

MINUTES
DEKALB COUNTY PLAN COMMISSION
Wednesday, December 20, 2017

The Regular Meeting of the DeKalb County Plan Commission was called to order at 7:00 P.M. in the White Room of the DeKalb County Annex Building by President Tim Griffin.

ROLL CALL:

Members Present: Tim Griffin, Sandra Harrison, Frank Pulver, Bill Van Wye, Jerry Yoder, Elysia Rodgers, Randall Deetz and Sarah Delbecq.

Members Absent: Mike Kline

Staff Present: Plan Commission Attorney David Kruse, Director/Zoning Administrator Chris Gaumer, Assistant Director Dawn Mason & Secretary Caeli Hixson

Community Representatives Present: None

Public in Attendance: Jim Farlow, Karen Farlow, Edna Hollabaugh, John Slentz, David Brand, James Miller, Tim Haynes, Ron Walter, Kevin Aldrich, Phil Kuguerhover, Mary Kuguerhover, Susan Lawrence, Alvin Hook, Troye Hook, Benoit Delbecq, Gretel Smith, Harold Stafford, Steve Bingham, M.A. Feltner, Fran Feltner, Brian Phillips, Lake Evans, Austin P., John Phillips, Dick Obendorf, Winnie Obendorf, Judy Krafft, Sandra Krafft, Chris Krafft, B.J. Hofenstein, John Meirter, Margo Tucker, Liz Ward, Mike Slentz, David Powers, Greg Conrad, Jerry Eldridge, Terry Miller, Mark Murdock, Carmee Crabill, Rita Harmon, Larry Harness, Jason Carnahan, Donald Rush, William Hartman, Nancy Hartman, Daniel Hudson, Matt Bechdol, Rory Walker, Jacob Walker, Bob Harold.

The Pledge of Allegiance was led by the President.

APPROVAL OF MINUTES:

Motion was made by Bill Van Wye and seconded by Sandra Harrison to approve the November 15, 2017 minutes and November 22, 2017 (Sp. Mtg.) minutes. Motion carried.

CONSIDERATION OF CLAIMS:

Motion was made by Sandra Harrison and seconded by Randall Deetz to accept the November claims as presented for \$16,128.31. Motion carried.

OLD BUSINESS:

Petition # 17-07 – Confined Feeding Operations – Textual Amendment to the Unified Development Ordinance that will include the addition of Development Standards.

Zoning Administrator Chris Gaumer gave a brief power point presentation on the history of the UDO and meetings that have been held pertaining to Confined Feeding Operations up until this point for the audience.

Mr. Gaumer stated that the Plan Commission can either withdraw the proposed standards for consideration or move forward with a vote on the proposed standards.

Mr. Griffin entertained a motion to continue or to withdraw.

Mrs. Delbecq stated that the Plan Commission saw a place in their ordinance where there were no standards addressing Confined Feeding Operations. The purpose of the proposed setbacks were never intended to give a preference to agriculture nor was it to drive agriculture out of DeKalb County. The proposal was intended to balance two uses that are approved in all

agricultural districts. As a part of the Committee outlined by Mr. Gaumer in his presentation, at the end of each meeting there were still no conclusions as to what the setbacks should be or what should even have setbacks. She said she has three conclusions. 1) She doesn't see a way that the Plan Commission can support a set of setbacks that will completely get rid of a permitted use. 2) It has become more unclear as to what the specific problems are as it pertains to Confined Feeding. She feels that she is getting less clarity the more it's talked about. 3) Passing any amendment to the Ordinance that is trying to address an undefined set of problems would be a mistake for the Plan Commission. She said she is hopeful that conversation on this topic can continue because she wants to figure out what those problems are.

Mrs. Delbecq moved to withdraw the proposed amendment and support setback requirements for Confined Feeding Operations as they have been defined by IDEM. Also, include that staff will be directed to continue discussions on Confined Feeding and Zoning in DeKalb County with no set time line for completion and no set expectations for the end result.

Mr. Griffin asked if there were a second on Mrs. Delbecq's motion.

Mrs. Harrison seconded.

Mr. Griffin opened the discussion for public comment on the withdrawal of the proposed Text Amendment.

Jacob Walker stated that he owns a grain farm in Waterloo. He said that IDEM already has setbacks for some of the things that are being discussed. He feels that we should stand behind our state regulators. He said that through this process he feels that setbacks of any kind wouldn't solve the problems that are being brought forth anyways. He agrees with Mrs. Delbecq that they should reevaluate and continue to try and move forward.

Ron Walter, Mayor of Butler, wanted to know if there would be something stated in regards to a setback for wellhead protection areas.

Mr. Gaumer stated that with the proposal to withdraw it would withdraw all the proposed language but the wellhead protection is already an Overlay District in the Ordinance so it that has protections there as well.

Mr. Walter asked what the distance from the Wellhead Protection Area would be.

Mr. Gaumer said that with the proposed language being withdrawn there would be none.

Mr. Walter stated that that is a concern of his.

Mr. Gaumer said that he feels that is something that needs to be addressed as part of potentially expanding that Wellhead Protection Overlay District instead of going in the proposed language of Confined Feeding Operations.

Mr. Gaumer asked the audience to please remember that comments should be towards the motion to withdraw the petition only.

Barbara Hoenstein stated she is a resident of Whitley County and she came to support health and safety for DeKalb County. She said not to put our trust in that our state has protected us through IDEM. She submitted two documents to share, one involving lawsuits and outcomes of property devaluation within 2 miles of CFO's and CaFO's and a document on DeKalb County's impaired waterways. She said that if everyone were doing their part then how did we get E.coli in the water, including streams, ditches, and gully's not just lake water. She said she is glad we are withdrawing our proposed amendment.

Mrs. Delbecq asked if she had any sense of what the sources of contamination were.

Mrs. Hoenstein said that she got her information from IDEM's website.

Mr. Van Wye asked if that was from specific areas or the overall county.

Mrs. Hoenstein gave a name for North East Indiana's IDEM representative and said that she could pull up a map to show where samples were taken from.

Gretel Smith submitted a handout from HECWEB.org which is a Hoosier Environmental website that has done research with Confined Feeding Operations. She said that E.coli is a major issue already and that we should try to prevent problems from occurring instead of fixing them after the fact.

John Meister, a resident of Noble County, a member on the Committee of Whitley Water Matters, stated that if you look at the model ordinances from the Department of Agriculture it suggests that a permitted use for Confined Feeding should be in high intensity agriculture areas, not in conservation and not in general agriculture, there they should be specified as a special exception. An area that he cautions the Plan Commission to is that IDEM, for the most part, with their engineering staff does a fairly competent job in terms of the Confined Feeding Operation barns as well as manure storage. The regulations that they put forward are sound and their inspection during construction and prior to operation are very progressive. He said that that's pretty much where their authority begins and ends. He said that one area that you don't see much about is manure management. Manure application is non site specific. He said that if a Confined Feeding Operation didn't have enough acres to offset the manure load they would have to unload the manure to a private applicator. The private applicator can do whatever they choose to with that manure. He said that the Purdue Extension study that was done a couple years ago showed that over 70% of the runoff goes back to CFO's from manure application.

Mrs. Delbecq asked if Mr. Meister would agree that the things he's talking about in regards to manure management and application are unrelated to the things that are in the proposal. That he said that he feels IDEM does a good job regulating the barns and storage which is what the setback proposals are about. If she understands what he's saying correctly, the concerns he's bringing up are concerns of after the CFO is established. That they are unrelated to what they have as a draft. She said she will be the first to admit that the draft is an imperfect draft by far, but what they are talking about either proceeding with or withdrawing it doesn't really do much to address the manure management and application questions that he's bringing up.

Mr. Meister said that the proposed development standards do nothing to address manure management standards and the Plan Commission is capable of doing so for both regulated and nonregulated farms.

Mrs. Rodgers stated that the state chemist has a rule in place that manages manure application and manure storage.

Mr. Meister said they do for phosphorus and IDEM does it for Nitrogen. He has met with representatives from the state chemist and the state chemist do not regulate, they only respond to complaints. They do no inspections.

Mrs. Rodgers said that every person that applies any manure over 10 cubic feet or 4,000 gallons is supposed to be licensed within the State of Indiana, whether they are applying their own or some from unregulated and regulated farms.

Mr. Meister said that yes, they are required to file a manure management plan but if you're not capable of doing private application or having a chapter 14 license it can be outsourced so he feels that the definition should be broadened.

Alvin Hook stated that he is concerned with lumping CFO's and CaFO's together because a CFO might have 600 heads of cattle which is tremendously different than a dairy with 5,000 cows. He doesn't think that regulations should be the same for both.

Jerry Eldridge, Butler council member, wanted to know what the self-reporting process involved with CFO's is and if anyone would be considerate towards the towns if one were to come in.

Mr. Gaumer stated that he did not bring this forward as a vendetta against anyone.

Mr. Van Wye said that from what he's heard, which may not be 100% right, is that any time you move a load it has to be written down and when they come in and inspect it, it has to be accounted for.

Mrs. Harrison said that you also have to have the date, wind speed, and temperature as well.

Mr. Deetz said that any time anyone is looking to expand or move into an area, most of the farms are multigenerational farms that have been established in DeKalb County for a long time and the neighbors are mostly aware of what is happening and how it's happening but many times when a new facility is looking to relocate they come in and look at density population. If you look at a map, the Butler area has fewer residential areas which is why that area is looked at more. Not because it is anything against Butler or to be in favor of Auburn or Garrett, it is solely because of the population density in that area.

Liz Ward stated that the property directly across from hers is zoned as A3 which means that a CFO could potentially go in there. She feels that saying 500 ft. away is not very close, is false. She would be concerned about her well being contaminated and the waterways as well as the air quality. Setbacks at 2500 ft. would not even be enough but 500 ft. is definitely not enough.

Mrs. Delbecq stated that if the setback was 2500 ft. it would block confined feeding entirely in DeKalb County.

David Powers, representing the group Concerned Citizens of DeKalb County, stated that he did not come here tonight prepared to debate a motion to withdraw. He is struggling to direct his comments to that motion because it appears that if that motion passes that there will be no opportunity to share recommendations in terms of setbacks. In attempting to address the motion itself, the argument is being made that we cannot create standards that would eliminate CFO's because it is a permitted use. Four years ago, a similar discussion and conflict came before Plan Commission and Commissioner's when they faced the wind farm controversy. This Plan Commission approved a setback of structures to the property lines, not the structures, of 1300 ft. for a wind turbine. The same Plan Commission approved the setbacks for the same structure to all residential and institutional structures of 1500 ft. specifically to the argument that you cannot create setbacks or standards that would eliminate, he disagrees. He asked if anyone sees any wind farms in DeKalb County, no. Thirty-three counties in Indiana regulate CFO setbacks to the property lines and not to the structures. The distances of 1300 ft. across the board from property lines to structures is similar to what Allen County has as well as Noble and Steuben County. He said that the Plan Commission could put standards into place to grandfather in those farming operations that are in existence now but stop the growth. To the motion, we disagree and ask that it be voted down.

John Slentz stated that in reference to Mrs. Delbecq's comments regarding the fact that they would not want to come up with setbacks that would eliminate the possibility of CFO's in the county was not his intention and not where he was heading in his discussions with the committee. He feels that there could be a greater setback than 500 ft. and not eliminate them. He also wanted to know if this was something that would be addressed in the future or if this was to kill it and move on.

Mrs. Delbecq said that in her motion she specifically said that staff would be directed to continue discussion on CFO and Zoning in DeKalb County with no set time line for completion and no specific expectation for the end result. What she means by no set time line is that she doesn't

want to mark the calendar right now and say we will be back here in 6 months with something to say on all of this because she has no clue how long it will take to have a conversation that addresses the things that are coming up. Also, given everything she's heard now and prior she has no set expectation as to what it should ultimately look like. Are we concerned about setbacks as far as barns go or is it a concern with doing something additional with respect to manure management. It is not clear to her if a set of setbacks would even solve the problems being discussed.

Gary Mink stated that after all that's been said tonight, where the rubber meets the road, is the smell, the living environment and he will bet that not any one on this committee would want a manure pit 500 ft. from their house.

Jason Carnahan stated that he is one of the registered operations in this county and he agrees with Mrs. Delbecq that we have zero clue as to what the issue even is. Most of what he's heard tonight about how he's regulated or not regulated isn't accurate. He said he has to test and then test his test's every year for IDEM. He has to sample manure at least every day and document every nutrient, where it went, what rate it went on and has to produce GPS flowrate maps to IDEM. He feels that the problems haven't been defined but rather all that's been discussed is what could happen if something went wrong and the problems that will mostly continue because they are caused by people who are not regulated and most likely never will be. In reference to E.coli, he said that they test every year where the water comes on to the property, in the center of the property closest to the lagoons, and where the water leaves the property. He said it is cleaner when it leaves than when it comes on because of illegal and inadequate septic systems upstream. Any setbacks are not going fix that.

Mr. Pulver said that he feels like Mr. Carnahan is saying there are no problems.

Mr. Carnahan said that there are always problems but that these setbacks aren't going to solve the problems because it's not necessarily the setbacks that are causing the issues.

Caramée Crabill said that she is concerned with completely withdrawing an application because it leaves it wide open for any kind of establishment to come in. She feels that everyone should be working together to come up with a proposal that is fair to all sides. She said that the public should be involved in helping to establish standards. She said the county as a whole needs to decide on this topic.

Mrs. Delbecq said that she feels they need to withdraw what specifically is on the proposal because it started as a shot in the dark to try and do something and they missed the mark. But they need to come at it differently and it needs time and thorough discussion.

Mr. Deetz said that these discussions usually end up pitting neighbors against neighbors and one thing he has learned is that it's nearly impossible to make a logical decision on an emotional issue. Unfortunately, many times, like right now it has become an emotional issue and we are trying to come up with a logical decision and it is nearly impossible. But a balance has to be reached and it's not going to be easy.

Matt Bechdol stated that one of his biggest frustrations is that confusion has been added because they are arguing about issues that shouldn't be argued about. He suggests to the Board that one of the first things to do is set clear rules of engagement about what is on the table and what is not on the table. Otherwise, emotions do get involved and we compare things that are not apples to apples and we get off track.

Mr. Griffin asked if there were any further comments.

There were none.

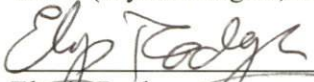
Mr. Griffin closed the public hearing.

IT IS, THEREFORE, THE DECISION OF THE PLAN COMMISSION TO WITHDRAW THE PROPOSED AMENDMENT AND SUPPORT SETBACK REQUIREMENTS FOR CONFINED FEEDING OPERATIONS AS THEY HAVE BEEN DEFINED BY IDEM. ALSO, THAT STAFF WILL BE DIRECTED TO CONTINUE DISCUSSIONS ON CONFINED FEEDING AND ZONING IN DEKALB COUNTY WITH NO SET TIME LINE FOR COMPLETION AND NO SET EXPECTATIONS FOR THE END RESULT, PETITION # 17-07 CONFINED FEEDING OPERATIONS IS WITHDRAWN ON THIS 20TH DAY OF DECEMBER, 2017.

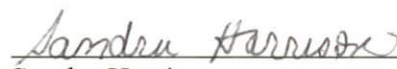
Sarah Delbecq made motion to withdraw Petition #17-07, seconded by Sandra Harrison.

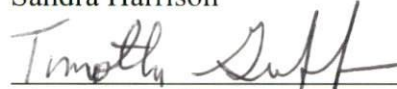
Vote tally: Yes: 6 (Bill Van Wye, Sarah Delbecq, Sandra Harrison, Jerry Yoder, Randall Deetz, Timothy Griffin)


No: 2 (Elysia Rodgers, Frank Pulver)

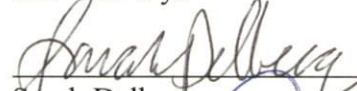

Elysia Rodgers

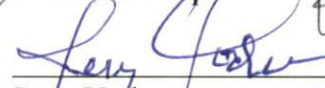

Frank Pulver


Sandra Harrison


Timothy Griffin


Bill Van Wye


Sarah Delbecq


Jerry Yoder


Randall Deetz

Rules of Procedure – Approval.

Mr. Gaumer stated that he went over the proposed changes last meeting so if everyone is ok with them it would be nice to get those approved.

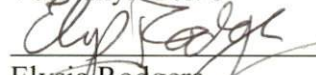
Mr. Griffin entertained a motion to approve the Rules of Procedure.

IT IS, THEREFORE, THE DECISION OF THE PLAN COMMISSION TO APPROVE THE RULES OF PROCEDURE ON THIS 20TH DAY OF DECEMBER, 2017.

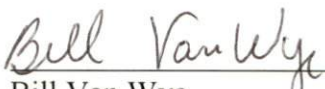
Frank Pulver made motion to approve Rules of Procedure, seconded by Elysia Rodgers.

Vote tally: Yes: 8


No:


Elysia Rodgers


Frank Pulver


Bill Van Wye


Sarah Delbecq


Sandra Harrison


Timothy Griffin


Jerry Yoder


Randall Deetz

NEW BUSINESS:


Attorney Fee Agreement – Mr. Gaumer stated that the fee schedule is the same as last year's. It is the same thing that has been happening since 2009.


IT IS, THEREFORE, THE DECISION OF THE PLAN COMMISSION TO APPROVE THE ATTORNEY FEE AGREEMENT ON THIS 20TH DAY OF DECEMBER, 2017.

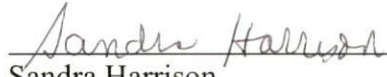
Bill Van Wue made motion to approve the Attorney Fee Agreement, seconded by Sandra Harrison.

Vote tally: Yes: 8

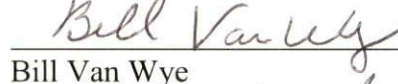
No:


Elysia Rodgers


Frank Pulver


Sandra Harrison


Timothy Griffin


Bill Van Wye


Sarah Delbecq


Jerry Yoder


Randall Deetz


REPORTS FROM OFFICERS, COMMITTEES, AND STAFF OR TOWN/CITY LIAISONS:

Frank Pulver stated that Garrett went over the covenant for the new subdivision and they are moving forward.

Tim Griffin stated that the City of Auburn is just going over ordinances.

There being no further business to come before the Plan Commission, the meeting was adjourned at 8:43 p.m.


Timothy B. Griffin, President


Bill Van Wye, Vice President