

# ***Jackson County Planning Commission***

## ***Meeting Minutes***

April 10, 2008

### **I. Call to order**

Don Schuyler called the Planning Commission meeting to order.

### **II. Roll call**

Members present: Don Schuyler, Bernie Clark, Jim Jones and Melvin Bailey

Members absent: Bob Marney, Joe Conley, William Cokeley

### **III. Approval of minutes from last meeting**

After reviewing the minutes from the previous meeting Melvin Bailey made a motion to accept the minutes as typed. Bernie Clark seconded the motion. All present voted in favor of approving the minutes.

### **IV. New business**

*Application for a Lot Split submitted by Delia Greenwood (14755 US Hwy 75).*

Delia had a house that had burned down on the property and wants to replace it. This property was non-conforming since there were 2 residences on one parcel. That required them to do the lot split. Perry from Midwest Homes, Topeka spoke describing the lay of the land and where the lagoons would lie if the lot split was approved. Don asked if there was anyone from the public that had comments.

Jim Jones made a motion to approve the lot split.

Bernie Clark seconded the motion.

All present voted in favor.

*Application was approved.*

*Application for a Zoning Change submitted by Delaware Watershed for Site D-67 A-1 to B-1 (Breach Impact). Previously tabled from March 13<sup>th</sup>, 2008 meeting.*

*Application for a Zoning Change submitted by Delaware Watershed for Site D-68 A-1 to B-1 (Breach Impact).*

Application submitted by Delaware Watershed Joint District #10 to change zoning in the breach inundation areas for watershed structures D-67 and

Site D-68. Darrin stated that he had several conversations with the Tribe and the BIA (Bureau of Indian Affairs). The County currently does not have jurisdiction for anything that is inside the tribal boundary or and trust land owned by the tribe. We cannot subject them to our zoning. If the Watershed needs zoning in those areas Marilyn will have to let the Watershed district know that they will have to get approved through the tribe for the area that crosses the tribal boundaries. Darrin let the rest of the Planning Commission members know that he had spoke with David Prager and he was okay with the fact that we weren't going to enforce anything on the tribal ground or trust property. Darrin excluded those properties from the map. Darrin had a letter that David Prager had sent confirming this information. Darrin will copy the letter for Marilyn.

Don opened the meeting up to public comment.

Virginia LeClere spoke that she would go along with the exclusion of the tribal land or trust land. The tribe would be interested in discussing this issue with the Delaware Watershed. She stated that County & Tribe needs to initiate some by-laws for the joint zoning issues.

Timothy Ramirez Public Works Director for the Prairie Band of Potawatomi handed out letters from several attorneys, BIA, Office of Attorney General State of Kansas dated 1994 that he says is like a treaty that never expires that talks about zoning.

Don Schuyler asked for a 10 minute recess so that they could review the packet that was handed out.

Tim read the letter from David Prager. He agrees that there needs to be some joint zoning. He felt they were not properly notified.

Don asked if there were any other comments.

Don asked if the County Counselor was aware of these letters. Darrin stated that he was not.

Don opened to discussion around the table of the planning commission.

Bernie stated that the Delaware Watershed needs to approach the tribe so that we could proceed. Jim Jones agrees with Bernie's statement and could we approve a portion or is it all or nothing. Darrin felt that we would have to approve the whole breach impact area or not approve. It was stated that if you don't have a true breach impact then you're not protecting the dam or the lands below. Melvin felt that if the tribe would like to participate to have a breach impact in their zoning and we both agree on the area we can do this, but if they choose not to then when would have to decide whether we want to impose it on the land that they don't have governments over. Don stated there is more involved than just the breach impacts. The issue of jurisdiction and authority for non-tribal land. He feels that the Planning Commission does not have authority to make decisions on this issue. He feels that until a formal policy has evolved he will abstain from all determinations pertaining to reservation lands.

Darrin stated that the Commissioners told him that the County takes the position that the County has jurisdiction over all privately held ground in the non-incorporated areas of the County. The reason behind that was -- if someone is paying county taxes they could be represented by the County. Don stated that there was supposed to be an MOU (Memorandum of Understanding) back in 2004, but there has been no movement there. Bernie made a motion to table.

Jim Jones seconded it.

Jim, Melvin & Bernie voted for in favor. Don abstained.

Darrin stated that he feels that we can't just table an application indefinitely. Normally, when an issue is tabled it is only tabled until the next meeting. So, he feels when this issue gets put back on the agenda then he will send out notifications again to all property owners.

Marilyn wanted to know if we could just approve the areas that were non-Indian land. Don wanted to know if we could go through with the exemption. Darrin stated that the application does not include the Indian property. We cannot impose zoning on those lands. We can approve the breach impact for the area we have jurisdiction over and then Marilyn would have to work with the Tribe to get the breach area approved for the lands the Tribe has jurisdiction over.

Darrin will start work on updating the jurisdiction of the county regulations and a memorandum of understanding with the Tribe.

*Applications for Watershed Sites D-67 & D-68 were tabled until further notification from the Planning & Land office.*

#### **V. Adjournment**

Melvin Bailey made a motion to adjourn.

Jim Jones seconded the motion.

Don Schuyler called for a vote, all present voted in favor.

Meeting Adjourned.

Minutes submitted by: Darrin Reith

Minutes approved by: 