

MINUTES OF
BOARD OF HARVEY COUNTY COMMISSIONERS

January 26, 2009

The Board of Harvey County Commissioners met in regular session on January 26, 2009 with all three commissioners present. Chairman Roberson called the meeting to order at 9:00 a.m.

ITEMS ADDED TO AGENDA:

1. The Commissioners reviewed letters received in protest of the proposed cellular tower near the City of Sedgwick. This item is on the agenda at 10:00 a.m.
2. Commissioner Westfall requested an executive session later in the Commission meeting to discuss economic development.
3. Chairman Roberson attended her first KCAMP meeting as a board member last week. She received information that there is on-line training sponsored by KCAMP that is available to the Sheriff's Department.
4. Chairman Roberson received a letter from Governor Sebelius' office designating January as "Everyone Counts" month.
5. Commissioner Krehbiel reported that the Central Kansas Regional Solid Waste Authority met last week and made the decision to continue the group that includes the counties of Harvey, McPherson, and Marion. The cost for Harvey County will be reduced to \$300 per year.

CALENDAR ITEMS:

1. The Mitigation Committee will meet with AMAC, the facilitating group for mitigation plans, on January 29 at the Harvey County Courthouse.

Minutes of the January 20, 2009 Commission meeting were approved upon a motion by Commissioner Westfall, seconded by Commissioner Krehbiel.

ADMINISTRATIVE ITEMS:

1. Following the recommendation of existing Richland Township officers, Commissioner Krehbiel made a motion to appoint Allen Patterson to fill the unexpired term of Township Clerk following the resignation of Sandra Fields. Commissioner Westfall seconded the motion and it was passed unanimously.
2. On behalf of Eugene Wendling, John Waltner extended an invitation to attend the Valentine's banquet in Halstead on February 14. Commissioners Krehbiel, Roberson, and Westfall and spouses will attend.
3. A webinar on the Federal stimulus package which will take the place of the regular REAP economic development meeting will be held at the Wichita City Council Chambers at 12:00 on Wednesday.
4. John Waltner reported that Shelly Hammond, accountant with Allen, Gibbs, & Houlik, is completing the final report of the audit done in the Sheriff's Office. The written report should be ready later this week.
5. Sheriff T. Walton informed the Commission that the door locks at the Sheriff's

office have been changed with a cost of approximately \$3,000. He also reported that the floor tiles in the foyer of the Law Enforcement Center need to be repaired. The cost will be shared by both the Sheriff's Department and the Newton Police Department. The bids for a new vehicle for the Sheriff's Department will be opened at the February 17 Commission meeting. The Department also needs a new camera.

CITIZENS FORUM:

Willis Heck, representative of the Highway 50 development committee, reported that there will be a study done to examine the impact of tax exemptions such as sales tax, etc. Representatives from counties, cities, townships, and school boards will meet in February to start the process. The committee will be chaired by Joan Wagon, Kansas Department of Revenue.

The Highway 50 Association is looking at different options for the highway including four lanes, or more and longer passing lanes. Funding is an issue, but one of the options being explored is an increase in fuel tax. He encouraged the County to be willing to commit funds if we really want to see the projects move forward.

Phil Adams, Road & Bridge Superintendent, gave an update on the bridge on Kansas Road at Centennial Park. The State did a spot check on the bridge and suggested that the bridge be closed because the pilings are shifting. The bridge is not scheduled for replacement until 2011. Paul Ferguson, Engineer with Poe & Associates, will check and see if repairs can be made to stabilize the bridge until it is replaced.

Commissioner Westfall received a citizen complaint that there had been some erosion at West Park that needed to be repaired. The Watershed Institute has done a survey on how to control erosion at bridges. Maybe we could use some of that technology in this situation.

Warrant checks were approved upon a motion by Commissioner Westfall, seconded by Commissioner Krehbiel. Motion passed unanimously.

Scott Davies, Director of Planning & Zoning, presented a request by Wes Burns with Integri-Site, on behalf of Alltel Communications Inc., for a conditional use permit to erect a telecommunications tower located in the A-1 Agricultural Zoning District. The property is located approximately 1/2 mile west of South West Road on the north side of SW 125th Street east of the City of Sedgwick. The request was considered by the Harvey County Regional Planning Commission on January 6 and the Commission recommended denial of the request by a vote of 6 in favor and 5 opposed. The Chairman and member Larry Emmel abstained. Thirteen letters or petitions protesting the approval of the permit have been received. Wes Burns clarified the regulations regarding the placement of cell phone towers. Alltel buys their licenses from the FCC, which governs where the tower can be placed as far as MSA and RSA boundaries in addition to consideration of environmental issues. Kent Steinbach, also a representative of Alltel, explained the limits on where the tower could be located without the signal field crossing over into Sedgwick County, which would violate the regulations of their license. Placement of

the tower has to be either east or west of the City of Sedgwick. They looked at sites within the City but could not find one that was acceptable. Commissioner Westfall asked why the tower could not be located on the Co-op in the City. The City sits in a valley and the tower would have to be higher.

Paula Dilts Fregara, landowner where the tower would be located, spoke in favor of the tower. This would aid in communication for emergency services and enable the citizens and businesses of Sedgwick to keep up with technology.

Keith DeHaven, Sedgwick Mayor, said communication is a very important aspect of our world today and this is very important to the citizens and business owners in Sedgwick.

Larry Emmel, Sedgwick City Councilman, spoke in favor of the application. Service in the city of Sedgwick is very poor and needs to be improved for the sake of businesses, some of whom rely totally on cell phone service.

Bryan Chapman, City Councilman, said they receive more complaints on this issue than any other. This is a restriction when trying to draw new business to Sedgwick and especially with the development of the second phase of the industrial park. The most important issue is with safety and emergency response.

Adam Healey, City Councilman, said that cell phone service is one of their top priorities because of safety issues and business development.

Mrs. Dilts said that they have no intention of ever doing anything more than using the land for agricultural purposes.

Gail and Terry Clark own land approximately 700 feet north and east of the proposed site. They are concerned about a decrease in their property value and how the tower would look with all the emergency equipment that would be on the tower. They are also concerned with health issues and who would monitor the compliance of the tower. There was a cell tower close to Halstead that was running at a higher frequency than was permitted. There is also concern about the cleanliness of the area. They do not believe that everyone in Sedgwick is a proponent of the tower. The Phase II Industrial Park is not an issue because it is located south of 125th Street in Sedgwick County.

Marilyn Ghere lives 155 yards west of the proposed site. She is concerned about health issues living that close to the tower.

John Clark lives at 1503 7th Avenue which is within 1000 feet. He does not believe that this is in the best interest of the people. He asked if the County will receive franchise fees. The County will not.

Brad Dilts believes the tower would be better placed on the elevator in the City of Sedgwick. He is concerned about the possible health issues.

Gary Hale stated that he owns 17 acres of property in the City of Sedgwick just west of the cemetery on the north side of 125th Street. Maybe this area would be a better option.

Terry Clark said that 13 of 19 landowners in the affected area wrote letters in opposition of the tower.

Greg Nye, County Counselor, clarified the options for the Commission. This is an application that the Planning Commission recommended be denied. It would take a majority vote to accept this recommendation. However, to approve the tower would take a unanimous vote of the Commission. The Commission can also return the issue to the Planning Commission and ask for an explanation as to why they recommended denial of the permit.

Commissioner Westfall asked if Alltel would be willing to look at an alternative site. Kent

Steinbach said that it is very difficult to find a site within the City. Commissioner Westfall said that this is an important issue because 1,000,000 phones per month are disconnected in favor of cell phones.

Terry Clark said they did not receive enough information about the issue. Scott Davies said that all adjacent landowners were sent notification that all the information regarding the tower was in his office for examination.

Other attendees were: Raymond Ghere, Jackie Nelson, and Kim Beckwith.

Commissioner Krehbiel made a motion to send the conditional use permit request back to the Planning & Zoning Commission to revisit the issue. After explaining that it is not unusual for this type of decision to be sent back to the Zoning Commission for further consideration, Commissioner Westfall seconded the motion. Motion passed unanimously. Landowners will be sent another letter with additional information.

Scott Davies presented a request by David C. Baumgartner for a conditional use permit to construct a storage building for a motorcycle repair business on property located in the A-1 Agricultural zoning district. The property is located approximately 1/4 of a mile south of SE 60th on the east side of Kansas Road, also known as Old Highway 81. The request was considered by the Harvey County Regional Planning Commission at a meeting on January 6 and recommended for approval. The vote was 12 in favor and 0 against, with the Chairman abstaining. There were no letters or petitions received in protest of this permit. The permit was approved upon a motion by Commissioner Westfall, seconded by Commissioner Krehbiel. Motion passed unanimously.

Commissioner Krehbiel made a motion to go into executive session at 11:30 a.m. for a period of 15 minutes to discuss economic development. Commissioner Westfall seconded the motion and it was passed unanimously. Greg Nye, County Counselor, was also in attendance. Executive session ended at 11:45 a.m. with no action being taken.

Chairman Roberson adjourned the meeting at 11:45 a.m.

BOARD OF HARVEY COUNTY COMMISSIONERS

Marge Roberson, Chairman

ATTEST:

George A. "Chip" Westfall, Member

Joyce Truskett, County Clerk

Ron Krehbiel, Member