

**DELAWARE-MUNCIE METROPOLITAN PLAN COMMISSION
OCTOBER 2018 REGULAR MONTHLY MEETING
AGENDA**

DATE: October 4, 2018

PLACE: Commissioner's Court Room
3rd Floor, Delaware County
Building

TIME: 6:00 P.M.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

Kathy Carey
Jerry Dishman
Shannon Henry

Andrew Ellis
Teresa Hensley
Jesse Landess
Michael Mueller

Rickie Sipe
Nathan Vannatter

Advisory Members

Duke Campbell

Mark Carter

Tom Borchers

MINUTES: Consideration of the September 6, 2018 regular monthly meeting minutes.

UNFINISHED BUSINESS:

MPC 03-18A Jurisdiction: County Commissioners

Being a continuation of a public hearing on the matter of a proposed amendment to the text of the Delaware County Comprehensive Zoning Ordinance regarding confined feeding operations and concentrated animal feeding operations.

LEGISLATIVE ACTION:

REPORT FROM DIRECTOR:

ADJOURNMENT:

**DELAWARE-MUNCIE METROPOLITAN PLAN COMMISSION
OCTOBER 2018 REGULAR MONTHLY MEETING
MINUTES**

The Delaware-Muncie Metropolitan Plan Commission held its regular monthly meeting on Thursday, October 4, 2018 at 6:00 P.M., in the Commissioner's Court Room of the Delaware County Building, Muncie, Indiana. President Andrew Ellis called the meeting to order.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

Ms. Moody called roll and the following members were present: Mr. Carter, Mr. Dishman, Mr. Ellis, Mr. Henry, Mr. Landess, Ms. Sipe, and Mr. Vannatter. Absent: Mr. Borchers, Mr. Campbell, Ms. Carey, Ms. Hensley, and Mr. Mueller. Also present: Megan Quirk, attorney for the Board.

MINUTES:

Mr. Henry made a motion to approve the September 2018 regular monthly meeting minutes. Ms. Sipe seconded the motion. Voting in favor: Mr. Dishman, Mr. Ellis, Mr. Henry, Ms. Sipe, and Mr. Vannatter. Voting against: none. Abstaining: Mr. Landess. Motion carried, September 2018 minutes approved.

UNFINISHED BUSINESS:

MPC 03-18A Jurisdiction: County Commissioners

Being a continuation of a public hearing on the matter of a proposed amendment to the text of the Delaware County Comprehensive Zoning Ordinance regarding confined feeding operations and concentrated animal feeding operations.

Ms. Moody presented handouts summarizing the final recommendations for the amendments to the Delaware County Comprehensive Zoning Ordinance regarding CFOs and CAFOs. She stated that in May the Plan Commission had formed a working committee with 7 members and Sherry Riggan as the liaison for the County Commissioners. She stated that they had several meetings with a lot of information discussed and some of those members are present this evening. She stated that the final recommendation was not supported by 2 of the members but was supported by 5 of the members; a few members who still have concerns supported it reluctantly. She stated that several compromises were made and no one being happy may reflect a balance to the recommendations.

Ms. Moody stated that one of the first things that the committee started with was the minimum IDEM setback requirements that included 1000' from public water supply wells and intake structures, 300' from surface water like inlets and off site wells, and 100' from on site wells,

property lines and roads, and 400' from a residence and public buildings. She stated that they felt those were the minimum. She stated that they looked at ½ mile buffer for CFOs and 1 mile for CAFOs. She stated that they graphed those buffers and the 1 mile buffer basically wiped out every location in the county which the majority of the committee agreed would not work so they continued to try and find a balance between IDEM and the 1 mile buffer.

Ms. Moody stated that they looked at population density per square mile in Delaware County. She explained that after subtracting the cities and towns there were 81 people per square mile in the rural non-incorporated areas which was an average of 32 houses per square mile; this number was then divided in half to get the more rural areas with 16 houses and approximately 40 people per square mile. She stated that the committee considered that to be rural. She stated that the committee then looked at the counties in Indiana that were very rural and the ones that had similar overall densities to Delaware County. She stated at that point they created definitions for what they called the Rural Agricultural Areas which would be areas with 32 or fewer dwelling units in a circular square mile area which can be determined using GIS technology.

Ms. Moody stated that the Rural Agricultural Area would be divided into a Level 1 area consisting of 16 or fewer dwelling units in a circular square mile and a Level 2 area with 17-32 dwelling units in that circular square mile, and that those areas with 33 or more dwellings would be defined as Rural Residential Areas. She stated that CFOs and CAFOs in Level 1 and Level 2 areas would be a permitted use and in the Rural Residential Area it would be a special use to go to the Plan Commission and Board of Zoning Appeals for approval. She stated that any proposed site would need to be in the F Farming Zone and would then be looked at to determine what level it was and how to proceed from that point.

Ms. Moody stated that they also looked at the counties with similar densities to see what they used as setbacks to a residence, church, school, property lines, and lot sizes or if it was considered a special use or permitted use, and that found that to be very mixed. She stated that the Summary Report shows setbacks in counties similar to Delaware County; the median setback from a residence was 900' and the mean was 941'. She reviewed the setbacks recommended by the committee for the Level 1, Level 2, and Rural Residential Areas. She stated that the environmental feature setbacks show those distances for lagoon and non-lagoon type operations. She stated that a lot of problems stem from lagoon systems because they are open to the weather and can overflow, for those reasons the setbacks are much greater for lagoon systems. She stated that any CFO or CAFO would need to have a manure management solution that was not a lagoon. She stated that this was the basic report of the committee's work; 5 members support the proposed ordinance, a few with major reservations, and others that did not support it. Ms. Moody stated she would be happy to answer any questions.

Linda Hanson, 1400 W. North St., Muncie, Indiana, spokesperson for The League of Women Voters of Muncie-Delaware County, appeared. She stated that they would like to thank the Commissioners for placing a moratorium to allow time for an ordinance to be drafted. She stated that she had witnessed the committee at work and acknowledges that it was a difficult job. She stated that in the draft a special use would only be applied to the Rural Residential Area and The League requests that all CFOs/CAFOs be considered a special use since not all sites are the same. She stated that a special use would go through the Board of Zoning Appeals for public

notice, hearing and written findings and would provide structural protection for current landowners and CFO/CAFO developers. She stated that for the benefit for all Delaware County residence, urban and rural, we need an ordinance that recognizes the reality of industrial livestock farming.

Jennifer Irving, 20200 N. CR 100W, Muncie, Indiana, appeared. She stated that she was a member of the committee and thanked everyone who was a part of that group. She stated that she hesitantly supported this because it was very hard to compromise and overall many things were addressed in a manner that was good for public policy. She stated that she had concerns with the density number of 16 which she felt was too high and that the density number does not tell you if those are homes right across from an operation or scattered. She stated that her other concern was that setbacks could have been greater. She stated that overall in the time that was given, and with the diverse committee, that they did the best they could.

Justin Arnold, 7405 N. Buddy Dr., Muncie, Indiana, appeared. He stated that he wanted to better understand the Rural Agriculture Level 2. He asked that if once someone submitted a permit would someone come out and check the circular square mile and if they were found to have more than 30 residence would it be changed to Rural Residential Area.

Ms. Moody indicated yes.

Tonya Evans, 2250 W. CR 1270N, Muncie, Indiana, appeared. She stated that she was confused by the map because she does not believe it portrays her area accurately as a Level 2 area. She asked if this included the homes in Blackford County or just Delaware County. She stated she also has concerns with the setback being from her structure and not from her property line for the production area. She stated that an ordinance is for the health and safety of the citizens and that these operations produce toxic molecules and with the use of industrial fans they would be pushed towards her home. She stated that she does not have an issue with CAFOs but she has an issue with the things that come from CAFOs that cause health and environmental problems. She stated that she was just trying to protect her property rights, human rights, and environmental rights and this operation being so close to her property was a concern.

Ms. Moody stated that when a property was at a county boundary, the residences in the neighboring county are included in the circular square mile. She stated that there was also a reciprocal setback meaning that the setback for a CFO/CAFO would be protected until they develop and if someone wanted to build a house closer they could do so if they sign a waiver and acknowledge the CFO/CAFO use. She stated that the ordinance does include a requirement for a shelter belt for CAFOs which is a way to capture dust particles to help dilute the odor carrying particles.

Kathy Chambers, 3601 W. CR 1270N, Muncie, Indiana, appeared. She stated that the elevation of the proposed site was at 900', nearby Lake Mohee was at 878', and her home was at 873'. She stated that she experiences flooding and this year was one of the worst due to run-off from the higher elevated property. She stated that her well and under her house were flooded by water which runs to the creek nearby and that the Mississinewa was also very close. She stated that she had concerns about the volume of water that can't be controlled because it would cause

pollution to wells, Lake Mohee and the Mississinewa. She stated that the setbacks are not great enough to protect herself and her neighbors and that each site needs to be evaluated individually to look at elevations, soil types, and other features.

Justin Arnold, 7405 N. Buddy Dr., Muncie, Indiana, appeared. He asked if there were any provisions within the circular mile that would make a site ineligible.

Ms. Moody stated that every site is reviewed to make sure that they meet the requirements in the ordinance and that any area in the Rural Residential Area would have to go to the Board of Zoning Appeals for a specific site review.

Mr. Arnold asked if that means there was no provision for a certain amount of residents in an area to exclude a site.

Ms. Moody stated that the setbacks from a house and the number of houses in an area would exclude a site.

Laura Hernandez, 5109 W. Preakness Ct., Muncie, Indiana, appeared. She asked how many of the surrounding properties of the proposed CAFO were in a floodplain and how that would affect a site being approved.

Ms. Moody stated that the floodplains were determined by FEMA and the Indiana Department of Natural Resources and that our GIS shows those areas. She stated that IDEM would allow a CFO to be in the floodplain if they were 2' above base flood elevation and protected. She stated that the ordinance includes a setback of 300' from the boundary of the 100 year floodplain and even greater for a lagoon.

Ms. Hernandez asked if the proposed site had been checked.

Ms. Moody stated yes, and that no surrounding properties were in the floodplain.

Madison Arnold, 7405 N. Buddy Dr., Muncie, Indiana, appeared. She stated that as a young resident and homeowner of Delaware County she had concerns about her future in the community. She stated that this would allow a proposed CAFO to hold up a homeowner from building in a rural area and that did not seem fair for both parties. She stated that a rural community was not just farming, that there were venues and other businesses, and even though these are great efforts, more needs to be done. She stated that we are headed in the right direction but feels this should be a special permit.

Joe Russell, 3501 E. CR 700N, Eaton, Indiana appeared. He stated that he served on the committee and that he and Eugene Whitehead were the two members that voted no to the proposal. He stated that even though it identifies areas that would be suitable, it was not supportive of animal agriculture and that if we are going to be supportive of agriculture there needed to be places for that to happen. He stated that if a farmer decided to expand to include livestock the chances were small that that would be in one of those areas. He stated that IDEM and the State Chemist regulate around 1800 CFOs/CAFOs in Indiana and they do a pretty good

job. He stated that there were 4 in Delaware County and most people don't even know where they are; Jay County has 110 and they have three times the agricultural revenue as Delaware County because of the livestock. He stated that he has respect for IDEM and the work that they do. He stated that one of the presenters from Purdue mentioned that a study shows the air quality from inside a house ¼ mile from a CAFO was slightly worse than outside the CAFO itself. He stated that there were certain days that odors would be noticeable from a CAFO and that should be expected as part of county living which was stated in the Right to Farm Act. He stated that he had concerns about sending a special use to the BZA to be decided by a group that has less practical knowledge about production agriculture; this was the case with the committee, so some of the decisions became more emotionally based. He stated that he felt this was a step backwards for agriculture and destined Delaware County to be under serving as just a grain producing county.

Mr. Landess asked if Mr. Russell if he could be more specific to the economic difference in dollars to the County.

Mr. Russell stated that compared to the 6 surrounding counties, Delaware County was usually last with \$111 million dollars in agriculture from grain and livestock; only \$9 million of which is from livestock. He stated that Jay County was in first place with \$336 million with \$249 million in livestock and that we were almost the same size as Jay County in tillable acres.

Mr. Arnold stated that the agriculture income was being talked about like it was the only thing that mattered. He stated that he wanted to know what kind of economic venues could be better funded.

Mr. Russell stated that it does create jobs and property taxes and our food needs to be produced somewhere and that animal production was the highest performing revenue for rural areas.

Mr. Arnold asked if the circular square mile would be calculated from the center of the build site.

Ms. Moody stated that it was calculated from the center of the production area.

Mr. Dishman stated he had no problem with a CAFO, he had a problem with the farmer that cuts corners and lets a lagoon run over and does not do what they are supposed to because paying a fine was cheaper than fixing the problem. He stated that better regulations needed to be looked at.

Mr. Russell stated that was not typical and we do not have lagoon systems today, instead they are pit systems that are pumped out and then injected into the ground.

Mr. Dishman stated he feels the problem is that the CAFOs don't do what they are supposed to.

Ms. Moody stated some do not. She stated that the committee visited Mauck Farms and that we have very good farmers in Delaware County.

Mr. Dishman stated that he was not saying anything about the farmers but the way the waste was being disposed of was not being done correctly.

Mr. Russell stated that there are bad apples sometimes.

Jennifer Irving, 2120 E. CR 100N, Eaton, Indiana, appeared. She stated that the committee did discuss the 6 counties that surround Delaware County and felt it was misleading to only mention Jay County because Madison County was a rural urban county and much closer in population to Delaware County. She stated that a way to preserve the farm ground would be to prohibit splits of 5 acres or less so people would not move to these areas. She stated that the committee had several presenters come to meetings including a pediatrician who spoke about the higher percentage of asthma in children and that several presenters supported larger setbacks. She stated that Delaware County does have many agricultural producers but the individuals that come in with the large productions push out the small farmer. She stated that if IDEM was perfect there would not be as many counties with ordinances regarding this type of operation.

Ms. Moody stated that a few phone calls had been received including Constance and Delbert Rahe stating they were against the ordinance because it was slanted towards big farming and does not represent small farmers and that there was too much repetition of the committee members, MaryAnn Rahe was against CAFOs and Donna Treloar was opposed to what she considered factory farming.

Tonya Evans, 2250 W. CR 1270N, Muncie, Indiana, appeared. She stated that she did not want to argue but it was unfair for Mr. Russell to talk about how wonderful a CAFO was for a community without addressing the negative as well. She stated that she had educated herself and if a CAFO goes in next door to her she could not live there. She stated that Jay County does have 110 CAFOs and they have created contamination. She stated that odors from our homes are not the same as what would come from the pits and if the fans fail it does not take long for animals to start dying. She stated that an ordinance was supposed to protect our resources for the future.

Mike Chalfant, 2800 W. CR 1200N, Muncie, Indiana, appeared. He stated that his 38 acre property touches the Light property and in 2009 their farm ground killed his 7 acre pond from insecticides. He stated that there would be odors and problems and that the Lights don't even live in Delaware County; if something happens to this property the county is left with the problems. He stated that this is Delaware County not Jay or Randolph County and we do not need to set our standards to someone else's.

Mr. Carter stated that he was one of the committee members that had reservations but he wanted to remind everyone that this ordinance was not directly about the Light operation but all proposed operations.

Mr. Henry made a motion to continue to the November 1, 2018 regular monthly meeting. Ms. Sipe seconded the motion. Voting in favor: Mr. Dishman, Mr. Ellis, Mr. Henry, Mr. Landess, Ms. Sipe, and Mr. Vannatter. Voting against: none. Motion carried, MPC 03-18A continued.

LEGISLATIVE ACTION:

Ms. Moody stated that the rezoning request filed by Key Enterprises Inc. that the Plan Commission favorably recommended had been adopted by City Council on September 10, 2018.

REPORT FROM DIRECTOR:

ADJOURNMENT:

Andrew Ellis, President

Marta Moody, Secretary