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1 STATE OF INDIANA)
)SS:

2 COUNTY OF ALLEN)

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7 BOARD OF COMMISSIONERS
 OF THE COUNTY OF ALLEN

8

9 RE: LEGISLATIVE SESSION OF
10 OCTOBER 4, 2006

11

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13

14

DATE: October 4, 2006

15

16

TIME: 10:09 a.m.

17

18

LOCATION: Room 200
 Commissioners' Courtroom
 City-County Building
 1 East Main Street
 Fort Wayne, Indiana 46802

21

22

REPORTER: M. Joshua Osbun

23

24

25

0002

1 PRESENT:
2 Linda K. Bloom Allen County Commissioner
3 Nelson Peters Allen County Commissioner
4 Susan Elser Allen County Commissioners'
Office
5
Mary Hitchens Allen County Public

- 6 Information Office
- 7 G. William Fishing Allen County Counsel
- 8 Michelle Wood Allen County Department of
Planning Services
- 9
- Randy Brown Allen County War Memorial
- 10 Coliseum General Manager
- 11 John Feighner Assistant Allen County
Counsel
- 12
- Jim DeRose Allen County Communications
- 13
- Ron Elwell Motorola
- 14
- Bill Hartman Allen County Highway
Department Director
- 15
- 16 Jeff Sorg Allen County Highway
Department
- 17
- Dick Conklin Tobacco Free Allen County
- 18
- Ron Smith GAI
- 19
- Cathy Sevare
- 20
- Judy Zinn
- 21
- M. Joshua Osbun Rolf Reporting, Inc.
- 22
- Ben Lanka Journal Gazette
- 23
- Cindy Larson News Sentinel
- 24
- Kathleen Quilligen News Sentinel
- 25

0003

I N D E X

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3 Presentations by:

4
 Michelle Wood 8, 11, 22, 25, 26, 46

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6

7	Randy Brown	28
8		
9	John Feighner, Jim DeRose, and Ron Elwell	30
10		
11	Bill Hartman	39, 40, 41, 42, 43
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13	Dick Conklin	47
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3	Agenda:
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5	1. Approval of Minutes of 09/27/06
6	Legislative Session
7	8
8	
9	2. Rezoning Petition 1579/06: Petition to
10	rezone property for a 3-story, 84-room,
11	21,238 square-foot extended stay hotel.
12	The 2.93 acre site is located on the east
13	side, between the 5900 and 6000 blocks of
14	Ellison Road, at the intersection of
15	Ellison Road and Liberty Mills Road.
16	Present zoning is A-3/Estates. Proposed
17	zoning is C-5/Commercial Interchange
18	8
19	
20	3. Rezoning Petition 1580/06: Petition to
21	down zone property to allow for the
22	petition of a Special Exception with the

12 Board of Zoning Appeals for a reception
 13 hall. the 24.97 acre site is located on
 14 the north side, between the 5300 and 5400
 15 blocks of Leesburg Road and on the east
 16 side, between the 3200 and 3400 blocks of
 17 Kroemer Road. Present zoning is RS-1/
 18 Suburban Residential. Proposed zoning is
 19 A-3/Estates 11

17 4. Rezoning Petition 1581/06: Petition to
 18 rezone property for a 3-story, 102-unit
 19 senior living development and a single-
 20 story, 30-bed Alzheimer care facility.
 21 The 12.00 acre site is located on the east
 22 side of the 500 through 800 blocks of West
 23 County Line Road, approximately 930 feet
 24 north of its intersection with State Road
 25 14. Present zoning is A-1/Agricultural.
 0005 Proposed zoning is RSP-3/Planned Multiple
 1 Family at a proposed density of 8.5
 2 units/acre 22

2 5. Rezoning Petition 1582/06: Petition to
 3 rezone an additional 1.96 acres for
 4 development as commercial outlots within
 5 Bridgewater Centre. The 1.96 acre site
 6 is located on the south side between the
 7 13600 and 14400 blocks of State Road 14,
 8 approximately 3,600 feet west of its
 9 intersection with West Hamilton Road.
 10 Present zoning ia A-1/Agricultural.
 11 Proposed zoning is C-2B/Community
 12 Shopping Center 25

8 6. Rezoning Petition 1583/06: Petition to
 9 rezone property for two multi-tenant
 10 commercial buildings totaling 17,833
 11 square feet and three commercial outlots.
 12 The 3.78 acre site is located on the

north side, between the 1800 and 2000

11 blocks of Dupont Road, approximately 550
feet west of its intersection with Sate

12 Road 3 26

13
7. Bid Award to Michael Kinder & Sons, Inc.

14 in the amount of \$29,899.00 for the
Allen County War Memorial Coliseum

15 Lobby/Administrative Office Renovation,
not including Alternate Bid #A-1 28

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17 8. Reconfiguration Planning Phase Agreement
between Allen County and Motorola, Inc. 30

18
19 9. Approve the following Change Orders for
Dupont Road, from Pine Mills to Auburn
20 Road, Project #00-339, Bid Ref. #N/A,
Federal Project: 39

21
a) Change Order #2 - Bid Document
22 Errors/Omissions - \$951.50 (Increase)

23 b) Change Order #3 - Bid Document
Errors/Omissions - \$8,554.12 (Increase)

24 c) Change Order #4 - Additional for
Pedestrian Trail (20% will be reimbursed
by City of Fort Wayne) - \$23,811.87
25 (Increase)

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2 10. Approve Change Order #1 for Scott Road
(Hill Cut), Project #05-316, Bid Ref.
#12-06, for safety reasons - \$626.80
3 (Increase) 40

4
5 11. Approve Change Order #2 for Union Chapel
Road, Phase III, Project #01-045, Bid
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6
7 12. Bid Award for 2006 Concrete Pavement
Repair Package #7, Southern (Pheasant
8 Run) Addition, in Pleasant Township,
Allen County, Indiana, Project #0800706 -
9 \$38,351.00 42

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13. Plats for Signature: Preserves of
11 Carroll Creek, Section 2, Phase 1 46

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14. Other Business

13

A. Approve and award quotation bids for
14 three (3) sidewalk and curb ramp packages
(Package #1 - Perry Lake Estates;
15 Package #2 - River Bend Bluffs;
Package #3 - Bridgewater/Chestnut Hills) -
16 Quotation bids to be opened Tuesday,
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17

B. Approve emergency Weight Limit Postings
18 on the following bridges: 43

19 a) Wayne Trace Bridge over Trier Ditch --
Post 5 Tons

20 b) Barnett Road Bridge over Wilbur Ditch --
Post 5 Tons

21

C. Approval of Planning Funding Agreement
22 [800 MHZ Reconfiguration] with Motorola 45

23

15. Approval to waive the 2nd Reading on any
24 matter approved today and for which it may
be deemed necessary for the Legislative
25 Session of October 4, 2006 46

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16. Comments from the Public

2

a) Dick Conklin 47

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4 17. Motion to Adjourn 48

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0008

1 BLOOM: Good morning, and welcome to the
2 Commissioners Legislative Session. First this
3 morning we will celebrate our country and a prayer,
4 please.

5 (At this time the Pledge of Allegiance is
6 recited, followed by a moment of silence.)

7 BLOOM: Thank you. Approval of the minutes from
8 September 27th.

9 PETERS: I make a motion to approve the minutes of
10 September 27th.

11 BLOOM: Second. All in favor signify by saying
12 "aye."

13 PETERS: Aye.

14 BLOOM: Aye. Rezoning Petition 1579. Good morning,
15 Michelle.

16 WOOD: Good morning. Michelle Wood with the
17 Department of Planning Services. I have several
18 things on your agenda today.

19 BLOOM: Yes, you do. Well, we haven't had any for a
20 while.

21 WOOD: Let's see, we will start with--I believe
22 this--is this at Stay Bridge? Is that first?

23 BLOOM: The first one would be 1579, and it's for a
24 three-story, 84-room--

25 WOOD: Okay.

0009

1 BLOOM: --extended stay hotel.

2 WOOD: This is located just--it's where Liberty
3 Road--Liberty Mills turns into Ellison Road just

4 south of 24 and west of four--I-69, and you'll--might
5 recall that Hilton Garden Inn is the farthest north
6 in this quadrant, and then you have the State Police
7 Post communications and then the Holiday Inn Express.
8 This is attached to--well, not attached to
9 physically, but it will be connected by a parking lot
10 to the Holiday Inn Express. It is a three-story, 84-
11 room hotel, and it's more of the extended stay
12 concept. I think the idea is that with Lutheran
13 Hospital--

14 BLOOM: Absolutely.

15 WOOD: --being so close, they're finding a market for
16 families who--who need something a little more than a
17 hotel room. So that is the concept there. The
18 zoning is C-5/Commercial Interchange, which is the
19 preferred zoning for hotels, especially at an
20 interstate interchange. This is the zoning that
21 exists to the north, so it should fit in with the
22 complex, everything that's going on there. There's
23 still an outlot left for a restaurant between this
24 proposal and the Holiday Inn Express, and they will
25 access off of Ellison Road, not off of--or excuse me,

0010

1 off the extension of Ellison Road that goes up to 24,
2 not off of the Liberty Mills part. But it did
3 receive a unanimous recommendation, and I can answer
4 any questions.

5 BLOOM: You just said--what did you just say, they
6 can't get to it from Liberty Mills?

7 WOOD: Well, what they're--it's--it's kind of
8 complicated to picture, but as Liberty Mills makes
9 the turn going south towards Yo--when it turns into
10 Yohne Road, Liberty Mill--or excuse me, Ellison comes
11 off of 24 and then hits it at the turn, so they won't
12 have direct access on that curve. They'll have to
13 come in onto the one way part of Ellison Road.

14 BLOOM: It's all confusing out there--

15 WOOD: Okay.

16 BLOOM: --because it is one way going--

17 WOOD: Yeah.

18 BLOOM: --north, actually.

19 WOOD: Right. So they'll be able to get in. Now,
20 they might be able to get a right out onto--yeah, I

21 have to look at it to--

22 BLOOM: Yeah--

23 WOOD: --explain it.

24 BLOOM: --because that is--

25 WOOD: --they are--

0011

1 BLOOM: --confusing--

2 WOOD: --working on--

3 BLOOM: --back in--

4 WOOD: --that with--

5 BLOOM: --there.

6 WOOD: --with Highway, because they did want a direct

7 access--

8 BLOOM: Oh, sure.

9 WOOD: --and just for obviously convenience and

10 visibility, but the Highway Department's working on

11 them to come up with a safer way to get in and out,

12 and I'm not sure the plans are completely done yet,

13 but they have agreed to something that's definitely

14 more safe, but that the hotel still feels that they

15 have a good connection. But they will come in

16 through the Holiday Inn Express parking lot.

17 BLOOM: And share the lot?

18 WOOD: Uh-huh (affirmative). And that was set up

19 that way when Holiday Inn was approved.

20 BLOOM: Okay.

21 PETERS: I make a motion to approve Rezoning Petition

22 1579/06.

23 BLOOM: Second. All in favor signify by saying

24 "aye."

25 PETERS: Aye.

0012

1 BLOOM: Aye. Rezoning Petition 1580 to down zone

2 property to allow for the petition of a Special

3 Exception with the BZA for a reception hall, and

4 present zoning is RS-1/Residential--Suburban

5 Residential and proposed is A-3/Estates.

6 WOOD: That's correct. I'll explain this as best I

7 can. This--this is a rezoning petition, but we did

8 not hear the development plan for a reception hall.

9 The reason is--is reception halls are allowed by

10 special exception from the Board of Zoning Appeals in

11 certain districts. A-3 is one of those districts

12 that allows a reception hall with BZA approval. It
13 also allows things like hospice care, a nursing home,
14 vet--veterinary kennel/clinic, that sort of thing.
15 So it doesn't come to the Plan Commission as a
16 development plan. The zoning to A-3/Estates does not
17 allow other uses, commercial-type uses by going to A-
18 3/Estates. The special exception is there just for
19 this particular use. Let's say they went the
20 rezoning route through commercial rezoning. If the
21 reception hall didn't develop, any commercial use
22 could come in on that site with a commercial zoning.
23 BLOOM: Right.
24 WOOD: With the down zoning to A-3/Estates, the--that
25 is the underlying zoning, so it allows things like

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1 your lesser intensive agriculture uses, single-family
2 housing, estate-type housing, which--so the zoning
3 itself is very compatible with the area. It's--it's
4 a rural area--
5 BLOOM: It is.
6 WOOD: --it has a lot of RS-1 zoning and a lot of A-1
7 zoning. You see larger lot development, and there's
8 still agriculture in the area. It is, however, very
9 close to the interstate, and it has good access in
10 terms of its proximity to--to major roads and to Fort
11 Wayne. With the special exception under the Board of
12 Zoning Appeals, if it is approved, they--like I said,
13 they will only be allowed to have the reception hall.
14 If she were to change--the applicant change her mind
15 and want to do some other similar use, they'd have--
16 she'd have to start over and come back and get a new
17 approval. It only is for this use. Other things
18 that the Board of Zoning Appeals can do, they limit--
19 they can specify materials, limit hours of operation
20 and number of employees, so they--
21 BLOOM: Yeah--
22 WOOD: --they do have--
23 BLOOM: --it's sounding--
24 WOOD: --a lot of--
25 BLOOM: --control.

0014

1 WOOD: --control over the use of the site. However,
2 you would be down zoning this to allow for that

3 petition, so if you were to approve the A-3/Estates,
4 that's step one towards going towards the BZA.

5 PETERS: Michelle, what percentage of cases does a
6 down zone like request--and let me qualify "like
7 this." I think it's odd that you down zone to get a
8 particular use that you can't from the up zone.

9 WOOD: Right.

10 PETERS: How often does that happen?

11 WOOD: Well, any--I guess as often as you see those
12 uses come in. I can't really give you a number--

13 BLOOM: Yeah.

14 WOOD: --but I can give you examples. We have a
15 veterinary clinic on Homestead and--help me out.

16 Homestead--

17 BLOOM: Homestead at--

18 WOOD: --Liberty--

19 BLOOM: --Liberty--

20 WOOD: --Mills--

21 BLOOM: --Mills.

22 WOOD: --the hospice, which is actually adjacent to
23 the veterinary clinic--

24 BLOOM: Right.

25 WOOD: --that was also a down zone to--to get a

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1 special exception. Landmark Reception Hall is on
2 Ellison Road. I don't believe they had to down zone.

3 I think they already had the proper zoning, but it
4 went through as a special exception. It's--you can
5 call it goofy, but that's the way it's, you know, the
6 ordinance is set up that certain things are allowed
7 in--

8 BLOOM: In that--

9 WOOD: --certain--

10 BLOOM: --zoning--

11 WOOD: --districts--

12 BLOOM: --yeah.

13 WOOD: --but still have to get approval from the
14 Board of Zoning Appeals.

15 PETERS: The RS-1 to A-3--

16 WOOD: Uh-huh (affirmative).

17 PETERS: --is that the only down zone--

18 WOOD: It could go to A-1, which is so similar, I

19 mean--

20 PETERS: Okay, but, I mean, are there any other types
21 of down zones that allow for--
22 WOOD: We have--
23 BLOOM: The usage--
24 PETERS: --these types of exceptions?
25 WOOD: Storage, we've down zoned--

0016

1 PETERS: Well, I'm--
2 WOOD: --like, from--
3 PETERS: --talking--
4 WOOD: --I to--
5 PETERS: Oh, okay. Go ahead.
6 WOOD: --certain--right. There are commercial and
7 industrial--
8 PETERS: Yeah, okay. That's what I was after.
9 WOOD: You'll really test me--
10 BLOOM: Yeah.
11 WOOD: --if you want me to give you too many
12 examples, but there are other situations where--
13 quarries, landfills. Some landfill operations
14 require a down zoning from one district to another.
15 PETERS: I gotcha.
16 BLOOM: And they--then either special exceptions or
17 variances?
18 WOOD: Right. Now, I'll--I'll give you that scenario
19 as well. If--if you choose not to approve this down
20 zoning and it stays RS-1, the applicant can still go
21 to the Board of Zoning Appeals, but it's as a use
22 variance. It's different from a special exception.
23 You're really testing me on my Board of Zoning
24 Appeals knowledge. But the use variance has certain
25 legal tests that have to be met. It's not an

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1 automatic permitted use in that area. They actually
2 have to say, "I cannot use this land"--
3 BLOOM: I gotcha.
4 WOOD: --"for what it's zoned for. Therefore I need
5 a use variance to have this use." And it's RS-1
6 and--
7 BLOOM: You really explained that well, because I've
8 been exposed to this for a long time, and they--they
9 have to get a variance if it's--if that isn't a
10 qualified--

11 WOOD: Permitted use.
12 BLOOM: --uh-huh (affirmative), permit.
13 WOOD: If you have--
14 BLOOM: I get it. I--
15 WOOD: If you--
16 BLOOM: --I never--
17 WOOD: --would like--
18 BLOOM: --got that.
19 WOOD: --to talk to someone from Board of Zoning
20 Appeals staff--
21 BLOOM: No, I--no, I understand it now.
22 WOOD: --I would be happy to set that up, though, to
23 explain it where maybe I didn't.
24 PETERS: Well, let me see if I can help befuddle you
25 further. Doesn't--

0018

1 WOOD: I have four more of these.
2 BLOOM: Well, now, she just made me understand. Why
3 are you doing this?
4 ELSER: So you can get confused.
5 PETERS: Just to try the other side.
6 BLOOM: Uh-huh (affirmative). Sure. Go for it.
7 PETERS: Does it make sense--I mean, if this does
8 happen periodically, does it make sense to upgrade
9 the use, say, in this case of RS-1 as opposed to have
10 somebody--in other words, should we be looking at the
11 ordinance and should we be putting things into RS-1
12 zoning, allowances into RS-1 zoning so you don't have
13 to have somebody come back and down zone to get the
14 safe effect?
15 BLOOM: Well, they'd--
16 WOOD: I think--
17 BLOOM: --still have--
18 WOOD: --the down--
19 BLOOM: --to do--
20 WOOD: --zoning is--
21 BLOOM: --a variance.
22 WOOD: --circumstantial. In other words, they're--
23 it's--it's not--the down zoning is--just happens to
24 be what it needs to be. It could be an up zoning to
25 get what you want. It would still be a--

0019

1 PETERS: Okay--

2 WOOD: --special exception.
3 PETERS: --I gotcha.
4 BLOOM: Yeah, because they could still do a use--
5 PETERS: Right.
6 BLOOM: --variance.
7 WOOD: Right. I mean, it could--
8 BLOOM: Right?
9 WOOD: --be a situation where it's RS-1 and they want
10 to go to--well, that doesn't make sense, but I'm sure
11 there--there are situations where it's not
12 necessarily a down zoning to get it, depending on
13 what the use is. The--the protection there to not
14 just automatically allow it, it--it does allow for a
15 greater--greater level of control. The Boarding--
16 Board of Zoning Appeals can limit things that the
17 Plan Commission can't.
18 PETERS: Uh-huh (affirmative).
19 BLOOM: Yeah.
20 WOOD: If we do zone it to, say, commercial or make
21 reception halls allowable in RS-1 and its permitted
22 use, any--any use like that could come in, and there
23 would not be the control of the hours, the number of
24 employees. Lighting, usually with the Board of
25 Zoning Appeals project, is much much less intensive
0020
1 that with a commercial--a typical commercial project.
2 Twelve [12]-foot lights, something akin to a--a
3 residential street lamp as opposed to a parking lot
4 structure, you know, that lights up half the
5 neighborhood. So it--they definitely have a lot more
6 control. Again, though, I am--I am not--I'm not
7 making a recommendation on the reception hall. That
8 is up to the Board of Zoning Appeals staff, but we
9 did want you to be aware that that is the reason for
10 the request.
11 BLOOM: For the change of zoning.
12 PETERS: The area, generally speaking, there aren't a
13 lot of residents out there right--there's--there's
14 not a whole lot of--
15 WOOD: It's--
16 PETERS: --residential use right now.
17 WOOD: --it's more meets and bounds. There's--
18 Mayapple Drive to the northwest, I believe, there are

19 quite a few homes on that. It--it's a drive that
20 comes--it--I think it's an easement that comes off of
21 Leesburg. Immediately surrounding it, no, there--
22 there are residents just to--just to the east. I
23 believe--

24 BLOOM: This is--

25 WOOD: --the applicant--

0021

1 BLOOM: --just 25--

2 WOOD: has talked--

3 BLOOM: acres.

4 WOOD: --to them. Let me get turned around here.

5 PETERS: That's a lot.

6 BLOOM: Yeah.

7 WOOD: To the southeast. Has talked to those
8 residence about some screening possibilities that she
9 could do.

10 BLOOM: It's 25 acres.

11 WOOD: In--yeah. In general the area is not that

12 densely populated. There are no subdivisions,

13 platted planned subdivisions around it. It's more

14 large tracts. The--the overall site and the

15 percentage that this would take up--and again, I only

16 have conceptual drawings--

17 BLOOM: Yeah.

18 WOOD: --because we didn't review the plan for that.

19 It--it takes up a relatively small portion of the

20 site. There's a lot of buffer around it. And again,

21 the plan--the BZA would have to look at that if--if

22 this was approved, if they felt that there was enough

23 buffering, if it was set back far enough from the

24 other residents.

25 PETERS: So this--again, just in summary--gives these

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1 individuals the opportunity to request the

2 exceptions--

3 WOOD: That's correct.

4 PETERS: --from the BZA.

5 WOOD: It's not automatically allowed. That's

6 correct.

7 BLOOM: A special exception.

8 PETERS: Special exception, right.

9 WOOD: Uh-huh (affirmative).

10 BLOOM: Not a variance.
11 WOOD: Right.
12 BLOOM: A variance would have had to be in the RS-1.
13 The special exception can be in the A-3.
14 PETERS: Uh-huh (affirmative).
15 BLOOM: Am I right?
16 WOOD: Uh-huh (affirmative).
17 BLOOM: Okay, good. I did get it. I did get it.
18 With that I'm okay now.
19 PETERS: You're okay?
20 BLOOM: Uh-huh (affirmative). Thank you so much.
21 PETERS: I'll make a motion to approve Rezoning
22 Petition 1580/06.
23 BLOOM: Second. All in favor signify by saying
24 "aye."
25 PETERS: Aye.

0023

1 BLOOM: Aye. Rezoning Petition 1581 for a three-
2 story senior living development, and--oh, a single-
3 story Alzheimer care. This is on West County Line
4 and 14. There's another one over there. I'll be
5 darned. The other one would be in Whitley--
6 WOOD: Whitley--
7 BLOOM: --County, though.
8 WOOD: --that's--you are correct.
9 BLOOM: Yeah.
10 BLOOM: RS--proposed is RSP-3 at a density of eight
11 and a half units per acre.
12 WOOD: That's correct. Sycamore Village--you might
13 recall a similar proposal about three years ago with
14 Inverness Center. I'm not sure if it came to you
15 under zoning or not. I believe it did have to. It
16 was called The Hearth. It was--it was--
17 BLOOM: I don't remember.
18 WOOD: --it's the same applicant, actually, to do
19 this senior living and low level dementia care or
20 Alzheimer care. They decided not to develop within
21 Inverness Center, and that's now in the city. They
22 have chosen this site and--but it's basically the
23 same--same concept, same layout, pretty much the same
24 size as what they were approved for before. It is
25 off of West County Line Road just north of 14. The-

0024

1 the closest development you're probably familiar with
2 would be Bridgewater Centre, the commercial center,
3 Bridgewater subdivision. We recently approved
4 Hamilton Meadow subdivision, Harrison Fields, so this
5 a--a pretty developed area, even though they're all
6 the way on West County Line Road. It is also across
7 the street from the Renaissance. That's the nursing
8 home--

9 BLOOM: Uh-huh (affirmative). The--

10 WOOD: --that you--

11 BLOOM: --Whitley County--

12 WOOD: --referred to in Whitley County, and we do
13 need to work with Whitley County as the access is
14 under their jurisdiction on West County Line Road.
15 They do have the entire right of way, so we have been
16 working Brandon, the Surveyor from Whitley County.
17 But it should be a very low impact use for the area.
18 As I said, it is developing. If you look at the
19 aerial immediately surrounding the site, it looks to
20 be very undeveloped. There's still A-1 ground
21 surrounding it. But just--kind of just off the
22 screen, if you will, is a completely different story.
23 We have a lot of commercial zoning, shopping center
24 zoning, office zoning, and--

25 BLOOM: In that area?

0025

1 WOOD: --a wide variety of--of residential zoning,
2 RSP-1, RS-3, multi-family. So it--it should be a
3 good fit. As I said, it's low impact. It's not a
4 typical apartment complex. This is assisted living
5 and the Alzheimer care. It's more of a bed situation
6 than individual apartments--

7 BLOOM: What color--

8 WOOD: --in that--

9 BLOOM: --is it?

10 WOOD: --portion. What color--

11 BLOOM: I'm kidding.

12 WOOD: --is it? It will blend. It's not yellow.

13 BLOOM: I just--I just wanted to know.

14 WOOD: But they did receive a unanimous approval for
15 the plan and do-pass recommendation for the zoning.

16 PETERS: I make a motion to approve Rezoning Petition
17 1581/06.

18 BLOOM: Second. All in favor signify by saying
19 "aye."

20 PETERS: Aye.

21 BLOOM: Aye. Rezoning Petition 1582, commercial
22 outlets within Bridgewater Centre for an addition
23 1.96 acres, again on State Road--

24 WOOD: Fourteen [14].

25 BLOOM: --14 with the--part of the footage on the
0026

1 intersection of West Hamilton.

2 WOOD: I can make this very simple. This was
3 originally approved in 2002 and there was about two
4 acres that they didn't have control of at that time
5 that sat right in the middle of the development. It
6 was the Webb property. And since that time the
7 Thomsons have acquired that property, and they're
8 just bringing it into the overall development. They
9 need to get the zoning changed to C-2B/Community
10 Shopping Center, and it will just be a part of--it'll
11 end up being two outlots in the development plan. I
12 think there's about eight outlots on that portion of
13 the plan. When this was originally approved they
14 stated that they were not planning to do the
15 development, to start construction until either 2007
16 or 14 was improved, whichever came first. We're
17 really close to 2007 and they're kind of gearing up,
18 but I don't think they have any tenants yet, so we
19 probably won't see anything until next year. But
20 this is just to get everything in line in the same
21 zoning. The plan hasn't change.

22 PETERS: All right, I make a motion to approve
23 Rezoning Petition 1582/06.

24 BLOOM: Second. All in favor signify by saying
25 "aye."

0027

1 PETERS: Aye.

2 BLOOM: Aye. Rezoning Petition 1583 to rezone
3 property for two multi-tenant commercial buildings,
4 and this one is on Dupont--well, part of it's on
5 Dupont and the intersection of 3.

6 WOOD: Uh-huh (affirmative). If you're familiar with
7 this area, North Point Plaza exists at the northwest
8 corner of Dupont and 3. It has--it currently has the

9 carwash, the bank, and a little bit of strip center
10 development in the rear, and Kelly has been approved
11 for the extreme southeast corner of that property.
12 This is the same developer. This is North Point
13 Plaza West. It'll just be a continuation of that
14 development. It is C-2A. That's the smallest of the
15 neighbor shopping--or of the shopping center
16 districts, and then in the front it also has C-1,
17 which is Planned Limited Commercial. Between the two
18 it'll allow the same uses that are currently at North
19 Point Plaza, the same types of uses. It could have
20 the two outlots in front, like, a--it could be bank,
21 it could be a restaurant, and then a strip--more
22 strip center in the rear. It's a relatively small
23 addition, but it should be compatible with what's
24 there now.

25 BLOOM: Absolutely.

0028

1 WOOD: Obviously, we have the Wal-Mart on the south
2 side.

3 BLOOM: You would have to say that, wouldn't you?

4 WOOD: Sorry. Just to get your bearing.

5 BLOOM: Uh-huh (affirmative). I've got it.

6 PETERS: And attention.

7 BLOOM: Uh-huh (affirmative).

8 PETERS: I make a motion to approve Rezoning Petition
9 1583/06.

10 BLOOM: Second. All in favor signify by saying
11 "aye."

12 PETERS: Aye.

13 BLOOM: Aye.

14 WOOD: Are we done?

15 BLOOM: Thank you.

16 WOOD: I do have one plat later.

17 PETERS: All right.

18 BLOOM: All right. Thank you--

19 WOOD: Thank you.

20 BLOOM: --very much.

21 PETERS: Thanks.

22 BLOOM: Bid award to Michael Kinder & Sons in the
23 amount of 29,899 [\$29,899.00] for the Allen County
24 War Memorial Coliseum lobby and administrative office
25 renovation, not including Alternate Bid #A-1. Good

0029

1 morning.

2 BROWN: Good morning.

3 PETERS: Good morning.

4 BROWN: I'm Randy Brown, General Manager of the Allen

5 County War Memorial Coliseum. This is for an

6 improvement to our front office area. It includes

7 case work, lighting, wall paper, and wall coverings,

8 and an important part of this, too, is there is

9 some--it's an improvement for A.D.A. uplinks.

10 BLOOM: Certainly.

11 BROWN: So it's a pretty straight forward project.

12 This space has not had any renovation work since it

13 was opened back in the late 1988-'89 time period.

14 BLOOM: What--why did you put in there, "Not

15 including Alternate Bid #A-1"? You're not doing this

16 or you ran out of money or--

17 BROWN: No. No, it was actually a deduct, and that

18 wasn't necessary. This gives us a better countertop.

19 In other words, something less likely to scratch

20 based on traffic at--within the space.

21 BLOOM: Okay, thank you.

22 PETERS: I make a motion to approve the bid award to

23 Michael Kinder & Sons in the amount of \$29,899.00 for

24 the Allen County War Memorial Coliseum

25 lobby/administrative office renovations.

0030

1 BLOOM: Second. All in favor signify by saying

2 "aye."

3 PETERS: Aye.

4 BLOOM: Aye.

5 BROWN: Thank you.

6 BLOOM: Thank you. Reconfiguration Planning Phase

7 Agreement between Allen County and Motorola. Good

8 morning.

9 FEIGHNER: Good morning, Commissioners.

10 DeROSE: Good morning.

11 PETERS: Good morning.

12 FEIGHNER: I am John Feighner, one of the assistant

13 Allen County attorneys. With me is Jim DeRose, our

14 Communications Director for the Allen County Police

15 Department, and we also have in the audience next to

16 me Ron Elwell from--

17 ELWELL: Hi.

18 FEIGHNER: --Motorola.

19 BLOOM: Good morning.

20 PETERS: Good morning.

21 FEIGHNER: You may remember Ron from some of our MACP
22 meetings.

23 BLOOM: Absolutely.

24 FEIGHNER: We have a project which we've been
25 discussing at the Multi Agency Communication
0031

1 Partnership for some time. I'll give you the
2 background. The federal government has authorized
3 and are completing a re-banding of the communication
4 spectrum, and Nextel Sprint, in order to get more
5 space that is usable to them, they're moving some of
6 the public safety spectrum, and they're paying for a
7 lot of the work that is ultimately going to be done.
8 It was a--sort of a negotiated project in Washington,
9 and it's a national project in scope. Allen County
10 has been on the forefront of that because of our E-
11 911 system and our MACP partnership with the City of
12 Fort Wayne. Motorola's been working with us and
13 saying for some time that, you know, they were making
14 progress but they weren't ready to go. We now have
15 the Reconfiguration Planning Phase Agreement. This
16 is one of two agreements that spells out the
17 relationship for this project. The Reconfiguration
18 Planning Phase Agreement is a contract between
19 Motorola and the Board of Commissioners of Allen
20 County. You have a copy of that, and you'll see that
21 it has been signed already by Motorola. Allen County
22 is actually the licensee of the radio frequencies
23 that are used in the MACP 800 megahertz system, both
24 by the City and the County, which is the reason why
25 the Board of Commissioners of Allen County is the

0032

1 contracting party as the licensee. Of interest to
2 you, I think, is that Motorola will provide the
3 reconfiguration planning services as provided in
4 section 2.2, and then there are multiple attachments
5 that describe the scope of the work and the cost.
6 The most significant thing is that licensee, which is
7 Allen County, agrees that we will work with both

8 Nextel and Sprint and Motorola, and we will employ
9 commercially reasonable efforts to assist them, which
10 is basically our staff as well as the City staff have
11 worked with them. Under the contract price, the
12 contract price in section 4.11 is \$124,423.25, which
13 is anticipated to be the scope of the work for
14 Motorola services. That contract price, though, the
15 licensee will not pay. Under section 4.1.2 it
16 specifically says the payment of the contract price
17 and any taxes or other fees comes from Nextel, not
18 the licensee or Allen County. If we find out that
19 for any reason Motorola was not paid by Nextel, we
20 are not liable to pay Motorola. Motorola agrees to
21 accept the direct payments from Nextel, and the way
22 the billing process will work, according to Mr.
23 Elwell, Motorola will actually send the bills to
24 Allen County. Our staff will review and approve
25 them, and then send them on to Sprint Nextel. And we
0033

1 also have an assignment under section 4.13 where we
2 are assigning our rights to receive payment from
3 Nextel to Motorola so that that completes the circle.
4 If this meets with your approval, your signatures are
5 set forth on page seven. Each of you should sign one
6 of the licensee spaces, and two of the three
7 Commissioners signing as, of course, majority
8 acceptable. I will tell you that then you also have
9 the second part of this contractual arrangement,
10 which is the second document, which is called the
11 Planning Funding Agreement. This is a contract
12 between Allen County, again because we're the
13 licensee, with Sprint Nextel, and you'll see again
14 that you have the estimate planning costs, which
15 under article 19 is the same \$124,423.00, and this is
16 the agreement which Nextel--Nextel agrees with the
17 County that they will make these payments. So the
18 two sort of are a mirror image that fit together, and
19 that is how the contractual arrangement is put
20 together. Your signature pages are on page five of
21 the basic agreement, and then on the very last page,
22 page 22 of 22 pages, again, are signature lines for
23 the Commissioners. We will then forward this to
24 Nextel for their signature, and I can assure you that

25 I think they'll sign it. I have no idea how long it

0034

1 takes to get through the bureaucracy and when we'll
2 actually see it come back from Nextel Sprint. Or now
3 my phone system is Embark, which is the old Sprint,
4 so no--no editorial comment intended. Any questions?

5 PETERS: Mr. Feighner, maybe this question is for Mr.
6 Elwell. I don't know. But speaking of bureaucracy,
7 it seems like there is a whole lot to this loop. Why
8 couldn't the agreement have been developed between
9 Motorola and Nextel in terms of--I mean, I--I guess I
10 don't understand why we're the pass-through.

11 FEIGHNER: I--I think--

12 BLOOM: And exclude us?

13 FEIGHNER: --I think--I think the reason is--is that
14 if you think about it from an ownership concept, we
15 actually own the license in the system, so the work
16 is being performed for the benefit of the people in
17 Allen County, and it's being performed on our
18 property, so that's why they have the relationship
19 with the licensee. The City of Fort Wayne will
20 participate in this in terms of the staff work. That
21 worked very well with our people for a number of
22 years. I will tell you that originally Motorola and
23 the people at the MACP, we thought there might also
24 be some reimbursement for our County or City workers,
25 and that still is a possibility, and if we submit the

0035

1 bills and Nextel agrees to pay them, that'll be fine.
2 But so far most of the work that's been done by the
3 City and the County people would be in their regular
4 office routine--

5 BLOOM: Not additional--

6 FEIGHNER: --you know--

7 BLOOM: --right.

8 FEIGHNER: --for which they're employees and we don't
9 have any extra cost, so to really say that--that they
10 should be paying part of somebody's salary is
11 probably a stretch right now.

12 PETERS: So by keeping us in that loop we at least
13 reserve the right to seek payment for any--any
14 activity on the part of our employees?

15 DeROSE: Yeah, overage.

16 FEIGHNER: That--that's right. We haven't--we
17 haven't weighed that, and if it turns out, as you
18 know from major projects like this, everybody puts a
19 plan together, you have a crystal ball, but you
20 always have things that come up--

21 PETERS: Right.

22 FEIGHNER: --we might find one day that we decide
23 hey, this has become a lot more expensive and
24 involved, and we would then--

25 BLOOM: We knew that.

0036

1 FEIGHNER: --petition to have--

2 DeROSE: Have that--

3 FEIGHNER: --those costs--

4 DeROSE: --option. Uh-huh (affirmative).

5 PETERS: Okay. Thank you. I see here that we're
6 only approving the Reconfiguration Planning Phase
7 Agreement, but do we also need to approve the
8 Planning Funding Agreement, or are--

9 FEIGHNER: Yes--

10 PETERS: --they both--

11 FEIGHNER: --they're--

12 PETERS: --the same?

13 FEIGHNER: --they're--no, they're two separate
14 contracts.

15 BLOOM: But they're--

16 FEIGHNER: The Reconfiguration--

17 BLOOM: --not in the--

18 FEIGHNER: --is between Allen County and Motorola.
19 And the--

20 BLOOM: The Reconfiguration?

21 FEIGHNER: --Planning Funding, it look--it looks
22 like--

23 BLOOM: Yeah, we've got them. The--

24 FEIGHNER: You've got them?

25 BLOOM: --but there are two of them here.

0037

1 FEIGHNER: There are two contracts.

2 BLOOM: This is--

3 PETERS: So they--

4 BLOOM: --the Reconfiguration--

5 PETERS: --do indeed--

6 BLOOM: --and this--

7 ELSER: I was--
8 BLOOM: --one's the--
9 ELSER: --only aware--
10 BLOOM: --Planning Funding.
11 ELSER: --of the one contract.
12 PETERS: Okay, so we do, then, to make this thing--
13 right now let me just ask, as far as advertisement
14 purposes--
15 FISHERING: We can do it as--under other business.
16 That's not a problem.
17 PETERS: So how do I go about making that happen
18 right now? Do I have to hold off on the one and do
19 it under other business?
20 FISHERING: You could, if it's not listed, yes.
21 PETERS: Okay, then, having said that, let me make
22 sure I've got the right one here.
23 BLOOM: Oh, no, you--you need to do that one.
24 FEIGHNER: The Reconfiguration is the one that
25 actually is before you now, and--

0038

1 PETERS: Okay.
2 FEIGHNER: --apparently there was a misunderstanding
3 when--
4 PETERS: Okay, then--
5 FEIGHNER: --we delivered--
6 PETERS: --let me--
7 FEIGHNER: --the contracts.
8 PETERS: --let me hang onto this--
9 BLOOM: I will.
10 PETERS: --so I can do that under--
11 BLOOM: And then--
12 PETERS: --other business--
13 BLOOM: --you didn't--
14 PETERS: --and then--
15 BLOOM: --sign it--
16 PETERS: --let me--
17 BLOOM: --anyway.
18 PETERS: Oh. I missed that, too. Let me make a
19 motion, then, to approve the Reconfiguration Planning
20 Phase Agreement between Allen County and Motorola.
21 FEIGHNER: Thank you.
22 BLOOM: Second. All in favor signify by saying
23 "aye."

24 PETERS: Aye.

25 BLOOM: Aye. And this one we'll do--

0039

1 PETERS: And I'll hold the other one for other
2 business.

3 FEIGHNER: Do you want us to stay for other business
4 for that purpose?

5 PETERS: I don't think that's necessary.

6 BLOOM: You've already--

7 FEIGHNER: Thank you.

8 BLOOM: --clarified that. No, you sign this one.

9 PETERS: Okay.

10 BLOOM: I have to just lead you around here.

11 PETERS: Somebody does.

12 BLOOM: Yeah, we'll do that one later. Thank you.

13 FEIGHNER: Thank you.

14 DeROSE: Thank you very much.

15 BLOOM: Approve the following change orders for
16 Dupont Road from Pine Mills to Auburn Road, Project
17 #00-339, Change Order #2--

18 HARTMAN: Good morning.

19 BLOOM: Good morning.

20 PETERS: Good morning.

21 HARTMAN: Bill Hartman, Allen County Highway
22 Department.

23 BLOOM: Change Order #2 is 952.50 [\$951.50]

24 increase--

25 HARTMAN: Yeah.

0040

1 BLOOM: --Change Order #3 8,554.12 [\$8,554.12]
2 increase; and Change Order #4, additional pedestrian
3 trail, 20% by the City of Fort Wayne, but this is a
4 federal project, so it's an 80/20 project.

5 HARTMAN: Right. Yes. So the federal government
6 will pay the 80%.

7 BLOOM: Correct. Okay.

8 HARTMAN: Of that portion.

9 BLOOM: Right.

10 HARTMAN: You know, that--you know, of that
11 modification.

12 BLOOM: Do you have any questions?

13 PETERS: No. I make a motion to approve the change
14 orders for Dupont Road from Pine Mills to Auburn

15 Road, Project #00-339.

16 BLOOM: Second. All in favor signify by saying

17 "aye."

18 PETERS: Aye.

19 BLOOM: Aye. Approve Change Order #1 for Scott Road,

20 the hill cut, Project #05-316, for the safety

21 reasons, of course, \$626.80.

22 PETERS: I make a motion to approve Change #1 for

23 Scott hill--Scott--Scott hill--Scott Road for the

24 hill cut, Project #05-316.

25 BLOOM: Second. All in favor signify by saying

0041

1 "aye."

2 PETERS: Aye.

3 BLOOM: Aye. Approve Change Order #2 for Union

4 Chapel road, Phase III, Project #01-045 for an

5 increase of \$35,065.65. Could you tell us a little

6 bit about that, please?

7 HARTMAN: Certainly. This is another situation where

8 we ran into some unsuitable soil conditions

9 primarily, and we did some evaluations on how to best

10 accomplish this with geogrid and compacted ag

11 undercut. This would have cost us somewhere in the

12 neighborhood of \$70,000.00. When we did this with a

13 subgrade treatment with lime stabilization, which was

14 only about \$27,000.00, and then there's also some

15 additional concrete driveway work in this change

16 order and some water main replacement also in this.

17 But the water main replacement will be reimbursed by

18 the City of Fort Wayne.

19 BLOOM: City?

20 HARTMAN: Yes.

21 PETERS: That's--

22 BLOOM: Number 11.

23 PETERS: --it's the Union Chapel one. Okay, I'll

24 make a motion to approve Change Order #2 for Union

25 Chapel Road, Phase III, Project #01-045.

0042

1 BLOOM: Second. All in favor signify by saying

2 "aye."

3 PETERS: Aye.

4 BLOOM: Aye. Bid Award for 2006 Concrete Pavement

5 Repair Package #7 in Pheasant Run in Pleasant

6 Township, 38,351 [\$38,351.00] was the low bid.
7 HARTMAN: And our engineer's estimate was \$47,000.00,
8 and you know, this was the lowest of two bids--
9 BLOOM: Two bids.
10 HARTMAN: --yeah. Four--four offered, two came back,
11 and it's significantly under the engineer's estimate.
12 PETERS: I make a motion to approve the quotation bid
13 project for the 2006 Concrete Pavement Repair Package
14 #7.
15 BLOOM: Second. All in favor signify by saying
16 "aye."
17 PETERS: Aye.
18 BLOOM: Aye. Before we sign the plats we have other
19 business this morning?
20 HARTMAN: I have a couple. Yes, I have--
21 BLOOM: Approve and--
22 HARTMAN: --three or--
23 BLOOM: --award--
24 HARTMAN: --four items.
25 BLOOM: --quotation bids for three sidewalk and curb
0043

1 ramp packages: Perry Lake Estates, Package #1;
2 Package #2, River Bend Bluffs; Package #3,
3 Bridgewater/Chestnut Hills. I haven't seen those
4 yet. Here they are.
5 ELSER: Here they are. This is it.
6 HARTMAN: We sent these out to four or five
7 prospective bidders. We only got one bid back on
8 each one, but there again, they were all
9 significantly under the engineer's estimate, and
10 we're recommending an award of these projects.
11 BLOOM: I think I'm going to read these. The first
12 one, Key Concrete, \$20,029.00; the second one is Key
13 Concrete for 35,868 [\$35,868.00]; and project three,
14 Key Concrete at 11,766 [\$11,766.00], and they were
15 all under the engineer's estimate?
16 HARTMAN: Yes.
17 PETERS: I make a motion to approve and award
18 quotation bids for the three sidewalk and curb ramp
19 packages in Perry Lake Estates, River Bend Bluffs,
20 and Bridgewater/Chestnut Hills.
21 BLOOM: Second. All in favor signify by saying
22 "aye."

23 PETERS: Aye.

24 BLOOM: Aye. Approve emergency weight limit postings

25 on the following bridges: oh boy, here we go, Wayne

0044

1 Trace Bridge over Trier Ditch, post five tons; and

2 Barnett Road Bridge over Wilbur Ditch, five tons.

3 Are either one of these--

4 HARTMAN: Wayne Trace is on the bond issue and due to

5 be replaced through the winter or early spring, there

6 abouts, so this posting shouldn't last a very long

7 time. Barnett Road is in a--in a road study area.

8 It hasn't been determined how--how much involved

9 we're going to pursue that project, but it is also,

10 you know, with--under study for replacement.

11 BLOOM: Okay, that one's from Nodestine over to 37,

12 right?

13 HARTMAN: Yes, and this--this bridge is right at 37.

14 BLOOM: It's gravel right now and the trucks are

15 using it as a cut-through. It's not a safe

16 situation. So we're actually--by doing a weight

17 limit emergency, then the trucks--

18 HARTMAN: Yeah, they won't--

19 BLOOM: --won't go that way?

20 HARTMAN: No, they won't be allowed to go that way

21 until we--

22 BLOOM: They can--

23 HARTMAN: --determine--

24 BLOOM: --go down to Cuba.

25 HARTMAN: Right.

0045

1 BLOOM: Yeah.

2 HARTMAN: Yes.

3 PETERS: Mr. Hartman, the restrictions on weight come

4 about as a result of the age--

5 HARTMAN: No, as--

6 PETERS: --of the bridge?

7 HARTMAN: --well, that, but it's recommended by our

8 consulting firm that every two years evaluates all

9 our bridges 20-foot span and over. But yes, age and

10 deterioration are a primary--

11 PETERS: The primary reasons for--

12 HARTMAN: Yes, sir. Yes, sir.

13 PETERS: All right, I make a motion to approve the

14 emergency weight limit postings on Wayne Trace Bridge
15 over Trier Ditch and Barnett Road Bridge over Wilbur
16 Ditch.

17 BLOOM: Second. All in favor signify by saying
18 "aye."

19 PETERS: Aye.

20 BLOOM: Aye. Under other business, now, I wish you'd
21 please do that.

22 PETERS: Yeah. I'll make a motion to approve the
23 Planning Funding Agreement previously discussed with
24 respect to Motorola and Nextel.

25 BLOOM: Second. All in favor signify by saying

0046

1 "aye."

2 PETERS: Aye.

3 BLOOM: Aye. Would you waive the second reading?

4 PETERS: I make a motion to approve to waive the
5 second reading of any matter approved today and for
6 which it may be deemed necessary for the Legislative
7 Session of October 4th, 2006.

8 BLOOM: Second. All in favor signify by saying
9 "aye."

10 PETERS: Aye.

11 BLOOM: Aye. Also, there will not be a legislative
12 session next week on the 11th. The next scheduled
13 session will be October 18th. Any comments from the
14 public this morning? Come forward, please.

15 WOOD: I have just a clarification. The plat that I
16 put on for today actually goes to Huntertown, so you
17 do not need to sign it.

18 PETERS: But can we anyway?

19 WOOD: You can scribble all over it.

20 BLOOM: Oh, the plat, the new--the plat. I'm sitting
21 here thinking what--okay, thank you.

22 WOOD: No--rezonings, yes. The plat, no. Thank you.

23 BLOOM: Okay, thank you very much. Well, good
24 morning.

25 CONKLIN: Good morning. Dick Conklin, Tobacco Free

0047

1 Allen County, and again, although the smoking
2 ordinance is not on the agenda for this morning's
3 meeting, I want to assure the Commissioners that we
4 continue to work with you as well as provide

5 information for you from your constituents in the
6 county. Our coalition for the organization includes,
7 give or take, 20 different organizations, and as we
8 meet with both our membership as well as our
9 volunteers, we continue to collect petitions asking
10 the Commissioners to adopt the ordinance as it was
11 pres--originally presented. Again, I have for the
12 Commissioners 18 additional petitions representing a
13 little over 300 additional signatures of citizens of
14 Allen County. The question that we're finding is
15 being asked more and more from our organization--
16 coalition organization is will we have the
17 opportunity to review any ordinance language
18 revisions prior to action by the Commissioners?
19 PETERS: The agendas along with any possible
20 modifications generally come out I think on Monday
21 preceding the legislative action on Wednesday, so
22 there would be that opportunity.
23 CONKLIN: Between Monday and Wednesday--
24 PETERS: Right.
25 CONKLIN: --for any changes? Okay. That's the
0048

1 information I request.
2 BLOOM: Thank you very much.
3 CONKLIN: Thank you.
4 PETERS: Thank you.
5 CONKLIN: Again, I provide this to you. And we will
6 continue to collect information on that.
7 PETERS: Great. Thank you.
8 BLOOM: Thank you very much. Any other comments this
9 morning? (No response.) Hearing none, motion to
10 adjourn?
11 PETERS: So moved.
12 BLOOM: Second. All in favor?
13 PETERS: Aye.
14 BLOOM: Aye. Thank you very much. See you next
15 week.
16 CONKLIN: No, you won't.
17 BLOOM: No, not next week. Two weeks. October 18th.
18 Thank you.

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21

(Adjourned 10:52 a.m.)

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0049
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STATE OF INDIANA)
) SS:

COUNTY OF ALLEN)

REPORTER'S CERTIFICATE

I, M. Joshua Osbun, a Notary Public in and for the State of Indiana, County of Allen, do hereby certify that the above and foregoing is a true and accurate transcript of the Board of Commissioners of the County of Allen, Legislative Session, held before me on October 4, 2006 in the Allen County Commissioners' Courtroom, Room 200, City-County Building, 1 East Main Street, Fort Wayne, Allen County, Indiana; that I am not related to, employed by or interested in any of the parties to this cause of action.

IN WITNESS WHEREOF, I have hereto affixed my hand and seal this 16th day of October, 2006.

M. Joshua Osbun, Notary Public
Residing in Allen County, Indiana

My Commission Expires:
May 14, 2010