MINUTES OF MEETING OF
WASHINGTON COUNTY PLAN COMMISSION
Held January 15, 2013 at 7:00 p.m.
Council Chambers—City Hall Building

This public meeting was called to order by Attorney Thomas E. Scifres at 7:00 p.m. Attorney Thomas E. Scifres took roll, and those present were Jeff Souder, Phil Marshall, Adam Dufour, Danielle Walker, and David Hoar. Absent were Scott Maudlin, Jim Day, and Shawna Humphrey. This being the first meeting of the year, pursuant to Indiana statute, the Plan Commission is required to elect from its membership a President, Vice President, and Secretary. He then opened the floor for nominations. Jeff Souder made the motion that David Hoar be President, with Phil Marshall seconding that motion. With no further discussion or nominations, Jeff Souder made the motion that the nominations be closed with Adam Dufour seconding, the motion was passed by a vote of 5-0. David Hoar was unanimously elected President.

At this time David Hoar took control of the meeting and asked for nominations for Vice-President. Jeff Souder made the motion that Adam Dufour be Vice-President with Phil Marshall seconding that motion. With no further nominations or discussion, Jeff Souder asked that nominations be closed, Phil Marshall seconding that motion. The motion passed 5-0. Adam Dufour was then unanimously elected as Vice-President.

Next was the confirmation of legal counsel. Phil Marshall made the motion to retain Thomas E. Scifres as legal counsel for the Plan Commission, with Adam Dufour seconding said motion. Phil Marshall made the motion to close the nomination, with Adam Dufour seconding that motion. Said motion passed with a 5-0 vote to retain Thomas E. Scifres as legal counsel.

Confirmation of the Plan Director was discussed at this time. Adam Dufour made the motion to re-elect Travis Elliott as Plan Director, with Phil Marshall seconding that motion. With no further discussion to be had, on a 5-0 vote, Travis Elliott will remain as Plan Director.

Next was the setting of meeting schedule. David Hoar stated that the Commission had been meeting on the first Monday of every month except those dates that conflicted with a holiday or waiting for appointments to the Board by other Boards within the County. The Commission discussed any conflicts with the Monday meeting schedule. David Hoar suggested that the Commission meet every first Monday of the month except for September 2, 2013 which is Labor Day. The date that meeting would be changed to will need to be discussed after checking the availability of the meeting room. Adam Dufour made the motion for meetings to be held the first

Monday of each month with the exception of the September 2, 2013 date and will decide the re-setting of that meeting after availability has been discussed. Phil Marshall seconded that motion and it was opened for discussion. With further discussion a vote was taken. The motion passed 5-0.

Attorney Scifres added that nominating a Secretary was an optional decision. Attorney Scifres had always acted in that capacity and in his absence Plan Director, Travis Elliott, was fill in. Jeff Souder made the motion to continue having legal counsel act as the Secretary for the purpose of taking minutes, with Plan Director acting as Secretary in legal counsel's absence. Danielle Walker seconded that motion and it was then opened for discussion. With no further discuss the motion was taken to a vote. Said motion passed 5-0.

David Hoar then presented the Board with the minutes of the December 2012 meeting. Jeff Souder made the motion that those minutes be tabled until the February meeting, with Adam Dufour seconding. This motion passed 5-0.

President Hoar welcomed those present and offered opening remarks. The first order of business was a petition:

In response to petition filed by ten (10) petitioners regarding a facility to be built by Kevin Rose, it was discussed that said petition was not something the Plan Commission could act upon. The petition was then read aloud by David Hoar. Attorney Scifres stated that Washington County still has a CFO setback ordinance passed by the Commissioners prior to the organization of the Plan Commission, which was still in effect. David Hoar then asked that Plan Director Travis Elliott visit the property to see if the current 750 foot residential set-back ordinance was being observed.

The next order of business was a report of the Zoning Ordinance drafting committee. Keri Keller Steele provided with Commission with handouts for her update. The first discussion was the newest version of the proposed ordinance and the animal unit definition and the calculation table within in that version. Keri Keller Stelle stated that since the beginning of this the Commission was concerned with farms that were unregulated by the State and smaller farms that could pop-up without any kind of siting. The idea was to catch the smaller farms that could come in under any regulations. Animal units are established based upon the amount of waste produced per animal. David Hoar wanted to make sure that everyone knows that they are trying to be fair with adjusting the numbers for all animals.

Next Keri Keller Steele discussed other contents of the draft. She stated that "jurisdiction" of the proposed ordinance was described as everything in Washington County except for the City of Salem, the Town of Livonia, and the two (2) mile fringe around each. She presented zoning maps

which established only two zones: residential and agricultural. The areas for Salem and Livonia were classified as "Residential" for which no zoning regulations were being proposed. Everything else on the map would be an agriculture district. She noted that there were a couple of areas to be supplemented, but after all changes have been made, the draft ordinance will be posted and available to the public prior to the public hearing to be held on this ordinance.

David Hoar asked that they go over the section regarding developmental standards for CFO's. A CFO must have set-backs of: (a) 400 feet from an offsite residence or facility, (b) 3,960 feet (3/4 of a mile) from all schools, (c) 200' from the center of any County road, (d)and 200' from all property lines. Additionally, each facility must have a cul-de-sac turnaround, and access to a facility that does not abut to a public road may be provided access with a 50' wide access piece of land which would connect a public right-of-way to the facility property. This would prevent a landlocked owner getting permitted then not have a way to get out to a public road. Attorney Scifres questioned the wording of public right-way-way versus easement and the reality of any land lock situations given the law of easements by necessity. Additionally, for CFO's that are already constructed when this passes it would immediately become a nonconforming use. However, they may expand the operation provided they meet all of the items the above developmental standards for the expansion they may expand their operations. The application requirements included the presentation of a farm-site plan to the Plan Director and an application fee of $250.00.

Gary Barrigar, 1956 S. Conway Church Road, questioned the need for differing setbacks from schools versus residences. David Hoar explained that it was a common practice and the concept of differing between a residence and a school was developed by the Land Resource Counsel and several other sources. Mr. Barrigar still does not feel like he received the answer to his questions and the Commission offered to do further research and supplement the answer to his question.

Larry Lang, 78938 South State Road 135, stated that he felt that anybody who would pass the 400' set-back from a residence has not ever lived by one of these operations. He feels it needs to be at least a 1200' set-back from a residence. He has family members that live within 900' of chicken houses and half the time they cannot sit outside.

Jerry McKnight, 9304 E. Garrison Hollow Road, asked how many chicken houses and turkey houses there are in Washington County. There were no specific numbers to be reported by the Commission, as there is no reporting requirement outside of the state regulations. He asked if it was true that each house of poultry pay $5,000.00 in taxes. The Commission could also not confirm

that. David Hoar explained taxes are based on the assessed value just like any other property. Mr. McKnight stated his feeling that building a CFO is not respecting his rights to live there just as much as anyone else. He has 5-6 poultry houses near his residence. A few years ago a neighbor across the road was planning on putting in a poultry operation. That did not happen because the neighbor could not acquire the proper permitting for a right-of-way. Adam Dufour reported that his next door neighbor has 4 chicken houses, he has lived on the same road all of his life, and he knows how it is to live near these type of operation. President Hoar stated that he would try to get Mr. Lang an approximate number of poultry operations that are in Washington County. Keri Keller Steele stated that Washington County currently utilizes less than 2% of their available land for manure placement.

President Hoar stated that he owns a hog operation, lives 350' from that operation, and makes his living in the county. He emphasized that the purpose of the Plan Commission's ordinance is to strike a balance for everyone's rights. He also remarked that farming has changed and the farms of today do not look like the farms from 40 years ago. Fifty (50) years ago his grandfather raised hogs outside and he does not but the hogs were out on the property and they ran out on the ground and streams and that there was a lot of erosion caused by that and contamination in the streams. Now operations are different, as animals do not run near streams or open ground. However, the manure is applied according to nutrient management after soil testing.

Marilyn Keenan, 9128 E. State Road 160, and her concern is having to be allotted so much ground to turn trucks around at these facilities. She further says there are not supposed to be semi-trucks on State Road 160 and she has in the ditch twice when meeting trucks hauling chickens.

Phil Marshall stated that he was a newly appointed member of the Commission and asked about protections regarding manure. Adam Dufour explained that the manure could be sold and trucked to other locations and that one must be licensed by the State to spread manure. The Indiana State Chemist's Office is the authority to regulate the transport, storage, and placement of all fertilizer products, including manure. The Plan Commission would not be allowed to regulate manure distribution. If there was an environmental issue with a facility IDEM and/State Chemist Office would then come in and regulate cleanup. The owner of the facility would be responsible for clean-up.

Adam Dufour went on to explained how the current proposed set-back numbers were arrived at. It was after many hours of reviewing a map of the County and using computer generated maps to show what would work to still allow these facilities to be placed in the County.

Dusty Lewis, 9104 E. State Road 160, said she would like clarification on who can change the set-backs from residences. David Hoar explained the Plan Commission is the advisory to the Board of Commissioners and they will make a recommendation to the Commissioners and final adoption will be done by the Board of Commissioners. She then asked Adam Dufour and David Hoar if living close to CFO's bothered them, and if not, if they or anyone else on the Plan Commission should excuse themselves as prejudiced. Attorney Scifres stated that the reason the people on the Commission were appointed there was due to their various backgrounds and different perspectives. Her same argument could be made in the converse. That is, if there were no farmers on the Commission and only people who lived next to them were present, they too would be biased.

David Norton, 5434 N. State Road 39, stated that his position is that property rights should be respected, and a person would be free to do what they choose as long as they do not harm their neighbor. If you do harm your neighbor by doing something on your property then they should be able to go to Court and be made whole.

David Hoar answered a question from the public about the notice requirements for these facilities. He responded that if the facility was State permitted then notices were required to neighbors within ½ mile of the proposed facility.

Rhonda Greene spoke saying she liked the idea of ordinances better than zoning. She also does not like that the Plan Commission presents the draft for zoning to the Commissioners because they cannot control what is presented to them and if they cannot pass something they are off the hook. She also stated that the Commissioners could not fire members of the Plan Commission. Jeff Souder stated that he can be fired by a voting of the Commissioners and asked if the people in the audience were for ordinances or against them. Rhonda Greene stated she was not against zoning but she was not for it either but she did prefer ordinance to lay out the rules for citizens to follow.

Keri Keller Steele brought up a timeframe for public hearing to be had and notice to be sent out. David Hoar's preference was to take the draft document and digest it and allow the members that are absent to have time to review it also before scheduling the hearing at this time. She will make final corrections to the draft and e-mail it out to the members for review.

At this time, David Hoar asked that the people that were on the agenda be allowed to address the Commission.

Fred Schloemer, 9161 State Road 160 East, addressed the Commission at this time. He provided a packet of materials he would be discussing. He is a career health professional and works for Bureau of Health services in Kentucky. His attendance was to share some of the research and

literature that exists on negative health and environmental effects of CFO's. He began review of articles he had handed out in his packet. One article was by Purdue University regarding air pollution from CAFO's. The second article reviewed was published by the Agri-Business Accountability Initiative regarding air pollution, odors, water pollution, bacteria, and health problems for CAFO workers/owners/neighbors. Other articles about insects, composting, decreased property values and home sales, loss of tax revenues. He asked that the Commission read over the materials presented to them and work for stricter zoning laws in Washington County.

Gary Barrigar, 1956 S. Conway Church Road, stated that his neighbor is building turkey barns. He also passed put handouts. In the Comprehensive Plan the wording at the end states that circumstances change and the Plan should be modified to change along with them. He thinks that the items that have been identified for economic development are not necessarily the ones that will benefit the County the most. The statistics he speaks about came from the 2007 Ag Report. He looked at Washington County, and at that time Washington County had gross receipts of about $85,000,000.00 from agriculture. Approximately 2.7% of that remains with the farmers (about $26,000.00) so although there is a lot of dollar volume, there is not a lot that accrues to the farm community on average. From the article from the IU Kelley School of Business he discussed how Indiana farm counties and what they classify as a farming county (at least 25% of the farms having sales of at least $100,000.00). Washington County has 8.6% of the farms having gross sales over $100,000.00. From that standpoint he does not feel that the Comprehensive Plan's identification of agriculture as a significant contributor to the growth in Washington County is accurate. He also looked at the County in sectors and reviewed the median household income, and going from west to east across the County, the average income increases. He contributes that to urban creep from Louisville migration. He thinks the draft zoning ordinance should be sent back to the sub-committee and re-evaluate things. He thinks that this urban creep will bring more affluent people into the area which will mean more jobs and services and that will have a greater impact. He asked the Commission to consider/study the urban creep and it contributing more money than the small farming operations to the community.

Coleen Devlin Barrigar spoke next as a property owner. She also presented the Commission with a packet of materials. She went over some statistics and research she had found that was included within the materials she provided. She does not want Washington County to be turned into a poultry hub. Her suggestions for regulations and zoning for CFO's are a moratorium be declared on any new construction of CFO's until the Plan Commission enacts an appropriate

ordinances regarding zoning and health measures for such operations, that all CFO's be required to apply for a County permit and a Health Permit, that public notice and hearings be required for any type or size of CFO as a standard practice, that accreditation process be set in place for all CFO's that fall outside the jurisdiction of the IDEM, that all CFO's be required to provide 24-hour per day on-site monitoring, that a set-back be imposed no less than 2000' feet between any new CFO and an adjacent church/school/residence, that CFO's be required to provide a protective area of trees between the operation and adjacent properties, that all CFO's be required to have a secondary water source, that a cash or surety bond be furnished to the Washington County Commissioner, to ensure proper disposal of waste material, that a tax be imposed on the contracting corporation to be remitted to fund an insurance for the purpose of reimbursing residential property owners adjacent to CFO's for any decrease of % of any decrease in value of their property, enact districting between the major Washington County highways and County roads prohibit CFO's from locating a specified distance on either side of those roads, and some portion of east Washington County be zoned to prohibit developing CFO's.

Don Rogers relinquished his speaking time to Coleen Barrigar.

Anthony McClellan, 880 Buena Vista Drive, Brownstown, Indiana, next presented, stating that he owns land within Washington County. He wanted to inquire if the ordinance considers topography. He was attempting to purchase ground and at the same time another person was trying to purchase ground for a turkey operation. His business plan was to grow crops and add to those crops tomatoes, peppers, and other specialty products to try to increase revenue to pay for the ground. He was also looking at eventually planting grapes and building a few barns to host some events. He wanted to know whether such agri-tourism as an industry was considered. He thinks the Commission should address performance standards, waste management plans, mortality management, public comment periods, manure handling standards, emergency response plans, and preventive maintenance plans in this ordinance.

Next on the agenda was new business. President Hoar announced that he had received a resignation letter from Shawna Humphrey, which was read aloud. Attorney Scifres noted that the County Commissioners had knowledge of this resignation. Phil Marshall made the motion to recognize the resignation of Shawna Humphrey with Adam Dufour seconding. The motion passed 5-0.

The next order of business was the contractual services of Keri Keller Steele's company. Attorney Scifres has already passed along the invoice for those services. He also stated that he had

received a call from the Auditor's office regarding the payment being placed in line for payment after the services had been completed.

At this time, David Hoar gave the members of the audience that were not on the agenda an opportunity to speak.

Don Rogers, 1296 Lockenour Lane, spoke saying that he had spoken with the Assessor regarding assessment of poultry operations. His understanding was location made a difference as to the assessment value. If a farming operation goes in by a residential property there has to be a proven appraisal of property value drop before the assessed value would drop. He also discussed that safeguards should be put in place for domestic animals, wildlife, insects, property values, and health concerns.

Rhonda Greene announced that she has a projector and a screen that could be used at each meeting if needed for use at the meetings.

David Norton, 5434 N. State Road 39, spoke saying that he feels the Plan Commission has made improvements to the proposed ordinance. He proposed that the Plan Commission consider adding language to the proposed ordinance about registering restrictive covenants of homeowners or property owners associations and a statement added that nothing in the ordinance would be interpreted to protect against being sued for a tortuous injury.

President Hoar discussed the effort and work that was put into the proposed ordinance.

There being no further business before the Commission, Jeff Souder made a motion to adjourn the meeting, seconded by Adam Dufour. The motion passed 5-0.

David Hoar, President

Scott Maudlin

Lane Freiberger

Adam DuFour

Phil Marshall

Jeff Souder

Jim Day

Danielle Walker

COMMISSION ATTORNEY

Thomas E. Scifres