

# Town of Union PLAN COMMISSION MEETING February 28, 2008

---

The Town of Union Plan Commission regular meeting was called to order on Thursday, February 28, 2008 at the Eager Free Public Library, 39 W. Main Street, Evansville at 7:01 p.m. by Alvin Francis, Chairman. Members present included Alvin Francis, Doug Zweizig, Marty Johnson, Eric Larsen, and Rich Templeton. Also in attendance: Town Supervisors George Franklin and Don Krajeck, Town Engineer Greg Hofmeister, Town Attorney Matt Dregne, and Clerk Regina Ylvisaker. Plan Commission members Mike Exum and Kim Gruebling were not in attendance.

### **Approve January 31, 2008 Plan Commission Minutes**

Eric Larsen noted a correction on page 2 of the January 31, 2008 meeting minutes: "...appropriate setbacks are ½ mile from property line and 1000' from residence" should in fact be "...appropriate setbacks are 1000' from property line and ½ mile from residence." Correction was noted by the Clerk and minutes will be changed accordingly.

Motion to approve the minutes as corrected made by Doug Zweizig. Second by Eric Larsen. Motion carried by unanimous voice vote.

### **Discussion of preliminary plat map and development phasing plan of Robert Janes, 8739 N. Territorial Rd. Evansville, for the 29 lot land division approved at the February 7, 2008 Town Board Meeting for the 53.7 acre parcel #6-20-197, SW corner of Territorial Rd. and County Hwy M.**

Bob Janes was in attendance, Ron Combs was unable to attend. Janes reviewed the maps distributed to Plan Commission members and discussed changes and updates since last meeting. Maps presented represent phasing options as requested by the Commission. Intersections are also detailed; drainage details are not yet complete, at this time the plan is for phase one drainage to run to outlot 1. Janes is in the process of putting restrictive covenants together, and reviewing other developers plans to draft his own plan.

Maps were distributed by Town Engineer Greg Hofmeister, which include ideas for ROW and widening/straightening intersections. It was his opinion that if the town wants to acquire ROW for this area now is the time to do it. At this point in time the Town is considering Territorial Road a minor arterial bypass for Evansville. Hofmeister feels this is still a sketch map, not preliminary plat as described in the minutes from the last meeting. Attorney Matt Dregne agrees that we are at sketch map stage, not preliminary plat. Attorney Dregne distributed a draft resolution for review by the Plan Commission that could be used in this situation and/or similar situations. It is his opinion that this is an important tool to use for working through plat approvals at both the Plan Commission and Town Board levels. It is his recommendation that in order to manage phasing effectively, the town should attach both zoning and plat approvals to phasing process. Additionally, Dregne recommends that all zoning changes throughout the Town should

be made by ordinance. Following discussion and review of minutes of the February 7, 2008 Town Board meeting and the January 31, 2008 Plan Commission meeting, it was agreed by developer and the Plan Commission that zoning changes to the property in question had not been approved thus far but it was understood by both parties that it would eventually be made.

Janes stated that he agrees with most of the recommendations made by Attorney Dregne, but does not agree with the idea of zoning being approved in phases. He stated that stormwater management and other issues will be difficult to deal with without the zoning change made up front. At this point, Janes is looking at phasing over 3 years, with first phase in 2009 and running to 2011. Question: would outlot 1 be dedicated or privately maintained? Janes stated that as he owns adjoining property he would like to maintain it privately at this time but may dedicate it to town or to homeowners association upon sale of the last lot. Attorney Dregne felt that the appropriate zoning for outlot 1 is not RR; he is unsure at this time what the proper zoning classification would be and will research.

The Plan Commission and Janes are in agreement that the request is at the sketch map phase at this point.

Attorney Dregne suggested that the Plan Commission make a decision at this point what their position is on the road ROW issue so it could be dealt with the next time the proposal is brought to the Commission for discussion/action. Additionally, Dregne stated that the Commission must decide their position on the phasing schedule and zoning change issue.

Doug Zweizig feels that it makes sense for the town to be prepared to upgrade the intersection in the future, and would recommend requiring a dedication at this time. Motion made by Rich Templeton to ask that land be dedicated to the town so that the Territorial Road/County Road M intersection can be upgraded when needed. Second by Doug Zweizig. It was further clarified that the Plan Commission would expect Janes to come back to the next meeting, which he is on the agenda, with ROW dedication specifics.

Roll Call Vote: Alvin Francis – Yes; Doug Zweizig – Yes; Rich Templeton – Yes; Eric Larsen – Yes; Marty Johnson – Yes. Motion carried 5-0.

As a side note, Zweizig expressed concerns about the timing of receiving materials prior to a meeting, the importance of Commission members getting information well enough in advance for a thorough review. He was also concerned about the 90 day requirement for the Town Board to act on a preliminary plat approval once it is approved by the Plan Commission. Attorney Dregne stated that regarding the 90 day requirement, normally the developer is asked and agrees to grant an extension of the timeline requirement if necessary. After discussion, it was agreed that in the future the Plan Commission would expect required documents to be in as required for posting (3 weeks) or 2 weeks for other items.

**Discussion of Large Wind Turbine Siting Regulating in Union Township. During the current moratorium the Large Wind Turbine Citizens Committee has developed a recommended ordinance to protect the public health and safety of residents. The recommended ordinance requires a tower setback of 2640' and maximum noise level of 35 dBa at the nearest house, as compared to 1000' setback and 50 dBa noise maximum under the state Model Wind Ordinance currently used for most sitings. The Plan Commission may make a recommendation for adoption to the Town Board at their regularly scheduled March meeting.**

Chairman Alvin Francis removed himself from the discussion due to a conflict of interest; Doug Zweizig chaired the discussion.

The Commission discussed the letter sent out by Attorney Dregne and confidentiality issues related to such. At this time, Dregne felt it is unclear if it is a breach of confidentiality issues to provide the letter to the Large Wind Turbine Citizens Committee.

Zweizig stated that with regard to how to handle letter from the attorney, he felt that the questions presented in the letter are best answered by Committee members. He suggested that the Plan Commission ask the Citizens Committee to look at the questions presented by Attorney Dregne and come back with answers, etc at the next Plan Commission meeting. Motion to recommend to the Town Board that the letter from Attorney Dregne be released to Citizens Committee members for review and answers to questions related to draft Large Wind Energy Ordinance made by Marty Johnson. Second by Eric Larsen.

Rich Templeton stated that he has talked to people who are very happy to have wind turbines in their communities. He is unsure if he will be on the Plan Commission when a vote is taken on this issue, and he has not made a decision on the issue at this time. However, the binder he received from the Citizens Committee about the ordinance did not seem to include any positive statements about the turbines, whereas the binder given to another individual whom he spoke to (from Magnolia) included information on pros. Templeton would like to see that material before any final decisions are made by the Plan Commission. Zweizig asked the Citizens Committee for a response to this issue? Jim Bembinster agrees that the folder referenced by Templeton probably had positive opinions in it; however, the Committee could only address health and safety issues and could not give comment on other issues, i.e. "good" or "bad."

Clarification: Is the Citizens Committee to come back to the Plan Commission with answers to the attorney's questions? Yes. What specifically are they to provide? Marty Johnson wants them to review the issues that have been presented in the letter and prepare responses, by category, to the questions posed. Eric Larsen wanted clarification regarding what is expected to be in response, are there to be recommendations to change the draft ordinance? Bembinster suggested that Citizens Committee members meet with Attorney Dregne to go through all the issues presented, and then bring the draft ordinance back to the Plan Commission, at which time the Commission can recommend adoption of the ordinance or approve the draft ordinance

as an interim ordinance. Attorney Dregne reminded the Commission that the moratorium is in place until August and can be extended if needed. He is reluctant to have a meeting without Plan Commission involvement, feels they need to hear Committee responses and needs to be part of discussion. Ultimately the Commission members have to be comfortable with the ordinance and recommending it to the Board. The Commission cannot rely solely on the Citizens Committee or the Town's Attorney for their information; they must read the information themselves and form their own opinions. The Citizens Committee can contact Attorney Dregne with authorization from the Town Board.

Motion carried by unanimous voice vote.

Attorney Dregne briefly discussed draft legislation, which may be introduced yet this session, which would direct the PSC to establish standards that any municipality would have to follow when developing ordinances that regulate wind power facilities. The legislation would also allow an individual to appeal to the PSC if they felt a town had improperly adopted or applied an ordinance. Would this legislation preempt ordinances already in place? Unsure at this time, but it is likely it would. The legislation would direct the PSC to develop standards, so the ultimate outcome and its effects would be unknown even after the legislation was passed. Overall, the town may want to think about how it is going to proceed with the development of its ordinance, given that there is significant time, effort, and expense involved and the outcome ultimately may have to be changed.

Don Krajeck stated that he spoke with Brett Davis, who felt there was not a lot of support for the legislation. Davis was not in favor of it; the timing of introducing the bill is also poor as it is nearing the end of session.

Bembinster stated that the legislation is up for hearing next week, and is not in bill form yet. Only need 24 hour notice prior to hearing. He feels it is an attempt by the state to take control away from municipalities, and that the next thing they (the state) will try to gain control of are subdivisions. Bembinster stressed the importance of town residents to attend the meeting/hearing. He will notify the Plan Commission and others interested if he hears of a meeting time/date. Larsen recommended waiting until the next Plan Commission meeting to make a decision on this issue as they will know the outcome of the legislation by then, and to proceed as planned for now. Agreed.

Attorney Dregne distributed a sample ordinance that outlines the detail, history, and research ("findings") that is preferable to include in ordinances, as it makes defending them much easier.

Francis stated that Mike Exum would like to remove himself from further wind energy discussions as he feels he may have a conflict of interest.

Motion to adjourn by Eric Larsen. Second by Marty Johnson. Meeting adjourned at 8:16 pm.

*Respectfully submitted by:  
Regina Ylvisaker, Clerk*

Note: Minutes are considered draft until reviewed and approved by the Town Board at a properly noticed meeting