

**Minutes of the Owen County Plan Commission**  
**September 4th, 2008**  
**Owen County Courthouse, Commissioner's Rm. 2<sup>nd</sup> Floor**

**Members Present:** Michael Branham, Citizen Member  
Gwen Dieter, Citizen Member  
Dwight Dunigan, Citizen Member  
Mark Evans, Ag Extension Agent  
Anton Neff, Council Member  
Wiley Truesdel, Commissioner Member

**Member Not Present:** Regina Gephart, Citizen Member  
Benton Pittman, Citizen Member  
Gib Tucker, County Surveyor

**Public Present:** Phillip Curry  
Susan Curry  
Robert White  
Richard Lorenz  
Lori Porter  
Larry Fry

**Opening Meeting**

Anton Neff Open meeting with Pledge to the Flag

**Approval of Minutes**

Wiley Truesdel: Motion to approve minutes as written.

Mark Evans: Seconds the motion.

Passes: 6-0

**Old Business**

Richard Lorenz came to speak with the Board on four issues

- 1) Amending the Agricultural zoning into two Types of Ag.

Richard Lorenz: You had asked to take a look at the Zoning and Planning ordinance and to try to repour a division of Ag 1 and Ag 2. This is an actual proposal of an ordinance change or amendment to the existing ordinance. It breaks out the areas that

we talked about before. And provides what kind of uses that can be done in Ag 1 and Ag 2. The only difference between your proposal and this proposal had been a decision that I was going to recommend to you that Veterinary Office's remain in their potential to be retail or commercial location and Wireless cell tower remain in it's own separate chapter. Mostly because of the conditions cell towers require a lot more conditions that you will have to have more background on. This ordinance most importantly I think shows you a little bit about the kind of things that happen when you divide these things into Ag 1 and 2. One of course you already require for ordinary Planning and Zoning purposes. For Ag 2 we are adding additional things that the applicant needs to come forward with. For example page two.

- a) All applicable licenses required by Federal, State, or local Law
- b) A narrative statement describing the operation and defining the number of animals, if applicable, which the operation will support at capacity.
- c) Number of persons employed in daily operations at maximum capacity.
- d) Site drawing of all structures, irrigation or ditching improvements, locations of well and septic system within the described property, as well as a mapping of adjacent well and septic systems on all adjacent real estate parcels not owned by the applicant.
- e) Pictures, representations, examples or photos of the type and quality of the structures proposed to be added to the property or existing on the property.
- f) All corporate or other business entity documents which authenticate the name and business organizational structure of the applicant, if any.
- g) Names, addresses, and phone numbers of the point of contact, business manager, on-site foreman, or other responsible person assigned to the facility on the subject property, and the address, phone and contact information for any supervising, controlling, or parent organization responsible for the activities on-site.
- h) Evidence of insurance for casualty loss and property damage upon the facilities and operations of the entity or individual.
- i) Listing of all hazardous waste products that are generated from the operations of the business and the methods of customary disposal of the same.

Richard Lorenz: This is the kind of documentation we need to get to you, so that you can make a realistic appraisal of what is being done on this property under these kinds of operations. You could argue that some of these could be applied in other places as well but I wanted to flush this out so that you could have this in front of you. What happens from here I mean you might want to take a look at it at your next session to maybe make the recommendation formal and at that point and time I would be happy to take it to the Commissioners for their actual amendment. It would take a published notice of a final ordinance by the Commissioners passing it to make it effective. So you would be talking 30 to 45 days.

Anton Neff: If we were to consider this at our next meeting, should we not advertise for that meeting?

Richard Lorenz: It is not required that you do that.

Wiley Truesdel: This does not have any effect on the tax situation does it?

Richard Lorenz: No, this is just how you classify Agricultural land and these zones. And more than anything else, I mean it is going to be agricultural it is going to be taxed agricultural it is just how you look at documents that these people have to have to authorize them to operate there. Now remember, this does not change the existing zoning classification for all the properties in Owen County. This is sort of a going forward kind of event.

Gwen Dieter: SO if some one is zoned Agricultural, then in the future they decide to put in a confined feeding operation, then they would have to come to the Board to get it changed?

Richard Lorenz: Right

Anton Neff: I see a lot of references to chapter 3 or article 3 of the ordinance.

Richard Lorenz: Chapter 10 is also applicable as well, I hadn't finished up my thought process about that, I may want to include that as well.

Anton Neff: Chapter 10 does outline the permitted uses but then that is generic to just agricultural. So if we are splitting then that would apply.

Richard Lorenz: What ever is in that chapter will already apply to both one and two, this is just an addition to those.

Anton Neff: Then the references to the wireless you talked about, it does not specifically mention in agricultural at least in the first section. I know it is in it's own chapter, but we know that wireless it would normally at least at this point would have to go in agricultural zone. Would there continue to be a reference to agricultural zone or which one would it refer to or do we want to knock it out entirely.

Richard Lorenz: I believe it is possible to regulate the wireless independent of the agricultural. It would still be in the agricultural tax base purposes. But your regulations on how to handle it would be under chapter 14 at the present time.

Mark Evans: Currently the place of milling of dry feed is that commercial?

Richard Lorenz: I would think it would be commercial at this point and time. It is available in agricultural areas.

Mark Evans: It says it is excluded here, so I am just saying does that automatically. There are a lot of farmers that sell seed, and you have pioneer feed stores. It is kind of the same feed store you are just buying the seed whole sale and then retailing it.

Richard Lorenz: I was just taking the language that was given to me is what I put in here. I think those are all valid things to discuss and be refined before you final approve it.

Anton Neff: We will put this on the agenda for the next meeting, Double check the wireless reference, looking into the milling and grinding or any kind of feed sale, sale barns, and anything else that might come up between now and then.  
(Discussion starts at 020 on tape)

## 2) Milbourne/Fowler matter

Richard Lorenz: You had concerns on the impound lot they have expand on. I have a picture here that was taken on August 29<sup>th</sup>, 2008 and to me it appears to me that they expand from the facility they previously had. That does not answer our long term problem except to say that it clearly is outside of their previous operation. What that does is call into question what needs to be done now. And I think the appropriate action the Board has suggested here is to notify the land owner that, that is a possible violation and their remedy of course is to come before the appropriate body to seek whatever variance or appropriate approval they should have to use the impound lot. Now that does not predict the out come of that particular application it just says what they are going to have to do if they are going to get the issue in front of every body. This is a complicated matter because the Commissioners apparently acted on this matter prior to this time and have authorized certain things and disallowed other things. It leaves you with not as many options and alternatives as you might like to have. I think right now my proposal to you is that we issue a letter that this is a potential violation and expect them to make so application that could be reviewed by the appropriate Commission.  
(Discussion begins 120 on tape)

## 3) Williams/Sturgell Buy out

Richard Lorenz: Mrs. Williams came in to see me the other day and she expressed to me what she wanted to do was she wanted the County to buy her property. I tried to explain once again that the County has not opted to be involve with that buy out type program. That we would not have any particular uses of that property for County purposes and that there were no resources or funds available to do those types of things. She advised me additionally she had five dogs and three cats or vise verses and did not want to get rid of those animals and that was limiting where she could go and find herself to live. And again helping you help yourself again in that theory it is a little bit difficult to reach an out come that is satisfactory when you got limitation on what you are willing to do to help yourself out. The officials that went up there to the property site did not determine that there was anything that the County had done in any kind of its ditching or its culverts that created the problem. We referred her again to a case manager that is available through the ROCC to see if they could help some more, but the problem is that they are

finding the case manager can not find a place to put these people. There is no facilities for adequate or affordable housing there just isn't any in the County. Now beware I got word the other day that the Governor's office is really pushing idea that Counties get involved with the Homeland Security buyout program. I am not sure how we are going to work that or how that will be worked yet, but it is clearly a initiative by the Governor to try to see if those remedies become available to people.

(Discussion begins at 135 on tape)

#### 4) Conflict of Interest

Richard Lorenz: I wanted to talk with you about this conflict of interest question. I have since the last time I was here I had a number of times when I have talked with D.J. people come over to my office and no matter how we lay it out, in all of our brochures and pamphlets and everything else they still want assistance to putting together the materials necessary to present things to the Board. And what I am thinking I would like to do is, is probably get to the point where I can have an agreement that we can provide to these people the list of people they have to notify, the type of notice they have to have, the methodology to get it done. Give them the list of things the need to bring to the Board, and at list have that tactic with a fixed cost associated with it that we can provide these people, because there is just to much newness to this thing for them to completely understand what they are trying to get done. BSF had asked me tonight to find out what they needed to bring for this matter and I assisted them in putting that together. So that is my predicament it is very difficult with the number of people I see and have contact with not to run into people that are going to be presenting matters before this Board. I have in fact told people this last week that they did not have a good case to present to Planning and Zoning for what they wanted to do.

(discussion begins at 170 on tape)

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### **New Business**

#### **BSF**

BSF came before the Board to ask for a re plat of lot A in Quarry Woods Subdivision. This lot is currently used by Tom Greene for his salvage yard in the quarry bottoms and does not need the 26 plus acres on the northern part of this lot.

Richard Lorenz: As you recall Mr. Greene is operating his salvage operation on the 48.40 acre tract of land and the split off is because he did not want to use the entire tract of land. The northern half what you have as lot A-1 in your diagram is available for farming agricultural operation. It is zoned as agricultural right now. To the right hand side of that A-1 area is a tract of land that would be good for grazing of things like cattle, or what ever. The restrictive covenants show that or provide that no chickens, pigs or other similar animals can be used on the property at all. The tract of land is not sold to a specific buyer at the present time there is no attended use and if something came in that would require further attention it would have to have a further appeal to the Planning

Commission for how it is going to be used. So all this is, is an addition within an existing plat. There is really no other change, no other effect on the adjacent land owners other than draw a line across the northern portion on the particular tract of land. This is fairly straight forward in that regard. Had this not been sub divided they would not have had to bring any thing to this Board at all. I also got for John Reeves a statement from the Health Department that the property adjoining to the north end of Lot-A of Quarry Woods Sub division. There is no known severe soil limitations in the immediate area. The proposed 26 acre split appears to have several areas that would suffice for septic systems.

Anton Neff: Has the petitioner paid the fees and advertised everything properly?

D.J. Bault: Yes

Anton Neff: So all we are doing is drawing a line and sectioning off approximately 40 some acres into its own defined lot within the sub division. The current covenants, restrictions, all the Planning and Zoning rules still apply, nothing changes because of this. So whether the person that is currently on the larger lot or a new person comes along it does not make a difference all the rules still apply. Any Initial questions from the Board before go into public comment.

Mike Branham: Did you draw up these covenants? (asking Richard Lorenz)

Richard Lorenz: I can not remember if I did those or if Elliot (Hickam) did them of a matter of fact.

Mike Branham: Can you clarify the bottom of this first page. "All lots in this sub division are reserved for one family residential use only". Then you go down three more sentences and it says "lot owners are free to put as many as two residences on a lot.

Gwen Dieter: One family can have two one family residences on a lot.

Mike Branham: I f you sub divide this parcel into 5 acre lots.

Richard Lorenz: But they would have to come back to do that and in this case that is not going to happen. I mean if you look at the topography there is no reason to do that.

Mike Branham: what is it all hills?

Richard Lorenz: It is hills and valleys, and only the right hand half is even suitable for agricultural purposes at this point in time.

Mike Branham: I noticed that these covenants runs out in 2010 or they can be renewed. So for the record can we get a pure clarification on that? Because somebody could buy five acres and put more then one residence on there even though it is against our Zoning codes.

Anton Neff: There is a stopper to that Mike, because the covenants even if they restrict the use drawing a new line does not preclude that it does not throw that out the window. If you are creating a second lot out of a bigger one you are still restricted to what it says if that happens. If it never happens it is not an issue.

Richard Lorenz: Notice on page three, it says “there exists on this plat tract A “which is the subject matter that we are talking about” 74.84 acre tract that is not part of this sub division it is not subject to any of the restrictions indicated and solely for the purpose of establishing against existence and the ability to convey the tract should owners desire. The use of this tract can be used as commercial, multi housing and unknown at this point.

Anton Neff: any other preliminary questions from the Board? Before we go to public comment.

Larry Fry: Is the petition for up there where tommy is at?

Anton Neff: Yes split into.

Larry Fry: I have no problem with that.

Phillip Curry: Where does the corners come out at? Is that a definite line? There is an underground pipe line and underground cable that runs through this property.

Richard Lorenz: The easement is not subtracted from tract, the easement reside on top of the tract. You can not fence it, you can not use it in any way.

Anton Neff: Phillip, you had two concerns that I over heard in the discussion and that is concern with the lot line the proposed line that has been drawn. Is that correct?

Phillip Curry: Correct

Anton Neff: And you feel that it should be different in order to allow no conflict with access.

Mrs. Curry: I guess are question is how definite is this.

Anton Neff: Let me ask you the petitioner, Is this set in stone?

Lori Porter: That is how the surveyor chose it because he went from existing pin to existing pin.

Anton Neff: For our purpose it does not matter where it is, but for your private interest that's between you and them.

Richard Lorenz: I think the question that is being posed as of optional alternative for the petitioner here. I don't think the Board has the right to decline the petition that is being presented here because the lines should be somewhere else. I think it is a mute point because if my memory serves me I think we are going to find this line is anywhere from 150 to 200 feet north of the quarry site location that Tom Greene is using and there is room in there to do what they want to do.

Anton Neff: What is the wishes of the Board.

Mark Evans: Motion to approve the petitioner request as presented.

Dwight Dunigan: Seconds the motion.

Passes: 6-0

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### **Other Business**

D.J. Bault brings to the Board attention of Pathway Group and the elevating of land on the corner of State Highway 46 and Texas Pike. He informs them that he had talked with Mike Job one fifth owner of the property and said that no plans as of yet had been made but the permit to do the elevating was almost out. They purchased to permit in 2005 and is only good for four years. D.J. showed the Board a copy of the permit that was received by Pathway Group.

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Mark Evans informed the Board of a meeting that would be at the extension office Thursday September the 11<sup>th</sup> at 7:00 P.M. if any one would like to come.

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### **Adjourning**

Mark Evans: Motions to adjourn

Wiley Truesdel: Seconds the Motion

Passes: 6-0

Next meeting is scheduled for October 2nd, 2008

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Minutes approved this \_\_\_\_\_ day of \_\_\_\_\_, 2008

Minutes prepared by Daniel J. (D.J.) Bault, Plan Commission Administrator

\_\_\_\_\_,  
Anton Neff, President

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Regina Gephart, Vice President

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Benton Pittman

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Gwen Dieter

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Mike Branham

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Wiley Truesdel

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Mark Evans

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Gilmer Tucker

\_\_\_\_\_,  
Dwight Dunigan

