

ROLL CALL

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

Michael Lautzenheiser, Jr., Director

The August 2, 2012 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. Bill Horan was absent.

**APPROVAL OF MINUTES:**

The minutes from the July 5, 2012 meeting were not complete as of the August 2, 2012 meeting.

**OLD ITEMS:**

Michael Lautzenheiser, Jr. advised that Denny Johnson’s property has been completely cleaned up and the violation has been resolved.

**NEW ITEMS**

**A12-08-15 JEFFERSON TWP., NE/4 16-28N-12E Wells County Public Library requests approval for a development plan for a building expansion. The property is located at 207 N. Jefferson St., Ossian, IN 46777 and is zoned B-1.**

**A12-08-16 ROCKCREEK TWP., SW/4 03-27N-11E Steven K & Kara A Ackley request approval for a 3.74 acres division of a minor subdivision. The property is located at 2700 W 525 N., Uniondale, IN 46791 and is zoned A-1.**

**A12-08-17 HARRISON TWP., NW/4 05-26N-12E Erie Haven requests approval for a development plan for a 60’X72’ building enclosure and ready mix plant. The property is located on Adams St. between Lancaster St. and Cherry St. at 235 S. Adams St., Bluffton, IN 46714 and is zoned I-2.**

Mr. Lautzenheiser explained that due to an error with the News-Banner, the legal ads for these petitions were not published in the paper for the proper amount of time to give notice to interested parties. Therefore, a special Area Plan Commission meeting would need to be scheduled. The new date that these petitions will be heard on is Monday, August 20, 2012 at 7:30 pm. The time was later changed to 8:00 pm due to the availability of the room.

**A12-08-18 WELLS COUNTY. Zoning Ordinance Revision. Concentrated Animal Feeding Operation Control Article.**

Mr. Lautzenheiser explained that the findings could be amended. He then went on to explain the proposed revisions to the article, which were to add the text words manure lagoon and satellite manure lagoon into the permitted use table in the ordinance under the zoning class A-1 and to add the definitions

of the two lagoons, which he explained what they were. There are a few technical changes to the purpose section of the CAFO control article, which were done to incorporate manure and satellite lagoons. Therefore, they would need to meet the same requirements as a CAFO. The same was done to the jurisdiction section and this would have jurisdiction for any size of manure or satellite lagoon. He then explained that a few of the changes were to have item 4, in the article, in the same written stance as the addition of item 5. Mr. Lautzenheiser stated that in item 5, the base requirements are that if the lagoon has over 1 million gallons of liquid storage that it would have to meet IDEMs requirements and they would have to provide engineered plans showing how the requirements are met. If the lagoon is under a million gallons of storage, then they would have to meet the requirements of the United States Department of Agriculture. Once constructed, but before use, the office would have to receive detailed inspection reports performed by a licensed engineer. He advised that there is a second option in the proposed revision, which would remove satellite manure lagoons as a permitted use.

Michael Lautzenheiser, Jr. clarified the reason for the proposed ordinance revision. He stated that ordinance revisions occur with specific items that drew public attention to the office. This specific issue was that of the pond/manure lagoon on Ronald Mang's property. This is caused the discussion of reviewing the ordinance, which would be a county wide issue and not just for one specific area. This would affect all A-1 zoning districts, which is about 95% of the county's land use. He advised that the state focuses mostly on water quality and the local ordinance focuses on odor abatement and property value. Mr. Lautzenheiser explained that the lagoon would need to meet the 220 point standard just like any other CAFO operation.

Jarrod Hahn elaborated on how some points for a lagoon might be obtained through additional setbacks or odor abatement. He explained a little about the USDA involvement in manure lagoons. Through EQIP, Environmental Quality Incentive which is one of the farm programs, this is for some of the smaller farm animal operations. They have some technical assistance to put in manure storage facilities, which is on a lot smaller scale than what a CAFO would generate. This is the reason of using their standard on the lagoons under 1 million gallons, which IDEM doesn't take jurisdiction over. The lagoons would still have to be lined, engineered and inspected. This would cover that gap for those that IDEM doesn't regulate.

Tim Baker, representative from Wells County Farm Bureau, stated that Wells County Farm Bureau has been working with Indiana Farm Bureau to come up with requirements for satellite manure storage structures. Wells County Farm Bureau is in support of agriculture and that farms are well operated within accordance to the law. The structures must go through IDEM permitting and they believe that the structures should be subjected to county zoning ordinances to ensure that the structure is compatible with surrounding areas. Mr. Baker suggested the ordinance revision for satellite manure lagoons reflect IDEMs standards for the structures that would hold at least 1 million gallons and that they maintain the setbacks for CAFO structures. He stated that his proposed revision mirrors that of the proposal that Mr. Lautzenheiser explained. He commented on why satellite storage is important to the county, which would be to help the farmer be a good environmental steward. Farm Bureau is not in favor of the second proposal, which would not allow for satellite lagoons.

Ryan Carroll, Chester Township resident, stated that he disagrees with Farm Bureau's statement that farmers need satellite manure lagoons. The barns have enough storage capacity underneath them with limits set by the state. If satellite lagoons are needed, the farmers should have just made the pits deeper. The community is led to believe that the satellite lagoons are going to be used for interstate transport of manure and not for the farmers' own personal CAFO operation. He is in favor of proposal number 2 to ban satellite lagoons. If lagoons are needed, they should be on the farmers' own land next to the CAFO.

John Shaffer questioned if the CAFO setback distances are changeable. He commented on the number of animals per structure and then questioned the number of structures that a property could have. He stated

that there are 9 CAFOs within  $\frac{3}{4}$  of a mile from his residence. Mr. Shaffer addressed his concerns for the property value in the area due to the large number of CAFOS along with concerns on the odor that they produce. He suggests that the number of CAFO structures be limited and that the setback from a residence be increased to be the same as the setback from commercial sites.

Michael Lautzenheiser, Jr. stated that current proposal is not changing that; however, anything can be revised. Certain aspects of the ordinance, if revised, would take a large amount of time to come to an agreement. He explained that there is not a limit on CAFO structures currently in the ordinance.

Gene Bowyer expressed his concern with the fact that the proposed revision does not address the number of CAFOs or lagoons that could be in Wells County. He stated that there is manure from Ohio that is being stored in Jay County and he does not want that to come in to Wells County. He advised that he has a speaker coming to the next month's APC meeting and would not like the subject closed until she is allowed to address the board. He commented on the increase in green algae and told the story of a couple of dogs dying because of it. Green algae is caused by manure run off and fertilizer run off into water ways. Mr. Bowyer addressed his concerns about destroying water and property values. He stated that there are 20-22 CAFOs in the county already and suggests that there needs to be a limit on them, plus not allowing for any manure lagoons. He also stated that IDEMs rules are not strict enough.

Jarrold Hahn restated that the ordinance is county wide and the board can't just base the revision language and decision off of just one case. There could be a valid reason why a lagoon would be needed.

Glennis Dick, Jackson Township resident, stated that a former Farm Bureau president from Blackford County bought land in Wells County and built a CAFO because Blackford County had too many regulations.

Tom Gearheart, Blackford County resident, stated that he owns property in Jackson and Chester Townships. He wanted to build a home in Jackson Township but there were too many CAFOs, which is why he bought a home in Blackford County.

Kathy Shaffer stated that the more CAFOs there are the fewer houses will be built in the area. She advised the board that there are 9 CAFOs within a half mile or a mile around their home in Jackson Township.

Jack Pace believes that this is destroying neighbors and friends. He stated that there needs to be some type of control. He is concerned about property values going down and what the possible manure lagoon is going to do to the Five Point School. Mr. Pace commented on the fact that the way the pond was constructed that it wouldn't be used for recreational purposes. He also expressed his concerns about manure coming into the county from Ohio.

The board discussed how the existing pond figures would work with the proposed ordinance revision and IDEM's setbacks and regulations for a satellite lagoon. It would not qualify at its current location. The property line setbacks are not met and they discussed if it met the 800ft. distance from a residence.

Drew Cleveland, Regional Manager for Farm Bureau, spoke with the Ag liaison from IDEM and the site being discussed hasn't been permitted through IDEM. As of July 1, IDEM requires a permit before any construction can begin on a lagoon. The existing pond cannot be used as a satellite lagoon.

Jack Pace commented on if they decided to move the location on the lagoon further to the east that it would get closer to Five Point School and therefore not meet the  $\frac{1}{2}$  mile setback.

Tim Baker, representative from Wells County Farm Bureau, stated that after reviewing the language of the definition of satellite lagoon in the proposed ordinance revision, he would recommend that the board review Farm Bureau's definition. He believed that it was better. He then provided their definition for satellite lagoon.

Jarrold Hahn explained the reason for not having a threshold in the satellite lagoon definition. This is due to the fact that there are currently smaller lagoons and if they want to expand then they would have to meet the USDA specifications. That is if they are not an IDEM permitted item.

Tim Baker, representative from Wells County Farm Bureau, can't say if out of state manure would be stored at a local lagoon or not. CAFOs are built to hold a year's storage. He commented on possible outcomes and environmental reasons for satellite manure storage.

Gene Bowyer provided the board with an article on manure trucks from Ohio dumping in Indiana.

Patrick Kober, owner/operator of a CAFO in Liberty Township, stated that the community is still Ag based and to limit the number of CAFOs is going to hurt the economic value of the community. Agriculture is one of the largest economic income producers in the county. He explains the steps that are taken to support the health of the community and be good stewards of the land. CAFOs create jobs in the community. He commented on the fact that the public can't expect to move into the area and have farmers and agricultural businesses shut down. The CAFOs are being built in agriculturally zoned areas. Mr. Kober addressed the issue of satellite lagoons and stated that there was more to it than just spreading manure on once a year. He advised that spreading manure on fields is to fertilize crops and not just to get rid of it. If satellite lagoons cannot be built, then you are limiting the farmer on being able to spread their own fertilizer on their own land. He commented on the manure being trucked in from Ohio by stating that the commercial fertilizer used comes in from other states as well. A lot of the CAFO owners are under 30; he stated that he hoped that as a community, it would support the growth in agriculture and the economy. He advised that he too would try to get a speaker for the September APC meeting.

Jarrold Hahn questioned if the board doesn't pass any rule on the lagoons and someone gets a permit from IDEM, what can the county do? If there is no rule dealing with it, then the board can't stop it.

Scott Mossburg, county commissioner, stated that at the commissioners' last meeting they asked Mr. Lautzenheiser there to have something done at this APC about the rules for remote lagoons. He addressed his concerns with out of state and out of county manure transport. He supports using the same setbacks as a CAFO. He thinks that this upcoming year agriculture will be paying more in taxes than what residential will. The commissioners support some action being taken for satellite lagoon regulations. Mr. Mossburg is concerned with non-residences of Wells County buying land to put up a lagoon. He believes that the first proposed option is a good start.

Mark Fiechter, CFO farmer in Lancaster Township, stated that he is neither for nor against the topic. He advised that there is a maximum load that the farmers can put on the ground. He explained the new regulations as of July 1<sup>st</sup> from IDEM. It states the nitrogen and phosphorus loads that can be put on the ground. He stated that there are setbacks from the state for where you can spread. There are a lot of state regulations that the CAFO and CFO operators have to follow. The application is different for each operation, depending on the type of hogs. He explained that for applying, an individual would take the amount of Nitrogen in the sample, look to your usage, and then apply 3000 – 6000 gallons per acre per year. He stated that for applying dry manure, an inch of rain would supply 26,000 gallons per acre.

Mike Fiechter stated that if the soil has over 100 parts per million for phosphorus, the farmer can no longer apply manure to that land. The manure has to be incorporated within 24 hours.

Mike Veenhuizen, Livestock Engineering Solutions, explained some of the new IDEM rule changes. Prior to July 1<sup>st</sup> but CAFOs permitted after 2003, were required to comply with the phosphorus standards. After July 1<sup>st</sup>, all CAFOs and CFOs are to comply with all phosphorus and nitrogen limiting standard. The threshold for those are 50 parts per million or less for a soil phosphorus test is still a nitrogen rate and anything over 200 parts per million in a soil phosphorus test indicates that application is not allowed. He did reiterate that the application would be 3000-8000 gallons per acre and that would be 1/4" to 1/3" when applied. These standards apply across the board for both CFOs and CAFOs. He advised that the soil samples are done by soil scientist or could be done by the farmer. Those samples are then sent to a certified lab, which are audited and reviewed and have to be recertified on a regular basis. IDEM does not do any soil testing; all of that is done through a third party lab. Mr. Veenhuizen advised that he has not seen any negative impact on local water resources due to CAFOs. He did however state that Jasper County does have a perched water table in a sandy type soil, and there are a lot of shallow wells in that sand which could potentially see a negative impact.

Jay Fiechter stated that he is part of the under 30 year olds that are CAFO owners. He advised that the CAFO operation allowed him to come back after college to farm and work in agriculture. He also stated that with the new IDEM regulations it will make it difficult to over saturate the land basis.

Mike Veenhuizen, Livestock Engineering Solutions, advised that the time frame for permitting from IDEM is 90 days for reviewing and approving an application. With the new rules, there is a mandatory 33 day comment period, which is part of the 90 days. Permit cannot be received in less than 33 days. He stated that with his experience it is typical to receive a permit between 45-60 days.

Michael Lautzenheiser, Jr. commented on the revision of the Comprehensive Plan, which is a tool for long term planning. The previous plan was a 20 year plan from 1993, which will come to end in 2013. The new plan is looking at a 5 to 10 year plan design and CAFOs and agriculture in general are going to be discussed in that. The goal is to lay out where the next 10 years is going and where the community wants it to go. Also it is to look at potential amendments to ordinances. When an ordinance change is proposed the first thing that is looked at is how does the change comply with the Comprehensive Plan. The goal is to have the document finished by the summer of 2013.

Jarrod Hahn explained the process that occurs after the APC makes a recommendation to the town boards on ordinance revisions. The process takes about 30-45 days. He explained that even if a motion is passed it does not mean that the ordinance can't be revised again.

Heath Schlagenhauf, Harrison Township resident, stated that he is a grain farmer. If he would eventually want to build a CAFO at where he lives, he feels that not allowing satellite lagoons would be limiting his options because he does own land away from his house. He doesn't want that option taken away.

The board discussed the merits and benefits of each option. They talked about how the CAFO points system would work for the manure lagoons. They also determined that it was not possible to regulate out of stated transport of manure.

Mr. Lautzenheiser clarified the board's duties involving an ordinance amendment. He listed the legislative bodies. He explained what would occur if one of the bodies choose not to adopt it.

Conditions:

Motion: In favor of Option #1- regulate manure lagoons and satellite manure lagoons: Mike Morrissey

Second: Finley Lane

Vote: 9-1 (Keith Masterson)

**A12-08-19 WELLS COUNTY. Area Plan Commission Fee Schedule Revision.**

Michael Lautzenheiser, Jr. provided the board with a copy of the maximum proposed fee schedule for it to be discussed and to have changes made if they felt changes were needed. He stated that some of the proposed fees could be too high. He provided an example of a project and how some of the fees could add up. He advised that the county council was given a copy and that there was no comment back from them. Mr. Lautzenheiser stated that besides adding a couple of fees, the price of the fees have not changed since he has been in the office. The fees listed on the proposed schedule are comparable to surrounding counties and counties that are similar in size, even though they are doubling the cost from the existing price. One option to raise fees would be to charge a per item fee for permits. He advised that larger projects are more costly to the office for preparation. However, none of these fees would help cover the cost of an appeal. He explained the reason for the proposal of having two different fee prices for permits based on the square foot on the structure.

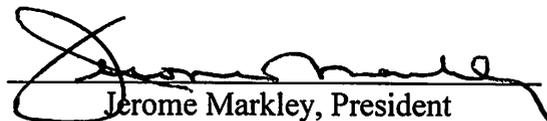
The board discussed changing the proposed fee for permits for structures under 500 sq. ft. to \$40 and structures over 500 sq. ft. to \$60. It was also determined to make the permit fee per item written on separate permits to make it easier to track them. The board also decided to change the BZA fee proposal for an additional request from the \$60 fee to \$50. It was also discussed that the modification of an existing approval fee should be removed. If the petitioner changes their plans and needs the board to review it, then it should cost the same as the initial petition because it will be the same amount of work by the board. The board would continue to discuss the fee schedule revision at the August 20<sup>th</sup> special meeting of the APC to see if there would be public comment.

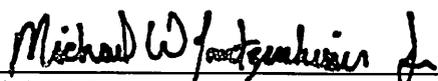
**OTHER BUSINESS:**

Mr. Lautzenheiser updated the board on the wind project suit. He advised them that there was a judge appointed to the case. It is Pat Miller from Adams County. There is a preliminary hearing date sometime in September. The Plan Commission's records have been submitted to the court. He stated that there was a meeting between the Wells County Concerned Citizen's attorney and Apex representatives, but he was unsure on what the results of that meeting were.

**ADVISORY:**

John Schuhmacher made a motion to adjourn the meeting. Mike Morrissey seconded the motion and the motion passed with a vote of 9-0 (Finley Lane left at 9:49). The August 2, 2012 Area Plan Commission meeting adjourned at 10:07 p.m.

  
Jerome Markley, President

ATTEST:   
Michael Lautzenheiser Jr., Secretary