

Minutes of the January 26, 2006
Regular Meeting of the
Marshall County Plan Commission
112 West Jefferson Street, #307
Plymouth, Indiana 46563

MINUTES

President David Dinius called the meeting to order at 7:30 p.m. on Thursday, January 26, 2006, in Room #307 of the Marshall County Building. Present were: Commission Members Thomas Chamberlin, Gary Davis, David Dinius, Larry Fisher, Ronnie McCartney, Don Morrison, Max Watkins, Robert Yoder, Plan Director Ralph Booker, Secretary Leesa Kolter, and interested parties. Absent was member Harold Van Vactor.

The first item of business was the Election of Officers. Mr. Fisher moved and Mr. Chamberlin seconded a motion to nominate Mr. Dinius as President. Mr. Yoder moved and Mr. Morrison seconded a motion to close the nominations. Mr. Dinius was elected President with Mr. Chamberlin, Mr. Davis, Mr. Fisher, Mr. McCartney, Mr. Morrison, Mr. Watkins, Mr. Yoder voting in favor and Mr. Dinius abstaining.

Mr. Fisher moved and Mr. Chamberlin seconded a motion to nominate Mr. Davis as Vice President. Mr. Morrison moved and Mr. Yoder seconded a motion to close the nominations. Mr. Davis was elected Vice President with Mr. Chamberlin, Mr. Dinius, Mr. Fisher, Mr. McCartney, Mr. Morrison, Mr. Watkins, Mr. Yoder voting in favor and Mr. Davis abstaining.

Mr. Fisher moved and Mr. Davis seconded a motion to nominate Mr. Yoder as Secretary. Mr. Chamberlin moved and Mr. Morrison seconded a motion to close the nominations. Mr. Yoder was elected Secretary by a unanimous vote of approval.

The second item of business was the review of the minutes from the November 17, 2005 meeting. Mr. Davis moved and Mr. Chamberlin seconded a motion to approve the minutes

with corrections. The motion passed by acclamation.

The third item of business was case, 06-PC-04, Custom Tool/Dawn Sahloff, A request for a Zoning Map Amendment to change the Zoning Classification of property located at 7809 Redwood Road, in A-1, Agricultural District, to B-2, Business Interchange, Section 27 of West Township. Mrs. Sahloff was present to represent the request. Mr. Booker gave the details of the request. He stated that the Plan Commission would forward a recommendation to the County Commissioners who would make the final decision. The buildings had been built many years before zoning. Mr. Booker read the list of uses that could be placed within B-2, zoning. He stated that any new use would need to receive site plan approval from the Plan Commission. The site was three acres in size, and would not accommodate several of the approved uses. Mr. Booker stated that the BZA had reviewed the property on several occasions for Variance of Use. He stated that the Plan Commission would forward a recommendation to the County Commissioner's who would make the final decision.

Mr. Fisher asked if the area between the site and the current B-2 property would be rezoned as well. Mr. Booker stated that only the Sahloff property would be considered at this time. Mr. McCartney asked what would need to be done to include the property in between. Mr. Booker stated that either the owner could petition, or the Plan Commission could petition. He stated that it would need to be legally advertised before they could consider it. Mr. Dinius stated that the approval would be spot zoning. Mr. Booker stated that it could be considered either way, he had encouraged Mrs. Sahloff as it has been a commercial property for the last forty years. He did not understand why it had not been picked up at the time of zoning. Mr. McCartney asked if there were guidelines as to what would constitute approval/denial of the site plan. Mr. Booker read the guidelines in the Zoning Ordinance.

Mrs. Sahloff stated that it would be in Marshall Counties best interest to have a viable business at the location.

Mr. Fisher asked since there was a pre-existing building with pre-existing uses; would there be a site plan review. Mr. Booker stated that any new business that would move into the location would require site plan review.

Mr. Davis moved and Mr. Yoder seconded a motion to open the public hearing. The motion passed by acclamation.

- Randal Gaddy, 9834 Redwood Road, asked what type of business was it?

Mr. Dinius stated that any type of use listed within the Zoning Ordinance could be placed

on the site. There was no business currently on the property.

There was no one else to speak either for or against the request. Mr. Fisher moved and Mr. Davis seconded a motion to close the public hearing. The motion passed by acclamation.

Mr. McCartney stated that he would feel more comfortable if the parcel in between were to be rezoned as well. He stated that he wanted to reiterate that there would still be the process of site plan review. Mr. Davis stated that the property would be limited to some type of industrial uses.

Mr. Morrison moved and Mr. Davis seconded a motion to forward the request to the County Commissioner's with a favorable recommendation. The motion passed with Mr. Davis, Mr. Fisher, Mr. McCartney, Mr. Morrison, Mr. Watkins and Mr. Dinius voting in favor and Mr. Chamberlin and Mr. Yoder voting against.

The fourth item of business was case, 06-PC-01, Plan Commission, A Proposed Amendment to the Marshall County Zoning Ordinance Section 603.2 regarding the Review of Special Exception by the Plan Commission. Mr. Booker gave the details of the request. Mr. Booker stated that the Plan Commission would forward a recommendation to the County Commissioner's that would make the final decision. Presently the ordinance allows Part B; prior to a hearing on the special exception by the Board of Zoning Appeals, a copy of the application shall be forwarded to the Commission for its review as to the effect of the application upon the Comprehensive Plan of the county. The Commission may present its recommendation thereto the Board. This portion would be deleted from the ordinance. Checking with various Plan Commissions, very few of them follow these guidelines. Under the new guidelines the request would go directly to the Board of Zoning Appeals.

Mr. Fisher moved and Mr. Davis seconded a motion to open the public hearing. The motion passed by acclamation.

- Dennis Thorton, 590 Juniper Road, stated that he was in favor of the request. He stated that it would save a step, and make it a lot easier for the public to do business.

There was no one else to speak either for or against the request. Mr. Davis moved and Mr. Chamberlin seconded a motion to close the public hearing. The motion passed by acclamation.

Mr. Yoder moved and Mr. Morrison seconded a motion to forward the request to the County Commissioner's with a favorable recommendation. The motion passed by a unanimous vote of approval.

The fifth item of business was case, 06-PC-02, Plan Commission, A Proposed Amendment to the Marshall County Zoning Ordinance, Section 305 Table A paragraph 14; Add: 24. Any Live Stock Operation requiring a permit from the Indiana Department of Environmental Management or Confined Agricultural Feeding Operation permit from the Environmental Protection Agency, to the List of uses requiring a Special Exception.

Mr. Booker gave a presentation on the ideas associated with such a move. His presentation was titled: Marshall County at a Crossroads. Mr. Booker stated that the Plan Commission would look at it as a Land Use issue and would not be considered as an owner issue. The Plan Commission needed to decide how we would like to see the land developed. The majority of the County was divided by into an A-1, Agricultural Districts. He read into the record the definition of an Agricultural District and allowed uses, according to the Zoning Ordinance. If approved the Board of Zoning Appeals would need to consider the request in accordance with the Findings of Facts. Mr. Booker stated that they are vague, and he would suggest a separate set of criteria. If the intent would be to not have Confined Feeding Operations in the County, this would not be the vehicle. If the decision would be to not allow these types of operations, it should be stated in the Zoning Ordinance. Mr. Booker asked what was traditional agricultural? He gave a presentation showing slides with statistics and what has been happening in the area over the years.

Mr. Yoder asked if the present ordinance requirements stay in effect. Mr. Booker stated that they would stay in place. Mr. Yoder asked how the BZA would apply the Finding of Fact. Mr. Booker stated that he would like develop a different set of criteria that would apply directly to Confined Feeding Operations. He stated that it would be hard to apply the current general facts to this type of operation. Mr. Dinius asked when the Commissioner's acted, would it go into effect immediately? Mr. Chamberlin and Mr. Booker stated that was correct; it would immediately become law. Mr. Yoder stated that if there was a quarter mile buffer zone and had to follow IDEM controls, why would they then need to go before the BZA as well, for the smaller size operations.

Mr. Fisher moved and Mr. McCartney seconded a motion to open the public hearing. The motion passed by acclamation.

- John Zentz, 3323 Elm Road, spoke in favor of the request. He stated that the citizens need more protection, than just for ground water survey lines. He stated that a moratorium should be placed on CFO\CAFO's and all **new** operations. The board has more controls over dog kennels, than these types of large operations.

- Damon Harrell, 17835 Linden Road, spoke in opposition of the request. He presented a letter from a group of livestock producer's that was read into the record. He stated this additional step would also make it necessary for them to make additional IDEM contact as well. He stated that as livestock producer's they are concerned about the neighborhood as well.
- Dennis Thorton, 590 Juniper Road, spoke in favor of the request. He asked where the buffer zone would start from, residence of property line? He stated that he would loose the ability to use additional portions of his property. He stated that there are 14 IDEM inspectors, who cover 2200 operations. This makes them reactive. Need more local controls. He stated that there was a proposed facility just over the county line in St. Joseph County, there should be local controls.
- John Rettinger, 6322 14th Road, spoke in favor of the request. IDEM doesn't have agricultural rules as last examined. He presented an outline for the record.
- James Leffert, 16188 7th Road, spoke regarding the request. He stated he is concerned. IDEM permits are renewed every 5 years, would there need to be a hearing at that time? He stated that agriculture cannot survive without size in this day.
- Dave Williams, 6199 14th Road, spoke in favor of the request. He stated that there needs to be some place to have their concerns heard. IDEM will only hear concerns about ground water; not air quality, property values etc. He did not see it as a bad thing for these operations coming before the board every five years.
- Foster Davenport, 1442 1st Road, spoke regarding the request. He stated that there needs to be rules to regulate the operation. He stated that if it fails, who would clean up the mess.
- Anita Spicher, 11881 Gumwood Road, spoke regarding the request. She stated that we need to be careful how we decide land use. What benefits would the operation bring to the county? Not many employees would bring down quality of life around the area.
- Dave Stultz, 18509 Gumwood Road, spoke regarding the request. He stated that there are no IDEM requirements for the smaller operations, more controls for large operations. We need large operations to keep business in Indiana. Agriculture should support agriculture.
- Jane Stevens, 4816 N. Pennsylvania Ave, Indianapolis, IN, Livestock specialist of Indiana Soybean Board, spoke regarding the request. She stated that the board represented 28,000 soybean farmers. Expanding livestock is a priority, it keeps bushel prices up. We need to reap the benefits, there is a circle of dependence in agriculture.
- Jeff Miller, 14173 6th Road, spoke in opposition of the request. He stated that Confined Feeding Operations is the definition of agriculture, how could it be a special exception. Spreading the manure is the same as buying a commercial fertilizer. Farmers are concerned for the welfare of the community.

- Herman Rettinger, 10500 Elm Road, spoke regarding the request. He stated that the rules are not sufficient for the types of facilities going into place. The county would have to clean up the site, if it were to be evacuated. He stated that this is a situation where the county pays for the infrastructure for the facility.
- Dan Sellers, 4412 15th Road, spoke regarding the request. He stated that he is disappointed that the county would allow commerce to come and will build the roads, but will not allow agriculture in agricultural designated areas.

There was no one else to speak either for or against the proposed amendment. Mr. Davis moved and Mr. Yoder seconded a motion to close the public hearing. The motion passed by acclamation.

Mr. Yoder stated that he was concerned about the direction that we are going to protect the agricultural zone. He stated that we have lost industry in the county and are struggling to provide opportunities for people to make a living. Agriculture is a 30 million dollar industry; a lot of this money goes back into the county. There is a shift in how agriculture is being done. He stated that as an Extension Agent, he receives complaints from residents about the farming that is taking place in their backyard. He stated that there is a problem with housing randomly being placed in the A-1 area. Farm families are having difficulty in moving forward, we need to remember that there is a valued industry in our area.

Mr. Fisher stated as a board member he would like to recognize that it is hard to get people to come out in support of an idea; while it is easy to fill a room full of people in opposition. He doesn't want to see the person requesting the special exception with the deck stacked against them. He would not have as much of a problem, if the list of criteria were not so objective, they need to be narrowed down and specific. Mr. Yoder stated that he would agree with Mr. Fisher. We need to be responsible and protect our citizens, but have manageable criteria for the basis of the decisions.

Mr. Dinius stated that he did not think that water quality was to be an issue. He feared that people within the questioned area could be polluting their own wells with their own septic systems, and encouraged them to test their water at this time. He stated he went to visit a similar hog facility Northeast of Mentone. If you were upwind you could drive up to the facility and not smell it, downwind the odor is strong. He drove a half mile to the closest neighbor and did not pick up the smell. He stated that some people are more sensitive to the odor than he was, as he raised hogs. He went to the same facility with Mr. Rettinger a month or so ago, walking into the field downwind about a quarter mile, they did pick up the odor. Odor is a concern. He stated that he stopped to talk to a couple of the

neighbors in the area; they stated that if the breeze is in the right direction they could not stand to be in the yard. In the house with the air conditioner running they did not notice it. Mr. Dinius stated that he would concur that keeping the large operations in business keep the smaller operations in business, by keeping the slaughter plants open. He did not feel that there was an issue with the roads, as they were already present and within use with similar loads.

Mr. McCartney stated that they are dealing with the balance of economy. Everyone would be affected. The large operations should have some oversight as to the impact on the community, as was the concept that brought the adoption of the Zoning Ordinances. He would encourage the Plan Commission to put rules and regulations in place that are not overly restrictive, but balance the good and the negative.

Mr. Yoder asked if they could set up a special meeting of the Plan Commission. Mr. Booker stated that they could as long as proper notice was given. Mr. Yoder stated that he could understand the need for the special exception, as long as there were proper criteria in which the BZA could implement. Mr. Dinius stated that he would agree that they were not in a position to begin writing criteria. Mr. Yoder requested a public meeting with the opportunity to give consideration to the proper criteria that should be included within the ordinance. He stated that he would only want to pass good law. Mr. Chamberlin stated that the soonest that the County Commissioner's would be able to vote on the ordinance would be February 20, 2006.

Mr. Yoder moved and Mr. Fisher seconded a motion to table the request until the Board could reconvene by Special Hearing on February 2, 2006, to discuss this issue only, the Board of Zoning Appeals members would be notified and by given a speaking seat at the meeting. The motion passed by acclamation.

The last item was Other Business. Mr. Booker stated that he needed the advice of the Plan Commission. He had come upon a situation where there was a Planned Unit Development approved in 1975 that included a private drive. When it was platted in 1980, the road was not drawn into the plat. At this time there was a property dispute over who owned the drive. Mr. Booker stated the road should be owned by everyone and should be maintained by everyone. The Auditor's Office would like something in writing allowing them to plat the easement. Mr. Fisher stated that the road needed to be drawn in as an easement and Parcel A needed to be included in the PUD. The owner's would need to come together to get this done. Mr. Booker stated that he did not contend that the road be make a county road. Mr. Flora asked if any of the property owners laid claim to the property by adverse possession. Mr. Booker stated that one of the neighbors does state that he owns the

property. Mr. Dinius asked if the board would be in a place to made any decision. Mr. Booker stated that he would have to bring it back after it had been properly advertised. He stated that he was looking for advice from the board. He would advertise, give notice to the property owners and bring it to the February meeting.

Mr. Booker stated that Mr. Kiefer had presented him with a draft of the Zoning Ordinances. He stated that there was still work to be done.

Mr. Booker stated that as had been printed in the paper; there was an experimental change within the office. Lori Lowry had taken Mrs. Kolter's position. Mrs. Kolter would be filling in the office as needed and would continue to attend the Plan Commission and Board of Zoning Appeals meetings and take the minutes. Approval had been given until March to see how things worked.

Mr. Davis moved and Mr. Morrison seconded a motion to approve the 2006 Calendar as proposed. The motion passed by acclamation.

There being no other business before the Plan Commission, a motion was presented and seconded to adjourn the meeting. The motion passed by acclamation and the meeting adjourned.

Respectfully submitted,

Robert Yoder,
Secretary