

MINUTES
HARVEY COUNTY REGIONAL PLANNING COMMISSION
HARVEY COUNTY BOARD OF ZONING APPEALS
Harvey County Courthouse
Community Room
December 1st, 2009
7:00 PM

Members Present: Clifford Kirk, Dorothy Thiessen, Ron Peters, Alan Beam, Jack Bender, Sam Griffin, Harlan Foraker, Robert TenEyck, Bonnie Wendling & Larry Goering

Members Absent: Chad Fuqua, Larry Emmel, Al Heine, & Carroll Harder

Staff Present: Scott Davies, Planning & Zoning Administrator,

Others Present: Rich Emanuel, Lynn Moore, Deb Ary, Larry Flickinger, & Amy Simon

At 7:00 pm Vice- Chairman Kirk called the meeting to order.

1. Mr. Kirk asked for any corrections to the November minutes. Staff said that Mr. Heine was listed twice for being present, should have been listed once, Bonnie Wendling was omitted from the list and was present. Staff also said that under Roberts Rule of Order that the two motions for the Wichita items were said to be tabled when the motion should have read "Referred back to staff for more information" Staff took liberty to correct the wording. With those corrections in mind, Mr. Peters moved and Mr. Griffin seconded to approve the minutes. Motion carried.
2. Staff Report: Twelve building permits were issued during November for a total construction estimate of \$351,763.
3. **CUP 12-23-3W, Request from the City of Wichita Water Utilities for a conditional use permit to construct a communications tower 150 feet in height.** This agenda item was referred back to staff from the November meeting to obtain more information. Specifically the commission wanted documentation on why co-location was not feasible and in addition a map showing the existing towers in the county. Staff reported that the engineers working on the groundwater recharge project for the City of Wichita had responded back with a report on why co-locating on an existing tower was not feasible. Staff said that the summary report is from a two hundred page research book that the engineering firm conducted in determining what communication system would be best.

Next to speak was Rich Emanuel, engineer with CHM2 Hill, representing the City of Wichita. Mr. Emanuel presented a power point presentation. Mr. Emanuel briefly explained the communication network for phase 2 of the recharge project. He said three towers would communicate to more than 50 water wells in the Equus Beds. He said the towers provide secure communication with the control center in Wichita. They evaluated several options including co-location but determined that building a microwave system was best, Mr. Emanuel said. Mr. Emanuel said that burying cable was expensive and it also was not reliable due to being damaged. Mr. Emanuel said that co-location was not feasible because of; Security issues and the result of the Drinking Water Security Act; reliability was not at the standard they needed for the system; collocating on an existing nearby tower would not eliminate the need for towers at the two sites, he said. Mr. Emanuel said that by having duplicate towers it would cause unnecessary costs.

Mr. Emanuel said that the towers would meet the requirements for one additional space for collocation. Staff reminded the commission and the applicants that county zoning regulations make it mandatory to allow the county emergency communications to collocate on a communications tower.

Mr. Kirk asked for any questions from the commission. Ms. Thiessen said she knew there were four towers in the area where the city wanted to locate the tower. She also asked why there was no sign on the facility. Deb Ary, with the City of Wichita Water Utilities, said they did that intentionally to improve security. Ms. Thiessen said that fiber optic was used on oil wells around the Moundridge area and wanted to know why fiber optics could not be used. She also wanted to know why these towers weren't in the original plan. Mr. Emanuel said that that there were four phases in the project and that this is phase two and provides the communication and monitoring system for the project. Mr. Bender asked if there were plans for more towers in the future. Mr. Emanuel said no. Ms. Ary explained that phase two was the backbone for recharge project, it contained new power system and communication infrastructure to support the last two phases. Mr. Foraker asked about line of site towers, Mr. Emanuel said the tower would have two radios, one to communicate from tower to tower and the other to communicate to the wells in the field.

Mr. Kirk asked if there would be staff where the towers are located. Ms. Ary said initially there would be staff out in the field but eventually want all the control staff in Wichita. She also said there would always be staff in the field to maintain the wells.

Mr. Kirk commented that he travelled between Newton and Burrton on Hwy 50 and saw a truck parked at the bridge over the little Arkansas and wanted to know if that had something to do with the City's business. Ms. Ary said it was the USGS (United States Geological Survey) recording stream information.

Mr. Foraker asked about the height of the tower and number of co-locations required. Staff said that towers below 150' according to county regulations only require one available space. Mr. Griffin said that if the county wanted to co-locate then they would have first opportunity. Staff said yes, the county emergency communications has mandatory allowance on the tower. Mr. Griffin said that if the county wanted on the tower then no one else could co-locate. Staff said that is correct. Staff suggested that the regulation may want to be re-written to say that towers 150 feet and less allow for the county and one additional co-location.

Mr. Emanuel showed a picture of a 130 foot microwave tower in Arizona that was used to operate a water facility there. Mr. Foraker asked if the tower gets lighted. Mr. Emanuel said no, towers under 150 feet are not required to be light. Staff commented that it would be less invasive without a light on it.

Mr. Kirk asked how close they were to existing towers; Mr. Emanuel said they did not look into it because of security issues. Mr. Kirk asked if they could co-locate on another tower, Mr. Emanuel said that if they did, they would still need a tower at each of the sites. Mr. Griffin asked how tall the towers would need to be. Mr. Emanuel said that they would need to be at least tall enough to clear trees about 70 feet and then another 30-40 feet to get a good signal. Ms. Thiessen asked how deep they will go in the sand. Mr. Emanuel said about 20 feet down to gravel. Mr. Kirk asked if they were inspected by a federal agency. Mr. Emanuel said no, they are built according to standard engineering practices. Mr. Emanuel said that they are regulated by the FCC.

At this time, Mr. Bender moved to reopen the public hearing, Mr. Griffin seconded. The vote was 8 for 1 opposed and 1 abstention. Motion passed. There were no comments from the public. Vice-Chair Kirk closed the public hearing.

Mr. Griffin then moved to recommend approval of the request from the City of Wichita Water Utilities based on the staff report, Mr. TenEyke seconded. Mr. Foraker called for a question. Mr. Kirk called for a vote. The vote was 7 for and 2 opposed, the acting chair abstained, motion carried.

4. CUP 16-24-2W, Request from City of Wichita Water Utilities for a conditional use permit to construct a communications tower approximately 150 feet tall.

This agenda item was referred back to staff from the November meeting to obtain more information. Specifically the commission wanted documentation on why co-location was not feasible and in addition a map showing the existing towers in the county. Staff reported that the engineers working on the groundwater recharge project for the City of Wichita had responded back with a report on why co-locating on an existing tower was not feasible. Staff said that the summary report is from a two hundred page research book that the engineering firm conducted in determining what communication system would be best.

The same presentation and information provided by Mr. Emanuel for the previous case, applied to this case. Having no more information, Mr. Griffin moved to recommend approval of the request by the City of Wichita Water Utilities based on each criteria of the staff report, Mr. Peters seconded. There was no discussion. Mr. Griffin called for a question. The vote was 7 for and 2 opposed and the vice-chair abstained. Motion carried.

5. VAR 12-23-3W, Request from the City of Wichita Water Utilities for a variance from the minimum setback from a property line for a communications tower in the A-1, Agricultural zoning district.

The Chairman adjourned the planning commission and readjoined as the Board of Zoning Appeals. The City of Wichita Water Utility is requesting a variance from Section 16.06.4 of the Unified Development Code. This regulation requires a communication tower be setback a minimum of the height of the tower plus 50 feet. In this instance they are requesting the 150 foot tower be setback **160** feet instead of the required 200 feet from the east property line. Staff presented report.

Mr. Moore representing the city explained where the tower was going. Mr. Foraker asked why the tower couldn't be located west meeting all setback requirements. Mr. Moore said there was a pipeline in the area preventing them from building on top of it. The Chairman opened it up for public comment, there was none. Mr. Bender moved to approve the variance, Mr. Griffin seconded. The vote was 8 for and 1 opposed, 1 abstention. Motion carried.

6. VAR 16-21-2W, Request from the City of Wichita Water Utilities for a variance from the minimum setback from a property line for a communications tower in the A-1, Agricultural zoning district.

The City of Wichita Water Utility is requesting a variance from Section 16.06.4 of the Unified Development Code. This regulation requires a communication tower be setback a minimum of the height of the tower plus 50 feet. In this instance they are requesting the 150 foot tower be setback **170** feet instead of the required 200 feet from the east property line. Staff presented report.

There was no discussion or comment from the public. Mr. Goering moved and Mr. Peters seconded to approve the variance. The vote was 9 for 0 opposed, motion carried.

There was no more discussion or items and Mr. Peters moved and Mr. Griffin seconded to adjourn the meeting. Motion carried, meeting adjourned at 8:30 pm.