

ROLL CALL

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

Michael Lautzenheiser, Jr., Director

The January 3, 2013 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. Angie Dial was absent.

ELECTION OF OFFICERS FOR 2013

President: Jerome Markley

Vice-President: Mike Morrissey

Secretary: Michael Lautzenheiser, Jr

Motion to retain the same President, Vice-President, and Secretary: Mike Morrissey

Second: Jarrod Hahn

Vote: 10-0

Appointment to the BZA: Harry Baumgartner, Jr.

Motion to retain current BZA appointment: Jarrod Hahn

Second: Mike Morrissey

Vote: 10-0

Plat Committee: Michael Lautzenheiser, Jr., Jarrod Hahn, Bill Horan, Jerry Petzel, and Gary Shaw

Motion to retain the current Plat Committee members: Jarrod Hahn

Second: Tim Rohr

Vote: 10-0

APC Attorney & Compensation Agreement: Andy Antrim

Motion to retain: Bill Horan

Second: Jarrod Hahn

Vote: 10-0

APPROVAL OF MINUTES:

Bill Horan made a motion to approve the minutes from the December 6, 2012 meeting with correction to page 6. Richard Kolkman seconded the motion; the motion carried 10-0.

OLD ITEMS:

Violation: V2012-009 – Adam P. & Josey D. Kahn

Adam Kahn gave the board an update on correcting his violation. He stated that he received a privy permit and all of the trailers are legally titled to him. However, they are still on the property, but he would like to sell or scrap them. He said that this spring he plans to put the privy in. He explained that

they are going back to Wyoming and just wants the property to be a spot where they can camp at when they come back to Indiana.

Michael Lautzenheiser, Jr. questioned Mr. Kahn on what is being done with the semi-trailer that they are living in, and what is being done to create a permanent residence. He stated that living in and having a residence in the trailer is against the zoning ordinance. He explained that the trailer is not an acceptable single family residence.

Mr. Kahn stated that when talking to the Health Department about getting his privy permit, they explained that as long as there was no water going in, permanent fixtures and no drains coming out of the trailer; then it's not in violation with their office. He explained that his family wanted to set up the property similar to the Amish in Adams County. The plans were to have cabins on the property for the family and an outhouse; and live very primitively.

Mr. Lautzenheiser explained that if they were living in one of the cabins then that would correct the violation. He suggested that Mr. Kahn start building one of them and live in it as a permanent residence. The semi-trailer could remain on the property due to the fact that the Kahn's intend to use it like a camper.

Conditions: Complete the cabin structure and privy installation by the end of April. The violation will be discussed at the May meeting

Motion: Jarrod Hahn

Second: Richard Kolkman

Vote: 8-2 (Jerome Markley & Keith Masterson)

NEW ITEMS:

A13-01-01 JEFFERSON TWP., SE/4 16-28N-12E Anderson Thompson Wells County Properties, LLC requests approval for a development plan for the addition of entrance canopies and remodeling of existing facility. The property is located at 604 S. Jefferson, Ossian, IN 46777 and is zoned B-1.

Oliver Legg stated that Chevrolet is requiring that the facility be updated. There has to be a common entrance with a canopy on the side. The plan is to cover the old part, put in a 28ft wide entrance way and then have a canopy on the south side of the structure.

Jarrold Hahn advised that there was no drainage issue due to the fact that they were covering hard surface with canopy, so it doesn't change the drainage. He stated that they did provide a copy of the drainage narrative and legal description, which the Plat Committee asked for.

Conditions: None

Motion to Approve: Jarrod Hahn

Second: Mike Morrissey

Vote: 10-0

A13-01-02 LANCASTER TWP., SE/4 33-27N-12E Almco Steel Products, Inc requests approval for a development plan for a 96' X 190' pre-engineered metal building with one dock and drive-in door. The property is located at 173 N. Oak St. Ext., Bluffton, IN 46714 and is zoned I-2.

Greg Snelling, with Snelling Engineering, explained the site stating that it is currently a grass yard that slopes from north to south. It is located directly north of the main Almco facility. The lot is about 1.12

acres and the proposed building is about 2,100sqft. There will be a loading dock on the east side of the structure and a drive in door on the south side off of Hale Street. The storm water drainage would be accomplished by the swales around the back and west sides of the building and a pipe system draining the loading dock to the south. The property on the west side of Oak Street, across from the main Almco building, will have a surface dry detention area put in for storm water management and that would discharge into a 42in pipe that goes northeast and east of the property. The proposed building is for storage of product and will have no permanent employees in the building, which is the reason for no parking proposed with the project. There will be a restroom in the structure and he explained all of the water and sanitary shown on the site plans. Mr. Snelling stated that the drainage narrative and legal description were added to the drawing at the request of the Plat Committee. He commented that they are also going to have a maintenance agreement and that the proposed easement is shown on the plans.

Michael Lautzenheiser, Jr. explained to the board that the city of Bluffton was not able to have everyone review it. Therefore, they would like that if the board approved it, there would be a condition that the city signs off on the project. He also explained that the petitioners have also filed a variance with the BZA to reduce the front yard setback.

Lawrence Clifford, neighbor four doors to the north of the proposed site, questioned the traffic line of sight if the building does get its variance to be 20ft from the property line. He commented on the fact that noise pollution has increased with production at the plant. He also questioned if there was going to be any noise abatement with the new structure. He addressed his concerns with the possibility that the structure could eventually be used for production rather than just storage.

Mr. Snelling explained how the sight triangle was calculated and that even with the variance the structure would be outside of that. He stated that the 20ft is from the edge of the road right of way and that the proposed building would be further off of the road than the existing Almco structure.

Troy Bertch, with Grand Industrial, stated that the structure would currently be used purely for the storage of dyes and that no production would occur in it, at this time. He also stated that the structure is a pre-engineered building that will have standard insulation. He commented that the current design has a concrete slab that is not set up for heavy manufacturing.

Bill Horan suggested maybe a condition of a written commitment stating that if the structure were to be used for production that sound dampening material be installed. The commitment would be a recorded document for public knowledge.

Conditions: Continue to the February Meeting.

Motion to Continue: John Schuhmacher

Second: Bill Horan

Vote: 10-0

A13-01-03

WELLS COUNTY Ordinance Amendments

- **Amendment of setback requirements involving CAFOs**
- **Amendment of the point requirement involving CAFOs**
- **Amendment of the variance penalty involving CAFOs**

Michel Lautzenheiser, Jr. explained the parts of the CAFO ordinance that were looked at and have the option of being amended. He stated that not all of them have to be done. The first part that was looked at was the setback. There are two parts to the setback discussion, one is should the residential setback from a dwelling (not located on the subject parcel) be changed from the current 800ft; and the second part of the setback discussion was for clarification purpose, it would be to add historical registered sites for

public gatherings be added to the setback table. The next item looked at for amendment was the total point requirement and if it should be raised. The final part was to possibly stiffen the penalty for a variance of the setback requirement by increasing the amount of points deducted.

The board discussed the definition of a public use area and if a historical building wouldn't already fit under that definition. They listed what was defined under it and said that there could be some overlapping, but it also could be considered a stretch to include historical buildings in the public use definition. If it's added, it would just be for clarification.

Pat Hess, lawyer with Beckman Lawson in Fort Wayne, stated that he is representing CJ and Katherine Mounsey, Mounsey Farms Inc, and Mounsey Family Farms LLC. He listed their many properties. He then stated that their house at 10816 S 600 W is a historic structure and is across from the illegally constructed manure lagoon. He stated that IDEM has not issued a permit for this manure lagoon. He commented on the violation letter that was issued by the APC office, which needs a response by January 6, 2013. He asks that on January 7, 2013, legal actions begin against the owner and operator, which would include an injunction to cease work and return the field to its prior state. He expressed his clients' support for restricting CAFOs and manure lagoons by increasing the points required and stiffening the penalties for the setback violations. His clients also support an increase setback for all historic structures and residences, in general. Mr. Hess stated that the satellite manure lagoons should not be regulated as a CAFO because it is more like a manure business; and should have separate regulations since it doesn't have to be associated with a nearby CAFO. He provided the board with some amendment language to consider. He suggested that the satellite manure lagoons be treated as a special exception that would be reviewed by the BZA, before it could go before the APC for development review.

Jim Schriver, 320 Northwood Dr, stated that he had previously lived in Nottingham Township for 43 years. He stated that he is part of a national soy bean board and discussed how the grain industry and livestock industry operate together. He said that he is opposed to greater setbacks for CAFOs. Mr. Schriver provided documentation from sales within the southern part of Wells County near CAFOs. He advised that the average amount of time for a house to be on the market in Bluffton is about 200 days. He stated that there was one property in the Southern Wells area sold after only being on the market for a day. He next went on to describe farmers restrictions due to state and federal policies and then discussed the farm crisis from the 1980s. Mr. Schriver talked about new technologies in the industry and explained lab tests done to the soil and ways to control odor. He stated that his opinion was that the current ordinance for CAFOs is working well.

Tim Ehlerding, Economic Development Directory for Wells County, provided the board with a copy of his letter. He discussed if CAFOs have an economic impact on Wells County and the ways to determine that it does. He stated that because of the additional property taxes they will have a positive impact on the net income of Wells County. CAFOs create tax revenues in excess of local government expenditures. The product produced is expected to exceed the needs of the community. The livestock will be sold outside of the county in exchange for new cash coming into the county, which has the potential to grow the economy of Wells County. Mr. Ehlerding explained that CAFOs do benefit the economic development of the county.

Randy Plummer, owner of Phenix Farms, explained his business of providing services to CAFOs. He commented on the fact that the proposed setbacks and regulations for the ordinance could possibly eliminate any placement of new CAFOs. He explained how his business benefited the county's economy. Mr. Plummer stated that he is not in favor of the proposed regulations. He explained that even if the county had no regulations on the subject that there still would be the strict state regulations through IDEM. He said that the state has experts or the ability to hire experts in this area for the proper sizing of facilities and handling and applying of manure. He discussed the merits of having satellite manure

lagoons. Mr. Plummer explained how nutrients can be lost if the manure is hauled for too long of distances.

Darrick Plummer, vice president of Phenix, stated that in 2012 their operation pumped and spread about 30 million gallons of liquid manure. He commented on the differences in the CAFOs based on the operators and their experience levels. He advised the board that he has a state issued manure application license and commented on the regulations that have to be followed for that. Mr. Plummer talked about the satellite manure lagoons and stated that they are more for timely application. He commented on the fact that if the proposed amendments go through that he would not be able to have a CAFO on his property if he wanted one in the future. He stated that regulations shouldn't be based off of esthetic and said that the odor can be reduced depending on how the manure is applied. He then went on to discuss new products that are available to reduce the odor as well.

Travis Frauhofer, southern Wells County, stated that he lives near the Five Points school and CJ and Katherine Mounsey's house. He explained that he currently operates a dairy CAFO and was the first to be permitted under the points regulation in 2009. He advised the board that he felt it was difficult to achieve the proper number of points in order to have their project approved. He stated that if a methane digester, which is about 100 points, were to be put into his facility that it would be more noticeable in the area rather than a lagoon. Mr. Frauhofer discussed the licensing and permitting done through the state. He advised that per the state anyone that violates the water pollution control laws can be subject to be a CAFO. He stated that he is opposed to the increase in CAFO setbacks due to it limiting the growth in animal agriculture.

Paul Rumble, CAFO operator, questioned the protection of the property rights for the future generation of family farmers. He stated that the current 800ft setback from a residence is 200ft more than what IDEM requires. He explained that sometimes changing the setbacks are necessary for a better long term effect. He gave the example of his CAFO. Mr. Rumble also explained the permitting process that occurs through the state. He believes that the point system works as is; and is beneficial to both the operator and the neighbors. He stated that if the board wants changes they should create a task force to thoroughly look into CAFO operations and have particular questions answered before making a decision to change the ordinance.

Amy Cornell, Indiana Land Resources Council, provided the board with updated copies of the model zoning ordinances from the council. It has the updated IDEM and State Chemist regulations.

Tim Baker, Wells County Farm Bureau representative, stated that Farm Bureau has supported the rules and encouraged the farmers to follow them. He explained that they won't support any farmer that does not follow the rules. He discussed some of the CAFOs in Jefferson Township. He explained how the business is supporting Wells County agriculture because some CAFOs purchase their feed locally and then supply manure to local farmers to use. Mr. Baker stated that Farm Bureau supports staying with the current regulations on setbacks and the points system, stating that it does not need to be more restrictive.

Drew Cleveland, Regional Manager for Indiana Farm Bureau, stated that the local setback requirements are more restrictive than the state's requirements. He advised that Farm Bureau is not in favor of increased point requirements based off of a knee jerk reaction to a situation. He said that it would be beneficial if the board took more time to examine the CAFO ordinance and talked with the farmers to get a better understanding before amending the ordinance.

John Shaffer, Jackson Township resident, stated that the CAFOs do decrease property values. He stated that there are abandoned homes around some of the CAFOs. He explained that most of the facilities are trying to deal with the odor better. However, he stated that the smell during the summer is worse,

especially due to the fact that there are nine operations around his house. Mr. Shaffer stated that there should be an increased setback from houses.

Gene Boyer, Chester Township resident, discussed the pond permit that was issued June 12, 2012 to Ronald Mang, but is being used by Bruce Leas for a manure lagoon. He stated that all parties need to abide by the rules. He addressed his issues with the fact that farming is becoming too industrialized. He stated that he does not think the CAFOs are benefitting residences. Mr. Boyer explained that he would like a five mile setback between CAFOs and the setback for a non-participating residence should be one mile. He also stated that pork is being over produced because 30% of the pork produced is exported from the U.S. He addressed his concerns with drainage, run off, and a possible spill contaminating the ground water. Mr. Boyer stated that the rules should be more strict and stated that satellite manure lagoons should not be allowed. He explained that the lagoons are not agricultural and that they are more like storage warehouses for manure that is not even from local CAFOs.

Jack Pace addressed the manure lagoon on the corner of 600 W and 1100 S, which was permitted as a field pond. He commented on the violation of the permit, which hasn't been discussed. He stated the process that he had to go through for a permit for Five Points School. He explained that he would like to see the setback increased to 1200ft.

Michael Lautzenheiser, Jr. stated that the pond has been excavated and that he has been informed that it is to be used as a manure lagoon. It is in violation of the ordinance and a letter has been sent out to take care of the violation. He advised that the board could potentially put a fine and an injunction on top of the violation letter. He explained how the language for the ordinance came about.

Jarrold Hahn explained the violation process that must be followed. He stated that the violation has been issued and it is undergoing that process.

Conditions: Add the definition language of Historical Site into the Public Use Area definition.

Motion: Bill Horan

Second: John Schuhmacher

Vote: 10-0

Discussion of the Leas manure lagoon

Conditions: On January 7th, if no remedy of the situation, send out 2nd violation notice. If something else occurs within that time, court order injunction.

Motion: Jarrod Hahn

Second: Mike Morrissey

Vote: 10-0

A13-01-03 WELLS COUNTY Ordinance Amendments

- Amendment of setbacks requirements involving Large and Medium WECS
- Amendment of noise requirements involving Large, Medium, and Small WECS
- Amendment of shadow flicker requirements involving Large and Medium WECS

Jarrold Hahn and Mike Morrissey recused themselves from the meeting before the large WECS ordinance amendments discussion occurred, due to advice from the attorney for the APC.

Michael Lautzenheiser, Jr. advised the public that due to the time and the building's security system that the discussion could only last for another hour. Then, he explained that the setbacks amendment discussion would look at the distance from a non-participating dwelling, the option to change it to be measured from the property line rather than the dwelling, and the possibility of removing the reciprocal

setback. He stated that the noise requirement amendment discussion would look at changing the decibel level requirement for non-participating residences. He then said that the shadow flicker requirement amendment needs to have an exact number of hours stated, which would have one number for participating dwellings and another for non-participating dwellings. The shadow flicker amendment should also have language on how the data was determined and where it came from. Also for both the noise and shadow flicker amendments, there should also be language on how complaints are handled and violations are issued and resolved.

Carrie Duke, 366 S. State Road 201, stated that her argument was not to make changes to the current requirements for the WECS ordinance. She explained the important aspects of wind energy. She discussed the different energy options and discussed their safety/dangers and benefits.

Tim Ehlerding, Economic Development Directory for Wells County, provided the board with a copy of his letter. He discussed if wind turbine developments have an economic impact on Wells County and the ways to determine that it does. He stated that because of the additional property taxes they will have a positive impact on the net income of Wells County. The wind turbine development will create tax revenues in excess of local government expenditures. Mr. Ehlerding commented on studies done by IPFW on the subject and on a report from the accounting firm HJ Umbaugh, which listed the benefits that it would have on the school and local fire departments.

Kristen Cochran, Ossian resident, questioned the cost of possibly missing a greater opportunity for renewable energy in the future or possibly the cost of missing new future development.

David Pence, 4761 S. County Home Rd, commented that he thinks that the wind farm is a fabulous opportunity for Wells County due to the increase in income.

Bob Ehereman, attorney with Haller & Clovin, commented on the fact that the decision for the ordinance needs to be based off of good science and sound economics, along with a balance of property rights. He stated that for text amendments to ordinances in needs to pay reasonable regards to the comprehensive plan for guidance on decisions. The comprehensive plan does not address this issue therefore there is no assistance. He then went on to explain the reason that a comprehensive plan is needed. Mr. Ehereman is in favor of keeping the current ordinance in place and having policy discussions with the community to create the new comprehensive plan before making changes to the WECS portion of the ordinance. He went on to talk about vested interest and Indiana Code 36-7-4-11.09. The vested interest time period is to be at least three years and could be as long as ten years. He explained that any ordinance change will not affect the Apex project or any modifications to their plans for at least three years. Mr. Ehereman stated that there is one exception, which would be the elimination of the reciprocal setbacks. Apex is 100% in favor of removing that.

Rob Propes, a development manager with Apex Wind Energy, commented on statements that were made at the December 6, 2012 APC meeting. Setbacks of 1500 to 2000 feet from non-participating property lines would eliminate future wind projects in Wells County. He brought two maps of the existing Apex project layout with an overlay showing what it would look like if the 1500 foot setback were to be used. He then explained the maps and discussed how only 8 of the projects turbines could be built. Mr. Propes then went on to discuss the benefits of wind energy and the impacts on wind projects due to increased setbacks. He then stated that for sound they support maintaining the 50 dBA level for participating dwelling and 48 dBA for non-participants, which is what Apex did for their project. Apex does support the county setting a shadow flicker limit number in the amendment in order to remove any uncertainty. Mr. Propes commented that they would like to make a recommendation that there is not a shadow flicker standard to impose on participating dwellings due to the fact that the current setbacks that Apex is using protects the land owners from adverse shadow flicker. Plus, in the lease Apex does offer remedies to the participants that express concerns of shadow flicker to the company. To conclude, Mr. Propes stated that

they are in favor of option number one that the director listed as possible amendment changes. He opposed options numbers three and four.

William Morris, 1373 W 1050 S, commented that he understands that any changes to the ordinance will not affect the approved Apex project. He stated that there are fewer than 150 land agreements with Apex and that there are 387 non-participating homes located in the Apex project area. He commented that a 2000 foot setback from a non-participating property line would not prevent development of a wind turbine project. He discussed the participation and support agreement that was offered to non-participating residences within 2500 feet of a turbine after the November 2012 approval. He stated that smaller acreage residential owners should have been involved in the process before the application was submitted in order to have avoided the community conflict. Mr. Morris stated that the WECS ordinance should remove any restrictions imposed to participating residences since it should be covered in the lease agreement between the two parties. He quoted from the Apex lease on this subject. He went on to talk about a Vestas Wind Systems' safety manual stating to stay 400 meters from the turbine unless necessary and quoted from a letter from Vestas that Rob Propes submitted at a previous meeting. He submitted photos to the board of a Vestas turbine in Ohio that was operating normally before falling apart. In closing, Mr. Morris commented on the letters that the APC office received from the land owners with Apex leases by stating that over 1200 Wells County residents and landowners signed a petition in February 2012 to stop the wind project. He quoted from the Wells County Concerned Citizens petition.

Conditions: Continue the WECS amendment until February meeting.

Motion: John Schuhmacher

Second: Keith Masterson

Vote: 8-0

A13-01-03 WELLS COUNTY Ordinance Amendments
• **Amendment to the fee schedule**

Conditions: Continue the fee schedule amendment until February meeting.

Motion: Bill Horan

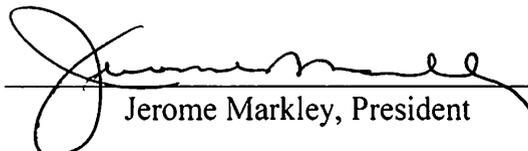
Second: Harry Baumgartner, Jr.

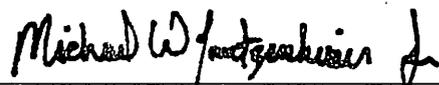
Vote: 8-0

DISCUSSION:

ADVISORY:

John Schuhmacher made a motion to adjourn the meeting. Richard Kolkman seconded the motion and the motion passed with a vote of 8-0. The January 3, 2013 Area Plan Commission meeting adjourned at 11:10 p.m.


Jerome Markley, President

ATTEST: 
Michael Lautzenheiser Jr., Secretary