

**REGULAR MEETING MINUTES
AREA PLAN COMMISSION
January 10, 2011**

THE REGULAR MEETING OF THE AREA PLAN COMMISSION OF GRANT COUNTY was held on Monday, January 10, 2011 at 7:00 PM in a regularly scheduled meeting on the first floor of the Grant County Office Complex at 401 South Adams Street, Marion, Indiana. Members present:, Bob Bothwell, Myron Brankle, Chuck Briede, Mike Burton, Rob Couse, Jim McWhirt, Tony Manry, Bob Monroe, Dick Trobridge, Kim Windle, John Woodmansee and John Bonham, President. Staff present: Recording Secretary Debbie Wallace, Brenda Harrison and APC attorney Bruce Elliott.

John Bonham brought the meeting to order with the Pledge of Allegiance.

Tony Manry moved Dick Trobridge seconded to approve the minutes from October 4, 2010 meeting. All members present voted yes; motion carried.

John Bonham announced that Ken Ellis, Executive Director resigned effective January 1, 2011.

Election of officers:

President:

Dick Trobridge nominated John Bonham for President; Bob Monroe seconded. No other nominations made; motion to close nominations made by Dick Trobridge seconded by Myron Brankle, closed. All members present voted yes; motion carried.

Vice-President:

Dick Trobridge nominated Tony Manry for Vice-President; Bob Monroe seconded. No other nominations made; motion to close nominations made by Dick Trobridge seconded by Myron Brankle, closed. All members present voted yes; motion carried.

Docket: 01AFO-11(Public Hearing)

Name: Chris Duckwall

Address: 7554 E 600 N, Van Buren

Zoning District: Agricultural

Legal Description: Being 100 acres more or less and located in the Northeast Quarter of Section 08 in Van Buren Township

Request: To allow an animal feeding operation

Mike Veenhuizen, Livestock Engineering Solutions, representing Chris Duckwall was present. This is an expansion of an existing AFO operation; two new buildings are being proposed; each would hold 4000 head of grow to finish pigs. The site will be a 9000 head pig production site after completion of construction of the two new buildings. They have received approval from IDEM for these two buildings. The existing building holds 1000 head with an earthen storage basin. The new buildings will be located to the west of existing building and will be using an existing access drive off of 600 N. The new buildings will have a below building concrete manure storage of about eight feet. Each of the buildings will produce about 1.2 million gallons of manure per year; in addition to existing facilities there is a predicted potential of another 2 - 2.4 million gallons of manure; stored in the below building concrete tanks they will not be exposed to the elements; reduces the exposure to rainfall, precipitation. The tanks of the two buildings will provide about 370 days of storage; there is roughly a one year storage window that allows them to wait till more ideal conditions for manure application. Typically with Mr.

Duckwall's grain operation he would land apply once or twice a year prior to planting and then depending on crop rotation apply after harvest. Typical land application method would be by incorporation or injection; under certain circumstances would he do anything beside incorporate or inject. The advantage to that is he is able to conserve the nutrient values of the manure; and able to minimize the potential for run off and control emissions or odor that may be generated from land applications activities. The application was filed with IDEM in November of 2006; in December 2006 a request was made for an administrative review of IDEM's approval. The permit from IDEM is still valid. A new opportunity was presented to Chris that required a facility change notice; it is still an 8000 head expansion but the building design changed originally the buildings were going to be 81'10" by 413'; now they will be 101'10" by 341'. There was a basic change in the ventilation system and penning; instead of being four rooms it will now be two rooms with end to end ventilation. The buildings will be separated by 130 feet instead of the original 400 foot separation required before. This was acknowledged and approved by IDEM on November 23, 2010. The development plan submission provided is in compliance with Area Plan's development plan requirements. It is planned that some type of a mechanical composter will be used. Two possible composters both shorten the process; improves the break down and have smaller particle size; when land applied less of a risk of incompletely broken down bones getting into fields. Mr. Duckwall has twice the amount of land required for land application areas to manage the manure. The Grant County Drainage Board was contacted; there is a letter in the file from the Drainage Board stating they have no objections to the expansion. The Rule 5 compliance is currently being prepared; in process of developing the plan to be submitted to the local SWCD for review and approval. Will work with them to make sure all local and state requirements are met. On the state level the Rule 5 plan is required to be complete 48 hours prior to beginning construction. The odor abatement plan, the vent is designed to control moisture, dust and contaminates in the air. The landscape will re-establish vegetative growth (grass). The feed, pig deliveries and load out semis traffic will be confined to actual onsite; no one will back out onto or turn around on the roads. There are two abandoned wells on site that are capped off. One is located 75' to 100' north of the existing building west of driveway. The other well is half way between the residence on site and the first proposed building they have been closed and certified by IDEM as properly closed and maintained. The 100-year flood plain is not located on this property. All setbacks are met per the ordinance.

Tony Manry stated that the operation does not meet the two mile setback from Weaver's (food processing plant); it is setup under grandfathering so no variance or anything is required.

John Bonham stated the when the AFO ordinance was drafted it is designed to address new facilities only; it does not speak to existing facilities as they expand. It is the same owner and same footprint as what is proposed. Part of the staff recommendation's report is the State's view of grandfathering to an existing facility and existing footprint. The new facilities being proposed are no closer to Weaver then the existing facility.

Board Member questions and concerns are:

Any plans to upgrade existing building and lagoon;

Any opposition filed against existing operation;

If odor reached Weaver Popcorn, does Mr. Duckwall carry insurance to cover any claims

Concerned with odor process

Are the two lagoons going to be connected to hold overflow

Bonham stated that the process tonight is to vote on the preliminary development plan; final approval will be at the next meeting. Approval tonight would mean the application has met all of the requirements.

Proof of publication is in the file.

Objectors: Two people came into the office and looked through the file; received one phone call about the procedure for this petition.

Barbara Denhen, 5835 N 800 E, Van Buren, IN – had four pictures to show Duckwall pumping manure without injecting; and has a report from the CDC.

Bonham submit pictures and reports to APC office and they will pass out to the Board members to review.

Denhen - she filed the original complaint against the existing operation when it began in 1996, then was convinced to withdraw it. Ms. Denhen feels that a CAFO devalues neighboring property; impacts negatively to be able to enjoy their property outdoors. They have lived in their home since 1994. According to the report from the Center for Disease Control (CDC) odors from pig barns can be smelled up to five miles away. She has concerns about water pollution; the City of Marion has wells in area; wants to know who is responsible for testing and monitoring household and well water, how often and how soon will people be notified if there is a problem. If there is a contamination, whether accidental or by negligence, would that drive away a long time business in Grant County? Mr. Duckwall does not own the hogs; any profit would go to out of state owners; who would be responsible for the wear and tear to the county roads. Strongly request that this request is denied.

Monroe questioned Ms. Denhen if the area was farm ground and if this was an existing hog operation when she moved there. He meets all the requirements.

Denhen stated that it was farm land but the hog operation started after she moved there.

No other comments from the public or questions from the board. Action tonight will be to approve the preliminary plan with the final approval to be held in February or March.

Bothwell questioned in regard to the separation distance of 1.4 miles instead of the 2 mile from Weavers' is grandfathered and therefore should not be considered with this application.

Bruce Elliott drafted a legal opinion in 2006 for the Area Plan Department on the issue; based on case laws and statues in the area his belief should an expansive be requested it would be treated as grandfathered in. You have an existing animal feeding operation and this is just an expansion of existing operation; for that reason and based on the right to farm laws, if this should be appealed down the line it would be grandfathered in.

Denhen questioned if grandfathering could be challenged.

Bothwell questioned if anyone objecting to the expansion would have the right to appeal

Elliott stated that if at the next hearing the final is accepted there is a process they can file to appeal, somewhat similar to what happened earlier with the state. The environmental law judge determined that Mr. Duckwall met all requirements for the state of Indiana.

Denhen questioned if since the grandfathering is an opinion can it be challenged

Elliott stated that she would need to consult an attorney.

Motion: Chuck Briede moved Rob Couse seconded to approve the preliminary development plan for Docket #01AFO-11. All members present voted yes, except Bob Bothwell, Myron Brankle and Mike Burton they voted no; vote 9 -3, motion carried.

Executive Director's opening has been posted with Ball State, Indiana APA, and University of Illinois. APC is on the County Council's January 19th agenda to receive approval to fill the Director's position.

John Bonham stated that a meeting of the Executive Committee will be held at the conclusion of the APC meeting to discuss appointing an interim director.

Jim McWhirt stated that the letter to the County Council will need to be revised to include a request to appoint an interim director until the director's position is filled.

John Bonham stated that at this point the Area Plan Executive Committee will meet after the regularly scheduled Plan Commission meeting. The Committee will meet only as needed.

There being no other business meeting adjourned at 9:00 pm

John Bonham, GCAPC President