

## **PLANNING COMMISSION MEETING**

**JANUARY 10, 2006**

Members present at the meeting were Paul Lewis, Phyllis Cook, Lee Lehman, Grover See, Arlie Funk, Charles Kohne, Dave Fansler, Hope Yankey, George Leatherman, J.R. Keplinger, and Charlotte Bowman.

President Heishman called the meeting to order at 7:00 pm.

The meeting began with nominations for officers. Charles Kohne made a motion to nominate Dave Heishman for President. The motion was seconded by Grover See. The motion passed. Arlie Funk made a motion to nominate Phyllis Cook for Vice President. The motion was seconded by Grover See. The motion passed.

The minutes from the December 6, 2005 meeting were read and reviewed. Arlie Funk made a motion to accept the minutes as written. The motion was seconded by Grover See. The motion passed.

The main item on the agenda was the pre-application and proposed plan for the erection of cell towers in Hardy County by Cingular Wireless. Three Cingular representatives were in attendance: Jim Michal, Cingular representative; Tim Stakes, contractor for Cingular; and Gary Seager, land use site evaluator.

President Heishman began by asking Mr. Michal if he was in possession of a check for \$8,500 to be deposited in an escrow account. After several evasive responses, it was determined that Mr. Michal did not have a check with which our consultant, Larry Kuykendall, could be paid.

Commissioner Keplinger asked Mr. Michal if he could write a promissory note guaranteeing that the county would be in receipt of the escrow payment by Tuesday, January 17, 2006. Mr. Michal replied in the affirmative.

Charles Kohne made a motion to hire Larry Kuykendall as county consultant for wireless telecommunications. The motion was seconded by Grover See. All were in favor and the motion carried.

Jim Michal continued by saying that Cingular's goal was to get the "basic network" in place and that Cingular does not have the money to build every site requested. The timetable would be to have the three sites (Wardensville, Baker and Moorefield) completed by the second quarter of this year.

Landowner and developer, Bob Dillard, was present and stated that he felt that the Lost River-Mathias-Trout Pond area should receive preferential treatment since that area is

more heavily populated than the Corridor H area. He suggested that Cingular put up antennae with cranes to check the signal strength in the Mill Gap area.

Jim Michael said that in the application process, the company will explain the exact location of the towers and include a projected 5-year plan.

Dave Heishman stated that he would not want to see all towers in the Corridor H area comprising the “cream of the revenue” thus causing potential problems for other carriers left to do the remaining work.

Phyllis Cook stated that there was no plan for a tower to serve the South Fork area (County Route 7). Mr. Michal explained that it was not economically feasible since that area is so sparsely populated. He explained that Cingular’s goal was to attain 90% coverage in the county.

Dave Heishman asked the representatives how long they foresaw needing terrestrial-based towers. Mr. Michal stated that he doesn’t see the situation changing for the next 20 years and that his company would offer 5-year leases with renewal terms.

Jim Michal concluded by saying that he will submit three applications with a 5-year plan by February 15, 2006. Paul Lewis stated that the tentative public hearing date would be some time in March.

Dave Heishman made a motion to adjourn. The motion was seconded by Grover See. The meeting adjourned at 8:05 pm.

## **PLANNING COMMISSION MEETING**

**FEBRUARY 7, 2006**

Present at the meeting were Paul Lewis, David Heishman, Lee Lehman, Grover See, Arlie Funk, George Leatherman, Phyllis Cook, Hope Yankey, Charlotte Bowman and J. R. Keplinger.

Guests present were Tom Campbell, Dick Hughes and Robert Williams.

President Heishman called the meeting to order at 7:00 pm. He announced that a check in the amount of \$8,500 has been received from Cingular and deposited in an escrow account.

The minutes from the January 10, 2006 meeting were read and reviewed. Grover See made a motion to approve the minutes as written. The motion was seconded by Lee Lehman. The motion carried.

President Heishman proceeded with the first item on the agenda; "Canyon Creek" which is being developed by Tom Campbell. Arlie Funk asked Mr. Campbell if the present road would be improved. Mr. Campbell responded that it would but that work was hampered by the inclement weather. Phyllis Cook made a motion to allow Mr. Campbell to proceed with his project. The motion was seconded by Arlie Funk. A vote was taken, and all were in favor. The motion passed.

President Heishman questioned Commissioner Keplinger regarding the progress being made in the hiring of a permanent Planner. Mr. Keplinger stated that six to eight applications have been received and that the County Commission may need the assistance of the Planning Commission.

The Planning Commission resumed work on Subdivision Ordinance revisions beginning with Article XI. Dave Heishman suggested that the Planning Commission pay particular attention to the addition of separate criteria for major and minor subdivisions as required in Chapter 8A.

Various other changes including floodplain designations in subdivisions, covenants and property owner fees were discussed.

Paul Lewis informed the members that the County Commission has tabled the Planning Commission's recommended changes regarding minimum residential square footage and has suggested reducing the figure. Paul stated that mobile homes with 14' x 48' dimensions are still on the market.

J. R. Keplinger made a motion to adjourn. The motion was seconded by Grover See. The meeting adjourned at 8:25 pm.

## **MINUTES**

### **HARDY COUNTY PLANNING COMMISSION**

**MARCH 7, 2006**

Present at the meeting were Arlie Funk, Paul Lewis, David Heishman, George Leatherman, Charles Kohne, Grover See, Lee Lehman and J.R. Keplinger.

Guests present were Dick Hughes, Rose Helmick and Robert Williams.

The meeting was called to order by President David Heishman at 7:00 pm.

The minutes from the previous meeting were read and reviewed. Grover See made a motion to accept the minutes as written. The motion was seconded by Lee Lehman. The motion passed.

Rose Helmick was in attendance to ask advice regarding her neighbor's encroachment upon her property in Fort Run. She stated that their dwelling was 10 feet from her property line and that with the current construction of porches, the structure is now one foot from the line.

Paul Lewis stated that the initial application issued in April, 1997 was for a permanent residence and decks. The subsequent application was issued in September, 2005 for a residential structure.

Dave Heishman asked Paul Lewis to write a letter to the property owners who are allegedly in violation and asking that they cease construction immediately. If they do not comply, legal action will be taken.

The Planning Commission resumed work on Subdivision Ordinance revisions beginning with Article XII. It was agreed that requirement #4 should be changed to a 20' travelway with minimum 2' wide shoulders. Members agreed to combine numbers 1 & 8 in some fashion. Regarding #10, driveway culverts must not be less than 15" in diameter and 20' long. Item #11, dealing with sign length, will be increased. #12 is being considered to be changed to the subgrade being a minimum of 12" in depth with two 6" lifts. The gravel surface must be 3" thick.

J. R. Keplinger made a motion to adjourn. The motion was seconded by Grover See. The meeting adjourned at 8:30 pm.



## MINUTES

### HARDY COUNTY PLANNING COMMISSION

**APRIL 11, 2006**

Present at the meeting were Dave Heishman, Paul Lewis, J.R. Keplinger, Charles Kohne, Arlie Funk, George Leatherman, Charlotte Bowman and Lee Lehman.

Guests present were Larry Kuykendall, Robert Williams, Renick Williams, Dick Hughes, John Bowman, James Oliver, Sherla & Leroy Wilkins and Dorinda Taylor.

The minutes from the previous meeting were read and reviewed. Arlie Funk made a motion to accept the minutes as written. The motion was seconded by J.R. Keplinger. The motion passed.

Dave Heishman began the meeting by stating that three applications have been received from Cingular detailing and committing to three cell towers in Hardy County. The proposed locations are Moorefield, Baker and Wardensville. President Heishman explained that two different signals are available; one for PCS, the other for cell service only.

Larry Kuykendall began his presentation by explaining the two types of services. PCS service is more sophisticated in that it provides text messages and pictures in addition to cell service. He explained that Cingular does not want the proposed towers to become obsolete too quickly.

Cingular is committed to providing the county with 90% coverage. Mr. Kuykendall feels that their commitment must be taken as their "word of faith" and feels that they will probably follow through on the remainder of the county's needs. He added that Cingular does not want to use towers constructed by other companies, only their own.

Dave Heishman made a motion to authorize Larry Kuykendall to proceed with the propagation studies needed. The motion was seconded by Charles Kohne. A vote was taken and all members were in favor. The motion passed.

Resumption of revisions to the Subdivision Ordinance was last on the agenda. The members continued with Article XII, General Standards for Roads. The last requirement, #14, was addressed. The members agreed that all subdivision lots of less than two acres must have paved asphalt road surfaces. The asphalt specifications will remain the same.

The meeting adjourned at 8:30 pm.



**MINUTES**

**HARDY COUNTY PLANNING COMMISSION**

**May 2, 2006**

Present at the meeting were Arlie Funk, George Leatherman, Phyllis Cook, David Heishman and Grover See.

Guests present were Brenda Cook and Dick Hughes.

Due to the fact that there was not a quorum, there was discussion but no transactions.

**NOT RECORDED**

**MINUTES**  
**HARDY COUNTY PLANNING COMMISSION**  
**JUNE 6, 2006**

Present at the meeting were Charles Kohne, Paul Lewis, Grover See, Phyllis Cook, Lee Lehman, David Heishman, Mickey Carr, Hope Yankey, J.R. Keplinger and Dave Fansler.

Chairman Dave Heishman called the meeting to order at 7:05 pm.

The meeting began by welcoming newly hired planner, Mickey Carr. Mr. Carr introduced himself and gave a brief overview of his personal and employment background to the Planning Commission members.

Dave Heishman asked that the members read and review the minutes from the April 11, 2006 meeting. Grover See made a motion to accept the minutes as written. The motion was seconded by Lee Lehman. The motion passed.

Dave announced that members of the Morgan County Planning Commission met with him and Paul regarding Morgan County's intent to draft a zoning ordinance for their county. Dave and Paul offered their opinions and advice on this matter.

Dave informed the Planning Commission that three cell tower applications have been received from Cingular Wireless. Paul stated that an application fee of \$5,000 had been received with one application but questioned if this fee was the total fee or the fee per tower. An interpretation of Section 21 of the Wireless Telecommunications Ordinance is needed. June 20<sup>th</sup> was set as the date for discussion of the coordination of Cingular's application information with the propagation studies of Larry Kuykendall.

The first item on the agenda was the presentation of the plans for the proposed subdivision, "Dutch Hollow" by engineer, Geoffrey Green. Mr. Green's presentation was on behalf of developer, Mike Voorhes. The total 170 acres is to be divided into 31 lots of 2½ acres each. The mountainous terrain may be a factor in determining the number of lots.

The next item on the agenda dealt with the letter received from Dave Jopling, Secretary of the Board of Zoning Appeals. The members decided that there was not a problem with the language used on page 32 of the Zoning Ordinance regarding mobile homes being listed as a permitted use in an agricultural zone. The inquiry was made by the Appeals Board in connection with the application received from Douglas Vance. Mr. Vance has three mobile homes on five acres of land which is insufficient in size for a Mobile Home Court.

The second item in Mr. Jopling's letter concerned residential minimum width of 20' and the inclusion or exclusion of singlewide mobile homes. This matter will be referred back to the County Commission for a decision.

The third item in Mr. Jopling's letter dealt with storage facilities in an agricultural zone. The Planning Commission agreed that the definition of "accessory building" in Article II is sufficient.

The Planning Commission agreed to send a letter to the Hardy County Board of Zoning Appeals addressing their questions.

The last item on the agenda concerned Howard Krauskopf's inquiry regarding Exemption "K" in the Hardy County Subdivision Ordinance. This allows three exemptions in a ten-year period. The planning commission agreed this exemption refers to the contiguous tract of real estate. In other words, a grantee receiving property under this exemption may not further receive the same exemption if the first three parcels for the tract of land have been exhausted.

The next meeting date was set for Tuesday, July 11, 2006 since Tuesday, July 4 is a national holiday.

Grover See made a motion to adjourn. The motion was seconded by Phyllis Cook. The meeting adjourned at 8:26 pm.

**MEETING MINUTES**  
**8-11-2006**

## **MEETING MINUTES**

**7-11-2006**

A public hearing of the Planning Commission was held on July 11, 2006 in the Courthouse Annex. Present at the meeting were David Heishman, Charles Kohne, Charlotte Bowman, Lee Lehman, Hope Yankey, Grover See, Phyllis Cook and Arlie Funk. Planner Mickey Carr and Assistant Planner Dave Shields were also present. Guests included Howard Krauskopf, Carolyn Strickler, Kristen Strickler, Betsy Orndoff-Sayers, Monica Cassell, Dick A. Heavner, John Bowman, Gary Blankenship, David Hicks, Robert Williams and Bruce Edens.

David Heishman called the meeting to order at 7PM.

The first order of business was to read and approve the minutes from the June 6, 2006 meeting. There being no corrections or objections, Lee Lehman made a motion to approve the meeting minutes as read. Arlie Funk made a second on the motion. With no further discussion, a vote was taken on the motion. The motion passed.

Next, Dave Heishman introduced the new assistant planner, Dave Shields. The members of the planning commission welcomed Dave. Dave informed the Planning Commission that he would be taking the meeting minutes in the future for all meetings and thanked the commission for their warm welcome.

The next order of business was the public hearing for the proposed "Rivermont View" subdivision. The developer, David Hicks is the developer and was present to speak. Accompanying him was Dick Heavner, Bruce Edens and Gary Blankenship. The proposed subdivision is to be developed on State Road 29, south of Rio.

David Hicks explained the development of the proposed subdivision to the commission. The proposed subdivision would consist of seventy-three single family homes on either side of State Road 29 on 121.86 acres. There would be two entrances to the subdivision on Lower Arkansaw road and Rte. 29. There would be a 16 foot travel surface with a 40 foot right-of-way. All of the roads would be paved. Also, there was a 5.42 acre common area park. David Hicks presented the restrictive covenants, state septic approval and road study of the proposed subdivision. All of the road grades were within ordinance standards.

David Hicks then asked that in addition to approval of the proposed subdivision, he could arrange a bond for release to soften the costs of the roads. The Planning Commission agreed that planner Mickey Carr could make the arrangements with Mr. Hicks in regards to the bond.

David Hicks then entertained questions from the Planning Commission.

Charles Kohne inquired about Mr. Hicks development records. David Hicks informed the commission he had developed several subdivisions around Winchester, Virginia.

Planner Mickey Carr then gave his report on the application for the proposed subdivision. He presented pictures of the land for the proposed subdivision. He found everything in order and informed the commission that the developers were permitted to construct and sell two homes before the final plat would be approved.

With no further questions, Charles Kohne made a motion to approve the proposed subdivision. Lee Lehman made a second on the motion. With no further discussion, a vote was taken on the motion. The motion passed.

Next on the agenda was a petition from Schultz Realty, represented by Carolyn Strickler. The request was for an extension for the subdivision. The subdivision is across from the Moorefield Middle School. A letter requesting an extension was presented to the Planning Commission. A motion was made by Charles Kohne to grant a year extension for the Elizabeth Station subdivision. The motion was seconded by Grover See. With no further discussion on the motion, a vote was taken. The motion passed.

Next on the agenda was Howard Krauskopf, representing Mr. Madsen, a developer. Mr. Madsen was interested in purchasing the Ewing estate, located off of Corridor H. The WVDOH built an access road off of the highway to the estate. Mr. Madsen intended to purchase the property if there was no issue with the Planning Commission regarding the use of the access road to the land he wished to acquire.

Planner Mickey Carr informed the commission that the road to the gate was the property of WVDOH and was intended for access to the Ewing property. He presented images of the site for the commission to view.

Charles Kohne stated that, "at this time" he had no problems with the use of the road for Mr. Madsen's use. Howard Krauskopf stated that he needed assurances from the Planning Commission that there would be no problem with his client's use of the road at any time.

Lee Lehman informed the commission that he believed that they did not have authority to make decisions in regards to travel on state access roads.

Charles Kohne then made a motion that they "Did not have any issue with the use of the access road to the Ewing Property from Corridor H for any purposes." Lee Lehman made a second on the motion.

Howard Krauskopf asked the commission if they could those words on paper for his client. The commission replied that they would have Planner Mickey Carr draft a letter for commission President Dave Heishman to sign.

With no further discussion or inquiries, a vote was taken on the motion. The motion passed.

Dave Heishman informed the commission that he wanted to revisit the subdivision ordinance and have a revised copy for the County Commission by late fall.

Mickey Carr then informed the Commission that the next meeting would be on August 8, 2007 at 7PM in the County Courthouse Annex.

With no further business, Grover See made a motion to adjourn the meeting. Arlie Funk made a second on the motion. The meeting was adjourned at 8:30PM.

**MEETING MINUTES**  
**8-8-2006**

## **MINUTES**

**9-5-2006**

### **HARDY COUNTY PLANNING COMMISSION**

A Planning Commission public hearing was held on August 5, 2006 in the Hardy County Courthouse. The public hearing was to approve or reject the proposed “Fawn Grove” subdivision. In attendance were Commission President Dave Heishman and commission members Charlotte Bowman, Hope Yankey, Bill Ours, George Leatherman, Grover See, Charles Kohne, Arlie Funk and Lee Lehman. The County Planner Mickey Carr and Assistant Planner Dave Shields were also present.

Representing the proposed “Fawn Grove” subdivision was Dave Jopling. David Hicks was also present. Members of the public present were Delmus and Virginia Hose, Courtney Hose, Rama Wolfe, Teresa Hose, Joelle Allen, Robert Williams, Gary Blankenship, J. Dean and Bruce Edens .

The meeting was called to order at 7PM by Board President Dave Heishman. The first order of business was to approve the June and July meeting minutes. After reviewing the past meeting minutes, Charles Kohne made a motion to accept the meeting minutes. Lee Lehman seconded the motion. The motion was passed.

The next item on the agenda was the public hearing on the proposed “Fawn Grove” subdivision. The County Planner started with his report on the proposed subdivision.

Then Dave Jopling, the representative for the developer, spoke about the subdivisions and why it should be approved.

After hearing the representative of the developer, the public was permitted to speak. Delmus and Virginia Hose spoke for the citizens who surrounded the proposed subdivision. Their argument was that there was a dispute over the right of way on the deed and plat for the Wisteria Lane, the road leading to the proposed subdivision. The issue was whether it was a 20 foot or 30 foot right of way.

President Heishman told those assembled that it was not the duty of the Planning Commission to pass judgment in regards to the right of way. Hearing this, Bill Ours made a motion to table any decisions in regards to the proposed subdivision until a decision was made in a court of law as to the right of way. It was seconded by Charles Kohne. The motion passed.

The next item on the agenda was a request by David Hicks, developer of the "Rivermont View" subdivision, to provide a security bond so he could sell some lots in the development. A motion was made by Charles Kohne to allow the bond and permit the County Planner to approve the details of the bond. The motion was seconded by Bill Ours. The motion was passed.

The next order of business was presented by the County Planner. It was to update the subdivision ordinance fee schedule and raise fees. A motion to accept the updated fee schedule was made by Grover See and seconded by Bill Ours. The motion was passed.

The final item on the agenda was to set the next meeting for the Planning Commission. Lee Lehman made a motion that the next meeting be September 19, 2006. It was seconded by Hope Yankey. The motion was passed.

Lee Lehman then made a motion to adjourn the meeting. It was seconded by Bill Ours. The motion was passed and the meeting adjourned at 8:50PM.

**Minutes**  
**Hardy County Planning Commission**  
**August 8, 2006**

Present were President Dave Heishman, Commissioner J.R. Keplinger, Charles Kohne, Hope Yankey, Grover See, Phyllis Cook, Planner Mickey Carr and Asst. Planner Dave Shields Jr.

The meeting began at 7:40PM. Due to the fact there was no quorum, no business could be completed.

Planner Mickey Carr gave a brief report of the Planning Office activities to the Planning Commission.

President Dave Heishman delegated a committee of those Planning Commission members present for the purpose of discussing the Hardy County Subdivision Ordinance. Once formed, the committee discussed the ordinance and would report its suggestions and findings to the Planning Commission at the next meeting. The committee meeting ended at 9:00PM.

## MINUTES

9-19-2006

### PLANNING COMMISSION MEETING

An ordinance meeting was held on September 19, 2006 in the County Annex building. In attendance were Planning Commission President Dave Heishman, County Commissioner J.R. Keplinger, board members Grover See, Charles Kohne, Lee Lehman, Charlotte Bowman and Hope Yankey. The County Planner Mickey Carr and Assistant Planner Dave Shields were also present. Representing the public was Robert Williams.

The meeting was called to order at 7:10PM. The first order of business was to look over the minutes of the last meeting/public hearing of September 5, 2006. With no corrections or objections, Charles Kohne made a motion to approve the minutes. It was seconded by Charlotte Bowman. The motion passed.

Next on the agenda was the Planners report. The Planner read a letter from the developers of the proposed "Fawn Grove" subdivision. The letter requested a conditional approval. There were no motions made on the letter. The Planner then gave an update on the class the Planning Staff attended in Martinsburg on the 13<sup>th</sup> of September. The Planner then gave an update on WV State Code 8A and its relevance to amendments to Hardy County ordinances.

The next items on the agenda were revisions to the subdivision ordinance.

Article 1 needed no new changes.

Article 2 needed technical changes only to the wording from Code 8-1-1 to 8A-1-1.

Article 3 (definitions) had 3 new terms and language to be added. The first was “Base Stone”, second “Cul-de-sac” and the third was wording added to the term “subdivision”. Lee Lehman made a motion to approve the first term with J.R. Keplinger making a second on the motion. The motion was passed. Lee Lehman made a motion to approve the second term with Charlotte Bowman making a second on the motion. That motion was passed. Lee Lehman made a motion to approve the third term and J.R. Keplinger made a second on the motion. The motion passed.

The next article to be amended was Article 4 (exemptions). At this time the Planning Commission has only worked on this article through letter “B”. Lee Lehman made a motion to eliminate letter “A” of Article 4, which gave the exemption of parcels of a subdivision which had parcels of 8 acres or more. Hope Yankey seconded the motion. The vote was 5 yeas and one nay, J.R. Keplinger, who wanted to keep the exemption open for discussion. The motion passed.

Letter “B” of Article 4 regards transfer of land to family members as being exempt. Charles Kohne made a motion to change the exemption to a minor subdivision. Lee Lehman made a second on the motion. The Motion passed. In regards to the wording of the now minor subdivision, specific word changes were recommended. Charlotte Bowman made a motion that the language be adopted with the dropping of the relations: aunt, uncle, first and double cousins. The motion was seconded by Lee Lehman. The motion passed.

The Planning Commission then unanimously agreed that a very productive meeting had taken place. J.R. Keplinger made a motion to adjourn. It was seconded by Charlotte Bowman. The motion passed and the meeting was adjourned at 8:45PM.

## **MEETING MINUTES 10-3-2006**

A meeting of the Planning Commission was held on Tuesday, October 3, 2006. Present were President Dave Heishman, County Commissioner J.R. Keplinger, Charlotte Bowman, Lee Lehman, Bill Ours, Charles Kohne, Grover See and Arlie Funk. The Planner and Assistant Planner were also present. Guests were Mr. Emory Miller, H.D. Coppe and Seth Coppe.

The first item of the meeting was to read and approve the minutes of the September 19<sup>th</sup> meeting. A motion was made by Arlie Funk to approve the minutes of the September 19<sup>th</sup> meeting. The motion was seconded by Bill Ours. The motion was passed.

The next item on the agenda was a request by Mr. Emory Miller to speak to the Planning Commission concerning the proposed "Fawn Grove" subdivision. Mr. Miller asked the Planning Commission about recommendations for the upcoming legal action in regards to the 30' or 40' right-of-way. The board recommended to Mr. Miller to follow the guidelines of the subdivision ordinance. The board also informed Mr. Miller that no decision about the proposed subdivision can be made until a court decided the question of the right-of-way.

The next item on the agenda was revisions to the Hardy County subdivision ordinance. The revisions took off from where left off, Article 4: exemptions.

A motion was made by Bill Ours to change the status of section "C" of article 4 from an exemption to a minor subdivision. The section is a transfer of property among heirs by a

court order. The motion was seconded by Lee Lehman. After discussion a vote was taken and the motion passed.

A motion was made by Charles Kohne to change the status of section “D” of article 4 from an exemption to a minor subdivision. Section “D” refers to transfer of parcels to make boundary line adjustments or settlements. The motion was seconded by J.R. Keplinger. After discussion a vote was taken and the motion passed.

A motion was made by Lee Lehman to keep section “E” of article 4 an exemption. Section “E” refers to the, “Formation of cemetery lots”. The motion was seconded by Bill Ours. After discussion a vote was taken and the motion passed.

A motion was made by Charlotte Bowman to keep section “F” of article 4 an exemption. Article “F” refers to “Grandfathered” subdivision or individual lots. The motion was seconded by Grover See. After discussion a vote was taken and the motion passed.

A motion was made by Charles Kohne to change the status of section “G” of article 4 from an exemption to a minor subdivision. Section “G” refers to, “A conveyance of real estate to be used solely for agricultural purposes”. The motion was seconded by J.R. Keplinger. After discussion a vote was taken and the motion passed.

A motion was made by Lee Lehman to change the status of section “H” of article 4 from exempt to nonexempt status. Section “H” refers to conveyance of parcels to government, nonprofit and church purposes. The motion was seconded by Charlotte Bowman. After discussion a vote was taken and the motion passed.

A motion was made by Charles Kohne to change the status of section “I” of article 4 from exempt to a minor subdivision. Section “I” refers to combining parcels together to make larger tracts. The motion was seconded by J.R. Keplinger. After discussion a vote was taken and the motion passed.

A motion was made by Lee Lehman to keep section “J” of article 4 as an exemption with the added language. The motion was seconded by Charlotte Bowman. After discussion a vote was taken and the motion passed.

A motion was made by Charles Kohne to change the status of section “K” of article 4 from exempt to nonexempt status. Section “K” refers to the first 3 parcels created from an original under 8 acres. The motion was seconded by Lee Lehman. After discussion a vote was taken and the motion passed.

A motion was made by Bill Ours to change the status of section “L” of article 4 from exempt to a minor subdivision. Section “L” refers to conveyance of right-of-way for water, electricity and communications. The motion was seconded by Charles Kohne. After discussion a vote was taken and the motion passed.

A motion was made by Charlotte Bowman to allow the Planning Staff to make all technical changes necessary to the subdivision ordinance so it complies with West Virginia State Code 8A. The motion was seconded by J.R. Keplinger. After discussion a vote was taken and the motion passed.

The Planner then reminded the Planning Commission that the next meeting was to be held on October 24, 2006.

A motion was made by Bill Ours to adjourn the meeting. The motion was seconded by J.R. Keplinger. The vote was unanimous and the meeting adjourned at 8:45PM.

## **MEETING MINUTES**

### **10-24-2006**

A meeting of the Planning Commission was held on October 24, 2006 for the purpose of subdivision ordinance revisions. Present at the meeting were President David Heishman, County Commissioner J.R. Keplinger, board members Charlotte Bowman, Charles Kohne, Lee Lehman, Arlie Funk, George Leatherman and Grover See. The Planner, Mickey Carr and Assistant Planner, Dave Shields Jr., were also present. The guest for the evening was County Clerk Grey Ely.

The meeting was called to order by President Dave Heishman at 7PM.

The first order of business was to read over the minutes of the October 10<sup>th</sup> meeting. There being no objections or corrections, Charles Kohne made a motion to approve the minutes. Lee Lehman made a second on the motion. The motion passed.

The next order of business was revisions to the subdivision ordinance. Each board member was given a revised and updated subdivision ordinance that started with Article 5: Application of Ordinance. Planner Mickey Carr informed the board that the whole of the ordinance was technically compliant with WV State Code 8A. Dave Heishman also reminded the board that the numbers of the articles would change due to added articles.

A motion was made by Arlie Funk to accept Article 5: Application of Ordinance; as written. A second was made by Charlotte Bowman. After discussion a vote was taken on the motion and the motion passed.

A motion was made by Grover See to accept Article 6: Application Procedure; with added language. A second was made by Lee Lehman. After discussion a vote was taken on the motion. The motion passed.

The next article to be approved was Article 7: Plat Requirements. A motion was made by Charles Kohne to amend the language prior to article approval of Article 7, Section B, and Number 3, sub section K. The language was originally that the subdivider must seek approval from a municipality abutting the proposed subdivision before it goes before the Planning Commission. The language was changed to where a subdivider must inform a municipality and provide information about the proposed subdivision. The motion was seconded by George Leatherman. After discussion a vote was taken on the motion. The motion passed.

A motion was then made by George Leatherman to accept Article 7: Plat Requirements, with added and amended language. A second on the motion was made by Lee Lehman. After discussion, a vote was taken on the motion. The motion passed.

A motion was made by Arlie Funk to accept Article 8: Forms and Fees, with the language present. The motion was seconded by Grover See. After discussion on the motion a vote was taken. The motion passed.

A motion was made by Charles Kohne to accept Article 9: Time Limits, with deleted language and updated 8A language. The motion was seconded by Lee Lehman. After discussion on the motion a vote was taken. The motion passed.

A motion was made by George Leatherman to approve Article 10: Multi-Section Subdivisions; with added language. The motion was seconded by Lee Lehman. After discussion and vote was taken on the motion. The motion passed.

A motion was made by Charles Kohne to add additional language to Article 11: General Provisions; Section H: Utility Right-of Way; pertaining to requirements of utility companies. The motion was seconded by George Leatherman. After discussion a vote was taken. The motion passed.

A motion was made by George Leatherman to approve Article 11: General Provisions; with added and amended language. The motion was seconded by Lee Lehman. After discussion a vote was taken on the motion. The motion passed.

Next was an added article: Property Owners Association, which was previously Section H of Article 11. A motion was made by George Leatherman to approve the new article with added language. The motion was seconded by Lee Lehman. After discussion a vote was taken on the motion. The motion passed.

Next Planner Mickey Carr gave a report on cell towers in the county. He passed out a report which he asked the board members to read. It was his recommendation that the application was as complete as possible and the next stage was to go to the public hearing stage. Planner Carr also stated that the wireless ordinance was difficult to navigate. He also stated that an additional \$5,000.00 was needed for the second tower and the escrow account of \$8,500.00 needed as per the wireless ordinance.

A motion was made by Charles Kohne to proceed with the application process that Cingular had resubmitted to the public hearing stage. The motion was seconded by Lee Lehman. After discussion a vote was taken on the motion. The motion passed.

Planner Mickey Carr reminded the board that the next meeting for the board is to be held on November 14<sup>th</sup>.

Charles Kohne made a motion to adjourn the meeting. The motion was seconded by George Leatherman. The motion passed and the meeting adjourned at 8:40PM.

**MINUTES**  
**11-14-2006**

A meeting of the Hardy County Planning Commission was held on November 14<sup>th</sup>. Present at the meeting were President Dave Heishman, board members Charles Kohne, Arlie Funk, Hope Yankey, Charlotte Bowman, Lee Lehman and Grover See. Planner Mickey Carr and Assistant Planner Dave Shields were also present. Guests were Robert Williams and Dan Weatherholt.

President Heishman called the meeting to order at 7:05PM.

The first order of business was to approve the minutes from the October 24<sup>th</sup> meeting. There being no corrections or objections, Arlie Funk mad a motion to approve the minutes. Lee Lehman made a second on the motion. With no further discussion, a vote was taken and the motion passed.

Dave Heishman inquired whether or not the President should sign the meeting minutes or not. Mickey Carr and Dave Shields answered that there was no language in 8A that required such an action. Dave Shields also added that all of the meeting minutes are kept on file in the Planning Office.

Mickey Carr then gave a brief Planners report and reminded the board that there was a Public Hearing on the 28<sup>th</sup> of November for the application of "special use permit" for Cingular Wireless. He also spoke briefly about the status of the proposed "Little Ridge Estates" subdivision.

Next on the agenda was a request by Phoenix Housing and Development Company to proceed with their subdivision "Moorefield Crossing" in 3 stages. No representatives were present, but there was a letter from developer Greg Turner and a sketch of the proposed stages of the development. Mickey Carr gave a brief explanation and informed the board that he felt there was no negative impact to the county if approved. A motion was then made by Charlie Kohne to approve Mr. Turner's request. Lee Lehman made a second on the motion. After brief discussion a vote was taken. The motion passed.

Next on the agenda was request by Mr. Dan Weatherholt to address the board. Mr. Weatherholt commended the board for their previous endeavors. He then explained his situation involving chicken houses he built and the section of the Zoning Ordinance which requires all poultry houses to be 300 feet from a residence. He informed the board he moved the structures. Then he asked the board to consider the intent of that section of

the Zoning Ordinance. He gave examples of 4H club members and agricultural projects. President Heishman thanked Mr. Weatherholt for his input and informed him that when the board opened the Zoning Ordinance for revisions that they would examine this clause.

Next on the agenda was request from Thomas Coleman for a variance to the mobile Court Home Ordinance. Due to his absence that evening, the board elected to take no action until he appeared before the board.

The next item on the agenda was revisions to the Subdivision Ordinance.

A motion was made by Arlie Funk to approve Article 12: General Standards for Roads. The motion was seconded by Charlotte Bowman. Before the vote could be taken three items within the article had to be amended or approved as is.

The first motion was for Section A, Number 7, made by Charlotte Bowman. The motion was to accept it as it was. The motion was seconded by Lee Lehman. After discussion a vote was taken. The motion passed with 5 Yea votes and 1 Nae vote.

The first amendment before article approval was a motion made by Lee Lehman for Section A, number 6. The motion was to change the road grades to 8% from 9% and to change the wording to begin with "Unpaved". The motion was seconded by Charlotte Bowman. After discussion a vote was taken. The motion passed.

The second amendment was made by Grover See in regards to Section D, Number 8. The motion was to change the culvert size from twenty (20) inches to fifteen (15) inches. The motion was seconded by Lee Lehman. After discussion a vote was taken. The motion passed.

Dave Heishman then went back to the first motion made by Arlie Funk and Charlotte Bowman to approve Article 12. With no further discussion a vote was taken and the motion passed.

A motion was made by Charlie Kohne to accept Article 13: Subdivision Accessibility to Public Utilities with one amendment. The amendment was to delete the last sentence of Section A. The motion was seconded by Charlotte Bowman. After discussion on the motion a vote was taken. The motion passed.

A motion was made by Arlie Funk to accept Article 14: Compliance, Administration, Enforcement, Violation and Penalty; as written. Mickey Carr stated that the article was current with WV Code 8A. The motion was seconded by Grover See. After brief discussion a vote was taken. The motion passed.

A motion was made by Lee Lehman to approve Article 16: Amendment, Variance, Appeal, as written. The motion was seconded by Charlotte Bowman. After brief Discussion a vote was taken. The motion passed.

A motion was made by Grover See to approve Article 17: Validity and Conflict with other Laws, as written. The motion was seconded by Lee Lehman. After brief discussion a vote was taken. The motion passed.

Mickey Carr then reminded the board that other than the public hearing on November 28<sup>th</sup>, the next regular meeting will be on December 5<sup>th</sup>. He also informed the board that the Planning Office would mail the subdivision ordinance article: minor subdivisions, for their review.

A motion was made by Lee Lehman to adjourn the meeting. It was seconded by Grover See and passed. The meeting adjourned at 8:35PM.

**MEETING MINUTES**  
**11-28-2006**

A MEETING OF THE Hardy County Planning Commission was held at 7:35PM in the County Courthouse following the public hearing for Cingular Wireless's application for conditional use permit. The public hearing is recorded and on record in the Planning Office.

Present at the meeting was President David Heishman, County Commissioner J.R. Keplinger and board members Charles Kohne, David Fansler, Charlotte Bowman, Arlie Funk, Hope Yankey, Lee Lehman, George Leatherman and Bill Ours. Planner Mickey Carr and Assistant Planner Dave Shields were also present. Guests included County Commissioner Stanley Moyer, Robert Williams, Mike Funkhouser, Harold Kotz and John Bowman.

The first order of business was to approve the minutes from the November 14<sup>th</sup> meeting. There being no corrections or additions, J.R. Keplinger made a motion to accept the minutes as read. Lee Lehman made a second on the motion. With there being no discussion, a vote was taken. The motion passed.

Next, Dave Heishman asked for a report from Planner Mickey Carr. Mickey Carr reminded the Commission that there was a meeting on the 5<sup>th</sup> of December. There is to be two requests for variances to the Hardy County Mobile Home Ordinance. Charlotte Bowman requested a final draft of the amended and revised subdivision ordinance be mailed to all board members prior to the meeting of the 5<sup>th</sup>. Dave Shields stated that a copy would be mailed out to the Commission members before Friday.

The next order of business was to go over new article to the subdivision ordinance: Minor Subdivisions. Mickey Carr started out explaining what the article was composed of and that it conformed to WV Code 8A. After discussion concerning each section and subsection of the article, Dave Heishman entertained motions on the article.

A motion was made by J.R. Keplinger to omit letter "B" of section 7 of the article. The motion was seconded by Bill Ours. After brief discussion a vote was taken. The motion passed. Charles Kohne voted against the motion.

A motion was made by Bill Ours to change the wording of letter "C" of section 7 from "infrastructure" to "public utilities". The motion was seconded by David Fansler. After

brief discussion a vote was taken. The motion passed. Charles Kohne voted against the motion.

A motion was then made by J.R. Keplinger to approve the entire article with amended language and omitted sections. The motion was seconded by Bill Ours. After brief discussion a vote was taken and the motion passed. Charles Kohne abstained from the voting.

With the final article amended and added to the subdivision ordinance, Mickey Carr informed the Commission he and Dave Shields would put together a final draft and mail it to the Commission members for their review before the December 5<sup>th</sup> meeting.

Mickey Carr then reminded the Commission that there was a meeting in Wardensville with Allegheny Power in regards to a new line they are going to run through the northern part of the county.

With nothing else on the agenda a motion was made by J.R. Keplinger to adjourn the meeting. Lee Lehman made a second on the motion. The meeting adjourned at 8:45PM.

**12-5-2006**  
**MEETING MINUTES**

A meeting of the Planning Commission was held on December 5<sup>th</sup> in the County Courthouse Annex. Present at the meeting was President David Heishman, County Commissioner J.R. Keplinger, board members Charles Kohne, Charlotte Bowman, Hope Yankey, Arlie Funk, George Leatherman, David Fansler, Grover See, Phyllis Cook and Lee Lehman. Planner Mickey Carr and Asst. Planner Dave Shields were also present. Guests were Robert Williams and John Bowman.

President Dave Heishman called the meeting to order at 7:05PM.

The first order of business was to read and approve the meeting minutes from the November 28<sup>th</sup> meeting. With no additions, corrections or objections, Charles Kohne made a motion to approve the minutes as read. The motion was seconded by Lee Lehman. With no discussion, a vote was taken. The motion passed.

The next order of business involved the two applications submitted by Cingular Wireless for the proposed cell tower sites in “Wardensville” and “Baker”.

Planner Mickey Carr informed the Commission that even though the applications may be approved, Cingular would still have to apply for an Improvement Location Permit for each tower. He also stated that there were still financial obligations Cingular had to address in regards to the applications. These included:

- 1) \$5,000 application fee for the Wardensville site.
- 2) \$8,500 escrow account.
- 3) \$75,000 for performance security for each tower.
- 4) Liability insurance for each tower.

Mickey Carr also stated that Cingular Wireless asked for relief in regards to 4 requirements in the application. The included the height of the towers, overhead power lines instead of underground lines, screening the site and landscaping. The Commission determined to vote on each of the relief issues on each application before voting to approve the applications. Mickey Carr then added that if approved or denied, the Planning Office was required to inform Cingular Wireless within 10 days.

The Wardensville application was examined first. Charlotte Bowman stated that she would abstain from all discussions and voting in regards to the Wardensville application.

A motion was made by Charles Kohne to waive the height requirements in the Wireless Ordinance for the Wardensville site to allow the requested tower height of 180' from the required 140'. The motion was seconded by David Fansler. After discussion a vote was taken. The motion passed.

A motion was made by Charles Kohne to require Cingular to adhere to the ordinance and place the power lines to the proposed tower below ground. Cingular had requested relief to install above ground power lines. The motion was seconded by George Leatherman. After discussion a vote was taken. The vote was 7 Yeas and 2 Nae votes. The motion passed.

A motion was made by Charles Kohne to waive the requirements in the Wireless Ordinance in regards to site screening and landscaping for the Wardensville site. The provision of the motion was that Cingular could not "cut down to the road" and it would be up to the discretion of the Planner to monitor the work done. The motion was seconded by J.R. Keplinger. After much in-depth discussion a vote was taken. The motion passed.

A motion was made by Charles Kohne to approve the application and issue a Special Use Permit to Cingular Wireless for the Wardensville site with conditions. The conditions were environmental reports and financial obligations required in the Wireless Ordinance. The motion was seconded by David Fansler. After discussion a vote was taken. The motion was passed.

Next the Baker tower site application was examined.

A motion was made by Charles Kohne to waive the Wireless Ordinance tower height requirements for the Baker site to 260' from the 140' requirement. The motion was seconded by David Fansler. After discussion a vote was taken. The motion passed.

A motion was made by Charles Kohne to wave the Wireless Ordinance requirements for the Baker site so as to allow overhead power lines instead of underground, provided, that the power lines come out from the Leisure Acres subdivision. The motion was seconded by J.R. Keplinger. After some involved discussion a vote was taken. The motion passed.

A motion was made by Phyllis Cook to waive the Wireless Ordinance requirements in regards to site screening and landscaping for the Baker site. The motion was seconded by Charlotte Bowman. After brief discussion a vote was taken. The motion passed.

A motion was made by Hope Yankey to approve the application for the Baker site and issue a Special Use Permit to Cingular Wireless with conditions and monetary needs. The motion was seconded by Charles Kohne. After brief discussion a vote was taken. The motion passed.

Next on the agenda was the final overview and approval or denial of the Hardy County Subdivision Ordinance. Mickey Carr mentioned grammatical errors that needed corrected

and a new definition for “Slope”. He also requested that the wording in Article 13: Homeowners Association, “and their friends” be omitted.

A motion was made by Grover See to accept the changes, new definition and approve the revised subdivision ordinance; then submitting the ordinance to the County Commission for public hearing and approval. The motion was seconded by Lee Lehman. After brief discussion a vote was taken. The motion passed.

Mickey Carr then stated that he would submit the revised subdivision ordinance to the County Commission on the 19<sup>th</sup> of December.

David Heishman then thanked the board for all of their hard work and involvement on the Commission.

Commissioner J.R. Keplinger also gave personal thanks to the Planning Commission for their volunteering time and hard work.

Mickey Carr then informed the Commission that the next meeting would be on January 2, 2007.

A motion was then made by Grover See to adjourn the meeting. The motion was seconded by Lee Lehman. The meeting was adjourned at 8:20PM.