

**MINUTES OF A SPECIAL SESSION OF THE
BOARD OF COMMISSIONERS HELD MAY 29, 2012**

Comes now the hour of 8:35 A.M. on the 29th day of May, 2012, in the Commissioners Court in the Noble County Courthouse, Albion, Indiana, being the time, date and place set for a special session of the Board of Commissioners of Noble County, Indiana.

Present were:

Joy Y. LeCount, President
David J. (Dave) Dolezal, Vice President
Jack W. Herendeen, Member

Also present were:

Jacqueline L. Knafel, Auditor
Dennis Graft, County Attorney
and Randy Sexton
Bob Braley, KPC

UDO

The Noble County Commissioners held a public hearing on the proposed UDO ordinance. The meeting was called to order at approximately 8:35AM.

Randy Sexton voiced his opinion that the current draft was far from the draft for passage and recommended that the Commissioners not accept the current version.

Dennis Graft informed the commissioners of their options concerning the UDO Ordinance. Option 1 would be to reject the entire ordinance

Option 2 would be to provide amendments to Draft G which will in turn give the Plan Commission 45 days to respond to the requested amendments.

The commissioners voted 3-0 to do Option 2 and provide the Plan Commission with a list of requested amendments to the ordinance for their review. This motion came from Dave Dolezal and a second from Jack Herendeen. A letter was drafted to the Plan Commission informing them of the decision of the Commissioners and the following amendments will be delivered to the commission:

UDO RECOMMENDED AMENDMENTS

The following amendments are being submitted to the Plan Commission from the Noble County Board of Commissioners after many meetings and discussions and also a public hearing held Tuesday May 29, 2012 at 8:30AM:

Page 1-2:

- 1.05 Purpose - H Site Development: Strike "and restrict".

Page 1-6

- 1-16 Zoning Districts - After some discussion and review of the permitted uses for the A-1 and A-2 zoning districts the commissioners recommend that A - 1 and A-2 be combined and this be called A-1 - Production Agriculture.
- Under District purpose - A -3 Agricultural Commercial - the word "compatible" spelled incorrectly.

Page 2-2

- 2-01 Under Permitted Uses - sub title "Accessory Permitted Uses" add Agricultural practices for the purposes of wildlife habitats.

Page 2-4

- 2-03 The intent is to have A-1 and A-2 combined called it A-1 Production Agriculture, so the District Intents need to be combined and under **Appropriate Adjacent Districts R-1 needs to remain.**

Page 2-5

- 2.05 Given the same intention as above - the minimum lot Area will be 2 acres.

Page 2-6

- Special Exception Uses/Permitted Uses - Recommendation - move Bed and Breakfast from Special Exception to Accessory Permitted Uses. **(This change brings Bed and Breakfast establishments into the same requirements as in Rural Estate.)**
- Special Exception Uses - Remove - Confined Feeding Operation
- District Intent -should be General Agricultural Operation
- Appropriate Adjacent Dist - should be OS, A1, A-3, A-4, **R-1**, RE, and I1.

Page 2-8

- Move "raising of exotic animals" to the Special Exception Uses. **Also add Telecommunication Towers to districts that apply**

Page 2-10

- Move "raising of exotic animals" to the Special Exception Uses. **Add Telecommunications Tower.**

Page 4-4

- 4-06 Designation - recommendation - 2nd sentence - reference to "the satisfaction of the Plan Commission". This statement should have written guidelines or be stricken.

Page 5-4

- 5-04 F: Design #3 - Driveway - add "where practical" also change "shall" to "should"
- 5-04 F: Design #5 - Utilities - add "where practical" also change "shall" to "should"

Page 5-8

- 5.08 B: Relationship: #2 Timing: B Typo should be “a lot” not “an lot” (2nd line) Didn’t the Plan Commission agree that a pier could be placed on a lot prior to a primary structure?

Page 5-11

- Sec 5-12 Confined Feeding Standards: In the first paragraph the word “federal” should be capitalized.
- Same sec B-1 – first line an between “to” and “any” should be removed.
- Also, under C of this section which has been removed, according to my recollection, there was no vote to remove this portion. Also, Brad Johnson believes the wording now would constitute “taking” and could be subject to legal action.

Page 5-13

- Sec 5-14 A. Remove “as well as.....” And replace with “as well as required permits from the Noble County Highway Department.
- Sec 5-14 A -1. 2. B 2. This makes reference to “Noble County Construction Standards” This document is called “Noble County Road Acceptance Specifications”. This change should be made any where that this document is referenced.

Page 5-18

- Sec 5-19 B. 1. The commissioners believe that instead of being eliminated – it should read – “Generally – A use should comply with applicable State Statutes.
- Sec 5-19 B. 2. The Commissioners believe the words “and utilized” should be added after the word “installed”
- Sec 5-19 C-2 Should be closed “loop” not “look”.

Page 5-21

- Sec 5-23 B-1 Fences shall be permitted by special exception for security and / or liability reasons.

Page 5-22

- Sec 5.24 B-1. Fences shall be permitted by special exception for security and / or liability.

Page 5-26

- Sec 5-28 E -6 Strike “Signs shall not be permitted.”
It is unreasonable to prohibit a business from having a sign for advertising purposes.

Page 5-27

- Sec 5-29 E-5 Strike sign issue.

Page 5-28

- Sec 5-30 E-7 Strike sign issue

Page 5-29

- Sec 5-31 E-3 – Should read “Chickens are permitted if properly confined”.

- Sec 5-32 C - Outdoor pets are permitted if properly confined.
- Sec 5-33 A Exotic Animals - Exotic animals are permitted by special exception and compliance with State and Federal Standards.

Page 5-30

- Sec 5.34 - Check the minutes from January 18, 2012 Plan Commission meeting. Was not A-1 added to the zoning districts to which this section applies? Also, why would RE not be included?
- Sec 5.34 C -1 Commissioners feel that a kennel should only require a 250 foot setback not 750 foot setback.
- Amend lot size to reflect the setback standards.

Page 5-31

- Sec 5.35 E Glare. The Commissioners would like to discuss this issue further with the Plan Commission Director **with regard to types of fixtures allowed or recommended.**

Page 5-42 and 5-44 Parking Standards. There is no parking space requirement listed for Child Care Institutions, Government Operations, or Trade or Business School, please fill in those blanks. **Also, the requirement for Tattoo/piercing parlor should read 1.5 not 15 spaces per chair.**

Page 5-47

- Sec 5.50 B -1 a. - Who is the "Design Review Committee"? There needs to be reference identifying the committee by position or striken all together.

Page 5-48

- **Sec 5.51 B and C Strike completely. The commissioners feel this requirement constitutes "taking" of land.**
- **It is a similar situation as the one Brad Johnson noted relating to Confined Feeding.**
- **Also, under this same section, should there be something that addresses setbacks from county regulated drainage systems?**
- **5-51 F at the beginning of the 3rd line "indicated" should be "indicates"**

Pages 5-55 - 5-61

- Sections 5.55-5.61

It is the recommendation that the Plan Commission review the entire sign section of this ordinance and the entire section be rewritten. The Sign Standards are extremely complicated, will be difficult if not impossible to enforce. This portion should reflect the advertising needs of Noble County. Should this not happen, the following amendments should be made.

Page 5-49

- Sec 5-52: A - 1-B 2-B, 3-B, and 4-B - There is a need to define "infill lot".

Page 5-54

- Sec 5-55 E - prohibited signs A. Animated Signs. This will eliminate a lot of churches and businesses from have signs.

Page 5-56

- Sec 5-56 B -f Should be 7 days prior and 5 days after.

Page 5-57

- Sec 5-57 4 - e Should be 7 days prior and 5 days after.

Page 5-59

- Sign Standards - section 5 "Special Temporary Signs" Strike

Page 5-60

- Sec 5-59 B 1-a - Changeable Copy - this would permit businesses from changing from OPEN to CLOSED.

Page 5-63

- Sec 5-59 C 4-d Height Above Ground. Many questions concerning this height issue.
- Sec 5-59 C 4-e Duration change to 7 days prior and 5 days after
- Sec 5-59 C -5 - " Special Temporary Signs" - Strike

Page 5-67

- Sign Standards - Section 5 "Special Temporary Signs" Strike (Same as above)

Page 5-71

- Sign Standards - Section 5 "Special Temporary Signs" - Strike (Same as above)
- Sect 5.61 C. 4. e. Change to read " (7) days prior to a temporary event and taken down five (5) days after.

Page 5-82

- Section 5-73 B -2 Change to "A minimum of five (5) acre lot..."

Page 5-85

- 5.74 In the first sentence - the more common industry reference is "Wind Energy Conversion System (WECS)

Page 5-86

- Section 5.74. I-2. Add the phrase, "whichever is greater" after 150%.
- Section 5-74 I-4 Add the following to the end. "A large wind turbine system shall be a minimum of 4 times the hub height from active railroads with two or more tracks."
- Section 5-74 I-5 Add the following after wildlife refuge " or state-dedicated nature preserve".

Page 5-87

- Section 5.74 K-1. Reword the section to read "A utility- grade wind turbine system shall not generate sound more than 5 dBA louder than

pre-construction background, or 40 decibels as measured on the A-weighted scale (40 dBA), whichever is greater, at any point 1000 feet or more from the base of any individual wind turbine. For purposes of this ordinance, pre-construction background shall be considered as the average ambient nighttime sound levels measured between midnight and 4 AM on at least five separate dates prior to construction”

- Section 5.74. K-3 Break this section down into an (A) and (B) section as follows: K-3 (a): “The strobe effect caused by an Federal Aviation (FAA) required signal light shall be mitigated to the extent possible with the best available technology or practice, which shall include the shielding required in Section K-2 above”. K-3(b): “Shadow flicker produced by the interaction of the turning rotors and direct sunlight shall a) be mitigated by appropriate siting of the wind turbine designed to minimize the impact on off- site structures; and b) under no circumstances exceed a combined total of five (15) hours per year”.
- Section 5.74. K-6. Reword as: ”The owner or developer of a wind farm shall submit studies as part of the application process ascertaining whether the wind farm is likely to disrupt, weaken, or otherwise interfere with civilian radio, telephone, television, radar (weather and aviation), and microwave communications (cellular, emergency/law enforcement). Such studies shall set forth the best available technologies to mitigate anticipated effects. All costs associated with upgrading communications systems to overcome wind-farm-related disruptions shall be borne by the developer or owner of the wind farm.
- Section 5.74. M. Revise section to read as follows: M-1. “The Zoning Administrator shall maintain a phone number (and web site), and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project. All complaints shall be published in a timely manner and made available to members of the public upon request.” M-2. “The Zoning Administrator shall evaluate each complaint to determine if a violation of the standards set forth in this ordinance has occurred, and shall notify the wind farm operator of the findings”. M-3. “If a complaint results in a finding of a violation of these standards, the wind farm operator must provide the proposed mitigation measures to the Zoning Administrator within 30 days. Failure to adopt effective mitigation measures within an additional 15 days, resulting in ongoing noncompliance with these standards, shall be considered grounds for revocation of the operator’s permit”. M-4. “All costs associated with maintaining the complaint registry and responding to complaints resulting in a violation of these standards shall be borne by the wind farm operator”.
- Section 5.74 N-2. Change 100% to 110%
- Section 5.74 N-3. After 200 feet add the phrase: or 200% For consistency and public safety, amend this section as follows: “Any structures associated with a wind farm shall be a minimum of 200 feet or 200% of the height of the structure, whichever is greater, from any wetland...” and “Any structure associated with a wind farm, excluding... shall be a minimum of 2,640 feet (1/2 mile) from any state park, state forest, national park, national forest, fish and wildlife area, wildlife refuge, or state-dedicated nature preserve”.

Page 5-89

Section 5.74 P We would like to have the existing section P labeled Q and section P should address drainage issues. **There currently are no requirements for repair of damage to private or regulated drains as a result of installation of wind systems.**

- Section 5-74 NEW Q - now will be Abandoned Systems
- Section 5-74 NEW Q - Add a new section (2) "A surety (e.g., bond) shall be posted for the estimated cost to demolish and remove all components of utility-grade wind farm and to restore the site to its pre-construction condition to the extent practicable. For purposes of determining the value of the surety, the cost to demolish and remove the utility-grade wind farm and to restore the site to its pre-construction shall be calculated and certified by a professional engineer".

There are also no requirements included for climbing restriction.

Pages 5-80 - 5-89

- Commissioners feel that Wind Turbines should be moved to an overlay district.
- There are also concerns of the noise determination and illumination and there is no direction when it comes to signage, climbing, drainage and bonding issues.
- On the 5.73 WT-02 Large Wind Turbine System - the commissioners felt that 2 acres would not be a sufficient amount of ground with setback etc. to accommodate this large of unit.

Page 7-5

- 7.05 A-1 Streets - add " however, it needs to be noted - a road dedicated as public way, may not be automatically accepted by the County for maintenance.

Page 7-6

- 7.06 #2 a. [] is something supposed to be in these brackets?

Page 7-26

- 7.21 2 a [] missing something?

Page 7-30

- The commissioners are recommending that the commission review the street lighting section and possibly consider down lighting.

Pages 9-5

- 9.06 - 9.10 and 9.11 There are no icons indicating zoning districts in these sections.

Page 9-13

- 9.11 #4 a Transfer of Information - Amend to read "The Zoning Administrator shall provide to the applicant for Administrative Appeal any information that is being conveyed to the Board of Zoning Appeals in preparation for the meeting".

Page 9-16, Page 9-20, page 9-24, page 9-29, page 9-33, page 9-45, page 9-48

- E - Formal Procedure #2 Internal Review - Strike the sentence "The written report may also contain opinions of the Zoning Administrator concerning the application for a Special Exception and /or information from other department that have reviewed the application for a Special Exception" in all areas. Strike similar statements in the Review Procedures throughout.

Page 9-31

- 9-18 Icon - since it is recommended that there is a combination of A1 and A2 remove A-2 and add A-1 in this section and all others that apply.

Page 10-2

- 10.01 Authority - - Add at the end of the sentence "pursuant to applicable Indiana Code".

Page 10-3

- 10.03 Procedure for Violations - A & B - Notices must be sent by certified mail.

Page 11-3

- Accessory Structure - last bullet point. The last word in the last sentence above the map/picture should be "equipment".

Page 11-4

- Agriculture Tourism - strike - "Agricultural tourism shall not include private or public stables".
- Animal Farm - strike - " Farm animals are primarily pastured and add "etc" after goats.

Page 11-9

- Confined Feeding - Add "all state laws apply".

Page 11-12

- In keeping with the logic of this section, Domestic Pets - see pets. Move the definition to Pets, Domestic on page 11-31 with Pets, Household and Pets, Outdoor.

Page 11-23

- Lot - it should say "A legally established", instead of "legal established".

There is no Land Use Matrix included in this revision, which should include all revisions that were made.

The commissioners are recommending that the issue of Keeping of Animals and Pets needs to be reviewed. There are discrepancies between indoor and outdoor pets. As currently stated in the UDO residents in Mixed Village zoning would be unable to have an outdoor pet. ALSO: Chickens need to be added as outdoor pets, and rabbits should be listed as indoor pets.

In the reference section of this document: The commissioners feel that there

should be a list of the referred to ordinances or documents and where these ordinances or documents can be found.

PAYROLL

In other business, Dave Dolezal moved to approve the payroll for May 31, 2012 with the condition that Doug Harp, Noble County Sheriff, come to the June 4, 2012 meeting to explain why there was excessive overtime in his department.

ADJOURNMENT

This session of the Board of Commissioners of Noble County was at approximately 11:50 AM recessed from day to day until the 4th day of June 2012.

Joy Y. LeCount, President

David J. Dolezal, Vice President

Jack W. Herendeen, Member

ATTESTED: _____
Jacqueline L. Knafel, Auditor