if there were any question.

Wayne Allison asked if A1 zoning allowed for a race track already. Bell said yes with a special use permit.

The floor was opened for questions to the applicant. Jay Sizemore, Attorney for applicant, spoke on Espiridion's behalf. He reported the track had been in existence for over 10 years. It started out with smaller races used as a training facility and over the

years has grown. Sizemore said the 1000 person crowd seen on YouTube was not the normal crowd for the track. Normally there is 200-300 people. Sizemore addressed each one of concerns in the staff report in his presentation.

1. Sizemore said they have port-a-potty's on the property for the races. He said they would bring in more for the larger events as needed. The conditions include that applicant put up signage that there is no potable water in both English and Spanish.
2. He said "Speedy" would be willing to put up fencing to make the track safer so that children and spectators could not go out on the track. He said at this time there is no plan to expand the track. He said Speedy was willing to also put up any required signage in English and Spanish and make announcements for spectators to say off the track. Sizemore said that Guevara has \$1,000,000 in liability insurance on the track.
3. He did not feel that grandstands were needed as they did not have that big of crowds to support grandstands. They also felt it was not feasible to build public restrooms or to have the road paved.
4. Sizemore said no alcohol sales are done on the property and at this time Speedy has no intentions of selling alcoholic beverages.
5. There is no organized gambling taking place at the track. The suggestion by Planning and Zoning is for Guevara to put up signs in Spanish and English that no gambling is allowed.
6. Sizemore said most of the neighbors support the track and have said they enjoy listening to the Mexican music. But he said they are willing to help make the sound less of a problem by pointing the speakers differently.
7. Sizemore said this is not the first track of this type in Kansas. He said there are two tracks in Ford County.
8. Sizemore also said any traffic concerns could also be addressed. He said parking on the road has never been allowed. He said at the most people would be slowing down to turn into the facility. He said there has been no reports of the traffic causing road issues for the township. He also noted that changes could be made to allow free access for EMS or Fire to get to emergencies on the property.
9. He addressed the 911 calls saying that there have not been a lot of calls from 2008-2014. He said there is no way to know if some of the traffic stops and suspicious person calls were linked to the race track.

Sizemore said if the planning and zoning commission would give them direction they could come up with solutions to most of the problems. He said they would like time to address the problems. He said they are not trying to have a bar or gambling on the property.

Sizemore said they could produce a yearly schedule of events so emergency personal could be notified. Any changes to the schedule would need to be submitted to the

planning and zoning office. All other events require a special events permit that needed to be applied for a month in advance. Sizemore had no problem with that. If races were scheduled closer to race day the owner would need to contact the zoning office by phone or email. Rain dates would be set up for the following day.

He also agreed that any future buildings erected on the property he would obtain a building permit.

Jack Bender asked what was being done to contain the animals that got loose on the property to keep them off the roads, stating one of the animals had gotten loose and caused a near accident. He was told that there is fencing around the property to help prevent such escapes. Sizemore said it is rare that animals get out.

Commission members asked if a fee is being charged for admission. Guevara said yes they normally charge \$10. He stated no purse was paid out to the winners of the races. He was also asked if jockey's were professionals? He said no they are most amateur jockey's.

Commission asked if the track was a business? He said yes he is in the process of setting up an LLC. Ruth Jacob spoke on Guevara's behalf saying she helped him set up sales tax a few years ago. He pays taxes on the income and sales tax on the gate fees. Philip Kimerer asked what the gross income for the year was and the impact financially the track has on the county? Jacob noted that Guevara breaks even on income after all of his expenses including hiring security for each event. But he does pay sales tax on the gate fees.

The commission asked about the concessions on the grounds. Jacob said those concessions were run by a lady with a restaurant out of Wichita. She said they take care of their own sales tax.

Harlan Foraker asked if they had a site plan or if they could bring a site plan so they could see how they plan to address issues. Sizemore said if you give us more time we can get that done.

The commission asked how big the property is that the race track is located on. John Stutzman former owner of the property responded that the track is on 8 acres and that there is an addition 6-8 acres of property for parking.

Bonnie Wendling asked if horses were required to bring health papers. Guevara answered no. However this issue was addressed later in public forum. Donnie Davidson and Sarah Pratt (Local Veterinarian) said it is up to the state to ask for papers on horses crossing the state lines. All horse coming into the state from out of state are required by law to have health papers.

Goering opened the floor to public comment starting with those that were in favor of the track.

Terry Jacob-Township grader operator for Lakin Township, spoke saying that he did not put any additional gravel or maintenance into the road than any other road in his township.

John Weber-Weber got up to speak in favor of the track. He noted that businesses especially small businesses do not come into "this part of the county" due to restrictions placed on them.

Ruth Jacob-Neighbor to Guevara and his family said she has known them for years. She said the average crowds are not that large. She also said Speedy and Adela did not know about the social media pages. She reported that they always have the trash picked up the day after the event. She said yes there is noise but it only lasts for 4-5 hours and is done before dark. She said it is Speedy culture to do this and is something he saw his father do in Mexico. She said he is trying to keep his culture alive.

Ron Voth-Voth lives 1/8 mile away. He said 10 years ago he would have been opposed. But over the years, they have done an amazing job of cleaning up after the races. He said if it stays like it is now and does not get any larger he is ok with it. His only concern was that he feels his property value has decreased due to the race track and feels the county should evaluate it differently.

He asked that if they pass it they get the demands in the minutes and get the information accurate. He also asked that there be no lighting allowed, overnight camping or parking on 72nd street.

Donald Davidson board of directors for the American Quarter Horse Racing Association -Has raced horses there. Never had problems.

Sara Pratt DVM-Spoke about health requirements and that horses entering the state are typically checked at the state line. She said those are monitored by the state and that individual clubs and venues may set their own standards to require health papers to be shown or to hire a DVM onsite during the event. Due to the event not being sanctioned there are no requires on vets or health papers. She also said she has an economic interest in the track because she lives 3 miles south and sells hay. She also said she attended the 1996 and 2000 Olympics for the equine events. She said they did not have restrooms, just port-a-potties. She said she has no issues with the track.

Pete Aversa- Has not seen any problems with track. He said many of the issues are for the sheriff's office to address such as the driving and traffic issues.

Next Goering opened the floor for those opposing the track.

LouAnn Voth-Voth said she is always cleaning up her ditch and the Kisiwa Creek due to trash she believes comes from those attending the track events. She said Speedy does a good job of cleaning the ditches that were once full of beer cans. She said he does much better now. She was shocked it took 10 years to do anything about the track. She said as a neighbor they felt like there was nothing they could do. She said it started out small but now it is big events. She has concern the big events will happen more often. She said the noise is disruptive and it has de-valued their home. She is not sure if they chose to sell their home how they will ever sell it. She said is happy the county is finally addressing the issue.

Jane Kill-Lives near by on 72nd Street. Said music and noise levels are disturbing. Is concerned that they do not know if horses have had vaccinations and tests for infectious disease. She is concerned about the drinking and amount of drinking happening at the track and the trash she picks up out of the Kisiwa Creek. Also the large amount of traffic on the roads is a concern for her.

Martha Sadiq-has lived there for 15 years. She also is unhappy about the level of noise generated by the track. She also is unhappy about the traffic saying it has taken her 20 minutes or more just to get out of her driveway. She is afraid with the permit it will grow. She said the permit is not in the best interest of the property owners in the area.

Paige Rathbur-Bought home in November. Said if she had known about the track she would not have purchased the home. Her concerns were traffic and noise.

Daphne Lee-7410 S. Hertzler,- Her concern was the number of 911 calls and the expense for the county. She asked how much it costs for those calls. She asked the commission to compare the number of calls to a similar venue like the Newton Saddle Club who has very few 911 related calls.

Goering asked if there was anyone else wishing to speak.

Beth Vannatta- Vannatta said she has known Speedy for years. She stated when you live in the county you have to live with what surrounds you. She said her home is surrounded by Spring Lake Resort that has live music that she can clearly hear from her home and a ¼ mile away is a pig farm. She said she has learned to get use to it.

Ron Voth-On the gambling concerns, Voth said \$12 billion dollars traded hands from NCAA Pots and he did not see any signs in businesses that said no office pots.

Daphne Lee-Lee said it is all how you look at it. They are drinking and betting at the track. So if someone becomes unhappy punches could be thrown.

Ruth Jacob-She wanted to clarify that Guevara did not ask for a permit for business. This was not his idea. He does not want to expand. He just wants to get in compliance so he can continue to do what he has been doing.

Sizemore had the final rebuttal saying that it was not Guevara's intention to grow. He's just trying to do what the county wants him to do to keep racing. If the music is an issue, different things can be done. Sizemore asked for a chance to address the sound and safety issues and assured them it was not going to grow.

Foraker suggested that Guevara and Sizemore set up a meeting with the neighbors to discuss the issues and work out solutions to the problems. Sizemore said they would be happy to meet with them.

LeAnn Voth said it has grown and she fully expects it to continue to grow. She said she never gets a break, its every weekend.

Abbie Guevara, Speedy's daughter, spoke up and said it is every other week or at most 3 weekends per month.

Daphne Lee then asked if a cost analysis could be done on the EMS dispatch and 911 calls.

She was told that EMS is paid by the patient. The sheriff's deputies are already on duty and being paid. Over the last five year there were 18 calls that may have been related to the track.

Martha Sadiq- said if it becomes legal she will be reporting more complaints.

Beth Vannatta said the best way to get control is to legalize it.

Foraker asked if it could be limited to summer months or specific times of the year.

Kimerer commented that the track is used for more than just events. He said they are using it for training as well and he doesn't want to take that away.

Goering offered for Sizemore to speak again. Sizemore said he had said all he needed to say.

Goering closed public comment.

The commission discussed that safety concerns had to be addressed if they tabled the item. But commission member were willing to table it to give Guevara a chance to address the issues. "They are here and willing to work with us," Foraker said.

Wayne Allison made a motion to table the case until June 3, 2014. That meeting would be closed to public comment. Only Guevara and Sizemore would be addressed by the Planning and Zoning commission.

Jack Bender seconded the motion.

The vote was 11-0 in favor of tabling the case.

Larry Goering adjourned the meeting at 8:55pm.