

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

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

ATTENDANCE

CHAIR: John Menefee

VICE-CHAIR: Kelli Broers

PLANNING COMMISSION: Bret Manchester, Joe Flake, Gary Brockus, Joshua Brown, and Randy Kitchen
Topher Philgreen joined the meeting at 7:22 p.m.

ABSENT MEMBERS: Charles Armour

EX-OFFICIO MEMBERS: None present

PLANNING DIRECTOR: Kenneth Cook

ASST. PLANNING DIRECTOR: vacant

PLANNER: Not Present

CODE ENFORCEMENT OFFICER: Not Present

PC SECRETARY: Casey d'Augereau

COUNTY COUNSELOR: Not present

ECONOMIC DEVELOPMENT Not present

COUNTY COMMISSION: None Present

COUNTY CLERK: Not Present

PRESS: Not Present

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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 seven (7) members present. Philgreen joined the meeting at 7:22 p.m.

DISCLOSURE OF ANY EX PARTE COMMUNICATIONS OR POTENTIAL CONFLICTS OF INTEREST

Manchester stated he has a conflict of interest with Consent Agenda item 23010-SUB: Pleasant Valley Estates and recused himself from the Consent Agenda.

Brown stated he was absent from the July Planning Commission meeting and recused himself from the Consent Agenda.

ADOPTION OF THE AGENDA

Brockus moved to accept the Agenda as presented. Brown seconded; the vote was unanimous via show of hands (7-0).

CONSENT AGENDA

Cook noted while the Staff Report for Whispering Winds included the affidavits of existing structures were needed, this has been addressed.

Broers moved to approve the Consent Agenda with the updates noted by Staff. Flake seconded; the vote was 5-0 via show of hands with Manchester abstaining due to conflict of interest and Brown abstaining due to being absent from last month's meeting.

Cook noted Planning & Zoning was contacted by one of the Board of County Commissioners saying there have been times when watching the meeting he can't hear when certain people are talking. His concern is that the mics are being muted or maybe the Planning Commissioners aren't talking into the mics. Because the meeting is being live streamed it is important for the mics to be left on and not muted, it also helps Staff when typing the minutes of the meetings. Cook asked the Planning Commission to keep the mics unmuted and to talk into the mic as much as possible.

REGULAR AGENDA

Old Business: None

New Business:

Public Hearing 23007-CUP: Always & Forever Midwest Animal Sanctuary

Cook stated he received a request from the applicant for a continuance to the September 5, 2023, meeting. Cook stated within the last two (2) weeks Staff had reviewed the application and sent comments to the

applicant on July 28th. The applicant submitted an amended narrative and site plan on Wednesday (08/02/2023) which was the same time Staff completed the Staff Report. Due to the need to publish the Planning Commission Agenda there was not sufficient time to amend the report to incorporate changes included in the updated narrative and site plan. Staff had planned to review all new documents and present updated information at the meeting noting any changes. The applicant then requested a continuance to the September 5, 2023 Planning Commission meeting.

Cook noted the Planning Commission had previously considered a similar request and reminded the Planning Commission that public hearing items should not be discussed outside of the Public Hearing and to keep an open mind throughout the entire hearing process.

Menefee asked if there will be extra Sheriff Deputies and an overflow area again, if it's expected to have a large turnout again.

Cook stated like last time the plan is to get as many people in the Chambers as possible, have an overflow area in the hallway and a second overflow area in the Sheriff's Community Room along with extra Sheriff Deputies. Staff's plan is to have a TV in the hallway and a TV in the Sheriff's Community Room.

Brockus moved to table 23007-CUP to September 5, 2023, and Brown seconded.

Kitchen asked what happens if it's not tabled.

Broers asked about what Staff had represented to the applicants.

Cook stated he received an email from the applicant and has been working with our legal counsel. Our legal Counsel agreed this was probably the best option. This will allow the applicant more time to respond to the Staff Report, for updates to the Staff Report, and complete documents with regard to the current request.

Menefee noted to Kitchen's question, legally he doesn't believe there is a choice but to table this item.

Kitchen asked what are the legal ramifications if it's not tabled.

Cook stated he thinks it would open the County up for possible litigation. Menefee agreed. Cook noted he believes if a decision is made tonight the Board of County Commission will probably send it back to the Planning Commission. Cook noted in discussion with the applicant after they made their request to continue that Staff agreed it would be appropriate. Staff also advised the applicant if any corrections need to be made Staff would be willing to address them to the Planning Commission and correct anything needing to be addressed..

Manchester asked when did the applicant notify Staff they would like to cancel the item for tonight.

Cook stated the discussion started on Thursday (08/03/2023). Wednesday, August 2, 2023, was when Staff completed the Staff Report and the agenda was published on Thursday, August 3, 2023.

Menefee asked if there will be other Public Hearings next month or will this be the only Public Hearing.

Cook stated the Fontana Christian Church will be on the agenda next month and it will be a Public Hearing.

Menefee repeated the motion: moved to table 23007-CUP to the September 5, 2023 Planning Commission Meeting, and called for a vote via show of hands. The vote was 6-1 with Kitchen opposing.

Cook request the Planning Commission to keep the packet so that all of the information is not required to be reprinted. Cook also discussed that a memo with a tab had been placed in the packet so that the Planning Commission would easily be able to find the updated information submitted by the applicant.

GENERAL DISCUSSION

Menefee called for the Comprehensive Plan Discussion at 7:15 p.m.

Cook stated he received an email from Commissioner Broers with her comments regarding the Comprehensive Plan review notes handed out at the last meeting. Broers' email indicated the notes seem to be fairly accurate to her knowledge. One point Broers made was that there was a lot of discussion on trees, concerns with protecting the "wrong" type of tree such as Hedge Trees.

Cook provided a handout to the Planning Commissioners on "Preferred Trees for Northeast Kansas" that provides a list of tree types that are considered well suited for Northeast Kansas.

Menefee stated no one wants to prohibit the specific tree types but they don't want a property owner to be prohibited from cutting them down.

Cook noted this discussion included what does it mean if a property is 100% trees, will that prevent a property owner from building on the property, or other things like that.

Cook stated Staff plans to take comments from tonight's meeting to the Board of County Commission in about 2-weeks. Staff needs to get feedback to the consultants to allow the County to move forward with the Next Comprehensive Plan.

Philgreen joined the meeting at 7:22 p.m.

Menefee stated he is curious to see how the Consultants take this information and put it in the Comprehensive Plan. Menefee agrees that it could get confusing when constantly referencing the Economic Development Plan, but if it is in the Next Comprehensive Plan and the Economic Development Plan is updated but not the Comprehensive Plan then there will be conflict. Menefee stated most people will be viewing the Comprehensive Plan online, and asked when referencing the Economic Development Plan can there be a direct link to take people to the Economic Development Plan.

Cook stated yes. Cook noted the Economic Development Plan is mentioned frequently in the Comprehensive Plan and questions if there should be a direct link each time the Economic Development Plan is mentioned. Cook also noted the Plans should be reviewed annually making the necessary changes to each Plan as needed.

Cook noted what they are reviewing currently are the overall goals and policies and stated the next section the Consultants will be writing is the implementation section.

Cook stated one of the Planning Commissioners mentioned the need to update the list of Planning Commissioners, Board of County Commissioners, and Staff because there has been turnover in each of those areas.

Philgreen stated "Points of Interest" are also listed on that page and believes it is missing some Points of Interest. Philgreen believes places like Wildwood Education Center and Youth Front should be included on this list.

Broers stated it is on page 9 figure 3.2. Broers is questioning if a map with attractions needs to be in the Comprehensive Plan. Broers thought is that someone might be left off the map and what's the answer; if every public attraction is listed, then the map will be unusable. Broers primary concern is that a map calling out the attractions might cause issues.

Philgreen stated he believes there should be some sort of criteria to have places listed under “Point of Interest”.

Cook stated that decision will come from the Planning Commissioners and Board of County Commissioners. Cook asked would the Planning Commissioners want a list or would they like to base it off of multiple things.

Menefee stated he believes the Consultants were trying to find a way to connect all the trails using the Transportation Framework Plan and the overall feeling of the Planning Commission was that they weren’t in favor of some of these trails. Menefee noted the Planning Commission doesn’t believe the trails are feasible, and the attractions don’t line up with the trails. Menefee agrees with Broers asking how to decide what makes the list and what doesn’t.

Cook stated some of the “Points of Interest” appear to be more like attractions such as Somerset School. Menefee asked if the map is even feasible because there is no place in the Comprehensive Plan to put these trails in, can we get rid of the map.

Kitchen agreed.

Cook stated if these were more like public entities or State Parks then the trails would make more sense. Philgreen believes as a Planning Commission at the edge of a major metropolitan area with some attractions should have an effect on their decision.

Cook used Hillsdale area as an example stating there’s the lake, KC Water Sports at the interchange, the RV campground, and other activities and questioned if that area could be shown as a recreational/entertainment area by the Comprehensive Plan and encouraging other uses like those to be located there and other areas of the County might have other focused uses for those areas.

Cook summarized what he is understanding from the Planning Commission is to remove those various items on that map.

Broers asked if the MARC (Mid-America Regional Council) map is the map that Kitchen would like tossed out.

Menefee agreed that it is the MARC map, it is specifically on trails and is on the bottom of page 8 carrying over to page 9. Menefee read the following statement “If the Metro Green Plan is to be included in the Comprehensive Plan update, then it needs to be identified as that and not the PC’s (Planning Commission) recommendation, but MARC’s.

Cook stated when he was reviewing everything he recalls a large part of the discussion was the desire to use existing infrastructure. Maybe the focus can be on figuring out where the trails can go along actual infrastructure that the County has and not necessarily along the Greenways.

Menefee stated page 7 of 12 makes reference to show connections at County boarders.

Cook asked the Planning Commission if they want it reworded to show a MetroGreen Plan that MARC has, and that it is not necessarily adopted by Miami County.

Menefee agreed with Cook’s suggestion.

Cook stated his understanding from the Planning Commission is that they feel a lot of the development of trails isn’t likely to happen. Cook doesn’t believe they need to specify the trails will be developed along existing infrastructure, but just state “consider” or something similar.

Menefee agreed with Cook's statement.

Cook referred to page 2 of the notes to Policy 3.2.1 stating according to the notes the Planning Commission would like to strike the measurement and not necessarily show a "one to three miles in width" and focus on how a community wants to develop and protect the areas they are likely to develop into. Cook used North of Paola as an example. This draft map is showing the County encouraging 3-acre residential development in this area and believes the Planning Commission is wanting to keep that area available for larger lots, preserving agriculture land that will allow for the City to grow. Maybe the focus of those areas needs to be near the incorporated areas but in areas where it would be difficult for the City to grow. Cook asked if the County were to encourage "more density near town" with a place that is unlikely to be able to be developed by a City it's a more appropriate location to allow smaller lot residential development.

Menefee stated if he correctly recalls the Planning Commission's conversation about the North side of Paola was to continue to allow larger tracts of land because when developers move in they want the ability to buy a quarter section or 80-acres then split it up.

Manchester stated he heard the government is asking every city and town to include a Plan for a low-income-housing high-density apartment complexes. Manchester asked if Paola is involved in this.

Cook believes there is a desire and probably some policies that every community should be providing its own its fair share of affordable housing. Cook stated as a professional planner he is to care for the housing availability for the broad community and not just one section of the community. The County isn't setup in the rural areas to be able to service apartments. We do not have wastewater or infrastructure to support that. The County has made changes to the Accessory Dwelling Unit Regulations to allow other opportunities for those with a lower income or for aging seniors to have a place near family.

Kitchen asked where will the County be 20 years down the road, how big will Paola be.

Cook stated the County wants to make sure we are protecting the ability of the communities to grow. Maybe the County's plan should be to make sure that the County is considering what cities' plans are. This doesn't mean that if the city says they want something in a specific area the County is required to turn something else down that complies with the County's regulations.

Broers stated she has mixed feelings about allowing 3-acre lots. Broers doesn't believe a 3-acre lot preserves the rural or agricultural feel.

Kitchen doesn't believe the County is preserving agriculture. Kitchen stated the people in the rural areas don't want more neighbors. The only way to preserve the rural and agricultural feel is stop allowing the division of the land.

Cook showed a map with an example of a quarter section of land an individual wishes to split. The option presented was not permitted by the Zoning Regulations. When splitting the quarter section per the Zoning Regulations it actually created an extra lot. This is what our current regulations end up encouraging.

Broers stated people say, "change is inevitable", change is not inevitable. Broers used ~~Middle Brook~~ Middleburg Virginia (VA) and see how they protected their heritage. There are a lot of communities in VA that said "no" to change. Broers stated she benefited from what she views as poor planning and bought 10-acres, she doesn't like it and has attempted to purchase more land around her. Broers believes the County is at a tipping point and the Planning Commission needs to decide what they believe is best for the County moving forward. Broers would like to have discussions about the existing Regulations concurrently with the Comprehensive Plan and how she doesn't believe the existing Regulations are

meeting what the community members said they want.

Cook stated when talking about Ag Preservations, Subdivisions, or Conservation Subdivisions and have a quarter section of land, it would be able to be split into at least eight (8) lots (assuming frontage and such is matching). He asked is it better to require a larger tract and still allow for eight (8) units to be created on that land but require the additional lots be confined to a specific portion of the site.

Menefee stated no matter what regulations are put in place the Planning Commission can't protect all agricultural. There are fields that are overgrown with thistle and the Planning Commission cannot restrict what a person doesn't do with their property.

Cook moved to page 4 of the notes Policy 3.4.5 stating it indicates to "Replace the word consider, with analyze" and add "Master Plan after the word airport", in his opinion that word switch doesn't make sense.

Menefee stated if he recalls correctly it should read "Analyze and plan for the potential long-term benefits of the Miami County Airport Master Plan as a gateway for professional and corporate air traffic.". Menefee stated he has never seen the Master Plan for the Miami County Airport, but it should be analyzed in terms of helping the long-term benefits. Menefee stated as he reads this he likes the idea of getting rid of the entire first sentence. Menefee believes the second sentence gets them where they want to go from a Comprehensive Plan standpoint in terms of marketing as a competitive advantage for the airport.

Cook moved to Policy 3.5.3, also on page 4 of the notes, reading "Focuses on areas that are largely agriculturally based. Would prefer it be more residential not commercial or industrial or employment growth." Cook noted our current zoning map shows the intersection of 169 Highway and K-68 Highway, area for development zoned either C2 Commercial or Business Park (at least 3 of the 4 corners is zoned with C2 or Business Park). Cook believes this is an area the County has designated an industrial area because it's at an interchange of two (2) major highways. Cook stated there was a lot of discussion, not necessarily at that location, but like at the Hillsdale area where Commercial Development is encouraged. Then the question arises if there is adequate sewage infrastructure in the area or if we can use other types of wastewater systems.

Menefee agreed the discussion was primarily focused on the lack of infrastructure and also that some of those areas would be appropriate to show for possible Commercial/Industrial Use.

Cook moved to page 5 of the notes Figure 3.2 stated there were discussions on the Environmentally Sensitive Lands and believes the main intent is to not show this item under the Future Land Use category but it's ok to show it under Floodplain. Cook questioned if higher density areas with sewer should be viewed differently; such as Bucyrus and Hillsdale. If there is sewer then maybe consider a higher density in those areas.

Cook moved to page 6 of the notes, Figure 3.3, Growth and Preservation Framework Plan there was discussion at a previous meeting about the possible need for an intermediate category between AG Preservation and Growth. Cook asked the Planning Commission if they had an idea of what that could be. Menefee stated he doesn't recall that conversation at this time, but doesn't know why there would be a need for another category.

Cook stated he believes there was a large area around Hillsdale Lake that was shown as development area that triggered this discussion.

Menefee stated he is curious to know why they didn't include the Northwest side of Hillsdale Lake.

Broers recalls the conversation and stated she cynically said they were holding it for the City of Edgerton. Menefee stated he would like to see the “orange area” (Potential Growth Area) restricted.

Broers stated there was a discussion about the rural residential size being increased to 10-acres. Broers thought was that people with 4-H would buy the 10-acre lots but what really happens is people building million dollar houses and mowing the entire 10-acres.

Cook asked what the Planning Commission’s thoughts are, should it be a minimum of 5-acre lots or 10-acre lots.

Broers stated she still believes 10-acre lots would be more beneficial.

Philgreen asked isn’t infrastructure covered whenever there is a development.

Cook stated if something is currently zoned CS (Countryside) and they want to do a Residential Subdivision that will be more in a R1 District, when the person makes an application to rezone the property then Staff would do a review of the infrastructure. The second part to this would be through the platting process. If the infrastructure isn’t available then Staff would advise the applicant that they would not be allowed to develop that property due to lack of infrastructure unless the applicant is willing to improve the infrastructure to meet regulations.

Menefee asked with the current rules and regulations if he wants to put in rural-residential on 160-acres, he will still need to meet the 20-acre density.

Cook stated it’s not that simple. There is AG District, CS District, and R1 District. The AG District is 20-acre density; CS District is 15-acre density and there is also a Conservation Design Subdivisions which is based on a 10-acre density.

Menefee stated if it is 15 or 20-acre density then believes in terms of agriculture the County would be better off to allow for 5-acre lots compared to the 10-acre lot because then there would be a larger tract to preserve.

Brockus agreed.

Kitchen believes they are looking at preserving agriculture the wrong way by looking at the size of the tract of land instead of what the land preserved will actually do for agriculture.

Menefee stated if he has 160-acres and is able to go up to 10-acre lot size then half the quarter section is houses. Where if it is a 5-acre density then 40-acres is used and there is still 120-acres that is tillable, pasture, or whatever the farmer is needing.

Cook stated there has been a discussion on this before, and if they use a 20 or 40-acre lot size then people are building houses on the 20 or 40-acre lots at a time. The other side to that is there are few people that will be able to purchase 20 or 40-acre lots. If a person does a Conservation Design or AG Preservation then smaller lot sizes are allowed and the County is preserving larger lots that can’t be further developed (unless someone comes back and rezones it). By splitting off 5-acres it is more affordable.

Brockus stated due to the number of variables there is no real answer to which is better a 5 or 10-acre lot size.

Cook stated he looks at a 10-acre lot size and asks the question “could a person have a couple head of cattle on that lot, grow some tomatoes, etc.,” yes they could do some agricultural activities on a 10-acre parcel. At the same time, it’s not going to be more intensive agricultural operation. Cook recalls at one

time Miami County had a 40-acre lot size minimum and property owners weren't happy about that because they wanted to be able to sell off part of their land if they wanted to.

Cook stated the current regulations allow a full quarter section to be exempt. If there are roads on two (2) sides of the quarter section, the quarter section could be split into four (4) 40-acres and according to the County's subdivision regulations each of the 40-acres can be split into 20-acres. This is permitted by right, and it wouldn't need to come before the Planning Commission.

Kitchen used himself as an example and stated he buys big tracts of land and sometimes it comes with a house. He doesn't need/want the house just the land. He would like to split the house off and sell it separately with maybe 5-acres of land and believes once this happens the property has had it's one time split and it should not be split again.

Broers stated to keep a tidier community the property owner would need to split the house off and sell it or deconstruct the house.

Cook stated a benefit for the County's AG Preservation is to allow for that to happen. Cook used a comparison to McPherson County Kansas. As long as AG Preservation is allowed, and a person hasn't already split off another parcel, then it could technically be done under Miami County's current regulations.

Manchester stated the banks are wanting to loan on houses with minimal acreage, so if it is 2-acres with a house the bank is more likely to approve the loan than if it is 5, 10, 15, or even 20 acre lots.

Menefee asked for the next item Cook is wanting to address.

Cook stated on page 9 of the notes right above Goal 5.1, there was a lot of concern expressed in regard to feeling it was going after agricultural uses. Cook believes it would be beneficial to add another bullet point to note this was a general concern. Cook's understanding is that AG use is the primary use in the County rural areas. Some of these requirements work against protecting rural character and Ag.

Manchester referred to page 4 of the notes, Policy 3.8.6 Tree Preservation, stated some people harvest trees. Manchester believes it should be noted that tree harvesting is part of agricultural and creates income.

Several of the Planning Commissioners agreed with Manchester.

Cook stated Franklin County Kansas has an individual that does logging and installed a fumigation facility because he was shipping to other countries. He harvested the trees from around Kansas, bring to his facility, then needed to fumigate them before shipping to other countries. During the warmer temperatures he would do the treatment in the cargo containers, but in the colder temperatures he needed to keep the logs a certain temperature to keep the bugs alive to breathe in the chemicals to kill them. The facility is considered AG related, but the harvesting of the trees is an Ag use.

Philgreen asked what the definition of Ag is for planning purposes.

Cook stated there are definitions in the Planning & Zoning Regulations that talks about agricultural use as well as including items that are not agricultural uses. There's not a specific definition for Zoning Regulations by the State of Kansas, which makes it a little difficult because the Statutes for zoning just says Ag uses are exempt.

Philgreen asked if wind farms, and solar farms would be considered Ag.

Menefee stated on page 5 of the Zoning Regulations lists 15 agricultural purposes and then list 5 items that are not agricultural purposes.

Philgreen if you are harvesting sun for use for humans, how does that differ from growing corn to be made into gasoline.

Cook stated there hasn't been any court cases that he is aware of that talk about that, and it doesn't fit the normal type of uses that are considered agricultural.

PLANNING COMMISSION TRAINING

Menefee stated it is late and would prefer going home at this time unless the other Planning Commissioners wish to stay for training.

Brown asked about meeting at a different time for the Planning Commission training as each unit is about 1-hour long and it is rare that there is an hour available at the end of a Planning Commission meeting.

Menefee stated over the last few years there have been days they have chosen not to meet because there was nothing on the agenda.

Cook stated he is keeping it on the agenda as something he would like to do if time permits.

ANNOUNCEMENTS BY STAFF / COMMISSIONERS

None.

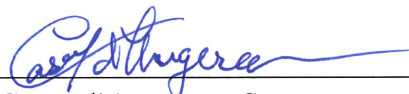
Possible Future Amendments to Zoning and Subdivision Regulations

- 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.

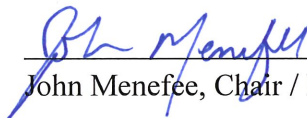
There was no discussion regarding these "Possible Future Amendments" to the regulations.

Philgreen moved to adjourn the meeting, Broers seconded. The meeting adjourned at 9:08 p.m. with a vote of 7-1 (Kitchen), via show of hands.

Approved this 5th day of September, 2023.



Casey d'Augereau, Secretary



John Menefee, Chair / Kelli Broers, Vice-Chair

Amended "Middle Brook" to "Middleburg" on page 6 of the Minutes.

Amended Minutes written by Casey d'Augereau