

MINUTES OF
BOARD OF HARVEY COUNTY COMMISSIONERS

March 30, 2009

The Board of Harvey County Commissioners met in regular session on March 30, 2009 with all three commissioners present. Chairman Roberson called the meeting to order at 9:00 a.m.

ITEMS ADDED TO AGENDA:

1. A representative from Prestressed Concrete has asked Commissioner Krehbiel to inform the Commission that the concrete forms manufactured by their company are competitively priced and are now much thinner than they used to be. This would make them applicable to the bridges in Harvey County.
2. Commissioner Westfall and Krehbiel both received positive comments about how well the Harvey County Road & Bridge Department handled the road maintenance during the sleet and snow storm over the weekend.
3. Elizabeth Schmidt, Director of the Harvey County CDDO, has given information to Chairman Roberson regarding a workshop to be held for emergency management directors with regard to aiding developmentally disabled persons during disasters.

CALENDAR ITEMS:

1. The election canvass will be held on April 10 at 9:00 a.m.

Minutes of the March 23, 2009 Commission meeting were approved upon a motion by Commissioner Krehbiel, seconded by Commissioner Westfall. Motion passed unanimously.

ADMINISTRATIVE ITEMS:

1. Lonnie Buller, Director of Emergency Management, reported on the storm that hit this area on Friday and Saturday. After the loss of electricity, a shelter was opened in Walton on Friday and remained open until 4:00 p.m. on Saturday afternoon. There was a partial roof collapse that occurred at Agco in Hesston and also at Hardwood Manufacturing in Burrton. Mr. Buller also reported that the burn ban was cancelled on Saturday afternoon and upon his recommendation the Commission made the decision not to renew the burn ban at this time. He also reported that there will be a meeting between the fire district and residents in an area north of Burrton bordered by River Park on the east and the county line to the west, and Northwest 60th on the north and First Street to the south. This area has been named as one of the most hazardous areas in the state with regard to fire risks. There are many cedar trees and other dead trees that could provide significant fuel for a fire.
2. Faith and Life Bookstore has requested they be able to use part of the

Courthouse lawn to have a Dutch Blitz on May 31. Commissioner Westfall made a motion to allow them to use the courthouse lawn in compliance with our policy. Commissioner Krehbiel seconded the motion and it was passed unanimously.

CITIZEN'S FORUM:

Keith Penner, who lives on ten acres in the northern part of the county, spoke with the Commission about a request for the County to issue a letter of compliance that would assure that he would be able to obtain lower rate flood insurance for his residence.

Mr. Penner's residence is approximately 25 feet or less from the proposed new floodplain boundary in that area. Although part of the property is in the floodplain, the residence is not. Harvey County issued a building permit for the residence, which was built in 1997, stating that the residence be built in compliance with the regulations that were current at that time. However, the property was never surveyed to determine if regulations were followed. Mr. Penner stated that the residence was built in compliance with all the regulations he was given at the time. Scott Davies, Director of Planning and Zoning, stated that it could be risky for the County to issue a letter of compliance without the basis of a survey. The County could held in violation of the FEMA floodplain and be placed on probation which could prevent other residents from obtaining flood insurance. Commissioner Krehbiel made a motion to authorize a letter attesting that a building permit was issued based upon the property owner placing the house in compliance out of the floodplain. . Commissioner Westfall seconded the motion and it was passed unanimously.

Scott Davies presented the basic information for request from Wes Burns with Integri Site, Inc. on behalf of Alltel Communications for a conditional use permit for Alltel to construct a cellular tower 198 high in the A-1 agricultural district, 1/2 mile west of S West Street on the north side of SW 125th Street. Said information included a review of his original report to the Planning & Zoning Commission. Upon a request from the County Commission the Planning & Zoning Commission revisited the issue at a meeting on March 3 and recommended the approval of the tower on a vote of 10 in favor and 1 opposed, with the chairman abstaining. The Planning Commission also recommended a natural screening be installed around the tower. There were more than 20% of the adjacent land had the owners sending letters of opposition. Therefore, Commission approval of the permit would have to be unanimous.

Gail Clark spoke in opposition to the tower. It is not that they are opposed to a cellular tower to benefit the City of Sedgwick, but they disagree with the site that has been chosen. They feel that there are alternative sites that have not been explored. There are other mono towers in the area that could possibly be used and there are also different types of towers, such as a stealth tower, that could be built They are concerned about the devaluation of their property because of the close proximity of the tower. A letter from an appraiser in the county was presented to the Commissioners stating that the property value could decrease by 2 to 40%. They are also concerned about the possible health hazards caused by the use of radio frequencies.

Brad Dilts stated that towers under 200 feet are not required to be registered so the tower would not be subject to inspection by the FCC. Radio emissions would be unmonitored. He does not feel that the Planning Commission did due diligence on the issue of the tower other than to

request that a natural screen be placed around the tower.

Gayle Clark presented a list of 8 items that they would like the Commission to consider.

Wes Burns spoke in favor of the Commission granting approval of the conditional use permit. Two other tower structures within the five mile area of where the tower could be placed were considered, but did not qualify because they were not tall enough. The grain elevator in Sedgwick could not be used because the radio frequencies would cross into the area south of 125th Street which is licensed to AT&T. He stated that the company is trying to work with everyone involved, but they have found no other viable solutions to service the area.

Adam Healy, Councilman from the City of Sedgwick, also spoke in favor of the tower. He stated that he does not believe the tower would pose any kind of a health threat. The tower would be an investment in the infrastructure of Harvey County. If Alltel were to be denied the conditional use permit, it could be many years before another company would even try.

Keith DeHaven, Mayor of Sedgwick, stated that the tower is very important for emergency services in the City of Sedgwick. The lack of cell service could have been a factor in the fatality accident that occurred near Sedgwick last week.

Commissioner Krehbiel asked if there are a lot of residents that have given up their telephone land line in favor of a cell phone only. Mr. Healy said that there are several; however there are many residents who have a land line simply because they do not have adequate cell phone coverage.

Commissioner Westfall asked if the tower would be monitored if it is less than 200 ft. Mr. Burns said that Alltel has monitors available that can be used to monitor frequencies. Discussion was held regarding stealth towers, which are disguised to look like something else, and lattice towers. Commissioner Westfall feels that a lattice tower is safer.

There was concern that insurance companies would deny insuring nearby residents because of the possibility of the tower falling. Chairman Roberson asked about requirement of insurance for the tower. Mr. Burns said that insurance is built into the agreement.

After having received and considered said evidence including new evidence presented at the Commission hearing and including consideration of the reports of Scott Davies (which included the original report to the Planning & Zoning Commission), Commissioner Westfall made a motion that the Harvey County Commission, upon the recommendation of the Planning & Zoning Commission, on a vote of ten in favor and one opposed, with the chairman abstaining, to approve the conditional use permit to locate the tower as requested by Alltel. This motion would include the screening of the tower also as recommended. Commissioner Krehbiel seconded the motion and it was passed unanimously.

Keith DeHaven commended the Commission for their consideration of this issue. He also thanked the Administration for assisting in the request to the Railroad to repair the crossing on Ridge Road north of Highway 50.

Commissioner Westfall made a motion to go into executive session at 11:12 a.m. for a period of 18 minutes to discuss legal issues. Commissioner Krehbiel seconded the motion and it was

passed unanimously. Also in attendance were Greg Nye, County Counselor; Roy Patton, Director of Solid Waste; and Charlie Summers, Fiscal Officer. Executive Session ended at 11:30 a.m. with no action being taken.

Commissioner Westfall made a motion to reluctantly pay the three court-appointed appraisers for work performed with regard to appraisal of property obtained by eminent domain surrounding the replacement of two bridges between NW 12th and NW 24th Street on Ridge Road. Commissioner Krehbiel reluctantly seconded the motion and it was passed unanimously.

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

The Commission left at 11:45 a.m. to attend lunch at the Harvey County Health Department.

The meeting was adjourned at 1:30 p.m. by Chairman Roberson.

BOARD OF HARVEY COUNTY COMMISSIONERS

Marge Roberson, Chairman

ATTEST:

George A. "Chip" Westfall, Member

Joyce Truskett, County Clerk

Ron Krehbiel, Member