

## Eudora Planning Commission Meeting Minutes

March 2, 2016

Kurt von Achen, Chair	Present
Richard Campbell, Vice Chair	Present
Glenn Bartlett	Present
Grant Martin	Present
Johnny Stewart	Present
Jason Hoover	Present
Tim Pringle	Present

### Additional Attendees:

Gary Ortiz, City Manager

Barack Matite, Assistant City Manager

Pam Schmeck, City Clerk

Mike Hutto, Public Works Director

Nick Pappas, Eudora Planning Consultant with Shafer Kline & Warren Engineering, Inc.

Mayor Tim Reazin

Commissioner Ruth Highs

Meeting called to order at 7:00 p.m. by Chairman von Achen

The pledge of allegiance was recited.

Quorum noted.

Planning Commission minutes from the February 3, 2016 meeting were approved as distributed.

Codes Administration update – None heard. Codes Administrator did not attend meeting.

Chairman von Achen asked for an update from City Manager, Gary Ortiz. Ortiz spoke the annual report and also distributed copies to the commission. He mentioned that the deadline for proposal on the TIF district is March 11, 2016. He added that there have been a couple site visits as well and that the City is working with a group of professionals that have expertise in TIF. The group includes, David Waters, Tom Cailco, Gary Anderson, Nick Pappas and Vic Burks. The City is also beginning conversations with the Eudora School Board and County because both groups will have to endorse the project. Ortiz also acknowledged Chairman von Achen for getting Citizen of the Year in Lawrence. He mentioned that von Achen has served 45 years on the Commission.

4. Public Comment Period – Kevin Halgran began speaking about the text amendment and Chairman von Achen stopped him and told him that it was an agenda item.

5. Public Hearings – None heard

6. Old Business – None heard

## 7. New Business

### a. Workshop: text amendment regarding residential parking regulations.

Chairman von Achen addressed the audience to explain that the workshop was not a public hearing where they would be able to voice concerns or opinions, but he encouraged them to stay and listen to the Commission as they discussed the text amendment. He also stated in the future on this item that the Commission would hold one more public hearing along with being on the City Commission agenda.

Nick Pappas stated that the previous meeting gave quite a bit of information. He began by presenting a slide show going over issues or concerns that were brought up at the public hearing. Some of the issues that were addressed are; regulating private party, Comparison of Cities more like Eudora, Carport and driveway Improvement and if your property value will go up, Recreational vehicles and corner lot properties.

The first issue that Nick talked about was, does Eudora have the right to regulate what people do on private parties. He stated that this issue goes back to constitutional law and the Fifth Amendment. The Fifth Amendment specifically gives people the right to purchase, use, sell, exclude, and enjoy property and as long as those are not abridged the City can regulate a property. If any of those are abridged then just compensation is due in the case of eminent domain. "Dillon's Rule" gives a city right to regulate for health, safety, and general welfare. Also it would allow a city regulate for property value.

The second issue was the comparison of cities. He stated that the original cities used were cities that the feel Eudora will become in the future. He stated that the citizens wanted comparison of other cities. The cities used for the second study were Wellsville, DeSoto, Baldwin City, Edgerton, Ottawa, and Tonganoxie. Nick looked into all of the cities and he stated that DeSoto, Tonganoxie, Ottawa, Baldwin City, and Edgerton did not have any mention of RVs were not mention in their codes and Wellsville's code was not found. He then stated that of the cities from the first study most of their codes stated that RVs should only be parked on hard surfaces, not in the front yard and corner lots are assumed to have two front yards.

Carport and driveway improvement are treated like landscaping and there is no increase to property value. Determining on what can be stored under a carport is a way to clean up the city, and the Commission can regulate that if they choose, but most cities do not regulate what can be stored under a carport. Commissioner Stewart asked if that was City Commission or Planning Commission. Nick stated that it was either one.

Nick then spoke about recreational vehicles on corner lots. He stated that every city studied treats corner side yards as front yards. Allowance should be based on individual cases that prove a hardship. Pappas feels that if allowance is allowed that additional screening measures should be needed and to not allow parking in the sight distance triangle.

Pappas added for addressing individual cases there are a few ways the City can handle it. Giving discretion to the Codes Administrator, have individual cases treated as a variance, or unilaterally grandfathering.

In final Nick made the following recommendations to the Commission. To allow RV parking in side yards of corner lots if additional screening measures are taken, prohibit RV parking within the sight distance triangle, and require RVs to be licensed with the city. Commissioner Stewart asked for clarification on

what the sight distance triangle was. Pappas stated that it is a 45 degree angle and that it is 90 feet out from each roadway and whatever is in that triangle can't be impeding sight. Commissioner Stewart then asked where the point that the measurement starts from. Pappas stated it was the intersection.

Vice Chairman Campbell asked where the citizens would go to get a variance. Pappas stated it is be the Planning Commission, but if the city went with the route of a variance it would have to go to the Board of Zoning appeals.

Commissioner Pringle began by informing the audience that he was a lawyer and that after the public hearing he went to all 50 states to look cases up on RVs parking on the front of the house. Kansas didn't have any, but dealing with actions of a City Commission, as long as the actions are not arbitrary or capricious and also didn't violate some ones due process rights the City was free to decide on what they wanted to do. Issues as simple as aesthetics were sufficient grounds for the City to pass a law. Pringle continued by stating an Ohio case that went into great detail on requiring RVs to be parking on back yards or side yards and it went to the pellet court twice. The court approved the city's action in that case. Pringle then stated that he found a second case from Concord, CA that he found to be very interesting. The City Commission in that case implemented no parking of a RV on a driveway and they had to be in the side or back yard, but to protect the citizens who already had RVs in their yards, they gave them a chance to get a permit within one year after the ordinance took effect and by doing this the citizens could park the RV on their property as long as they owned the house. It even stated that if you wanted to buy a new RV and park it there you are ok. The stipulation was that if the house sold the property cannot have an RV on it. Pringle feels this may be a good solution in Eudora.

Commissioner Hoover asked who would keep track of who has an RV. Pringle responded that the citizens had to apply for a permit and provide proof that they owned the RV prior to implementation of the ordinance. He continued stating that over time as people sell properties or move the RVs would reduce in the city. Commissioner Campbell added that this would be similar to what the city did with mobile homes.

Commissioner Stewart asked what about an RV that is out in the right of way. Commissioner Pringle felt that would be a separate issue. Commissioner Hoover asked about RVs that are not tagged. Commissioner Pringle felt that would be an issue that the city would have to look into, but feels that if you own an RV you have the right to have it. Hoover stated that was a concern that was brought to his attention by someone that takes care of their property, but you have people that don't tag the boats, RVs, or trailers. The citizen was curious if that could be part of it and make it required to tag the property. Pringle said that maybe they could put it in there that if you currently have the RV that you have to tag it. He feels this will help eliminate someone that has a junk RV and doesn't plan of fixing it up because they won't want to pay to tag it.

Chairman von Achen asked if there were any other questions.

Vice Chairman Campbell brought up the definition of a passenger vehicle. He said the way it reads now to him is that if you had a truck with a flatbed on back it would not be considered a passenger vehicle. He pointed to the definition on page 10 of the draft and it reads, pickups that do not have a traditional pickup bed or side walls would not be considered a passenger vehicle. Campbell suggested that be removed.

Campbell then brought a second definition up to question. It reads vehicles which would otherwise meet the definition, but that which have had modifications to the interior such as a full size van or minivan that has the seats removed to allow carrying of cargo. Campbell is concerned because there are vans in Eudora like the ones used by Westerhouse heating and air that are van size. Chairman von Achen corrected Campbell because the definition states that the vehicles shall be deemed to be included within the definition so those are being allowed.

Pappas feels it is ok to remove the whole sentence.

Commissioner Hoover asked if it was RVs that was listed up to 44 feet. He then questioned the maximum height of 13 feet because currently there are RVs that are 13'6". Hoover would like to see it raised to 13"6" or even 14 feet.

Vice Chairman Campbell asked in theory if the Commission made the recommendation to approve as is with the allowances that Tim talked about and had permits how would it work. Chairman von Achen said that he felt it would be an administrative thing done at City Hall kind of like dog tags. Campbell felt that he thinks that would be easy for the public.

Commissioner Bartlett feels the RV permit should be no charge.

Commissioner Stewart asked City Clerk Pam Schmeck how many dogs are tagged in Eudora. She stated that there are approximately 150 dogs licensed in the city.

Chairman von Achen feels that having the RVs be permitted is a great idea and also the part about making them required to be licensed.

Mike Hutto said that he feels that the licensing should be for any RV no matter where they are parked. Chairman von Achen replied that was the way they were going with it.

Campbell added that there are a lot of trailers that are not required to be licensed and wanted clarification on that this change was just for RVs.

Commissioner Stewart asked. What about people that rent houses that own RVs? Vice chairman Campbell felt that if this goes through that whether you are renting or own and you have an RV you could get a permit. Stewart felt it needed to be worded to include wordage to include rentals. Mike Hutto wanted clarification on how it that would be addressed if you move. Commissioner Pringle stated that the resident needed to own the RV before the ordinance went into effect and if that resident moves the permit does not go with them to the new residence.

Commissioner Martin brought up page 20 where it reads passenger vehicles that are parked on a residential right-of-way must move every 48 hours. In addition, it shall be unlawful to park a Vehicle that is not a Passenger Vehicle, Car, Passenger Van, Pickup truck or Motorcycle in a residential right-of-way for more than two hours at any time of day or night. The concern that Martin has heard from citizens is what if they go get mulch the night before they do work, etc. Martin proposed changing the time frame to 24 hours. Commissioner Hoover added it would be the same thing for fishing boats that are brought in the night before and feels it should be 24 hours as well.

Chairman von Achen questioned how to regulate the 24 hours.

Mike Hutto suggested that the wording include something along the lines of “2 hours unless loading or unloading”

Commissioner Martin suggested saying 24 hours for loading and unloading purposes. Chairman von Achen asked Nick Pappas if he understood where the Commission would like it to go. Nick said yes and suggested making it read for more than 24 hours for loading and unloading in a three day period.

Mayor Tim Reazin asked to speak. Reazin stated some questions that he knows will come to the City Commission are. The line of sight issue of RVs being in a driveway, but it goes all the way to the street, how would the Planning Commission like to handle that. Chairman von Achen said that it would need to not be in the setback.

Reazin also asked if this would be complaint driven and Chairman von Achen said that would be something for the City Commission to decide on. Reazin then brought up the tagging of the RVs that is not running. He wanted to know if that was a health and safety issue to resolve that. The Commission said yes.

Vice Chairman Campbell wanted to clarify that when it reads residential right-of-way, he considers that as the street. In the front yard he would consider that the street right-of-way. He is curious if they should differentiate the two definitions. Nick Pappas said that the intent was the same thing.

Commissioner Stewart told Mayor Reazin that they could not tell someone that we couldn't license their RV because of the way it looks or if it runs. Stewart then asked if the City had a blight ordinance and was told yes.

Mike Hutto told the Commission that the RV regulation would be enforceable and he does not like any ordinance that is complaint driven, but if the Commission goes with something like this he wants it to have some teeth to it so it can be enforced.

Chairman von Achen would like Section 5, 16-501, 2, i, to state “two” instead of “up to two” of the required.

Commissioner Hoover stated that he wanted to see better communication about when meetings will take place and also when public hearings are. Mayor Reazin seconded that as a need.

Mayor Reazin made a request to the Commission to shorten the time frame on proposing the changes and so the City Commission can have the public hearing on it. Chairman von Achen brought it back to the Commission to decide what they would like to do.

Chairman von Achen gave the Commission the choices at hand. He asked the Commission if they want to have Nick Pappas make the changes requested and bring it back to the April meeting for review or to have the changes made and review it at the public hearing in April. Commissioner Pringle questioned if the public would be able to get online and see the changes in time for a public hearing in April. Pringle continued that he would be ok to go to public hearing next month if the public has access to the changes.

City Clerk Pam Schmeck spoke about the public notice going forward with links to the changes. The one main issue that she sees at hand is that the agenda is not set until three-four days before the meetings.

The Commission asked Schmeck how much time would be needed. She said that a public hear has to be published twenty days before the meeting. Chairman von Achen stated that the Commission needs to wait on the public hearing so they have time to review the changes.

Vice chairman Campbell told Mayor Reazin that he felt the Commission would be in trouble legally if they didn't review the changes before going to the City Commission. Reazin questioned why it couldn't go to the City Commission next for review. City Clerk Schmeck told Reazin that the City Commission does not have to have a true public hearing on the issue. She also stated that the City wouldn't have time to publish the changes before a public hearing in April.

Mayor Reazin stated that he feels that there will still be issues with commercial vehicles after the RV issue is resolved.

Mayor Reazin asked if the changes could be available at City Hall for the public to pick up.

Commissioner Stewart wanted to discuss carports on page 16 of the draft. He stated he didn't see any issues with the document as written.

Vice chairman Campbell asked if the sight line and triangle. Nick Pappas said that would be added in. Pappas then asked if the treatment of corner lots was ok as is or if changes needed to be made. Commissioner Pringle feels that every property should be treated the same because if the person moves there will not be an RV there anymore.

Commissioner Stewart wanted to make sure that there would not be any right-of-way parking with the changes going forward. The Commission agreed that there would not be.

Public Works Director Hutto wanted to make sure there was clarification on parking and what they will define a drive way. Will the drive way end at the easement or street. Hutto continued with an example of a camper overhanging a sidewalk and that it would be allowed still based on the current way it is written. The Commission stated that in that instance it would be in the right-of-way and Hutto corrected them that the right-of-way is actually a foot in front of the sidewalk so it would still be allowed. Chairman von Achen asked if there are sidewalks that are not on public property. Hutto gave an example of Peach Street that the sidewalk is on private property. The Commission suggested getting the RV issue resolved and if the sidewalk overhang issue comes up later they will address it at that time.

Chairman von Achen closed the workshop and made the announcement that the May meeting will be his last meeting on the Planning Commission.

Vice Chairman Campbell went over the changes to make sure they had them all in. The changes are that the RV has to have a permit from the City, currently licensed; the ordinance will apply to both tenants and homeowners alike. He also noted that it should made clear to the public that going forward the City will be making sure the sight line rule will be enforced.

Mayor Reazin asked for the time frame to be six months instead of one year. Hutto feels six months is fair since citizens do not have to find storage with the new changes.

Hutto added that he would like to see added that the site has to be reviewed by a city official before the permit is issued to make sure it is not illegally parked.

City Commissioner Hughs asked if the RVs had to be running and the Commission stated, no that it only had to be tagged. She felt that was not going to resolve the issue of junk RVs. Chairman von Achen stated that people wouldn't want to pay for the tag if the RV is junk so that would help. City Clerk Schmeck added that in that situation it would be considered a blight situation.

**Vice Chairman Campbell made a motion to adjourn**, Commissioner Hoover seconded, all ayes, motion carried, 7-0. Meeting adjourned 8:22pm.

*approved with correction*  
*Kurt von Achen*

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Kurt von Achen, Chairman

*Eric Strimple*

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Eric Strimple, Billing Specialist

