

Decatur County Area Plan Commission
August Minutes 2020
1st Floor Meeting Room of Decatur County Courthouse

The regular scheduled meeting for the Decatur County Area Plan Commission was called to order by Paul Stone at 7:17 p.m. on Wednesday, August 5, 2020 which was held at the 911 Communications Center at 315 South Ireland Street in Greensburg. There were 7 board members present with Tom Hunter and Jeff Hermes absent. Also attending was Melissa Scholl – Area Plan Commission Attorney, Krista Duvall – Decatur County Area Plan Director, Debbie Martin – Administrative Assistant, Andy Scholle – County Surveyor, Rick Nobbe – Decatur County Commissioner, Jerome Buening – Decatur County Commissioner, Kevin Fleetwood – Greensburg City Council and Joshua Marsh - Greensburg Mayor.

Paul Stone 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.*

*Approval of minutes of the June 17, 2020: approved as mailed.

* **APC Petition 2020-14 – Gregory Krieger** is requesting to “**Subdivide**” approx. 6.00 acres out of 57.232 acres and “**Rezone**” approx. 2.99 acres out of approx. 6.00 acres from an A-1 zoning classification to an A-2 zoning classification to build a single-family detached dwelling. This request falls under Decatur County Ordinance Section Number **915 & 920(7)**. The property is owned by Bryan & Jean Krieger and is located just North of 5093 E CR 400 N, Greensburg in **Fugit Township**.

Greg Krieger: The plan is to build shop with living quarters and then roughly about 5 years down the road I will build a house. (inaudible...) and all of the woods, I will be buying from my parents. There is a little bit of road frontage but there is a creek so we will put in a culvert. I won't have any easements to cross. **Paul;** what about water, are you drilling a well or.... **Greg:** I will drill a well. **Paul;** how far off the road will the building be? **Greg;** it will be closer to my brother's property on the north side of it, there should be a drawing. **Paul;** so the building is the northern structure? **Greg;** yes and then the house will be closer to that. **Paul;** there is a front setback so just be sure there is plenty of room there so you don't put yourself in a bind. As you know there are two septic site fields, be sure to keep the equipment off of those so they don't cause you trouble should you need to use the secondary. Are there good water wells around there? **Greg;** yes. **Paul;** I don't see anything that causes any concern or abnormalities.

Sheila Kirchhoff made a motion to vote on APC 2020-14; Tom Cherry seconded the motion with all 7 members present voting yes. **Paul;** your petition passes, this is the first of several steps, keep in touch with the gals in the office as far as building permit and inspections. Good Luck.

* **APC Petition 2019-08 – Mark Fixmer with BEX Farms** is petitioning to “re-zone” approx. 150.074 acres from an A-1 zoning classification to an I-2 zoning classification for future operational needs. This request falls under the Decatur County Ordinance **Section #1216-1228**. The property is owned by the petitioner and is located on S County Rd 280 E and Hwy 421 (7 parcels), Greensburg, IN in **Washington Township**.

Paul; a couple of things to preface this, you can tell us what we are looking at here, I don't know that we need to start from the beginning, I think that this is the 5th time we have heard this. If you could tell us anything that has changed and what we may be looking at here.

Kirk Publo: Thank you for having us back, it has been a while. The last time we were here there were 3 questions that you asked us to address. 1) odor complaints; we have made some operational changes (inaudible...) and increased the quantity of the daily cover that we are using. We were able to get some gas collection lines installed, we were not able to get those in back in January. 2) life span; we sat down with the maps and the surveys that we do and it looks like with the existing landfill, we are probably in the 10-12 years left. This ties into the third question also but what you have in front of you today we are probably looking at about 25-30 years of life expectancy. 3) size of the rezone; what we have done is taken the western most parcels off of the request so that the overall request went from the original 157 acres down to **94 acres**. That basically just draws a north/south line on that interior property line. The second sheet that you have there shows the revised proposed footprint so that is what we would propose for the landfill. **Paul;** the petition that is being presented tonight is the zoning change, we discussed 154 acres to change the zoning on, that is now altered to be approx. 94 acres. By doing that the discussion, should this get to the BZA, we would discuss the potential of the landfill expansion onto that property and then that number would approximately be 48 acres. **Kirk;** that is correct. The second sheet is to give you a visual. **Paul;** The initial site plan proposed of approximately 107 acres. **Paul;** Are there any questions from the board? **Todd;** initially you said that the current landfill is estimated a 10-12-year life left with the proposed expansion being 25-30 years life, is that correct? **Kirk;** yes. **Brad;** so you are only adding 12-13 years total? Or are you adding 25 years on top of the 10-12? **Kirk;** no, it's adding 10-12 out to 25-30 years. **Paul;** 10-12 on the existing and the 48 acres would provide an additional 25-30, do I follow that correctly? **Kirk;** no, we are thinking overall 25-30 years. **Paul;** so this expansion would provide a 15-year window? **Brad;** something like that. **Paul;** this map shows the approximate.... **Kirk;** that is the 93.9 acres. **Paul;** referencing the overhead map; so this outline here is approx. 93.9 acres, correct.? **Kirk;** correct. **Paul;** and the second map still shows that same acreage but shows what you would do inside of it should this petition pass? **Kirk;** yes. **Eric;** What do you see the support area to the north being? **Kirk;** could be stormwater detention, borrow area, I wouldn't anticipate any type of buildings or structures. **Sheila;** you said that you had taken care of the odors? **Kirk;** yes that is correct, we have had some changes to the operation to tighten up the working area and increased the amount of daily cover that was being used. Also, there had been some gas flow installation back in the winter and the collection lines for that were not able to be installed until the end of (inaudible...) **Sheila;** so the smells we are still smelling today are what? **Kirk;** I have been out there and am not aware of any significant odors right now. **Sheila;** I have had multiple complaints that there is still a smell,

whether you are driving by or live close by so I'm not sure from what I have been told that it is not completely solved. **Kirk;** I guess I would say that we have tried to invite folks out to be able to experience that for themselves and we have not had any success. **Sheila;** I'm not sure that you always smell it there at the facility, does it kind of drift? What would be the reasoning to smell it on the highway and further south? **Kirk;** I'm not sure I understand what you are saying... **Sheila;** the complaints I have received have been driving on the highway, coming to town, going home at night on 421 and further south. Also off on side roads. Sometimes the smell, that has been described to me, I have been out there, I have smelled it, but I don't live that direction so I'm not always out that way but just concerned with sometimes they say it's even strong enough to be a burning of the eyes. So is that coming from the landfill? **Kirk;** again I would say that I would encourage folks to come out and experience that for themselves, I think that there may be some exaggerations in some of that or maybe were talking about earlier back in the winter time because there were some issues that needed to be addressed and I feel like we have addressed those. **Sheila;** these were concerns actually as of this morning. **Kirk;** once it was made know to the Plan Commission that we would be coming here this week that there were calls and complaints again but there haven't been any since February, that I have been aware of.

Paul; before we open this to the audience, I would like to make a request to you all, I believe this is the 5th time that we have heard this presentation and I have heard hours of the same thing. By all means, if there are new things other than opinions or things like that, I invite you to bring those up. I want to remind you, and I probably will cut you off if we have a lot of landfill discussion, this request tonight is zoning, there is no landfill being approved tonight. This is for rezoning of property, should this pass we will have a discussion about a landfill, but that is if and when, not tonight. So let's have a discussion about property zoning, I welcome and want everyone to be able to express concerns but this is not about a landfill expansion, it's about a property rezone.

Audience Comments; there were several audience members who got up and spoke about this petition. The board addressed their questions as they were raised.

Todd Mauer made a motion to vote on APC 2019-08; Sheila Kirchoff seconded the motion with 6 members present voting yes with 1-member present voting no. **Paul;** your petition passes.

***Amended Decatur County Zoning Ordinance Discussion**

Paul: I will open this up for discussion related to any concerns. The Ordinances are posted and have been for months. There was quite a bit of discussion last month concerning the setbacks, we appreciate the feedback on that. I will open it up for any of the Ordinance Amendments, if you have concerns please bring those forward. It's time that we get these moved over to the Commissioners. I will open the floor now.

Audience: **Tom Warner;** What did you decide on the setbacks? **Paul;** as it was posted, there has been no change. We are not really making any changes, what we are doing is taking the recommendations that both the Comprehensive Plan illustrates as well as the proposals from the Committees that met and then we will either make a favorable or a non-favorable

recommendation to the Commissioners for those and then they will review and vote to adopt. **Tom;** we 1000' is not outrageous or unreasonable from their own property line. Have you considered that? Is that still on the table? **Paul;** you are welcome to come on up here and state your plea as you wish it to be proposed. **Tom;** I would like to see 1000' from the hog farmers farmer's property line and not use my property as their buffer. Do you believe in the constitution? **Paul;** yes sir I do. **Tom;** ok, then you can't use my property. We need a knife law in this county, we were talking about water pollution at the landfill, these hog farms are all over the county and they are polluting our water as well. They are building on the water aquas, its going right into it. We are short of water in this county anyway and then we are poisoning it. These buildings are using up our water, a lot of wells are going dry and people are going out here with nice homes, been here 20-30 years and they are out of water. These confined feeding have come in and built too close to them and got on their water aqua and drying their wells. Rural water does not go everywhere. You are inviting them in here, in the south and west they are shutting them down because they are a problem. Most of the hogs in these barns are consigned, they put these here and leave us with the damages. I have no crow to pick with any farmer, we just need some rules and regulations, we have to have them to feed this country but we have to have some rules to go with it, you cannot give them a free hand. That is what this county has done, so why don't we put come laws and regulations in here and kind of safeguard and watch this county. Do you have any suggestions on how we can monitor these hog farmers? **Paul;** I highly recommend that we look outside of the APC to regulate any kind of injection of waste, this board plans the area of the county, you will find no ordinance related to Health Department application of waste, that is just not what this group does Tom. **Tom;** I heard a guy get up and say the bean alliance did surveys, they are also tied into the pork check off, they are the same. He is going to come up and show you the figures that are favorable to him so let's use our heads, see what's going on in these other states and let's not put ourselves in line with this tragedy in the future. I know several people that would rather have the water, now they are hauling water so that this industrial farm can thrive. Can you give me any reason why we should let them take our farming? Is that farming when you bring in hogs and you kind of..... **Todd;** if I'm a farmer and I want to put in a building and I can't do it because I'm going to take your water and you are 1000' down the road? **Tom;** well, they are doing it. **Todd;** you don't want me to be able to do that as a farmer? **Tom;** I wouldn't want to destroy my neighbors, is it alright for you to put that barn up and steal my water so I can't survive? **Todd;** I'm saying that we will drill a well, you want rules and regulations, we have them. **Tom;** well you sure don't have if you are going to build next to my property and use my land for a buffer, that is no rules. If they can't go out and drill to find enough water for the hog barn then they shouldn't be allowed to put that size of a hog barn in there. You just had a lake guy here, he core drilled to see if a lake can be put in there, didn't he? **Paul;** that was the BZA Board. **Tom;** they can drill wells and if they can support it without robbing the neighbors, that is one thing. If you are stealing my land for my water that isn't right. **Jay Hatton;** I just want to talk about how hard it is getting the Comprehensive Plan done and how important it is to pass these ordinances and keep relevant to our Comprehensive Plan. We spent many, many meetings to get this done. I was on the committee that helped put these together, I understand that Tom is sensitive to his topics, I respect him and he has passed a lot of information on. There are sub-committees that met and we got the Comprehensive Plan done. There are a lot of things happening in our county, it's very expensive to build homes, we are going to help that with passing these ordinances, we will

make it easier on the landowners. We will allow them to build a second building and so many things. We have a wide array of topics that your board is setting on, we need to move this forward. There will be another Comprehensive Plan so this will come up again, there were adjustments made on Tom's particular issue. It was a win/win. We need to get this done, a lot of people made a lot of sacrifices and attended a lot of meetings, it's not fair to not pass this.

Paul; thanks Jay, there is a lot of truth in that, there were hundreds of hours spent with people, stakeholders on both sides of this situation that hashed this out and they all gave a little in a lot of situations. **Krista Duvall;** I have sat on all of these committees and I know that writing the Comprehensive Plan, we could not come to an agreement on confined feeding operations. We put a sub-committee together and we challenged them to come up with a plan that they could all live with. They did that. We have left out one of the stipulations and in my mind that is not fair to the committee that put it together so I'm just going to ask that we put the reciprocal set back of 1000' from a structure back in the way it was written in the Comprehensive Plan, the way the sub-committee wrote it. **Paul;** Krista has a good point. Essentially when the Comprehensive Plan was completed the one thing that she is referring to is that if a confined feeding operation were built, it had to be 1000' from an existing structure. Then it was left that if anyone wanted to come back and build a home, they could not do that within 1000' of that structure. Starting in 2018 there was a committee assembled to read through the plan and then start altering the ordinances to reflect those. Many of the same stakeholders were on that committee. The output of that committee was that if a person wanted to, elected to build a home within that 1000', that they should have that right. Basically they came second, if you grew up around that and you elected to live closer, then you should have that right. Farm Bureaus stance on this is that it is a recipe for a problem. That person builds not knowing the noise, smell and the 24-hour running of fans. All of a sudden that could become an ugly situation. There are great arguments to be made on both sides of that, Krista is right, there were people who put in a lot of time. I was not on the sub-committee, we felt like it was more of a detail, at least I felt, it was not an oversight but if I want to build a home, you will not affect the confined feeding operation. I think that it would be poor of us to skip over that and Albert Armand's argument last month was certainly valid. Because what will happen at the outlet of this is that this board makes a recommendation to the Commissioners. The way we do this is that each person needs to say if they do or do not support the 1000' reciprocal and then I think the majority of that would be how we present that to the Commissioners. **Brad;** does that work, is that ok per **Krista;** that property owner would have the right to go before the BZA is they want to be closer than 1000' to that structure. **Melissa;** the board can take a vote if they are going to modify the amended sections that it pertains to, there is a couple of references to that in ordinance. We would modify that language to elect the reciprocal intention and then the next motion would be that we would be voting on a favorable recommendation to the Commissioners, either including the reciprocal language or how it was written. **Brad;** you are trying to decide first if we want to vote on it then? **Paul;** we are voting on the whole package of ordinance so before we dump that out there we need to decide to be as it is written or as Krista mentioned for it to be reciprocal. It would be a little complex if I just looked for a motion because we haven't addressed that. I will look for the boards majority opinion on whether 1) they feel it would be the 1000' foot reciprocal as Krista stated was the recommendation from the committee or 2) as it is written, as the Ordinance Update Committee left it. Great arguments both ways, Albert has a great point that those folks spent a lot of time, my argument back to that would be that those same stakeholders were in the

same room and we felt like it was an improvement. I would like that the board members support it to be a reciprocal or a non-reciprocal, then at that point we can talk about the entire ordinance as a package. After polling all 7 board members (explaining that reciprocal means that a home cannot infringe on the CFO and the CFO cannot infringe upon the home) present it was agreed upon that they all voted on “non-reciprocal”. The majority of this board feels like it is a non-reciprocal. The majority of the ordinances are probably not as contentious, Andy made several wonderful recommendations, things like accessory buildings not needing to meet that large setback, so I think that we will reduce the burden that we put on the community in having to come in and ask for a lot of the variances. I will look for any last comments, questions or concerns about these.... audience (inaudible) **Paul**; 2. **Brad**; it sounds like it was equally balanced though with opponents as well. **Paul**; yes, there were stakeholders from both sides of that. **Jennifer McNealy**; would you explain the non-reciprocal. **Paul**; explained the non-reciprocal meaning. **Jennifer**; can a CFO come to the BZA and request a variance? **Paul**; yes.

Tom; if you gentlemen want to make is simple make it 1000’ from their property line and leave my property line alone. Then I can do anything I want without requesting a variance, drill a well, put a gazebo out there and my rabbit cages, within 1000’ back. That’s simple, fills the bill for everyone. If they don’t have enough ground to go 1000’ then they probably don’t have enough ground to get rid of the manure and they probably don’t need to build the barn. The Comprehensive Plan, more than half the board was hog farmers. **Jay**; I think there was a lot of representation, what I can remember of that sub-committee there was a large group of non-hog farmers and people over pigs. There was a wide array on that board and I think they worked really hard. It got a further distance, there was a consensus, we can argue this for the next 30 or 300 days.... **Tom**; we haven’t gained anything... **Jay**; it’s always going to be there, that is what was agreed upon, it’s what the Comprehensive Plan made notes of and refers to. It’s only fitting that the Ordinances reflect that plan, that is the whole purpose. I understand your point, there will be another day to discuss that when that committee gets together again. There will always be other chances. **Paul**; this isn’t a forever ordinance. **Jay**; it will come back up again, we did so much in trying to get these Ordinances to match what we say in writing, that is what that group has to do.... Inaudible.... **Jay**; that is their guide book. **Tom**; that was just guidelines Jay, that woman said that these are just guidelines to work with. **Jay**; there was a lot of work and I think the county agreed that that was fair for everyone, that is what I remember. **Paul**; there are people with strong beliefs on both sides of that and I feel like it would be unjust to not accept what was the output of all of these, people hashed this out for hours on end and then a second committee hashed it out. We are at a point where we have to move forward or it will be 2022 and we will be starting on another Comprehensive Plan and we have never updated the ordinances to reflect the Comprehensive Plan from 2016. That is what that group of people decided then, it is ill of us to negate that and not accept it. **Tom**; we have already waited 4 or 5 years. **Paul**; do you know why, because people like this want to come up and speak, that adds another road block. **Tom**; well I’m up here speaking, I have spoken up all along on this and tried to work with these guys on this. I was at the Comprehensive Plan meeting, I don’t think I missed a one. **Jay**; you gave me a lot of information to read, I have done the homework you have ever given me. **Tom**; I know you have. **Jay**; I have been an honest man when I was there, there will be another Comprehensive Plan and we will get to talk about it again. **Tom**; we didn’t

gain, we lost actually because you are taking more of my ground instead of less. **Jody Coffman;** I covered those meetings in 2015, my question has always been, there is property from the City, The Preserve at Sandcreek. There is some property in that area that in not built on, currently not for sale but would a CFO be able to build within the setback of the setback? **Paul;** no, so that is one of the things, if it is currently zoned it has to be 1000' from that property. **Andy;** it is 1320' from the corporation line. **Jody;** so pretty much anywhere around the city? **Andy;** yes, any incorporated town such as Westport.

Paul; Melissa, I will ask you to state this, there is some technicality in how we propose this. **Melissa;** you would be voting on making a favorable recommendation to the Decatur County Commissioners to adopt the proposed text amendments to our current Zoning Ordinance which would then repeal the current Zoning Ordinance and put the adopted language in place. **Paul;** so we are looking for proposition of these ordinance amendments to the Commissioners which they would then repeal and then put those into place, is that correct? **Melissa;** yes, we are just making a favorable recommendation, that is what the boards majority vote is and then the Commissioners do the adopting. **Paul;** and this would be for the whole ordinance update package, not Article 9, not anything less than that. I will look for a motion.

Sheila Kirchoff made a motion to vote; Brad Schutte seconded the motion with all 7 members present voting yes. Paul; these will be put before the Commissioners; this is just a favorable recommendation.

Sheila; Did Emelie Redelman come back? **Krista;** no, we asked her to wait until next month due to our current agenda. **Sheila;** I did drive by there and it is a little more organized, it looks a lot better than it did 30 days ago.

With no other business before the board the meeting was adjourned at 9:13 p.m.

ATTEST

Secretary, Todd Mauer

Decatur County Area Plan Commission

President, Paul Stone

Decatur County Area Plan Commission