

**MINUTES OF THE
MIAMI COUNTY PLANNING COMMISSION
February 7, 2023**

**MIAMI COUNTY ADMINISTRATION BUILDING
COMMISSION CHAMBERS
201 SOUTH PEARL STREET
PAOLA, KANSAS 66071**

ATTENDANCE

CHAIR: John Menefee

VICE-CHAIR:

PLANNING COMMISSION Charles Armour, Joshua Brown, Randy Kitchen, Bret Manchester, Joe Flake, Topher Philgreen, and Gary Brockus

ABSENT MEMBERS: Kelli Broers

EX-OFFICIO MEMBERS: None present

PLANNING DIRECTOR: Kenneth Cook

ASST. PLANNING DIRECTOR: Not present

PLANNER: Not present

PC SECRETARY: Casey d'Augereau

COUNTY COUNSELOR: Not present

ECONOMIC DEVELOPMENT Not present

COUNTY COMMISSION: None Present

COUNTY CLERK: Janet White

PRESS: Brian McCauley

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CALL TO ORDER

Chairman John Menefee called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

ROLL CALL

Roll Call was taken with eight (8) members present, making a quorum.

DISCLOSURE OF ANY EX PARTE COMMUNICATIONS OR POTENTIAL CONFLICTS OF INTEREST

Philgreen stated he knows the Hamiltons with Chris Cakes; has used their services and likes their food. Menefee stated Philgreen can partake in the item when it comes up.

ADOPTION OF THE AGENDA

Philgreen moved to adopt the agenda as presented. Brown seconded, and the motion passed unanimously (8-0), via a show of hands.

CONSENT AGENDA

- Minutes: Approval of the December 6, 2022, Planning Commission Minutes

Manchester moved to approve the consent agenda. Philgreen seconded, the motion passed unanimously (8-0), via show of hands.

REGULAR AGENDA

Old Business: None.

New Business:

Election of Officers

Menefee stated they will be electing new officers which consist of the Chairman, Vice-Chairman, and a Planning Commissioner to serve as a representative on the Board of Zoning Appeals (BZA). Menefee stated every year they elect a new Chairman, Vice-Chairman, Planning Commissioner to serve as a representative on BZA, both Chairman and Vice-Chairman are allowed to serve two-consecutive terms. Menefee asked for nominees for Chairman for the 2023 year.

Brown nominated Menefee as Chairman; no other nominations were made.

Philgreen moved to elect Menefee as Chairman for the year of 2023; Brown seconded; the vote was unanimous.

Menefee requested nominees for Vice-Chairman, stating the Vice-Chairman will step in for the Chairman when the Chairman is not available.

Philgreen asked if they are allowed to nominate someone that is not present, Kitchen stated the same. Cook stated he would like it noted Broers stated, should her name come up for nomination, she would be good with it.

Philgreen nominated Broers as Vice-Chairman; no other nominations were made.

Armour moved to elect Broers as Vice-Chairman for the year of 2023; Flake seconded; the vote was

unanimous.

Menefee requested nominees for a Planning Commissioner to serve as a representative on Board of Zoning Appeals (BZA). Cook stated Brockus is currently on the BZA Board.

Philgreen nominated Brockus to be the Planning Commission representative on BZA; no other nominations were made.

Philgreen moved to elect Brockus to be the Planning Commission representative on BZA for the year of 2023; Brown seconded; the vote was unanimous.

Public Hearing – 22002-Z: Rezone from Agricultural (AG) to Countryside (CS)

Cook presented the staff report for consideration of an application to rezone approximately 160 acres from Agricultural (AG) to Countryside (CS), in accordance with Section 22 of the Miami County, Kansas Zoning Regulations. The subject property is located at the southeast corner of 271st St and Crescent Hill Rd, in the Northwest Quarter of Section 27, Township 16, Range 22, Richland Twp. Submitted by Charles D Klaasmeyer II, property owner of record.

Cook briefly addressed each of the *Golden Criteria* communicated in the Staff Report.

Cook noted some floodplain across the western portion of the property. Mr. Klaasmeyer owns 160 acres, and since filing the application for rezoning completed some Exempt Splits of the property into it is now four (4) 40-acre tracts. Cook stated he visited with the applicant regarding 271st Street not meeting Miami County's minimum standards. If he were to split 15-acre lots on the west side it would make it difficult to do anything on the east side of the property without being required to upgrade 271st Street to meet Miami County's standards. There is also a culvert that crosses the road that is only 16 feet in width that will need to be brought up to standards. Cook stated after having these discussions with the applicant, the applicant still wishes to move forward with rezoning the property. Cook stated if the rezoning is approved there will be some options available for development and if the applicant wishes there would be the potential option of developing roads internally. Cook stated there are a couple of pipelines that run through the property east to west. The pipelines don't affect this application but might affect future applications.

Kitchen asked if the surrounding property owner splits were prior to zoning regulations.

Cook stated yes, in doing some research found some surveys for the surrounding properties and most of them were done in the late 1980s.

Cook stated Staff recommends the Planning Commission approve the Rezoning application to Countryside (CS) based on the property having access to the minimum infrastructure required regarding Crescent Hill Road, availability of access to rural water and the proposed rezoning and development patterns being similar to the development patterns used for other properties in this area.

Cook stated he is available for questions from the Planning Commissioners and the applicant is present if they have questions for the applicant.

Menefee invited the applicant to the podium at 7:27 p.m.

Robert Zoller, 29580 Lone Star Rd, stated he is the applicant's (Klaasmeyer) Real Estate Agent. Zoller stated the applicant purchased this property specifically for the propose of splitting it up and selling off 15-acre lots. Zoller stated he thought this area was ideal for his client as there is a shortage of paved roads in Miami County and this will assist in bringing in more buildable lots. Zoller felt the property's access to K-68 Highway will encourage growth of Miami County. Zoller stated it is his understanding there has been a steady drop in the School District population for the past 10-15 years and believes if this area is properly developed this could assist in bringing up the population within the school district. Zoller believes this property is ideally suited for small homesteads for people wishing to have chickens, gardens, and even a few cattle. Zoller believes this will have a positive impact on Miami County and that he is open for questions.

Brockus asked what School District Zoller is referring to.

Zoller stated Paola School District.

Flake stated he was not aware that Zoller was the Real Estate Agent on for this item and he does know Zoller. Menefee stated Flake is fine to participate on this item.

Flake asked what is the depth and width of the 15-acre lots.

Zoller stated approximately quarter mile deep and not positive on the width.

Menefee opened Public Hearing – 22002-Z: Rezone from Agricultural (AG) to Countryside (CS) at 7:30 p.m.

Menefee reminded the citizens that tonight's discussion is the rezoning application and not possible developments that might take place if the rezoning application is approved.

Menefee stated anyone wishing to come to the podium may do so. Each person will be allowed two (2) minutes to speak on the topic at hand, and all questions and comments must be directed to the Planning Commission not to the applicant.

Mike Wunsch, 33010 W. 271st St, stated there is a sign on Crescent Hill Road in this area that reads "Hillsdale Watershed". Wunsch asked is there special restrictions inside the watershed, what does this sign mean.

Menefee stated that will not be an issue for this application as it has no effect on the rezoning possibility. In the future if other applications come up such as a Lot Split or Subdivision development then the Hillsdale Watershed will be a factor.

Wunsch stated there is a large cattle operation on Crescent Hill, and appears to be a feed lot versus grazing. Wunsch asked how can a feed lot be inside a watershed.

Matt Holub, 27561 Crescent Hill Rd, asked if the rezoning is approved what an allowed use will be prior to the properties being developed into residential.

Menefee stated in the agenda packet on page 7 of 12 is a list of what's allowed by rights.

Cook stated Countryside (CS) District and Agriculture (AG) District have very similar uses that are permitted with Countryside (CS) being more restrictive. Cook gave examples of uses allowed by Conditional Use Permits (CUP) in Agriculture (AG) District that would not be allowed in the Countryside (CS) District.

Holub stated there is a property between his property and the applicant's property that is currently housing an abandoned racetrack, construction equipment, construction debris, and construction materials. Holub stated since the applicant also owns the property that separates them he doesn't want this moving north to this property.

Mike Wunsch requested permission to readdress the Planning Commission, Menefee approved. Wunsch asked if the rezoning is approved, and the area is developed with additional housing will additional fire hydrants be required. He stated they are in need of fire hydrants in the area.

Menefee stated it will need to be looked into.

Tucker Klaasmeyer, 28840 W 184th St, stated he was willing to answer questions and they are wanting to do 15-acre lots and plan to sell the lots.

Menefee closed Public Hearing – 22002-Z: Rezone from Agricultural (AG) to Countryside (CS) at 7:40 p.m. and opened the Planning Commission discussion.

Cook responded to the question about Agriculture use in the Hillsdale Watershed, there are State Statutes in place that prevent Miami County from regulating agricultural uses such as cattle operations and feed lots.

Menefee stated that would be more of a KDHE issue.

Cook stated fire hydrants are required based on the density of the surroundings. If the applicant files a subdivision application it is more likely for additional fire hydrants, if they are just selling off 5 – 15 acre tracts, fire hydrant improvements is not required.

Philgreen asked what the minimum lot size is for a septic system.

Cook stated Miami County's regulations allow down to 2-acres parcel size, but parcel sizes are typically larger. If a person is looking at a lagoon they typically need 5-acres. It is possible to get a septic system to fit on less than 2-acres, but it will be a more advanced system and cost more.

Manchester asked if the property is developed is the applicant aware that he will be responsible for the cost of the internal roads.

Cook stated yes. If they decide to create a Subdivision and the access to the Subdivision is off of 271st St the applicant will be responsible to upgrade the road. One option they have is to make a Lot Split creating a 15-acre lot then do a Subdivision with the remaining property creating four (4) lots and create all of those lots along Crescent Hill Road. Once they do anything to the east 80-acres that would bring other issues into play in upgrading that road.

Manchester asked where the pipelines are located on the map.

Cook stated he believes it is around the south side of the second 15-acre lot. It is in the northern half of the property about one-third the way down.

Manchester asked what the distance to build a house is from a pipeline.

Cook stated the pipeline easements are blanketed easements across the entire quarter section, therefore, there is no defined easement area. Part of a Subdivision Plat process requires the pipeline easements to be released or defined. The property owner will have to work with the pipeline company and the pipeline company will stipulate the distance from each side of the pipeline.

Menefee closed the Planning Commission discussion at 7:47 p.m.

Kitchen stated on page 10 of 12 under "Goals" number 1 reads "*Preserve large-scale farming and agriculture in Miami County to the greatest extent possible.*", he asked where did this statement come from.

Menefee stated it came from the Comprehensive Plan.

Philgreen moved to approve 22002-Z Rezone from Agricultural (AG) to Countryside (CS) as presented by staff. Flake seconded; the vote passed 6 – 2 (Kitchen and Manchester voted against), via show of hands.

Menefee stated this will go before the Board of County Commissioners on March 1, 2023.

Public Hearing 22011-CUP: Chris Cakes

Cook presented the staff report for consideration of an application for conditional use permit for the operation of a catering business per Section 6-2.02.33 of the Miami County Zoning Regulations. The subject property of approximately 20 acres is located at the southwest corner of 247th St and State Line Rd, in the Southwest Quarter of Section 2, and part of the Northwest Quarter of Section 11, Township 16S, Range 25E, Wea Township. This included Cook briefly addressing each of the *Golden Criteria* communicated in the Staff Report.

Cook stated a Conditional Use Permit (CUP) was previously approved by the Planning Commission in 2005 for Chris Cake to be operated out of a home located at 26595 Mission Bellevue.

Cook stated the applicant plans to have a building developed on the property to be used as warehouse storage for the catering business.

Cook stated the business currently has five (5) full-time employees that work an average of three (3) days a week and five (5) additional employees who work an average of one (1) day a month.

Cook stated they plan to have a 500-gallon propane tank on the property to be used for refilling propane bottles used at the offsite events.

Cook stated the applicant plans to use evergreen trees as screening.

Cook stated he provided a comparison of the original Chris Cakes CUP and the current application in the Planning Commission Staff Report.

Cook stated the site plan shows the building only 40-feet off of the public right-of-way and our regulations do require a 50-foot setback.

Cook stated the hours of operation are not noted in the CUP application and could possibly have an impact on surrounding property owners with lights and noise early or late in the day.

Cook stated Staff recommends approving the CUP based on the findings and conditions listed in the Planning Commission Report.

Kitchen asked how far do the trees need to be from the right-of-way. There have been instances when trees for screening were planted so close to the right-of-way that they impact the County's ability to maintain the road/Right-of-Way.

Cook stated if that is something the Planning Commission wants addressed, then the distance for screening trees can be specified.

Menefee asked if the applicant is required to use evergreen trees for screening or would they be allowed to use a privacy fence if they choose. Menefee stated he doesn't want to lock the applicant into a specific type of screening if they have other options.

Cook stated that can be reworded to allow the applicant options. The applicant listed evergreen trees on their site plan and the condition was based off the site plan.

Brockus asked what size of cedar trees will the applicant start with, 3-foot?

Cook stated 3-foot is his understanding.

Menefee invited the applicant to the podium at 8:10 p.m.

Amanda and Mark Shore, 1995 W. 247th St, Ms. Shore stated they have no presentation and are opened to suggestions. Mr. Shore stated they have been working with the County and plan to continue to work with the County.

Menefee asked for clarification of the evergreen trees, will they be seedlings or small trees.

Ms. Shore stated if there is a requirement they will follow the requirements, otherwise they are open to suggestions. Mr. Shore stated they haven't decided on the size of evergreens yet.

Menefee asked what will the hours of operation be. When will people be coming and going from the property?

Ms. Shore stated three (3) of the full-time employees will be there once a week, but they keep their trucks off-site.

Philgreen asked if Ms. Shore is buying the business.

Ms. Shore stated her father is the current owner and she hopes to be the next owner. She has helped with the business for the past 18 years.

Philgreen asked if having a condition limiting them to five (5) full-time employees and five (5) part-time employees in the Conditions is restrictive to them for possible growth.

Ms. Shore stated prior to 2020 they had eight (8) full-time employees, but she feels comfortable where they are at today. Ms. Shore stated Teresa Reeves (previous Planning & Zoning Director) offered to leave room for possible growth.

Philgreen stated that might be something to consider changing.

Philgreen stated the Planning Commission Report states employed by Mark and Amanda Shore, should that be Chris Cakes.

Ms. Shore stated it should say to be employed by Chris Cakes.

Brockus asked if "temporary" and "part-time" would be considered the same thing.

Mr. Shore stated he would consider it the same thing.

Brockus stated he thought maybe putting the word "temporary" in the conditions would allow for added growth.

Menefee stated he doesn't remember there being a limit of employees on other CUPs but stated Cook will be able to address that.

Menefee opened Public Hearing – 22011-CUP Chris Cakes at 8:15 p.m.

Menefee stated anyone wishing to come to the podium may do so. Each person will be allowed two (2) minutes to speak on the topic at hand, and all questions and comments must be directed to the Planning Commission not to the applicant.

Alyssa May, 19337 W. 210th St, stated she owns about 28 acres in Missouri in close proximity to the applicant's property stating she has three concerns with the application. May's first concerns is that of screening and how close the use will be to the road. There is an excavating business to the west with heavy equipment coming and going as well as The Haven Event Space's entrance being across from the proposed entrance for the applicant. May believes this will create additional safety issues. The additional traffic along with the excavating equipment will create issues. Concerned with the parking lot on the southern end of the property is worried about the run-off that would increase the amount of water in the nearby creek. If so, that will have an impact to May's property.

Matt Hawthorn, 18717 W 164th Ter, stated he recently purchased property located in Missouri at 247th & State Line directly east of the applicant. Hawthorn stated his concerns are similar to the previous speaker's (May) concerns. Hawthorn stated he would like to see the screening extended to the east side; he does not want to see the business from his property. Hawthorn stated he is concerned about the drainage and will the trucks be cleaned on site creating additional run-off. The nearby creek runs through his property and the additional run-off will impact his property. Hawthorn stated if this CUP is approved will other businesses be allowed to move-in, if so, what types of businesses will be allowed. Hawthorn stated he also has concerns about the propane tanks being filled on site.

Amanda Sanders, 310 E 79th St, stated she was born and raised in Paola, Kansas and believes this to be a great opportunity for the tax revenue to be moved from Johnson County to Miami County.

Menefee closed Public Hearing – 22011-CUP Chris Cakes at 8:15 p.m.

Menefee invited the applicant to the podium to respond to the citizen comments.

Ms. Shore stated there will be no customers on the property, this will be strictly for storage. There is no intentions of having signs on the property for the business. The parking lot will be a gravel parking lot. Mr. Shore stated the traffic will be an issue regardless of this CUP and he would like to see a speed limit sign of 45mph. Ms. Shore stated the proposed entrance will not be directly across the road from the event center. Mr. Shore stated their plan is to have cedar trees along the east side as well.

Menefee asked if they will be washing and cleaning out the trucks on site.

Ms. Shore stated it might happen on occasion, but they don't normally do it.

Kitchen asked if the evergreen trees/screening was clarified.

Mr. Shore stated they will do whatever needs done.

Kitchen asked if they are required to have training on refilling propane bottles.

Mr. Shore stated yes, per FerrellGas' recommendations.

Kitchen asked how often they train, once a year?

Ms. Shore stated it is done upon employment. Employees that do not fill propane tanks are not required to do the training.

Kitchen asked if they have to be retrained periodically and is it certified.

Ms. Shore stated the training is a program recommended by FerrellGas.

Philgreen asked how often they receive deliveries.

Ms. Shore stated they anticipate one delivery per week.

Manchester asked about the status of the septic system.

Ms. Shore stated the septic system was discussed in the preliminary meeting and she was advised there will be options to discuss at the time she begins the commercial building portion of the plan.

Flake asked if someone will be present on site all day.

Ms. Shore stated no, when they get a delivery a person is there to receive the delivery. All events are off-site, so the employees come to the warehouse, load their trucks, and leave.

Cook stated the site plan shows the evergreen/cedar tree screening surrounding the entire business portions of the property. The Planning Commission has the ability to request this be adjusted to include other options of screening. With the applicant starting with small trees, it will take a few years to grow and provide screening. If any of them die they will need to plant new trees.

Cook stated Road & Bridge reviewed the entrance and approved it, Cook doesn't have a reason to second guess Road & Bridge as this is their area of expertise.

Cook stated in respect to the possible run-off issue, a drainage study was completed on the applicant's property by an engineer. The engineer looks at different types of events and noted that the 10-year and 100-year rain events do not exceed the maximum allowable CFS, the 2-year rain event does exceed by .7 cubic feet per second the maximum allowed of 1.88 cubic feet per second after construction, but is less than the maximum 10% increase that would require detention by the APWA guidelines. The engineer's report recommends that no detention be required. Staff passed this report onto IBTS, which represents Miami County. They reviewed the plans and commented they took no exception to the drainage report submitted. The applicant plans to gravel the parking lot at this time, if the applicant chooses to pave the parking lot then a new drainage report will be needed.

Cook read Condition #4: *This CUP is approved exclusively for the applicant (Mark & Amanda Shore) at this location. Change of ownership or subleasing of the property/facilities shall require review by the Planning Commission to ensure the use substantially complies with the original conditional use permit.* Cook stated if there is a change in ownership approval will be required.

Cook stated he visited with Dave Delp, Codes Director, regarding the propane tank. The propane tank they will have on their property is no bigger than a propane tank used for residential. Codes would like to have some sort of barrier around the propane tank to help prevent a vehicle from hitting the propane tank.

Menefee asked Condition #9 limits the number of employees, have we actually limited the number of employees on other CUPs in the past.

Cook stated the original CUP approved for Chris Cakes in 2005 states the number of employees being limited to five (5) employees.

Menefee stated to Philgreen's point, if the business has a growing spurt he doesn't want to put a limitation on them for the number of employees.

Philgreen stated he would like to strike the number of employees from the conditions.

Cook stated this is a little different with the number of employees and how often they are on site. The employees come to the site 1 – 2 times a week, not daily.

Manchester asked what is the minimum acres allowed for a Commercial Business.

Cook stated he will need to look it up. Cook reminded this is not an application for rezoning, the property is zoned as Agriculture and therefore requires a CUP.

Menefee stated if this property is rezoned to Commercial then the area is opened to any commercial business.

Cook stated a minimum lot area in C1 district and C2 district is ½ acre. The minimum district size in the BP district is 25-acres. We don't typically encourage a rezoning of one property differently than the properties around it unless there are unique conditions.

Manchester stated the applicant talked about a septic system, there's not enough room and semi-trucks will be running over the area the septic system was to be, so they changed it to a holding tank. This property has a ditch that is probably less than 3-acres and this area will never be used as part of the CUP because of the ditch/creek that runs through that area of the property.

Cook stated the type of septic system will be determined by Codes and Environmental Health at the time the applicant submits the building application.

Philgreen asked if 10-years is a normal length for a CUP.

Cook stated typically on CUPs the Staff tries to keep them at 10-years. There have been occasions when a shorter time period has been required.

Philgreen stated he is circling back to Condition #9 and asked if it can be changed or stricken from the list of conditions.

Menefee stated he agrees with Philgreen that Condition #9 is not warranted due to the employees not being on site every day. Menefee would also like to change Condition #7 from cedar tree screening allowing the applicant to use other types of screening if the applicant wishes.

Cook suggested if the Planning Commission moves to approve the CUP to makes changes to the Conditions at the time of the motion.

Kitchen asked if privacy fences can be built on the right-a-way line.

Cook stated our regulations do not technically have a requirement but do have some provisions when they are in a "vision-triangle". Cook stated it wouldn't be a bad idea to have a set-back. If the privacy fence is over 6-feet tall then building code requirements come into play for engineering.

Philgreen moved to approve 22011-CUP (Chris Cakes) with the provision of Condition 7 is changed to say, *"adopt adequate screening to be provided as per County regulations, according to the site plan"* striking the words *"cedar trees"* and strike Condition 9. Flake seconded.

Brockus stated he planted cedar trees for screening on his place, they were about 3-feet tall and within 2-years they were 6-feet tall. Brockus stated cedar trees get tall and thick within a 9-year period.

The motion passes 6 – 2 (Kitchen and Manchester voted against), via show of hands.

Public Hearing – 23001-TA: Retail Sales of Agricultural Equipment at 8:57 p.m.

Cook stated the Planning Commission started looking into Retail Sales of Agricultural Equipment in 2022 which was prior to Cook accepting the Planning & Zoning Director position. Cook stated he has not had the opportunity to look through everything and would like to have a discussion on this topic tonight but would like to table the hearing until March 7, 2023. Cook stated if a farmer has a signal piece of farm equipment out by the road with a for sale sign on it, then he doesn't believe anything will be said about that. Cook noted the intent of this regulation appears to be a more intense business operation where multiple pieces of agricultural equipment are sold by a business. Cook stated while reviewing the Retail Sales of Agriculture Equipment he noticed that Planning Commissioner Phil Elliott typed up and presented a couple of options to the Planning Commission at the Planning Commission meeting on November 11, 2022. Cook stated there was an additional discussion on the topic at the December 6, 2022, Planning Commission meeting including his understanding that Option #1 is the preferred option from Elliott's proposals.

"The total area of display/sales lots shall not exceed 5% of the approved parcel or twenty thousand (20,000) square feet whichever is greater, and shall not be wider than 30% of the area along a public road frontage. Display areas shall be clearly defined on the required site plan, and visible display of items for sale shall be limited to that area."

Cook stated he has a couple of questions: 1) is there a reason we would want a firmer limit or if someone owns the full east half of a section are we ok with them using 30% of the road frontage for displays; 2) if a person owns a quarter section will we want to allow them to use 5% of the frontage for display areas.

Menefee stated the Planning Commission's role and responsibility is to manage growth and development within Miami County in a responsible way. A quarter section would allow for 8 acres of display, most farm equipment retails are on larger area than eight acres. Menefee stated he agrees with Cook that the Planning Commission still has the ability to define this when an applicant applies for a CUP.

Flake asked if they are talking 5% and 30% of the area or length.

Cook and Menefee stated it is length, example given is if there is 1,000-feet of frontage road then 300-feet can be used to display Retail Sales of Agricultural Equipment.

Cook stated this discussion is for display area not operations such as auctions. Cook stated he hasn't had the opportunity to research everything to have a full understanding but believes the Board of County Commissioners would issue a special permit for the occasion of an Agricultural Equipment auction. Cook stated around one to two years ago the Board of County Commissioners weren't going to issue those special permits again.

Kitchen asked if this is one instance or for everything moving forward.

Cook stated his understanding is for this property but hasn't had the opportunity to research this. Cook stated he would like to get this addressed as this discussion takes place. Cook stated an individual in this area has voiced his concerns with how the traffic impacts the area. Cook stated on the other hand Miami County wants to preserve Agriculture land.

Kitchen stated the County hasn't done a very good job of that in the last 25 years.

Cook stated these are things he has thought about and would like to get feedback from the Planning Commissioners.

Kitchen stated he doesn't like the regulations that allow for modification to a rule. He likes Option #1 that Elliott proposed due to it being clear. That's like buying property and then applying to rezone the property because the buyer has intentions to use the property for something else. Kitchen stated the reason for zoning the County was to stop this kind of thing and yet Kitchen believes the County keeps changing things as needed.

Menefee stated the issue we have here versus farm equipment auctions are two (2) very different and distinguished issues. Menefee stated he has an issue if the County starts limiting the number of farm equipment auctions, if it's a business where they are having them monthly that is one thing. Bricker ran farm equipment auctions twice a year for a number of years west of Paola. Kitchen stated at least 40-years. Menefee stated farm equipment auctions is still a very important way a lot of farmers acquire assets as well as selling assets. Menefee stated as a Planning Commissioner he isn't willing to go down the road of trying to limit farm equipment auctions. Menefee stated to him it would be different if it was a business but when it is a periodic thing he doesn't have a problem with that.

Cook stated from other communities he has been involved in there are typically specific requirements if it is an auction barn, auction yard, or some other facility where that is occurring on a regular basis. Cook asked what is a regular basis. Cook stated in his opinion a one-time event is not what is being talked about.

Brown stated he agrees with Option #1 and agrees with the Chairman, he isn't concerned with the periodic auction.

Brockus stated he read through the minutes from December 2022's Planning Commission Meeting and there is an example of a piano key lot; and asked were all calculation put into a piano key lot to make sure the options could be used properly.

Menefee stated when they discussed this at the December 2022 meeting they decided there would be just enough wiggle room to make it work. A tight fit but legally feasible.

Cook stated some of it depends on the shape of the lot as to what the landowner can or cannot do.

Menefee opened Public Hearing – 23001-TA: Retail Sales of Agricultural Equipment at 9:12 p.m.

Menefee stated he is opening the Public Hearing for 23001-TA, but it is recommended this item be continued until the March 7, 2023, Planning Commission Meeting allowing Cook the time to review all materials.

Phil Elliott, 34611 Woodland Rd, stated the minutes included in the packet from 2012 shows the Planning Commission specifically set the regulations up to prevent the full use of the frontage roads being used to display retail sales of agricultural equipment. The number of 100 x 200 or 20,000 square feet was arbitrary at the time as the Planning Commission didn't have anything to compare to and came up with a starting point. The CUP recently renewed for this company did not allow for the applicant's equipment, 40-foot trailers don't fit in a 100 x 200 area very well for getting them in and out of the space allotted.

Elliott stated he has been texting the business owner during the meeting tonight and this business owner is looking for two (2) consignment auctions per year. The business owner has never requested a special use permit and it is specially stated in the CUP that the business owner cannot hold auctions. The recommendation is for the auctions to take place on the farm ground not the property where the CUP is. This allows Stone Farms not Stone Farms Sales holding the auctions.

Menefee closed Public Hearing – 23001-TA: Retail Sales of Agricultural Equipment at 9:15 p.m.

Brown moved to table 23001-TA: Retail Sales of Agricultural Equipment until March 7, 2023's Planning Commission Meeting. Armour seconded; the motion passes 7 - 1 (Kitchen voted against), via show of hands.

GENERAL DISCUSSION

Cook stated the Board of County Commissioners extended the moratorium on Solar Farms for another six (6) months. Cook would like to have a chance to review what has been previously discussed by the Planning Commission.

Philgreen stated he is concerned this it is a freight train the Planning Commission needs to get in front of.

Cook stated one issue that was recently brought up with Solar Farms are contractors not being paid in full at the time the job is completed and the contractors places a lien on the property. The property belongs to the landowner and is being leased by the solar farm company, leaving the property owner in a bind.

Menefee stated there are three (3) new Planning Commissioners and Cook is the new Planning & Zoning Director, he would like for there to be an in depth discussion at the March 7, 2023, Planning Commission Meeting allowing all to get up to speed on the topic.

Manchester stated the Planning Commission needs to be strict with their regulations. Manchester would like to have a public hearing and listen to what the citizens have to say and base their decision on the feedback from the citizens.

Kitchen stated he has been talking with Miami County citizens about their ideas of a solar farm. Kitchen stated everyone he has spoken with does not like the idea of a solar farm coming into Miami County. Kitchen stated Franklin County has a petition preventing wind farms from going into Franklin County.

Cook stated the early public hearing meetings aren't always productive. At Franklin County's public hearing on wind farms very few people showed up for the early meetings. As meetings continued the numbers grew.

Brockus asked what is the typical acreage needed for a solar farm.

Kitchen stated more than 100-acres.

Brown stated the Solar Farms will buy or lease property that is hooked together to accomplish the size they need/want.

Kitchen stated if it is not a public utility and ran by a third party Miami County will have to regulate the third party.

Philgreen stated if Miami County does nothing then the Solar Farms will come into Miami County.

Kitchen stated if that happens then Miami County has no control, and it is regulated by KCC. Kitchen stated he would be happier with KCC regulating it.

Brown stated he would like to protect the landowner, if a bond is required, maybe the Planning Commission can require a portion of the bond to be placed in escrow for the landowner.

Menefee stated they have a lot of questions and no answers.

Cook stated there are currently no applications for the March Planning Commission Meeting and he will be looking over Solar Farms information and they can have a more in depth conversation on Solar Farms and Retail Sales of Agricultural Equipment at the March 7, 2023, meeting.

Menefee asked if they are making progress and close to coming up with the regulations by June 2023 is there a chance the moratorium can be extended.

Cook stated the Board of County Commissioners (BOCC) don't want to extend the moratorium but if the Planning Commission is making progress the BOCC might be willing to extend the moratorium.

Flake asked if there is someone wanting to bring a solar farm into Miami County currently.

Menefee stated he heard there is a company interested in coming into Miami County, but haven't heard who, where or how much property will be involved.

Kitchen stated the solar farms will need to stay near transmission lines.

ANNOUNCEMENTS BY STAFF / COMMISSIONERS

Cook stated Planning & Zoning is anticipating some applications that will be very involved and he would like to remind the Planning Commissioners to keep control of the meeting. Assure the citizens that there is a two (2) minute limit for speaking at a public hearing. Cook asked the Planning Commission to keep an open mind throughout the entire process of the application review and not to make statements of agreement or opposition during the Public Hearing so that it doesn't give the appearance the Planning Commission has already made up their mind before the review process has been completed. If the Planning Commission wants more information from an individual they are allowed to have them come back to the podium and this does not count towards the two (2) minute limit. Cook stated tonight's meeting was a good example of how the review process should go from start to finish on an agenda item.

Kitchen asked where the two (2) minute limit came from.

Menefee stated it arise after one of the Planning Commission meetings that did not end until after 10:30 p.m. and the Planning Commission decided they needed to limit the citizens to two (2) minutes.

Philgreen stated he would like a reminder on *DISCLOSURE OF ANY EX PARTE COMMUNICATIONS OR POTENTIAL CONFLICTS OF INTEREST*.

Cook stated a good example of when to disclose any *EX PARTE COMMUNICATIONS OR POTENTIAL CONFLICTS OF INTEREST* related to a regulation amendment would be if someone approaches a Planning Commissioner and offers him money to lease for a use and the Planning Commission is having discussions on amending regulations that deal with that use, then they need to disclose *EX PARTE COMMUNICATIONS OR POTENTIAL CONFLICTS OF INTEREST* and may need to recuse themselves.

Menefee stated if a person has a conflict of interest they need to recuse themselves from discussion and voting of the item they have a conflict with. Some Planning Commissioners choose to leave the room others choose to step down and participate as a citizen.

Kitchen read Comprehensive Plan vision from almost 20-years ago:

The year is 2025 and Miami County residents enjoy a lower property tax rate because of the County's efforts and Economic Development have paid off by the creation of reasonable commercial and industrial centers that cater to local residents.

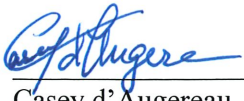
Kitchen stated his property taxes haven't lowered in the past 20-years, and his house taxes have tripled. This vision is working out. Kitchen stated in the new Comprehensive Plan the Planning Commission needs to think about the vision statement.

Possible Future Amendments to Zoning and Subdivision Regulations

- A. Common Access Easement requirements
- B. Sign Regulations
- C. Telecommunications Regulations
- D. Height limits for radio, television, internet antennas and satellite dishes designed for individual residences.

There was no discussion regarding these "Possible Future Amendments" to the regulations.

Approved this _____ day of _____, 2023.



Casey d'Augereau, Secretary

Minutes written by Casey d'Augereau



John Menefee, Chair / Kelli Broers, Vice-Chair

