

ROLL CALL

Dan Baumgardner	Jerome Markley
Harry Baumgartner, Jr	Keith Masterson
Jarrold Hahn	Mike Morrissey
Bill Horan	Tim Rohr
	John Schuhmacher
Finley Lane	

Michael Lautzenheiser, Jr., Director

The September 4, 2014 meeting of the Area Plan Commission was called to order at 7:30 p.m. by President Jerome Markley. Ten members were present for roll call. Richard Kolkman was absent.

APPROVAL OF MINUTES:

Tim Rohr made a motion to approve the minutes from the July 16, 2014 meeting. Jarrod Hahn seconded the motion; the motion carried 10-0. Jarrod Hahn mad a motion to approve the minutes from the August 7, 2014 meeting. Harry Baumgartner Jr. seconded the motion; the motion carried 10-0.

OTHER BUISNESS:

Andrew Price V2012-036

Michael Lautzenheiser Jr explained the violation and that Mr. Price is residing in a business zoning district within the Town of Ossian. He stated that he would like a timeline and a projected finish date.

Andrew Price stated that he has a contractor that will be putting a roof on the house within four weeks. He explained that the house sat empty for about four years before they purchased it. He advised the board that he’s wanting to do all of the work correctly in order for his family to live in it and he plans to reside in the dwelling indefinitely. He stated that July 1, 2015 is when he will be out of the business in Ossian. He explained that they have no other place to go and that all of their finances are going into repairing the house. He advised the board that he is making progress on fixing the house. He stated that there has been demolition work done on the interior and that he has gotten a permit for an addition to correct an exterior wall.

Conditions: July 1, 2015 Deadline to move out of the Ossian business with updates in Dec. 2014 and March 2015.

Motion to Approve: Jarrod Hahn

Second: Keith Masterson

Vote: 10-0

William D. Farabee V2014-004

Mr. Lautzenheiser explained the violation of a fence in platted easements for the city. He stated that the BZA denied the variance request due to the fact that having the fence remain in the easement would damage the surrounding properties values based on the ability to have freely run maintenance on the utilities. Mr. Farabee was to remove the fence from both the side and the rear easement. He advised the board that the fence is out of the rear easement, but is still in the side yard easement.

William Farabee explained the initial drawing of the fence that was submitted was incorrect. He stated that the fence has been moved out of the easements and he as a bill to show that. He advised that he discussed the side fence with the city and the fence company. He explained that the side fence is 11ft from the corner of the lot, and the fence is no longer in the way of the utility box. He stated that the city has complained to him about the number of times they came out to mark his yard. Mr. Farabee advised

the board that the final time the city marked the land there were all "oks" along the easement. He explained that his daughter is the reason that he needs the fence.

Mr. Lautzenheiser restated that the fence along the rear property line is out of the easement and is compliant. He questioned if the side yard fence posts were moved and Mr. Farabee stated that they didn't need to be moved because the posts were well over 10ft from the property line. Mr. Lautzenheiser advised that if the front property corner is marked, he will go out and re-check that the fence is not in the easement.

Conditions:

Motion to Continue to October meeting: Jarrod Hahn

Second: Mike Morrissey

Vote: 10-0

NEW ITEMS:

A 14-09-19 JEFFERSON TWP. SE/4 36-28N-12E Estil & Beth Kissinger request rezoning approval for 1.14 Acres and Lots 8 & 9 of the Original Plat of Tocsin to be zoned R-2. The property is located at 6068 N. West St., Ossian, IN 46777 and is zoned I-1.

Estil Kissinger stated that their son has move back and wants to live in the building on the property, which they are helping him convert to a house. He explained that when they purchased the property, they were not aware that it was zoned industrial.

Mr. Lautzenheiser advised that the building that the Kissinger's are remodeling sits next to the old rail road right-of-way, which is why the property was zoned industrial from the original zoning maps. He explained that the rail road isn't there and the current comprehensive plan calls for the area to be zoned residential. He stated that the properties north and south of the site are zoned R-2 and there is industrial zoning to the east of the site, which is the same situation about being along where the rail road was.

Jarrod Hahn explained that the rail road wouldn't be coming back through that area. He advised the board on how some of the land transferred out of the state's ownership, and he doubted that they would want it back.

Do Pass Motion: Jarrod Hahn

Second: John Schuhmacher

Vote: 10-0

A 14-09-20 UNION TWP. NE/4 04-28N-11E Zanesville Lions Club requests approval for a 185' communication tower with lightening rod. The property is located at 3088 W. Van Horn St., Zanesville, IN 46799 and is zoned R-2.

Jerome Markley stated that the petition would be continued to the next meeting.

Melba Edwards questioned why the petition needed to be continued because she spoke with the contractor and he stated that everything was set to be heard.

Mr. Lautzenheiser explained that the developer was in the office and stated that since the site was not zoned properly they wanted to continue this petition so that they could get the rezoning petition filed. He stated that with the petition filed as is, it is not a permitted use under the existing zoning (R-2).

Motion to Continue to the October meeting: Bill Horan

Second: Tim Rohr

Vote: 10-0

A 14-09-21 NOTTINGHAM TWP. SE/4 21-25N-12E Sunshine Dairy, LLC requests approval for a new 6,855,614 gal. manure lagoon on an existing CAFO. The property is located at 9075 S 250 E, Keystone, IN 46759 and is zoned A-1.

Johan DeGroot Jr. explained that he purchased the property in the spring and he plans to raise heifers at the facility. He stated that he wants to make sure that there is enough manure storage at the facility to get through any potential inclement weather during the fall or spring; therefore he wants to add on to the lagoon at the existing property. He advised the board that there is about four million gallons of existing manure storage. He explained that there are currently about 300 heifers on the farm, which have been there since about May 2014.

Mr. Hahn stated that this property went through a development plan a couple of years ago, which was approved with some conditions to correct drainage issues. He advised that a lot of those issues were corrected. He explained what some of those drainage problems were. He stated that he has had no recent complaints about the drainage off of that property. He believes that the existing facility was constructed to IDEM standards of holding 180 days of manure storage, but now he believes that IDEM regulations require 300 days of storage.

Mr. DeGroot stated that IDEM's regulations are still for 180 days. He explained that the current lagoon of four million gallons might be enough for six months with 2,000 heifers, and the total 11 million gallons would be enough for a year's worth of storage. He explained that the petition was to also expand the existing lagoon to be just shy of seven million gallons as well. Therefore his total storage would be around 14 million gallons. He advised that the manure would only be from his facility unless another farmer were in trouble and running out of room, then he would be will to help them store their manure with the board's permission if need be. Mr. DeGroot explained that he wanted to have enough storage there for his 2,000 heifers and IDEM permits are for every five years, which he wants to get this lagoon information on. He advised the board that he doesn't have the permit yet, but it's being written and he will have it at the end of the month. He advised that the existing facility will hold all of the cows. He will have heifers and calves from three months old to 22 months old. He is currently permitted for about 60 milking cows.

Mr. Lautzenheiser stated that in the plat committee review the board's request that the two tracts that the pond would be crossing be combine, which was approved at the plat meeting earlier that day. He explained that the deed would just need to be recorded. He advised that there were some issues with the points on the initial filing and they have since been revised. He stated that the closest religious/educational institution was Petroleum United Methodist Church gained them 35 points, and the closest residence not located on the facility is 2667 E 1000 S, which is 1,619ft away gaining them 81 points. He listed other aspects that gained points for the petitioner. Mr. Lautzenheiser stated the board that the CAFO ordinance minimum points are 220 and this petition has 221. He advised that there have been no violations due to discharge either in Florida, which is where Mr. DeGroot previously worked, or in Huntington County, which is where he currently has an operation.

Mr. DeGroot explained that manure handling is done both by him and contracted out. He advised that he has land use agreements with local farmers to apply the manure on their land. He stated that the manure produced in Wells County will be applied to ground within Wells County.

Ray Hartman, 1244 E 900 S, stated that there are CFOs to the west and he has cattle behind his property and the stench is bad. He commented on one of the other new hog facilities and the odor filtration that they use, which doesn't work. He stated that his property is surrounded by animal barns and question where it will end.

Gene Bowyer informed the board that there are 41 active CAFOs with half a million animals in Wells County. He stated that the petitioner has had issues in Huntington County, and that he believes the county

is already over populated with CAFOs. He requested that the board delay the hearing to have the surrounding neighbors notified, and the board do research on the issues with Huntington County. He stated that the addition to the lagoon is too much and that this could be used to hold manure from other facilities. Mr. Bowyer addressed a concern over out of state manure hauling. He also commented on the drainage on the property and the possibility of the lagoon overflowing due to heavy rains.

Mr. Hahn stated that one of the issues in the past was that the facility did not have enough manure storage. He didn't believe that denying the addition of the second lagoon is conducive to fixing anything. He advised that if the expansion were denied, that it would not mean there wouldn't be any animals at the location. He explained that this is currently an active CAFO.

Mr. DeGroot stated that he took over the dairy in Huntington County in July 2010. Then the board members discussed the location of that facility and an article that was just found on-line.

Kari Kale questioned the number of cows that are currently at the CAFO operation and the amount of manure storage needed. Mr. DeGroot advised that he is getting an IDEM permit for 2,000 heifers and without a state permit he is allowed to have 300 heifers on the farm. He explained that a million gallons would be sufficient for the 300 head of cattle. Ms. Kale questioned if there would be enough storage with the additional lagoon due to the extra cattle. The board explained the size of the existing lagoon along with the amount it would be expanded and the size of the additional lagoon.

Jack Pace questioned where the water would go if it left the lagoon. Mr. Hahn stated that currently the drainage flows north to the Rockcreek, which ends up in the Wabash River over by Huntington. He commented about the notification process for the meetings and stated that it needed to be corrected to allow for a more timely notification so that more neighbors of the site could attend the meeting. He also questioned if the petitioner really needed that many gallons for his operation or if it was going to be for other people to store manure at that location. He requested that the petition be placed on hold for 30 days. Mr. Pace stated that the health and safety of the county needs to be looked at. He commented about Ohio manure being imported to Jay County. He also questioned where the limit would be for the size of a manure lagoon.

Mr. Markley stated that the legal notices for public hearings are in the newspaper at least 10 days before the meeting, and the agenda for the meeting is ran by the paper less than a week before. He explained that there is also a sign posted at the petition site, which is what is required by the ordinance. Then he restated that ordinance changes can be looked at but not during this petition hearing. He advised that the current ordinance states that CAFOs are allowed in A-1 zoning districts.

Ted Claghorn, 4536 E 650 S, questioned if the petitioner changed his mind about not storing other farms' manure and starts to truck it in, is there anything in the ordinance that would cause it to be a violation. Mr. Lautzenheiser advised that the petitioner changing his mind would not be a violation. Mr. Claghorn stated that the ordinance needs to be reviewed and have a clarification in the ordinance between industrial farming and normal farming.

Mr. Hahn commented about local farmers storing manure in the petitioner's lagoon versus having a lagoon run over.

The board questioned if they would be able to make a condition on the petition that the manure lagoon only be for the waste by product at the Wells County location. Mr. Lautzenheiser advised the board that has never occurred before and it would be hard to police who was dumping in the manure lagoon.

David Boxell, 9702 SE Jeff Rd., questioned how many acres does IDEM require for 14 million gallons, how many land use agreements does the petitioner have, and how does the board know that there are not any overlapping land use agreements with other CAFOs.

Mr. Lautzenheiser stated that IDEM regulations cover the manure application in their permit and is not covered by the APC. Mr. Hahn stated that all of the land use agreements have to be on file with IDEM. Bill Horan commented on manure management plans, which states the amount of manure produced along with the nutrient value. He stated that the number of acres needed to spread manure is based on the field specific nutrient value. Mr. DeGroot commented on the nutrient value and crop rotation. He advised the board that IDEM requires a soil sample every three years.

William Morris, 1373 W 1050 S, questioned the number of owners of the property since the facility was constructed. He commented about a condition or commitment from the board if they approved the petition. He stated that the volume of waste produced from 2,500 head of cattle would be the about the amount of waste as a city with the population of 411,000 people. Mr. Lautzenheiser advised that there have been at least 4 owners of the property. He explained that any condition or commitment would be recorded and run with the land.

Nick Pagano commented on the health of the community and whether the APC has the authority to make a decision on this case due to the potential consequences of the stench from the facility. He also addressed the issue of lack of warning about the board's meetings and agendas.

Ms. Kale commented on the existing CAFO stench and requested that the board continue the petition for 30 days since some of the members were still reviewing new documents during the meeting. Therefore the board members can do proper research.

Mr. Bowyer commented on a residential septic tank and leech bed system instillation and inspection. He questioned the difference between the residential waste and animal waste, as far as for safety of disposal in the community. Mr. Hahn advised that during the process for an IDEM permit for a lagoon, a soil scientist takes samples and does compaction tests. He stated that the process is similar to that of a residential septic system installation rather than just going out and digging a hole in the ground.

Marcia Hotopp, 4290 S 750 E, stated that people out in the county need to have their water tested. She explained that she had her water tested through the Wells County Health Department and the lab found that there was arsenic over the legal limit.

John Maddox questioned if the petitioner has their IDEM permit. Mr. Hahn advised that the IDEM permit was being processed. Mr. Maddox stated that the board should reject the petition since the petitioner didn't have their IDEM permit yet. He also questioned if the county commissioners passed a rule for not allowing any more manure lagoons in the county. Mr. Lautzenheiser stated that he doesn't believe anything like that was stated. He advised that the ordinance that was passed allows for both satellite and standard manure lagoons in the A-1 zoning district.

Mr. DeGroot stated that with the calculations for 2,000 heifers, IDEM requires 400 acres to apply manure on. He advised that he owns 72 acres of tillable land around the dairy and has another 700 acres signed in land use agreements with local crop farmers, which is almost twice the amount of acreage required. He explained that he is open to signing a commitment to not allow for interstate manure to be stored at his location and asking permission from the board before accepting to store manure for any local farms. He advised that he just wants to be able to keep all of his cattle at one location to raise and milk them.

Mr. Lautzenheiser explained that the board would need to contact their attorney to verify if a commitment could be attached to not allow for out of state manure. He stated that the lagoon is permitted

at the same manor whether it's a satellite manure lagoon or a standard manure lagoon attached to an existing CAFO.

Mr. DeGroot explained that there are additives in the feed to try and cut down on some of the smell from the manure. He also stated that direct knifing and injecting the manure into the land will help to try and limit the smell. Mr. Lautzenheiser advised that in order to maintain the 30 points, there could be no surface application of manure. He stated that every application would have to be knifed in or injected. Mr. DeGroot advised the board that he applied for his IDEM permit on June 25, 2014 and IDEM has 90 days to review it and make a determination. Therefore the permit should be issued by September 25, 2014. He stated that he spoke with an IDEM official and said that he should have the permit within the next 14 days. Then he gave a brief synopsis of what questions were in the IDEM permit application. The public questioned where he lived and why he wanted to run a facility in Wells County. Mr. DeGroot stated that he lives in Andrews and explained that there was an existing facility that was for sale that was close to his operations in Huntington County. He advised the public that he currently has heifers at other facilities where he doesn't have control over them and he wants to be close to his animals to give them proper care. He also explained that there was no fencing around the existing lagoon.

The board discussed types of conditions they could legally put on the property in regards to outside transportation and storage of manure. They talked about the fact that it would be an agreement between the county and the owner, which if sold the next owner could come and contest the condition if they don't agree. Members questioned checking with the board's attorney before a final decision.

Mr. DeGroot stated that the project would probably start next year. He advised that the IDEM permit is good for 5 years along with the construction permit that would go with it. He restated that the number of animals allowed at the facility is contingent on the manure storage, and four million gallons is not enough for 2,000 heifers. He advised the board that he was uncertain on the exact number of cows he would be able to have at the facility with the existing lagoon. Mr. DeGroot explained to the board that he wants enough manure storage in order to not have a lagoon overflowing if there is a rainy/wet spring and fall. He advised the board that he would need 180 days' worth of storage for 2,000 heifers before IDEM would allow additional cattle to be in the facility. He explained that he has land use agreements with three different farmers and the contracts are for five years.

Conditions: Continued to October meeting
Motion to Continue: Dan Baumgardner
Second: Bill Horan
Vote: 10-0

OTHER BUSINESS continued:

Erick Kahn & Jessica Sizemore V2013-014

Mr. Lautzenheiser explained the violation about junk/scrap accumulation in the Town of Uniondale. He advised the board that Mr. Kahn emailed the office, prior to the meeting, in regards to cleaning up the property. He stated that he went to the property and verified that there is work being done because a lot of the appliances and metal items are removed. He said that the email stated Mr. Kahn is starting to work on and knows what he needs to do and asked for 30-60 days to have the clean-up be completed.

The board discussed how long the violation has been going on. They talked about what had been done previously, along with their current options. Mr. Lautzenheiser commented about legal actions and the amount of time it could take. He stated that the way the ordinance is written there is not thing that the board could do that would cause an automatic stop of the problem.

Conditions: Review for more progress and handled within 30 days and review at the October meeting.

Motion: Mike Morrissey

Second: Keith Masterson

Vote: 10-0

Rex Bates V2013-023

Mr. Lautzenheiser explained that the violation was for the addition of a single wide mobile home on the property without a permit or septic approval. He stated that there was already a grandfathered mobile home at the same location along with an old farm house. He advised that the new mobile home was connected to the existing septic, which is not an ordinance compliant septic system. Mr. Lautzenheiser stated that Mr. Bates is not currently residing at the mobile home due to the fact that he's in an extended care facility, but he was living at the location when the initial complaint was filed. The daughter contacted the office on her father's behalf and tried to set up a meeting to resolve the issue, but nothing has come from that.

Conditions: Send notification to be at the October meeting.

Motion: Mike Morrissey

Second: John Schuhmacher

Vote: 10-0

NEW ITEMS continued:

A 14-09-22

WELLS COUNTY Ordinance Amendments

- a) **Amendment of the Area Plan Commission Board Membership Establishing Ordinance**
- b) **Amendment of Article 3-02: Composition of the Plan Commission**
- c) **Amendment to ordinance references for above sections a.) & b.)**
- d) **Removal of Article 19: Floodplain Management**
- e) **Adoption of Wells County Ordinance for Flood Hazard Areas**
- f) **Amendment to ordinance references for above sections d.) & e.)**

Mr. Lautzenheiser went over the proposed ordinance amendment and stated that it will now be in four parts: ordinance establishing the board membership of the plan commission, the amendments to the composition of the plan commission and the existing floodplain management ordinance which are in the zoning ordinance, the new floodplain management ordinance that is being proposed as a stand-alone document, and some amendments to the subdivision control ordinance. He went into further depth on the plan commission board establishment membership change from an appointment from the school boards to an appointment from the county council along with some changes to clarify the language. Then he explained that the second part was to remove the floodplain management article from the zoning ordinance, and then adopting the Wells County Ordinance for Flood Hazard areas and making some amendments in the zoning ordinance and the subdivision control ordinance in regards to the floodplain. He explained that there is a time restraint on the new flood hazard area, which has to be implemented six months from the appeal period of the maps which would be October 16, 2014.

Mr. Markley commented on finding an error in 1.2.6 with a town's name along with general grammatical errors throughout the document.

Conditions: 1.2.6 changed to Poneto and corrected grammatical errors

Motion to Approve: Mike Morrissey

Second: Jarrod Hahn

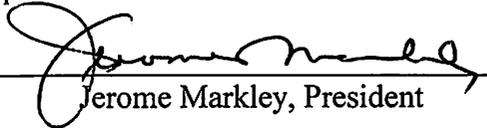
Vote: 10-0

DISCUSSION:

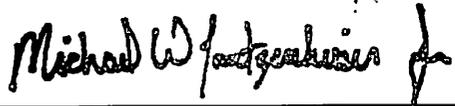
ADVISORY:

ADJOURN:

Finley Lane made a motion to adjourn the meeting. Mike Morrissey seconded the motion. The September 4, 2014 Area Plan Commission meeting adjourned at 9:45 p.m.



Jerome Markley, President



ATTEST:

Michael Lautzenheiser Jr., Secretary