

**VANDERBURGH COUNTY  
REZONING BOARD  
JANUARY 27, 2003**

(The meeting was reconvened at 7:00 p.m.)

President Mosby: We will now reconvene Board of Commissioners of Vanderburgh County hearing January 27, 2003, Rezoning agenda. Do I have a motion to approve the minutes of the previous meeting?

Commissioner Fanello: So moved.

President Mosby: Second. I just did that because you weren't there. So ordered.

**First Readings: VC-7-2003  
Petitioner: Onyx Waste Services, Inc.  
Address: 8136 Baumgart Road  
Request: Ag Change to M2**

President Mosby: First reading, VC-7-2003, petitioner, Onyx Waste Services, Incorporated, 8136 Baumgart Road. Request a change from Ag to M2. Do I have a motion to accept it?

Commissioner Fanello: Motion to accept first reading.

Commissioner Crouch: Second.

President Mosby: So ordered.

**Final Readings:  
VC-2-2003: Petitioner: Donaldson Capital Management, LLC  
Address: 7424 Darmstadt Road  
Request: R-1 Change to CO-2  
Action: Sent back to APC to be Amended**

President Mosby: We will now move to third, and final reading of all zoning ordinances. I need a motion to send VC-2-2003, Donaldson Capital Management, LLC, 7424 Darmstadt Road, R-1 to CO-2, I need a motion to send that back to Area Plan to be amended.

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: I have a motion and a second to send back to Area Plan. So ordered.

**VC-3-2003: Petitioner: Alan R. and Angela M. Gauger  
Address: 2012 Koring Road  
Request: Ag Change to C-4  
Action: Passed 3-0**

President Mosby: Next, VC-3-2003, petitioner, Alan Gauger and Angela Gauger, 2012 Koring Road, change from Ag to C-4. Mr. Bohleber.

Steve Bohleber: Good evening, members of the Commission. My name is Steve Bohleber, and I represent Mr. and Mrs. Gauger, who are seated behind me here. They live at 2012 Koring Road. In addition to working professionally as a cabinet maker for others in the past, Mr. Gauger has done cabinetry work in his garage, as a hobby, for a long time. He now wishes to expand the range of that hobby into a business. Therefore, this zoning become necessary. Since this is a jump up from an agricultural zoning to a high commercial, my clients have done several things to make it acceptable. Rather than zoning, rezoning the entire portion of their property, they've simply carved out the garage, where the hobby has been in the past, and where the business will be in the future, if you approve this, and rezone that portion of the property, along with the drive and space for parking. As I say, the Gauger's live on this property. Their home is next to this garage. As such, there will be no employees other than Mr. Gauger. There will not be a retail showroom. His work is custom ordered, and would generate little traffic. In fact, to the outside world nothing will really change at the Gauger residence, except where the work product goes from the garage. Rather than as a hobby for family and friends and himself, it will actually be a business. Even though nothing will change, and probably no one would ever know what they're doing, they certainly want to be in compliance with all the laws, including the zoning laws, and that's what brings them here this evening. The Gauger's talked to all their contiguous neighbors. All of them fully support this request. To further ensure that this will be an innocuous business that can only be utilized, from a practical standpoint, and legal standpoint, by the Gauger's, they do submit a use commitment that eliminates all the C-4 uses except the one that would include what he's doing there, and that's by definition something from use group 10 of the code for cabinet and carpentry shop. Since billboards theoretically could be erected there, although I can't imagine anybody would want to put a billboard there, they have prohibited those. The large signage that could be available is also limited by this use and commitment, use and development commitment, signage no more than

15 square feet, not illuminated, and not higher than the commercial structure, that would be the garage. So, that would allow for a small sign on the side of the garage, if this approved. This matter comes to you with a 9-1-1 do pass recommendation. I ask that the Commission likewise approve this ordinance. Again, I'm here, as well as my clients to answer any questions you might have.

President Mosby: Questions by any member of the Council, or the Commission? Seeing none. Any remonstrators in the audience for 2012 Koring Road? Seeing none, chair would entertain a motion.

Commissioner Fanello: I would make a motion to grant the rezoning request from Ag to C-4.

Commissioner Crouch: Second.

Kevin Winternheimer: You need a roll call.

President Mosby: I was going to say, how about a motion to call the roll. I have a motion to call the roll on VC-3-2003. Commissioner Crouch?

Commissioner Crouch: Yes.

President Mosby: Commissioner Fanello?

Commissioner Fanello: Yes.

President Mosby: Commissioner Mosby, yes. Three yes', no nays.

Steve Bohleber: Thank you very much.

President Mosby: I hereby declare it adopted.

**VC-4-2003: Petitioner: Herbert P. Grimm  
Address: 975 Hillsdale Road  
Request: Ag Change to R-1  
Action: Continued until February 10, 2003**

President Mosby: Next we have VC-4-2003, Herbert Grimm, 975 Hillsdale Road, request to change from Ag to R-1.

Bill Nicholson: Good evening. My name is Bill Nicholson. I'm here with Mr. Grimm. We'll be here to answer any questions you might have. Of course, we're

requesting this property zoned R-1. All the other properties around are zoned agricultural, at present. To the north of us, across Hillsdale Road is Blue Grass Farms Subdivision. Cypress Creek, and Plantation Estates are to the east. The rest of the property to the west and south of us is still agricultural farm land. We do not, at this time, have a site development plan. It will be subdivided as a subdivision, but as of this date we don't have any development planned as yet. All of the utilities and everything are present at the site, and anything that would have to do with the subdivision would be addressed later by the Plan Commission. Of course, drainage will be addressed at that time too, as the development plans are presented. Be glad to answer any questions you might have.

President Mosby: Questions by any member of the Commission? Is that your pleasure then, to put a subdivision in? Is that what your intending to do?

Bill Nicholson: Yes.

President Mosby: Any remonstrators present for VC-4-2003, 975 Hillsdale? I have a remonstrator.

Steve Bohleber: Ladies and gentleman, once again, I'm Steve Bohleber, and I'm here representing Mr. and Mrs. Randall Craig, who own lot 12 in Plantation Estates, which joins this proposed rezoning. As Mr. Nicholson and his client have stated, they are going to put a subdivision here, but as of yet have no plan for developing that. It's probably that lack of a plan that caused the Craig's to retain me to interpose their objection. It's clear to my clients, and it's clear to me, and I'm sure the Commissioners, and even before the question was asked, that this is being done so a subdivision can be developed. My client has no problem with that either. The problem is that there is a large stand of mature trees adjacent to his lot, and several others contiguous to his, before you get to the open fields that compose this parcel of property. My client would like to preserve some of those trees as a buffer, if at all possible. I approached Mr. Nicholson on behalf of the Craigs about this before the Plan Commission meeting, and he spoke with his client, and represented that certainly they wanted to leave some trees present. I take them at their word, as does my client, but there's only one way to ensure that will happen. There is no requirement, as far as I'm aware of, in the subdivision ordinance that would require a buffer of trees under these circumstances. There is certain setbacks, there are a variety of other things. The only thing that would preserve that buffer would be this rezoning submitted with a use and development commitment. If that were done to accommodate my client's wishes, we wouldn't be here this evening. But, Mr. Grimm and Mr. Nicholson choose not to do that, and I fully understand their rationale for doing it. That would have been to continue the matter, and create some additional

expense for them. But, that's the reason we're here. This is the only opportunity that my client has to make that request, and get that guarantee in an enforceable fashion. Hopefully, even if this is approved that promises will be made to this body that such a buffer will be left behind, because I think it's logical, and I'll certainly continue to talk on behalf of the Craigs with Mr. Grimm or whoever develops that subdivision. But, in the absence of a use commitment that provides for such a buffer, in a legally enforceable and guaranteed fashion, we respectfully object to the rezoning, and ask the Commission not to accept it. Thank you.

President Mosby: Thank you. Is there any other remonstrators present? Mr. Nicholson, would you like to say anything?

Bill Nicholson: Just a second, Mr. Grimm will speak to that.

Herbert Grimm: We have no plans of stripping the trees out there. The trees are an asset to us, the same as they are to the neighbors. So, we will take no more trees than necessary. A lot of the trees that they are speaking of are second growth trees. I bought that place in 1978, I think it was, and at that point in time it was a pasture. So, what trees are there now, except for a few pear trees that were there when I bought the place, are all second growth stuff. Now, there's some trees on the line between this, which we will have no reason to even disturb. So, as far as taking any trees out, there would be no reason. Of course, trees are an asset to us also. A treed lot always sells better than a bare lot.

President Mosby: Questions?

Commissioner Fanello: Just looking over the Area Plan minutes, they talked about the buffer that Mr. Bohleber just referenced, and the use and development commitment. Is there a reason that you do not want to enter into a use and development commitment?

Herbert Grimm: Yes, because I don't want to guarantee that I can keep a tree that I can't keep. Other than that, no. So, we have no reason. It's farm land now, I mean, we could have cleared the trees a long time ago, if we wanted the trees out. So, we have no reason to take them out, other than for a road, which won't be next to them anyway. There will be a lot between them and the road.

Commissioner Fanello: Since you mentioned the road, there was also the issue of access brought up. So, how do you intend to address the access part?

Herbert Grimm: You'll have to ask my engineer on that. It's being worked on.

Commissioner Fanello: Okay, I mean, do you see some problems with that? I

know they talked about it in the Area Plan meeting. I think Mr. Jeffers, he says in here that he;

“Encourages the developer to create as much in setback along the north line. I would also encourage him to seek access from both the north and south for public safety reasons.”

Herbert Grimm: We intend to work with the proper authorities on that. We don't have a problem with that.

President Mosby: Commissioner?

Commissioner Crouch: What, how would you, you know I'm kind of new at this. So, help me. How would you do a use and development commitment, and designate certain trees? I can certainly understand this gentleman's concern, because if they're secondary trees, they really aren't adding any worth to the project. He wouldn't want to be committed to keep those, so how would you—

Steve Bohleber: As a visual buffer. I mean, obviously, we wouldn't have each individual tree designated, but we would (Inaudible) strip of property. (Inaudible).

Madelyn Grayson: Mr. Bohleber, can you go the microphone please?

Steve Bohleber: Sure. You know, this is just my thought, the use and development commitment would say they shall not remove trees, you know, 15', 20', whatever, along that property line. That's all my client would really want. That could be done in a use and development commitment. If they die, they die, I mean, it's, you know, but they would just not remove them. Maintain that natural buffer.

Commissioner Crouch: And that's not something you're willing to consider? A certain amount of feet? If you intend to keep them there anyway.

Herbert Grimm: Yes, in a way. I just, I hate to guarantee, or say I'm going to do something, if something, if SIGECO comes through, they are supposed to be in the front, so there shouldn't be a problem there. The telephone is supposed to be in the front. The water will be in the front, and the sewer is already in the front. So, I don't foresee anybody going through there to where we'll have to take these trees out. Obviously, you've got to take enough trees down to build a house. If somebody buys the lot, and it's full of scrubbed trees, they're not going to want to keep all those. Now, there's very mature trees on the fence line, and I don't think we can cut down if we wanted to. We don't have any plans of taking a good tree down.

Commissioner Crouch: So, I guess I don't understand why you wouldn't want to put that in a use and development commitment.

Herbert Grimm: Probably for the same reason he wouldn't want me to ask him to commit part of his ground for my benefit. I don't have a problem leaving the trees. It's just I would have to know what he wants as far as use and development.

President Mosby: Are there any other questions?

Herbert Grimm: But, to answer your question, I probably wouldn't have a problem with it. If I knew what it was.

Commissioner Crouch: So, can you all decide what it is?

Steve Bohleber: Well, the idea had been rejected in each overture that we've made. So, we haven't gotten to the point of any detailed discussion. The concept is simple. A buffer, there are a whole bunch of trees there now. Just leave "x" number of feet, which is something we could talk about and negotiate, if they are interested, and put that in a commitment. You know, they shall not cut trees along this property line. I'm sure Bill could come up with a legal description, or it could be just 15' or 20', whatever we can negotiate and agree upon, off this property line would not be developed. The trees wouldn't be cut. Houses wouldn't be built there.

President Mosby: So, you're looking for us to, I guess, as part of the record—

Steve Bohleber: Well, you know, again, there's no ability to do this at the Plan Commission level—

President Mosby: Exactly.

Steve Bohleber: —as part of the subdivision ordinance. If the rezoning weren't here, he's right, he could cut the trees down without anybody's permission.

President Mosby: Exactly.

Steve Bohleber: But, you know, this is a guarantee. This is the only way my client can guarantee that legally. Had this rezoning not been filed, we wouldn't be here. He could have cut the trees down, and this wouldn't have been an issue, but this does give us the opportunity to preserve something my client wants with a use commitment. You know, I take them at their word. I'm happy to talk to them about easements, and other ways to do this, and other accommodations, you know, as this project goes along, but a simple way to do it now, and the only way

to do it now, would be a use commitment. That's what my client is asking for. I understand that they don't want to do it. I appreciate their thinking in that regard, but my client, nonetheless, wanted to make that request in the hopes that we could form a commitment that would preserve a buffer of trees between my clients lot and this subdivision. They are already there, it's just a matter of not cutting them down, and developing along whatever size strip we agree upon.

President Mosby: I know it don't hold up in court, but, I mean, I guess, we could ask him to state for the record his commitment to a 15' buffer between your clients property and this subdivision. I mean, I know it don't hold up in court, but—

Steve Bohleber: Well, statutorily any promise made to induce a rezoning could be the subject of litigation (Inaudible).

President Mosby: Well, exactly, and that's why I'm asking him to state it for the record. So, otherwise, to do a use and development he has to go back to Area Plan, and come back, and that's a 60 day deal.

Steve Bohleber: Absolutely, and I understand why he wouldn't want to do that.

President Mosby: I do too.

Steve Bohleber: I wouldn't want to do that either if I wanted to get this project moving.

Herbert Grimm: I have no problem with that. The problem I have, we're not going to save the 1" trees. If it's a tree of any size, of any value at all, we intend to save it.

President Mosby: I guess, and the way I understand Mr. Bohleber is he is just looking for you to say that you will leave a 10' or 15' strip, as a buffer, between the subdivision and the residential. Which I understand what he's saying, I mean, that happens a lot of times in zonings. We ask for buffers. Sometimes we ask you to plant a buffer.

Herbert Grimm: Right.

President Mosby: You're lucky you have one.

Herbert Grimm: Thank you. I would have no problem with a 10' buffer, as long as the people that live there are able to maintain. I don't want it to be something that's going to grow up wild and into something you can't walk in, or at least be able to mow. Do you have a problem with that?



Steve Bohleber: It would be something we could discuss.

Madelyn Grayson: Mr. Bohleber, you're going to have to make them on the—

Steve Bohleber: It would be something that we could certainly discuss and put in a use commitment, but, again, we haven't seen any interest in discussing it. They flatly said they don't want to do it. We could come up with all sorts of particulars, and put it in a use commitment that would address all of those issues.

Kevin Winternheimer: I was going to just throw out, if I might interject, to keep the ball rolling, so to speak, and not have to go back to Plan Commission and come back, which might take a number of months, if you put it off until a date certain, give them time to work out a private covenant, or whatever you want to call it, that would be recorded, run with the land, and so forth, to be enforced by your client, or the Plan Commission, that sort of thing they could work up—

Beverly Behme: We don't enforce them.

Kevin Winternheimer: —okay, they say they don't...well, anyway—

Steve Bohleber: No, it would be privately enforced—

Kevin Winternheimer: Okay.

Steve Bohleber: —and that's, that's certainly acceptable as well. It could be an easement preserving the trees. It could be a variety of things if, you know, if the dialogue would take place, we could work something out.

Kevin Winternheimer: As long as you said when you are bringing it back for approval for a date and time certain, then you could go ahead and approve it without sending it back to the Plan Commission. It would be a private agreement. It wouldn't be part of this rezoning, so to speak. That's another option I just wanted to make you aware of.

Commissioner Crouch: Would we have to wait until the next Rezoning meeting? Or could it be at a regular meeting?

President Mosby: Any meeting.

Kevin Winternheimer: It could be at any meeting, as long as you announce tonight when it is coming back for consideration, for them to report back, you could do it at any meeting. Is that acceptable to the two people? The Commissioners are thinking along that line to the two parties.

Steve Bohleber: It's acceptable to my client to see if we can work something out. If we can't, we can't, but, you know, we've got to be able to talk and be on the same page before we know if we can work something out. I don't think it's going to be that difficult, quite frankly.

President Mosby: I mean, if we're going to pass this zoning.

Kevin Winternheimer: No, what you'd be doing is continue the zoning until a date certain.

President Mosby: Oh, continue.

Kevin Winternheimer: Give them an opportunity to work out a private agreement, then if they do work out a private agreement, then you should take a vote on it. If they don't, then you take a vote on it based on their inability to reach an agreement. So, we're just putting off the final decision date, and giving them an opportunity to work it out. I think if they try to work it out here on the floor tonight it's going to take quite a bit of time tonight to do that, and we're pretty late already.

President Mosby: I mean—

Kevin Winternheimer: (Inaudible. Mike not on.) sit down together and work it out, because there's some details, like you said, do you want to keep the saplings, do you want determine tree size, how big. Mr. Bohleber probably needs to talk to his client again, you know, they can work that outside the meeting room.

President Mosby: I mean, I don't know. I'm satisfied with, they, I don't know, whatever the Commission, whatever you want.

Steve Bohleber: Two weeks would be fine from my perspective.

Commissioner Fanello: I was just going to make a motion to continue it for two weeks to give you time to talk with him, and try to work something out.

Commissioner Crouch: Second.

Commissioner Fanello: So, that would be February 10<sup>th</sup>.

Commissioner Crouch: February 10<sup>th</sup>?

President Mosby: Yep. So, I have a motion to—

Herbert Grimm: Excuse me just a minute. Bill, did they ever contact you and ask you to put a buffer in there?

Bill Nicholson: Well, he called me, and I called you.

Herbert Grimm: Yeah.

Bill Nicholson: And you didn't want to. I mean, that's what you told him.

Herbert Grimm: I said I wouldn't agree to whatever (Inaudible). Okay, I'm sorry.

President Mosby: I have a motion on the floor to continue VC-4-2003, 975 Hillsdale Road to, continuance until February 10<sup>th</sup>.

Kevin Winterheimer: At 5:30.

President Mosby: At 5:30. I guess, we need to vote on that. Commissioner Crouch?

Commissioner Crouch: Yes.

President Mosby: Commissioner Fanello?

Commissioner Fanello: Yes.

President Mosby: Commissioner Mosby, no. Being two ayes and one nay, it's continued.

Steve Bohleber: I'll make arrangements immediately. Talk to my client tomorrow to get with them, and we'll work something out.

Herbert Grimm: Thank you.

**VC-6-2003: Petitioner: Sterling Development  
Address: 6649 Old Boonville Highway  
Request: Ag Change to R-3  
Action: Passed 3-0**

President Mosby: VC-6-2003, Sterling Development, 6649 Old Boonville Highway, request change from agricultural to R-3.

Kent Heckaman: Good evening members of the Commission. I'm Kent

Heckaman. I'm Vice President of development for Sterling Development. I'm here to answer any questions that you may have with respect to the petition before you for the rezoning of this property. We are, just a real brief statement about Sterling, we are a developer of multi-family housing throughout the Mid-West; Indiana, Michigan, and Illinois. We have developed over 6,000 apartment units in 50 communities. 51 communities now, I guess. We did, Ms. Fanello was gracious enough to give us a few minutes of her time in December to introduce our company to her area. Our petition tonight, again, is subject to our proposal, which we have laid out a preliminary site plan that shows this property of a little over 17 acres, and our intention is to develop and own and manage the proposed 176 apartment units that would fit within the guise of the R-3 zoning, without any special use permits or anything. Again, I'm here to simply answer questions. I know that you have a packet before you. So, I won't divulge anymore, and I'll pause at this time.

Madelyn Grayson: Can you spell your last name for the record?

Kent Heckaman: Yes, I'll give you a card, if that helps you.

President Mosby: I'm looking for my notes here, but, I believe, did you not have, was there somebody that expressed a problem with entrance on this? Can you address that?

Kent Heckaman: Yeah, sure. This property is, does have legal access to it currently off of Old Boonville Highway. Albeit through a 15' wide access easement, which is certainly not large enough to provide access to and from our property into a development of this size. So, what Sterling, and what we have been able to do prior to the rezoning petition even reaching the Planning Commission, was to gain an agreement in writing with the adjacent property owners, who own the property that more adequately, if you will, comes out with frontage along Old Boonville Highway. While that agreement is a letter of intent, it clearly does spell out the intent to provide, upon final engineering, in other words, exactly how wide this needs to be. We have yet to be determined this easement area, but roughly 100 plus feet of property to the south of the adjacent property that fronts Old Boonville Highway, which would adequately do two things; not only provide frontage and access, greater access, to our community, it's a 17 acre community, but also the adjacent property too, we would, we would be under agreement with them to, at our cost, design and build that road, and provide them an access stub out to their property, so that it would also adequately serve the balance of their land.

President Mosby: Okay. Any other questions? Any remonstrators present? I thought you was wanting to say something, Bill.

Beverly Behme: David, if I may, site review will work on this.

President Mosby: I knew it would go to site review, but I just, that was a question that I had.

Beverly Behme: His frontage requirement is satisfied on the interstate, but, of course, there's no access there. The site review, and EUTS, and the County Engineer will be involved in this access road.

President Mosby: Okay. There being no further questions and no remonstrators, do I have a motion?

Commissioner Fanello: Motion to approve VC-6-2003.

Commissioner Crouch: Second.

President Mosby: Motion and a second. Commissioner Crouch?

Commissioner Crouch: Yes.

President Mosby: Commissioner Fanello?

Commissioner Fanello: Yes.

President Mosby: Commissioner Mosby, yes. Being three ayes, no nays, petition VC-6-2003 is hereby declared adopted. Any other business to come before the Commission on rezoning? There being none, chair would entertain a motion.

Commissioner Fanello: Motion to adjourn.

Commissioner Crouch: Second.

President Mosby: I have a motion and a second. So ordered.

(The meeting was adjourned at 7:30 p.m.)

**Those in Attendance:**

David W. Mosby

Kevin Winternheimer

Madelyn Grayson

Dennis Feldhaus

James Tolen

Gary Hohman

Catherine Fanello

Bill Fluty

Phil Lawrence

Melvin Beeker

John Stoll

Steve Bohleber

Suzanne Crouch

Tammy McKinney

Rebecca Gootee

Roger Madden

Dennis Hudnall

Bill Nicholosen

Herbert Grimm  
Others Unidentified

Kent Heckaman  
Members of Media

Beverly Behme

**VANDERBURGH COUNTY  
BOARD OF COMMISSIONERS**

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**David W. Mosby, President**

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**Catherine Fanello, Vice President**

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**Suzanne Crouch, Member**

**VANDEBURGH COUNTY  
BOARD OF COMMISSIONERS  
FEBRUARY 24, 2003**

The Vanderburgh County Board of Commissioners met in session this 24<sup>th</sup> day of February, 2003 at 5:30 p.m. in Room 307 of the Civic Center Complex with President David Mosby presiding.

**Call to Order**

President Mosby: I would like to call to order Board of Commissioners meeting of Vanderburgh County for February 24, 2003. Roll call is as follows, Tammy McKinney, Superintendent of Buildings; Corporate Counsel, Kevin Winternheimer; Commissioner Fanello; myself; Commissioner Crouch; Auditor, Bill Fluty; and Recording Secretary, Madelyn Grayson. Everybody please stand and say the Pledge.

(The Pledge of Allegiance was given.)

**Approval of February 18, 2003 Commission Minutes**

President Mosby: Thank you. Do I have a motion to approve the minutes of the prior meeting?

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: I have a motion and a second. So ordered.

**Award APA014-2003: Traffic Paint**

President Mosby: Okay, we want to do APA022-2003 first, right?

Phil Lawrence: Yeah.

President Mosby: That's what they tell me.

Phil Lawrence: I really appreciate that.

President Mosby: That's no problem.

Phil Lawrence: I e-mailed them to you, but just in case e-mail wasn't working, because twice it said it didn't work. So, I said, well I better just carry them just in case.

Commissioner Fanello: Thank you.

Phil Lawrence: A bid summary of what (Inaudible. Away from mike.)

Bill Fluty: Thanks.

Phil Lawrence: It's actually three separate, it's waterborne paint, and then there's glass spheres and white thermo-plastic, which they use for street signing and so forth. If you'll notice on here that Sherwin-Williams was the apparent low bidder for

all three. My recommendation is that we award them all to Sherwin-Williams, for a total of \$61,809.35.

Commissioner Fanello: I'll move approval.

Commissioner Crouch: Second.

President Mosby: So ordered.

**Award APA022-2003: Computer and Copy Paper**

Phil Lawrence: The second one is APA022-2003, computer and copy paper bid. Did you get it?

Commissioner Fanello: Uh-huh.

Phil Lawrence: For some reason the e-mail came back and said it was undeliverable. In previous years we've not accepted the low bidder here, because of the last page, which gives you their discounts, and how much they will charge us over the course of the year. This is the first year we've been fortunate enough that the low bidder also has the best price increase. Alpha Laser was the low bidder at \$67,603.08, and also guarantees their pricing for 120 days, has a maximum 3% bid increase for the entire year. Typically it's been 3% each quarter. So, this is one of the better deals we've seen for quite some time. My recommendation is that we award it to Alpha Laser for \$67,603.08.

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: So ordered.

**Open Bids for VC025-2003: Burdette Park Pool Lining and Demolition**

Phil Lawrence: Next is opening of the award.

Kevin Winternheimer: Any bids from the audience on the item bid? Seeing none. Let me make sure I've got the right....is this Burdette Park Pavilion Renovations?

Phil Lawrence: No.

Kevin Winternheimer: Okay. That was the first envelope I was given. I was wondering, but I didn't--

Phil Lawrence: Huh?

President Mosby: It should be pool linings.

Phil Lawrence: It's the pool linings.

Kevin Winternheimer: Yeah, well, we don't know until we get them back, I guess, what they are for.



Tammy McKinney: Did you grab the wrong stack?

Kevin Winternheimer: No. Okay, in any event, it was, the envelope was from J.E. Shekell, and it appears that everything is blank. They just sent it back, so, it's not even a bid anyway. But, we don't know until we open them up what they are, but the bid, all the bid items are blank. So, they didn't bid anyway, whatever it was. I guess, they are just sending them back to you. Okay, the first bidder is Deig Brothers Lumber and Construction Company, Inc. of Evansville. They did, apparently did not bid the base one bid for all work. They did not bid what they've referred to as "the work". They did not bid the gutter replacement or the pool lining installation, but what they did bid was the demolition of pool walls and deck, a separate item. Their price for that is \$89,880. Okay, and I may mispronounce the name, Nataré, N-a-t-a-r-e Corporation from Indianapolis, Indiana. Base bid number one for the work, they have a price of, this is, I guess, pool liners and gutters, \$466,150. For the gutter replacement, \$176,590. Pool lining installation, \$280,500. For demolition they did not bid. They have written no bid.

Tammy McKinney: (Inaudible. Mike not on.)

Kevin Winternheimer: I think I'll open this other one, I think it's some other paperwork. Do you want me to open this other envelope they sent. I think it's just more paperwork. Okay, the other envelope was a page, and it says a deduct for installation, personnel to be provided by Burdette Park as per an addendum.

Phil Lawrence: Yeah.

Kevin Winternheimer: Is that right, Phil?

Phil Lawrence: Yeah.

Kevin Winternheimer: Item number one is a deduct of \$11,700 from the total project bid. Item number two is a deduct of \$11,700 for the total bid for pool liners.

Phil Lawrence: Okay.

Kevin Winternheimer: We've got one more. The last bidder is Aquatic Renovation Systems, Inc. I'm looking for an address, their address is Indianapolis, Indiana. The all work, the total work, they did not bid. Under bid for gutter replacement they've got Olympic pool \$63,358. They have family pool, \$117,665. Then for pool linings installation, again, under the Olympic pool category, \$81,675. Under family pool, \$153,750. They did not bid the demolition part of it. Here they've got, they've written here, deduct \$5,000 for housing of work crews provided by Burdette. If that makes sense.

Phil Lawrence: Uh-huh.

Kevin Winternheimer: That's all the bids I have.

Commissioner Fanello: Motion to take under advisement.

Commissioner Crouch: Second.

President Mosby: A motion and a second to take bids under advisement, so ordered.

Phil Lawrence: I do have just one little thing. I've got the towing bids done, and I'll just drop them with Patty, and you can look at them and give me a shout real quick, so that we can get those big puppies out real quick. Okay. Thank you.

**Judge Niemeier: Detention and Residential Services Agreement:  
Southwest Indiana Regional Youth Village**

President Mosby: Next we have Judge Niemeier. Oh, there he is.

Madelyn Grayson: Judge, can we have one for the record please? Do you have an extra?

Brett Niemeier: Okay, I believe I previously asked the Commissioners to take a look to see whether or not you would approve a contract with Southwestern Indiana Regional Youth Village. That contract that you are looking at was for the year 2002, and surprise, surprise, we're in 2003. So, what I just handed you was a new contract for 2003. The only changes, as one can imagine, would be that costs have gone up. So, if you look at page eight, under section 6.1, compensation, sub-paragraph A, those are new numbers from what you originally had received in the 2002 contract.

Commissioner Fanello: It doesn't look like there's that big of a difference though.

Brett Niemeier: I'm sorry?

Commissioner Fanello: It doesn't look like there's that huge of a difference.

Brett Niemeier: No, as a matter of fact, I think the secured detention stayed the same.

President Mosby: It did. Are there any questions?

Commissioner Crouch: Judge, this is a new contract, right?

Brett Niemeier: Yes.

Commissioner Crouch: We've not signed in the past?

Brett Niemeier: Yeah, currently we do not have a contract with Southwest.

Commissioner Crouch: We spoke today, so, I'm just, you know, curious if anything has changed. The reason we are signing this now is that you discovered that we could actually, if we entered into a contract, then we could get a—

Brett Niemeier: Cut our per diem rate.

Commissioner Crouch: Cut our per diem rate.

Brett Niemeier: Yes. Yeah, and Commissioner Fanello had requested for me to compute the cost savings if, in fact, we had had this contract for the entire year of 2002. I asked T.J. Brink, he is the Admissions Manager at Southwest, and he was kind enough to do that calculation. If we would have had a contract in 2002, we would have saved the county \$25,889.75.

Commissioner Crouch: And we didn't have the contract because—

Brett Niemeier: We've never had a contract with Southwest.

Commissioner Crouch: The reason I ask is as we spoke today, I told you that I remembered that this gentleman had appeared before this Commission back, I believe in, I don't know if it was July or August of 2001, and I went back and then got on the Internet and checked the minutes after we spoke, and he did, in fact, come and he presented information, and asked that we enter into a contract and become a contracting county with their facility, and that we would receive a reduced rate.

Brett Niemeier: Uh-huh.

Commissioner Crouch: We never did that. So, I kind of look at it that we probably could have saved \$26,000 if we had gone ahead and followed through back when it was first presented to us. So, I think, you know, certainly we need to enter into this and accept it. There aren't any guarantees, or we don't have to do minimums, or—

Brett Niemeier: Exactly. Years ago that was the problem why the county did not enter into a contract with Southwest, because they wanted us to guarantee so many beds and so much money per month. Judge Lensing, and I think the Commissioners decided at that time that was not prudent for the county to do. Why, you know, we didn't do that in 2002, I don't, I don't honestly remember why it wasn't suggested at that time. Or why it wasn't followed through on.

Commissioner Crouch: Well, I think it's a great opportunity for us to cut our costs.

President Mosby: Any other questions?

Commissioner Fanello: I would make a motion to approve the contract.

Commissioner Crouch: Second.

President Mosby: I have a motion and a second to approve the contract with South Indiana Regional Youth Village. So ordered.

Brett Niemeier: Okay, and I would also suggest that we enter into a contract with the Youth Care Center, as soon as we can get that established. Because I think it's very important that everyone understands their responsibilities and their liabilities when it comes, whenever we're using these detention centers, so that we don't have possible litigation in the future if something unforeseen happens. So, I would ask that the Commissioners consider entering into a contract with the Youth Care Center.

Commissioner Crouch: I commend you, Judge, because I know in the past there haven't always been contracts. There are a lot of questions that have arisen. So, I, you know, commend you for moving forward in this direction.

Brett Niemeier: Okay. Anything else? Thank you.

Commissioner Fanello: Thanks, Judge.

President Mosby: Thank you.

**Jail Project: Environmental Report**

President Mosby: Next we have the jail project, environmental report. I don't believe Rick's here, is he?

Commissioner Fanello: What?

President Mosby: Is there anybody from EMC?

Commissioner Fanello: I don't think so. Outside? We may have somebody outside. Can you check and see if somebody from EMC is outside?

President Mosby: Nobody? Okay. Who put this on? Well, if there's nobody here, I guess, from EMC, but did you get a copy.

Commissioner Crouch: I did. It's kind of foreign.

President Mosby: Yeah, well, that's kind of what I thought.

Commissioner Crouch: I did see the ND—

Commissioner Fanello: Non-detectable.

Commissioner Crouch: —which that means non-detectable.

President Mosby: I was going to say, the only thing I can really tell you is that in talking to EMC that they said they did the four holes, ten feet north, west, south, and east of the center hole, and they went 16' down, and they did a visual all the way down in the snow, all the way down. They sent the test off to the labs, and everything came back non-detectable. So—

Commissioner Crouch: That's good news. It's kind of, I guess, it's kind of like the insurance we pay on our homes for fire that never happens, hopefully. It's \$3,500 insurance for a \$35 million project. So, that's good news.

President Mosby: So, anyhow. Do we need a motion to accept the report—

Kevin Winternheimer: No.

President Mosby: —or anything like that?

**GIS Drop in Commission Chambers**

President Mosby: Next GIS drop in the Commission chambers. I really think this is for the Council chambers, right?

Commissioner Fanello: No, this is for this chambers right here.

President Mosby: It's for the Commissioners?

Commissioner Fanello: They asked our permission, and we included it on the agenda, because they just sent it up for somebody to approve, and I thought the whole board should approve it. I make a motion to approve the GIS drop.

President Mosby: There's no cost to us?

Commissioner Crouch: Second.

Commissioner Fanello: No, they are paying for it.

President Mosby: I was going to say, it's no cost to us. I have a motion and a second. So ordered.

<p style="text-align: center;"><b>Teamsters Union Contract (County Highway, The Centre, Burdette Park, Old Courthouse)</b></p>
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President Mosby: Commissioners, union contract. Has everybody had a chance to read that?

Commissioner Crouch: Yeah, there's just one little change, I believe. I had asked the Council to take a look at the job classifications and the salary, and you all would probably know this more than I would, they indicated that on page 29, do you have—

Commissioner Fanello: I don't know if I have mine.

President Mosby: I had mine. I didn't have mine in the packet.

Commissioner Fanello: No, we had it in our packet last week.

Commissioner Crouch: It was in last week's. On page 29 where it says Superintendent of County Buildings, there's a carpenter, and then they said we need to include the maintenance position at \$14.7796. That wasn't included in the contract. If that is the case—

Commissioner Fanello: It should be included in there. Our maintenance person at the Old Courthouse.

President Mosby: I think it was just left off.

Commissioner Fanello: Yeah.

Commissioner Crouch: Yeah.

President Mosby: Yeah.

Commissioner Fanello: We could just, we could approve it with that amendment.

President Mosby: Yeah, I mean, it's got to be in there, because it's definitely a union position.

Commissioner Crouch: Yeah.

Commissioner Fanello: I'll make a motion to approve the union contracts with an amendment to include the maintenance worker at the Old Courthouse.

Commissioner Crouch: Second.

President Mosby: I have a motion and a second to approve union contract. This is a contract with the Garage, the Centre, Burdette, and the Old Courthouse. This is not the Sheriff's Department contract.

Commissioner Crouch: For three years.

President Mosby: This is a three year contract, starting retroactive to January 1, 2003. A motion and a second. So ordered.

#### Public Comment

President Mosby: Is there any public comment?

Roger Madden: Roger Madden, Fathers United. As I've been telling you for about the last 13 years, the problems with the need for a visitation enforcement officer. If you heard in the news about the two weeks ago about the false memories that Bugs Bunny was mugging kids at Disneyland. Well, for one, Bugs isn't at Disneyland, so, that means it couldn't happen. For two, it's false memories. For three, that's what fathers have been fighting for about 40 years. So, without the equal protection of having a visitation enforcement officer to counter the gestapo tactics of the Child Support office, that's the kind of problems we have. Just heard an advertisement today for First Steps for kids with emotional, physical, etcetera, developmental problems. Well, if you've got both parents in there, you can prevent a lot of that from ever happening. Prevention is a whole lot cheaper than correction. The same thing I've been telling the jail planning committee for the last five years. As I told you about Hibbs versus Nevada, and the discrimination etcetera, etcetera, I guess, our U.S. Supreme Court is starting to lean a little more towards equal protection of everybody, because I just got docketed in the U.S. Supreme Court. So, maybe the 77% denied visitation rate will go away. Maybe we can increase our child support payments by about 40% or 50%. Maybe we'll start taking care of the kids, instead of using them as political fodder. Any questions?

President Mosby: Thank you. Is there any other public comment?

#### Old Business

President Mosby: Any Old Business? I know Judy is with us tonight. Judy, did you want to—

Judy Weatherholt: I'm Judy Weatherholt with the Southwestern Indiana Regional Development Commission. Hopefully, you all have a copy of the public hearing notice. This is on the Jobe's Lane project. We need to have a second hearing on that project. This will need to be published, and I need an approval from you all to go ahead and publish this second notice.

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: A motion and a second for public notice. So ordered.

Judy Weatherholt: Okay.

Madelyn Grayson: Judy, is that something that we will take care of advertising?

Judy Weatherholt: I think it comes through your office, doesn't it, Commissioner?

President Mosby: Yeah, I would think.

Judy Weatherholt: I think that's what...did we handle, whoever handled it the last time.

Madelyn Grayson: I'll take care of that then.

Judy Weatherholt: Okay.

President Mosby: I was going to say, I'll have Tammy get with her.

Judy Weatherholt: Okay.

President Mosby: Okay. Is there any other Old Business?

#### **New Business**

President Mosby: Any New Business? Seeing none.

#### **County Engineer**

President Mosby: Department head reports. John Stoll is out of town. I don't believe he'll be here tonight.

#### **County Highway**

President Mosby: County Highway, Dennis. I didn't know if he was awake. I thought he might be home.

Dennis Hudnall: Dennis Hudnall, County Highway. Good evening. First of all I want to inform you that I did send the paperwork in asking for a \$25,000 appropriation for union overtime, because it's getting kind of critically low at this point, because of all the snow. So, if you need a copy of that, I would be glad to provide it for you, the transfer. Another thing is it's pothole season, because right after the snow removal, I guess, we'll move right into potholes. If we could, you know, advertise if anybody has, throughout the county, a pothole that we can log in, so we can go out and get them, because we've been getting an enormous amount of calls on them. We've been trying to take care of all of them in between the snowfalls. There's a piece of equipment that I have solicited some prices on that we need for these potholes. It's a small roller. I got three bids on this. It's a used piece of equipment. I didn't want a new piece. We have a roller out there now that's 12 years old, and it's in the maintenance shop more than I have it on the road. I have those three bids, and it's under \$10,000. So, am I right in soliciting the three bids, instead of opening the bid?

Kevin Winternheimer: That's fine.

Dennis Hudnall: Okay.

Kevin Winternheimer: You would need to read them into the record of what you got, who they're from (Inaudible. Mike not on.)

Dennis Hudnall: Did you say I need to read them into the record?

Kevin Winternheimer: Yeah, we ought to put them in the minutes.

President Mosby: Go ahead and read the name of the company and the prices quoted, just so we'll get it on the record.

Dennis Hudnall: Okay, National Equipment Service was \$12,490. Southeastern Equipment Company, Incorporated was \$8,750. Caterpillar Rental Store was \$7,632, which is the low bid. I've reviewed this piece of equipment, and it's satisfactory. The mechanics have checked it out. So, I would recommend the low bid on it.

Commissioner Fanello: And you have money in your budget?

Dennis Hudnall: Yes.

Commissioner Fanello: I'll move approval.

Commissioner Crouch: And I'll second it. Just a question, I see here on Southeastern that they had a one year extended warranty that was available. Does this piece of equipment that you are recommending, does it have any kind of a warranty that also could be available for an additional amount of money?

Dennis Hudnall: That I can't answer. I don't, I asked them, the spec was I needed, I didn't want to buy a new piece of equipment because of budget constraints. A new piece of equipment is around \$20,000. So, I've asked them all to bid on something with 200 hours or less that was on the equipment. They were supposed to do that. The warranty, that wasn't a part of it, but it's a good question, I mean.

Commissioner Crouch: You might check.

Dennis Hudnall: Yes.

Commissioner Crouch: And did I second? Okay.

President Mosby: I have a motion and a second to accept the bid from Cat Rental Store for \$7,632. I guess, Dennis, too you might ask Cat if they have any kind of warranty.

Dennis Hudnall: I'll do that.

President Mosby: Since we can do this for a one year extended.

Dennis Hudnall: Okay.

President Mosby: So ordered.



Dennis Hudnall: The only other thing I have is do you have any questions on my report that I sent you. I hope you all...it's lots of snow and potholes. That's basically it.

President Mosby: I don't really have any questions.

Commissioner Fanello: I have a question, it's not about the report, but have we set a date for our road hearing yet? I can't remember if we did that at the beginning of the year.

President Mosby: I don't think so.

Commissioner Fanello: Do we want to do that since we're going to go ahead, that's usually when we—

Commissioner Crouch: (Inaudible. Mike not on.)

Commissioner Fanello: We do set, usually about the beginning or middle of March, I think. So, we might set it for, since you're so busy right now, we might, we might move it later in the month. Because you have so many things going on.

Dennis Hudnall: We have a potential list—

Commissioner Fanello: Okay.

Dennis Hudnall: —constructed, and we'll have to advertise, I guess, if anyone else has anything.

Commissioner Fanello: Maybe March 17<sup>th</sup>.

President Mosby: Well, since that's zoning, I was thinking the 24<sup>th</sup>.

Commissioner Fanello: Okay.

President Mosby: March 24<sup>th</sup>.

Commissioner Fanello: That's fine. I'll move approval—

President Mosby: The 17<sup>th</sup> will be third Monday.

Commissioner Fanello: —of the road hearing for March 24<sup>th</sup>.

Commissioner Crouch: Second.

President Mosby: So ordered on the road hearing.

Madelyn Grayson: We do need to advertise that don't we?

Kevin Winterheimer: Go ahead and advertise it, yeah.

Dennis Hudnall: That's all I have.

President Mosby: Is there any other questions of Dennis? Did you hear back from North American today?

Dennis Hudnall: No, not yet, but we're hoping in the morning early that we get some trucks rolling in there. We'll keep you posted on the situation.

President Mosby: Okay.

Dennis Hudnall: So, hopefully, they'll show up in the morning with salt.

President Mosby: Hopefully, you don't need it then.

Dennis Hudnall: Yeah.

Commissioner Fanello: We've got two more snows coming, I think. Tuesday, and Sunday, I think.

Commissioner Crouch: (Inaudible) good job.

Commissioner Fanello: Yes.

Dennis Hudnall: Well, thank you. Thank you. The guys out at the Garage appreciate that, because—

President Mosby: Don't pay any attention to the—

Dennis Hudnall: —they've put some long hours in. Beg your pardon?

President Mosby: Don't pay any attention to the letter to the editor.

Dennis Hudnall: We already read it. Everyone out there read it. We just try that much harder.

President Mosby: No problem. You did do a great job. Thank, Dennis.

Dennis Hudnall: Thank you. Have a good night.

<b>County Attorney</b>
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President Mosby: County Attorney.

Kevin Winterheimer: I just have one brief, quick matter. A couple of weeks ago Commissioner Crouch asked me to contact SMG, Sandie Aaron, about whether they had any insurance to cover a matter if we were sued by the Toughman people. She called me, and I was in a meeting here, Tuesday morning, I believe, this Tuesday, and she left it on my answering machine. In any event, her response was, no, they do not have any insurance coverage for that kind of thing. My, I did not call her back, or ask for any further explanation. I assume that probably the matter is one of a contractual nature, and usually you don't carry insurance for contractual type matters. I assume that was the response of her insurance company. I did not get back further, but that was her report, that they did not have any insurance coverage for that. That's all I have to report.

President Mosby: Any questions?

**Superintendent of Buildings**

President Mosby: Superintendent of County Buildings.

Tammy McKinney: I don't have anything to report.

**Burdette Park**

President Mosby: Burdette Park

Steve Craig: Steve Craig, Manager of Burdette. I got our work reports, and then I do want to get a copy of those bids, so that we can go over those. For the pool lining.

Tammy McKinney: Phil Lawrence has those.

Steve Craig: Did he take them with him already? Did you copy them by any chance? Okay. I want to get on that, because we don't have much time, or leeway to do it, and I would like to get a hold of them. Other than that, that's all the business that I have.

President Mosby: I was going to say, contact Phil in the morning and see if we can get a copy and that, so we can go through them.

Commissioner Fanello: We'll get them in the morning.

President Mosby: Any questions of Steve? Thank you, Steve. We'll get you a copy of them.

Steve Craig: Thank you.

**SWCD & Ozone Officer Reports**

President Mosby: Is anybody here from Soil and Water?

Commissioner Fanello: I don't think I saw anybody. I'll move that we accept the Soil and Water and Ozone Officer's report.

Commissioner Crouch: Second.

President Mosby: A motion and a second, so ordered.

**Consent Items**

President Mosby: Consent Items. Any questions?

Commissioner Fanello: I'll move approval of the Consent Items.

President Mosby: A motion and a second on the Consent Items. So ordered.<sup>1</sup>

**VANDERBURGH COUNTY  
REZONING BOARD  
FEBRUARY 24, 2003**

The Vanderburgh County Rezoning meeting for February 24, 2003 was held as part of the regular Commission meeting. The rezoning portion of the meeting began at 6:05 p.m.

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<sup>1</sup>Consent Items listed on Page 20.

President Mosby: Which brings us to rezonings.

**First Readings: VC-8-2003**  
**Petitioner: Moore Investments LLC**  
**Address: 800 Schutte Road**  
**Request: Ag Change to R-3**

President Mosby: First reading we have one rezoning, VC-8-2003, petitioner, Moore Investments LLC, 800 Schutte Road, request change from Ag to R-3. Do I have a motion to accept?

Commissioner Fanello: Motion to accept first reading.

Commissioner Crouch: Second.

President Mosby: So ordered.

**Second Readings: VC-1-2003**  
**Petitioner: Jeffrey G. and Jennifer L. Korb**  
**Address: 7920 Hogue Road**  
**Request: Parcel A: Ag Change to R-1**  
**Parcel B & C: R-1 to R-3**  
**Action: Approved 3-0**

President Mosby: Final reading, VC-1-2003, petitioner, Jeffrey Korb and Jennifer Korb, address, 7920 Hogue Road. Parcel A change from Ag to R-1. Parcel B and C, change from R-1 to R-3.

Kevin Winternheimer: Just in time.

Jerry Atkinson: Just in time. Good evening, my name is Jerry Atkinson. I represent the petitioner, Jeffrey Korb and his wife, Jennifer, and Haas Development, Inc., with regard to the rezoning of a small parcel of real estate to R-1, and a larger parcel of real estate to R-3 for condominiums off Hogue Road on the west side of Evansville. There is already some existing R-1 present, and the function of the rezoning is to change the land use so that there will be approximately 20 acres of R-1 land that will support the construction of single family residences that are like the residences across the road in Heartland Ridge. They will sell for approximately \$220,000, on up. Access will be to Hogue Road, immediately south of the entrance of Heartland Ridge. The R-3 area is proposed for use for up to 20 condominium buildings, with not more than four units per building, and not bigger than 8,000 square feet, with some of those condominium buildings being for two units, and some being for four units. The current conceptual plan consists of 14 buildings, ten of which are four unit buildings, and four of which are two unit buildings, for a total of 48 units. However, as the development is designed, there may be an opportunity to add an additional building, or to change a four unit building to a two, or vice versa, depending on the terrain. That's the reason for the use and development commitment being slightly larger than what they are currently planning. All of these will be single story. This is, if you will, a condominium development adjacent to Wolfe Creek Condominiums which were approved by the County Commissioners before. The R-1 area will access Hogue Road by an entrance right here. The R-3 area will access Wolfe Creek Court, which is the area the...I'm sorry, Wolfe Creek Condominiums are

currently under construction. There will be an extension of that road. The value of connecting the roadway will be to give both the residential area, and the condominium area access to either Hogue Road or Eickhoff Road, and reduce traffic density on both roads. When the new Eickhoff extension is completed, the existing Eickhoff Road will, in effect be a frontage road, and there will be very little traffic on Eickhoff Road. This is, if you will, an identifiable development in the sense that Heartland Ridge already has houses that you can tell that will be, I'm sorry, exemplary of what will be constructed. These are the photographs of some homes that exist across the road in Heartland Ridge. Likewise, you can also see what the development will be with regard to Wolfe Creek. There are some condominiums that are under construction currently. Some of them have been sold already. The developer intends that the development will be consistent with that that's already under construction. I have some photographs of typical, if you will, condominium dwelling buildings that will be the type of building that is going to be constructed on the area being rezoned R-3. I also have taken some photographs of the Hogue Road area that shows where the R-1 land would be, and also looking into the trees that exist on where the R-3 rezoning is sought. The Haas family came here a year or so ago, and they asked for some land to be rezoned so that they could build condominiums. They had no intention of coming back to you and saying, gee, we want to do some more condominiums. The neighbors were up in arms. They fought. They battled. They remonstrated. They objected. You had faith enough in the folks, the Haas family, to vote for approval of that rezoning. The leader, if you will, of that remonstrance was comfortable enough at the quality of the construction, and the class of the development that he has agreed to sell land that he bought to block further development by the Haas family, to the Haas family so they could do additional development of additional condominiums. What the Haas family has done is to create a buffer strip, as a result of an agreement with Mr. and Mrs. Korb, 50' wide between the end of Keywest Subdivision, that will remain a wilderness strip 50' wide, and the Korb's have agreed to give Haas Development, Inc. and their successors in interest, a permanent easement to permit trees to remain. Either party can add trees. Either party can remove trash, but it will remain a, if you will, a wilderness area. Also, in green, marked on this diagram will be areas that the developer intends to have a tree line for visual screening to prevent anybody else from being impacted by looking at a condominium development. When in 2000 the Haas family was here before you asking to approve their rezoning petition so that there could be development of the first group of condominiums, they were fighting against the allegation that it would take 12' of fill to be able to put houses there. That they would all flood. There were a lot of issues. We told you that there would not be flooding. That the FEMA map needed to be amended. It was amended. There was not flooding. That the condos would be nice. They're nice. They are very nice. They sell from \$160,000 to \$200,000. We invited people to come out to one of the condos for an opportunity to see one, and to share their concerns, and the neighbors did not show that night. In fact, there was very little or no discussion at the Area Plan Commission. This is a good project. It's a residential area. It's compatible. There is really no reason for this development not to be where it is, at it intended to be. The Haas family, if you will, did everything that they told you that they would do, and more. They are back, and they have an opportunity to do yet another condominium project in the neighborhood, and would ask that you vote in favor of their petition. The one concern that neighbors have advanced to be aware of is that, again, there not be a use of these condominiums for student housing. We handled that by a private covenant, in which, excuse me, the developer agreed to establish rules and regulations for the condominium association to be formed pursuant to a horizontal property regime for the condominium project, that provided that no condominium unit may be sold to, rented to, or occupied by individuals who are

either full time or part time college students, with the exception of part time married students over the age of 35, or students who physically reside with their parents in the condominium unit. We provided also that the condominium owners association has the right to eject or evict any individuals not in compliance with all of the rules and regulations, pursuant to appropriate legal proceedings. We did that. We put it in the horizontal property regime. We put it in the rules and regulations. I'm sorry, in the restrictions, and we will do that again. We have prepared a private covenant that is enforceable by members of, I'm sorry, owners of land located in the 300 block of Keywest Drive, that obligates the developer to impose those restrictions upon the condominium units. That will be executed and recorded as it was before. We will also be creating a private, I'm sorry, not a private, but a perpetual easement executed by Mr. and Mrs. Korb, and by Haas Development, Inc., which will permit the on-going maintenance of the 50' buffer strip. If you have any questions, Mr. Korb is here, some members of the Haas family are here, the engineer is here, Mr. Keith Poff, and we will try to answer any questions you may have.

President Mosby: Are there any questions by any member of the Commission? Seeing none. Is there any remonstrators that would like to speak?

Fred Padget: Good evening. I'm Fred Pagdet, and I represent the West Side Improvement Association. I'm not really here to remonstrate. I think the Haas group does good work. The condominiums out there, that are there now are, I think, an asset to the area. One of the things, we were down here a couple of years ago, and it was discussed some that something that the west side needed was some condominiums, and those type of homes. So, overall we're not opposed to the project. We think it's a good project. I wanted to talk about one specific thing. I visited the area out there before the Area Planning meeting, which was on February 5<sup>th</sup>, and on the area, which going down Hogue on the south side, there had been quite a bit of land disturbance, earth disturbance. I met Mr. Haas out there, we talked about that. We talked about several other things, ingress and egress, and all of that. Those areas are, I think, quite well resolved. The area where we had the earth disturbance, he told me that they had put in some water lines, and did some other earth work, and that was the reason for it. I asked if there was an erosion control plan, there was not, at that point. There was no erosion control practices being, in place, at that point. There may be some misunderstanding, or some interpretation of the regulations, but the way I understand it....well, first of all, I brought this up with, at the Area Planning Commission, and at least one of the Commissioners agreed, agrees with what I talked about, and what I said. Part of it comes about because we have what we call Rule Five, and that applies to earth disturbance of areas five acres and over. But, if you have an earth disturbance of less than five acres that is part of a project greater than five acres, erosion control plans are still required, in that case. I felt this fell in that area, and should have an erosion control plan, even back then. I checked with, I went out there Sunday, there is still no erosion control practices in that area, at least that I could determine. I talked with the Soil and Water Conservation District today, and there's not an erosion control plan on file, as of today. With spring, anytime, erosion control can be a problem, and we think, in this area, it's something that we take very seriously, and we think it's something that we need to do something about, and want to watch over. The Soil and Water Conservation representative that I talked to today said he had requested an erosion control plan. As I say, as of today they have not had it. I think, and I would ask the Commission to, before you vote for this have a discussion with Mr. Atkinson, the lawyer, or the Haas family as to what they intend to do with erosion control, and when we intend to get an erosion control plan filed with the Soil and Water Conservation District. I'm not representing Soil and Water,

I'm here representing West Side Improvement, but it's, that's where the regulations fall. So, other than that, I think it can be a great project. I think it can be an asset to the west side. We just want it done right. 95% of what I've seen out there is right, but we want it to be 100%. That's our concern tonight. So, thank you for listening to me.

President Mosby: Thank you. Any questions by any member of the Commission? Jerry, would you like to speak to that?

Jerry Atkinson: If I may. We were up here a couple of weeks ago, and visited with the Area Plan Commission, and Mr. Jeffers spoke eloquently about the absence of erosion control with regard to a cut in a water line, I think sometime last year, across a part of the R-1 land. Since that time we've had a little snow, and we've had a little ice. They have, in fact, addressed some of the issues, but it's going to be so muddy that doing some immediate work out there is going to have to wait for a week or two, I would imagine. Keith Poff has interacted with the Soil Conservation folks. He is doing exactly what they told him to do in the order that he must follow to properly present the erosion control plan. As I understand it, he's already issued, he's already done the public notice part of it, and is moving forward aggressively to put erosion control in place with regard to that. A part of the issue is that not everybody understands that Rule Five requires land that's smaller than five acres to be dealt with, if it's being used for an agricultural purpose. Last year they had crops in there. This year they did not plant winter wheat, and that's why we wind up with a visible erosion issue. That will be addressed in short order. Like the remonstrator representative of the West Side Improvement Association, we too would like to see 100%, and that's the direction we're headed. I did fail to mention to you that this is a condominium project that will be marketed to older, mature adults. All of the sales, that I'm aware of, the condominiums that have been sold in the Wolfe Creek project have been to people who are of retirement age. So, we're not a big negative impact on the community. They don't make a lot of noise. Mr. Poff, would you like to tell them about that?

Keith Poff: I'm Keith Poff of Sitecon, Incorporated. I talked to Mike Wathen, and he did ask that I not provide a plan prior to having our public notice published, as well as having the notice of intent letter with the state. We have sent to the Courier, and I believe they've already published that. I'm awaiting that certification, so that I can complete the notice of intent letter. Once the notice of intent letter is complete, then our plan can be packaged up and sent to the local authorities. He asked me to do that plan in the proper order, because he wants this plan to address not only the efforts they've done previously, but what will be the future project, which includes the anticipated residential subdivision, as well as a condominium site.

Commissioner Crouch: What's your time line on that? When are you expecting to have that erosion control plan on file?

Keith Poff: Once we receive that certification of the publication, then I can have the NOI sent off the same day, and I expect to have the plan, probably, Thursday of this week. We are awaiting an insertion for that plan.

Commissioner Crouch: And, would that satisfy your concern?

Fred Padget: We would have preferred it been done earlier, but at this point (Inaudible. Not at mike.)



President Mosby: Any other questions by any member of Council? Any other remonstrators or anyone willing or wanting to speak to 7920 Hogue Road? Seeing none. The chair would entertain a motion.

Commissioner Fanello: Motion to approve VC-1-2003.

Commissioner Crouch: Second.

President Mosby: I have a motion to adopt VC-1-2003, and call the roll. This has to be a roll call vote. Commissioner Crouch?

Commissioner Crouch: Yes.

President Mosby: Commissioner Fanello?

Commissioner Fanello: Yes.

President Mosby: Commissioner Mosby, yes. There being three ayes, no nays, VC-1-2003 is hereby declared adopted.

Jerry Atkinson: Thank you very much.

President Mosby: All your stuff is up here, if you want this.

Madelyn Grayson: Jerry, can I just keep that stuff for the record? Or do you need that back?

Jerry Atkinson: That should stay with the record, as I understand it.

Madelyn Grayson: I'll just take all that with me then. I'll get a bigger filing cabinet.

Commissioner Fanello: You've got a big filing cabinet.

President Mosby: No, Jerry, she wants it. Yes, she's trying to get it over here.

Madelyn Grayson: I've got the big filing cabinet.

President Mosby: Is there anybody else that would like to speak regarding rezonings or any other business? Seeing none. The chair would entertain a motion.

Commissioner Fanello: Motion to adjourn.

President Mosby: I have a motion—

Commissioner Crouch: Second.

President Mosby: —and a second. So ordered. We stand adjourned.

(The meeting was adjourned at 6:27 p.m.)

**CONSENT ITEMS:**

**Travel Requests:** Superintendent of Buildings

**Employment Changes:**

County Highway	The Centre	Burdette Park
Sheriff Department	County Council	

**Requests for Service:** Veterans Service

**Sheriff:** Weekly Jail and Community Corrections Reports.

**County Clerk:** Monthly report for November 2002.

**Commissioners:** Letter of support for Sheriff's program.

**Those in Attendance:**

David W. Mosby	Catherine Fanello	Suzanne M. Crouch
Kevin Winternheimer	Bill Fluty	Tammy McKinney
Madelyn Grayson	Phil Lawrence	Brett Niemeier
Roger Madden	Judy Weatherholt	Dennis Hudnall
Steve Craig	Jerry Atkinson	Fred Padget
Keith Poff	Others Unidentified	Members of Media

**VANDEBURGH COUNTY  
BOARD OF COMMISSIONERS**

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**David W. Mosby, President**

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**Catherine Fanello, Vice President**

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**Suzanne M. Crouch, Member**

**Recorded and transcribed by Madelyn Grayson.**

**VANDEBURGH COUNTY  
BOARD OF COMMISSIONERS  
MARCH 17, 2003**

The Vanderburgh County Board of Commissioners met in session this 17<sup>th</sup> day of March, 2003 at 5:30 p.m. in Room 307 of the Civic Center Complex with President David Mosby presiding.

**Call to Order**

President Mosby: Call to order Board of Commissioners of Vanderburgh County for March 17, 2003. Introductions are as follows, Tammy McKinney, Superintendent of Buildings; Corporate Counsel, Kevin Winternheimer; Commissioner Fanello; myself; Commissioner Crouch; Auditor, Bill Fluty; Recording Secretary, Madelyn Grayson. If everybody would, please stand and say the Pledge.

(The Pledge of Allegiance was given.)

**Approval of March 10, 2003 Commission Minutes**

President Mosby: Do I have a motion to approve the March 10<sup>th</sup> meeting minutes?

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: A motion and a second. So ordered.

**Approval of March 17, 2003 Executive Session Summary Minutes**

President Mosby: Executive Session summary minutes.

Commissioner Fanello: I make a motion to approve the Executive Session summary minutes. The Executive Session began at 4:45, and ended approximately 5:20, and discussed a personnel matter only.

Commissioner Crouch: Second.

President Mosby: So ordered.

**Judy Weatherholt: SW Indiana Regional Development Commission  
Jobe's Lane Public Hearing**

President Mosby: I don't believe we had any bid advertisements this week, did we? Discussion items, Judy Weatherholt. Yes, you're here with us. This is a public hearing for Jobe's Lane water and sewer extension. If there is anybody who would like to speak to Jobe's Lane tonight, I have a sign up sheet here.

Judy Weatherholt: I'm Judy Weatherholt with the Southwestern Indiana Regional Development Commission, and this is a public hearing for the Jobe's Lane application that is to be submitted April the 4<sup>th</sup> for this Community Development Block Grant project. We do, Commissioner, I have letters from each one of the homeowners out there that are willing to sign a waiver on the easements to donate the easements for this project. So, we will be obtaining the official paperwork that

we will be submitting with the application for the site control of that project. So, just wanted to let you all know that they have all agreed to sign waivers to donate the easements to that. I think there is a number of residents here that maybe would like to make some comments.

President Mosby: Okay. Was there anybody that wanted to speak?

Mike Lockard: Good evening. My name is Mike Lockard. I'm speaking on behalf of my parents, William and Shirley Lockard, and many of the residents who could not be here tonight due to job conflicts and other personal matters. They asked us to all convey our thanks and appreciation for you, for having the hearing and moving this project forward. As you know, you appropriated, and the County Council appropriated \$230,000 towards this project. Then Water and Sewer appropriated, I believe, another \$110,000. So, that still leaves a portion remaining that's needed to make up the entire proposed bid price on this. I think you all know, from looking at the evidence that has come before you before, this project dates back, what, 20 some odd years that it's been a problem in the area. It not only affects these particular residents, but also tens, if not hundreds of lives downstream, because this is located on one of the higher portions of Vanderburgh County. As a result, everything, you know, it all flows downhill from there. There is a stream that feeds directly into Carpentier Creek and Bayou Creek. So, there is a large number of residents, bodies of water and areas that are potentially affected by the ecoli, and the other coliforms. So, this is not just a problem just for these people, but potentially downstream, you know, you're talking about a true public health hazard that, luckily, now due to the grants that are coming through, can potentially be taken care of. So, we are appreciative that you all have helped out with this, and we hope that this goes forward, and that the grant is approved. Hopefully, by this time next year, you can all come out and have a drink of water and flush the toilet with us. Thank you.

President Mosby: No problem. Was there, excuse me, was there anybody else from the neighborhood that wanted to speak? I believe, Judy, if I'm right, anybody that was here on this needs to sign this.

Judy Weatherholt: Yes, yes, please do.

President Mosby: Before you leave, I will lay it right over here on the desk, and I'll have Tammy put a pencil over there, and please just sign your name if you were here for the hearing. Is there any questions by any of the Commissioners? No, she wants to put it over there so anybody that was here can sign it. Kevin, do we need a motion or anything?

Kevin Winternheimer: No.

President Mosby: This was just set out as a public hearing? If there is nobody else to speak regarding the public hearing, then we will adjourn the public hearing end of it, and go back into the regular Commissioners meeting. If you would, like I said, before you leave, please sign that so we can send that along with the application of the grant. Hopefully, we'll hear something soon.

**ProVal Amendment Agreements  
(Deferred Until 3/31/03)**

President Mosby: Next we're going to hear...was County Assessor pulled?

Commissioner Fanello: Yes, she did ask, I did receive an e-mail. She did ask that this be deferred until March 31<sup>st</sup>.

**Old Courthouse Lease Agreement with Jon Jennings**

President Mosby: Next we have an Old Courthouse lease agreement with Jon Jennings. I believe everybody's got it in your packet. If there is any questions.

Commissioner Crouch: What is this gentleman's business? I was just curious.

President Mosby: I can tell you. His name was in the paper the other day. He, Jon Jennings is setting up a committee to run for 8<sup>th</sup> District Congressional race. He wanted to rent a room over at the Old Courthouse. So, yeah, it was in the paper with about three or four other names the other day.

Commissioner Crouch: The "Friends Of" kind of tipped me off.

President Mosby: Is there any questions on the Courthouse lease? If not, chair would entertain a motion? Kevin, you've looked at it?

Kevin Winternheimer: Yeah, it's a standard lease agreement.

Commissioner Fanello: Motion to approve.

Commissioner Crouch: Second.

President Mosby: I have a motion and a second. So ordered.

**Public Comment**

President Mosby: Is there anybody in the public, in the audience that would like to make any comments or discussion on any items? Seeing none.

**Old Business**

President Mosby: Old Business.

Commissioner Crouch: I've just got one item, I don't know if it's old or new. We all received a memorandum from Judge Niemeier regarding the YCC, and them raising their per diem from \$150 to \$172. I was wondering if now may not be a good time to perhaps look at the juvenile detention issue, to see if they are still interested in coming forward with a proposal for this Commission to consider on behalf of the county. Then look at that in relation to what it would cost, or what would be involved to the county doing their own facility. This seems to kind of make it timely, the cost.

Commissioner Fanello: I had asked Kevin to look at doing a contract, like we had done with the village up in Vincennes, to provide for the services that they are currently providing for. But, I think this is a perfect time to look at the juvenile. Judge Niemeier and I had discussion, actually about two months ago, and he was supposed to meet with the DOC this month sometime. They could not get down

here until March, but they wanted to talk to him about the juvenile issue. So, we probably need to follow up with him to see if he's met with the DOC yet, and once he had that meeting we were going to kind of get together. I know he called me last week about setting up a meeting over the next couple of weeks. So, I think everybody's looking at it. It will be just, basically, what our budget can afford, I think. I think it's the perfect time to come up with those comparisons of building versus contracting.

Commissioner Crouch: Would we also contact Steve Perry and ask them to submit a proposal for them building the facility, and, you know, operating it on behalf of the county? Could we look at that also?

Commissioner Fanello: Sure. I think we have to compare it with building our own facility.

Commissioner Crouch: Okay. If he's meeting, if Judge Niemeier is meeting with DOC this month? Is it March?

Commissioner Fanello: I thought he said, I thought it was actually supposed to be the 12<sup>th</sup>. I'm not sure.

Commissioner Crouch: Okay. Perhaps we could look at addressing this issue in an April or maybe even a May meeting.

Commissioner Fanello: Right.

President Mosby: Okay.

Commissioner Crouch: Before we start moving forward out at Wansford Yards.

Commissioner Fanello: Well, yeah, and I was actually going to lead into New Business with another issue, but that's probably a perfect segue into the Community Corrections issue. Which, I think, we probably all read the newspaper this weekend that the building that currently houses the Safe House is up for sale. I think this is the perfect opportunity for us to come to a conclusion of how we want to spend the \$2 million that was given to us by the DOC. I know the Sheriff and I worked very hard on that money, and we don't want to see it go to waste. So, I think it's time for us to look at that. Probably looking for any thoughts that the Board has, but I think that we need to come back with a recommendation in the next couple of weeks how we want to move forward, you know, with either constructing a new facility, or how we want to handle this.

Commissioner Crouch: Did, isn't a Dr. Latessa supposed to be studying this, and coming forth with a report? I think, probably it would be wise to wait until we do get that report.

Brad Ellsworth: Right. Dr. Latessa is in the middle of doing an analysis of our system. Unfortunately they asked for an extension on the program, and I found out in the last week that it's going to be May before his final report is due. So, I'm not sure we're going to have the luxury of waiting for him, and if he'll be able to actually...we don't know if he's going to come out and say, here are ideal numbers for what size facility. I mean, I don't know if that's going to be in his report. The one thing that I did want to add when I was sitting there was that with the schematic design phase of the jail going on, the more we wait on deciding what we're going to

build out there adds to the problems for the architects. Like I said, they are finishing, and they are doing engineering, and electrical, and HVAC and that. The longer we delay on if we're going to add this other building, or pod, or whatever we want to call it, it's slowing the architect down on that. So, like I said, we might be able to wait till May, but I don't know if it's going to produce what, a number where Latessa comes in and says, you only need 150 beds. I think that might have to be a local decision between you all and the judiciary.

Commissioner Fanello: I think we've studied this issue long enough that we can come to that decision. I think the judges are in a place they know what we need. This Board has studied this issue, you know, we've had a study that the county paid for a couple of years ago, and I think we're at a point where there's no need to hold off this decision. The state wants a final plan by June 30<sup>th</sup> of how we will spend the \$2 million. I have asked our architects and engineers to give us some estimates over the next week or so. So, we will be getting those back. So, I think we're in a perfect position that we have enough information that we can make an intelligent decision.

Commissioner Crouch: Didn't the Community Corrections Board authorize this Dr. Latessa to do the study? Who's paying for that?

Brad Ellsworth: The DOC is actually paying for his study.

Commissioner Crouch: I would think that they would want us to consider that before they give us \$2 million. I don't know, but it seems if public money is being spent for this study, and I know in the past the argument has been made by this Commission that we need to wait until that study is done. I don't think that another month and a half, or, you know, is going to make a difference.

Commissioner Fanello: Well, it's actually more than a month a half, but I just feel like we've studied this issue to death. That's my personal opinion.

Brad Ellsworth: I can try for next week to see, contact Latessa's group and see if numbers might be in, you know, a number or, what I think you'll see out of that is possibly a recommendation on what type of inmates are actually sentenced out there, and what charges are appropriate for Community Corrections and what aren't. That may drive the numbers. I don't think he's going to come out and say you only need 150, or you only need 125. Over the last seven years of studying this, and after listening to the judges, I know what they think what we need. It's, I guess, it's going to involve the Council too, and what they are willing to spend on the size. That's your all's pleasure. I just know that Paul, the architect, has said it is slowing him down at this point, in his work, to not know if we're going to have this or not, so.

President Mosby: So, you're saying May before they can get us anything?

Brad Ellsworth: Before they are going to come in and do the report, they have asked for May.

President Mosby: I guess, my feeling is we could go ahead to try to decide what we want to do with the information we have. I mean, we've got plenty of information. I guess, we can make a somewhat of a decision, maybe not a final decision, but try to come to a conclusion on what we want and help the architects along here so that we don't have to go back and redo work that is going to end up costing us money.



Then incorporate Dr. Latessa's study into what we think we need, and see where we stand.

Brad Ellsworth: One thing that might drive it is that if we get a firm commitment from the Council. If \$2 million is the exact, I mean, they are not going to make this thing a \$4 million building regardless, then we know we have that much to build whatever came in. If \$2 million will build 150 beds, that's probably what we're going to get. Enough with office space for day reporting and all that. If \$2 million will build 500 beds, then maybe we need to relook at that, and rethink that, but if Paul comes back and says you're only going to get 125 beds for \$2 million, and the Council's not going to throw into that pot, then I think we know what we're going to end up with.

President Mosby: Was this supposed to be a matching grant? Or is it just \$2 million, do what you want?

Commissioner Fanello: I have the letter right here, and it says that;

"The \$2 million grant is a one time grant that will be utilized to build a residential facility that will serve both male and female Community Corrections offenders, exclusively replacing the current Safe House facility."

There is nothing in here about matching grant or anything like that.

Commissioner Crouch: Well, and, I guess, my feeling is, as I stated earlier, to have a local board authorize a study that public monies is being spent on, and then for us to have stated in the past that that study is important to the big picture, and then for us to move without that study being in, I think, is us missing a big element.

President Mosby: I don't think you can wait, in my opinion, I don't think you can wait for Dr. Latessa's study, and then have time to, basically, decide what you want to do, have time to, I mean, depending on the cost. I mean, if we contact Paul as late as May or June, and they give us a cost, and we find out it's more than \$2 million, it's going to be another 30 to 60 days before you can get into Council. By then you're into July and you're money is gone. I mean, if we wait till May, I mean, you know and I know the Council only meets once every month. If we need money, or if we're looking at additional money, or if we need to match this money, I mean, depending...we've got to start somewhere. We can't wait until May. You know, it could be July 1<sup>st</sup> before we get into Council.

Commissioner Crouch: I guess—

President Mosby: I would hate to lose \$2 million.

Commissioner Fanello: \$2 million, in the big scheme of things, from the state, who is in a financial crunch, at this point, is a big deal. We cannot afford to lose this \$2 million.

Commissioner Crouch: Have they told us we're going to lose it if we don't take action by—

Commissioner Fanello: We have until June 30<sup>th</sup>.

President Mosby: June 30<sup>th</sup>.

Commissioner Crouch: Right, but—

Commissioner Fanello: We will not have it after June 30<sup>th</sup>.

Commissioner Crouch: That's correct, but there's nothing about May 1<sup>st</sup>, if a decision hasn't been made.

Commissioner Fanello: But you don't have enough time to come up with a full blown plan if we wait until May 1<sup>st</sup>.

Brad Ellsworth: If I could, if I could contact Latessa's group this week, before next week's Commission, and see if...if the report comes back it's, their studies are called, "What Works". They may come back and say they're looking at our programming and saying, yeah, this is a great program, Community Service is not useful anymore and that. If that's the kind of thing this brings back, and they don't talk numbers or that, then we're going to have wasted time. If they say, yes, this will help you with determining the size of your Community Corrections, maybe that will be helpful. I can tell you next Monday night.

Commissioner Crouch: Yeah, could you ask them for something in writing as to what that report is going to...actually what kind of information is going to relay to us?

Brad Ellsworth: Right, and I'll review the contract on, the original contract that we signed with them. That was at the recommendation of the DOC. They said why don't you hire this guy and have him come down. It's kind of weird they're putting their money, the DOC, and people that buy into Latessa's program is where they're lending, that's where they're financing. So, that was kind of on their suggestion that we contracted with Latessa.

Commissioner Crouch: Can you also check with DOC to see if this report is crucial, or weighs in at all on their decision as to the \$2 million that they will allot us?

Brad Ellsworth: Right. I don't think it will. I've had enough discussion with Mike Brown and those people, that I don't think you're going to see...they know we're doing that. It's sideways. That's more of a report to help us, a check and balance that we're doing the right things out there for Community Corrections. I don't think, I mean, the meetings that we had—

Commissioner Fanello: Right.

Brad Ellsworth: —they never mentioned wait and see what he does. It was just, in fact, I think the fact that we were going through this, Latessa's program, helped influence that they would give us some money. That we were willing to go through that. I think we're going to fare well. I think, according to Major Woodall from the interviews with the graduate assistants that are down, is, they like our program. I don't think everything will be perfect, but I think we're going to be pleasantly surprised with what they see us doing out there.

Commissioner Fanello: Well, why don't you get back with us—

Brad Ellsworth: Let me see what I can find out this week.

Commissioner Fanello: —on that over the next week. In the meantime, I believe, we still need to be looking at the information we do, which is a report that the prior Commission paid for from PMSI, which did lay out the recommendations for

Community Corrections facility. So, that was \$100,000 spent right there, and I don't know why we can't take that information and use it.

Brad Ellsworth: It's been a long debate. You know I've had anywhere from 125 beds, up to 350 beds or more. We've argued that out for a couple years.

Commissioner Fanello: I think, really, the only thing that's going to drive it is what this county can afford.

Brad Ellsworth: Can afford.

Commissioner Fanello: I'm getting ready to inform this board of the discussion that was, that had taken place at the County Council meeting, at the last meeting.

President Mosby: Okay.

Commissioner Fanello: That kind of leads into that discussion that happened at the last Council meeting.

President Mosby: Okay.

Commissioner Fanello: Basically, as you know, the County Council had made a commitment to set aside \$2.7 million each year to help fund the jail project. That was done, basically, upon recommendations of the Council, and they thought that the \$35 million was what we could afford, and the \$2.7 would be the amount, which would probably equate to our lease payment. Unfortunately, the Council did announce at the last Council meeting that they would not be able to set aside the \$2.7 million this year. If everybody got, the Auditor put a financial statement in our packets last Friday, or last Monday, so everybody's had a chance to review it. You can kind of see where we're at right now, which is not a very good position. So, I think, you know, that with the Community Corrections issue, we're only going to be able to do what we can afford to do. I'm kind of concerned at this point that we're not setting aside the \$2.7 million, because I made my decision, basically, on the fact that the Council told us \$35 million is what we can afford. Now, I'm not sure we can afford this, and we're getting ready to issue a bond issue here in a couple of months. So, I'm very concerned about that, and would like to hear from the Board, from their feelings on the issue.

President Mosby: I mean, I would have to hear the Council's end of it. I mean, it might be that we have the Council President or the Finance Chairman come into the meeting...is it on? Have one of them come in and explain to us where they stand on the \$2.7 million, and they how they intend to go forward with this. You know, what their intent is. If we can afford the \$2.7 million. I don't know. I mean, the Auditor is here, but, and the former Auditor.

Commissioner Crouch: Well, unfortunately, Vanderburgh County has fallen victim to the same circumstances that the state and the national economy has. When your interest income is down, which is a major source of revenue to the General Fund, and your COIT's down, that can't help but have an impact. So, I mean, I think that things change that cause people to have to re-evaluate situations, and make judgements and determinations based upon those changing situations.

Commissioner Fanello: I think you had given us projections, I can't remember for how long, is it possible for, you know, our now County Auditor to go back and revise

those projections? I would kind of like to see where this county is going to be over the next three to five years, based on where we are right now in the economy. I'm very concerned, because we have a lot of projects on the table, and, you know, the city is going to build a new baseball stadium, we have the schools are going to issue, you know, taxes are going to go up because of the referendum. So, I don't think our seniors can afford much more. I'm very concerned about where we are.

Bill Fluty: Well, Catherine, as on the federal level or the state level, it's come to Evansville right now.

Commissioner Fanello: Right.

Bill Fluty: We seem to do well a lot longer than some of the other counties, but it's hit us at this point. There is some good news. We are just bonding out at \$35 million, instead of \$65 million, which was proposed at one time. The Council had the good fortune to put \$5 million away for over a two year period, and they actually set aside their COIT Windfall. So, they have been prudent in saving for hard times, and they are here now. So, we will have to be careful with our budget, and with our projects, that we do pick the right project, and do the best that we can. We will have to pick and choose from here on out.

Commissioner Fanello: Well, but as it stands right now, what concerns me is that we can't, it doesn't look from this that, you know, even next year they are probably going to be able to set aside the 2.7. So, that's why I'm asking you if maybe you could take the original projections that were given to us by the former Auditor, and revise those projections, and show us where, basically, what we're looking at financially.

Bill Fluty: You're working with a bond counsel currently. What are their suggestions to you at this time? Because I know you're ready to let this shortly, so you have some information. Can you share that with us?

Commissioner Fanello: Well, they had suggestions on how we should finance the project, but those are—

Bill Fluty: Well, I think that should be shared.

Commissioner Fanello: —weren't needed. But, what I'm referring to is what, Suzanne did some projections for us, and that's what the Council worked off of to be able to decide what they could afford. So, I guess, what I'm looking at, since things have changed, is if you could go back, and maybe revise those projections.

President Mosby: I think, if I'm not mistaken, the bond counsel, I think, at one time, said when we started this that we couldn't afford the \$2.7 million.

Commissioner Fanello: Right. We had a meeting with, you're correct.

President Mosby: I mean, they gave us that in writing.

Commissioner Fanello: Right.

President Mosby: That we were never going to be able to, but we could, yes, if everything else come to a stand still. I think that's what's happened here. I mean, and I understand everything you just said was pretty well correct, but when we were talking about building \$60 million, we were also talking about alternative financing. It was the Council that said they didn't want to do the \$60 million, they wanted to do

the \$35 million, because they could afford it. Now, it's come to the point, we can't even put \$2.7 million aside. It used to be we took Local Option Income Tax and put two or three million towards roads and streets too. Well, they cut that out a year or two ago. They cut it down to a million, and then to nothing. I mean, so, you know, they've taken that four or five million and shifted it. Now, they're saying we can't even put the jail money aside. So, I mean, you know, where are we? I think that's what we need to hear from, you know, the Council.

Commissioner Fanello: Just to let you know, there are other counties who are building jails right now who have looked at alternative financing, and one of them is Clark County, who looked at the, who has taken up the issue, and did exactly what we wanted to do when we took office, and what was proposed by the bond counsel. So, you know, the bond counsel was very frank with us when they met with us that, yes, we could probably set aside the \$2.7 million if we didn't, if expenses didn't go up, and we ran a very, very, very tight ship. I don't think that that's just feasible.

Commissioner Crouch: And revenues considered to grow—

Commissioner Fanello: Right.

Commissioner Crouch: —which hasn't happened. So, we're a victim of the economy. I think that perhaps what would be helpful is if President Mosby would contact President Raben and ask his thoughts on that, and report back to this Commission.

President Mosby: I mean, I'll be more than glad to ask him. I'll be more than glad to ask him to come down and speak with us, because, I mean, it concerns me when I look at the General Fund. I mean, there's not that much there in COIT Windfall. I mean, together is not going to handle what this county needs, plus \$2.7 million to be put aside for the jail. So, I mean, that's my biggest concern, I guess, at this point is to find out where we're heading.

Commissioner Fanello: I guess, I would maybe ask that you also maybe pass some information along to him of, you know, some suggestions from other people who talk about county budgets, and I think they need to look at, whenever they do the budget this year, they don't need to just look at 2004's budget. They need to be looking at three and four and five year budgets. Because I don't know that we're going to, the economy is going to quickly turn around, and we need to be planning for the next three, four, five years.

President Mosby: Is there any other questions? I'll contact Councilman Raben.

Madelyn Grayson: May we make a tape change please?

President Mosby: Sure.

**(Tape Changed)**

Madelyn Grayson: Thank you.

President Mosby: Is there any other Old Business?

<b>New Business</b>
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President Mosby: Any New Business?

Commissioner Fanello: I've got a couple of things. Sorry.

President Mosby: Go ahead.

Commissioner Fanello: One thing that I did have that was, I will pass a copy to each of you. This is actually the suggestion of our Chief Deputy, Eric Williams, whenever we talked a few weeks ago about purchasing procedures, and bidding procedures, you know, I said that we have to have more communication, and we need to step up the involvement, and the review process. Chief Williams was kind enough to pass along an idea of a form that we could possibly use, and I think that this Board ought to think about doing that, and involving all of the offices whenever we advertise bids, and making sure that communication has taken place between each department. So, I'll give that to you for your consideration, and your thoughts on that. If you have any changes to it, just let us know.

Madelyn Grayson: Is there a copy for the record?

Commissioner Fanello: You can have David's copy. I had two other small things, Commissioner Mosby. I met with, excuse me, Mayor Lloyd a couple of weeks ago, and continuing our discussions about our contract with ACS, and he feels and I feel that we probably should have someone help us with the contract negotiations, because we are looking at a totally different contract with ACS. Something that is more in line with the services that we should be receiving. I can make a copy of this for everyone after the meeting. I forgot to make it before the meeting, but will give it to you to look at over the next week, and would like your input on it, and how you would like to proceed. So, I'll make sure that everybody gets a copy about that. I talked to Chief Williams before the meeting also about some ideas about handling the negotiations, and think it would be a good idea if we probably put together a small committee with Data Board members who would help move those negotiations along with Gartner, if we choose to hire Gartner to help us with the negotiations. I had one more thing. I contacted the County Attorney a couple of weeks ago about a couple of claims that the County Auditor was kind of hesitant about paying. Both of them are insurance items. One of them was insurance on the O'Day Discovery Lodge, which is a builders risk policy. One of them is title insurance for our property that we will be purchasing at Wansford Yard. Kevin can probably expound on the issue, but the fact of the matter is he has checked with the State Board of Accounts, and it is appropriate for us to pay both of these items out of the Insurance line item. I know that Bill had a little bit of a problem with that, and he may want to explain his position, but Kevin did bring this to me on Thursday or Friday to let me know that he had talked with the State Board of Accounts in Indianapolis, and that they were perfectly okay with us paying these out of the Insurance line item, since they were both insurance claims. So, they have not been paid, and I was concerned because they were still laying on our desk. I wanted to bring them to the Board to see exactly how they wanted to proceed on those.

Bill Fluty: Catherine, those claims are for title insurance, which is part of the project, the jail project, and the other one is builders risk. Builders risk we haven't paid before. Normally that's been done by the contractor. Title searches, title insurance has been paid at closing when the bonds are issued, historically. The 1300 account for Insurance is really for liability. It wasn't budgeted for that purpose. To keep our line item budgeting on track, we've asked to pay certain things from certain line

items. Already this year that account has fallen short, and one of the reasons was the P.O. that was put in place for that \$54,000—

Commissioner Fanello: That's not the reason, we still have \$50,000 in there.

Bill Fluty: Yes, that's true, but, it wouldn't have been as short as it was. I've talked to Tom Simpson with the State Board of Accounts, who's the head of the southern half of the audits for the counties. He's in agreement that that is not the proper place to pay it from. That either out of your Land money, the million one you have is a better place, or at the time of the closing for the bonds. I've talked to Allen Linnenweber, who's also here, and he's in that agreement. I did talk to Tammy White, she is in agreement with me that that is not the proper place to pay it, but she says you can. Ultimately, you can pay it out of that, and that was also the same remarks that Bruce Hartman with the State had. That, yes, you can, but it's not the thing you should be doing.

Commissioner Fanello: Well, it's really a mute point, because it gets reimbursed out of the bond issue. So, it's really actually a mute point.

Bill Fluty: We haven't had that discussion before, that it would be reimbursed.

Commissioner Fanello: The builders risk insurance, there is no reason why that can't be taken out of the Insurance account. Absolutely none.

Bill Fluty: They believe it would a better fit out of the project.

Commissioner Fanello: Well, that's different than the conversation that Mr. Winternheimer had. Maybe (Inaudible).

Kevin Winternheimer: When I talked to Tammy White she said it was the Commissioners call. They would not have a problem with taking it out of that account when they do their audit. That what monies are paid out of that account for what insurance items are the Commissioners call, not the Council's or the Auditor's. Interestingly enough, she agreed with me in that regard. I don't know what the two auditors here feel exactly, but that was the person I was directed to. I contacted the Indianapolis main office, and they said that was no one's call other than the Commissioners.

Bill Fluty: I actually talked to Tammy at length after I received your e-mail on Friday. What she told me is, she believes it's not the right account, not what you should be doing, but she agrees you can make that call, and actually pay it out of that account. Two different issues.

Commissioner Fanello: Why wouldn't it be appropriate to pay insurance out of an insurance account?

Bill Fluty: It should be paid out of the bond closing.

Commissioner Fanello: No, I'm talking about the builders risk on Burdette Park building.

President Mosby: There is no project—

Bill Fluty: It should be out of the project's fund, the CCD, the original cost.

President Mosby: The project is already \$250,000 short.

Commissioner Fanello: Right.

President Mosby: That actually was brought up at Council last month, and still is not resolved. So, I mean you have an Insurance account, why would you not pay insurance out of it?

Bill Fluty: It wasn't budgeted for that purpose.

Commissioner Fanello: Insurance is budgeted for insurance. We're the one's in control of our insurance budget.

Bill Fluty: There's a difference between budgeting for insurance and projects.

Commissioner Crouch: If I may jump in, as Auditor, what the State Board of Accounts would always advise us is, you know, there's a way to do it, and then there's another way. Sometimes they take exceptions to the other way, and sometimes they don't. But, ultimately, it's the Commissioners call on whether a claim is approved. That's why in the past claims have come before this body when there was a question, and then it's ultimately, at least that's how it was always explained to me. Whatever the Commission decides, is what is done. Is that not your understanding?

Bill Fluty: That's correct. You can decide to pay it out. We haven't gotten to that point. That was always something that we could have gotten to. We didn't discuss that, but, yes, that's true.

Commissioner Fanello: I kept getting the claims back. Tammy kept giving them back to me. So, that's why I gave it to Kevin, because I was concerned mainly, not as much about the title insurance, because that could wait, but, mainly concerned about the builders risk insurance for the O'Day Discovery Lodge. Especially, since it's under construction.

Commissioner Crouch: If you entertain a motion, and it's voted on by this body, it can be paid. The Auditor will have to pay it. I will vote against it, but if you ultimately make a motion, and you vote to have those paid, then the Auditor must pay them out of those accounts.

President Mosby: Can I ask you what your reason would be for voting against builders risk insurance?

Commissioner Crouch: What has always been the practice is that there must be consistency. If it hasn't been done in the past, then that is, that would be what I would rely upon with the State Board of Accounts, is consistency. If it's not been paid out of that line item, then that would be something, in terms of keeping better...what the State Board of Accounts is concerned about is keeping track of money, and keeping a good line item. We've encountered that many times with grant monies that we've had to kind of go around about in terms of having a paper trail for it. So, the consistency, and then the clear paper trail, and the clear accounting trail to a particular account would be the reasons.



President Mosby: Then where would you offer a suggestion for it to be paid from? What would be your suggestion? I mean, we need, we have to have builders risk insurance.

Commissioner Crouch: Well, I believe the Auditor said out of the project.

President Mosby: There is no money in the project.

Commissioner Crouch: Right, in the line item.

President Mosby: No, we just went back to Council last month, and Steve Craig is not here, but Gary is, we just asked for \$245,000, and they turned it down. Now, I mean, if you go back, and you should remember this project, it started well before I was here. We've tried, and tried, and tried to get this project off the ground. We finally did it with CCD money the first of January 2001 when we came into office. This project finally got off the ground, and they whacked \$435,000 out of it at that point in time. Steve Craig has in turn went from \$435,000 down to \$240,000, and that's what we're still short. So, I mean, there is no money to pay this. I mean, you have an insurance account. You have money in an insurance account, and you need builders risk insurance.

Commissioner Fanello: And I have a claim made out to ONB Insurance—

President Mosby: So, I mean, I don't understand that.

Bill Fluty: Just let me, I understand that you are short on money, but we are still trying to pay out of, we have a line item budget. There's a method of asking for more money through appropriations or transferring more money. That's how we do line items that are short, or funds that are short of money, we move money into those accounts.

President Mosby: Well, we just did that last month.

Bill Fluty: It's unfortunate you don't have money in there, but that's what we do.

Commissioner Fanello: Well, I'm going to be against paying an insurance item out of a building account. So, I will vote against that.

Commissioner Crouch: Well, why don't you make a motion, and we'll just move this along.

President Mosby: No, but, I mean, after what he just said. I mean, he was at the Council meeting last Wednesday. He knows that they turned the appropriation down.

Bill Fluty: Two separate issues, David.

President Mosby: Okay, but how can we pay something if we have no money? You're sitting there saying take it out of the project, and you know as well as I do they turned it down. We don't even have money to put the lighting up. We don't have money to do anything out there outside of build the building. I mean, I don't know where the money is going to come from.

Bill Fluty: I believe you've got an appropriation in this month for that.

President Mosby: Yeah, we'll see what happens.

Commissioner Fanello: Right, and that appropriation, I believe, was made out of COIT Windfall, which went in line with the February 6, 2002 minutes, which stated, or Councilman Raben stated that those extra items should be paid out of the COIT Windfall. Or could be paid out of the COIT Windfall.

President Mosby: I mean, I put a call in for Councilman Raben and Councilman Winnecke both last Friday. One of them was supposed to have gotten back to Tammy before 4:30, and neither one of them called. So, I mean, we filed the appropriation.

Commissioner Fanello: Well, I would like to make a motion to pay ONB Insurance for builders risk insurance out of the Commissioners Insurance line item.

President Mosby: Second, and so ordered.

Commissioner Fanello: And I have no problem holding up on the title insurance until we get closer to closing on the land. I don't have any problem doing that. But, I still think that it can be paid at that time, if the bond hasn't been issued, out of the Insurance account, because it's going to get reimbursed from the bond issue.

President Mosby: Any other New Business? Okay, department head reports.

<b>County Engineer</b>
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President Mosby: County Engineer, John Stoll.

John Stoll: First item, I would like to request the Commissioners approve condemnation on the Greer parcel on the Mt. Pleasant Road Project. The original offer amount was \$5,650. Mr. Greer countered with \$12,500. The right-of-way buyer since contacted Mr. Greer, since we rejected the \$12,500 counter offer, and Mr. Greer stated that he is not willing to accept anything less than \$12,500. He provided no documentation to justify his additional \$6,850 that he is asking for. So, I would like to request that we proceed with condemnation on that parcel.

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: So ordered.

John Stoll: Next I have a temporary right-of-way form for the Commissioners to sign off on. This is on the Graff Road culvert installation project. This is for a temporary right-of-way off the property owned by James Riger. He's on the downstream end of this culvert we're going to install, and, basically, we need to do grading work, and rip rap placement on his property.

President Mosby: Okay. Is there a cost?

John Stoll: No.

President Mosby: Oh, well.

John Stoll: No, there's no cost on it.

President Mosby: There's no problem with that whatsoever.

John Stoll: It's a donation.

Commissioner Fanello: Do we need a motion?

President Mosby: Yeah.

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: So ordered.

John Stoll: Next I have a soils agreement with Alt & Witzig Engineering for an amount of \$4,000. This is for a soils investigation of the Oak Hill Road/St. George Road intersection project. It's requested that this be approved.

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: So ordered.

John Stoll: The last item I've got is a modified agreement with Bernardin Lochmueller and Associates for changes to the access road to access the proposed jail site. This is for, this agreement is for an amount not to exceed \$126,000. The previous agreement was for \$141,900. They have since done \$7,500 worth of work. So, this agreement would be for a net savings of \$8,400. This agreement calls for Bernardin Lochmueller to change the scope of work to go from crossing the railroad tracks and accessing Highway 41, to going more straight north to tie into the existing portion of Harlan Avenue, and then also tie into St. George Road, as they proposed back in the, I don't remember what study it was, but the study they did last fall. They had three options, and this is one of those options that was presented then. I've got some aerial photos showing the proposed alignment, but, basically, this was an off-shoot of the meeting that was held out at the proposed railroad crossing site several weeks ago with INDOT and CSX officials. The CSX engineers were not in favor of the railroad crossing site. Primarily because there were two different crossings that would have to be constructed. The way it was set up previously the road was going to cross the tracks at this location right here. Because there was a separation, I believe it's 125' between the two tracks at CSX, initially we thought we would have to construct two separate crossings. At that meeting, the field check with the CSX and INDOT engineers, they had stated at that time that we needed to take this rail line and realign it so that way both tracks would be crossed with a single crossing, instead of having two crossings. So, that would, in effect, add about \$300,000 of track reconstruction to the project costs that was not foreseen previously. So, after that, other options were looked at, and that's why this was re-evaluated again. What this calls for is, basically, building new road from here on south. This would just upgrade the existing portion of Harlan Avenue. What they've called for is a 36' wide pavement here that would provide a parking lane for these cars that you can see that are parking out on the Vectren property right here. This road would also be a curb and gutter street with storm sewers. So, hopefully, it will alleviate some of the

drainage issues that are out there. I've spoken with Vectren representatives, and showed them these plans, and they have no problem with granting easements across their property to make this happen. Basically, that is in this area right here, and there's also a small segment down here by this other tower. Same with CSX, it's my understanding that they're willing to grant these additional easements to go from this point where it was originally going to cross the tracks, northward up, basically, in this area right through here. So, that's basically what the scope of work is for the revised agreement with Bernardin.

President Mosby: Also, I mean, I can add to this for you. We did meet, me and John went and met with the Mayor and Pat Keepes—

John Stoll: Jim Cameron.

President Mosby: —out of the Water and Sewer Utility. They are in agreement with this project also going down to St. George, because the Water and Sewer Utility is paying half of the cost of this whole project. They were going to pay half the cost of the project if we crossed the tracks. At one point, which was \$1.35 million, and then with the added expense of what INDOT and CSX was wanting us to realign the rail and run it parallel, was going to be anywhere from another \$250,000 to \$350,000. So, we can get into this whole project with contingencies for \$1.35 million. That's what renewing this agreement. Like I say, the Mayor is in favor of it. Jim Cameron is in favor of it. They are going to pay half the costs, and we've got Vectren's blessing, I believe, and waiting to hear back from CSX. But, initial contact with them is okay. They are going to dedicate their easement. There is no money exchanged between CSX or Vectren, either one. They are both doing it.

Commissioner Crouch: Have we notified the neighbors? Are they aware of this proposed change?

President Mosby: Not yet. I mean, that's something we were going to go out and try to hold, possibly, a meeting. We had talked about this last Friday to hold an on-site meeting with, I think there's 16 houses along Harlan.

John Stoll: I think there's 20.

President Mosby: 16-20 houses along Harlan Avenue. We wanted to get this from Bernardin Lochmueller. We wanted to present it to the Mayor, and make sure we had the okay of the Water and Sewer Utility, and that they would still do their 50%. They were all in agreement. We had to make sure we could get the easement right-of-ways from everybody, but it is our intent to send a letter to the neighbors out there, and hold some type of a meeting with the neighbors, and show them what we've got. I mean, that's why we went to the extent that we did on the 36', which gives everybody out there a parking lane. The road will be shifted 10' to the east to back it away from the houses. They will end up with 10' more green space. They will end up with 10' extensions on their driveways. I mean, as John said, they are going to get a storm sewer for once where it's flat land, and it's not draining very well. So, it's very much an improvement to the neighborhood. They are going to get a totally new street.

Commissioner Crouch: Well, and I certainly think it's admirable where we can look at a project and realize a cost savings, but, I think, when you have a decision that's going to impact people's homes and where they live and raise their families, we really need to have that input. I would suggest that we entertain having a public

hearing here at the Commission, perhaps, where it could be laid out for them. I mean, I think have a meeting there with them, certainly, but, I think, something that affects people this much, we probably ought to have a public hearing here at this Commission.

President Mosby: We can have it here. Our thought was we, there's a possibility we can get a place right out there by them where they won't have to travel very far. To hold it right out there in the neighborhood, to me, would be better than trying to run them down here, find a parking spot, maybe at an inconvenient time. It was our every bit first thought to look at the neighborhood and take their homes and lives into consideration, and that's exactly what we did. I mean, we even identified the drainage problem that they have, and we're willing to correct that too. So, I mean, they're going to, that is definitely our first intent, is to make sure it's okay with them. But, we have to do this because we're changing the scope of Bernardin's work now, and save what, \$15,000 to \$20,000 in doing it.

Commissioner Crouch: Would you...oh, I'm sorry, John.

John Stoll: I was going to say, the scope of work in there does define that Bernardin Lochmueller would provide the legal descriptions for the easements we need off of Vectren, as well as the legal descriptions for the easements from CSX. So, that way, it's my understanding, that's the hold up on being able to close on the property. So, at least it would allow that to proceed as well. In regard to the property owner notification, something else that we did last year too was, once the plans were developed for the Elmridge and Congress drainage project, we sent out a set of plans to every homeowner who was affected. So, in addition to any hearings we might hold, we can also get them a set of the plans, once we get to that stage.

Commissioner Crouch: If we agree to this tonight, and, just walk me through the process. If we agree to this tonight, to this change with Bernardin Lochmueller's agreement, and then, ultimately, the neighbors express enough concerns or enough points that we would want to reconsider that, will that be money that we will have wasted?

John Stoll: I would say potentially some of it could be, because anything that would be done north of the old proposal of tying into the tracks and Highway 41, anything north of there, if we backtrack and went back across the tracks over to 41, then anything north of that would be wasted. But, anything south of there, it would be basically the same road.

Commissioner Crouch: So, should we have a public hearing before we ultimately arrive at the decision and move forward?

Commissioner Fanello: I think they could be done concurrently, but we have to decide if we want to spend that extra money of moving across the tracks. I mean, we basically have a couple of options here, and we're trying to go with the least expensive option.

John Stoll: Another factor too, I mean, there may be some people up there that may not like this, but the request from CSX also said that they would want us to close three railroad crossings in exchange for us establishing one new crossing. So, if they held us to that commitment, it would impact quite a few more people as well. I don't know what three crossings we could even look at that would potentially not impact quite a few people.

Commissioner Crouch: I guess, with all the discussion about process in public projects, and the public's input with it, I really think it's the right thing to go ahead and have a hearing prior to arriving to a decision that is going to spend money.

Commissioner Fanello: Well, I mean, excuse me, what is your other option if all 20 houses object to a road? What is your other option?

Commissioner Crouch: Well, I think, we have to arrive at the decision, but to not allow people input is the wrong way to go about it.

Commissioner Fanello: I think, Commissioner Mosby specifically stated that we were going to, we want their input.

President Mosby: I'm more than willing, and we said that, me and John was talking about it the other day, and we told the Mayor we would go out and meet with them. You know, without going out and hearing their input. I mean, we have talked to Pat Keepes, we know what kind of drainage problems we have. We know it was put on the list with Clark Dietz when they did the storm water study back when I was still on the Council. I mean, we've looked at the improved lanes, we've looked at the parking, we know they were using the Vectren easement to park on. We're going to put curbs on it. I mean, there's no doubt we've looked at everything for that neighborhood. That's why we're shifting the road. That's why we're giving them more green space. We're giving them longer driveways. I mean, it's not like we haven't taken, you know, the neighborhood into consideration, because they are probably getting a lot more than in a lot of cases.

Commissioner Crouch: I'm not faulting that. I know you've spent a lot of time on it. I'm just saying that I think people's input on things that, on something that is their largest investment in their lives, deserves to be heard. I mean, we deserve to allow them a voice before we arrive at a decision that is going to ultimately affect them.

John Stoll: I was going to say, one other potential benefit that Sheriff Ellsworth pointed out, this may eliminate the need for having to construct the secondary access point off of Kentucky and Pfeiffer as well. So, there might be some cost savings with that, since this access point would not be blocked by trains, where the other one would have been.

Commissioner Fanello: You mentioned someone's name. I didn't hear the first part of that. Did you mention somebody's name that you talked to ?

John Stoll: The Sheriff.

Commissioner Fanello: Okay. I didn't hear what you said.

Commissioner Crouch: Well, could we, you know, would the Commission entertain a public hearing, not this coming Monday, but the following Monday, and move forward in that direction? At least notify the neighbors and allow them to come and to speak regarding the issue.

President Mosby: Do you want to do it here?

Commissioner Crouch: Well, the only concern would be having a place where, you know, have your sound system set up.

President Mosby: That's okay with me.

John Stoll: Do you want me to just notify the people immediately abutting the proposed road?

President Mosby: You know, the 16 or 20—

John Stoll: I just want to make sure we notify the right people.

President Mosby: The 16 or 20 along Harlan right here, is the one's that I would notify.

Commissioner Fanello: Because we've had several public hearings on the jail project itself in that area, and no one has come forward in that area.

John Stoll: Okay, so immediately—

President Mosby: Nobody else is going to be affected when it goes on down.

John Stoll: No. Nobody that wasn't already affected. The alignment's basically not changing south of the originally proposed railroad crossing. So, anything south of there, if those people would have been impacted they would have already had their opportunity to comment on it. So, no changes would occur there, but I can get a list of the owners, and send some notification out to them.

President Mosby: Or we can do it here. That's fine.

Commissioner Fanello: That's fine.

Commissioner Crouch: Okay.

Commissioner Fanello: Are we still going to proceed with the agreement so that Bernardin can get the legal descriptions together? Because we actually—

President Mosby: We need to.

Commissioner Crouch: I guess, I'm not comfortable voting on that until we allow people to have their input.

President Mosby: I'll make a motion we proceed.

Commissioner Fanello: I'll second, because I think Bernardin Lochmueller still needs to continue working. Whatever they do, I'm not going to, I think we're going to have very good dialogue with the neighbors. Depending on what that outcome is, I mean, we're not going to....we need the legal description so that we can close on the property.

John Stoll: I would say, ballpark guess would be that, for the most part, the next two weeks they might get the survey work completed, but I wouldn't see a whole lot of additional work that may potentially be wasted would be done. The last time that they did the survey from the proposed railroad crossing south, it took a couple of weeks to work that into their schedule. So, I would say the survey work would be about the extent of what might get done. That's what I'm hearing.

Commissioner Fanello: Well, knowing what budget crunches we're under, I mean, I would hate for us to move forward, I mean, obviously, the crossing of railroad tracks is a viable option, and it's definitely an option on the table, but I would really hate to spend an extra \$250,000 to \$325,000 when I know that we could do a road, you know, that would cost us less money. We have had I don't know how many public hearings on this jail project, so.

President Mosby: A motion and a second. So ordered.

Madelyn Grayson: Excuse me. Kevin, is that something that will require legal advertising on our part? The public hearing?

Kevin Winterheimer: No. He's going to directly contact the property owners by letter, I believe you said, John.

John Stoll: Yeah, I can do that.

Commissioner Fanello: Do we need to go ahead and make a motion about? We didn't really actually make a motion—

President Mosby: It would just be—

Commissioner Fanello: You did.

President Mosby: It's just going to be an agenda item, right? Or do you want to do it before the meeting?

John Stoll: However you want to do it, I'm okay with it.

President Mosby: Don't matter to me.

John Stoll: We can just set it up as an agenda item, if that works for you.

President Mosby: We'll just, Tammy, we'll just put it under action items, public hearing.

Commissioner Fanello: Did you make a motion for the public hearing, or a motion for the contract?

President Mosby: I made a motion for the contract to move along.

Commissioner Fanello: That's what I just asked him, did we have a motion for the public hearing.

President Mosby: We don't need a motion, it's just going to be on the discussion items.

Commissioner Fanello: Okay.

President Mosby: So, we'll just put it on for March 31<sup>st</sup>, and it will be first up on the agenda, and we'll just do it at 5:30.

John Stoll: Okay.



President Mosby: If you will, just go ahead and send the letters out, and anybody that wants to contact the office and ask what it's about, can contact you or us.

John Stoll: Okay. I'll get them sent out.

President Mosby: Okay.

Commissioner Fanello: If the neighbors have any questions before then, if they happen to call you, let them know that anyone of the Commissioners would be happy to sit down and talk with them.

President Mosby: If that happens, I'll just go out there. It's no problem.

John Stoll: I get the letters sent out.

President Mosby: Any other questions? Thank you, John.

John Stoll: That's all I had.

President Mosby: Okay, thanks.

Madelyn Grayson: May we make a quick tape change?

President Mosby: Sure.

**(Tape Changed)**

Madelyn Grayson: Thank you.

<b>County Highway</b>
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President Mosby: County Garage, Dennis Hudnall. County Highway.

Dennis Hudnall: Good evening, Dennis Hudnall, County Highway. First of all I had spoke with Mr. Allen Brown of Pioneer Rail, well they call it Indiana Southwest and Pioneer Rail. Excuse me. Last week we discussed fixing three crossings; Allens Lane, or St. Joe, Boonville-New Harmony, and Mill Road railroad crossings. His proposal is that we, meaning the Commissioners, okay an expense of \$6,000 per crossing to buy concrete panels versus paving over them. So, we probably need to make a decision whether we want to spend the money. They are going to furnish all the labor and everything, but they want us to pay for the panels. Now, there is a 50' right-of-way from the center of the tracks each side. So, there is two scenarios, if you decide to buy the panels, all we have to do is get them delivered out, and they will furnish the material. The other scenario is I pave right over the railroad tracks. They meld them down after they're repaired.

President Mosby: I like the one paving over them. I do. I like the one of paving right over them.

Dennis Hudnall: And that's what we have done in the past, pave over them, and then they run the engine across them to free up the rail. They're looking for between \$7,000 and \$8,000 per crossing. I spoke with John Stoll, and I think John spoke with

Mr. Brown this week, and John and I agree that it would probably be more than that. It would be on the high end probably at \$10,000 a crossing.

John Stoll: I was going to say, the last estimate that Mr. Brown gave me was \$185 per foot for the pre-cast panels. So, if we needed, I think I figured around 35' ballpark for a crossing, that would be about \$6,500 for the panels. That was a price that he had given me late last year. So, I don't know if there have been any cost increases on those items since then.

Dennis Hudnall: He also added that there would be a delivery charge for the concrete panels. So, that would be added to the \$6,500.

Commissioner Crouch: You're in favor of not doing the concrete, David?

President Mosby: I don't see why the Vanderburgh County residents should be held responsible for railroad tracks. That bugs me. Why, you know, Pioneer Railroad cannot be, you know, liable for their tracks is what I'm saying. I mean, this is four tracks that we know of. How many other tracks will we end up fixing—

Commissioner Crouch: With other—

President Mosby: Well, with other railroads, or this company itself. I mean, I can see us opening, this could be a nightmare. We're going to set a precedent I'm afraid.

Commissioner Crouch: I'm not sure I disagree with you.

President Mosby: I mean, I don't know what other solution there is. I know these tracks are pitiful. I mean—

Dennis Hudnall: We've temporarily, right now, patched them to where they're cross able, but it's not going to last long. So, we need to either pave them, or do something. I'm getting a lot of complaints on them right now.

President Mosby: I mean, that's the thing. I feel sorry for the public. The taxpayer that has to drive over them, it's going to tear their car up. Why there's not some way of holding Pioneer liable. Kevin, is there anything that we can do legal wise?

Kevin Winternheimer: Yeah, there is a process out there to get them to repair them. The, what you run into typically is after you go through it, they will patch. It may be not be the repair you like, but if it sort of does the job minimally, that's all you can make them do. Other than that, it's up to the goodwill of the railroad as to how good a crossing they are actually going to make. I don't think you could make them do the concrete crossing, but you could make them patch it. That's about all you're going to get, if you're not willing to do more.

Dennis Hudnall: Well, they haven't responded to the request to patch them. That's why I went ahead and sent our crews out to do that. All three of them that I reviewed were in such bad shape that somebody's vehicle is going to get damaged pretty bad. So, we've got them cross able right now, but you're looking at probably a month, or a month and a half, that's all that's going to last, and I'm going to have to go do it again. So, in the past we've paved over them. It's, the longevity of the crossing is probably three or four years, versus concrete panels you're looking at ten years maybe. But, we still do all the approaches on the...we still have an expense to do part of them anyway.

Commissioner Crouch: I'm in agreement with President Mosby.

Commissioner Fanello: Just for the record, so am I. We're all in agreement.

President Mosby: Well, I mean, I don't know what else to do outside of, and I think we hold their feet to the fire. If we have to file whatever, you know, whatever the procedure is, I say we go ahead and file it.

Dennis Hudnall: Well, they wanted a decision, it doesn't make any difference, if you buy the panels, they put the panels in. If you don't buy the panels, we're going to pave over them. So, it's just a matter of getting a decision before you to see what avenue we would take. In the past we've paved them. It saves quite a bit of money.

President Mosby: Now do we pave them, or do they?

Dennis Hudnall: Well, we pave the approaches to them, but to get them smooth we'll just pave the approach and over the railroad tracks, and to the other approach also. So, we still have a little expense that we're helping out the railroad, but for our residents in the county it's a heck of a lot better than having them throw some patch in there, and it's still, you know, it will tear their cars up. Like Kevin said, they're only responsible to do minimum level of repairs on them.

Commissioner Crouch: Just out of curiosity, Kevin, if they would damage their car, who's liable for that?

Kevin Winternheimer: In my opinion, the railroad is. They are supposed to maintain them.

Commissioner Crouch: Of course, most of the residents that are crossing them don't realize that. They hold us responsible.

President Mosby: Exactly. Everybody thinks it's the county's responsibility. That's what we're going through at the Garage right now. What did you say they got, or John one said they have 50',

Dennis Hudnall: Madelyn had sent me some minutes from the past discussions on these, and I was reading, and it stated in there that the railroad was responsible for 50' from the center line of the railroad. We're responsible for the approaches after that.

President Mosby: Okay. Call them back and tell them we had discussion. I guess, pave over them.

Dennis Hudnall: Okay. I agree with that too.

President Mosby: Let them cut it, and then if there is anyway, if they come back out, I say we file suit against them for some type of a permanent fix, rather than us keep expending taxpayer money to take care of their right-of-way.

Dennis Hudnall: Okay. I'll give them a call. The second item is a few weeks ago we accepted bids on a flush truck, which we're going to need to meet the requirements of Indiana EPA. I reviewed the specs on them that we submitted to the bidders. Phil Lawrence had sent these out. The only one that responded to it was Deeds Equipment. They sent us two bids; one for a new flush truck, and one for an

alternate used flush truck. After reviewing the specs on it, the used one does not meet the specs, because it's got a smaller engine, less PSI when flushing out these culverts and things of that nature. So, my recommendation is to buy the new flush truck, and our budget will support that. It's going to be a piece of equipment that we're going to be required to use extensively from now on. Because we are going to have to clean out all the drain boxes, and things of that nature. So, my recommendation is the new flush truck.

Commissioner Fanello: What's the cost on that?

Dennis Hudnall: It's \$92,890.

Commissioner Crouch: And that will flush out drains?

Dennis Hudnall: What it does, we, any driveway culverts, or anything of that nature, we flush them out after they get clogged up. It's a high pressure hose, basically, that goes up into the pipes. Then it also has a vacuum on it that will vacuum out the drain boxes. Which is going to be an Indiana requirement, state requirement that we do.

Commissioner Crouch: So, if we approve this, then can you go to 7322 Greenbriar?

Dennis Hudnall: It's going to be used extensively, because it's, we're getting a lot of calls on them. We've been renting this piece of equipment, I really don't know how long, but the minimum rental on it is four hours, and it's \$600. So, if I use it one day, that's \$1,200. I think the break even point on paying for this piece of equipment is something like a year and four months, it's paid for.

Commissioner Fanello: I'll make a motion that we direct the Highway Superintendent to proceed purchasing the flush truck.

Commissioner Crouch: Second, and you will be in contact with the County Surveyor regarding that problem at 7322 Greenbriar? Are you aware? Did you get copied on that?

Dennis Hudnall: No, I don't think so.

Commissioner Fanello: We have, we can get you a copy. Each Commissioner got a copy.

Dennis Hudnall: Did it come by e-mail?

Commissioner Fanello: No, it was, I think—

Dennis Hudnall: My e-mail's been down because they've been working on our computers out there. So, if you could get me a copy of that, I would be glad to take care of it. The only other thing I had is to ask you if you received my report, and do you have any questions on that.

President Mosby: I don't have any questions.

Dennis Hudnall: Okay.

President Mosby: Any other questions? Thank you, Dennis.

Dennis Hudnall: Have a good evening.

**County Attorney**

President Mosby: County Attorney.

Kevin Winternheimer: No report tonight.

**Superintendent of Buildings**

President Mosby: Superintendent of County Buildings.

Tammy McKinney: I've got a couple of items. This afternoon Will Fosse brought to me a notice to proceed for the rebidding, or the re-roofing project. Once Midland Engineering receives that we will be proceeding with the re-roofing project, hopefully, should be up and going by the end of the month. Second thing, I think I put a copy at everyone's desk of the contract with Lichtenberger Construction for the remodeling of the bathrooms at the Old Courthouse. The Foundation did approve my request for the \$16,000. So, Will went ahead and drew up this contract. Kevin has given his okay, and now I just need yours.

Commissioner Fanello: Lichtenberger was the low bid on this project?

Tammy McKinney: Right.

Commissioner Fanello: I guess, we could approve it contingent on receiving the money from the Old Courthouse Foundation, because we still have to receive that in.

Tammy McKinney: Right, and I talked to Suzanne on Friday on how I'll go about putting that in the General, and then blue claiming it, and all that.

Commissioner Fanello: Motion.

Commissioner Crouch: Second.

President Mosby: So ordered.

Tammy McKinney: That's all I have.

Commissioner Crouch: Tammy, we got a letter about, a complaint from someone about polling places and smoking. Is that, did you get a copy of that, or were you aware of that?

Tammy McKinney: Uh-uh.

Commissioner Fanello: I just saw it today. I think it just came, I don't think she did get a copy. I think it just came to each Commissioner.

Commissioner Crouch: Some citizens have had some concerns about smoking at a polling place, and wanted us...they wanted the Election Board to take action regarding that. Then the Election Board referred them to us, because we're the

Commissioners. So, I don't know if that issue had come up in the past, or do we need to put, do we need to ask the Clerk to put a no smoking sign in the inspectors—

Tammy McKinney: Was it at a particular polling place or all of them, or?

Commissioner Crouch: I think it was one particular polling place.

President Mosby: I was going to say, a lot of them don't let them smoke inside, or the inspector will instruct them to walk outside the door.

Commissioner Crouch: Could we draft a letter maybe to the Commissioners, or to the Clerk asking that she put some kind of notice in the election supplies?

Tammy McKinney: Yeah.

Commissioner Crouch: So that—

President Mosby: If it happens in this upcoming election, we have nothing to do with it.

Commissioner Crouch: Right.

Tammy McKinney: Right, if it happens at the School Board, but as far as the May. If you can get me a copy of that, I'll look into it.

Commissioner Crouch: Okay.

President Mosby: Any other questions? Seeing none.

<b>Burdette Park</b>
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President Mosby: Burdette Park.

Gary Hohman: I'm Gary Hohman, Burdette Park. All we have before you tonight is our work report. Any questions regarding it or any other business, I would be glad to answer any questions that you might have.

President Mosby: I don't have any. Any questions?

Gary Hohman: Thank you.

President Mosby: Thank you, Gary.

<b>Soil and Water Conservation District</b>
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President Mosby: Soil and Water, Mike.

Mike Wathen: Mike Wathen, Soil and Water Conservation District. In addition to my normal weekly report, one item that I wanted to touch base with you on is the Carpentier Creek Pavilion Subdivision. I met out there today with Mr. Owens and Morley and Associates, and it now is in compliance. It will be tomorrow before I can get the official letters out. I didn't have time by the time I got back to the office today. I've met with Mr. Owens several times, and I think he understands the importance

of keeping the maintenance of the project up. He's done a good job of getting it into compliance to this point. It is going to be a challenge though. There's a lot of area out there to cover, and there's a lot of fill going in there. So, but it is in compliance as of right now, and I will get the appropriate letters out tomorrow. If this cold don't kill me. Does anybody have any questions?

President Mosby: I don't.

Commissioner Crouch: I think that's an example of a lot of people working together to address an issue. Mr. Padget's here. Do you have anything to say?

Fred Padget: If you can give me a couple of minutes.

President Mosby: Okay.

Fred Padget: I'm Fred Padget with the Westside Improvement Association. I just wanted to take a couple of minutes and talk about this development a little bit. One of the main things I wanted to do tonight was express my appreciation for the Soil and Water Conservation District. I think it's been handled very professionally. It's technically competent. A lot of it's due to Mike. He's very knowledgeable of the regs and the local ordinances. He's a pretty much by-the-book kind of guy, and I think that's the right way to do it. I think he tries to be fair. I think the Soil and Water Conservation District, and Mike in particular, did an excellent job on this, and I wanted to express that to the Commission. We're glad the development's back in compliance. We appreciate the developer's effort in getting it back in compliance. I think Soil and Water Conservation District was instrumental in making it happen. It took a lot of effort from the developer to do that also, and we understand that. The compliance is really only at this point in time. That area out there, as we've talked about before, and as you well know, is an environmentally sensitive area. It's a major drainage area, and it has a lot of floodway. It will present the developer many more challenges during the balance of the project, and it will require much maintenance of areas that are currently disturbed, and much attention to the future work. By getting back into compliance, the developer has shown and proven that it can be in compliance. We hope that it will continue to remain in compliance, and will monitor that project to assure compliance, and that it becomes a real asset to this area of the country. But, again, we appreciate what the Soil and Water Conservation District did, and we also appreciate the efforts that the developer put into it.

President Mosby: Are there any questions of Mr. Padget? Mr. Owens, did you want to say anything?

Dennis Owens: Yes, I would also like to say that I think that they, Mike Wathen, did do a really good job. Fred's right, we do have a lot of challenges, but we think we're up to them. I'm happy that it turned out this way. We'll continue to do our best to stay in compliance, and work with the Westside Improvement Association, and to achieve an end that we can all be proud of. Thank you.

President Mosby: Thank you, Mr. Owens. Any other questions or comments? Thank you, Mike, appreciate what you did.

President Mosby: Ozone.

Commissioner Fanello: We don't have any, I have one thing. Joanne e-mailed me, to let me know that there is a meeting tomorrow, but it does not have the time in this e-mail. He said that each of the Commissioners received something on this meeting with IDEM, but I didn't receive anything on it. Not that I can remember anyway, but she is going to attend the meeting, but she was hoping that one Commissioner could be there, if it was possible.

Commissioner Crouch: Do we know where or when?

Commissioner Fanello: I don't have it in the e-mail. I can try and look back through my stuff, but I don't remember getting anything on the meeting.

Commissioner Crouch: I know there's a meeting with DNR tomorrow.

Commissioner Fanello: Right.

President Mosby: That's at 10:00 down here in 318. (Inaudible)

Commissioner Fanello: I guess, we could have Patty or Tammy, in the morning, call her and find out, but if anyone...I cannot attend tomorrow, but she is going to attend, but she was hoping a Commissioner could go too.

Commissioner Crouch: (Inaudible. Mike not on.)

Commissioner Fanello: You don't know a time?

Commissioner Crouch: Okay.

President Mosby: Can you try to find out. I'm going to try to go to DNR.

Commissioner Fanello: Other than that, I would make a motion that we accept the Ozone Officer's Report.

Commissioner Crouch: Second.

President Mosby: A motion and a second. So ordered.

<b>Consent Items</b>
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Commissioner Fanello: Motion to accept Consent Items

Commissioner Crouch: Second.

President Mosby: A motion and a second. So ordered.<sup>1</sup>

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<sup>1</sup>Consent Items listed on Page 33.



**VANDERBURGH COUNTY  
REZONING BOARD  
MARCH 17, 2003**

The Vanderburgh County Rezoning Board met in session during their regular Commission meeting on March 17, 2003 at 6:50 p.m in Room 307 of the Civic Center Complex with President David Mosby presiding.

President Mosby: We will, this shouldn't take very long at all really. We're going to move right in to the rezoning agenda. Do I have a motion to approve the minutes of the previous meeting?

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: So ordered.

**First Readings:**  
**VC-9-2003: Petitioner: Peter M. McCullough**  
**Address: 2750 Allens Lane**  
**Request: Change C-4 to C-2 with UDC**  
  
**VC-10-2003: Petitioner: Fred H. Puckett**  
**Address: 6318 Peacock Lane**  
**Request: Ag change to C-2**

President Mosby: First readings, VC-9-2003, petitioner, Pete McCullough, 2750 Allens Lane, Evansville, Indiana, change from C-4 to C-2 with use and development. VC-10-2003, petitioner, Fred Puckett, 6318 Peacock Lane, change request from agricultural to C-2. Do I have a motion to accept first readings?

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: I have a motion and a second. So ordered.

**Final Reading:**  
**VC-7-2003: Petitioner: Onyx Waste Services, Inc.**  
**Address: 12900 Warrick County Line Road**  
**Request: Ag change to M-2**  
**Action: Approved 3-0**

President Mosby: Final reading. That's right we don't do second readings. Final reading, VC-7-2002\*, petitioner, Inyx Waste Services, Incorporated, 12900 Warrick County Line Road, request change from Ag to M-2.

Commissioner Fanello: That's supposed to be Onyx, for the record.

President Mosby: That's what I thought, Onyx. I had never heard of Inyx. I thought maybe you were new.

Rick Klass: Hi, I'm Rick Klass. I'm the controller for Onyx Waste, currently located at 8136 Baumgart Road. We really have no information to add other than what you've received in your reports. We would like to highlight a few things, however. First the approved comprehensive plan calls for an area immediately adjacent to 164 for M zoning. That area, I don't know if you're familiar, we currently have a transfer station that we are looking to, just north of that transfer station we have acquired some additional property. The County Engineer, John Stoll, has raised the issue of road width, and entrance to the property off of County Line Road. Our plans are to, all trucks will enter in through the transfer station and cross into the area for parking. We will not have to have another road entrance further up for any trucks other than personal vehicles for employees to come to work. The third, I think the Planning Commission has said that in the last ten years of operation, that site as a waste hauling facility has not had one single citizen complaint. I'd like to say proudly that I don't think any other waste hauling facility in the state of Indiana can make that claim. In the efforts to do this rezoning that we have sent out letters to people that live in the neighborhood. We had an open house for three hours, we had residents, or a person there at the facility to answer any questions. The only response we had, and the only question we had was the tenant farmer wanted to know if he would be able to farm for another year. So, nobody else has shown any interest or concern at this point. We've also sent letters and asked anybody to call Area Plan or ourselves if they had any concerns, and we have, at this point, not received any calls. Again, our plan is to possibly move our Baumgart Road facility, which is office and garage facility and storage out to that location. That's really all we have in mind.

President Mosby: Any questions? Anybody in the audience that would like to speak? Seeing none. The chair would entertain a motion.

Commissioner Fanello: Motion to approve VC-7-2002\*, Ag to M-2.

Commissioner Crouch: I will second. Do we not get to hear from former Commissioner Mourdock?

Commissioner Fanello: I'm sure he wants to come forward, don't you?

President Mosby: I was going to say, I thought he was chomping at the bit back there. I kept watching him.

Richard Mourdock: I just wanted to prove that I could sit through a meeting without saying a word.

Madelyn Grayson: Could you please come to the microphone, sir?

President Mosby: Yes.

Richard Mourdock: I should have known.

President Mosby: I guess, that means the former Commissioner does not want to speak with us. So, we have a roll call vote. Commissioner Crouch?

Commissioner Crouch: Yes.

President Mosby: Commissioner Fanello?

Commissioner Fanello: Yes.

President Mosby: Commissioner Mosby? Aye. There being three ayes, no nays, VC-7-2002\* is hereby declared adopted.

Rick Klass: Thank you very much.

President Mosby: Thank you.

Madelyn Grayson: Sir, can you spell last name for the record

Rick Klass: K-l-a-s-s.

President Mosby: Is there any other business to come before the Board?

Commissioner Crouch: Motion to adjourn.

Commissioner Fanello: Second.

President Mosby: So ordered.

\*Let the record reflect the correct rezoning document number was VC-7-2003.  
(The meeting was adjourned at 6:55 p.m.)

**CONSENT ITEMS:**

**Travel Requests:**

County Clerk	Health Department	Auditor
County Highway	Surveyor	County Assessor

**Employment Changes:**

Sheriff Department	County Clerk	Health Department
Auditor	Surveyor	Superior Court

**Request for Service:** Pigeon Assessor.

**Sheriff:**

Weekly Jail and Community Corrections Reports.  
HIPPA Compliance Agreement with Bamberger Law Firm.

**Those in Attendance:**

David W. Mosby	Catherine Fanello	Suzanne M. Crouch
Kevin Winternheimer	Bill Fluty	Tammy McKinney
Madelyn Grayson	Judy Weatherholt	Mike Lockard
Brad Ellsworth	John Stoll	Dennis Hudnall
Gary Hohman	Mike Wathen	Fred Padgett
Dennis Owens	Rick Klass	Richard Mourdock
Others Unidentified	Members of Media	

**VANDERBURGH COUNTY  
BOARD OF COMMISSIONERS**

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**David W. Mosby, President**

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**Catherine Fanello, Vice President**

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**Suzanne M. Crouch, Member**

**Recorded and transcribed by Madelyn Grayson.**

**VANDEBURGH COUNTY  
BOARD OF COMMISSIONERS  
APRIL 21, 2003**

The Vanderburgh County Board of Commissioners met in session this 21<sup>st</sup> day of April, 2003 at 5:51p.m. in Room 307 of the Civic Center Complex with President David Mosby presiding.

**Call to Order**

President Mosby: I would like to call to order Board of Commissioners meeting of Vanderburgh County, April 21, 2003. Introductions are as follows, Tammy McKinney to my far right, Superintendent of Buildings; Kevin Winternheimer, our Corporate Counsel; Commissioner Fanello; myself; Commissioner Crouch; Auditor, Bill Fluty; and Recording Secretary, Madelyn Grayson. Everybody please stand and join us in the Pledge.

(The Pledge of Allegiance was given.)

**Approval of April 14, 2003 Commission Minutes**

President Mosby: Motion to approve the minutes of the April 14<sup>th</sup> meeting.

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: So ordered.

**Approval of April 21, 2003 Executive Session Summary Minutes**

President Mosby: Approval of the April 21, 2003 Executive Session, earlier this afternoon.

Commissioner Fanello: I move approval of summary minutes of the Executive Session, which began at 5:03, ended at approximately 5:45, and discussed pending litigation and collective bargaining.

Commissioner Crouch: Second.

President Mosby: So ordered.

**Award VC9903-2003: Burdette Park Foods**

President Mosby: Bid opening and advertisements, Phil Lawrence, permission to award VC9903-2003 Burdette Foods, and VC-07-2003, Burdette Park T-Shirts.

Linda Nalley: I'm Linda Nalley. I'm with the Purchasing Department. I would like to award the bids for Burdette Park concessions. The number is VC9903-2003. The award goes to the low bidders based on their shaded category. Diamond Foods, Weber Foods, Sara Lee, Fischer and Schwan's. If you have the bid in front of you, they are shaded areas based on their category.

President Mosby: Does everybody have the shaded areas? Any questions or comments? Do I have a motion to entertain permission to award bids to the, on certain items to certain bidders?

Commissioner Fanello: I move approval that we award the bids to the low bidders on the Burdette Park Foods.

Commissioner Crouch: Second.

President Mosby: A motion and a second. So ordered.

<b>Award Bid VC-07-2003: Burdette Park T-Shirts</b>
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President Mosby: VC-07-2003.

Linda Nalley: Okay, the Burdette Park T-shirts, the award goes to the low bidder in each of their shaded categories, which was, basically, Siegel's for \$3,285.70, and then Pro Mark got a little bit of it, which was \$637.50.

President Mosby: Chair would entertain a motion.

Commissioner Fanello: I move approval.

Commissioner Crouch: Second.

President Mosby: A motion and a second. So ordered. Any questions? Thank you very much.

Linda Nalley: Thank you very much.

<b>Award Surplus Properties to Non-Profit Organization: Evansville Black Coalition</b>
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President Mosby: Superintendent of County Buildings, permission to award surplus properties to non-profits.

Tammy McKinney: I wanted to make sure all the Commissioners had a chance to look over the proposals that we opened last week regarding the four addresses of the surplus properties, and how you want me to proceed with those.

Kevin Winternheimer: This is also the time and place for the public hearing to solicit public comment. The public has a right to voice their opinion on whether....I think we only had one proposal, from one organization.

Tammy McKinney: Right.

Kevin Winternheimer: If the public has any comments on whether they should or shouldn't be awarded to this one particular group, this would be the time to do it.

President Mosby: Is there anybody here that would like to speak to non-profits receiving surplus properties. Seeing none.

Commissioner Fanello: I move approval to award the bids to, I believe the correct name is Evansville Black Coalition?

Tammy McKinney: Correct.

Commissioner Crouch: Second.

President Mosby: I have a motion and a second to award bids to the Black Coalition. So ordered.

Kevin Winternheimer: I'll bring the deeds for the next meeting to be signed.

**Emergency Management: Citizens Corp Council Grant**

President Mosby: Next, Emergency Management, Citizens Corp Council Grant. I think everybody's got it in their packet. Are there any questions? Any comments?

Sherman Greer: No, just that this is the grant I told you that I would be back to see you this week on. So, I think we're finished for awhile here right now, but the more money we get in here, the better off we are.

President Mosby: I agree with that. The chair would entertain a motion.

Commissioner Fanello: I move approval.

Commissioner Crouch: Second.

President Mosby: So ordered. Thank you, Sherman.

Sherman Greer: Thank you.

**Execution of Lease of Jail Project from  
Evansville-Vanderburgh County Building Authority**

President Mosby: Execution of the lease of the jail project from the Evansville-Vanderburgh County Building Authority.

Commissioner Fanello: I believe you have in your packet, or not in your packets, but, I believe Madelyn has in the signature file the copies of the signature pages for the lease, which was executed at the Evansville-Vanderburgh County Building Authority meeting. So, we just need to execute our portion. I move approval.

Commissioner Crouch: I'll second. Just a couple of questions. Does County Council have any role in this? Do they need to budget or appropriate any money for the lease rental agreements?

Commissioner Fanello: They will not do that right now.

Commissioner Crouch: At some point in time?

Commissioner Fanello: They'll take care of that at their respective budget times, yes.

Commissioner Crouch: Okay. This just has the \$3.3 million as a maximum, is that not correct?

Commissioner Fanello: Right. Everything is calculated at a higher than—

Commissioner Crouch: Right.

Commissioner Fanello: —for a higher estimate, just to be safe.

Commissioner Crouch: So, the payments will support a \$35 million project? Thank you.

Commissioner Fanello: Hopefully, we'll get some really good interest rates if we can get it issued in the next couple of months.

President Mosby: I have a motion and a second on the Building Authority. So ordered.

#### **Execution of Bonds and Closing Documents for Bond Refunding**

President Mosby: Next we have execution of bonds and closing documents for bond refunding.

Commissioner Fanello: Madelyn also has those documents, and as you remember we recommended that we refund one of our bond issues. The Council took us up on that recommendation, and they did go through their appropriate motions, I believe, at their last meeting. Just to let you know what the outcome was of the refunding, we did get a decline of our interest rate from 5.64% to 2.72%, and our annual payments will decrease by \$180,000 on average over the remaining life of the bond, which is through January 1, 2010. So, we've been successful in saving the taxpayers approximately \$180,000 per year. So, I would move approval of executing the documents.

Commissioner Crouch: Second.

President Mosby: A motion and a second. So ordered.

#### **Contract Between Sheriff's Office and Teamsters: Detention Officers, Corrections Officers, and Civilian Staff**

President Mosby: We have one contract between the Sheriff's office and the Teamsters. Is there any questions?

Commissioner Fanello: I move approval of the contract between the Sheriff's office and Teamsters.

Commissioner Crouch: Second.

President Mosby: A motion and a second. So ordered.



**Public Comment**

President Mosby: Anybody in the public who would like to speak?

**Old Business**

President Mosby: Any New Business or Old...any New Business?

Commissioner Crouch: Just a little note. We published the polling places–

President Mosby: Oh, I'm sorry.

Commissioner Crouch: –and I believe we included the county in those. Will we be doing another publication? In the ad it had the city and the county polling places.

Tammy McKinney: No, I think we just published the city one's. Isn't that correct, Madelyn?

Madelyn Grayson: I have a copy of the ad here, but I was told by Voters Registration it was just up to Ward 6-16.

President Mosby: 6-17 should have been the last one.

Commissioner Crouch: I just got a call, and someone said that they saw in the paper that it was also county. So, I don't know if they were confused.

Kevin Winternheimer: You might want to check and make sure the paper put the right one in, and didn't run an old ad.

Madelyn Grayson: This copy does have Scott and Union in it, and that was not what was sent over to them.

Commissioner Fanello: No, because, I believe you copied us in on what you sent over, and they were just city polling places.

President Mosby: Is Scott and Union the only two that got–

Madelyn Grayson: No, there's Perry, German, they've got an old ad in here apparently. I'll have to check with the paper tomorrow. I didn't even notice that. It does run again this Friday, because we run it twice. So, I'll have to have them bring a proof over.

Commissioner Fanello: Okay.

Kevin Winternheimer: I don't think you really need a motion, because you approved the city polling places before. So, we just need to get the ad corrected is all.

President Mosby: So–

Commissioner Fanello: And we need to check and see if we'll get credit for that, since we did send over (Inaudible).

President Mosby: Well, not as much credit, as just have them run the new one twice, or run a correction.

Kevin Winternheimer: Yeah, that would probably be better, to not only run it Friday, but run a corrected ad too.

President Mosby: We, oh, will you call them tomorrow? Could you ask them to run a correction at their expense?

Madelyn Grayson: Yes, I will.

President Mosby: Because, I mean, they're the ones, I mean, as long as we got the correct copy.

Madelyn Grayson: I mean, I've got a copy of the ad that was sent over right here, and it doesn't have those on there.

President Mosby: Okay, well ask them if they'll run a correction on it.

Madelyn Grayson: Okay.

President Mosby: Then we got another one that runs Friday any how.

Madelyn Grayson: I will let you know tomorrow.

President Mosby: Okay. Thank you very much, Commissioner. I didn't see it, so. Is there any other Old Business?

<b>New Business</b>
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President Mosby: Any New Business? Anybody in the audience?

<b>County Engineer</b>
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President Mosby: Department head reports, County Engineer, John Stoll.

John Stoll: First item I have is a Notice to Bidders for contract number VC03-05-01, Repair and Repaving of Duesner Road and Roth Road. I would like to request that this be approved and advertised.

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: So ordered.

John Stoll: Next I have a set of street plans for Havenwood Meadows Subdivision. This is located on Hillsdale Road across from Bluegrass Farms Subdivision. This is for Section One of that subdivision. They are just platting this portion of the subdivision down to this heavy blue line here. As a part of this, they are proposing to put in a right turn deceleration lane, and a passing blister out on Hillsdale Road, because there's a crest of a hill right here, and they want to just try and improve the safety of the intersection. I request that the plans be approved, subject to them

providing final details of the passing blister, because they've got some drainage issues they are still trying to resolve. Everything else within the plans looks fine.

Commissioner Fanello: I'll move approval with the stipulations by John Stoll.

Commissioner Crouch: Second.

President Mosby: So ordered.

John Stoll: The last item I have is in regard to the Mt. Pleasant Road Project. I have a supplemental agreement with Morley and Associates for additional work for a total of \$17,097. The reasons for the supplemental agreements are due to some design changes that we've been requested to make by some of the property owners, as well as the railroad. First of all, back when we met with CSX several weeks ago, they had requested that we just avoid working on their right-of-way at all. So, in doing that, we would need to taper the road back down to two lanes prior to getting on to the railroad right-of-way. It turns out that if we taper it back to two lanes before we get to the railroad right-of-way, we have a very short section of three lanes road. So, it gets to the point where it's not worth tapering out to three lanes just to turn around and send it back to two again. So, item number one in this supplemental agreement is for \$6,957 to redesign 785' of road back to two lanes, rather than three. That would keep us off the railroad right-of-way. In doing so, we'll save more in construction than the \$6,957. So, it will provide that benefit. The second part of the supplemental is due to a problem we have on one property. It's on the Smith property at the corner of Clear Creek Drive and Mt. Pleasant Road. The way the intersection was originally designed, it follows that taper there highlighted in green. The problem is the septic system for that property is located in the general facility of that area that is shaded in green. So, if we redesign and change it to a tighter radius, then we can miss the septic system. Otherwise, we'll have to either rebuild the septic system or provide sanitary sewer to this property. That part of the redesign is \$6,736. Here again, because there's no sanitary sewer immediately available to that property, this would be cheaper than the alternative of providing sewer. The final part of the supplemental is \$3,404, and that was for the Kelly property, which is located just west of the bridge on the south side of the road. They have a lake that they were concerned that they weren't going to have enough water draining into the lake, unless we made some design changes. We can make some design changes fairly easily. These would accommodate sending more water towards the Kelly property, as they had requested. The way the design currently was done, we have a couple of pipes stubbing out to manholes, and all this water drains to the north, and then out. If we eliminate these pipe connections here, and then add a pipe here, we can send more water towards the lake, which is located out in this area. That part of the supplemental is \$3,404, which is cheaper than if we had to go out and condemn that property. So, even though there's a pretty high price tag on the supplemental, the alternative, it's cheaper than the alternative in each of these three options. So, I would request that the supplemental be approved.

Commissioner Fanello: I move approval.

Commissioner Crouch: Second.

President Mosby: So ordered.

John Stoll: That's all I have unless you have any questions on anything.

President Mosby: Any questions?

John Stoll: Thanks.

<b>County Highway</b>
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President Mosby: County Highway, Dennis.

Dennis Hudnall: Good evening. Dennis Hudnall, County Highway. First of all I want to discuss Pioneer Rail Corp, and where we stand right now, as far as getting the work done on three railroad crossings. One at Boonville-New Harmony, one at St. Joe, and one on Mill Road. I think Suzanne had talked to some people in the public, and finally we got a hold of Mr. Bruce, or Alan Brown from Pioneer Rail Corp. We kind of pinned him down to a date, and the date that he gave me was the 27<sup>th</sup> of May that we would start working on the rail at Boonville-New Harmony. We would have to close the road between, let's see, it's Highway 65 and Lutherbach for approximately one week. Then I have a meeting set up with him on May the 19<sup>th</sup> to discuss St. Joe and Mill Road, when we can proceed on those. So, I think that's the best time frame that we can hope for right now. So, the public has been calling me, I know they've called Suzanne. I don't know if they've called anyone else, but I think this will benefit the county by getting some of this work done. So, by probably the end of June we should have all three of them done.

President Mosby: Okay.

Dennis Hudnall: I did get a response from the letter that we wrote, and I think Suzanne got it. I didn't know it was a response, because it didn't come from the same person I wrote it to. So, but a response is better than none. Anybody have any questions?

Commissioner Crouch: Those dates are May 27<sup>th</sup> through—

Dennis Hudnall: I'm going to close the road from May 27<sup>th</sup> to June the 4<sup>th</sup>.

Commissioner Crouch: Okay, great, and I appreciate you staying with this. I know you had to be a little tenacious, but I know people appreciate it.

Dennis Hudnall: The squeaky ends gets the oil, I think. So, we're glad to get it done for the county residents. Anyone else have any questions?

President Mosby: Any questions?

Kevin Winterheimer: Do you want to go ahead and do a motion though to approve those dates and closings?

Dennis Hudnall: I request approval of those dates.

Commissioner Fanello: Motion to approve.

Commissioner Crouch: Second.

President Mosby: So ordered. Any other questions or comments for Dennis? Thank you, Dennis.

Dennis Hudnall: Okay.

**County Attorney**

President Mosby: County Attorney.

Kevin Winternheimer: No report tonight.

**Superintendent of Buildings**

President Mosby: Superintendent of County Buildings.

Tammy McKinney: I need to ask permission to have a reprint of cards, voter cards, for Oaklyn Library. I can't think of the ward and precinct right now, but they added on, and it changed their address. So, five-five. Madelyn told me. So, we just need to reprint those cards.

Commissioner Fanello: Do we have to make a motion to do that? Is that not something Voter Registration can take care of?

Tammy McKinney: Tony and Connie wanted me to ask permission to reprint them, so.

Commissioner Fanello: I can make a motion that we allow them to reprint, but we don't really...Voter Registration takes care of that. We don't really have any jurisdiction over that.

Commissioner Crouch: Second.

President Mosby: A motion and a second. So ordered.

Tammy McKinney: They just asked me, so, I told them I would. Also, I've been checking into the phone lines for the Election Office. They have actually six phone numbers that go to that office. So, and they are active. So, now I'm trying to find out where those lines are. So, that's where I am with that. I have phones, if I can find out where the lines go, we can set them up. So, it's kind of a mess.

Commissioner Fanello: So, we don't have to get any new phone lines?

Tammy McKinney: We don't have to get any phone lines.

Commissioner Crouch: (Inaudible. Mike not on.)

Tammy McKinney: Got to find them, and where the numbers are going to.

President Mosby: Sounds like we need to borrow one or two from them. Okay. Any questions? Comments? Anything else?

Tammy McKinney: Not unless you have any questions about my report. The scaffolding did start today at the Courthouse. I was over there at 7:00 with them, so.

President Mosby: Okay.

**Burdette Park**

President Mosby: Burdette Park, Gary.

Gary Hohman: Gary Hohman, Burdette Park. All we have is our work report before you tonight if you have any questions.

President Mosby: Any questions or comments for Gary? Thank you, Gary.

Gary Hohman: Thank you.

**Soil and Water Conservation District**

President Mosby: Is there anybody from Soil and Water or Ozone?

Norma Duckworth: Norma Duckworth, Soil and Water Conservation District. I don't have anything unusual to report. I think you have our reports. Are there any questions?

President Mosby: Questions? Thank you very much.

**Ozone Officer's Report**

Commissioner Fanello: Motion to accept the Ozone Officer's report.

Commissioner Crouch: Second.

President Mosby: A motion and a second. So ordered.

**Consent Items**

Commissioner Fanello: Motion to accept Consent Items.

Commissioner Crouch: Second.

President Mosby: A motion and a second to accept Consents.<sup>1</sup> So ordered. We will now go...we will entertain a five minute break, and we'll go right into zonings. So, we will be on break.

(There was a brief recess at 6:14 p.m.)

**VANDERBURGH COUNTY  
REZONING BOARD  
APRIL 21, 2003**

The Vanderburgh County Rezoning meeting for April 21, 2003 was held during the County Commission meeting in Room 307 of the Civic Center Complex with

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<sup>1</sup>Consent Items listed on Page 26.

President David Mosby presiding. The Rezoning petitions were heard beginning at 6:22 p.m.

**Call to Order**

President Mosby: I would like to reconvene the Board of Commissioners meeting, April 21, 2003. We were now at Rezoning.

**First Reading: VC-11-2003**  
**Petitioner: William L. Koester**  
**Address: 13000 Warrick County Line Road**  
**Request: Ag change to M-2**

President Mosby: First reading, we have one rezoning tonight, VC-11-2003, petitioner, William Koester, 13000 Warrick County Line Road, request change from Ag to M-2. Do I have a motion to accept first readings?

Commissioner Fanello: Motion to approve first reading.

Commissioner Crouch: Second.

**Final Readings: VC-5-2003**  
**Petitioner: Charlestown Square LLC**  
**Address: 730 Citadel Circle**  
**Request: C-4 change to C-2**  
**Action: Approved 3-0**

President Mosby: That will bring us to the final reading of rezonings. First we have VC-5-2003, petitioner is Charlestown Square LLC, address 730 Citadel Circle, request change from C-4 to C-2, down zoning. Do we have any questions? Questions?

Les Shively: I would just correct one thing from last, from the Plan Commission meeting. At Plan Commission we said 192 units, and, by the way, Mr. Max Kendall, the developer of this project, is present, and I believe we're going to 220?

Unidentified: 224.

Les Shively: 224. Again, this is a down zoning, and all of the traffic projections and all that was done several years ago when it was assumed it was going to remain C-4.

President Mosby: Okay. Are there any questions by any member of the Commission?

Commissioner Fanello: Just one question.

Les Shively: Yes, ma'am.

Commissioner Fanello: I think there was a question at the Area Plan Commission about access. There's something here that says there's no access available to this site from roads within Vanderburgh County.

Les Shively: That's true.

Commissioner Fanello: Okay.

Les Shively: This is a property I'm very familiar with, it's on the other side of the lake from my office. The residents will have to do just like me, we'll have to go into Warrick County, and get on Eppworth Road, and go down Stahl Road, which has already been improved by the developers of Charlestown. They widened it, and have maintained it also in cooperation with Warrick County. If you've ever been down Stahl Road it's more than adequate to handle what's already out there, in terms of the commercial development. There is access, but it's just not in Vanderburgh County. Although, were you looking at another spot, maybe on Oak Grove, possibly?

Unidentified: (Inaudible. Not at mike.)

Les Shively: Yeah, the only thing that needs to be done...there will be only the one access point off of Stahl Road, which will involve completion of what's shown on the plat for the entryway. They are going to kind of extend that Stahl Road back into there.

President Mosby: Any other questions? Any remonstrators in the audience? Anybody that would like to speak to petition VC-5-2003, 730 Citadel Circle? Seeing none. Chair would entertain a motion.

Commissioner Fanello: I move approval of VC-5-2003, request to change from C-4 to C-2.

Commissioner Crouch: Second.

President Mosby: How about a motion to call the roll?

Commissioner Fanello: Motion to call roll.

Commissioner Crouch: Yes.

President Mosby: So ordered. Commissioner Crouch?

Commissioner Crouch: Yes. Oh, second.

President Mosby: I knew what you meant. Commissioner Fanello?

Commissioner Fanello: Yes.

President Mosby: Commissioner Mosby, yes. There being three yes', no nays, VC-5-2003 is hereby declared adopted.

**Final Reading: VC-8-2003**  
**Petitioner: Moore Investments LLC**  
**Address: 800 Schutte Road**  
**Request: Ag to R-3**  
**Action: Approved 3-0**



President Mosby: Next VC-8-2003, petitioner Moore Investment LLC, 800 Schutte Road, request from Ag to R-3.

Les Shively: Mr. President, members of the Board of Commissioners, my name is Les Shively, representing the owners, the Betty J. Weber Trust, et al, as well as Moore Investments, the petitioner and ultimate developer of this property. Since we don't have the nice computerized photographic material, I'll give you the next best thing Mr. Morley gave me this evening, which is an aerial photo of the subject property. What we have superimposed on the aerial photo of the property is the proposed site plan and layout. Just briefly, this is a request, as I said, from Ag to R-3. About over a year ago there was a proposal before you to do a combination of C-4 and multi-family. There is no C-4 associated with this project. No commercial development, and this is a totally different developer, no connection. The only thing that is the same is the owners of the land and the location. The staff report from the Plan Commission indicates that this proposed use is consistent with the Comprehensive Land Use Plan. The specifics of this proposal would involve an 80 unit apartment complex. The way this would be done would be ten, eight unit buildings. Four on the first floor, four on the second floor. These would be two bedroom units. A couple of things from the development standpoint that I think are important for you to note. Because we have more than five acres involved here, we will have to file a drainage plan that will come before you, when you wear your other hats, that is as the County Drainage Board, you will have to approve that plan. In addition, we will be submitting this particular site plan with more details when we go for an improvement location permit. At that particular time, the County Highway Engineer and EUTS will have their complete report done, along with our traffic impact study, which will have been completed, and they will then determine what additional improvements need to be done in this particular area for ingress and egress. Commissioner Mosby contacted me last week, and indicated the county's desire, there may be an opportunity for them to avail themselves of some additional funds from the state to make improvements on Schutte Road, and asked me to explore with Moore Investments their agreement to provide additional right-of-way along that portion of their property that borders Schutte Road. They are agreeable to doing that. I talked with the County Highway Engineer, John Stoll, he doesn't know how much they are going to need, so Mr. Stoll said, I made the suggestion, and he thought this was the proper way to proceed as well, that the amount of right-of-way to be dedicated will be determined at the time that they go to site review. Which means that the dedication of the sufficient right-of-way will be a condition on their improvement location permit, which you know is the prerequisite for them to pull the rest of their permits. So, again, he will donate the right-of-way to be determined by the County Highway Engineer. We don't know if it's 10' or 15'.

President Mosby: That's fine.

Les Shively: Also, preliminarily it indicates that we can do that without affecting our meeting the requirements for off street parking. So, it's sort of a win-win proposition. To be quite honest with you, Mr. Moore is more than happy to do this, because I think the improvements at Schutte Road helps improve the quality of this project, if not the whole situation out there. While we're on traffic, if I could just take a moment. The buildings, the way we've located the buildings in proximity to the right-of-way for State Road 62 at that point, isn't it? State Road 62 is such that we're far enough back from the right-of-way, and there's sufficient right-of-way there that any improvements that would occur later to that portion of what we refer to as the Lloyd Expressway west, would not involve the acquisition of any of the buildings or those improvements. We have had discussions with the West Side Improvement

Association, and one of the things that they had requested, pardon me, was that we provide landscape buffering and screening, again, along that portion of the property along Schutte Road, so as to prevent lights from automobiles in the parking lot bleeding over, shining over to the residential properties to the west. We've put that in a covenant and restriction. I know you are not in the business of enforcing covenants and restrictions. So you have a complete picture, here is a copy of the proposed covenant restriction. It runs in favor of the adjacent landowner, yet as a request of the Westside Improvement Association we've also put in there....you will need a copy too? There you go. I always forget that. We put a provision in there that allows the Westside Improvement Association to enforce these covenants and restrictions. One other request that was made by the Westside Improvement Association has to do with students living in this particular project. We had stated our intention and our plan of Moore Investments to limit the number of students, in terms of a percentage of the total population of this community to 10%. They had requested we put that in a covenant and restriction, and I indicated at the Plan Commission meeting that I would look into it. Unfortunately, Geneva Capital, which is providing the financing for this project will not allow the developer to encumber the property with that restriction. However, we have represented to the Westside Improvement Association that, number one, all the tenants will have to sign a one year lease, which students don't like to do. There will be no sub-letting, and that all occupants, that is adult occupants, will have to be signatories to the lease. It is really in the interest of the landlord, and I'm not beating up on students here, but in the business of multi-family, especially this particular project with this limited number of units, you want low turnover. This is going to be in the upper rent category. You want tenants who are going to be there for a long term period. Students don't fit that profile. This is the best we can do. I told Mr. Padgett of the Westside Improvement Association I would give him a copy of the lease that we are going to use so that he knows what the provisions are in there. I would also note this, I'm not aware of any other restrictions that apply to any of the other apartment communities in that vicinity; Mission Viejo or Copper Creek, I don't believe has any restrictions, but we certainly understand the concerns. But, again, I think the provisions of the lease, and the intentions of this developer, stated at the Plan Commission will provide the necessary checks and balances for that particular use. Notwithstanding the fact that by making the right-of-way available will assist in improvements to Schutte Road, if in fact there is an increase in traffic. I would just note in final remarks that exclusive of land costs this will be a \$3.7 million project. Based upon the current tax rates, or assuming they are, I guess, the assessed valuation using rates we can work with. That means in annual tax revenue about \$5,200 per building, or \$52,000 in property tax revenue. So, at the end of the day if this rezoning is approved, not only do you get a project that's consistent with the Comprehensive Land Use Plan for the county, you get right-of-way donated for the improvements to Schutte Road, and an additional source of property tax revenue for local government operations. Again, I'm more than happy to answer any questions that you have at this time. Also with me this evening is Mr. Jim Morley, Jr. of Morley and Associates, they are the project engineer, and will see this project through, through the site review, etcetera, and Mr. Greg Moore of Moore Investments. Again, by the way, this received a vote of 11 in favor and one abstention at the Plan Commission meeting earlier this month.

President Mosby: Are there any questions at this time of Mr. Shively by any member of the Commission? Seeing none. Are there any remonstrators? Are you a remonstrator? Okay. You can come to the mike.

Kevin Flittner: I'm Kevin Flittner. I live at 7110 Broadway, which is down at the bottom where all the water will run to. One of the questions I have is, is where is the sewer going to go? Where is it going to come from?

President Mosby: Are you speaking of sanitary or are you speaking of storm?

Kevin Flittner: Sanitary, as well. I have a lot of concerns with this project.

President Mosby: Okay.

Kevin Flittner: That's just one of them. You said if there was any questions.

President Mosby: I don't know where they are going to be picking up a sanitary from, and I don't know if...you can answer it? Okay.

Jim Morley, Jr.: Do you want to do it as we go?

President Mosby: Yeah, let's go ahead and do it as we go.

Kevin Flittner: I have a few questions, so.

President Mosby: Okay, that's fine.

Jim Morley, Jr.: The sanitary sewers, there's sanitary sewers down there at the University. Then there is also sewers north of here, I believe. Either way, chances are we'll have to install a lift station, do a forced main, a pressurized system over the one that is currently existing, accepted sewer.

Kevin Flittner: Do you know how big the sewer system is? The existing sewer system?

Jim Morley, Jr.: Well, the minimum in the county standards would be an 8" line for a public line.

Kevin Flittner: Well, I'm sure it's a lot larger than that if it feeds from the school. It runs by my house, so, I think, it's 24" to 48". I also know that the school intends to grow and grow, and my question is, is does it, is it going to be cutting the school out of some of their sewer capacity?

Jim Morley, Jr.: No, and the way the public utility works, they don't reserve sewer capacity for any one person. The public utility works on a first come, first served basis, as far as sanitary sewers are concerned. However, the 80 apartment units, the amount of sanitary sewer that 80 units would require is minimal in the big picture as far as whether it would allow the University to expand or not. 80 apartment units would not drive the expansion of the unit.

Kevin Flittner: Alright, what about city water?

Jim Morley, Jr.: City water, I believe, there is water that runs down Schutte Road.

Kevin Flittner: Sure there is. I mean, how much does that take away from the residents and the school itself?

Jim Morley, Jr.: Again, it's a minimal amount. The water utility has a certain level of pressure that they maintain inside the lines, and would not allow us to tap it if it was going to adversely affect and make it so your faucet ran dry.

Kevin Flittner: I'm just looking at the growth of the west side of whether or not how much, how long it's going to take before they have to dig everything up and put in either a larger sewer line, or a larger city water line to keep the west side amply supplied. I understand that this is relatively a small unit. I understand that there is not, you haven't quite got all your fine details on this, but they are concerns.

Jim Morley, Jr.: On water and sewer both, on all the utilities across the board, an 80 unit project, I don't anticipate is one that would make or break any utility as far as their ability to serve other people in the area. I believe it's a good size water line that runs up Schutte Road. But, again, the water is the same as the sanitary sewer where it's on a first come, first served basis as far as who gets taps and who does not get taps.

Kevin Flittner: Okay. The other question I have is on how big the retaining pond is going to be, and how deep.

Jim Morley, Jr.: The retention basin will be based off of the Vanderburgh County drainage ordinance. The size of it has not been determined yet. However, there is ample room on the site to do what needs to be done. The retention basin will allow, will make it so the water that leaves this site now is no more than what the existing 10 year storm, a storm that happens once every ten years, whatever that leaves the site now—

Kevin Flittner: I understand that.

Jim Morley, Jr.: —so, that's all governed by the drainage ordinance.

Kevin Flittner: The retention pond is not going to be on the part you're trying to get rezoned. Is it on property that is going to be owned by this same affiliation?

Jim Morley, Jr.: Yeah, just because it was strictly a retention basin, we didn't feel a need to rezone it.

Kevin Flittner: Okay. I have other concerns. One is that there is a tract of land on the side of this that is not yet purchased. It is owned by somebody else that could basically be, and probably will be, again, rezoned for this, and can I show you what I'm talking about?

President Mosby: Sure.

Kevin Flittner: I brought this, this is where (Inaudible), this is what's left (Inaudible) brought down the road, and potentially be apartments as well. My main concern is runoff of all this. I have a flooding problem at my place, and have always had a somewhat of a flooding problem, but it keeps growing and growing. In the name of education I'll put up with it, but it's getting to the point where it's noticeable.

Jim Morley, Jr.: The property to the east of here, we can only drain our water in the same manner in which it's draining now, versus jumping watersheds and so on and so forth. It all drains to that channel.

Kevin Flittner: You know, I can show you some of these pictures. It may not matter. That's my farm. That's why I'm concerned.

Jim Morley, Jr.: Where are you at in the big picture? I don't know where you are at.

Kevin Flittner: I'm a mile and a half down the road, right down here.

Jim Morley, Jr.: Over here?

Kevin Flittner: Yeah, I'm here. Here. That's where all this runs, and this runs, and another thing is Catherine last year based your last vote on this on the fact that there had not been a water shed study done on this. On this area up here, and the county has spent \$190,000 on doing a watershed study on Carpentier Creek and Bayou Creek, but it may not even touch this yet, and that study is not even done yet. The worst, we, the west side, are still eating the problems from before of all the water flooding problems on the west side. So, I am concerned about that.

Jim Morley, Jr.: I don't—

Kevin Flittner: I understand.

Jim Morley, Jr.: I don't know what flood study you are referring to. I can tell you that any drainage will be done in accordance with the ordinances, and shouldn't have a negative impact on you whatsoever.

Kevin Flittner: Well, so far there isn't any negative impact, because that six acres you're wanting to rezone, and all this other field that could be rezoned soaks up water that would not have to run down there. I understand that you're going to let it out in a retention pond at a slower rate, but it's still coming. So, the drainage issue is a big issue with me.

President Mosby: What he's referring to is the Carpentier Creek study. It's just a study that we've conditioned with a consultant.

Kevin Flittner: Oh, okay.

President Mosby: To try and look at—

Kevin Flittner: It all feeds into Bayou Creek, and where my creek flows into, and your water off this apartment project will flow into as well. Your impervious surface runoff of such, vehicles and everything else up there is going to go into that retention pond. Oil floats. The first thing out is that oil. The first thing that's coming down on me with that oil is the other stuff. So, I have concerns about it. I'm not trying to say that I want this shut down. It's better to have apartments than it is commercial zoning, okay. It's just the lesser of the two evils, and I want to make sure that...I would rather see this delayed until the Drainage Board had a good meeting on this, or some of the other issues were heard, but I don't think that is going to happen. But, I do want to issue my concerns on the drainage.

Les Shively: Did Mr. Flittner state his name, his address for the record? Do we have that?

President Mosby: Yes, it was 7010 Broadway, I think.

Kevin Flittner: 7110.

President Mosby: 7110 Broadway.

Les Shively: (Inaudible) the Commissioners, but when this does come to Drainage Board, even though he is not an adjacent landowner, we will make sure that he receives notice so that he can participate in that hearing.

President Mosby: Okay. Are there any questions by any member of the Commission? Are there any, did you have some more comments?

Kevin Flittner: Other than the traffic issue, which I think they've done a good part on that. They are trying to help out on the traffic issue, and the security of it, and the buffer zones.

President Mosby: Yes, they addressed the buffer, and they are addressing the right-of-way, so that we don't have to buy the right-of-way, they've agreed to that, so.

Kevin Flittner: Right.

President Mosby: Are there any other remonstrators? Anybody else—

Fred Padget: I'm Fred Padget, and I represent the West Side Improvement Association. First of all the attorney, along with the developer did meet with the neighbors early on and we do appreciate that. We had concerns, we have concerns with the traffic and the southbound, northbound left and right turn lanes, but that will be addressed somewhere down the line, we understand that. Parking spaces, in the calculation we had some, I'm not sure it was calculated correctly, but, again, that will be handled down through site review somewhere. The one thing that I would say about parking spaces is that if there is a heavy student residence, each of them will have cars. So, I'm not sure the normal standards of two cars for one apartment would be applicable. There may be more parking required, or there may at least be a problem. The other thing, the attorney mentioned that as regarding lighting to the west, the way the parking lot, there was a covenant developed, and we very much appreciate that also. So, those are things that one way or another have been resolved. Our main concern at this point is still excessive student renters, and the disturbance that can be associated with it. Mr. Shively and I talked this evening to quite an extent, and we may have at least some comfort, but according to some of the people at USI their feeling is that the apartments will be totally student occupied within a period of a couple of years. Of course, we do support USI, it's mission, and the student body. We believe that's a tremendous asset to Vanderburgh County and to Southwestern Indiana and the surrounding region. We do have great concern about the apartment complex becoming an off-campus party house for USI students. The close proximity to the campus adds to this concern. The attorney talked about a 10% limit, at least in the minds of the developer, that was expressed at the Area Planning Commission. We've talked with the attorney about trying to develop a covenant, and that seems not realistic in their mind because of the financing considerations. We understand the one year lease, and that does deter students to some extent. We understand sub-letting and that's more or less kind of a normal provision of a contract anyway, or a lease. The other thing is all residents signing the lease would certainly be helpful. So, I guess, at this point, from my standpoint and from Westside Improvement's standpoint we're not totally convinced that the student housing, or that the student renters will be controlled. We do have great concerns about it. On the other hand it would probably be, maybe a little bit going

too far to withhold any thoughts of approval of projects. So, at this point, I guess, the thing that I would say is based on the commitments from the developer to try to maintain that 10% student housing, and to set up the leases such that it will help to deter student housing, then we really have no opposition to the project. Thank you.

President Mosby: Any questions by any member of the Commission?

Beverly Behme: David, may I say something?

President Mosby: Yes.

Beverly Behme: I think Mr. Flittner suggested that the zoning be postponed until the drainage approval. The permit processes are done in stages.

President Mosby: Right.

Beverly Behme: Zoning has to be first. Then site review, and that will bring in the drainage approval, but the zoning has to come first.

President Mosby: Okay. She was addressing your one concern. Okay. Is there any questions of Mr. Padget?

Commissioner Fanello: I just have one question. It will probably be for Mr. Shively. About the student housing—

Les Shively: Yes, ma'am.

Commissioner Fanello: —exactly, you can't discriminate against students, obviously.

Les Shively: Yeah, you can.

Commissioner Fanello: You can?

Les Shively: That's one of the few...we discussed it at the Plan Commission. That's one of the few types of residents you can discriminate. They are not protected under federal housing.

Commissioner Fanello: Could you just explain for the record how that—

Les Shively: How the law works?

Commissioner Fanello: Right.

Les Shively: Well, it's my understanding of the law, you're very strict in terms of, for example, you can't have restrictions based upon race, gender, ethnicity, family make-up, whatever the situation is. There are very strict rules. However, students aren't protected under those federal rules. Is that what you wanted me to explain? If you want me to explain why we can't put it in a covenant, first of all, we were initially requested to put it in a use and development commitment. The Plan Commission won't enforce that because that's not really land use. There's no way they can police that. How do they police it? You know, and so they asked about a private covenant, and, you know what they say the golden rule, he who has the gold makes the rule. The people who have the gold for this project is Geneva Capital. They don't want it encumbered. They don't, you know, it creating any

encumbrances that would affect their collateral. I can tell you having represented probably the largest apartment developer and management group in southern Indiana, the business of student housing is a totally different market. You build different structures. You don't spend \$30.7 million on 80 units that you're going to have student housing and that kind of turn over. You do a whole different deal. You don't do ten buildings spread around with eight units. I mean, you just don't lay it out this way. This is laid out for a top end rent, low turn over, long term leasing folks. That's how this is set up. You know, Moore Investments, they're not in the student housing business. They don't intend to be. They were more than willing to put that in there, but for the fact that their lender wouldn't let them do it. Again, the best we can do is share with the West Side Improvement Association the lease to show that there is no sub-letting, and one year leases, and all occupants have to be signatories on the lease. If that answers your question.

Commissioner Crouch: What will the rent be on these units?

Unidentified: \$750 per month.

Les Shively: \$750?

Commissioner Crouch: Do you know how that compares to the student housing on USI?

Unidentified: (Inaudible. Not at mike.)

Madelyn Grayson: Can you please come to the microphone sir, and identify yourself.

President Mosby: Yeah, I was going to say.

Les Shively: Give the range of the rents.

Greg Moore: I believe the student housing is somewhere right around \$200, maybe a little bit less. They get four people in per unit, on a two bedroom. They pay per semester. So, it's kind of tough to break that down exactly how much is going towards rent versus the other fees that they have over there.

President Mosby: Are there any other questions? Any other questions from...could you please state your name and address for the record?

Greg Moore: Greg Moore, 4455 Foxmoor Drive, Newburgh, Indiana, Moore Investment Group LLC.

President Mosby: Okay. Any other questions of Mr. Moore? Seeing none. Come on. You need to come to the mike.

Kevin Flittner: As far as that goes, the \$750 that's per unit?

Greg Moore: Yes.

Kevin Flittner: Now, there's a two bedroom unit right?

Greg Moore: Correct.



Kevin Flittner: Well, at USI the mass units are two bedroom units, and they put two guys, or two girls in each unit, or in each side of the unit, each bedroom. So, therefore that breaks down to where they could, the students could rent your apartments for less than \$200 a month. To me, that's pretty cheap rent.

Greg Moore: That it would be, but, you know, four guys or four girls moving into one apartment is going to throw up a red flag that they're most likely students.

Kevin Flittner: There isn't a covenant saying that they can't be students.

Greg Moore: No, but we are, the way the property is going to be marketed we're going to, basically, say no students allowed. You are going to have some students that just get in that, you know, are maybe older individuals going back to school for their masters or whatever, want to live near campus. Those are the type of individuals, that's why I want to keep it kind of at 10%.

Kevin Flittner: I couldn't afford to do that. I mean, without having a partner or something. It just sounds kind of fishy to me. I mean, it really does. You're \$750 for a two bedroom apartment in this town is not really that much.

Greg Moore: Market rent right now for all of Evansville is 67 cents per square foot on a one bedroom, and 62 cents per square foot on a two bedroom. At \$750 you're looking at 75 cents per square foot rent, which is considerably higher.

Kevin Flittner: You guys are leaving a lot of holes in this thing. Okay. I wanted to add something too about that drainage thing. Your elevation up there where you're building is like around 500'. 521 the highest point, 500 in the lower point, and you're going to knock down some, do some grading, right?

Greg Moore: Sure.

Kevin Flittner: So, you're about 500'? I'm about 370, that's 125' fall between your place and my place. Granted there's some distance between there, but you're talking rough terrain in between there too, and that water is still going to come down pretty fast. Even your retention ponds and so forth. If they give you the zoning to build these apartments, and they build more and more, and you're going to have to build, somebody is going to have to build other retention ponds. There is a security risk too I'm looking at as far as there's a buffer zone around the school that's all residential, not apartments, not apartments that's not even affiliated with the school or students. I'm just curious as to who you're going to be renting these apartments to.

Les Shively: Can I address that please? I didn't realize we were going to have Q & A here this evening, but—

Kevin Flittner: I'm just curious.

Les Shively: I will say this, we're going to be meeting the demand on the west side. Right now the apartment occupancy rate on the west side right now is at 97%. Right before you start hearing comments on this particular application there was a request before you for 220 units on the east side of high quality apartments from an investor from Indianapolis. There is a high demand in this community, both east and west, for high quality, multi-family, rental housing. Don't ask me to try to explain why, because we all still have low interest rates, and the housing market still seems to be

going strong. But, Mr. Kendall, if he would have stayed here could have shared with you this evening also, in his particular project, a lender came to him saying we want to invest in Evansville, Indiana, a multi-family, because we believe that's the market that has not, you know, reached a saturation point—

Kevin Flittner: Multi-family—

Les Shively: Sir, can I....yes, multi-family. So, the market speaks for itself. Again, just let me say from the student situation, if you were going to build something to accommodate students, you would build something like student housing. You wouldn't do ten buildings, spread apart with eight units in a building. You would do something totally different to maximize your cost, to maximize your return on investment. What is being proposed here is to meet the demand for high quality rental housing on the west side of Evansville, which Mission Viejo has a capacity. Copper Creek, which I think is your newest community is pretty well leased out, and those are both high quality end, they do not cater to students, although they don't have any restrictions that I'm aware of, but they are well patronized by people that are looking, young professionals, empty nesters, those sorts of people who are looking for that type of housing on the west side. I hope that answers your question.

President Mosby: It does. Thank you. Any other remonstrators?

Jim Seibert: I'll try to make it relatively quick. My name is Jim Seibert. I live at 7117 Walling Drive, which is approximately a half mile south of this development. I know the Webers, I go to church with them. Their son coached my son in basketball. You know, I've got nothing against developers wanting to build properties and earn a profit. I've been in the construction industry myself for over 20 years, and I've been involved in billions of dollars worth of projects. So, I understand wanting to go out and maximize your development dollars. However, it still doesn't alleviate my concerns about traffic. This is a residential area. We fought the traffic for years and years with USI. They finally built an overpass. We finally alleviated the traffic, now here we are going to dump probably 800 cars a day back out on to this highway, back out on to Schutte Road. I get that from 80 units. Apartment dwellers usually have approximately ten cars per apartment that make traffic out onto the road per day. I do have drainage concerns. It is a flash flood type situation down through that valley as it is. Last year we had remonstrators that live in that valley. They will tell you how high and how wide that water gets to screamin' down that valley when we have a good rain. This road, there is a culvert at this point where they are going to be putting in a retention basin that is approximately 6' to 7' below Schutte Road as it is. By the time you add free board on top of that to allow retainage for this storm water, you're probably looking at a top of pond that is 10' below Schutte Road, at that point in time. I think that makes a common nuisance as well. As well as the fact that I think it's going to become a big plug for everything that drains to the west of this road. I've heard they are saying that they would like to put limits on students. That they don't think it's a problem, however, I do know that this is going to be off campus. They won't have campus security patrolling these apartments. Students do get in there, it's going to be party central. I went to Purdue University, I saw what the housing near a campus goes for, especially when it's off campus. \$750 is cheap for off campus housing that close to there. So, I know that the students will be going after this housing. Other issues; light pollution, noise pollution, it's hard to see the sky at night out there as it is now. Now you're going to add another 80 units with outside lights, with area lighting. I know there are steps that can be taken to minimize this. However, it is just something that you have to take into account, noise pollution from vehicles, from more traffic on the road. All these things can be

engineered out. I'm a professional engineer myself, I know that. The biggest concern that I do have is, just look at your drive in from the east side of Evansville into Evansville. You've got shopping center after shopping center after apartment complex after dealership, automobile dealership, that's all you see until you get to downtown Evansville. You come in from the west side, you've got tree lined highways. It's a rural area, that's why we bought our homes out in that area. I'm just afraid that if you put this apartment complex at the corner of Schutte Road and the highway, the natural extension for these guys is to go next door to Felstead and the highway and put a big complex there. Then you can go down Felstead Road quite a bit, you can put more apartments there. Then if the Webers want to sell their properties, you can go up Schutte Road, or down Schutte Road south on it until you are all the way butted up against Clark Lane and the USI campus. There has been steps in the past to limit development at Boehne Camp Road. It's gone a little bit west of Boehne Camp Road now, but they have pretty much limited it there. You drive down there now you see promise of the Hahn development, and we look at the back end of restaurants, we look at air condition units, it's not a very pretty sight. They haven't done much as far as landscaping, seeding. Now we're looking at an empty Shyler's. You go a little bit further past that you're looking at an empty Dog 'n Suds, you're looking at an empty Kentucky Fried Chicken. You've already seen the results of over building closer to town. I'm just afraid that if you put this out there, before we know it, it's going to be completely built from USI all the way into town. That's why I just ask that you limit it to the Boehne Camp Road area, and not go any further west. If single family residents want to build on these type areas, I have no problem with that. Smaller condominium type developments want to build there, I have no problem with that, but I do have a problem with the high density residential apartments going in there. Thank you for your time.

President Mosby: Is there any questions of Mr. Seibert? Thank you very much.

Jim Seibert: I do want to remind you of one thing. Last year there was two separate issues that came before the board. One was for commercial and one was for residential. In separate votes, they were both voted down. It wasn't just strictly a commercial development that came before the county last year.

President Mosby: Is there anybody else that would like to speak? Seeing none. The chair would—

Les Shively: Just briefly, I'll be brief.

President Mosby: That's fine.

Les Shively: Just picking up on what Mr. Seibert said, I wasn't here last year, plus there are a lot more people here that are opposed to this project than you've heard from here this evening. You've heard from a lot of folks, and you've heard from the West Side Improvement Association, and you've heard their comments that are mostly favorable with regard to this particular project. All I can say is that because we are disturbing more than five acres, we're going to have to do the drainage plan. That has to follow your ordinance, the county's drainage ordinance. It has to be reviewed by Mr. Jeffers, and has to be voted upon by you after we give notice to all the affected landowners, including Mr. Flittner who we've agreed to give notice to. Traffic, traffic is going to be improved. There is a situation where you've got \$52,000 a year in additional property tax revenue and donated right-of-way to probably address a situation on Schutte Road that needs to be addressed now, if the funds are available and the right-of-way is available. This is a project greatly pared down

from last year, 80 units. We think it's consistent with the overall land use. The Plan Commission has said so. Mr. Seibert would like to see single family residential. The fact of the matter is the proximity of this property to the highway does not lend itself to single family development. I can, I would make this statement. If it was a property that the market place was looking at for favorable for single family development, since we have gone through one of the biggest housing booms, and Mr. Pedtke would attest to that from the Builders Association, unprecedented for this area, someone would have snatched that property up and subdivided it and built homes on it, at least within the last two or three years. That hasn't happened. The Webers have tried several different approaches to try to market this property. This is a win-win plan. It's a well thought out plan, and it's a plan, as Ms. Behme has indicated to you, this is just the beginning. We still have to go through the site review process. We still have to go through the County Drainage Board. At the end of the day you're going to have a high quality project, and additional resources to make improvements out there on the west side. We would respectfully, and, by the way, I think the Webers are here this evening. Could you stand up, folks? Thank you. We would ask for your favorable approval here this evening, and your assistance in seeing this project go forward. Thank you.

President Mosby: Thank you, Mr. Shively. Are there any other questions by any member of the Commission? The chair would entertain a motion.

Commissioner Fanello: Motion to approve VC-8-2003, A change to R-3.

Commissioner Crouch: And I'll second.

President Mosby: This requires a roll call. Commissioner Crouch?

Commissioner Crouch: I have been out to Mr. Flittner's property, and I've talked to him several times on the phone, and I understand his issues in relation to drainage, and in relation to traffic and safety. While this may be an appropriate use of the land, there are issues that do need to be dealt with, and they do need to be resolved. As a homeowner in another part of the county that's very fast growing out on the north end, where we see a lot of development, and I live close to 41 and to 57, I'm always pleased when the residential development goes in, or a similar development, only because that tends to keep the commercial and industrial further from my home. It has to be a good development. I think that is the main concern with this, is that it must be a good development. So, the issues, as they relate to traffic, and the issues as they relate to drainage need to be dealt with by the appropriate boards, and need to be dealt with safely and thoroughly. I will be happy to go with Mr. Flittner, or Mr. Seibert to any of those boards, the drainage, when we meet with the Surveyor, the site plan, in order to ensure that their concerns are dealt with, and that they feel comfortable as we move forward. With saying that, I'll vote yes.

President Mosby: Commissioner Fanello?

Commissioner Fanello: Yes, I would like to say that, you know, last year when we were presented with a development out there, I was not pleased with that development, and was not pleased how that whole process worked. I am against seeing any commercial in that area, but I do not have a problem with residential, because I do believe it stays consistent with the Comprehensive Plan for land use. As Commissioner Crouch stated, you know, the traffic concerns will be dealt with in site review, and we as a board will deal with the drainage plan. So, I think we still

have a long way to go on the project, and I think it will be a good project. I'm happy to say that I'm glad to see residential there and not commercial there. So, I vote yes.

President Mosby: Myself, I will just say that I'm committed to trying to upgrade the traffic out there. I've talked with John Stoll, I think, everyday for the last 365 days, and he's tired of talking to me. I had him again last Friday when I found out that the developer was willing to donate the right-of-way to try to improve the traffic out there. I am very happy to see residential going in this area, because I dealt with this same petition last year on the commercial, and the commercial and residential together, and that didn't seem to be of any favoritism to the public. So, I'm going to vote yes on this issue. We have three yes', no nays, and petition VC-8-2003 is hereby declared adopted.

Les Shively: Thank you very much.

President Mosby: Thank you. Is there any other business to come before the board?

Commissioner Fanello: Do we not have minutes to approve from last month's rezoning?

Madelyn Grayson: We combined those with the Commission minutes, so they were approved already.

Commissioner Fanello: Okay. Motion to adjourn.

Commissioner Crouch: Second.

President Mosby: I have a motion and a second. So ordered.

(The meeting was adjourned at 7:08 p.m.)

**CONSENT ITEMS:**

**Travel Requests:** Health Department (5)

**Employment Changes:**

County Clerk	Center Assessor	Burdette Park
Recorder	County Council	

**Request for Service:** Jail.

**Sheriff:** Weekly Jail and Community Corrections Reports.

**Those in Attendance:**

David W. Mosby	Catherine Fanello	Suzanne M. Crouch
Kevin Winterheimer	Bill Fluty	Tammy McKinney
Madelyn Grayson	Linda Nalley	Sherman Greer
John Stoll	Dennis Hudnall	Gary Hohman
Norman Duckworth	Les Shively	Kevin Flittner
Jim Morley, Jr.	Fred Padget	Beverly Behme
Greg Moore	Jim Seibert	Others Unidentified
Members of Media		

**VANDERBURGH COUNTY  
BOARD OF COMMISSIONERS**

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**David W. Mosby, President**

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**Catherine Fanello, Vice President**

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**Suzanne M. Crouch, Member**

Recorded and transcribed by Madelyn Grayson.

**VANDERBURGH COUNTY  
REZONING BOARD  
MAY 19, 2003**

The Vanderburgh County Rezoning Board met in session this 19<sup>th</sup> day of May, 2003 during the regular Vanderburgh County Commissioner meeting. The rezoning petitions were heard beginning at 6:46 p.m. in Room 307 of the Civic Center Complex with President David Mosby presiding.

President Mosby: Which brings us to Rezoning. We will just continue right on, since we only have one.

**Final Reading: VC-9-2003  
Petitioner: Peter M. McCullough  
Address: 2750 Allens Lane  
Request: C-4 Change to C-2 with UDC  
Action: Approved 3-0**

President Mosby: Rezoning for May 19, 2003 we have no first readings. Final reading includes VC-9-2003, petitioner, Pete McCullough, 2750 Allens Lane. The request is to down zone from change C-4 to C-2 with use and development.

Tom Bodkin: Tom Bodkin, 100 Water Street, Newburgh. Also counsel for the petitioner. My office is here in Evansville. As you know this is a down zoning from C-4 to C-2. Down here on the floor is a big map, and I'll try to hold it as I talk. As you can see this is a parcel of ground located between Allens Lane and Mesker Park. Basically it's on the south side of Allens, about halfway between those two areas. Let's step around and do it this way.

President Mosby: Sure.

Tom Bodkin: Let's see if it works. The area in green, where the buildings are at is not in the flood plain. The area in green here basically is flood plain, and the area in the white with the trees is flood way. There will be no construction in the flood way, very little, if any, in the flood plain, at least with these stages. In order to build in the flood plain, the client would have to fill it, and that would require us to deal with the drainage people anyway. Now the buildings, as you can see here, are going to be residential structures. They are going to be very, very similar to what Pete has built here in West Creek just across Locust Creek. Those units have been highly successful. They are full. They have a waiting list for them, and that's great, and we want to build this in order to utilize that same structure and approach for the folks who live in West Creek. This will be an adult

community. No children. The area here, kind of in the center at the top is a community center where we hope to have food service available for the residents who live there. Perhaps some other kind of amenities they would utilize. That's the reason from going, partly, from C-4 to C-2. We'll be bringing water and sewer to the location. Not a problem with that. You have in your material a use and development commitment that we have proposed, which would not only, not only are we going from a C-4 to a C-2, but we're also limiting them to a number of the C-2 uses that would otherwise be permitted on this site. We've worked with the County Highway Department with regard, County Engineer with regard to ingress and egress..that's, worked with him. Again, water and sewer will be brought there. We're working with the city utility department with regard to where a lift station has to go. That will have to go in that area somewhere as well. It's a good development. I can tell you that at the Planning Commission, Fred Padgett of the West Side Improvement Association was there, and spoke in favor of the project. Ms. Crouch was there, and can confirm that. He would have been here tonight, but he's, I think, involved with something else, somewhere else, but did indicate we could tell you they have no objection to the proposal. In fact, he did stand up in favor of it. The Plan Commission has proposed it to you. What 10-0-1, unanimously accepted. The Commissioner correctly held her vote, because she gets to vote tonight. Pete McCullough's here with me, if you have questions specific to the project. Pete would be glad to answer them for you. We think this is an excellent down zoning. Going from a heavy C-4 to a much lighter C-2, with predominant residential use. It lets us make use of some land that, a big chunk of which is in the flood way, and therefore we protect that flood way with a fairly light residential use. We would ask that you pass the ordinance. If you have questions, I will try to answer them. Again, Pete is here, he'll be glad to answer any you may have as well.

President Mosby: Questions by any member of the Commission?

Commissioner Fanello: I would just say, for the record, what Tom just said about the West Side Improvement, I did receive an e-mail from them.

Tom Bodkin: Ah, yes, Fred said he was going to do that.

President Mosby: I read it in the Area Plan minutes, so, I knew it was in there. I guess, the only question I'm going to ask John or I can see it, do we have excel/decel lanes on here? I mean, I see the little indentations. It don't look like there is very much there.

John Stoll: Yeah, they're—

Tom Bodkin: I'm sorry, John. Am I blocking you?



John Stoll: That's okay.

Tom Bodkin: I wouldn't want to do that.

John Stoll: I just want to hold it so that Madelyn can hear. The decel lanes are shown. When it comes to site review, we can make sure it meets all the applicable length standards. But, no final site plan has been approved as of yet. So, we can get that taken care of.

President Mosby: They'll for sure have them though, right? I mean—

John Stoll: I was going to say, I don't remember what the total lot count, I mean the total unit count is, but—

Tom Bodkin: There's 29 buildings with four units per building. I think (Inaudible) units. The total units is 188.

John Stoll: The EUTS manual calls for right turn lanes based on 30 peak hour turns. I would suspect that this would meet it. So, chances are, yes, it would meet the warrant for it, and we would be requesting that. Which, since it's shown on their overall concept drawing, it shouldn't be a problem to make sure we get it the correct length.

President Mosby: Okay. I guess, my only other question, what are these structures made of? I'll let—

Tom Bodkin: I'll let him describe them (Inaudible) the guy that's going to be building (Inaudible).

President Mosby: I'm only saying that, because everybody keeps saying they're pole barns.

Pete McCullough: They are post frame. Pete McCullough. They are post frame, Mr. Mosby. They, there's actually, for the state of Indiana, they are approved for such, of course, they had to be, otherwise Roger Lehman would not have allowed them. Actually, that's kind of the business I'm in. If you were to look at a standard construction, much the same as any of you all's home, typically you have concrete block with anchor bolt every six foot on center. If anyone here has ever had a reason, Bill Fluty might have, to take a back hoe and pull up a plate, you'll only pull up about one and a half block that will connect to that plate. This here we have posts in the ground every eight foot on center, and in other places more, four foot anchored in concrete. Typically, buildings in this part of the country are subject to uplift and wind. So, we by far exceed the standard for that.

The word pole barn gets a bad connotation because most people have an 80 by 100 with 20 foot sidewalls and big doors sitting out in the middle of a big field with no interior walls. They run real light loads, so they are subject to wind side loading. But, that's not our problem. Did that answer your question?

President Mosby: Yeah.

Pete McCullough: It's not a pole barn, David.

President Mosby: I kept hearing that phrase, and I'm like, the Building Commissioner won't let them do that. So, is there any other questions? Is there anybody in the audience that would like to speak? Seeing none. The chair would entertain a motion.

Commissioner Fanello: Motion to approve VC-09-2003, request C-4 change to C-2 with use and development commitment.

Commissioner Crouch: Second.

President Mosby: I have a motion and a second. This requires a roll call.  
Commissioner Crouch?

Commissioner Crouch: Yes.

President Mosby: Commissioner Fanello?

Commissioner Fanello: Yes.

President Mosby: Commissioner Mosby, yes. We have three yes', no nays.

Tom Bodkin: Thank you ladies and gentleman.

President Mosby: Petition VC-09-2003 is hereby declared adopted. Any other business to come before the Commission?

Commissioner Fanello: Motion to adjourn.

Commissioner Crouch: Second.

President Mosby: Seeing none. We have a motion and a second. So ordered

The meeting was adjourned at 6:54 p.m.

## **CONSENT ITEMS:**

### **Travel Requests:**

Perry Assessor	Health Department	County Engineer
County Highway	SWCD	

### **Employment Changes:**

Circuit Court	Co-Op Extension	Health Department
Burdette Park	Sheriff Department	County Clerk
PTABOA		

**Request for Service:** Superior Court: Small Claims.

**Sheriff:** Request for Vehicle Purchase.

**Commissioners:** Room lease at the Centre.

### **Those in Attendance:**

David W. Mosby	Catherine Fanello	Suzanne M. Crouch
Kevin Winternheimer	Bill Fluty	Tammy McKinney
Madelyn Grayson	Phil Lawrence	Sherman Greer
Mary Jo Borowiecki	Les Shively	Eric Williams
David Coker	Jim Farney	John Stoll
Mike Madriaga	Dennis Hudnall	Steve Craig
Mike Wathen	Tom Bodkin	Pete McCullough
Others Unidentified	Members of Media	

**VANDEBURGH COUNTY**

## **BOARD OF COMMISSIONERS**

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**David W. Mosby, President**

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**Catherine Fanello, Vice President**

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**Suzanne M. Crouch, Member**

**Recorded and transcribed by Madelyn Grayson.**

**VANDERBURGH COUNTY  
REZONING BOARD  
JUNE 16, 2003**

The Vanderburgh County Rezoning Board met during the course of the County Commission meeting on this 16<sup>th</sup> day of June, 2003 in Room 307 of the Civic Center Complex with President David Mosby presiding. Rezoning petitions began to be heard at 6:12 p.m.

**First Readings: VC-12-2003 & VC-13-2003**

President Mosby: That brings us to rezonings. We have two first readings tonight. On first reading we have VC-12-2003, petitioner, Haas Development, 8000 and 8500 Wolf Creek Court, change from R-3 with use and development commitment, to R-3 with amended use and development. Second we have VC-13-2003, petitioner, Charlestown Square, 730 Citadel Circle, change from C-4 to C-2. Do I have a motion to accept first readings?

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: Motion and a second, so ordered to accept first readings.

**Second Readings: VC-11-2003  
Petitioner: William L. Koester  
Address: 13000 Warrick County Line Road  
Request: AG change to M-2  
Action: Approved 3-0**

President Mosby: For second and final reading we have VC-11-2003, petitioner, William L. Koester, 13000 Warrick County Line Road, request change from Ag to M-2. Do we have Mr. Koester that would like to speak, or his representative.

Richard Mourdock: You have his representative. Commissioners, I'm Richard Mourdock, still. Nice to be back with you again. The zoning that you have before you tonight in VC-11-2003 is very similar to the one that you acted affirmatively on back in March. In fact, it's immediately adjacent to it. I think you've seen the plan, or the staff report submitted by APC. It is 10.27 acres that is currently agricultural. The request, obviously, is to rezone to M-2. I think the salient points here are that the property is currently considered an abandoned farming and

residential. Although actually while stated as residential there is nothing currently habitable on the property. The old farmhouse was razed several years ago. I would also point out that the use that's planned by this zoning is, in fact, consistent with the 2015 conceptual use plan, in that that plan designates this property as industrial development. This is located immediately north of the area that was rezoned in March. You may recall that area was rezoned for Onyx Waste Services. They operate the trash transfer station adjacent to that property just south. They hope in the not too distant future to have their Indiana headquarters on that property along with a lot of storage for roll off containers and for their vehicle storage. So, I think this is consistent with this. Notices were sent as required, of course, and I think I mentioned to you the last time when I was here for the March rezoning that I'd actually scheduled a time to be on the property, went out there and sat for three or four hours, invited everyone to come see me, and no one showed up. I think that reflects a lot as to what the attitude is, folks realize this is, in fact, consistent, and it's likely to be industrial in the near future. So, when it went through Area Plan it passed with a 12 yes, zero no votes and one abstention. So, I would ask that, again, it receive an affirmative vote.

President Mosby: Any questions of Mr. Mourdock? Any body in the audience that would like to speak to VC-11-2003? Seeing none. Chair would entertain a motion.

Commissioner Fanello: Motion to approve.

Commissioner Crouch: Second.

President Mosby: I have a motion and a second to approve. We have to do a roll call vote on this. Commissioner Crouch?

Commissioner Crouch: Yes.

President Mosby: Commissioner Fanello?

Commissioner Fanello: Yes.

President Mosby: Commissioner Mosby, yes. There being three ayes, no nays, VC-11-2003 is hereby declared adopted. Is there any further business to come before the Commission?

Commissioner Fanello: Motion to adjourn.

Commissioner Crouch: Second.

President Mosby: So ordered.

(The meeting was adjourned at 6:15 p.m.)

**CONSENT ITEMS:**

**Travel Requests:**

Center Assessor	Health Department	County Assessor
Auditor		

**Employment Changes:**

County Highway	Health Department	Sheriff Department
VCCC	Auditor	The Centre
Burdette Park	County Assessor	

**Request for Service:**

Legal Aid	Pigeon Trustee
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**Superior Court:**

Contract with Univ. of Cincinnati for Vand. Co. Day Reporting Drug Court Evaluation.

**Sheriff:** Submit Weekly Jail and Community Corrections Reports.

**Those in Attendance:**

David W. Mosby	Catherine Fanello	Suzanne M. Crouch
Bill Fluty	Kevin Winterheimer	Jay Ziemer
Tammy McKinney	Madelyn Grayson	Dave Rector
Eric Williams	Brian Williams	Nathan Williams
Emile Garcia	Bobby Shipman	Logan Schmitt
John Stoll	Dennis Hudnall	Steve Craig
Richard Mourdock	Bev Behme	Others Unidentified
Members of Media		

**VANDERBURGH COUNTY  
BOARD OF COMMISSIONERS**

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**David W. Mosby, President**

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**Catherine Fanello, Vice President**

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**Suzanne M. Crouch, Member**

**Recorded and transcribed by Madelyn Grayson.**



**VANDEBURGH COUNTY  
REZONING MEETING  
July 21, 2003**

The Vanderburgh County Rezoning Board met in session this 21<sup>st</sup> day of July, 2003 in Room 307 of the Civic Center Complex with President David Mosby presiding. The rezoning petitions began to be heard at 6:19 p.m. during the Vanderburgh County Board of Commissioners regular meeting.

**First Readings:**

**VC-14-2003: Petitioner: Robin A. & Bonnie L. Fraser  
Address: 4011 Wolcott Street  
Request: Change from R-1 to M-2**

**VC-15-2003: Petitioner: Warren W. Spurling  
Address: 5100 Spring Valley Road  
Request: Change from C-4 to C-2**

**VC-16-2003: Petitioner: Louis M. & Cynthia B. Zeller  
Address: 9301 Cynthiana Road  
Request: Change from Ag to C-4**

President Mosby: First reading, VC-14-2003, petitioner, Robert Fraser and Bonnie Fraser, 4011 Wolcott Street, request change from R-1 to M-2. VC-15-2003, petitioner, Warren W. Spurling, 5100 Spring Valley Road, request change from C-4 to C-2. VC-16-2003, petitioner, Louis M. Zeller III, and Cynthia B. Zeller, 9301 Cynthiana Road, request change from Ag to C-4. Do I have a motion to adopt first readings?

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: I have a motion and a second. So ordered.

**Final Reading: VC-10-2003  
Petitioner: Fred H. Puckett  
Address: 6318 Peacock Lane  
Request: Change from Ag to C-2  
Action: Denied 3-0**

President Mosby: Which brings us to third and final reading of rezoning petitions. Is Tammy gone? I needed her to go over and get Steve Bohleber.

Kevin Winterheimer: I'll go get him.

President Mosby: Steve's going to be in City Council, so just holler at him. Final reading VC-10-2003, petitioner, Fred Puckett, 6318 Peacock Lane, request change from Ag to C-2. Is the petitioner here?

Unidentified: (Inaudible. Not at mike.)

President Mosby: Okay. Or a spokesman for the petitioner?

Ken Colbert: Good evening.

President Mosby: Good evening.

Ken Colbert: The name is Ken Colbert. Quick introductions, Fred and Jodie Puckett are the actual petitioners. The owner of the real estate is Mr. Walter Bunner.

Madelyn Grayson: Mr. Colbert, do you have an extra copy for the record by any chance?

Ken Colbert: Yes, I do. Do you need any extras?

Madelyn Grayson: Whatever you gave the Commissioners.

Ken Colbert: The request is obviously to rezone it from agricultural to a C-2, special use commitment for an antique shop. Under the C-2 classification, as you're probably aware, there is approximately 110 different classifications that are available, and the Puckett's request is to only have the rezoning for one exclusive purpose, and that's for their home based antique shop. In front of you are some photographs actually taken from the property surrounding it. Directly south of it there is a single family dwelling that has been a rental unit where they've had, regrettably, some drug activity. They've also had some non-conforming zoning take place, there was an upholstery shop there at one point. You'll notice too that the northwest corner is also, it's currently agricultural, but it is being marketed by the Remax office for commercial application. Same way with the northeast and the southeast, that's the Woodward development. Directly west there is currently an operating business. There's a photograph of the actual truck on the property. The aerial view of the Lynch Road extension may help to clarify that photo as well. Directly north there is a strip of land that is currently zoned agricultural, that is currently being marketed by ERA as commercial development. My point is, the Peacock property, literally all around it, is currently commercial or being marketed as commercial real estate. When the developer of this property, Mr. George Peacock, developed this approximately 50 years ago, there have been a number of home based businesses on a non-conforming use that have been taking place. I mentioned one of them which is directly west known as Kuper Trucking. There is also another one at 3300 Durre Lane by a Jeff Norrington. There is currently two pole barns that he uses to manufacture different types of craft items that he sells throughout the community in different locations. Directly south, again, there was a non-conforming upholstery shop. My point is, historically there has been some type of commercial activity that's been occurring on that particular lane for a number of years. Almost all of it non-conforming. Regrettably, Mr. Bunner was having difficulty in selling his real estate as strictly a residential property, which would be the ideal purpose, but because of the recent development that has occurred, it's left the Bunner's with very limited options to be able to divest themselves of that real estate. They either do nothing with it, or, obviously, rent the property out, which is obviously a detriment. It's been proven based upon even the rental property directly south of there, where they had the drug runs. Or obviously Mr. Bunner could impact his investment by substantially reducing the price of the real estate. We believe that the best use of that real estate would be to still have it as a single family dwelling, but with the condition that it be allowed to promote and market an in-home antique shop, based upon this special use commitment. The Puckett's have no plans to do any further exterior modifications to the property. It would still be maintained as a primary residence. In their use and development they also said that they would not allow or permit any type of billboards to be erected, which is available in the C-2 classification. There

was concern in front of the Area Plan Commission about the excess use of traffic being generated. Obviously, the real estate is on the corner of Lynch and Burkhardt, and if any traffic would occur, it would not even be going down that particular lane. The Puckett's had been talking to a number of the people in the community about their intent to have the property rezoned. There were a number of them, one particular individual that had commented that they were not adverse to the antique shop, but asked that the property not be rezoned, which basically they were asked just to continue doing it, even though it was non-conforming. The Puckett's with the integrity that they have, are asking for the property to be rezoned for that application. There was also further concern that perhaps if the rezoning was made available, that it would open up Pandora's box, or the opportunity to do something different with the real estate. With the use and development, obviously, it's for one sole purpose, and it would have to go through the entire process with the Area Plan Commission to make those necessary modifications, based upon a different type of use. The Puckett's have been in business, Puckett's Treasures and Collectibles, for over 50 years. They are now down sizing. They've had shops throughout the community, in different states, and their intent is to literally divest themselves of the majority of their holdings, and have a mom and pop organization directly in the family room, which is approximately 400 square feet. There's currently 20 houses in this particular development, which would include Peacock Lane, Fitzgerald, and Durre Lane. They are currently either zoned agricultural or residential, at this point. Thank you.

President Mosby: Thank you. Is there any questions of Mr. Colbert? Seeing none. We'll give their attorney a chance to speak, and then if you want to have a two minute rebuttal, you can.

Ken Colbert: Thank you.

Kevin Winternheimer: Mr. President, what we just passed out by the Area Plan Commission staff, a petition I believe that was received at the APC meeting against the rezoning. We want to make it a part of the record of the meeting.

President Mosby: Okay.

Steve Bohleber: Yes, members of the County Commission. Welcome, my name is Steve Bohleber. I represent Bob and Shirley Kuper, and Mike Kuper, who are sitting behind me, and some of the neighbors along Peacock and Fitzgerald Road who are opposed to this petition. This is for many of them their fourth time to be down here to voice this opposition, and they do come armed with a significant number of their neighbors in petition form, and I do ask that that be made a part of the record. I also ask that my previous comments and the records of the Plan Commission be made a part of the record as well. The assertion that this is surrounded by commercial is certainly not borne by the maps that you have been given. With the exceptions of the properties to the east of Burkhardt, everything along this section of Burkhardt, to the west, is residential or agricultural. The Plan Commission recognizes this and has drawn a line saying that, in their opinion, it is not a good idea to develop commercial activities on the west side of Burkhardt along this section. To do so would be contrary to the comprehensive plan, which is intended to protect this residential development. In the past this Commission, although not the current elected members, has steadfastly refused to rezone property west of Burkhardt in this neighborhood. In July of 2000 after a significant public debate, the Commission unanimously rejected a petition to commercially rezone property south of Peacock and west of Burkhardt. My clients respectfully disagree with the petitioner and the

realtor representing them, if this property is zoned C-2, the residential character will be forever altered. Peacock would become a commercial conduit. A commercial drive would need to be installed on the property. Commercial property, paved parking with aisles would need to be installed. Based upon my experience with the County Health Department, there would even be careful scrutiny about the septic system that serves this unit, and may even require a commercial system, which wouldn't even probably fit on that lot. As currently presented, to rezone this property would create a non-conforming residential structure when the entire lot becomes C-2. That means the house can't be enlarged, remodeled, or changed. It would become frozen in place, and a hostage to the commercial zoning classification. As you're well aware, if a residential, non-conforming structure ceases to be residential for a period of time, it forever loses that ability. The net effect of doing this would destine, not only this property for greater commercial development, but would invite others up and down Burkhardt on that side to attempt the same thing. Because this has appeared three times before the Plan Commission before it got to you folks, the first time I was not present, but because of comments by your engineer, John Stoll, and at the urging of the Plan Commission members, the petition was continued to ask the petitioner to submit a use commitment. That was done. Unfortunately, that falls far short of protecting this neighborhood. All it does is generically limit the property to an antique shop, without limitation on the square footage, and also prohibits billboards. Nothing prohibits the use of this entire parcel for commercial purposes. Nothing guarantees a continued residential use. If this business is successful, and the proposed owners have been successful antique dealers for decades, it's logical to believe that the entire structure would be consumed by that commercial purpose. Obviously, if this happens, there would be increased traffic, parking would be adversely affected, and it would create the very congestion that these folks fear the most. Such a development would only encourage the contiguous properties to seek commercial status. My clients have reason to believe that an adjacent owner to this property is anxious for this to be rezoned, so that he can use this rezoning to bootstrap his own ambitions to seek commercial rezoning for his property. My point is with the use commitment, if they intend to use 420 square feet, why isn't that in the use and development commitment? With respect to signage, the use commitment only prohibits off premises advertising, or as we call them, billboards. Your C-4 classification, or C-2, excuse me, allows a 200' on premises sign at 50' that can be lighted. The possibility of that sign just advertising this little home business is frightening enough. Such a sign would be just as undesirable to this neighborhood as any billboard. Likewise, and again, I wasn't at the first meeting of the Plan Commission, but I get the impression talking to my clients that the Plan Commission members felt that a more viable approach to this, if it was to be passed at all, would be something in the use commitment to require the owners, whoever they might be in the future, to come forward again and rezone the property back to it's current rezoning if it ever ceased to be a antique shop. That's not included. I realize that's kind of unusual, but I've used that mechanism many times to solve some knotty problems, and gain some favor from the neighborhood. Sixty people have signed that petition. The opposition is strong. It's dedicated. These people have been here four times. They vigorously oppose this petition. They believe it will only lead to a destruction of the Peacock Road residential neighborhood that they all cherish. As you notice, this does come with a relatively strong "do not pass" recommendation from the Area Plan Commission. I think there's some folks back here, just about everybody here is probably, who is opposed to this? Raise your hand, stand up. This is probably a smaller turn out than they've had at some meetings, but there's been a resolute and steadfast opposition to this. I ask the Commission to do what this Commission did last time someone attempted to rezone property for commercial purposes on this side of

Burkhardt. I ask the Commission to do what the Area Plan Commission did a couple of weeks ago, and that's vote no on this petition. Thank you.

President Mosby: Any questions of Mr. Bohleber?

Commissioner Fanello: I have one question for Mr. Bohleber.

Steve Bohleber: Yes, ma'am.

Commissioner Fanello: Mr. Bohleber, we've heard, I've heard conflicting stories about, and Mr. Colbert I think just stated a few minutes ago about other commercial type businesses. Can you explain there? Do you have anything to offer?

Steve Bohleber: I have no knowledge of commercial businesses in that area. I have a long standing knowledge of that lane, because my former secretary lived there. I think various people spoke at the Plan Commission meeting and denied that. Some of them are here this evening.

Commissioner Fanello: I read that in the Area Plan Commission minutes. That's why I'm asking.

Steve Bohleber: I didn't go out and do a house to house search, okay? But, my clients tell me that that's not accurate. They told the Plan Commission that's not accurate. It sort of begs the question, because if somebody's operating illegally, we should shut them down. We're not talking about illegal operations, we're talking about whether we should legalize a C-2 classification here. That's the peril.

President Mosby: Is there any...was there any other questions of Mr. Bohleber?

Commissioner Fanello: Not unless anyone has anything to add to that?

President Mosby: Was there any other neighbors that wanted to speak? Okay. Let's just start this a way, and we'll work our way to the right.

Lisa Kohl: Hi, my name is Lisa Kohl. I live at 6113 Peacock Lane. I guess, my big question is, why with so much opposition and in this particular stage in life that these individuals want to start a business in an area that is so adamantly opposed against it. I think that there's bigger things going on here. I fear that the adjacent property across the street will indeed, if this passes, come before you to again be passed to a C-2. It is for investment type purposes. The individual owns that property and front footage of the other properties. I would also like to note that in back of us on Fitzgerald, there is residential development right now. So, as far as I know there's not any commercial development on our side of the street. I think that you're doing a great injustice. I mean, we are already there, and we should offer some protection. You have a recommending board, and that was the Area Plan Commission, and so, I hope that you will take their recommendation into consideration. I don't want to keep going over the same thing, but it's very important, you know, it's our property. I can understand Mr. Bunner's frustration with, you know, we did have, we did suffer some damage with the rezoning of the Woodward development across the street.

I mean, that's a fact, but that's the way that it is. There are other properties, if you go up and down Burkhardt...at the Country Trace Subdivision, when they widened, he's not the only property there that's been hurt by that. All of those people still maintain their residence. So, you've got, you know, not just our small neck of the woods, but you've got residential development behind us, and over 100 homes right

across the cornfield that would be greatly affected, because you are going to pick it to pieces, because people wanting to make a quick buck, or make more money off of the property by rezoning it in a commercial area. You know, I think you need to be fair to the property owners that already live there. So, I would appreciate a no vote. Thank you.

President Mosby: Thank you. Any questions? The next gentleman.

Charlie Sumner: My name is Charlie Sumner. I live on Fitzgerald Road. I've been to four of these now, and actually I think Mr. Colbert should consider a career change from real estate to fertilizer sales. I'm very offended by some of the remarks he's making about our neighborhood. We do not have a retail operation in our neighborhood, nor do we want one. That's why we're fighting this so hard. That is, that's everyone in this neighborhood. Most of the people that have been showing up, we're about half of what have been at the meetings. Those people are out of town or working and couldn't be here, otherwise we would have a bigger force here. We're really hoping that you will go with the decision made a few weeks ago, and listen to our voice. It's our neighborhood. Please save our neighborhood. Thank you.

President Mosby: Any questions? Thank you.

Jeff Norrington: I'm Jeff Norrington. I live at 3300 Durre Lane. My wife and I had a craft business in our garage, in our home for 12 years, but contrary to what you heard tonight, we never sold out of there. We took our stuff, loaded it in the truck, took it to craft shows. We never, ever created a problem, had people in buying stuff. That never happened. So, I just wanted to clarify that, and let you all know what the deal was. Now we've been out of business for three years. Thank you.

President Mosby: Thank you. Did anybody else want to speak? Did you want to speak?

Bob Kuper: My name is Bob Kuper. I live on 6319 Peacock Lane. I guess, I'm the guy that caused the trouble with the truck you all got a picture of. This truck hasn't been, I've been retired for four years. It never done any commercial stuff except for Mulzer Crushed Stone. After I retired from one job, I got another job with Mulzer's. But this truck was just drove by me back and forth and parked. It seems like everything...there's a home that was sold across the street from Bunner, is waiting for a C-2 too. It's just a matter of if it gets it now, all of it will be. This neighborhood has always been people that had two jobs, and, you know, in the 60's and 70's you had to do this. Times weren't that good. So, that's why people done odd things like this, but they never created a problem, or somebody would have complained in the neighborhood. These people all stick together. I think we'll have a real traffic problem at that intersection, because the younger generation, they can't come off of Burkhardt like it used to be, they gotta keep moving. Thirty feet from that intersection is going to be cars selling antiques, bringing them, and buying them, and looking and not buying. Too many vehicles at that corner, if you all have ever been there and took a good look you would know what I'm talking about. Thank you.

President Mosby: Thank you. The gentleman behind him, did you want to speak?

Ken Larmore: My name is Ken Larmore. I live at 6108 Fitzgerald Road. Pardon me. My wife and I built the house, actually the second house on the first block of Fitzgerald in 1998, and were welcomed by many of the neighbors who had lived

there for years and years. There are more young families coming into the area. I know my neighbor who has been here to all of these meetings has three children. My wife and I just had a child. The kids are prevalent in the neighborhood. There are more and more of them riding their bikes, just being kids. It would be a shame to see any kind of a commercial establishment encroach not only in our neighborhood, but also on the east side of, rather the west side of Burkhardt. I almost resent the gentleman's assertion that there's a drug problem in the neighborhood. I know that there was a rental property at the end of Peacock where there unfortunately was some difficulty, but this is a very close knit neighborhood, and there is not a drug problem in this neighborhood. One of the things that scares me about the potential commercial development with this property and potentially others is that it will lock us back in this little corner, where none of us, should we choose, would be able to move out of. I have seen that happen in some different areas in Evansville, and I think that the Planning Commission has addressed some of those problems certainly with the future development. My hope is that you will continue to recognize that, and vote your conscience. So, thank you.

President Mosby: Thank you. Did you want to talk? I'm looking behind you, did you want, and then I'll.

Unidentified: I wasn't going to get up anyway. I can't even hear good enough to be up there.

President Mosby: Then I'll come around the front.

Rosa Lateulere: I wasn't going to get up. I'm a little nervous.

President Mosby: We're not forcing you. No, go ahead.

Rosa Lateulere: I am Rosa Lateulere. I live at 6211 Peacock Lane, which is the third house on the left from the Bunnars, the residence that is in dispute. The only thing that I want to say is that the street is very narrow, very close to the intersection. It is extremely difficult to get in and out of there anymore, because we don't have a light, but when they used to have their parties, Christmas parties, when they used to live there, the traffic just from the people that work at school, I guess, their friends, would come and the traffic would be very bad, and the very narrow road. They had to park all the way down to the front of our house, and that creates a problem. That was only once a year, so, it's okay, but now that they want to put a business and bring all that stuff in there, and trucks in and out, like the other neighbors said, that's going to really create a problem, because then we won't be able to go in or out. When you are coming in, you have to go in fast, or you're going to get out fast. If you have cars parked on each side, and who is going to go and make sure that the cars are not parked on the street, because there is nobody going to do that. It's just going to be very difficult to get in and out. Like the other neighbor said, there's kids that live on that road, and there's busses that go on that road, down that road, those big busses from school, and they have to come around. So, there's no room for commercial properties in there. There really isn't, unless they are going to widen the road. Thank you.

President Mosby: Thank you.

Jim Oglesby: I won't say too much. I'm Jim Oglesby, I live at 6109 Peacock Lane. I hope that you had drove out and kind of looked at our little cul-de-sac, so to speak, since it's not a thoroughfare, it's just a little lane. A very narrow street, no curbs, or

nothing of this nature. It's nice and tranquility, and a nice place to live. I was hoping that you would get out there and kind of look it over and see if you could find any commercialism that's going on anywhere in the block, either on Fitzgerald or wherever out there. It's not commercial part of the district. There's too many other places here in the city of Evansville that are vacant, especially along Burkhardt Road for God's sake that's got all kind of houses down there for sale, just perfect for any kind of a business such as this kind of a business he's trying to endeavor. But that's beside the point, I just want to thank you very much and come on out and look at it.

President Mosby: Thank you.

Unidentified: Could I give you some pictures of the neighborhood to look at?

President Mosby: Sure. Just start them right down here.

Unidentified: (Inaudible. Away from mike.) A few of them here are just being built. These people don't even know about this.

President Mosby: Okay. Did you want to speak, sir?

Unidentified: No.

President Mosby: Did you want to speak?

Unidentified: I can.

President Mosby: No, I mean, we're not forcing you.

Richard Clouse: They claimed that I was a, my name is Richard Clouse, I live at 5701 Peacock Lane. Years and years ago I did have a private stable back in the woods, but I wasn't part of the Burkhardt addition. But, my bottom line is, I'm the furthest away from this. Is it going to adversely affect me? Well, traffic wise, yes, because I step on brakes at least eight times when I'm going north on Burkhardt before I try to turn left on Peacock Lane, because I don't want to get backside by somebody. Sometimes they barely miss you, and sometimes they just "whew" blow you off the road, when they don't realize that you're not turning at Lynch Road. My point is, the integrity of the neighborhood. This has been an established residential neighborhood since 1947, as far as I know. That's as long as I've been alive. There is a situation to where when you have an established neighborhood for families and children that's residential, like a number of the other neighbors have said, you're going to open a Pandora's box. The Plan Commission says that they really don't feel like they should do that. They didn't feel like things were properly prepared. My concern is not for myself, it's for the other neighbors and their children. I do not want to see people who are searching for a particular business where there isn't a sign, and there shouldn't be anyway, because that's going to cause a problem with traffic on Burkhardt. Looking for a place and not paying attention where somebody's kid is riding their bike. That is not right for the youngsters, it's not right for the families. This is a family residential neighborhood. There are a number of new homes being built up, single family residences, that's the way it was established in the Burkhardt addition in 1947, and I would ask you to help it remain that way. Thank you.

President Mosby: Thank you. Is there anybody on the remonstrance side that didn't get to speak, that would like to speak? Mr. Colbert, did you want a rebuttal? Okay. You have a couple of minutes.



Ken Colbert: Thank you. I also believe Mrs. Puckett would like to say a few words too, is that possible?

President Mosby: Okay. Sure, she can come up now if you want before.

Mary Jo Puckett: I only have two things to address about this. Number one, we did have an in-home antique shop when we lived in the south. I wish that we could have a big business with people coming in and out, but if any of you have ever been antiquers and go to little individual shops, you find out you might have a customer, or maybe two one day, and you may not have anyone the next day. We are not anymore, my husband's age has prevented us from doing shows now, and we used to have Puckett's Treasures at Washington Square Mall. We sold three years ago. Now we're just getting too old to even think about doing all that with the antiques. So, we are going to down size, and it would be a very small business. There would never be a large sign. This light business and all that, we're not going to put that kind of money into having a huge sign out there. But, the main thing, and the main reason that we have gone ahead with this, on a Sunday before the first Commission meeting, Area Planning Commission meeting came about, my husband and I saw Mr. Kuper, Mike Kuper next door drive into his driveway and we were out at the house looking around at the outside. So, we stopped to get acquainted. When we started talking to him that we had applied to begin the process of getting it commercially zoned, he said don't do that. He said, this neighborhood all works together, there's no problem. You can have an antique shop and nobody will say a word. I've had a business for 20 years. If you'll look at the first month's meeting of the Area Planning Commission he related the very same thing to them. That's where we're getting the business bit. It was said personally to us, it was said personally to them. I said, no, we have paid our \$500, and we are going to either do it right, or not do it all. He insisted that we should just forget it, and go right ahead with our business. So, that's really the whole story in a nutshell. That's why we went ahead and continued to try to get it there. We want to do it properly. Thank you for your time.

President Mosby: Thank you. Is there any questions by any member of the Commission?

Ken Colbert: Mr. Bunner, do you want to say anything? Do you mind?

President Mosby: No.

Walter Bunner: I would like to address the traffic issue, and I suppose as much as anybody here I lived on Peacock Lane for almost 50 years, so I know the area. They talk about the narrowness of the street, I was there when it was a gravel road, so I know the condition of the road and the traffic and everything else. 6318 is located on the corner of Peacock Lane and Lynch Road. Anyone going to 6318 Peacock Lane would not travel 50' on Peacock Lane. They would turn off Lynch Road, or Burkhardt Road and directly on into the driveway at 6318. There would not be going up and down the road and running over kids on bicycles, and things of that nature. I would take exception to some of the things that were said up here, but I expect I'd better not. I'm just happy my wife's not here. Thank you.

President Mosby: Thank you.

Ken Colbert: Just another comment, if I may on the traffic issue.

President Mosby: Sure.

Ken Colbert: Interesting this weekend there was a rummage sale on Peacock Lane. In fact, the amount of traffic was far greater than what the expectation would be with an antique shop.

Unidentified: That's a one day affair.

Ken Colbert: Rose Zigenfus from the Transportation department, actually, I think it is part of your packet had also made the requirement that the necessary parking had to be there based upon the square footage, and that they could not back out on Peacock Lane. The aerial photo also shows there's more than enough access to be able to turn around for that one client per day that would be coming in. In regards to the drug issue, that was actually communicated by one of the residents there at Peacock Lane. It was brought up during one of the rezonings that had taken place. I don't have first hand knowledge of that, but that was communicated by one of the residents about the drug activity. In conclusion, again, our request is to have the rezoning, based upon what you heard the Puckett's say as well, to only have the in-home antique shop with the use and development, of not wanting to do any exterior renovations to the property or expansion. Mr. Puckett is 79 years old, I don't anticipate him wanting to develop his business any further. Thank you.

President Mosby: Thank you. Are there any questions by any member of the Commission? Seeing none, the chair would entertain a motion.

Commissioner Fanello: Just so everyone understands, in case you've never been to a rezoning, we have to make a motion to approve this to get it on the floor, and then we take a roll call vote. So, motion to approve VC-10-2003.

Commissioner Crouch: Second.

President Mosby: I have a motion to approve VC-10-2003, 6318 Peacock Lane. We will have a roll call vote. Commissioner Crouch?

Commissioner Crouch: This has been a very difficult rezoning. I've been there with most of you through the four meetings. When you look at the aerial photo it becomes very apparent to me that at some point in time this is going to be commercial, or there is going to be a commercial zoning that is going to affect you either by being near you, being right next to you, and being somewhere closer than where you want it. I appreciate and respect the Puckett's for wanting to do what's right, and to follow the process and the procedure. I just don't think that right now is the time for this particular rezoning. I think it's coming at some point in time, but not today. So, I vote no.

President Mosby: Commissioner Fanello?

Commissioner Fanello: I would echo some of those same comments, and while I appreciate the fact that I doubt that an antique shop would probably bring a lot of people during the day, I'm very hesitant about voting for a C-2 in a residential area at this time. So, I vote no.

President Mosby: And myself, and I will vote no. There being three nays, no ayes, this motion is defeated.

Unidentified: Thank you.

President Mosby: Is there any further business to come before the Commission?  
Seeing none. Yes?

Commissioner Fanello: Do I need a motion to adjourn here?

President Mosby: I will accept a motion to adjourn.

Commissioner Fanello: Motion to adjourn.

Commissioner Crouch: So moved.

President Mosby: Okay. Second. Second and so moved. So ordered.

(The meeting was adjourned at 6:57 p.m.)

**CONSENT ITEMS:**

**Commissioners:**

Jail expenses: Baker Daniels, Kevin Winternheimer, United Consulting

**Travel Requests:**

Health Department                      County Clerk

**Employment Changes:**

Circuit Court	Coroner	County Clerk
Sheriff Department	Burdette Park	

**Request for Service:** County Highway.

**Treasurer:** Submit Monthly Report for June 2003.

**Those in Attendance:**

David W. Mosby	Catherine Fanello	Suzanne M. Crouch
Bill Fluty	Kevin Winternheimer	Tammy McKinney
Madelyn Grayson	Don Burton	John Stoll
Dennis Hudnall	Gary Hohman	Lisa Kohl
Charlie Sumner	Jeff Norrington	Bob Kuper
Ken Larmore	Rosa Lateulere	Jim Oglesby
Richard Clouse	Mary Jo Puckett	Walter Bunner
Steve Bohleber	Others Unidentified	Members of Media

**VANDERBURGH COUNTY  
BOARD OF COMMISSIONERS**

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**David W. Mosby, President**

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**Catherine Fanello, Vice President**

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**Suzanne M. Crouch, Member**

Recorded and transcribed by Madelyn Grayson.

**VANDERBURGH COUNTY  
REZONING BOARD  
AUGUST 18, 2003**

The Vanderburgh County Rezoning Board met in session this 18<sup>th</sup> day of August, 2003 during the regularly scheduled County Commission meeting in Room 307 of the Civic Center Complex with President David Mosby presiding. The rezoning petitions began being heard at 6:11 p.m.

**First Readings**

President Mosby: That will bring us to rezonings, which we will go ahead and start immediately. We have no first readings on rezonings tonight.

**Final Readings**

**VC-12-2003: Petitioner: Haas Development, Inc.**

**Address: 8000 and 8500 Wolf Creek Court**

**Request: Change from R-3 with UDC to R-3 with UDC Amended**

**Action: Approved 3-0**

President Mosby: We have first two final readings. First we will hear VC-12-2003, petitioner, Haas Development, Incorporated, address, 8000, 8500 Wolf Creek Court, change from R-3 with use and development to R-3 with use and development. Mr. Atkinson is with us.

Jerry Atkinson: Good evening, my name is Jerry Atkinson, I represent Haas Development, Inc. We were here many times in the year 2000, and again in 2001 obtaining approval of a rezoning to construct Wolf Creek Condominiums on the west side out by USI. As a condominium development for senior citizens, luxury condos, if you will, we promised certain things; that it wouldn't be student housing, that it wouldn't take 12' of fill dirt to be able to construct the project, that we would be good neighbors, and among other things, that there would not be more than eight single story condominium buildings. There in lies the problem. Four of the buildings have been constructed, and there is great demand among the...excuse me...we have four buildings constructed, and we've discovered that there is great demand among prospective purchasers for creating a bonus room above the garage. When we put together the use and development commitment, we believed that single family was a certain height, I'm sorry, single story was a certain height. Conceptually, if you're not raising the roof any, it's still single story, but we had done a private covenant, and a use and development commitment, committing the project, if you will, to single story. If you put a

bonus room above the garage, it then becomes something other than a single story. Is it a two story, a story and half, or bi-level? So, we set out to correct that. We have 12 unit owners, and we have collected consents from all of the owners of the 12 units to make that change. We did a private covenant with the owners of property in the 300 block of Key West Estates, and we have collected signatures from all of the owners of the property in the 300 block of Key West Estates. So, that everybody out there would like to see the option of having bonus rooms for these folks so they can have somebody from out of town stay over night, or they can put their treasures of a lifetime in a house, and they don't have to downsize that much. In order to accomplish this, we have to amend the use and development commitment, which means we have to do another rezoning. That's why we're here. The filing fee has been paid. The publication is going to be paid, this is a substantial effort. We're asking that you approve to allow an option, allow us to amend the use and development commitment to provide an option for a bonus room above the garages in the remaining four buildings. There will be not more than 14, I'm sorry, not more than 18 possible units that would have that option, and not all of those would have the garages. From the outside you won't be able to tell the difference with the exception that there will be a dormer. The building won't get any higher, it won't get more ugly, it will simply have a bonus room, and the people will be able to keep their stuff, and perhaps have their family come in.

President Mosby: Are there any questions by any member of the Commission? Is there anybody in the audience that would like to speak? In reading the Area Plan report, I think this passed unanimously with one abstention, so the chair would entertain a motion for VC-12-2003.

Commissioner Fanello: Motion to approve VC-12-2003.

Commissioner Crouch: Second.

President Mosby: I have a motion and a second. This requires a roll call.  
Commissioner Crouch?

Commissioner Crouch: Yes.

President Mosby: Commissioner Fanello?

Commissioner Fanello: Yes.

President Mosby: Commissioner Mosby, yes. There being three ayes, no nays, VC-12-2003 is hereby declared adopted.

Jerry Atkinson: Thank you very much.

President Mosby: Thank you.

**VC-13-2003: Petitioner: Charlestown Square LLC**  
**Address: 730 Citadel Circle**  
**Request: Change from C-4 to C-2**  
**Action: Approved 3-0**

President Mosby: Next, we will hear VC-13-2003, petitioner, Charlestown Square LLC, address, 730 Citadel Circle, and this is a request change from C-4 to C-2 which is a down zoning.

Les Shively: That's correct.

President Mosby: Mr. Shively.

Les Shively: Members of the Board of Commissioners, my name is Les Shively, representing the petitioner in this particular matter. As I said at the beginning of the presentation for the Plan Commission, if this request looks familiar, it should. We were here regarding, basically, the same project back in April that you approved. What has occurred, which is kind of a good news-good news situation, is that after the rezoning was approved, and the company, the developer out of Indianapolis that is purchasing this property, Kendall Construction, they started more detailed plans, and basically determined they needed a little more land. It's going to be close to 200 apartment units, first class apartment units with separate garages. All of these apartments will, in fact, face the lake that is out there already, the retention basin, excuse me, the borrow pit that was filled in, that became filled with water that the time that I-164 was done is now a beautiful lake there at the northeast corner, if you will, formed by I-164 and the Lloyd Expressway. This simple request is just to allow this additional land for the project so that there is plenty of area for the development. I just would note parenthetically that there's a lot going on in this area. You probably read about the 100 bed hospital that's going over to Gateway, and that will pretty much extinguish any available land in that particular area. The area where Cracker Barrel and all that is, is pretty well built out. The area that is where Town and Country Ford and where the new Tri-State Orthopedics is going is, if they opt, if the last option is exercised, it will be pretty well built out, so, this is the last remaining area. So, we see a lot of activity taking place, and we believe this is really going to be a very big plus for Vanderburgh County. Again, we hope to close this thing the first of next month, and start construction yet this fall. More than happy to answer any questions you have.

President Mosby: Questions by any member of the Commission? Seeing none. Anybody in the audience that would like to speak to VC-13-2003? Seeing none, chair would entertain a motion.

Commissioner Fanello: Motion to approve VC-13-2003.

Commissioner Crouch: Second.

President Mosby: I have a motion and a second. Roll call vote. Commissioner Crouch?

Commissioner Crouch: Yes.

President Mosby: Commissioner Fanello?

Commissioner Fanello: Yes.

President Mosby: Commissioner Mosby, yes. There being three ayes, no nays, VC-13-2003 is hereby declared adopted.

Les Shively: Thank you very much.

President Mosby: Now, the chair would entertain a motion to adjourn. There's your paper, John.

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: I have a motion and a second. So ordered. We stand adjourned.

(The meeting was adjourned at 6:19 p.m.)

## **CONSENT ITEMS:**

**Commissioners:** Jail Bond Expenses: Crowe Chizek.

### **Travel Requests:**

Weights & Measures      Health Department      Commissioners



**Employment Changes:**

Health Department  
Circuit Court

Legal Aid  
Recorder

Superior Court

**Treasurer:** Submit Monthly Report for July 2003.

**Those in Attendance:**

David W. Mosby  
Bill Fluty  
Madelyn Grayson  
John Stoll  
Sherman Greer  
Jerry Atkinson  
Members of Media

Catherine Fanello  
Kevin Winternheimer  
Phil Lawrence  
Alan Teeple  
Dennis Hudnall  
Les Shively

Suzanne M. Crouch  
Tammy McKinney  
Eric Williams  
Roger Lehman  
Gary Hohman  
Others Unidentified

**VANDEBURGH COUNTY  
BOARD OF COMMISSIONERS**

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**David W. Mosby, President**

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**Catherine Fanello, Vice President**

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**Suzanne M. Crouch, Member**

Recorded and transcribed by Madelyn Grayson.



**VANDEBURGH COUNTY  
BOARD OF COMMISSIONERS  
REZONING MEETING  
SEPTEMBER 15, 2003**

The Vanderburgh County Rezoning Board met in session this 15<sup>th</sup> day of September, 2003 in Room 307 of the Civic Center Complex. The rezoning petitions were heard during the regular Commission meeting and this portion of the meeting commenced at 6:35 p.m.

President Mosby: We will immediately move in to rezonings.

<b>First Readings</b>
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President Mosby: We have no first readings.

<b>Final Readings</b>
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<b>VC-14-2003: Petitioner: Robin A. and Bonnie L. Fraser Address: 4011 Wolcott Street Request: Change from R-1 to M-2 Action: Approved 3-0</b>
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President Mosby: These will be final readings. First, VC-14-2003, petitioner Robin A. Fraser and Bonnie L. Fraser, address 4011 Wolcott Street, change from R-1 to M-2.

Jerry Atkinson: Good evening. My name is Jerry Atkinson. If I could, I would like to give you a couple of graphics so that you can focus on what is being requested here. This is a petition to rezone 4011 Wolcott Street from an existing R-1 zoning to an M-2 for the purpose of allowing a machine shop. There are numerous possible uses in an M-2 zoning, and we're not interested in doing any of those, other than a machine shop. Mr. Fraser would like to make a small addition to his existing building to permit him to actually conduct machine shop activities at that location. Wolcott lies at the east corner of, the southeast corner, southwest corner of the subject property, 461.6' south of Upper Mt. Vernon Road. It's at the southeast corner, 357.96' down to Wolcott. There is a diagram on the back of the staff report, and I will circle the area where the addition is going to be, and I'm going to circle the Fraser residence, and I'm going to put a big "x" on the Lin-Gas facility that is an existing M-2 that's right next door to this property. We know of no opposition to this rezoning. Mr. Fraser talked to some of the neighbors that would be most immediately affected and they consented to the proposed

rezoning. Are there any remonstrators here against this project? There was at the Area Plan Commission one remonstrator who lived on Upper Mt. Vernon Road, and he thought that the machine shop was going to be next door to his property, and he objected to Mr. Fraser putting an extension on to his garage because he thought that Mr. Fraser could use the existing garage. I've been in Mr. Fraser's garage, which is down on Wolcott Street, and that's, if you will, like an antique store in there. He has a lot of things stored inside there, and I can understand why if he wants to keep those things that he could want to make an addition to have a work area. We've met with that neighbor, or more accurately Mr. Fraser did, showed him the map of it and the petition, and when the neighbor understood where this proposed machine shop use would be, he responded, oh, that's alright with me and left. He's not back, and we understand that comment to be that he too now is not opposing it. We heard from the West Side Improvement Association, and I thought their comments were well taken. I was here before you about a month ago asking for permission to change a use and development commitment to add a bonus room, and to do that you have to amend your zoning and you have to go back and you pay a fee and you notice everybody again, that's a complicated process. For years I've used a private covenant, enforceable by the neighbors, to provide flexibility as we go through the process of rezoning, to give them in writing an enforceable covenant running with title to the land to address objections that may come up during the process. I had prepared and passed around to the Area Plan Commission on September the 3<sup>rd</sup> a private covenant limiting the use of the real estate to a machine shop only, notwithstanding that the M-2 zoning classification permits other uses. In the event that at some future time they want to change the land use to something other than a machine shop, they are going to have to come back and obtain a rezoning to change the use to some other use. Robin Fraser and his wife additionally agree that they will not use the real estate owned by them at 3912 Upper Mt. Vernon Road that I've marked for you on that aerial photograph, which is north of and adjacent to the real estate to be rezoned, and they agree not to seek any rezoning of that same real estate at 3912 Upper Mt. Vernon Road to M-2 at any time during the term of the covenant. It's a 25 year covenant. That's a good, long time. The, excuse me, I'll explain my breathlessness to you in a moment. The Improvement Association suggested that one of the things that you can do in an M-2 zoning is to have billboards, and it struck me that we ought to include that in. Unfortunately, I don't have a typed up private covenant for (Inaudible). I made changes in handwriting of the proposed covenant that we gave to the Area Plan Commission to prohibit the use of the real estate for any elevated signs or billboards. That's an example of an objection well taken and that we needed to respond to it. If you look at the staff report, you'll see that the staff report indicates that there are 322 commercial service, storage and recreational and industrial uses in an M-2. We're proposing there's only going to be one. We'll have a covenant running with title to the land to make it only one. There has to be

parking, well, this is going to be a one man shop, no employees. The site plan with the staff report shows five parking spaces, that's more than enough. Another thing that occurred to me, even this evening, that I included in the change to the private covenant is that there should be a restriction against the habitual parking of tractor trailers or trailers at that location, and we added that in as well. There is also in the staff report an indication that there is going to have to be paved parking and access and that's not a problem, we'll be happy to do that. Then there is an indication, the site plan as submitted, would require a number of variances, and must be redesigned prior to the submission to site review. Mr. Fraser went to the engineer and land surveyor and said, in effect, give me what I need, I want to rezone this, I want to have a machine shop. This drawing was prepared by the engineer, and if the engineer didn't catch the fact that variances need to be obtained to locate the addition where the addition is shown as being located, then it does need to be changed. It's always been the intention of Mr. Fraser to comply in every way with the applicable rules and regulations. It was my intention to visit with the Area Plan Commission and the engineer and bring you a conceptually redesigned drawing to support this petition. Unfortunately, my mom died. I'm sorry, I truly am sorry. Unfortunately, I had to be out of town last week, and today I was doing a non-threatening medical procedure that left me under this influence of some, excuse me, drugs that are interfering with my energy level and my ability to speak clearly, because I have a bit of a cotton mouth, okay. Unfortunately that procedure took virtually the whole day, and I didn't have the ability to visit with the engineer or the Area Plan Commission or Mr. Fraser. We believe that the engineer can redesign the location of the building and/or we can obtain variances to permit the construction of the addition, and it's not necessary for us to seek a continuance for the purpose of submitting that to you because that's really a site plan activity. However, if you would like to see that before we go forward, we would be receptive to supply that to you. Again, I don't know of any objection now in the neighborhood to this. The County Engineer, I think, expressed some concern about large trucks coming down into this dead end cul-de-sac that abuts the Lin-Gas facility. If you look at that on the back of either what I gave you or on the back of the staff comments, the aerial photograph, you'll see there are dozens of big gas tanks even right along the common boundary between these two properties. This is the existing garage at 4011 Wolcott Street, across the street to the south, these are the neighbors, and I believe the neighbors most directly affected have signed the consent form. This is the view west, the house trailer depicted does not belong to Mr. Fraser, it belongs to the next door neighbor. The view to the east is here, you can see the property abuts up against Lin-Gas tanks. The area at the bottom in the center is where the addition would be corrected. Then there is a view of the 600 block of Vanness, which is the connector street to the west that goes north to Upper Mt. Vernon Road. Then the 400 block of Wolcott from Vanness is in the lower left hand corner. I think that's all of the canned production. Does anybody have any

questions?

Commissioner Crouch: Mr. Atkinson, I know that the West Side Improvement Association also spoke about a buffer zone. Is that something that you have worked out in your concept or your drawing?

Jerry Atkinson: I also have not met with them. If they could tell me, if they are here—

President Mosby: They're not here.

Jerry Atkinson: They're not here?

President Mosby: They sent a letter.

Jerry Atkinson: If you could look at the photographs, the property immediately north of the subject real estate is owned by Mr. Fraser, who is here, or his brother. Neither one of them, at this time, desire or request any screening. The property to the immediate east has Lin-Gas tanks, and I don't know that they need to be screened against the parking area for a machine shop. The property to the west has already, in a sense, a buffer in that the fellow there has parked a large house trailer right next to the existing building. The building itself constitutes a buffer from the addition. What's left is the properties across the street. Did anybody ask you if you would put up vegetation or a fence or anything?

Robin Fraser: No.

Jerry Atkinson: The guy that has a house trailer, does he, did he consent, sign the consent?

Robin Fraser: Yes.

Jerry Atkinson: Yes, so, the people across the street and the guy next door haven't asked for any buffer. We would give it if we knew what would work, or what they wanted, or if anybody had expressed any interest. We try to do things right. They did suggest, not having fondness for billboards, and I addressed that with the private covenant. What I would ask, I guess, you consider is allowing me to go ahead and finish the private covenant in the way I have identified to you, and, excuse me, let me submit that and record it, submit it to your County Attorney for approval as to matching what I said that I would do. We could vote tonight, because the site review people can take care of the rest of the issues. This is a one man shop that is not going to hurt anybody. He's going to put

insulation in the walls so that noises don't even escape. So, I think it's a net gain for the county. It's certainly a net gain for Mr. Fraser, and it doesn't do harm to anybody that's directly connected. I don't think it does harm to anybody at all, quite frankly.

President Mosby: Are there any other questions?

Commissioner Crouch: I make a motion that we do approve the rezoning for VC-14-2003 with the conditions that Mr. Atkinson has described with his amendment to the private covenant.

Commissioner Fanello: Second.

President Mosby: I have a motion and a second to approve VC-14-2003 with the amended private covenant to be recorded. Commissioner Crouch?

Commissioner Crouch: Yes.

President Mosby: Commissioner Fanello?

Commissioner Fanello: Yes.

President Mosby: Commissioner Mosby, yes. Being three ayes, no nays, VC-14-2003 is hereby declared adopted.

**(Motion passes 3-0)**

Jerry Atkinson: Thank you very much.

Madelyn Grayson: Mr. Atkinson, I believe your recording check will need to be either added to...if you're going to record that private covenant, I think it's only for \$11.00. So, I will need a new check for that. And I did not get a disk for the advertising. Was that a discounted rate?

Jerry Atkinson: I will get that to you immediately.

Madelyn Grayson: Okay, thank you.

**VC-15-2003: Petitioner: Warren G. Spurling  
Address: 5100 Spring Valley Road  
Request: Change from C-4 to C-2  
Action: Approved 3-0**

President Mosby: Next we will hear VC-15-2003, petitioner, Warren G. Spurling, address, 5100 Spring Valley Road, change from C-4 to C-2. Mr. Spurling.

Tim Spurling: My name is Tim Spurling. I'm here representing Warren. I think it's a pretty simple rezoning. Our intent is to build more of the apartments for people 55 and older, to add to the complex that we already have established there.

President Mosby: Okay. Are there any questions?

Ben Hebebrand: As a point of order, can we make public comment?

President Mosby: I'm getting ready to ask for that. If there is no question by any of the Commissioners, are there any remonstrators that would like to speak?

Ben Hebebrand: I'm not remonstrating.

President Mosby: Okay. One at a time, just come up and say your name and address.

Mike Rudolph: Good evening. My name is Mike Rudolph, and we are not here to remonstrate against this. I am a trustee of Evansville Day School, and I have a daughter that is a high school freshman there. With me is Ben Hebebrand. Ben is the head of Evansville Day School, and we have no objection to the additional work that Spurling intends to do. We come here to plead our case about a safety concern that currently exists at Evansville Day School's main drive. Our main drive, and our only entrance into and out of the school is directly across Schnuck's main driveway. A year and a half or two years ago when the project became known and we got wind of it, I came downtown here and met with some people with EUTS and METS, talked with people with the Area Plan Commission, because we envisioned some potential traffic problems and safety issues at our driveway. In the course of my discussion with the different agencies was informed that there would be no light at our driveway, there would be no concrete median barriers, etcetera. I drive up and down Green River Road everyday, so we understand the, I suppose, logic behind that, but nevertheless two years ago we could foresee some safety issues. Now Schnuck's is in, we welcome them, but the safety issues are as bad or worse than we envisioned. If you can envision the new Schnuck's, our driveway sits straight across from them, and family's turning into and out of Day School, especially if you are leaving at 3:00 in the afternoon and trying to turn north face a variety of traffic situations that are hard to contemplate until you are caught in the situation. Having been in that situation myself, and knowing that there's a traffic problem, I can tell you, it's real. We are here, I suppose, to appeal to this board and any other agencies that you can guide us to, to give some guidance or consideration for some additional help with



what we view to be a critical safety issue out there. Again, we are not remonstrating against, but I think we are here to call attention to an issue that we foresee as dangerous. It's one of those situations where most people say, well, an accident has got to happen before anybody is going to do anything. I'm here to tell you, an accident is going to, and I would like to at this time find out if there is anything that you can offer to us, some guidance on what we might do to make a bad situation more safe.

President Mosby: I think the first thing that we need to do is have the County Engineer go out and look at this problem. He will report back to this board and give us any alternatives or options that we might have to correct whatever he would see. If you want to call him, you're more than welcome to call and talk to John Stoll—

Mike Rudolph: Okay.

President Mosby: —the County Engineer, and we can, well, Tammy's gone, but we can refer that to him tomorrow, and ask him to go out and look at it.

Mike Rudolph: Okay. That's been done, but I will refresh his memory about our concerns. Additionally, I think, as a memo to remind you, I think I'll write you all a letter, and maybe put some pictures out there. I wish I'd had some charts and diagrams up here like the other gentleman did, but time did not allow that. Ben, do you have any comments? Thank you for your time.

President Mosby: Thank you.

Ben Hebebrand: For the record, my name is Ben Hebebrand, and as Mike said, I'm the head of school at the Day School. We welcome this development, but we do feel that this development, being in the immediate vicinity of the school, will add increased traffic to what is already a very, very dangerous situation, as Mike has alluded to. We've made efforts to get some help. Right now the median on Green River Road is indeed an accident waiting to happen. Cars are coming smack straight on each other, each one wanting to take a left turn. It is a dangerous situation. Thank you.

President Mosby: Thank you.

Commissioner Crouch: If I may, just either Mr. Rudolph or you, I'm familiar with that area, I drive it quite often, I don't disagree that there is additional traffic as a result, but what would you suggest? I mean, having gone, you know, and I'm sure the County Engineer is going to have a suggestion, but as an individual what is it that you would like to see happen?

Mike Rudolph: Well, I suppose the best case scenario—

Madelyn Grayson: Can you make your comments at the mike?

Mike Rudolph: Again, it's Mike Rudolph. I suppose the best case scenario would be a stop light there. Whether or not that can get approved, I don't know. I was told two years ago, there's no way. So, we sought other avenues. We approached Spurling, and we approached Schnuck's about the possibility if they would help us fund the money required to put in these flashing lights that are now being posted around different school zone areas. That was rather, sort of a laborious task, and in a nutshell it didn't happen. Those are lights that maybe would warn people well in advance of the approach to our school that the speed limit is now dropped down to 20 mile an hour. You see them at Vogel, I think there's one at Memorial, they're at different schools. I don't know, a light would be the best situation, but reduced speed...the Sheriff's Department has been great about enforcement out there. We continue to compliment them when we see them out there. It's probably something that the engineer would have to, you know, just take a hard look at.

Ben Hebebrand: If I may add to that. If a traffic light is indeed not feasible, at least some, I don't know what the technical term is, but some islands in the median lane, I think would help prevent any vehicles from heading on to each other straight.

President Mosby: Any other questions?

Ben Hebebrand: Thank you.

President Mosby: Thank you. Are there any other remonstrators, or anybody that would like to speak to petition VC-15-2003? Seeing none, the chair would entertain a motion.

Commissioner Fanello: Motion to approve VC-15-2003.

Commissioner Crouch: Second.

President Mosby: I have a motion and a second. Commissioner Crouch?

Commissioner Crouch: Yes.

President Mosby: Commissioner Fanello?

Commissioner Fanello: Yes.

President Mosby: Commissioner Mosby, yes. There being three ayes, no nays, VC-15-2003 is hereby declared adopted.

**(Motion passes 3-0)**

Mike Rudolph: Thank you.

President Mosby: Thank you. Any other business to come before—

Commissioner Fanello: Motion to adjourn.

Commissioner Crouch: Second.

President Mosby: I have a motion and a second. So ordered.

(The meeting was adjourned at 7:01 p.m.)

#### **CONSENT ITEMS:**

**Jail Expenses:** United Consulting and James L. Shireman, Inc.

#### **Travel Requests:**

Health Department	Legal Aid	Area Plan Commission
County Assessor	County Highway	

#### **Employment Changes:**

Sheriff Department	County Clerk	Health Department
Prosecutor	Knight Assessor	Area Plan Commission

**County Engineer:** Surplus of Vehicle.

#### **Health Department:**

Permission to request Council appropriation.

Ancillary Care Services Agreement with Managed Health Services.

**Area Plan Commission:** Copier lease agreement.

#### **Those in Attendance:**

David W. Mosby	Catherine Fanello	Suzanne M. Crouch
Bill Fluty	Kevin Winternheimer	Tammy McKinney
Madelyn Grayson	Alan Teeple	John Stoll
Brad Ellsworth	Dennis Hudnall	Gary Hohman

Bev Behme  
Tim Spurling  
Others Unidentified

Jerry Atkinson  
Mike Rudolph  
Members of Media

Robin Fraser  
Ben Hebebrand

**VANDERBURGH COUNTY  
BOARD OF COMMISSIONERS**

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**David W. Mosby, President**

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**Catherine Fanello, Vice President**

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**Suzanne M. Crouch, Member**

**Recorded and transcribed by Madelyn Grayson.**

**VANDERBURGH COUNTY  
REZONING BOARD  
OCTOBER 20, 2003**

The Vanderburgh County Rezoning Board met in session this 20<sup>th</sup> day of October, 2003 in Room 307 of the Civic Center Complex with President David Mosby presiding. The rezoning petitions were heard during the regular Commission meeting, and began at 6:42 p.m.

President Mosby: That will bring us to rezonings.

**First Readings: VC-17-2003  
Petitioner: Peter M. McCullough  
Address: 2751 Allens Lane  
Request: Change from Ag to R-3**

President Mosby: We have one first reading. First reading of rezonings, VC-17-2003, petitioner, Peter M. McCullough, address 1314 Tupman Road, request change from Agricultural to R-3.

Commissioner Fanello: Motion to approve.

Commissioner Crouch: Second.

President Mosby: I have a motion and a second to adopt and move to final reading. So ordered. Or Area Plan and final reading. That is all of the rezonings.

Unidentified: Oh, man.

President Mosby: That's it, no final readings.

Unidentified: Are you ready for some football?

President Mosby: Monday Night Football. Do I have a motion to adjourn?

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: I have a motion and a second. So ordered.

(The meeting was adjourned at 6:44 p.m.)

**CONSENT ITEMS:**

**Jail Expenses:**

James L. Shireman \$55,000

Evansville Water & Sewer Utility \$18,113.46

**Travel Requests:**

Health Department

Supt. of Buildings

Commissioners

County Assessor

**Employment Changes:**

Circuit Court

Co-Op Extension

Coroner

Knight Assessor

County Clerk

Burdette Park

Prosecutor

**Commissioners:**

Escrow Agreement for Williams Brothers Construction (Jail Project)

Performance and Payment Bonds for Williams Brothers Construction.

**County Treasurer:**

Submit Monthly Report for September 2003.

**Weights and Measures:**

Addendum #11 to Lease Agreement with Executive Inn.

**Sheriff:**

Submit Surplus Letter for Computers.

Submit Weekly Jail and Community Corrections Reports.

**Those in Attendance:**

David W. Mosby

Catherine Fanello

Suzanne M. Crouch

Bill Fluty

Kevin Winternheimer

Tammy McKinney

Madelyn Grayson

Phil Lawrence

Judy Weatherholt

John Stoll

Dennis Hudnall

Les Shively

Gary Hohman

Norma Duckworth Others Unidentified

Members of Media

**VANDERBURGH COUNTY  
BOARD OF COMMISSIONERS**

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**David W. Mosby, President**

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**Catherine Fanello, Vice President**

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**Suzanne M. Crouch, Member**

**Recorded and transcribed by Madelyn Grayson.**

**VANDEBURGH COUNTY  
REZONING BOARD  
NOVEMBER 17, 2003**

The Vanderburgh County Rezoning Board met in session this 17<sup>th</sup> day of November, 2003 at 6:22 p.m. in Room 307 of the Civic Center Complex with President David Mosby presiding. The rezoning petitions were heard during the course of the regular weekly Commission meeting.

President Mosby: That brings us to zonings.

**First Reading: VC-1-2004  
Petitioner: Robert E. Zoss, Sr.  
Address: 5500 Oak Hill Road  
Request: Change from R-1 to CO-2**

President Mosby: We have one first reading, VC-1-2004, petitioner, Robert E. Zoss, Sr., 5500 Oak Hill Road, change from R-1 to CO-2.

Commissioner Crouch: Motion to approve VC-1-2004 on first reading.

President Mosby: Second, and so ordered.

**Final Reading: VC-16-2003  
Petitioner: Louis M. Zeller III & Cynthia B. Zeller  
Address: 9301 Cynthiana Road  
Request: Change from Ag to C-4**

President Mosby: Final reading we have one zoning, VC-16-2003, petitioner, Louis M. Zeller III and Cynthia B. Zeller, 9301 Cynthiana Road, change from agricultural to C-4.

Les Shively: Mr. President, and members of the Board of Commissioners I'm Les Shively representing the petitioners. First, before we get started, do we have the file from the Plan Commission here?

President Mosby: Do we have a what?

Les Shively: The file. There were some exhibits and such that are in that file.

President Mosby: We will have to—



Madelyn Grayson: Do you want me to go get Bev?

President Mosby: Yeah, see, Bev came in a while ago, but she didn't leave anything.

Les Shively: In the interest of time, I will go, there are some photographs in there that I think might be helpful.

President Mosby: Okay.

Commissioner Crouch: Do you have what we have?

Les Shively: I have that, there are...in addition to the GIS photos, Commissioner Crouch, there are also some still photos of the subject area that I thought might be helpful. Again, my name is Les Shively representing the petitioner. You may know the petitioner better by the name of Zip. Zip is well known by farmers and business people on the northwest side of Vanderburgh County. He has a business out there, and that's why we're here this evening. He's been out there for 11 years, it's adjacent to where he lives. What he started out, many years ago, repairing farm machinery. It's imperative that in his line of work that he be in a location where his clients and customers are. If a customer, if a farmer is down the field, he has ready access to them, and this is located near where most of the farming activity in our county takes place. A substantial part of what Zip does is off-site, and, in fact, if you will look at the aerial photos, you will see his operation is set back quite a bit from the roadway. In a moment here, Ms. Behme will pass to you still photographs which will show from Highway 65 you can't even see the business. We've also entered into a use and development commitment that if this rezoning is approved, this rezoning would be subject to limiting to Zip's business, as it is, and limiting it to the particular area described on the legal description. He will have to abide by all of the requirements. That is he will have to have no outside storage, everything will have to be enclosed and put in the screening and fencing. The vote at the Plan Commission meeting on the 5<sup>th</sup>, we had 11 votes in favor of this, and we have also part of the record (Inaudible) consents that have been filed by adjacent landowners to the subject request. Also present this evening is at least one other landowner that lives just down the road and adjacent to the Zeller property. We also had Mr. Mike Thomas who spoke in favor of this at quite length at the Plan Commission meeting. Just as a note of information, if you know where Fehrenbacher Cabinet Company and Fehrenbacher Wood Specialties is located, those are two rezonings that I did back in the 80's, and we faced some of the same issues back then of having a business that had been there on the west side for a number of years, and making sure that it fit within the area. There are some still photographs, I believe Beverly has given you that shows the Fehrenbacher operation, and this is less than a

quarter mile, that is Fehrenbacher is less than a quarter mile southwest of the subject property. Again, this did receive a favorable recommendation from the Plan Commission, and Mr. and Mrs. Zeller are here this evening, as well as one of the neighbors. I just speak in favor of this request. I would be more than happy to answer any questions you would have at this time.

President Mosby: Les, I don't recall getting the use and development commitment.

Les Shively: Oh, it should be attached to your staff report.

President Mosby: I don't see it. I don't know why. Anyhow, I'm just going to take your word for it, you said that this is the only thing that it can be used for.

Les Shively: Right, exactly, in fact, the use and development states that all other C-4 uses are expressly prohibited, except to allow him to continue his repair and service of farm and construction equipment. Again, most of what he does today, and will continue to be is off-site. That's kind of what gives him a unique place in the market. He has the vehicles that are able to respond to farmers that are literally down in the fields.

President Mosby: All storage is going to be inside?

Les Shively: Yes, sir. In fact, he'll have to pave parking areas that he uses for the business. He will have to have the screening, that's required by code, Mr. Mosby, so that, I mean, and we're not asking for any relaxation, we're not going to be asking for any variances for those development requirements.

President Mosby: Okay.

Les Shively: We've narrowed, by the way, we've narrowed the legal description as tight as we can be so we have enough room to operate without....we're rezoning only what we need, so to speak. No more, no less.

President Mosby: Okay. Are there any other questions? Are there any remonstrators present? Seeing none.

Commissioner Crouch: I move that we approve VC-16-2003.

President Mosby: I will second that. I think we have to have a roll call vote.

Commissioner Crouch: I vote yes.

President Mosby: I was going to say, Commissioner Crouch, yes. Commissioner Mosby, yes. So, there being two ayes and no nays.

Les Shively: Perfect.

President Mosby: VC-16–

Les Shively: Perfect timing, City Council starts at 6:30, that couldn't have been better. Thank you.

President Mosby: You've got to go there tonight too? You're giving them half price, right? Since you're double dipping.

Les Shively: Absolutely. Cheaper by the dozen, that's right. Thank you.

President Mosby: Thanks, Les.

Commissioner Crouch: Motion to adjourn.

President Mosby: Back to this agenda. Second, and so ordered.

(The meeting was adjourned at 6:30.)

## **CONSENT ITEMS:**

### **Travel Requests:**

Health Department

SWCD

Perry Assessor

County Assessor

Center Assessor

**Employment Changes:**

Treasurer

Cum Bridge Auditor

VCCC

County Clerk

Prosecutor

**Auditor:**

Submission of Surplus Letter.

Submission of Tax Sale Properties Information.

**Computer Services:**

On-Line Bidding Management System Solution Definition.

**Those in Attendance:**

David W. Mosby

Suzanne M. Crouch

Bill Fluty

Kevin Winternheimer

Tammy McKinney Madelyn Grayson

Phil Lawrence

Cheryl Musgrave

Steve Fuchs

Dave Schlaf

Alan Teeple

John Stoll

Dennis Hudnall

Gary Hohman

Les Shively

Beverly Behme

Others Unidentified

Members of Media

**VANDERBURGH COUNTY  
BOARD OF COMMISSIONERS**

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**David W. Mosby, President**

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**Suzanne M. Crouch, Member**

Recorded and transcribed by Madelyn Grayson.