

**AREA PLAN COMMISSION MINUTES**  
**JUNE 13<sup>TH</sup>, 2006**

**PUBLIC HEARING OF THE AREA PLAN COMMISSION OF GRANT COUNTY** was held on Tuesday, June 13th, 2006 at 7:00 P.M. in a specially scheduled meeting on the first floor of the Grant County Office Complex at 401 South Adams Street, Marion, Indiana. The following members were present: John Woodmansee, Karen Owen, Dick Treon, Dennis Fox, Tony Manry, John Bonham, Keith Roorbach, Robert Highley, Myron Brankle and Mark Bardsley. Absent were Rana Vctor, Kim Windle, and Dick Trobridge. Staff present was Tanya Ford, Executive Director, Bruce Elliot, Area Plan Attorney, Brenda Harrison and Debbie Wallace.

**Tanya Ford** read and explained the procedures then asked the Board members if they had any contact with any petitioner, or with anyone else regarding any of the petitions.

**MOTION: Bob Highley made the motion to expand the 25 minutes, allowed for the opposition to speak, to 2 hours, Dennis Fox seconded the motion. All members present voted aye.**

Tanya Ford explained that the Commissioners at a regularly scheduled meeting requested that the Plan Commission Board consider amending the zoning ordinance as it relates to Confined Animal Feeding Operations. The board heard testimonies from those, in the audience that signed up to speak, whether for or against. Then they would consider the amendments to the zoning ordinance, but would not be voting on them. The board will also consider the cessation of permits, which would give them the authority, while an amendment process is in place, to request or tell the Area Plan office not to write any permits. In this case, for Confined Animal Feeding Operations, until the ordinance amendment process is completed.

**Jeremy Diller, 7380 S 825 E, Upland**, President of Grant County Commissioners represented the Commissioners and their request to amend the zoning ordinance as it relates to Confined Animal Feeding Operations. Mr. Diller stated that on April 28<sup>th</sup>, 2006, he wrote a letter to the Indiana Department of Environmental Management regarding the application submittal of Friesen Meadows Dairy, LLC. In the letter he expressed some concerns for a number of issues that were important to the Commissioners and the county. He also requested a public meeting and a public hearing for IDEM, in the letter, which he felt would happen in the near future.

Mr. Diller stated that the ordinance needed to be amended concerning the CAFO, that our current ordinance does not reflect the modern requirements of a high tech farm. We have a responsibility to adapt our land use ordinance to meet the current trends and standards that are used today. The Commissioners also recognize that current agribusiness owners and young farmers currently living and working in Grant County want the opportunity to use the same technologies to improve their income and livelihood. Therefore, 1) the Commissioners are requesting that the Area Plan Commission review the Confined Feeding Operation with the goals of enhanced right to farm protection, recognition by community to promote agriculture economic development as well as co-existence with residential neighbors.

2) that the Commissioners propose that the authorized use table 20-1 be amended to provide the land use category Farm Confinement more than 10 acres be changed from permit use to special exception in an agriculture district. The Commissioners also request that the Area Plan Commission not grant a permit as defined under IC Code 36-7-4-1109 to anyone planning to operate a confined feeding operation in an AG zoned area, until they have had an opportunity to act on the recommendations of the Area Plan Commission, in the regards to any possible changes.

**Eric Walts, 2509 N River Road, Marion** represented the Commissioners and their request to amend the zoning ordinance. Mr. Walts stated that he'd had an opportunity to tour a dairy operation in Ohio. He state that he found a very high tech, very Twenty First Century, farming operation. It is an agri-business. The dairy he visited is a factory farm, not a small family run facility with cows in the pasture. It is an agri-business operating in the Twenty First Century, using Twenty First Century technology. Using such things as ankle bracelets that use radio frequency to identify the cow and separate them; to bacteria testing of the milk come out; and the most modern manure separation technology that exists currently. Mr. Walts stated that he was impressed with the facility, and with the dedication of the people who operate the facility. He was also impressed with the way they have attempted to handle many of the environmental concerns the people of Grant County have.

Mr. Walts stated he that our ordinance is a Twentieth Century ordinance and does not reflect the Twenty First Century technology and agri-business techniques used today. This is why he is asking to amend the ordinance. He stated that discussion of a special exception was the best way to handle this at the time, but feels that we still need to work on finding the best way to amendment the ordinance. If a special exception is not the best way, we should also recommend is the formation of a committee, people of the Area Plan board, people in agri-business, people dealing in economic development, so we can study the existing ordinances throughout the State and Nation that address these issues and come up with a Twenty First Century ordinance that deals with this technology, that deals with agri-business. So we can protect our land, water and environment where we live in Grant County. It is a modern day operation and there are places in Grant County where they should operate. We should encourage them to come.

Mr. Walts stated that our current ordinance does not outline were they should be located. Mr. Walts stated that he lives across from a field and a CAFO could locate there. In Sweetser, a field is next to the elementary school, where a CAFO could locate, and across from Eastbrook High School, a CAFO could locate in that field. Mr. Walts stated that he didn't feel that would be proper land use for Grant County.

Mr. Waltz stated that they want to work with the Area Plan board on the development of language, so we can insure that agri-business owners and people, that want to do that business here in Grant County, have an opportunity to do so.

Mr. Waltz stated that the most important thing, for the board to vote on, is under the current ordinance 16.17 regarding cessation of permitting. This will allow the board to cease granting permits or to instruct the Area Plan office not to issue permits while ordinance is going through amendment process.

Jeremy Diller stated that the CAFO is in a bad location, and that this is something we should look at long term as an Area Plan board and as a county, how we want to deal with this situation, whether it's as a special exception or multiple zonings for agriculture.

Tony Manry asked the board if they had any questions, regarding the request of the commissioners to suspend the permits.

Tanya Ford read section 14.6 of the zoning ordinance, which is Zoning Map and Text Amendments: Temporary cessation on permits is allowed when zoning amendments are pending (see Chapter 16).

#### Section 16.17 Temporary Cessation on Issuance of Permits:

1. Provided that the Plan Commission has specifically determined that condition required such action and have so authorized in a public meeting, the Area Plan Commission shall not issues any building permit for the proposed construction, reconstruction, alteration, or use which would be in violation of any proposed amendment to the Ordinance (text or maps) which is pending before the Plan Commission, form time of first public notice of such consideration until final disposition by the legislative body, but in no event longer than six (6) months from the time of first public notice.

2. In accordance with the Area Plan Commission's authority to propose and consider meaningful zoning regulation amendments without risking the establishment of contrary structures or uses through the issuance of building permits during the limited period when regulations are considered, no public hearing or prior notice shall be required for the Plan Commission to authorize a temporary building permit cessation pursuant to the preceding paragraph.

Dick Treon asked Tanya Ford if it would be retroactive. Tanya Ford stated that it would only be from the time the board voted on it. Dick Treon asked if the confined feeding operation approved a few months ago would still be allowed. Tanya Ford asked if he was referring to Mr. Boles and that he had not applied for a permit. Dick Treon asked if Mr. Boles would fall under the moratorium. Tanya Ford replied yes.

John Woodmansee stated he wanted a clarification regarding the terms CFO and CAFO. They had been used interchangeably. Tanya stated that our ordinance defines the term as a confined feeding operation as pursuant to the State Regulations. We do not define it as a confined animal feeding operation. The terms were being used interchangeably, and that the Commissioner also needed to clarify.

Jeremy Diller stated that it was under the State guidelines.

It was asked of Tony Manry if he was seeking a motion from the board and then listening to comment from the public first. Tony Manry stated that they would seek a motion first, and then listen to comments from the public.

**MOTION: Mark Bardsley made the motion that the Area Plan implement Section 16.17 Temporary cessation on issuance of permits and instruct the Area Plan Department to cease issuance of permits for any CFO's until our new ordinance can be updated and adopted by the Area Plan and the Commissioners' board, and with the exception to Mr. Boles operation, Myron Brankle seconded. All members present voted yes; motion carried.**

John Woodmansee explained to the board that there is no National rule on confined animal feeding operations tied up in courts, that rule doesn't exist right now, so they can't make any regulations. However, the property in question would fall under the State guidelines for a CFO.

Tanya Ford stated to the board, since it had been brought up about Mr. Boles' confined feeding operation that the Vreba-Hoff Dairy has come in and applied for their permit that day. They filed the application without having everything that is needed for the permit. They still need a grading permit, landscaping, IDEM and ISDH.

Bob Highley asked if the cessation of permits would apply to the application that filed for the CFO. Tanya Ford stated that it would with the way the motion stands.

John Bonham questioned if we were giving Mr. Boles a blank ability to permit for all permits. Tanya Ford explained that Mr. Boles had rezoned the property to an agriculture zoning, which means his confined feeding operation is allowed. This means he would have to meet the requirements of our ordinance and IDEM's requirements. Mr. Boles would only be able to have ducks, and could not amend for anything else. This is in the records, and he would have to go through the process again.

Keith Roorbach asked if the CFO that was petitioned for in the Area Plan office would fall under what the board does tonight or not fall under what they do. Tanya Ford stated that it would fall under this, which means if you approve the motion as it is presented, then the Area Plan office could not issue any permits for a confined feeding operation, except for Mr. Bole, as long as he meets all parameters present to the APC in March.

The question was raised whether the board would be putting themselves in jeopardy with one exemption. Tanya stated this was a question for our attorney Bruce Elliott. Bruce Elliott stated that there would be an avenue for someone to object to the motion. It would be carving a niche out for someone to create a similar type of operation (CFO) and now you're requesting to put a moratorium on CFO's. He felt that complaints would be made regarding this. John Bonham asked if there would be a better way of doing this.

Bruce Elliott stated that there has been a motion made and seconded, and that a vote needed to be taken on it. He stated that the board could either deny or except the motion, but there needs to be a vote.

Mark Bardsley stated that he would like to withdraw his motion already on the floor, depending on his second. Myron Brankle withdrew his second.

Dick Treon asked a question regarding the intent of the dairy, whether they were trying to get in before the meeting. Tanya Ford stated that she didn't want to comment on their intent, but it wasn't the first time we had received an application without everything. Dick Treon stated he was concerned they were trying to beat the clock.

John Bonham asked if it would be more informative if the board heard from those for and against to put the motion together correctly, without opening any doors for a challenge.

Bruce Elliott stated that it would be very informative if the board heard the comments from the public, before voting on cessation of permits, which should be done last.

Keith Roorbach asked if the board would be okay to make a similar proposal to that of Mr. Bardsley's, but add Mr. Boles and the one presented today. Bruce Elliott stated that he couldn't tell the board what to put in their motion. Keith Roorbach asked if there would be less of an avenue back to them if they made that motion. Bruce Elliott stated that it was possible, but he really shouldn't comment, and that they were trying to make him look into a crystal ball.

John Woodmansee clarified the point that CAFO's are more restrictive than the State law. All of these operations, if they meet the minimum of the State would be in a confined feeding operation rule. The National Confined Animal Feeding Operation puts additional restrictions on.

Myron Brankle suggested since the board has taken a 180-degree turn that they should here from the Commissioners again.

Eric Walts asked that the board either table their request at this time and hear public comment and come back to their request, or make a motion on their request and vote on it now and then hear public output.

Jeremy Diller added that confined feeding operation had been used throughout their resolution, and have never mentioned CAFO in the resolution.

Tony Manry stated that there needed to be a motion to table the request and a motion to vote on it.

Karen Owen stated that she felt funny about the Les Boles petition, because they had unanimously been accepted, and nobody disagreed with it. And that she was afraid they would have a legal problem with him if we don't honor it. Tony Manry stated that the board had given approval for a rezoning, instead of a CAFO.

Bob Highley stated that the Commissioners had two recommendations: 1) to consider amending the ordinance, 2) cessation of permits. He suggested that the board consider amending the ordinance.

**MOTION: John Bonham made the motion to table the action on 2) cessation of permits and go back to 1) consideration of amending the ordinance request of the Commissioners. Bob Highley seconded. All members present vote aye; motion carried.**

Tony Manry asked the board, if they wanted to hear the public input before going on to the proposed ordinance. Bob Highley asked if the board is to hear the details of the Commissioners proposal first, then hear public input on it.

Tanya Ford stated to the board, in lieu of the fact, that the Commissioners have slightly modified their request, on how they would like to see the amendment happen, that they should hear public input first. Because most of the amendments were written based on the special exception, but have changed directions. However, there are two other amendments that deal with wireless facility ordinance, but they can wait till the end.

Tony Manry stated that at this time the board would hear public input. Tony Manry asked that anyone in the audience for the petition, to please come to the podium and state their name and address.

Bob Highley asked for clarification of asking for “people for the petition”, if these are people for amending the ordinance. Tony Manry answered that it was for the CAFO. Bob Highley stated that he didn’t believe that was the topic, but that it was consideration of amendments as it relates to confined feeding, in general. Tanya Ford answered that it was, but it could be view as 1) anyone in favor of amending the ordinance and making it more stringent or 2) anyone that would be in favor of keeping the ordinance the same or not making it more stringent.

Bruce Elliott commented that the board is at a point where the public is going to give input. He suggested that the board call the individuals up that are on the list and ask for their name, address, and if they are supporting the Commissioners request or if they have any information supporting the CFO.

**Eric Wright, 564 Circle Drive, Fairmount** represented the Grant County Farm Bureau Board and was neither supporting the Commissioners request nor opposing it. The main concern of Farm Bureau Incorporated is the agricultural zoning in Grant County. The Farm Bureau Board met earlier this year to discuss and formulate zoning criteria recommendations to be presented to the Area Plan Commission to allow the co-existence of the agricultural industry and the citizens of Grant County, while protecting the shared natural resources. The County Commissioners passing a resolution requesting Grant County Area Plan Commission to consider and recommend amendments for confined feeding operations (CFO) in an agricultural zoning. It became clear to the Farm Bureau Board, that the implications of a special exception in an agricultural zoning would create considerable hardship on the farming industry. Zoning statute language should be fair to all and not hinder the economic contribution of the industry to Grant County. Mr. Wright suggested some solutions that take into account today’s reality and will allow for future growth, and protection afforded to all.

Mr. Wright stated that items to be considered for a concentrated animal feeding operation special exception, which would come before the BZA. These items would be too open ended, and put the Zoning Officials in a position to make subjective decisions, rather than on performance standards.

The Farm Bureau board suggests appointing a committee consisting of; one representative from each livestock species represented in the county, two representatives from crop production, one agri-business representative, two members from APC, and two representatives of non-farm rural citizens of the county. The committee would report its recommendation to the Area Plan Commission for adoption. This committee could consider performance criteria such as; well testing at production sites, graduated setbacks, tree filter screens, sighting considerations relative to prevailing winds, neighbor friendly manure application notification, regular building and equipment cleaning to reduce potential odors, receptacle setbacks, stronger definition of AG zone, and right to farm covenants. Many of these standards need further discussion, to be fair and satisfy concerns of industry and neighbors.

**Mark Hummel, 1546 N 1100 E, Marion,** stated that he has been a resident of Grant County for 30 years. He has an 80-acre farm; his family owns 351 acres that is three-quarters of a mile from the proposed site. Supports the family farm, but this dairy will have twenty-two hundred cows that will produce enough sewage to equal that of 50,000 people.

Mr. Hummel stated that if this site is approved, he would immediately have his property value certified and water tested and certified. Mr. Hummel stated that he and several others would hold Grant County responsible. Mr. Hummel stated that the risk and liability of this site is too high, because there are too many old wells, too many home near the site, too close to the town of Van Buren, too close to the schools. It sits on the Tays River, which is a water supply source for them and the City of Marion.

Mr. Hummel asked the Commissioner to consider all the facts carefully, and not let business intimidate them. Mr. Hummel in closing stated that we need business, but the site for this business was bad. He said he believes in Grant County, and asked that the ordinance be amended.

**Randy Thurman, 3660 N 725 E, Marion,** stated that he is a farmer in Northeast Grant County. He respectfully requested as a concerned citizen of Grant County, that the board support the Commissioner's resolution and amend the ordinance regarding the CFO, and to cease issuance of permits during the time the ordinance is being amended.

**Mike Conn, 4408 N 800 E, Van Buren,** stated two months ago, he didn't know what a CFO, CAFO, or whatever they are to be called, were. That it is actually a factory farm, and that they are constantly in violation. He addressed several of the violations, including that in 1995; a manure spill in North Carolina killed 100 million fish and closed 364 thousand acres of coastal shellfish bed.

Mr. Conn stated that this industry is in its infancy, and are not capable, economically, of developing a waste treatment facility the size of the one in Marion to properly take care of it.

Mr. Conn in closing stated that as a concerned citizen of Grant County; request that the board support the resolution of the Grant County Commissioners to amend the Ordinance.

Bob Highley asked of Mr. Conn, Mr. Thurman, and Mr. Hummel if they were in favor of changing the ordinance to allow high tech farming, but in the proper location and with performance standards as stated by Farm Bureau. Mr. Conn stated that he was totally against them, as was Mr. Hummel.

**Doug Morrow, 5411 W 125 S, Marion,** asked that the young farmers of Grant County are not shut out, and given a chance to make an income and to compete locally and globally. Mr. Morrow stated that the large feeding operations are the way to the future. Mr. Morrow stated that there needed to be some ordinance changes and he thought things were going in the right direction, and urged the board to accept Farm Bureau's proposal.

Myron Brankle asked Mr. Morrow if he planned on being in the dairy business.

Mr. Morrow stated that he planned on take care of the dry manure on the farm and supplying the hay and corn silage.

Myron Brankle then asked Mr. Morrow if he would put his family on the dairy.

Mr. Morrow stated that he would if he had the money to build it. He stated that he didn't think we should discriminate against someone if he wants to build a facility in this country. He also stated that it allow a young person like him to work with someone, in turn, add value to your product, to more earn income.

Myron Brankle questioned why there weren't any young farmers in the area getting involved in starting a dairy business.

Mr. Morrow stated that it to a substantial financial backing, which most people in this country don't have, because people here aren't selling their ground for the amount of money they can sell it for in other places. He stated that it was an opportunity to raise livestock.

**Cathy Thurman, 7483 E 300 N, Marion**, stated that her husband and she are farmers in Grant County. She stated that she appreciated what Mr. Wright, the Farm Bureau representative, stated about applying newer standards. She stated that we are operating on 1970's zoning standards, and that 50 years ago farmers didn't sell their ground for subdivision. Mrs. Thurman stated that she felt more consideration should have been taken in choosing this site, which is near 34 homes. Mrs. Thurman stated that in the paper there was a comment made by Mrs. Conway from Vreba-Hoff that some of the close neighbors were contacted. She stated that she was not contacted by Vreba-Hoff, neither was her brother-in-law nor was the property owners brother.

Mrs. Thurman stated that she liked some of the standards that Farm Bureau offered with the committee, but the county needed to add some other performance standards. She feels that CFO's and CAFO's need to be a special exception, because the permitting of these operations and performance standard would be a permitted use and never see the BZA.

Mrs. Thurman stated that Farm Bureau's proposed committee seemed a little stacked, and would prefer the Commissioners chose the committee. She asked that the Commissioners proposal to amend the ordinance be supported and that issuance of permit cease while under review.

**Dan Stanley, 8608 E 400 N, Van Buren**, stated that as a concerned citizen of Grant County, he would respectfully request that the board support the resolution of the Commissioners to amend ordinance in regards to CFO's and to cease issuance of permits while under review.

**Ed Schmidt, 7237 E 400 N, Van Buren**, stated that in his brochure it shows the possible effects a CAFO has on the community. He asked that the Commissioners, County Council, and the Area Plan Commission to enact well crafted public policies that will allow residents and the County to exist with these operations, which require enforceable laws that minimize the all negative effects of a CAFO, while maximizing any economic benefits for the county.

Mr. Schmidt, in closing, stated that an open-air, clay base lagoon had not been considered high tech for 300 years.

**Sandra Buckler, 3645 N 800 E, Van Buren**, stated that one cow consumes 36 gallon of water per day, and that in a year's time twenty-two hundred cows would consume 289,008 gallons of water per year, along with the usage of extra water for cleaning the equipment and keeping the cows cool. She stated that there is a concern with the amount of water being used. Will there be enough during normal years and would there be enough if during several years of drought?

Mrs. Buckler stated that untreated manure sprayed on crop fields poses a threat to public health, and manure pit sites and leakage contribute to the contamination of surface and ground water. She also stated that about 25-75% of feed antibiotics pass unchanged into manure waste posing additional risk to water, soil, and air quality. She states that the Center of Disease Control has shown that chemical and infectious compounds from animal waste can migrate into soil and water.

Mrs. Buckler mentioned that microbes that live in the stomach of livestock can cause illness and even death in humans, such as E-coli and cryptosporidium. She also mentioned that farmer have been spreading manure on fields for years, but with these operations the manure is much more concentrated, and more care is needed the storage and usage of the manure.

**Sabra Hastreiter, 8842 E 300 N, Marion**, stated that she is an RN and has lived in the area for 10 years now. She state that they have taken great care in their property and that there child goes to the elementary, which is a mile and a quarter from the proposed site.

She stated that being a nurse, she is concerned with the elements in the manure. It's not just the manure their worried about, it's the waste product that is in the manure. The manure in these pits has sat there over a year before being spread out. That means a lot of nitrates, pathogens, microorganisms are not taken out of the drinking water with chlorine.

**Steve Hastreiter, 8842 E 300 N, Marion**, stated that he has been in the excavating business for about 30 year and that the clay bottom lagoon will not hold the waste in. Has worked in landfills and hazmat sites in Fort Wayne, and they are all lined, capped and sealed. He supports the Commissioner recommendation to amend the ordinance and to cease any permit process until this is decided.

Mr. Hastreiter stated that swimming in the Salamonie Reservoir is impossible, because DeGroot has polluted it.

**John Marshall, 2800 N 700 E, Marion**, stated that he and his wife went on the tour of the dairy in Ohio, and while in Ohio they saw two other dairy farms that had very few neighbors if any neighbors. The site in Van Buren is a one-mile by three quarter mile square with six homes a quarter mile away and twenty homes within a half-mile. There are too many people that live too close to this site, and will be hurt by the dairy. In closing he wanted the board to think of the impact it would have if it were going in your backyard. Mr. Marshall requested that the Commissioner's resolution to amend the ordinance and to cease issuance of permits for CAFO's be supported.

**Kim Marshall, 2800 N 700 E, Marion**, stated that she has done research on Vreba-Hoff dairies, and they have had many of EPA violations for discharge of manure water, silage run-off, contaminated storm water, and construction in Indiana, Ohio, and Michigan. Water is a natural resource that can not be replaced once it's gone or has been contaminated. She stated that Vreba-Hoff has the corporate attitude that it is easier to pay the fine, if they get fined, and go on.

Mrs. Marshall respectfully requests the board to support the resolution of the Grant County Commissioners to amend the ordinance in regards to CFO and to cease issuance of permits during time the ordinance is amended.

**Byron Brankle, 501 S 4<sup>th</sup> Street, Van Buren**, stated that if the aquifers were contaminated, then clean water would have to be purchased. Mr. Brankle stated that the site for the CFO is the most densely drilled portion of the old Trenton Oil & Gas field. The Trenton field is located in the east central portion of the State, which includes Grant County. In the late 1890's, oil and gas production started, and peaked in 1904. There is an estimate of 50 to 60 thousand wells drilled between Fort Wayne and Indianapolis.

Mr. Brankle submitted examples for the board to look at, showing that Van Buren Township was densely drilled. Mr. Brankle stated that the map he submitted shows 23 known wells located on the site, for the dairy, but are not sure how many wells were bored and not recorded.

Mr. Brankle stated that when the closures of wells were preformed, different processes were used, and are not up to today's standards. He also, stated that when DNR was out with their metal detectors, they could not find the metal casing, and they believe that the casings were pulled and used elsewhere or used for scrap. Mr. Brankle stated that a vertical access to the aquifers has been created, and which could allow spills or seepage from any containment pond to contaminate the water. He stated that even a partial collapse of only one, of the many abandoned oil and gas wells, could compromise the complete integrity of the waste lagoon, catastrophically allowing the contents to drain into the aquifers.

Mr. Brankle respectfully requests the board to support the resolution of the Grant County Commissioners to amend the ordinance in regards to CFO and to cease issuance of permits during time the ordinance is being amended.

**John Street, 408 S 2<sup>nd</sup> Street, Van Buren**, stated that as a concerned citizen of Grant County, he respectfully requests the board to support the resolution of the Grant County Commissioners to amend the ordinance in regards to CAFO's and to cease issuance of permits during time the ordinance is being amended.

Mr. Street submitted information to the board that corresponds with the map submitted by Byron Brankle. Mr. Street stated that there are six wells missing on the map, because there are missing records for the Trenton field. He also stated that by looking at the map, you could see this is the wrong place.



**Dennis Prezbindowski, 838 Pebblebrook Place, Noblesville, Indiana**, stated that he was not a voter or resident of Grant County, and that he was neither for nor against the resolution of the Commissioners. He stated that he is a professional geologist, certified petroleum geologist, and adjunct Professor of Geology at IUPUI, and has 28 years experience in the oil and gas business, including environmental business. Dr. Prezbindowski stated that he had extensively mapped and drilled the Trenton, and continues to get royalty production checks from Trent Production. He stated that he knows the history and geology of this field. Dr. Prezbindowski stated that in Grant County and particularly in Van Buren, some land uses should be considered not viable, from an environment point of view. He said that Van Buren Township is the most heavily drilled township in the State. Well spacing is unknown, at this point, because records are not complete. It has been recorded in geological reports with the State geologist; show that as many as 18 wells are located in 80 acres. Dr. Prezbindowski stated that the main concern is uncertainty, and even though there was a Plugging Law in place in the 1890's, it was not followed. No one knows the condition of these wells, or where they are located. He stated that these wells, by any standard today, and even that they were plugged by the 1890 standard, are inadequate. There is a risk associated with this kind of geological system, and this geological system has been significantly compromised. Dr. Prezbindowski stated that the board should consider how much of a risk and how should land use planning take in account that risk.

**Kevin Cox, 2555 Marksara Drive, Marion**, stated that he owns property at 8945 E 400 N, Van Buren that is approximately a mile away from the proposed site. Mr. Cox stated that he feels that local officials have a responsibility to investigate all aspects these operations. Future generations may pay consequences for shortsightedness of local officials. Mr. Cox stated that he hoped all the facts are uncovered for any type of CAFO, CFO. And Area Plan is ready to assume all risk and liabilities for the decisions made.

**Brian Daggy, 10573 W 550 N, Thorntown, Indiana**, stated that he is a consultant working on this dairy project. Mr. Daggy stated that he is an independent consultant, and is not an employee of Indiana Farm Bureau, Inc., but was an employee three years ago. He was also an employee of IDEM ten years ago. He has worked on both sides of the issue. Mr. Daggy assured the board that the project is being designed and permit to meet full compliance of State and Federal CFO & CAFO regulations. Mr. Daggy stated that in the design and operational plans, they have to account for all manure, wastewater, and contaminated storm water on sight. That water has to have proper storage, which is designed to meet all State and Federal standards. He stated that the State and Federal requirement for application as a fertilizer amendment. IDEM and EPA have updated their standards for design and operational plans twice in the last ten years, and are operating very stringent requirements regarding to operation, handling of manure and wastewaters, and requires a high level of documentation by operator. Mr. Daggy stated that the Huskies family, who will own and operate the Friesian Meadows Dairy, has a high level of concern regarding the process the board will be considering. Mr. Daggy stated that the permitting process started in early April.

Myron Brankle stated that he was confused about the brochure he received. In the brochure, it stated that IDEM Commissioner Tom Easterly, acting on behalf of the Governor and Lieutenant Governor, told pork producers, at their State convention last February, "that he would suspend enforcement of confined animal feeding operations (CAFO) regulation until the EPA has cleared up the confusion surrounding CAFO's. Until we know what the Federal rules are, it makes no sense to enforce them. No enforcement would be taken for at least three years".

Mr. Daggy stated that it was a miss quote, and that IDEM is doing enforcement. What Mr. Easterly was referring to was that the EPA was looking at redoing their regulations. And the Easterly was attempting to say that some of the paperwork requirements of IDEM would not require operators to be fined, for finding that they didn't have some of the paperwork.

Keith Roorbach asked how many times would an inspector be at a facility. Mr. Daggy stated that during construction they would see one of the operational construction observers on site every two weeks, after it is up and running 2-3 times per year and will slowly fall off with time.

John Woodmansee asked with the CAFO regulations not being final for three years possibly, would they still fall under the State regulations. Mr. Daggy answered they would.

**Frank Voris, 6645 N 600 E, Marion,** stated that he was a concerned citizen, and lived here all his life.

Mr. Voris stated that he was concerned about the pollution that would be created. He stated that God started out right with fresh air and water, and he was enjoying it. Mr. Voris stated that once the operation is here and running, it hear and cannot be reversed.

Mr. Voris stated that it's good to take steps today and be a responsible citizen. He asked who would stand up and say they would pay for damage, usually the taxpayer does.

**Jane Stevens, 4816 N Pennsylvania Street, Indianapolis, Indiana,** represented the Indiana Soybean Growers Association. The number one customers for soybeans are the livestock farmers, and are concerned about actions taken in counties that would restrict potential growth. Ms. Stevens stated that when livestock comes into a community, or leaves a community, farmers could loose five to ten cents a bushel for grain.

Ms. Stevens stated that she supports the study committee. The committee is a very healthy way to get to the issues, and find a place where we can live together. She strongly encouraged the board to consider the study committee and preferred they would not do the moratorium, which is a signal to livestock farmers this may not be a friendly county.

**Brad Buening, 225 S East St, Indianapolis, Indiana,** stated that he works for Indiana Farm Bureau home office in Indianapolis and resides in Greensburg. He does not support or oppose any particular side. He stated that the problem with agricultural zoning districts is there are all kinds of land uses permitted, such as residential, livestock, and row crop.

Mr. Buening stated that he was a planning director for 15 years in Indiana, and understands the position the board and Tanya are in. He stated that there are ways, for all land uses, to exist peacefully. One suggestion would be for multiple AG zones; have one for residential, one for livestock, one for cropland. Could even go a step farther and have one for agri-business for ethanol production. He suggested that the special exception language be for the residential land use, and that the petitioner has to prove to the Plan Commission they have the right to live in the country, with an agricultural clause, that the farmer was there first and has the right to farm.

Mr. Buening asked that the Area Plan attorney consider Senate Bill 35 regarding vested rights. And advise the board whether this dairy fits Senate Bill 35.

**Bonnie Hahn, 9936 W 200 S, Andrews, Indiana,** stated she lives a mile from the Da Groot Dairy in Huntington County. She recommended listening to the Commissioners and amend the ordinance. She also suggested that covers be required for the lagoons, because the pits get nasty.

Ms. Hahn stated that several neighbors were diagnosed with vertigo, which is for the hydrogen sulfite that comes from the pits. She stated that the CAFO should be located out west, where there is no one around close, because the affect from them goes 5-miles out.

Ms. Hahn stated that a gentleman from the Alexander Real Estate Company, who is recognized as an expert witness in the courts of Indiana for real estate evaluations around CAFO's, says that property devaluation is around 50 to 90 percent.

**Robert Patterson, 801 S SR 524, Lagro, Indiana,** stated that he has property 2 miles from Da Groot in Huntington County. Mr. Patterson stated he has worked with the Andrews Concerned Citizens for three

years. He is concerned that the amendments were for CFO, and that the application would not be under CFO rules, with the number of dairy cows, but CAFO. He feels that CFO's are the small farmers of today, with only 300 dairy cows. CAFO's are factory farms and should come under the guideline of factories, regarding air and water quality control.

Mr. Patterson stated experiences with Da Groot, and that IDEM rules allows the people to monitor themselves. They have the CAFO write in logbooks how they got rid of the manure. Mr. Patterson stated that there will be a situation where the lagoons will over flow, and they will go the least cost method in getting rid of the manure.

Mr. Patterson said, that as a group, they submitted to IDEM and the Huntington County Commissioners, a list of 17 improves they wanted to see done. The group wanted: 1) someone, like a Health official, to be part of the monitoring of the CAFO; 2) A binder or financial assurance statement to cover closure; 3) an environmental impact study.

**Leslie Patterson, 801 S SR 524, Lagro, Indiana** stated that her concern is the Salamonie Reservoir, and has been a long distance swimmer for many years. Since the dairy has been around the water quality, in the Salamonie, has gone down. The Salamonie has a white scum, two inches thick, on it from the many times Da Groot dumped in a ditch that leads to the reservoir.

**Travis Flora, 2594 E 250 S, Bringham, Indiana**, stated that he is a young small farmer in Carroll County. He stated that the Economic Development Board invited livestock operations to Carroll County, and they have now become the number one hog producer in the State.

Mr. Flora asked the board to be careful in using the Special Exemption rule; it was tried in his county and ruled against as a miss use of a special exception. Also, asked to check the laws of the State, as far as ruling against a facility that has applied for a permit.

Mr. Flora stated that the small farms are less regulated than the big farms are, and that they will do a far better job. He stated that most of the studies regarding E-coli have never been proven if it was human or animal feces. In Lake Freeman, local hog farmers were blamed for polluting the lake, and it was actually local septic systems.

**Terris Ayres, 1415 E 400 S, Bringham, Indiana**, stated that he recently sold his home a mile west of Fairmount. He stated that the County can benefit from the dairy, with every dollar generated equals 2.96 dollars for the community. When the dairies come, industry follows. Mr. Ayres asked if Wal-Mart received tax abatement, and that they will have waste, odors, and increased truck traffic from that site. This is much like the CAFO, which is a factory farm.

Mr. Ayres stated that Johann Da Groot was picked on heavily, but that is one farm out of 3,096 in the State of Indiana. 1.3 percent of the dairy operations in Indiana are over 500 head, 47 percent are under 30 head, and is going down. He stated that Carroll County is being forward, and would like to see Grant County follow, in inviting operations in. He stated that in 2000, Carroll County was ranked number 8 in crops and livestock production, Grant County was ranked number 41, and Clinton County ranked highly in the top ten in past years, had fallen to less than top ten. This was because Clinton County put special exceptions on and changed regulations so they cannot in the operation in.

**Gary DeDecker, 5191 E 1200 S, Fairmount, Indiana**, stated that he runs a confined feeding hog operation. He stated that it is family run, and they are very careful on how they operate. He supports Eric Wright and Farm Bureau on setting up a study committee. Mr. DeDecker stated that everyone is worried about the tax base being hurt, they are wrong. He pays \$5,000/year on hog barn and \$5000/year for utilities, and \$4000/year on insurance. You follow IDEM's regulation, and don't mess up. Mr. DeDecker stated they are very careful how they apply manure, which they knife in. There are standard on how much manure can be put on, and what the crop can use.

Mr. DeDecker stated there were wells in his area, and they haven't had any problems. He has a monitoring well down beside the pit, which is cement encased. Regarding E-coli, it is proven fact that it

is coming from homes in the country that the septic systems have been there for forty years, and are leaking out and causing problems.

Mr. DeDecker was asked if his pit was clay lined, he responded that it was cement.

Dick Treon asked why they use different operation between cattle and hogs. Mr. DeDecker answered that cattle industry uses so much more water, than hogs.

Dick Treon asked if it was safe to say that the regulations should say that a cattle operation have a concrete lagoon. Mr. DeDecker stated IDEM determined that, and an engineer should determine.

Keith Roorbach asked how often an IDEM inspector is seen. Mr. DeDecker stated that in the seven years he has had his operation, he has only seen an inspector three times, but your bookwork has to be right.

**Cecelia Conway, 7018 Coyster, Toledo, Ohio**, stated that she commends those of the board, those Commissioners and those neighbors that went on the tour, and gained first hand view of a dairy facility, and see first hand how they are operated. She asked those who have not toured a facility, to tour one. She stated that the dairy industry is the most regulated industry in the United States. They have to follow the rule of IDEM, EPA, and the Department of Animal Health. The facilities are built to contain all contaminated storm water, and are held to a higher regulation than some municipalities. They are not allowed to discharge off the site.

Ms. Conway stated they are looking at new technology to minimize the discomfort to their neighbors, by going through a manure separation process. They are going through the IDEM process, and made application in April. They are going through what laws are in place currently. They engage an engineering firm before they submit an application. IDEM has the professional staff to review, and they are to build what IDEM requires of them.

Ms. Conway stated that they not only work with Dutch farmers, but also are approached by American farmers that want to expand their dairy facilities. She also mentioned that she is a partner in the Vreba-Hoff firm.

Myron Brankle asked about contacting neighbors. Ms. Conway stated that some of the partners involved in the project contacted some of the neighbors, and she didn't know which ones.

Ms. Conway was asked if she supported the Commissioners resolution, and she replied no she did not.

**Jeff Powers, 6657 Frank Avenue NW, Suite 200, North Canton, Ohio**, stated that he is with Northpoint Engineering. He stated that he is a registered professional engineer, and has experience in environmental and civil engineering projects including agricultural. He has designed Municipal wastewater treatment, individual septic systems, and wastewater holding ponds for agriculture industry. Dairy farms are the most regulated of what he has designed. Sighting requirements are the most extensive, geological investigations have to be performed prior to considering a site.

Mr. Powers stated that as a registered professional engineer he is personally liable if waste containment structure fails. He challenged any one with the credentials of a registered professional engineer to review his designs and come up with something better. He stated that new technologies are nice, but if you have an old technology that works use it. Simple is best if it works and this does.

Mr. Powers stated that they have looked at DNR's databases regarding the oil and gas wells and have put the potential locations on a site map with locations of containment structures and building are to be located. They have gone to the site with magnetometers, which are metal detectors, and have had two hits. They do not know what they are, but will use a GPS unit to locate them. If there are wells, strict abandonment procedures set forth by the Department of Natural Resources will be implemented. If the well casings have been removed, he had no idea where the wells could be. But, the liner system of thick clay over the existing clay, and the compaction procedures through good engineering design, all potential problems will be relieved.

Tanya went through the proposed amendments to the zoning ordinance. This is what we have proposed from the authorized use table:

- 1) Delete by right the Farm, Confinement less than 10 acres and Farm, Confinement more than 10 acres under the AG zoning.
  - a) Add a Special Exception to the Farm, Confinement less than 10 acres and Farm, Confinement more than 10 acres under the AG zoning.
- 2) Delete by right the Farm, Confinement less than 10 acres and Farm, Confinement more than 10 acres under the RS zoning.
  - a) Add a Special Exception to the Farm, Confinement less than 10 acres and Farm, Confinement more than 10 acres under the RS zoning.

Dick Treon asked if the regulations being proposed would be handled by BZA. Tanya stated that the Board of Zoning Appeals would handle the Special Exceptions. Dick Treon asked if they didn't have a Special Exception, Tanya replied they wouldn't go to the BZA.

Dick Treon stated that the decision-making would go from a group of thirteen to a group of five. Tanya responded by saying that with the current project they are going into an AG zoning, so they would not go before the APC. However, Les Boles was zoned Residential Suburban and with what he was going to be doing he was more than 10 acres, so he had to rezone. They don't necessarily come before you every time right now, but with a Special Exception, it would go in front of the Board of Zoning Appeals every time.

Adding under Section 17.14 required setbacks for and from confined feeding uses that a public/private school, church, public park or building owned by a political subdivision which is open to the public may not be located closer than 1000 feet to an existing feeding operation. The ordinance currently states that a CFO could not locate within 1000 feet of the uses, which is reciprocal.

In Chapter 17 of the Zoning Ordinance, Section 17.19 Development in Agricultural Zoning and Residential Suburban Zoning would be created as a notice of agricultural activity clause or disclaimer, which would be signed if you were in the AG or residential zoning, this was submitted for consideration by Farm Bureau. This offers a certain amount of protection to both, people wanting to move in and existing farm operations.

Bob Highley questioned who is required to submit this, because it says any development occurring in Ag zoning or residential suburban zoning.

Tanya Ford replied when they come in to get their building permit, they would sign this saying they are aware they are going in Ag zoning and there would be Ag activity.

Bob Highley questioned whether they were building a home in residential suburban or putting in a CFO.

Tanya Ford stated that if you're putting in a CFO you would know that, but yes they would sign that as well.

Chapter 20 Authorized Use Table, adding a zoning classification AG-2 zoning district, which would be defined as intense agricultural use and would allow certain uses by right. It would not allow it would not allow any special exception uses, and the uses allowed would be animal and fowl – non farm breeding and raising; commercial fishing, hunting, and trapping; farm confinement less than ten acres; farm confinement more than ten acres; hay, grain, and feed stores; kennel and a sales barn for livestock resale. A created AG zoning district would require a rezoning, and go before the Plan Commission Board.

Tanya Ford stated that these are the proposed amendments that have been composed for you, and it was never the intention that you would vote on it tonight, as was stated at the beginning of the meeting, it was simple composed for your consideration to promote discussion and questions amongst the board and then obviously between now and the July meeting to give you a chance to investigate. Since then the Commissioners have believe suggested something slightly different, which need to be taken into consideration.

Dick Treon stated that after what we've heard this evening that maybe the Commissioner would want to withdraw their request and absorb some of this information. Inaudible comments. Tanya Ford stated that we were here for the ordinance amendment too. Inaudible comments. Tanya Ford stated that she wasn't planning on leaving, and that she was only presenting the ordinance amendments, so you know what those are to finish up the public input, definitely not for getting about the cessation of permits. Myron Brankle said we're not going to vote on it right now. Tanya Ford replied you were not intended to vote on it tonight, definitely not.

Inaudible comments. Jeremy Diller stating there is no reason why they would withdraw anything at this point and time. We had made a recommendation to the board, and if you want to take that under advisement, Tanya add some of her own amendments to it, they were not ours. She added some of the other ones. You take under advisement, and vote on it in July. We have requested the cessation of permits, and have requested you vote on it tonight. Tanya Ford stated that she wanted them to consider Eric's proposal as well.

Tony Manry stated that when we started this we were going to go through and finish up on the amendments, before we do the cessation. Keith Roorbach said we tabled that. Tony Manry stated that we tabled the cessation that was what your motion was on right to table the cessation and go on with the amendments? John Bonham replied with yes. Tony Manry stated that is where we're at right now still on the amendments. Myron Brankle asked if it was Mr. Bardsley's amendments. Tanya Ford responded that these are just amendments, this is just proposed amendments, this is not set in stone, this does not mean this is the only thing that can happen, this is base on their resolution and the information we had. Inaudible comments. Tanya Ford said that's where we've always been, yes. Tony Manry said that we haven't left there, yet. Tanya Ford stated that this is a proposal, you were never expected to vote on these tonight, and we stated that in the beginning. They requested that you consider amendments we came up with proposals for amendments, never expected to vote on them, it gives you something to look at, you've listened to all this input and you go from there.

**Mark Bardsley made the motion to consider the formation of a confined feeding operation ordinance committee, comprised of the Area Plan Director as ex officio and non-voting member, three members of the Area Plan, one County Commissioner, one County Council member, one member of the livestock farming community, one member of the produce farming community, and two citizens who are concerned with this ordinance and the last four individuals to be appointed by the Area Plan. The committee would study and recommend language and amend and/or replace the current CFO ordinance and at an Area Plan meeting, on or before the 6 month required deadline to report back and to present us with an ordinance to vote on. Myron Brankle seconded.**

Dick Treon stated that he would like to see the motion verbatim of what Mr. Wright proposed. Mr. Bardsley state the intent was to encompass all questioned areas, and to have the committee to bring it back to us for consideration. Inaudible comments. Tony Manry stated that he would personally like to see the Area Plan Executive Committee to meet on this before anything is done with it, about what the committees going to be who it's going to hold. Myron Brankle asked if Eric Wright's proposal to be brought up and discussed. Tony Manry replied no. Inaudible comments. Tanya Ford stated the ordinance amendments proposal. Tony Manry said not this part that is different. Mark Bardsley said that there is a motion we support on the floor, Mr. President. Tanya Ford requested clarification on the livestock and the crop, who would appoint them. Mr. Bardsley replied the Area Plan, those last four livestock, produce and two citizens. John Bonham requested a stronger timetable, instead of just the six months, but didn't know what was realistic, because sometimes the wheels of government turn slowly, but sometimes if we put the priority in the right place we can get it done in a timely fashion. I think that address some of the concerns of Mr. Boles, and we were looking to going out six months and he hasn't applied. I would think three or four months wouldn't be unreasonable. Bob Highley stated that he would be amiable to 90 days. Tony Manry said OK. Inaudible comments.

John Bonham commented that he appreciated the overall attitude that's been here tonight, we have something here that people feel deeply about emotionally, and I appreciate the ambition to go to the facts and do our homework. We were talking about some of these amendments, and Tanya, you said they were given to us tonight and we weren't going to vote on them because we need to digest it. Your information you gave to us tonight was just as well. I will say personally, I could not vote on that tonight, I need time to digest it, and I think the council does. I do think everybody here is concerned for doing it right, and I think there are good points that have been brought out that need to be considered. I think the way we go forward is by respecting each other, and looking to the fact, and see how we can do it right.

Inaudible comments.

Bob Highley asked for Mr. Bardsley to reread his motion slowly, to make sure we absorb it.

**Mark Bardsley made the motion to consider the formation of a confined feeding operation ordinance committee, comprised of the Area Plan Director as ex officio and non-voting member, three members of the Area Plan, one County Commissioner, one County Council member, one member of the livestock farming community, one member of the produce farming community, and two citizens who are concerned with this ordinance and the last four individuals to be appointed by the Area Plan. The committee would study and recommend language and amend and/or replace the current CFO ordinance and at an Area Plan meeting, on or before the 90 days required deadline to report back and to present us with an ordinance to vote on. Myron Brankle seconded. All members present voted aye, except Tony Manry. Motion carried.**

Tanya Ford reminded the board that the cessation of permits were tabled and need to possibly vote on that.

**John Bonham moved to untable the cessation of permits. Keith Roorbach seconded. All members present voted aye; motion carried.**

**John Bonham moved to have a cessation of CFO & CAFO permits, which would coincide with the study done with the committee that will ask for three months.**

Jeremy Diller said that wasn't what they recommended. They recommended it be until the Commissioners of Grant County had an opportunity to act on the recommendations of the Area Plan Commission in regards to possible changes, this is just a clarification. John Bonham said that he was hoping, that working together, whether we need to add another few weeks that if we are going to do this in three months, your going to need to be involved in that process.

Jeremy Diller said that he was very concerned about three months, can it get done in three months. He said he's not optimistic that going to happen. Want to be able to appoint enough people to be on that board in three months and to get done what needs to be done. I'm very skeptical of that timeframe.

John Bonham asked if he was looking for the full six months. Jeremy Diller stated he was looking not for up to six, but if it can be done sooner, then have it be done sooner. He said he didn't think its smart to rush through this thing, either.

Keith Roorbach stated that some time needed to be included, after the committee submits their findings to the Commissioners and give them time to digest what we've done and maybe revisit back to us with suggestions okay and not okay.

John Bonham said that if we accept it, that his concern is that we can move too fast and we can move too slow. He said that if we leave it up to six months, my experience is limited as it is with government, sometimes we take the whole six months, I'm just concerned that if we can speed it up at all, and that our

goal and we can trust each other to that, I have no problem. But, if we're going to say we're going to do it sooner, if possible, I could live with that. I'm just cautious of leaving the six months as the figure we put out there.

Jeremy Diller said that Mark in his original motion stated six months or sooner. I'm concerned if there are going to be major changes to this ordinance; are we going to have long enough time to really evaluate that. Jeremy stated that he has a budget he has to submit, and certified in September.

John Bonham requested, as a taxpayer, he understands all things are there, and we will do are best to do it sooner, instead of later, and we'll do a due diligence on it I can accept that. So, I can go back to your original one if we're making a commitment tonight to do it that way.

Bob Highley asked a question about the previous motion that was passed, regarding the time limit of 90 days, and was clarifying that Jeremy was asking that the current motion on cessation have a time limit ending after the Commissioners have had time to meet.

Jeremy Diller stated that he didn't whole heartedly agree with the 90 days, but if your going to go that route don't link us to that 90 days as well, because we won't have time to review it within that 90 day frame. I think it's important to take a hard look at this. Bob Highley asked your proposal ended by stating what.

Jeremy Diller stated the County Commissioners would request that the Grant County Area Plan Commission not grant a permit as defined under IC Code to any operation planning to operate a confined feeding operation in an agricultural zoned area, until the Commissioners of Grant County, Indiana have had an opportunity to act on the recommendations of the Area Plan Commission.

Bob Highley clarified that it was until Commissioners had a chance to act on recommendations.

**John Bonham moved to have a cessation of CFO & CAFO permits, which would coincide with the study done with the committee for 90 days.**

**John Bonham amended the motion to have a cessation of issuance of permit for CFO & CAFO for a period of six months or less. Mark Bardsley seconded. All members present voted aye; except for Tony Manry and John Woodmansee. Motion carried.**

Eric Walts thanked that board and said they looked forward to working with the board as they draft a proposal and ordinances.

Due to a loud hum on the tape the rest of the meeting is inaudible.

Meeting adjourned at 10:44 pm.

#### **OTHER BUSINESS:**

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**Tony Manry, President**