

**MINUTES**  
**HARVEY COUNTY REGIONAL PLANNING COMMISSION**  
**HARVEY COUNTY BOARD OF ZONING APPEALS**  
**Harvey County Courthouse**  
**Community Room**  
**April 6<sup>th</sup>, 2010**  
**7:00 PM**

**Members Present:** Clifford Kirk, Wayne Alison, Bonnie Wendling, Larry Goering, Carroll Harder, Robert TenEyck, Al Heine, Dorothy Thiessen, Jack Bender, Harlan Foraker, Chad Fuqua, Larry Emmel, & William Wilson

**Members Absent:** Alan Beam & Ron Peters

**Staff Present:** Scott Davies, Planning & Zoning Administrator

**Others Present:** Jana McKinney, Jim Graber, Kyle & Terri Headrick, Joy Gehrler, Lowell Roth, Vern & Dorothy Koch

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

1. The Oath of Office was taken by the planning commission/board of zoning appeals.
2. Chairman Kirk asked for any corrections to the March 2<sup>nd</sup>, 2010 minutes, there being none, Mr. Foraker moved to approve the minutes and Mr. TenEyck seconded, motion carried.
3. Staff Report: Eight building permits were issued during March for a total construction estimate of \$3,871,500. The largest permit was to the City of Wichita for a water storage tank. Four single family dwelling permit were issued during the month.
4. **Public Hearing, Case No. CUP 25-22-1W** Request by Jana McKinney on behalf of McKinney Farms for a conditional use permit to operate a "Clean Rubble" (concrete and asphalt) landfill in the A-1 Agricultural zoning district.

Staff reported that Ms. McKinney had been operating a clean rubble landfill to fill in a borrow pit used to construct the interstate. It originally was used to bury clean rubble from reconstructing the interstate. Since the completion of the interstate, Ms. McKinney had been allowing clean rubble disposal from other sites. Staff said that this triggered a requirement for conditional use permit because it was more than the permitted use of a one time dumping as specified in the zoning regulations. Staff expressed concern about this area being brought into a special flood hazard later this year and requiring a floodplain development permit.

Staff showed aerials and on ground photos of the site.

The Chairman reviewed the procedure for a public hearing and then opened it up for public comment from those in favor of the request. Ms. McKinney spoke first in favor of the request. She said that when the interstate was first built, the site was a six acre borrow pit. Her husband who has since passed away originally obtained the permits from the state. She said that she had allowed Lowell Roth to bury clean rubble because she knew him and trusted him to not do any dumping that was not allowed. She had denied others the use of the site because she did not

trust them. She was not aware that she needed a permit from the county until Mr. Davies sent her a letter.

Mr. Lowell Roth spoke next in support of the request; he said it was not a dumping site but a clean rubble burial site, only for the use of clean concrete and asphalt.

Mr. Emmel asked if it was his intention to fill borrow pit to previous grade. Mr. Lowell said he was only filling to existing grade and no higher.

Mr. Foraker asked Ms. McKinney if she received payment, Ms. McKinney said she did.

Mr. Emmel asked how long they would be filling at the site. Mr. Roth said that it was a very slow fill and would be many years. Ms. McKinney said that she would not allow anymore filling after Mr. Roth discontinued.

Next to speak in favor was Jim Graber, adjacent landowner to the north. He said that it had been dug to the subsoil and only weeds would grow on the site. He said it had been unattractive and that this was an improvement. He was not concerned about flooding; he has a detention pond and has never seen the water over NW 60<sup>th</sup>.

Vern Koch another adjacent landowner spoke next in favor. He said that he has never seen concrete or rubble on the road and that Mr. Roth does an excellent job of burying the rubble. Other contractors have been closed off from dumping.

Joy Gehrer spoke next in favor and said she was not opposed to the burying of clean rubble.

Terri Headrick another adjacent landowner spoke in favor of the request. She said she knows Mr. Roth and felt he was very trustworthy.

The Chairman asked if any opposed, there were none.

The Chairman closed the public hearing and opened it up for discussion from the planning commission.

Mr. Foraker said he had no problem with the burial of clean rubble at this site but that the height should be restricted and to stay some distance from the creek.

Mr. Goering said that what is currently going on is a big plus and that he was ok with it.

Mr. Foraker moved to approve the conditional use permit with the conditions that it be no higher than the road and that it stay back at least 100 feet from the creek. Mr. Goering seconded. The Chairman called for a vote, the vote was 11-0, with the chairman abstaining. Motion carried.

**5. Public hearing Case No. CUP 31-22-1E.** Request from Tim Sweigart for a conditional use permit to construct a wind turbine approximately 60 feet in height.

Staff reported that Mr. Sweigart is requesting to construct a wind energy conversion turbine on his property on NW 36<sup>th</sup>. The height of the tower would be approximately 60 feet. The tower will be a demonstration tower to sell for residential use but would also supply some power for his business.

The Chairman opened up the public hearing, there was no one in support or opposition. The Chairman closed the public hearing and opened it up for the planning commission to discuss. At that time Mr. Fuqua moved to approve the request with the condition that the wind turbine is

setback a distance of the height of the tower with the blade at 12:00 plus 20 feet, Mr. Alison seconded. The vote was 11 in favor and 0 opposed. The motion carried.

6. **Service Drive Minimum Standards.** Staff reported on minimum standards being developed to provide recommendations to landowners when developing a new site. These will not be regulations. Staff discussed that they will provide width of entrance to drive, width of drive, minimum heights, and other issues relating to constructing the private drive. These are being developed so emergency vehicles can access property in the event of an emergency.

**Old Business.** Staff reported on his deposition for the Camacho gun range. He thought the matter should go to trial soon.

The Meeting was adjourned by Chairman Kirk at 9:00 pm.