

Decatur County Area Plan Commission
April Minutes 2021

The regular scheduled meeting for the Decatur County Area Plan Commission was called to order by Brad Schutte at 7:00 p.m. on Wednesday, April 7, 2021. There were 7 board member present. Absent was Tom Hunter, Jeff Hermesch and Kevin Fleetwood. Also attending the meeting was Krista Duvall – Area Plan Director, Debbie Martin – Administrative Assistant and Andy Scholle – Decatur County Surveyor.

Brad Schutte opened the meeting and read the following: *to comply with Title VI of the Civil Rights Act of 1964, Decatur County requests that participants in this meeting complete a voluntary, anonymous survey that is available on the table in the back of the room.*

* The minutes of the March 3, 2021 regularly scheduled APC monthly meeting were approved as mailed.

* **APC Petition 2021-7 – Robyn Enneking** is requesting to sub-divide approximately 1.5 acres out of 154.579 acres and to rezone approximately 1.5 acres from an A-1 zoning classification to an A- 2 zoning classification for construction of single-family detached dwelling. This request falls under Decatur County Ordinance Section Number 920(7) & 915. The property is owned by Deborah Smith Living Trust and is located at 3592 W CR 500 S Greensburg, in **Sand Creek Township**.

Robyn Enneking: The property is owned by my mother, I want to move home and build a home. The current residence cannot be added on to so I would like to add another residence. I do not have any plans to subdivide it truly out, I just need this for my residence, I will keep the property as a whole. **Brad;** it looks like everything is in order.... **Krista;** we are subdividing, isn't that correct? **Robyn;** yes, technically, legally, yes but I don't ever plan on selling it as a lot. **Brad;** is there an easement for the driveway? **Krista;** it will be required to have a 50' easement. **Robyn;** the septic system will fit in that 1.5 acres. **Sheila;** the residence that is there now, are you tearing it down? **Robyn;** no, my mom will live there. **Paul;** the only thing I will recommend, assuming you will share the drive that goes south, you will just have an off chute to go into the new part.... **Robyn;** yes, around the front of the barn. **Paul;** in your easement have some kind of verbiage about maintenance so that if and when someone else moves, it can prevent a problem about having something in there about how the maintenance goes and the cost sharing, outside of that I think easements get a bad name because they are not defined early. **Brad;** that sounds silly now but down the road it can save a lot of heartache and sorrow. **Paul;** it all makes sense when everyone is family but at some point..... **Robyn;** you are exactly right. **Brad;** do you have rural water? **Robyn;** I believe it is available but there are two wells on the property, I will use that.

Sheila Kirchoff made a motion to vote on APC 2021-7; Tom Cherry seconded the motion with all 7 members present voting yes. **Brad;** your petition passes, keep in touch with Krista in the office when you are ready to get started.

* **Jennifer McNealy**

Brad read Jennifer's concerns: The question I had intended to ask the board was a follow-up from the December meeting regarding the revised ordinances, with the exception of those related to CAFO/CFOs, as those were not changed, despite all the public meetings and conversations

over the past many years since and even before the last comprehensive plan was initiated. At the end of the December 2020 meeting, then-president, Paul Stone, said that "I will look for the assembly of a small committee to try to come up with something better than what we have today." I believe he was referring specifically to the CAFO/CFO-related ordinances, as those were the most contentious of the planning process, as well as the majority of the ordinance-related discussions that evening. My question(s): Where does this effort stand? Has a committee been formed and if so, who are its members? What, if any, discussions have taken place to-date and what is the go-forward plan for this effort? Issues with the local siting of CAFO/CFOs were raised by members of the community to the APC, as well as the county commissioners, prior to the last comprehensive plan, and those community members were told at that time that the planning process was coming up and that the best way to address this and have their concerns heard and modifications made was as part of that process. The concerns that existed then, prior to the planning process as well as throughout it, still exist.

Brad; I will give this over to Paul because he was heading all of that up. **Paul;** for anyone who wasn't familiar with that process, first of all I understand your concerns and understand that I have spent no fewer hours than anyone in this process trying to come up with some kind of equitable plan moving forward that, maybe you could say that everyone in the room feels on. I think that it is a little bit far off to think everyone in the room will be happy with whatever may be decided, because there are very strong feelings and opinions on both sides of that, and logically so. The process started with the Comprehensive Plan and trying to get some kind of a steering group started, there have been no fewer than 3 committees that worked on trying to come up with a plan that eventually would go through the gate of the APC and then a favorable recommendation would be made to the Commissioners. That process is obviously, has opportunities for failure at any point, if that makes sense. So, where this lies at today is that committee has not been assembled. With some discussions with Brad and myself were two of them. Here's the problem with this, let's say we start another committee, the problem with that is that still goes through two more gates after that committee could potentially come up with what they feel like is an equitable solution for everyone. And should the APC, and we have seen it fail at the APC level, and we have also seen it fail at the Commissioners level, it is my opinion that if the Commissioners don't have some stake, early on in that process, I think that the opportunity for failure is very high. It seems like a little bit of wasted time, Jennifer, to assemble yet another committee. My position, my eagerness to jump in at that point in time was, I didn't feel like it was fair or intelligent to come up with one number that fits every potential CAFO/CFO as well as every 100 head finishing unit, I think that those are very different operations. Some operations have been operating in the same manner without any kind of accidents that have caused any kinds of problems for a long time. The very last proposal that was brought to us, brought a lot of concern from, maybe you could refer to them as the more traditional operations, and I think that there is some debt owed to the folks who have been doing it for 40-50 years, and have never had a complaint, that I am aware of, so I didn't feel comfortable with the very last recommendation that was brought to the table. That all being said, I also don't think it makes sense to try to come up with one number through a committee process that fits everything. My last proposal was a table that encompasses more than just a property line or more than just a structure that breaks down potentially, three different size animal units. Whether a hobby farm of a 4-H member or a 10,000 head dairy unit. That is my position on that, my proposal to a few different people didn't seem to gain very much traction on that and to be honest with you I felt defeated in it, I didn't know how to move forward with something that I couldn't even get buy in from a few people early on to begin in starting yet another committee. My discussion with Brad has led to him agreeing with that and if I have Brad's support in that, which he is the president of the APC board at this point, I think that he is exactly right that potentially the way to do this is to take that structure, present it to the Commissioners and allow

them to maybe message that and give that back to us, which at that point could then be up for public discussion, may be a way to move forward. I understand your frustration and where you are going with it but please understand that it has not fallen on deaf ears and people certainly aren't not doing anything about it, if that makes sense. That is history of kind of how we got to where we are at. Your question about where the committee stands simply is that there is not a committee at this time. I don't know that there will be one because the process seems broken to me. I have spent a lot of hours in these committees to get to this board and fail, and then also to get it through this board and it still fails. I don't know that starting at the bottom trying to get approval from the top to the bottom is a logical approach to that. **Brad;** my only thought on all of that, this basically fired Paul back up on it, we had elections that turned the year and we were dealing with a couple of things through the past few meetings, essentially it seems to me, and I haven't even been involved with this, just a year and a half now, we are chasing our tail with the committee thing. Anything that we send to the Commissioners, if it gets sent back, we are just wasting our time there. We need to really start with the Commissioners and make sure that they are on board. Previously I think the committees thought that was the case because there were Commissioners on the committee, it just didn't make it. I think that was really a slap in the face, not only to the APC but the committees, for all of the work that they did, thinking that was a product that the Commissioners were in favor of. It basically just got turned around and sent back. I see no point in just a general committee to continue to rehash this subject. We need to sit down, because it still has to pass the Commissioners, no matter what we do here. That seems to be the sticking point, at times, we come up with a compromise and then it gets chopped up. That was my take on it when Paul actually reached out to me regarding this because his name was on it. I do support that thought. **Paul;** every bit of what has happened so far has been on my shoulders, I want to make that real clear that Brad has had no involvement up to this point. I think that if I have his buy in on it, I think it's time to see if we can move forward with something. **Jennifer;** I just want to recap to make sure that I understand the bottom line of what we have heard, 1) the committee, probably not going to happen 2) the issue is not DOA and is still being considered 3) at some point there will be a public comment period. **Paul;** I believe that the State statute does not allow something to become an ordinance without some sort of presentation. **Krista;** that is correct. **Brad;** there will be a public hearing. **Jennifer;** and I assume it will be advertised and on the agenda? **Brad;** yes, my stance on this board is that I want everything on an agenda, that way we can address it properly and it is in public record. **Jennifer;** can I take this one step further, it is kind of related to CAFO's and one specifically to the Comprehensive Plan, may I do that or would you like me to come back next month? **Brad;** we have time. **Jennifer;** I see that you all as a board care about the community and the people here or you wouldn't be here, and with some of the things you have to vote on, it's not pleasant. I also see that you care about the Comprehensive Plan, that is what we go by, I have heard it brought up before. I do get that you care about the transparency, I am all for that and appreciate it as a matter of fact because I have seen in the past where things haven't been quite as transparent, not necessarily this board but just in instances in general. I want to talk about the Comprehensive Plan, on page 75 there is a top 10 list of priorities, on page 77 there is an implementation of those priorities, how a committee will be formed. Throughout that whole plan, it's not just do ordinances and then live by them until we do another plan, there is a whole lot of things in the community that go way beyond CAFO's and agriculture. I'm sure there is stuff going on, is there any way that we can get the Comprehensive Plan put on the agenda so that regularly in public meetings the general public can know what the implementation committee is doing, are they working with this or is there another committee or group in town like the EDC, are we working with them on something that has to do with the Comprehensive Plan, that we can get public reports on that in a meeting so that everyone knows what is going on and it is on the agenda. To review each of those priorities. **Brad;** essentially that is what we are doing. That is the process right now, Bryan Robbins is here now because of the Solar Ordinance

on the agenda. **Jennifer;** I am talking about things that the plan specifically talks about, the implementation committee and it has to do with all over that document. Can we get it on the agenda? **Brad;** essentially, we are dealing with petitions here, you have brought the concern up, we made it a public item and that is how we need to work. We don't have an implementation committee now, or at least if we do, I'm not aware of it. I have been involved in too many of these organizations, the committees can run everyone into the ground. I'm not saying that we don't need that but any of these items that need brought to the forefront, the biggest thing for me is that as long as these items make it on the agenda, then everyone knows. That is what I want to do going forward. Any concerns need to be put on the agenda a month before the meeting and then we will address them. Going forward on what you brought up, this will have to go to a Commissioners meeting, that is how this will have to be handled. It will all be a public discussion. **Jennifer;** so how does this work, we have a Comprehensive Plan, we spend a lot of money on it and a lot of time, how do we keep it from collecting dust on a shelf, other than as it relates to the ordinances and do some of the things that the consultants and the community, by their input, surveys and meetings suggested needed attention and get done? **Brad;** we essentially are, in other words that Comprehensive Plan is what I use, it is what the board is supposed to use to address any petition that comes to us, that is my feeling that the purpose of the plan is. It is not to save the world, it is to address the issues as they come along. **Jennifer;** I guess I'm still not on the same page with you. Maybe it's the way I read it and the way you read it. I read it as a to-do list realizing that we don't have all of the resources to do everything at once but what can we do beyond just the ordinances for sub-dividing, building a home, etc., so that all of the input that the community had and the steering committee had, it's not just words and wasted money that we don't pay attention to. At some point we will do another plan and put more money and more time and resources and then their opinion is put into this nice document and the we won't actually do any of the recommended items on the list. **Krista;** Jennifer, I disagree wholeheartedly with you. I am sorry but we use that book every day, I look to that book for all of the answers anytime someone comes in to my office and we get a lot of petitions and a lot more questions and answers than what end up in this room. There are people everyday asking what they need to do, those ten items on that list, most of those are the things that we were already doing. We took that into consideration, we listened to every one of those, I have read every one of those comments over and over again and we listen to that. We read it and look at it. It is not collecting dust, that book goes from one desk to another all the time. What does that say, look at this page, and we read it to people and use it. We try very hard to live by that, to the extent that we can. **Andy;** a lot of people that want to do something and after they go to consult with Krista, I know that after they look at the plan and our ordinances, they don't even file a petition and come before this board because odds are it doesn't fit the Comprehensive Plan and it would be a waste of time and their money and resources for them to come here and then they have to look at an alternative solution. That comes from our plan that helps steer people in the right direction, but yet the public doesn't see that because they have to start in the Area Plan office, they start with Krista and she can point out things in the plan or the ordinance and they don't realize what is entailed. They end up finding other alternative plans. **Jennifer;** can you give me an example so I can understand? **Brad;** essentially whenever someone comes in and wants to subdivide or rezone, Krista will turn to that plan. **Robyn Enneking;** for example, I wanted to turn my barn into a house, in this county I have to rezone, you can't add a second residence to a property, that is why I was her tonight. **Brad;** in other words, the plan gets used all of the time. It is not a to-do list, it is a what to do list. It's like what we are working on with Bryan Robbins and the solar issues. That is the intent of the Comprehensive Plan. **Krista;** Jennifer, if there is something in there that you see that we need to do just get on the agenda or call me and I will address it at the meeting. If you want to come in and sit down and go over that list, we can do that too, anytime. **Jennifer;** I appreciate the offer.

*** Draft Solar Energy Facilities Ordinance**

Bryan Robbins; I'm the EDC Director and I have been talking to Krista and Brad about the Solar Ordinance for the county. We need something to help the county to be better prepared for projects coming down the line. Technology is changing very rapidly. I just want to make sure that we are prepared, not only for the individual property owners but also so any businesses have a plan that is clear and laid out when they come in. **Brad;** so basically this draft that is started, we are looking for some more input, thoughts and suggestions. Krista put this together and we have thrown some thoughts back and forth but what we are looking for is maybe some changes that may need done to this. Then we can make it a public document. **Krista;** we are looking for some specs, height, set back, buffer, etc. **Andy;** such as what is an approved cover crop. **Brad;** a lot of these actually, as we went over it, your SWPPP and Rule 5 Permits tends to start to encompass a lot of that. They have to meet some pretty stringent requirements due to disturbing over an acre. What we started to drill down on were setbacks, fencing requirements and your simple items, preservation and how that works, restitution after shut down, how to hold bonds on those facilities. We are still kind of wading through all of this and are looking for any input. One item that I want to bring up, I checked on the bill that is going through the Senate, Bill It is through 2 committees as of April 6, 2021. **Krista;** they have postponed the drop-dead date? **Brad;** July 1, 2021, as of right now it still is the date. It is moving through committees. We need something but if that bill goes through the way it's written, essentially it will likely supersede what we do. **Brad;** we need to have something in place to give guidance and move forward.

After much discussion, it was decided that the draft ordinance was a starting point. Email your comments, suggestions or recommendations to Krista.

With no other business before the board the meeting was adjourned at 8:05 p.m.

ATTEST

Secretary, Todd Mauer

Decatur County Area Plan Commission

President, Brad Schutte

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