

ROLL CALL

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

Michael Lautzenheiser, Jr., Director

The March 7, 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. John Schuhmacher was absent

**APPROVAL OF MINUTES:**

Jarrold Hahn made a motion to approve the minutes from the February 7, 2013. Richard Kolkman seconded the motion; the motion carried 10-0.

**NEW ITEMS:**

**V2012-007: James E. & Ollive L. Simmons**

Michael Lautzenheiser, Jr explained the violation of a shed being on the property without a permit and it being too close to the property line.

Nanette Stone, representative for James Simmons, stated that she was not aware of any violation until it was listed in the paper. She stated that they are in the process of renting a dumpster to remove the shed. The dumpster is contingent on the weather.

Conditions: 30 days to resolve the violation and review at the next meeting.

Motion: Bill Horan  
Second: Angie Dial  
Vote: 10-0

**V2012-032: K&K LLP / Colton R. Watson**

Mr. Lautzenheiser explained the violation and stated that the basic paper work for correcting it is in the office. However, we are waiting on Colton Watson to sign the paper work and pay his portion of the fee. As soon as that is complete, it will go before the Plat Committee for approval. He stated that this would correct the legal descriptions for the properties.

Conditions: Review the violation in 30 days.

Motion: Jarrold Hahn  
Second: Mike Morrissey  
Vote: 10-0

**V2012-036: Andrew B. Price**

Mr. Lautzenheiser explained the violation was brought to his attention by the Ossian Police Department. He stated that Mr. Price did contact the office. Mr. Price is aware of the issue and has verbally stated that he would resolve the violation. Mr. Lautzenheiser requested a written confirmation on a timeline from

him on when he would move out of the building and into his new home. However as of the meeting, the office has not received that statement.

Conditions: 60 days to resolve violation or if that doesn't seem feasible, then Mr. Price would need to come to the next APC meeting with a time table to correct the violation

Motion: Bill Horan

Second: Tim Rohr

Vote: 9-1 (Jarrod Hahn)

**James Rybarczyk, PhD. in Chemistry – Associate Professor at Ball State University**

Gene Boyer, Chester Township resident, stated that he asked Dr. Rybarczyk to speak to the board on the air quality in Indiana.

James Rybarczyk provided information packets to the board. He explained a map of Indiana that showed where some of the major emitters of toxins are located and another map that showed where the air monitors are located at. He then went on to explain his background in chemistry and the work that he has done. Dr. Rybarczyk then discussed zoning and setbacks, along with air and mineral rights. He talked about property rights and his concern with chemicals and the open burning law. IDEM states that all smoke contains harmful pollutants, which could be toxic. The pollution doesn't stay on an individual property. Indiana Code states that any person who does an open burn must extinguish it if the fire creates a nuisance. Dr. Rybarczyk stated that Indiana law says that chemicals and smoke crossing property lines and bothering someone is violating property rights. IDEM and EPA regulate the emissions from burning, but they do not regulate odor and noise. He explained that local authority is left to regulate odor and noise. He went through a list of chemical compounds emitted from CAFO facilities and discussed their similarities with those chemicals from burning. He provided information from the National Association of Local Boards of Health about CAFO odors and their impact. CAFO odors can be smelled from as far away as 5 or 6 miles, however a more common distance is 3 miles. The State Department of Agriculture stated that there needs to be a letter of support from property owners within a two mile radius of any proposed location for a CAFO. Dr. Rybarczyk said that even the department of agriculture is stating that 600ft is not sufficient because the facility needs approval from people within a two mile radius. He also provided the board with a study done on swine operations in North Carolina, which provided human assessment on the odor along with the amount of chemical compounds that were emitted into the air. He then expressed some of the comments that the individuals made about the stench from the swine operations, which are listed in the study. He reiterated that IDEM and EPA regulates the chemical emissions from burning and that the emissions from CAFOs are only locally regulated. Dr. Rybarczyk questioned why there was no one from the county's board of health present when discussing regulations for manure. He explained that there is technology available to help eliminate and treat the chemical emissions that come from CAFOs. A Purdue researcher suggests using chimneys or smoke stacks on the CAFO facilities and not horizontal fans to have the odors and particulates pushed up higher in the air in order for them to break up further before reaching ground level, rather than just having the particulates concentrated and linger at ground level. He expressed his concerns with the fact that the Land Resource Council does not have one scientist on the committee and they are the ones that came up with the advice to counties on CAFO regulations.

The board then questioned Dr. Rybarczyk about his model for CAFO regulations. He stated that he does not have one, but that he has worked with counties that have good models that are based on science. He explained to the board that the data that he has observed is that odors have irritated someone up to about 3 miles. The board also questioned chemicals that could be applied to manure to reduce the potentially harmful emissions. He answered stating that those chemicals do exist, but for the CAFO operations to use them it would have to be stated in the county's ordinance. The board also had him re-explain the chimney design on CAFOs versus the horizontal fans. The board also asked about the difference in

chemical emissions from a human sewage treatment plant and a CAFO. Dr. Rybarczyk explained that the CAFO manure is virtually unaltered so that it can be spread on fields to fertilize, and he then went on to explain the treatment done to the human waste at facilities. Then he explained that the compound of chemicals in the animal manure is the same whether it's two animals or a CAFO operation. What will change the compound is if the animals are free range versus being confined.

## **DISCUSSION:**

### **Hearing Examiner and Combined Hearings**

Michael Lautzenheiser, Jr. explained that the hearing examiner and/or combined hearings could potential go into effect, if the results of the Comprehensive Plan are in favor of speeding up the approval process. He then went on to explain the combined hearing procedure, which was recently added into Indiana Code. This could be utilized for projects that would have to go before multiple boards to get approved and give them the ability to only go before one board. The combined hearing procedure would have to be part of the zoning ordinance; therefore would have to be adopted by all of the legislative bodies. He then talked about the possible use of a hearing examiner, which would be a single person. This individual could be anyone that the APC would appoint and they would hear what ever type of petitions that the board approved them to hear. The idea of the hearing examiner would be that the person could have a public hearing more often in order to hear more petitions. Mr. Lautzenheiser stated that these items are available to use based on the Indiana Code; however the county does not have to make any changes if they don't feel it is necessary. If a hearing examiner were used, in theory, it would save the petitioner at least two weeks' time from the date of filing to when the petition was heard. He restated that if a hearing examiner were used the hearings would still be public and that the same advertising and legal notices would be given to the public as they currently are. The board discussed how the position would be budgeted for and they also talked about if a hearing examiner were used would the individual have to have some background either real estate or drainage or being on a county board.

Jerome Markley commented on the Comprehensive Plan and the meetings that have been occurring around the community to get more public input. Mr. Lautzenheiser stated that the goal is to have it put together and have public hearings in August or September. He then informed the board of the brain storming session that he had with the government class at Bluffton High School about the Comprehensive Plan and he has sessions scheduled with the other two county high school government classes.

Doug Klefeker, Nottingham Township resident, questioned if the chemist was on the agenda for the night's meeting. He then commented on the odor and pollution from vehicles. He questioned if the county is going to try to regulate the chemicals used in farming. He stated if there is too much regulation then there will be a lot of lawsuits. He believes that the current county ordinance is the best there is around. He then commented on the state's regulations.

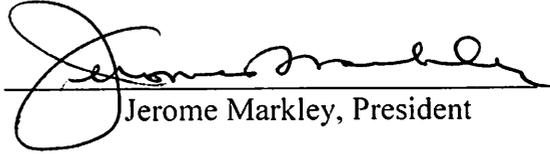
Paul Rumble, swine producer and grain farmer, stated that he agreed with Mr. Klefeker. He suggested that the board talk with IDEM or the State Chemist in order to understand all of the rules and regulations that a CAFO operator has to follow. He commented that the county ordinance was comprehensive and restrictive, but good. He requested that the ordinance be left as it is.

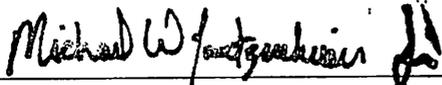
Mr. Lautzenheiser informed the board that he would not be at the June meeting due to a trip to Africa, but if the board would like Andy Antrim, the APC attorney, could be present at the meeting. He then addressed the agenda for the April meeting. He informed the board that there is a WECS petition from Apex for a project of 71 wind turbines. This is on the leased ground that Apex purchased from Wind

Capital Group. He stated that the meeting would be held at a different location and possibly a different time.

**ADVISORY:**

Jarrold Hahn made a motion to adjourn the meeting. Bill Horan seconded the motion and the motion passed with a vote of 10-0. The March 7, 2013 Area Plan Commission meeting adjourned at 9:05 p.m.

  
Jerome Markley, President

ATTEST:   
Michael Lautzenheiser Jr., Secretary