

THE PRATT COUNTY COMMISSIONERS MET MONDAY, FEBRUARY 3, 2020 AT 4:00 P.M. IN THE COURTHOUSE COMMISSION ROOM WITH THE FOLLOWING MEMBERS PRESENT: THOMAS W. JONES III, GLENNA L. BORHO AND JOE R. REYNOLDS. TYSON EISENHAUER, COUNTY COUNSELOR, GALE ROSE, PRATT TRIBUNE REPORTER, SHERRY KRUSE, COUNTY CLERK AND DARRELL SHUMWAY WERE ALSO PRESENT.

THE MEETING WAS OPENED WITH THE PLEDGE OF ALLEGIANCE.

NANCY SMITH, COMMUNITY SERVICE WORK COORDINATOR, GAVE A REPORT ON 2019 STATISTICS; 36 PEOPLE COMPLETED COMMUNITY SERVICE HOURS FOR A TOTAL OF 1,937 HOURS; 2019 WORKSITES IN THE COUNTY INCLUDED THE COURTHOUSE, LAW ENFORCEMENT CENTER, RSVP, PRATT COUNTY FOOD BANK, COMMODITY DISTRIBUTIONS, PRATT AREA HUMANE SOCIETY, PRATT AREA RECYCLING CENTER, PRATT COUNTY LAKE, THE HOPE CENTER, PRATT HEALTH FOUNDATION, GOODWILL, RED CROSS, PASS IT FORWARD MINISTRIES, COMMUNITY THANKSGIVING DINNER, TOYS FOR TOTS, LEMON PARK LIGHTS, SALAVATION ARMY; CURRENTLY THERE ARE 42 OPEN WORK FILES; PRATT COUNTY ATTORNEY – 16; SOUTH CENTRAL COMMUNITY CORRECTIONS – 12; COURT SERVICES – 14; WORKERS RECENTLY WORKED AT THE SENIOR COMMODITY DISTRIBUTION ON JANUARY 14TH AND DCF COMMODITIES LAST WEEK ON JANUARY 26 & 27; ALSO HAD A GOOD CREW HELP TAKE DOWN LEMON PARK LIGHTS ON JANUARY 4; COMMISSIONER BORHO ASKED IF THE NUMBER OF CASES IS DOWN AND NANCY SAID IT IS DOWN ABOUT 25% AND NOT AS MANY YOUTH.

TIM BRANSCOM, EMERGENCY MANAGER/ZONING ADMINISTRATOR, REPORTED THE BUTANE LEAK HAS BEEN TURNED OVER TO MID-AMERICA PIPELINE; ANY CALLS WILL BE REFERRED TO THEM; THEY ARE STILL ON SITE; COMMISSIONER REYNOLDS SAID THEY SHOULD DO A ROUND TABLE DISCUSSION AND REVIEW THE INCIDENT WITH EVERYONE INVOLVED; WEATHER RADIOS CAME IN A COUPLE OF WEEKS AGO JUST NEED TO PROGRAM THEM; WOULD LIKE TO ATTEND A CONFERENCE IN TOPEKA ON FEBRUARY 12 AND 13, 2020 ABOUT BIO THREAT HAZARDOUS MITIGATION RISK ASSESSMENT CLASS; DISCUSSED AN EMERGENCY NOTIFICATION SYSTEM THAT COSTS \$500 AND INCLUDES 911 DATABASE OF LAND LINES; WOULD ALSO BE AN ANNUAL UPDATE CHARGE.

COMMISSIONER REYNOLDS MADE A MOTION TO APPROVE THE MINUTES OF THE JANUARY 27, 2020 MEETING. COMMISSIONER BORHO SECONDED. MOTION CARRIED 3-0.

TYSON EISENHAUER, COUNTY COUNSELOR, DISCUSSED THE CURRENT LEASE WITH AMERICAN TOWER; THEY HAVE CONTACTED THE COUNTY TO CHANGE THE TERMS; TYSON WILL CONTACT THEM; WORKING ON THE WATER WELL PERMIT DISCUSSED LAST WEEK.

COMMISSIONER REYNOLDS MADE A MOTION TO SIGN PAYMENT VOUCHERS FOR FEBRUARY 3, 2020. COMMISSIONER BORHO SECONDED. MOTION CARRIED 3-0.

SUSAN PAGE AND ALAN WAITES, PRATT REGIONAL MEDICAL CENTER, PRESENTED FIRST QUARTER FINANCIALS WHICH ARE OFF TO A GOOD START; SUSAN PAGE PRESENTED THE SALES TAX COLLECTION REPORT; CUMULATIVE TOTAL EXCESS SALES TAX \$1,997,586.67; WEEKLY CONFERENCE CALLS ON AMERICARE PROJECT; CONSTRUCTION ON SCHEDULE TO TURN OVER TO AMERICARE IN JUNE AND MEDICARE CERTIFIED BY SEPTEMBER 2020; COMMISSIONER REYNOLDS COMMENTED ON THE NEW LAUNDRY FACILITY; ALAN SAID IT IS SAVING \$100,000 A YEAR AND PROVIDES 2 ½ NEW JOBS FOR THE COMMUNITY; QUALITY IS UP WITH A FAST TURN AROUND; OPEN HOUSE IN FEBRUARY OR MARCH;

SUSAN REPORTED THEY ARE RECRUITING A GENERAL SURGEON AND HAVE HAD FOUR SURGEONS COME AND LOOK; DR. WILTSHIRE LEFT IN NOVEMBER; DR. WESTHOFF IS DOING WELL.

CHARLES THIMESCAH VISITED WITH THE COMMISSIONERS ABOUT CONTINUING THE COURTHOUSE SQUARE LAWN CARE AT THE SAME PRICE; COMMISSIONERS AGREED TO CONTINUE LAWN MOWING SERVICE WITH HIM.

COMMISSIONER BORHO MADE A MOTION TO RECESS THE MEETING TO THE 3RD FLOOR COURTROOM FOR THE ZONING HEARING. COMMISSIONER REYNOLDS SECONDED. MOTION CARRIED 3-0.

Chairman Jones reconvened the meeting at 5:00 p.m. in the 3rd floor courtroom.

Chairman Jones stated that the meeting was being recorded.

Chairman Jones called Agenda item which is on Case No. SU-2019-04. This is for an application to construct a communications tower as a special use in the A-1 Agricultural District.

Before we proceed, I'll ask the Board members if any of them intend to disqualify themselves from discussing and voting on this case because they have conflicts of interests. Let the minutes show that no one has disqualified himself/herself. We now have a quorum of three (3) present for the consideration of the case.

Has the County Clerk received any protest petitions on the case? Sherry Kruse, County Clerk, responded No.

Did the Planning Board receive any comments from a city on this case? Tim Branscom, Zoning Administrator, responded No.

I ask the Board members if they have all received copies of the unapproved Minutes of the Planning Board for Dec 16, 2019 which summarizes the hearing on the case. All commissioners have received copies of the unapproved minutes. Having determined that the members have received the required information, I am going to call on the Zoning Administrator for a report and then ask the Applicant and any members of the public who wish to speak on this case to confine their presentation to new information not otherwise presented at the hearing with a five (5) minute time limit. The Board may also want to direct questions to the Applicant, the staff or other persons present.

I call on our Zoning Administrator, Tim Branscom to provide us with a report on the case and recommendation of the Planning Board.

Tim Branscom, Zoning Administrator, gave the following report:

Case Number SU-2019-04 which is for a communications tower which would be located North of NE 40th St on NE 10th Ave approximately 7/8 miles on the west side of the road was heard by the Pratt County Planning and Zoning Board on Monday, Dec 16, 2019.

At the meeting the AT&T representative (the applicant) provided information to the board members which was followed by public comments from several pilots and representatives of the Pratt Municipal Airport. You each have received a copy of the unofficial minutes of the meeting which contains the comments of all parties as well as a copy of the Special Use Report.

After hearing from both the applicant and the public, the board voted to recommend disapproval of the tower based upon location and pilot safety. The variance that was received with the original package was not discussed at the meeting and the board was reminded that any recommendation they made could not include considerations of the height of the tower. The motion had to be based on just the merits of the tower itself.

The application was originally to be heard by the Board of County Commissioners on Monday, January 6, 2020. At the request of the applicant this hearing was tabled to Monday, January 27, 2020. Again, at the request of the applicant, this hearing was then moved to Monday, February 3, 2020.

The application you will consider this evening will be based on the merits of the tower itself. Any questions and/or comments concerning the height of the tower would be heard by the Board of Zoning Appeals should you decide to override the zoning board recommendation and approve the Special Use Application.

Should you have any specific questions for the zoning board concerning the application, Rick Shriver, board vice-chairman is in attendance this evening and can answer any questions as well.

As you have each received a copy of the special use report, I would ask if you would like for me to go through each of the 17 factors in the Special Use application.

Once we reach the portion for you to vote, I will explain each of the four options that you will have. At this time, I would like to ask if you have any questions for me at this time? Chairman Jones asked that Tim go through each of the 17 factors and 4 conditions.

SPECIAL USE REPORT (amended)

CASE NUMBER: SU- 2019-04

APPLICANT / AGENT: New Cingular Wireless PCS, LLC – AT&T (Tenant)

REQUEST: To construct a wireless communications facility in the Agricultural District

CASE HISTORY: Application was received on November 12, 2019

LOCATION: North of NE 40th St. on NE 10th Ave approximately 7/8 miles on the west side of the road in Pratt, County.

SITE SIZE: 160.0 acres

PROPOSED USE: Wireless Communications

ADJACENT ZONING AND EXISTING LAND USE:

North: A-1 Agricultural, City of Iuka (approximately one-mile NW of proposed site)

South: A-1 Agricultural

East: A-1 Agricultural

West: A-1 Agricultural, residential, commercial and airport.

BACKGROUND INFORMATION: Application from New Cingular Wireless PCS, LLC was received on November 12, 2019 to construct a wireless communications facility in Pratt County. Pratt County Zoning office has been in communication with AT&T representatives about the proposed project since June 2016.

FACTORS AND FINDINGS1**

1. **What are the existing uses and their character and condition on the subject property and in the surrounding neighborhood? (See Adjacent Existing Land Use on page 1 of 4)?** Current use of subject property and surrounding area is primarily agricultural. There is some residential and commercial property to the west and northwest of proposed site as well as the airport approximately 1.5 miles from the airport center point to the proposed site.
2. **What is the current zoning of the subject property and that of the surrounding neighborhood in relationship to the request? (See Adjacent Zoning on page 1 of 4)?** Current zoning is A-1 Agricultural.
3. **Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration?** No.
4. **Would the request correct an error in the application of the regulations?** No.
5. **Is the request caused by changed or changing conditions in the area of the subject property and, if so, what is the nature and significance of such changed or changing conditions?** No, not within the area of subject property.
6. **Do adequate sewage disposal and water supply and all other necessary public facilities including street access exist or can they be provided to serve the uses that would be permitted on the subject property?** Water and sewage facilities will not be required at the site.
7. **Would the subject property need to be platted or replatted or in lieu of dedications made for rights of way, easements, and access control or building setback lines?** No, property will not be divided.
8. **Would a screening plan be necessary for existing and/or potential uses of the subject property?** Screening plan is not feasible for a 260-foot tower.
9. **Is suitable vacant land or buildings available or not available for development that currently has the same zoning as is requested?** Yes, other vacant land is available. Other vacant land would require the applicant to purchase and/or lease any land at any other site.
10. **If the request is for business or industrial uses, are such uses needed to provide more services or employment opportunities?** There will not be more services or employment opportunities with the exception of during construction of the tower and tower maintenance operations.
11. **Is the subject property suitable for the current zoning to which it has been restricted?** Yes

¹ ****NOTE:** Of those factors considered as relevant to the requested special use, not all factors need to be given equal consideration by the Board in deciding upon its recommendations.

12. To what extent would the removal of the restrictions, i.e., the approval of the zoning request detrimentally affects other property in the neighborhood? I feel removal of restrictions would not affect other property in the neighborhood.

13. Would the request be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations? Yes, such communications structures are permitted as a special use in the A-1 Agriculture District.

14. Is the request in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan? N/A. Pratt County does not currently have a Comprehensive Plan.

15. What is the nature of the support or opposition to the request? My office has not received any correspondence in either support or opposition to the request. This may be determined at the public hearing. My office did receive several phone calls from Dee at the Pratt Airport Authority requesting information on the proposal and expressed concerns over the project. Comments in support and opposition to the project will be recorded in the minutes.

16. Is there any information or are there recommendations on this request available from professional persons or persons with related expertise which would be helpful in its evaluation? N/A

17. By comparison, does the relative gain to the public health, safety and general welfare outweigh the loss in property value or the hardship imposed upon the applicant by not approving the request? The relative gain to public safety and airport operations outweighs the loss in property value or hardship imposed upon the applicant by not approving the request.

CONDITIONS: (Determine conditions, if any, applicable to the case with rewording if necessary and additional conditions as deemed desirable.)

1. A security fence of at least six feet in height must be maintained around the tower at all times.
2. The tower shall conform to the Federal Aviation Authority (FAA) painting and lighting recommendations set forth on the structure's FAA Determination of No Hazard to Air Navigation.
3. The tower shall conform to all other restrictions and/or conditions as set forth in the FAA Determination of No Hazard to Air Navigation.
4. Applicant shall coordinate with the Pratt County Road Supervisor for any entrances/exits to ensure they meet current requirements.

Are there any questions for the Zoning Administrator from the Board members? No.

The meeting was recorded, and applicant presentation and public comments transcript will be available from Tim Branscom, Zoning Administrator.

Those in attendance were Dee Dix-Brown, Pratt Airport Authority, Skye Bare, Pratt Airport Authority, Dan Suiter, MD, pilot, Tim Barker, Pratt Airport Authority Chairman, Randy Huitt, Pratt Air Inc, Richard Howard, pilot, Robert Ahrens, pilot for Kansas Department of Wildlife, Parks & Tourism, Mr. Klocks, Network Real Estate, Darin Miller, AT&T, Glenda Cafer, attorney for AT&T, Darrell Shumway, Larry D Fenwick, pilot, Kevin Melvin, pilot, Mark McNay, pilot, Rick Shriver, Planning & Zoning Board Vice Chair, Morgan Trinkle, Planning & Zoning Board Chairman, Gale Rose, Pratt Tribune Reporter.

Assuming the Board has received all the information they need on this case, you have received an outline of the choices provided under the state statutes for Board action:

(K.S.A. 12-757[c]). How do you wish to act?

Commissioner Borho made a motion to table case no. SU-2019-04 until March 9, 2020 at 5:00 p.m. in the 3rd floor district courtroom to provide more information on airport safety. Commissioner Reynolds seconded. Motion carried 3-0.

Commissioner Reynolds made a motion to recess the meeting at 6:30 p.m. and return to the 1st floor commission room. Commissioner Borho seconded. Motion carried 3-0.

CHAIRMAN JONES RECOVERED THE MEETING AT 6:40 P.M.

COMMISSIONER REYNOLDS MADE A MOTION TO APPROVE RESOLUTION #02-03-2020 SETTING ELECTED OFFICIALS SALARIES FOR 2020. COMMISSIONER BORHO SECONDED. MOTION CARRIED 3-0.

TYSON EISENHAUER, COUNTY COUNSELOR, REQUESTED A FIFTEEN MINUTE EXECUTIVE SESSION TO DISCUSS AN ATTORNEY/CLIENT MATTER; COMMISSIONER BORHO MADE A MOTION AT 6:45 P.M. TO ADJOURN INTO EXECUTIVE SESSION FOR FIFTEEN MINUTES TO DISCUSS AN ATTORNEY/CLIENT MATTER. COMMISSIONER REYNOLDS SECONDED. MOTION CARRIED 3-0. COMMISSIONER BORHO MADE A MOTION AT 7:00 P.M. TO RETURN FROM EXECUTIVE SESSION WITH NOTHING TO REPORT. COMMISSIONER REYNOLDS SECONDED. MOTION CARRIED 3-0.

COMMISSIONER REYNOLDS MADE A MOTION AT 7:02 P.M. TO ADJOURN THE MEETING. COMMISSIONER BORH SECONDED. MOTION CARRIED 3-0. MEETING ADJOURNED.

THOMAS W. JONES III CHAIRMAN

GLENN L. BORHO MEMBER

ATTEST:

SHERRY KRUSE, COUNTY CLERK

JOE R. REYNOLDS MEMBER