

MINUTES

WARRICK COUNTY AREA PLAN COMMISSION
Regular meeting to be held in Commissioners Meeting Room,
Third Floor, Historic Court House,
Boonville, IN
Monday,
February 13, 2023, 6:00 PM

PLEDGE OF ALLEGIANCE: A moment of silence was held followed by the Pledge of Allegiance.

MEMBERS PRESENT: Richard Reed, Jeff Willis, Doris Horn, Jeff Valiant, Amanda Mosiman and Greg Webb. Bob Johnson was absent.

Also present were Morrie Doll, Attorney, Molly Barnhill, Executive Director, Katelyn Cron, Assistant Director and Jen Hollander, Staff.

MINUTES: To approve the Minutes from the last regular meeting held January 09, 2023. Doris Horn made a motion to approve the minutes as distributed, Jeff Willis seconded the motion and it carried unanimously.

President Valiant said we are going to adjust the agenda a little bit. He continued for those of you that have a copy we are going to go ahead and knock out the primary plat and rezoning first before we get to the petition for Town of Victoria Wood. He said we have one primary plat and three rezonings, primary plats will get final approval here, rezonings will go to the next Commissioners meeting, Which is on...a date to be determined.

Mrs. Barnhill said March 13th at 10 o'clock.

President Valiant said March 13th at 10 o'clock.

PRIMARY PLATS:

PP-23-01: Adams Creek No. 3: PETITIONER/OWNER: Cory Alan King & Laura Sankovitch King. Approximately 9.70 acres located on the south side of Edwards Road. Approximately 50 feet east from the intersection formed by Edwards Road and Spring Lake Drive. Being Lot 3 in Adams Creek No. 2, Recorded in Document # 2016R-003964. Boon Township. (*Advertised in the Standard on February 2, 2023*).

President Valiant said sir please state your name for the record.

Brett Sermersheim said Brett Sermersheim with Morley representing the King's. He said we are replatting....

President Valiant said sir we will go through a staff report real quick.

Brett Sermersheim said okay, sorry.

Mrs. Barnhill asked Brett are the owners here tonight.

Brett Sermersheim said yes they are.

Mrs. Barnhill said thank you. She said return receipts, we are missing one green card from a Waylon and Kelly Walls, but we do have the white pay receipts and they were mailed correctly. She continued the current zoning is "CON" Conservancy Zoning, there is no flood plain. She said the proposed development is a one lot subdivision totaling 9.70 acres. She continued Adams Creek Number 2 was recorded with Lot 3 being non-buildable, the new owners are wanting to build on this lot so they had to go back through the Primary Plat process due to the way it was done the first time. She said the street constructions plans, the Commissioner's approved the request for no street plans today, Drainage Board approved the request for no drainage plans, the Health Department signed off on proposed septic sites, and Chandler has capacity for the water, so the plat would be in order.

President Valiant said thank you Molly. He asked now, sir do you have anything to add to the staff report.

Brett Sermersheim said nothing more to add.

President Valiant said thank you, any questions from the Board at this time.

Brett Sermersheim said no I don't.

President Valiant asked any questions from the Board at this time. He said any remonstrations for or against this project, if so please step forward. He continued I don't see anybody moving, I will turn it back over to the Board, any questions or concerns.

Richard Reed asked why was it considered non buildable.

Mrs. Barnhill asked when they did it the first time.

Richard Reed said yes.

Amanda Mosiman said yeah, my question was going to be when did they do it, when was the first one.

Brett Sermersheim said when they did it the first time they did not do soil test for a septic.

Amanda Mosiman said for septic.

Brett Sermersheim said on this lot.

Attorney Doll said it was wooded.

Brett Sermersheim said it was wooded, correct.

Richard Reed said okay.

Brett Sermersheim said and so they now have moved in and they have cut the...where they are going to put their house and have the field bed tested.

Amanda Mosiman asked when was the original plat done.

Brett Sermersheim said I think that was back in 16.

Mrs. Barnhill said the previous one, Number 2 was done in 2016.

Amanda Mosiman said okay, I was just curious.

Attorney Doll asked why wasn't it Adams 1.

Mrs. Barnhill said no its in Adams 2.

Attorney Doll asked why would they start at 2.

Mrs. Barnhill said yeah, there is an Adams 1 and then they came back and did 2 and now this is number 3, yes sorry.

Attorney Doll said okay.

Amanda Mosiman said okay.

President Valiant asked any other questions from the Board.

Attorney Doll asked Richard did that answer your question.

Richard Reed said yes.

President Valiant said if not I will entertain a motion.

Ricard Reed made a motion to approve PP-23-01. Doris Horn seconded the motion and it carried unanimously.

President Valiant said thank you sir.

Brett Sermersheim said thank you very much.

President Valiant said you're welcome.

REZONING:

PC-R-23-01: PETITIONER/OWNER: Richard A Kolley. To rezone .24 acres located on the east side of Cherry Street approximately 135 feet southeast of the intersection formed by Cherry Street and 3rd Street from “R-1A” One Family Zoning District to “C-1” Community Commercial Zoning District. Being part of Lot 19 in Lynn’s 2nd Enlargement in the Town of Elberfeld. *(Advertised in the Standard on February 2, 2023)*

Amanda Mosiman asked Lynnville you mean.

President Valiant said what did I say Elberfeld.

Amanda Mosiman said yes you did.

President Valiant said (laughing) Town of Lynnville, sorry.

Amanda Mosiman said (laughing) I know you like to play favorites, but that is a little....

President Valiant said easy.

(Laughing from the Board)

President Valiant said sorry about that, please state your name for the record.

Richard Kolley was present.

Richard Kolley said that’s alright.

President Valiant asked Molly do we have a staff report.

Mrs. Barnhill said we do have all of the pay receipts from their notice to adjacent property owners, the Lot size is 2.4 acers, and the comprehensive plan projects this area to be commercial. She said the existing use is, there is storage built right next to it, and this Lot is vacant right now. She continued the surrounding zoning and land use north, south and east are “R-1A” being single family dwellings, to the west is “C-1” being Mr. Kolley’s original deer processing business. She said there is no flood plain and the access is on to Cherry Street. She continued the stated use is a deer processing storage area, which would be in compliance, so everything would be in order.

President Valiant said thank you. He asked Mr. Kolley do you have anything to add to the staff report.

Mr. Kolley said no, thank you.

Amanda Mosiman asked are you just adding on to the current business.

Mr. Kolley said yes, the front half is commercial and the back half is....

Amanda Mosiman said right.

Mr. Kolley said I'm at my...I was going to try to maybe sneak it in there, but I want to do it right this time.

(Laughing)

President Valiant said we appreciate that.

Amanda Mosiman said yeah we do.

President Valiant asked any other questions.

Mr. Kolley said I didn't want to tear it down after I built it, you know what I mean after I built it.

President Valiant said absolutely.

Mrs. Kolley said sir do you need these green slips.

President Valiant asked do you need those.

Mrs. Barnhill said yes, could you hand it to the ladies right there, thank you.

Amanda Mosiman asked how much is this going to increase your processing by, to be able to have the additional space.

Mr. Kolley asked how many deer.

Amanda Mosiman said yeah.

Mr. Kolley said we are doing 800 now...

Amanda Mosiman asked what's this going to bring.

Mr. Kolley said I don't want any more.

Amanda Mosiman said yeah, you don't want any more.

Mr. Kolley said I just....

Amanda Mosiman asked this is just to help store it.

Mr. Kolley said yeah, I want to store them in there and then run them into the cooler.

Amanda Mosiman said okay.

President Valiant asked any other questions from the Board at this time.

Doris Horn asked Richard do you have grease traps already in your....do you have any grease traps already in the processing plant.

Mr. Kolley said no.

Doris Horn said you need to put some in.

Mr. Kolley said okay.

Doris Horn said okay.

Amanda Mosiman said that wouldn't be purvey to this Board.

Attorney Doll said no.

Doris Horn said no.

Amanda Mosiman said yeah.

Doris Horn said we just need them. She continued we have a new sewer treatment plant, just trying to protect that 2.8 million dollar investment.

Richard Reed said big time.

President Valiant said any remonstrators for or against this project, if so please step forward, seeing none I'll bring it back to the Board, again any last questions or concerns. He said if not I will entertain a motion.

Doris Horn made a motion to approve PC-R-23-01 with also a condition to make sure that you are in compliance with the Health Departments rules and regulations. Richard Reed seconded the motion and it carried unanimously.

President Valiant said there we go, thank you sir.

Amanda Mosiman said question, can we do that.

Attorney Doll said yeah, you can conditionally approve it.

Amanda Mosiman said alright, I was just making sure.

Mrs. Barnhill said so this will go to the Commissioners on that March 13th meeting at 10 o'clock.

Mr. Kolley said thank you.

President Valiant said thank you.

Mrs. Barnhill said okay, thank you.

Mrs. Kolley asked do we need to attend that.

Mrs. Barnhill said yes, I would recommend somebody be there.

Attorney Doll said yes.

Mrs. Kolley said okay.

Attorney Doll said same room.

Mr. Kolley said she will be there, same room.

President Valiant said yep, same room.

Mr. Kolley said same time.

Attorney Doll said no, not the same time.

Doris Horn said have a good evening.

PC-R-23-02: PETITIONER/OWNER: D & L Investments of Newburgh, LLC by Lynn Ogle, Member. To rezone .343 acres located on the west side of State Road 261 approximately 900 feet north of the intersection formed by State Road 261 and Fuquay Road from “R-1” One Family Zoning District to “C-4” General Commercial Zoning District. Ohio Township. (*Advertised in the Standard on February 2, 2023*)

President Valiant said please state your name for the record.

Krista Lockyear was present.

Attorney Lockyear said I’m with the Law Firm of Stoll Keenon and Ogden in Evansville. She said I have with me Lynn Ogle member of D&L Investments Newburgh and Nathan Ogle who is the owner and operator of Ogle Motor Sports directly across the street.

President Valiant said thank you. He asked Molly do we have a staff report.

Mrs. Barnhill said we have all of the green cards showing the property owners were notified correctly, the Lot is 3.249 acres, the comprehensive plan for the Elberfeld, Greer and Campbell Township....I’m reading the wrong one, I’m sorry, 23-02. She said we are missing one green card from INDOT, we have all of the white pay receipts showing they were mailed correctly, these were emailed so she just gave me the originals tonight. She continued the Lot size is .343 acres, comprehensive plan projects the area to be public schools or recreational, the existing land

is vacant. She said to the north is “C-4” being commercial business, east “C-3” with commercial business and “A” Castle North Middle School, to the west is “R-1D” being Paradise View Subdivision with single family dwellings to the south “R-1A” with single family residence. She continued there is no flood plain, they have access onto State Road 261, and their stated use would be vehicular and other storage which would be in compliance.

President Valiant said thank you Molly, Mrs. Lockyear do you have anything to add to the staff report.

Attorney Lockyear said yes, yes. She continued as I indicated Nathan Ogle is with me owner and operator of Ogle Motor Sports across the street, while this isn't a direct extension of his business he did identify the need for storage for trailers, smaller vehicles, although we don't want to limit the use to that. She said this would be a general storage area, however again it would be a very nice extension for him in the business, and he has identified that need. She continued Nathan has I believe spoken with many of his neighbors there, as you see from the site plan there is some residential surrounding this property, it is my understanding the neighbors are more than happy to have something that would block the highway noise, and so the plan is to develop the building here very similar in structure to the adjacent self-storage units there, probably less than 10 units is that fair...

Nathan Ogle said yeah.

Attorney Lockyear said if you have any more particular questions you are more than welcome to ask my clients about that, we don't have a site plan for you, we just haven't gotten that far along but that is the intention.

President Valiant said thank you.

Jeff Willis asked will it be indoor or outdoor storage, if you built some building you could have also people park outside or just inside.

Nathan Ogle said just inside.

President Valiant asked if there was any remonstrations for or against this project, if so please step forward, nobody is getting up, we will bring it back to the Board any further questions or concerns. He asked is this lot going to be secured, fencing anything like that, if you don't mind please step up to the podium because they will be recording this they have to type minutes, thank you sir.

Nathan Ogle said we do not plan on gating it or anything.

President Valiant asked any other questions from the Board, if not I will entertain a motion.

Amanda Mosiman said so you don't want to say...I don't know I kind of put the stipulation on it with “C-3”....”C-3” is kind of large in what we can allow in that, I mean can we put some

stipulations on it. She continued a few vehicle storage, storage only directly related to the business, something, some language in there so it doesn't open it up to all "C-3" uses.

President Valiant said Council.

Attorney Doll said yes, you can do that, if the applicant agrees.

Attorney Lockyear said I don't think we have a problem to some restrictions on that, I sort of hate to have the Board at this point kind of on the fly say we don't want to XYZ it, I would kind of like to go by and go back and talk to my client. She continued what I can say is that we will provide a Use and Development Commitment before the Commissioners hearing to move forward to put some restrictions on that, I can't tell you exactly what those would be, but I do understand your concern that....I don't know how many uses you have in that category but.....

Richard Reed said quite a bit.

Amanda Mosiman said quite a bit.

President Valiant said it's a lot.

Attorney Lockyear said if it's a hundred uses I'm sure there is a lot in there that we can knock out of there, and again I don't want to unduly limit them, especially with Nathan's business across the street. She said I want to make sure we don't restrict something that he might need to use across the street, but put in some protections so we don't have all of the really scary things that might bother the neighbors.

Amanda Mosiman said right, that sounds great, I would like to see that Use and Development Commitment before this Board before we make our recommendations to the Commissioner's. She said I don't really like to tack that on between this meeting and that meeting, because the recommendation is about what is in front of us and if we haven't seen that, that's not a strong recommendation in my opinion.

Attorney Lockyear said Morrie, can we do that without extending us another month.

Attorney Doll said you could table it obviously.

Attorney Lockyear said I don't think we want to table for a month do we.

Lynn Ogle said we have this, I don't know, this is a picture of the storage units.

Attorney Doll said you don't have the plat.

Lynn Ogle said I don't know if that would help at all.

Attorney Lockyear said yeah, no I don't think it does.

Lynn Ogle said no, not really.

Attorney Lockyear said I think the concern is that, again I'm pulling out the number 100, but if the zoning that we are going to offers a strip club for example, we are going to make an agreement that we will not allow it to be a strip club.

Amanda Mosiman said there are a lot of uses.

Jeff Willis said that is the easy one everyone seems to remember.

(Laughing)

Attorney Lockyear said yeah that is low hanging fruit, I'm sure there are a lot more there but we are more than happy to do that, but we would really hate to lose a month.

Jeff Willis said yeah a storage building is a lot different than a gas station.

Attorney Lockyear said yeah, we have no intention of doing a gas station, I would say....

Jeff Willis said but if we left it open you sell it 10 years from now and they could put a gas station in there.

Amanda Mosiman said right.

Attorney Lockyear said sure, what I think would be palatable to my clients, and I'm putting words in their mouth so I want to see.....would be if you could condition your approval that we present a Use and Development Commitment before the Commissioner's meeting that restricts our use of the property to storage units and ancillary businesses that might facilitate Ogle Motor Sports, is that fair.

Nathan Ogle said yeah.

Amanda Mosiman said I'm okay with that.

Richard Reed asked do you want that with our motion.

Amanda Mosiman said well I figured leave discussion open before I make a motion.

President Valiant said right, and we were just discussing, basically stipulating that it is related to business that he currently has, I think that.....does that suite you Amanda.

Amanda Mosiman said yeah.

President Valiant asked any other discussion or does anybody want to make that into a motion.

Amanda Mosiman made a motion to approve PC-R-23-02 with the condition that there will be a Use and Development Commitment directly related to this business presented to the Commissioners

Attorney Lockyear said and we could maybe even pin that down a little bit more to be directly related to storage units and or the business of Ogle Motor Sports across the street.

Greg Webb said I will seconded that.

President Valiant asked Greg did you second that.

Greg Webb said yes.

Richard Reed asked is that okay Morrie.

Attorney Doll said yes.

Amanda Mosiman made a motion to approve PC-R-23-02 with the condition that there will be a Use and Development Commitment directly related to this business presented to the Commissioners. Greg Webb seconded the motion and it carried unanimously.

Mrs. Barnhill said we will need that so we can have it prepared for the Commissioner's.

Attorney Lockyear said absolutely, what is the date of the Commissioner's meeting.

President Valiant said it's the 13th.

Mrs. Barnhill said March 13th.

Attorney Lockyear said okay, we can get that to you with in the week.

Mrs. Barnhill said okay, perfect.

Attorney Lockyear said thank you.

PC-R-23-03: PETITIONER/OWNER: Raymond W. & Emily Jane Oeth Trust by Michael L. Oeth and Robert A. Oeth, Co-Trustees. To rezone 3.249 acres located on the north side of Elberfeld Road approximately 220 feet east of the intersection formed by Elberfeld Road and St Johns Road from "A" Agricultural & "R-1" One Family Zoning District to "M-1" Light Industrial Zoning District. Greer Township. (*Advertised in the Standard on February 2, 2023*)

President Valiant said sir please state your name for the record.

Jason Fuchs, land surveyor was present.

President Valiant asked do we have a staff report.

Mrs. Barnhill said we have all of the green cards on the notice to adjacent property owners, the lot size is 3.249 acres, the comprehensive plan for the Elberfeld, Greer and Campbell Township projects the area to be part commercial and part single family dwelling. She said the existing land use is a farm supply service, surrounding is to the north "R-1" and "A" with single family dwellings, east is "M-2", "R-1", "C-3" is commercial businesses and an industrial business, to the west is "A" with a single family dwelling and south is "A" with farm ground. She said there is no flood plain and they have access onto Elberfeld Road. She continued the stated use is a farm supply and farm service which would be in compliance with this zoning. She said the property is currently not in compliance with our Zoning Ordinance with the farm supply service store, the rezoning will correct that and if a favorable recommendation is awarded tonight he is prepared to file a minor subdivision which will match the proposed zoning boundary and will be recorded to split the farm supply business from the single family dwelling in the corner of this property so it is in compliance.

President Valiant asked Mr. Fuchs do you have anything to add to the staff report.

Jason Fuchs said I think Molly covered it.

President Valiant said thank you, any questions from the Board, any remonstrations for or against this project if so please step forward, see nobody moving, I will bring it back to the Board any further questions. He asked we are just getting into compliance.

Jason Fuchs said correct.

President Valiant said thank you, I will entertain a motion.

Richard Reid made a motion to approve PC-R-23-03. Doris Horn seconded the motion and it carried unanimously.

Jason Fuchs said thank you.

President Valiant said we going to move on to this.

Mrs. Barnhill said yeah.

Attorney Doll said yeah.

COMP-22-06: Tod Benthall-5622 Bethany Church Road. Possible Zoning Violation (*Continued from January 9, 2023 meeting*).

Cheryl Benthall said if I could.....

President Valiant said please state your name for the record.

Tod and Cheryl Benthall were present.

President Valiant said Molly did you have any updates or anything on this from last month.

Mrs. Barnhill said I looked at Code, I couldn't really find anything that defined how many stays it would take to create a living quarters. She said I did find...it is zoned "CON" conservancy and recreational. She continued recreational vehicle, according to Code, is designed as a temporary living quarters for recreational camping, travel or seasonal use. She said Morrie and I discussed this complaint some and we don't feel like, not sure that it is a zoning complaint, staying intermittingly in an RV, is kind of the stance.

President Valiant said is the occupant still, I believe it was the nurse the caregiver, still staying there periodically.

Cheryl Benthall said yeah.

Tod Benthall said periodically, yes.

Attorney Doll said what is periodic.

Cheryl Benthall said like she, we have been putting her, she has been staying in the house and like I said she can go out and have her personal space, but she still got her home in Evansville. She said she does like I said come and help me, she has been a big help.

Attorney Doll asked where does she sleep at night.

Cheryl Benthall said she was sleeping in the camper the days that she is off, she basically....I feel like this case was brought by Mr. Gilbert...it stated in the, Molly highlighted the area where he said he didn't have no animosity, no kind of grudge and that is just simply not true. She continued not only do have, we gave you all a copy, my husband had sent him a demand letter on December 3rd and he filed this complaint on December 7th. She said not only has he done that, but my husband worked for him with no money up front and he paid some from the insurance, but in August he started building his actual fire pit less than 15 foot away from the camper and them after we were here at this meeting last month he actually started disposing of his deer meat about 15 foot from the back of the camper. She continued he is intimidating and you know...he cusses us...I mean I have never had to give the right of way to chickens and roosters and we have wrangled lamas in his yard for him when they got out, we have done everything to be try to be a good neighbor, because we don't....you know, he did have animosity and didlike I said in August my husband still working for him when he started that fire pit. She said I tried to take a picture of the one camper where you can see how close it was and he screams at us, he screams. She continued we are going to put up a privacy fence I do know that, because this gentleman here, he is not here tonight.....

President Valiant said that would probably be a good idea, yeah.

Cheryl Benthall said the gentleman that was here, he's not here tonight, but he asked "what is it bothering you know that she stays and helps this lady" and he said "privacy and smell". She continued the only smell that is coming from there now is deer, of course because some of the

deer is still left and something big carried it off so that is a danger to our kids, our grandkids that we are raising. She said he has so many dogs and goats and he has actually....I don't know what he has done with the goats but we know that they are there, but he just prays the poop off the concrete into his yard, and it's like in the one picture it shows, his house is up here and ours is back this way and the campers is back there and you can't even see it and that is how close...he's got three acres as he stated that night. She said I feel like he has done nothing but harass us and intimidate my husband into not filling that small claims court case, but he did anyway because we are not going to stand....you know it's bad enough that I've got the problems that I've got and we don't want to be pushed around anymore.

President Valiant said Mrs. Benthall in relation to complaint in hand, which was...is the caregiver living in the camper yes or no.

Tod Benthall said not living.

Cheryl Benthall said no.

President Valiant said okay, that was the original complaint correct.

Mrs. Barnhill said yes.

President Valiant asked what are the Board's feelings on this. He said the complainant is not here, I don't see him in here.

Cheryl Benthall said he is not here.

President Valiant asked based on your findings Council it sounds like we....

Attorney Doll said we would not be in violation.

President Valiant made a motion to resolve Comp-22-06. Richard Reed seconded the motion and it carried unanimously.

Cheryl Benthall said in that case you know I got...she works for the Sherriff Department in Evansville so she's got a lot vacation, so does that mean that she can stay in the camper.

President Valiant said she is not living there, correct.

Cheryl Benthall said no.

Tod Benthall said as long as she's not living there.

President Valiant said there we go, she is not living there.

Cheryl Benthall said okay, thank you guys, I just want to make sure I understood.

Richard Reed said we've dropped the case, thank you.

President Valiant said thank you.

Cheryl Benthall said thank you all for your time.

President Valiant said you are very welcome.

Cheryl Benthall said sorry that we...

President Valiant said your fine ma'am we have it all the time.

WAIVER REQUEST: Chad Wager, PS on behalf of Boonville Natural Gas is requesting a waiver from the Subdivision Control Ordinance, Article II, Sec. 2, 45(i)a to allow a parcelization to create a lot with less than 2.5 acres.

Mrs. Barnhill said we have Chad Wagner here his client is Boonville Natural Gas and he has requested a waiver to allow a parcelization on a .07 acre parcel. She continued the minimum in our ordinance for a parcelization is 2.5 so that is what he is requesting a waiver from is the 2.5 minimum acre requirement. She said it is for the Natural Gas Company, they already have a...what's there now.

Chad Wagner said it is a substation of some kind, I don't know exactly what it is, there are a bunch of pipes there I think it is a pump station. He continued nothing is changing with the use, there are no proposed improvements of any kinds to this, and I'm not even sure there is an easement for this thing in writing. He said what they are wanting to do is fee simple ownership for the ground that this facility is on.

Attorney Doll asked right now it is part of a farm field.

Chad Wagner said yeah, so a little bit of history, this property owned by the Hendrickson's for decades, there was a land auction in I believe in 2019. He said Kurt Stahl bought the property and this is something that they are all wanting to clean up, this has come down the line between the family, the Hendrickson's have owned....some of the Hendrickson's had stake in the gas company for years and now it is all separated.

Attorney Doll asked is it a trucking company next door, is that what that says.

Chad Wagner said yes.

Attorney Doll said but this has nothing to do with the trucking company.

Chad Wagner said correct.

Attorney Doll asked Sthal's is agreeable to selling this small, small, small parcel to the gas company.

Chad Wagner said yeah, he is ready to sign the Deed.

Attorney Doll said okay, so you're trying to deal with the legal technicalities of the Warrick County minimum size, right.

Chad Wagner said right.

Attorney Doll said so you're asking for a waiver of just that, the minimum size requirement.

Chad Wagner said correct, I was thinking about this on the way here, technically it would be the road frontage too. He said it is 37 ½ feet of frontage, I believe it is 37 feet of frontage, and the depth is 82 ½ feet.

Attorney Doll said so you don't have 50 feet of frontage.

Chad Wagner asked do what.

Attorney Doll said you don't have....you do not have 50 feet of frontage.

Chad Wagner said correct.

Attorney Doll asked so will there be two waivers.

Mrs. Barnhill said yep.

Attorney Doll said so you're really asking for two waivers. He continued Warrick County has an Ordinance that says you have to have for a parcel a minimum frontage of 50 feet on a public road, you don't. He said so that is a waiver.

Chad Wagner said right, right.

Attorney Doll said Warrick County has a minimum area for a parcelization and you don't meet that so you're asking for two waivers.

Chad Wagner said correct.

Attorney Doll asked alright, so is your application...we do have an application right. He said he has filed an application for a waiver, what did he file.

Mrs. Barnhill said the letter requesting the waiver.

Attorney Doll said okay, so you're amending your application here tonight to request both waivers.

Chad Wagner said correct, when Molly and I had the conversation the frontage thing didn't come up.

Attorney Doll said I understand.

Mrs. Barnhill said yeah.

Attorney Doll said we just want to make sure we get everything before the Board at one time.

Chad Wagner said I understand.

Attorney Doll said okay, and for the Boards edification have your all found your drawing, your photo, okay.

(Board agrees)

Attorney Doll said it is a little yellow rectangle that is 0.08 acres on this picture.

President Valiant said thank you Council, any questions from the Board. He asked any remonstrations for or against this, I will bring it back to the Board and entertain a motion.

Amanda Mosiman made a motion to grant two waivers to the Subdivision Control Ordinance for this particular parcel one being allowing a parcelization less than 2.5 acres, second being a waiver of the 50 foot of frontage. It was seconded by Richard Reed and carried unanimously.

Chad Wagner said thank you.

President Valiant said thank you.

Petition to Incorporate Town of Victoria Woods, Indiana: Part of Section 5, 8, & 17-6-8 Boon Twp. *Complete legal on file. (Advertised in the Standard on February 2, 2023)*

Jordan Aigner, Oakland Holdings LLC, Representative and Petitioner, was present.

Jordan Aigner said so a couple of thoughts prior to...

Attorney Doll interjected do we have a staff report.

Mrs. Barnhill replied no.

Jordan Aigner said oh, sorry. He asked no staff report, right.

Mrs. Barnhill agreed right.

Jordan Aigner said alright, I didn't think so. He continued so we filed a petition; filed it with the Auditor, and then I guess that gets directed to the Commissioner's, and that is why we are here today because then, per the state statute, it has to come before you guys. He said so overall our

development, you guys have seen the development of the community out there at this Board via the plats and things like that so we had talked about this idea actually internally back in 2020. He added so I want to tell you just briefly, we had talked to, I have my team here with me and I will turn it over quickly to them because I know we have had a long meeting, or you know, you guys have all been here long and we can talk forever but I wanted to tell you real briefly why we have arrived at this and why we were talking about it way back in 2020. He said this project, some of you might remember, was what we have right now, is basically a resurrection of an older project and that was, if you remember, the term Green Life and there was an out-of-town developer that had this project in some form. He said there was some, I am going to say baggage that came along with that and there were a lot of hurdles with this project in this particular location and they tried to develop it and then they hit a lot of these hurdles and they just let it drop, okay. He said I bring that up because although we have come through the fire, right, so to speak and we are selling lots, which is... we're blessed. He added there were some... there are still some hurdles that come from that original baggage and so previous commitments, US Fish & Wildlife., Conservation Clubs, neighbors, so all of this stuff we have been working through the best we can but as we see it forward this idea of incorporation kept coming up, okay. He said so there are some other... please know there is not just one reason, right, you may have a question why are you doing this, there is not just one reason. He added it is an aggregate of several, okay, and I can point out those maybe better at the end of this presentation, I don't want to take anymore of your time if you don't need it and I certainly want to get these experts talking so that is, in general, what is going on here was trying to figure out the success of the project. He added 10, 15, 20 years down the road. He said so, if you don't mind I will stop there and I will introduce a couple of our team members. He said Steve Unger with Bose McKinney and Jarrod Hall with Krohn & Associates and they helped me out as the experts. He added so I am going to turn it over to them.

Stephen Unger, Bose McKinney, Attorney, and Jarrod Hall, Financial Consultant, Krohn & Associates, were present.

Stephen Unger said good evening, again Bose McKinney & Evans my address is 111 Monument Circle in Indianapolis. He said we have a presentation that we put together and I am just going to try to walk through that presentation. He added hopefully you had a chance to look at it and I will let Jarrod Hall when we get to some of the fiscal portion, allow him to get up and talk when we get to that point and if you go to slide 2 or page 2, just kind of an overview of the things that I want to cover today. He added it is my hope, I know there was a pre-meeting with Jordan and a lot of questions about transition and timing and how services are provided and so hopefully I will be able to answer a lot of those just through this presentation, but certainly we will have an opportunity to answer questions throughout or at the end. He said so I am going to kind of do an overview of Victoria Woods, I will talk about the incorporation process itself, I will talk about what the Planning Commission's role in that process and then I will kind of walk through the petition and fiscal analysis to help answer kind of the factors that the Commission has to look at for Victoria Woods, and then I will talk about timing of transition and responsibilities. He said so if you go to the next page or next slide, I assume everybody knows the area that we are talking

about but just incase they don't, this is an area just southwest of the City of Boonville, I have it highlighted there, and then you see the kind of close up of the aerial. He said it is about 595 acres and it is also east of the Victoria National Golf Course. He said if you go to the next page, a lot of people ask "what is incorporation?" right, that's a question we get a lot of the time. He said when we are talking about incorporation we are talking about the process of creating a local government entity, a town, okay and it is all fixed by statute. He added so a lot of the questions about how services are provided, what does your town council look like, who governs it, those are all answered in the Indiana Code very often and so a lot of the questions that we have received beforehand, as I walk through, are found in the code. He said once the process is completed we essentially have a town that has all of the rights, powers, and privileges of all of the other towns in Indiana and kind of the starting point for town government is Indiana Code 36-5, it really governs what towns look like. He said if you go to the next page, what is the process for incorporation, and I will say there has a lot that has been done to get to this point in the last year. He said our team worked with the Assessor in order to verify financial information, figure out how the parcels were going to be calculated, the assessed value for this year, Krohn prepared what is a fiscal analysis to help demonstrate how we can pay for services and afford services with a reasonable tax rate, we have talked to the Trustees, we have talked to Boonville, we have Boonville's consent to proceed with this, and then of course ultimately we have put together these petitions that have been signed by the property owners. He said so the first step then, once the petition is prepared, it is filed with the County Commissioner's, gets forwarded to the Plan Commission for review, and that is where we are now. He said the Plan Commission investigates and makes a recommendation for approval or disapproval to the County Commissioner's, the County Commissioner's then hold a public hearing, that public hearing must take place by statute between, I have a later slide on this, but essentially March 4th to April 3rd. He added just once the petition was filed it starts the clock ticking on that and then ultimately it is up to the Commissioner's if they determine to proceed and approve it would be through the adoption of an Ordinance incorporating the town. He continued so then what is the APC role, and again, this is set by statute. He said it is Indiana Code 36-5-1.4b, "*the Plan Commission role is to investigate and then report its recommendation of approval or disapproval to the Commissioner's at least 10 days prior to the public hearing*", we do not have the date yet but again, it will be between March 4th and April 3rd. He continued reading code, "in making their report and recommendations they (or the Planning Commission) shall be guided by the requirements for incorporations set forth in Section 8 of this chapter". He said so then I have set forth what are the specific requirements or considerations under section 8. He read, "*1. Will the proposed town be used in the reasonable foreseeable future generally for commercial, industrial, residential, or similar purposes. 2. The ground will be reasonable compact and contiguous. 3. The proposed incorporation includes enough territory to allow for reasonable growth in the foreseeable future*". He said Section 8 then, and I won't go through all these, we will walk through them here in a little bit but, "*4. that a substantial majority of the property owners in the proposed town have agreed that at least six of the following municipal services should be provided on an adequate basis*", and then it lists kind of a menu of options, or a menu of services. He continued "*5. That the proposed town could finance the municipal services with a reasonable tax rate using current assessed values as the basis. 6. That the incorporation is in the best interest of the territory involved and that involves, not limiting factors, but consideration of the expected growth and governmental needs of the area surrounding the proposed town to the extent to which another unit can more adequately and economically provide essential services*

and functions, and the extent to which incorporators are willing to enter into agreements under 36-1-7”, those are called inter local agreements, “ *with the largest neighboring municipality*”, in this case that would be Boonville. He said so then if we, if you have had the time to actually finger through, or work through the petition itself, I am on page 11 here, the Victoria Woods Petition, again by statute you have to have 10% of the property owners to sign the petition, we have 100% of the property owners, in this case, have signed the petition. He said I think it has been, as Jordan indicated, part of the vision for this development for a while and property owner’s were aware and I believe excited about the potential incorporation here. He said but I have kind of plugged in here language that is in the petition signed by every single property owner. He said they have stated in their petition that, again it will be a lot of the requirements in the statute, how the property will be used, that it is reasonably compact and contiguous, it will permit reasonable growth, they agree it is in their best interest, they have designated Jordan as their contact person and representative and then again at the bottom, 100% have agreed that all of the municipal services, as outlined in the corporation study will be provided on an adequate basis so that is how we satisfy the, well how do you get a substantial majority to agree. He added everybody signed the petition agreeing that they would be provided on an adequate basis. He said so the area itself, compact and contiguous are kind of loose terms. He continued contiguous is something you find in the annexation statute and it means the area is entirely connected with itself, adjacent with itself essentially. He added we do meet the contiguity requirement and it is also, in my opinion, a reasonably compact area certainly the language is used, about compactness, is used in other statutes relating to, for example; council districts that you will find much more, I don’t know if the term is gerrymandered, but more stretched then what the area we find here is so I think it meets the... it is both compact and contiguous. He said currently there are 118 parcels and we estimate that there will be about 357 total parcels at build out. He added we have an estimated population of about 1,375 that is based off of 2.5 persons per household at 550 households. He said really talking the vision for this area is kind of a bedroom community feel of a town by itself. He said we have estimated about a 10 year build out and there is... so there is area within the boundaries right now to grow, certainly, and then there is also potential for growth if it were ever desired in the future especially I think to the south and east still. He said and again, under one of the statutory considerations is the extent to which were willing to enter into an inter local agreement with a neighboring community. He said Boonville has consented to this incorporation and in fact, we have had a lot of discussion with Boonville and as you will see Boonville, the expectation is we will enter into an inter local agreement with Boonville to provide police protection service to the new town. He said so if I go to the next slide, again I am going to work through the services here, and again I want to... if I can impress upon you guys how services are provided by a city or town or a county for that matter are really fixed by statute. He said police protection, again as I mentioned, were going to provide, initially, through the City of Boonville, for at least 5 years. He said the county still... the county sheriff maintains county wide jurisdiction so just because a town incorporates or annexes an area it doesn’t take jurisdiction away from the sheriff. He said certainly it would be less of a... you typically don’t see sheriff’s patrol as much inside of incorporated areas but they still have the ability to do that and still have jurisdiction within those incorporated areas. He said fire protection, we have talked to all the parties in the fire territory and expect that this will continue to remain a part of the Boonville Fire Territory. He said the next page gets into infrastructure and I have kind of narrowed these down a little bit but the statutory language is the streets, roads, and sidewalks... well by statute the town will acquire jurisdiction and jurisdiction is the term that I

use for responsibility, that is the legal term in the statute, over all public roads, streets, sidewalks, bridges, storm water, lighting, etc. and that is the general statute which is 36-1-3-9 which outlines municipalities having an exclusive jurisdiction within their boundaries. He said bridges, okay I know there were some questions about bridges, and again, under 36-1-3-9 the municipality has exclusive jurisdiction over bridges within its boundaries except as provided in 8-16-3-1. He added 8-16-3-1 says, “*when a county has a cumulative bridge fund*”, essentially a county wide tax for bridges, “*the county is responsible for all of the cost of maintenance for all of the bridges in the county including inside of the municipalities*”. He said so by statute the town will have jurisdiction but the county, as long as it maintains that county wide bridge fund, accumulative bridge fund, the county is responsible for providing funds for the cost of maintaining the bridges. He said to be clear here the statute defines what is a bridge. He said the bridge structure is that portion that is designed to carry vehicular traffic, I know Jordan... the plan has been, because there is a covered bridge there, the base or the traveled portion would be part of the public highway system but then Jordan was going to continue to maintain the bridge portion. He said our expectation here is that, again, with the cumulative bridge fund the county would be responsible for the maintenance of the traveled portion but the town would be responsible for and take over jurisdiction and control and maintenance of the esthetic bridge portion of the bridge. He added I think certainly those are the types of things that, again, when you share responsibilities by statute those are supposed to be done through the inter local agreement statute so we can kind of clarify those things and really solidify them through an inter local agreement through the town and the county after the new council would take office. He said sanitary sewers, I am on the next page, again is specifically mentioned in the statute, Boonville, will continue to provide sewer service to the area that is Indiana Code 36-9-23. He said utility service, water, same Boonville that is actually Indiana Code 8-1.5-3 and then CenterPointe, formerly Vectren, would provide electric and gas and again electric territory is fixed by statute, the entire state for electricity has been divided already and that does not change with incorporation or annexation. He said the next slide, and I have kind of lumped these two together, because I know there were some questions about MS4 and storm water jurisdiction but the statute talks about storm sewers and stream pollution control or water conservation. He said so I kind of tried to put these in boxes and I kind of did a formal response to these questions that include all of these specific statutes but there is, when it comes to drainage, I think it is statutorily there are layers of responsibility inside and outside of municipalities. He said so, the town, again, would obtain jurisdiction over all of the storm water infrastructure so all of the storm water utilities and that is the Homerule Act, but also Indiana Code 8-1.5-5 outlines storm water jurisdiction. He added the town also would obtain jurisdiction over the water courses which is, in Indiana Code 36-9-2-8, watercourses are your lakes, rivers, and streams, and there is some case law that defines what is and isn't a watercourse but that would also then become under the towns jurisdiction. He said regulated drains would still be inside of the municipality fall under the jurisdiction of a County Drainage Board and that is 36-9-27-15; there is no currently regulated drains within this area, is my understanding, but that wouldn't mean that the County Drainage Board couldn't in the future designate an area as a regulated drain within a municipality. He said so there is still that potential layer of jurisdiction. He said there is a Warrick County Soil and Water Conservation District, that does not go away, those are creatures of statute, it is Indiana Code 14-32 so the Soil and Water Conservation District will continue to have jurisdiction and exercise its jurisdiction throughout the county including within the town. He said so MS4, so we spoke with IDEM's MS4 Coordinator to verify this but, what they have

confirmed is that upon incorporation the area will no longer be a part of the county's MS4 entity, the county has been designated as an MS4 and they will be removed from that area for purposes of the county's permit but Rule 5 permits or kind of your construction work permits, those go through, will be filed with, or will be submitted to the Soil and Water Conservation District. He said IDEM ultimately dictates who is an MS4 so that is how it would work until IDEM would later on designate the town as an MS4 and then at that point the town would have its responsibilities to IDEM, notice of intents, and those things, and be responsible for storm water quality management within its limits. He said so the county does have a storm water fee and storm water fees are in Indiana Code 8-1.5-5-5, the county would not, storm water fee would no longer apply within the boundaries of the town. He added the town would have the ability to implement its own storm water fee using the same statute that the county used and I know Boonville has one as well that uses that statute. He said the next slide, looks like I am on 17 now, planning and zoning jurisdiction are mentioned under the statute, and I know this is probably important to you guys, again in Indiana Code provision specifically tells us how this transition happens. He read "*even after the town is created, planning and zoning functions continue to operate county area planning, that county area planning law until such time as the town does ones of two things; 1. Creates its own planning department under what is called the advisory planning law*", and I don't know familiar you guys are all with the nuances of the statute but there is advisory planning and area planning and you guys fall under area planning, or "*2. The town could elect to join area planning*". He added now the plan is, the intent is for the new town to have its own planning department under the advisory planning law, in order to do that, if you are familiar, you have to have a zoning ordinance, before you can have a zoning ordinance you have to have a comprehensive plan, before you can have a comprehensive plan you have to have a planning commission, and so the plan is to early next year, we will be in a position by the end of this year, assuming this is all approved, to have those materials in place and then early next year transition into the towns own planning department, however the statutes tells us until that happens, so maybe it is 6 months or maybe it's a year, but until that happens, nothing would change this Planning Commission and the County BZA would continue to have jurisdiction and exercise authority over that area so the statute really helps ensure that there is no gap in those services, and control really as well. He said if I go to the next slide, 18, health protection, again, it is fixed by statute, Indiana Code 16-20, "*the Warrick County Health Department will continue to have jurisdiction throughout the county*". He added only second class cities can create their own Health Department currently and I know there is legislation right now to even eliminate that for cities that haven't done it to this point, and I actually think it's going to get passed is my understanding. He said next, parks and recreation we envision that the town would have its own parks department, I know that is a big part of the vision. He added parks are Indiana Code 36-10. He said school and education, a question we get a lot in annexation and incorporation is will this change my school district, nope, this has no impact on school district and no impact on the school boundaries and that is Indiana Code 20 is kind of the General Education Statute. He said so with that, I think we will go to budget development and then I will talk about transition too a little bit at the end.

President Valiant said okay, thanks.

Jarrold Hall said good evening, I am with Krohn and Associates at 231 East Main Street, Westfield, Indiana. He said we are a CPA Firm and we work with cities and towns across the

state of Indiana and so we were brought on the team here to make sure all of these services that Steve just mentioned could be funded with a reasonable tax rate. He said so the first thing we did with our, you know we have quite an extensive background with budgeting and working with cities and towns of all sizes, so we sat down and we developed what the budget would look like for a town giving all these services that Steve just covered and so we built that and we did a 10 year model on that and what we determined was that based on the cost required to provide these services that the town, and based on their projected growth, and assessed value, that it could be done with a reasonable tax rate and, as well as, you know, the local income tax revenue. He said and so, I think that was kind of hurdle was working through those to make sure, because it is all great to say yeah we can provide all these services but then not have the money to pay for it. He said so what we did is we did that 10 year model and just a couple of points, we ended up of a target corporate tax rate of \$0.85 and in the next couple slides I put some real numbers out there but, one thing to note, is in earlier years we do expect that tax rate to be a little bit higher than the final. He said as it is being built out, assessed values coming online, you know, as the assessed value goes up your tax rate tends to go down. He added all things being the same. He said also a lot of it is going to determine on how fast the build out occurs, how fast these services are put in place, and the cost of those services so I kind of say all the numbers in here are assumptions, they are estimates. He said I mean, we obviously used our best assumptions based on our experience but it is likely that there will be some variation from what we put in our report here. He added we also try to prepare conservative estimates, right, we didn't include a lot of miscellaneous revenues in these things, we tried to be, what I would say, aggressive on the expensive side, right. He said my goal as an accountant, I tend to just naturally be more conservative so I don't want to understate expenses and overstate revenue because then we end up in a bad place. He said so really what we ended up with at full build out was possibly a \$0.85 total corporate tax rate, which is really comparable amongst cities and towns of this size and in this area. He said so I have a couple slides of the excerpts of some of the financial numbers. He said so the first table here on page 20, so this is kind of the 10 year, you can see that first column we have that estimated, we just built it out over 10 years with the assessed value growth and then the related tax revenue. He added you can see, we kind of start with \$1.40 tax rate and as build out occurs, build out occurs faster than the revenues we need to provide the services therefore, it causes the tax rate to decline and we end up at that \$0.85, again, estimate. He said if you go to page 21, this is a 10 year estimated operating cost and so in the petition, the very last page, I don't know how much you guys look at budget forms but it has the Form 1, and we really kind of, we got down into the detail of like a council, a clerk treasurer, bringing on the police officers and the vehicles, and we did a whole capitol plan, so we really did go kind of dive into the weeds on that. He said I don't think you guys want to hear all about that, but if you do ask me and we can, we can get into it. He added but this is kind of the high level summary. He said and then, on the next page 22 is where we take those revenues and put them with the operating cost to come up with a cash flow and so as you can see, you know the first year we don't have a huge operating margin on cash but overtime the goal is to build up the cash by maintaining reasonable tax rate, providing funds for services and capital costs, and then also providing for an operating balance, so... He said if you go to the next page, page 23, so impacts to the overlapping units and the overlapping units being the County, Libraries, Schools, Township, so the first thing is the tax rate itself is not going to be impacted by this because you have to remember, build out occurs and they just stack on top of each other so the county has its levee, the assessed value occurs in this town and just like the county assesses the tax rate in Boonville, Newburgh, it would be the

same thing in Victoria Woods and same with the township and school. He added so nobody is going to get a reduction in tax rate, other than for growth. He said the other thing we kind of want to mention was that the services out there... so while the county would still get the tax rate some of the services the county will no longer have to provide, that is a benefit, I think it is a benefit, you know, as Steve mentioned, for example, the Sherriff still has jurisdiction out there but as the town gets their own police force they may not have to monitor as much or make the calls in that area. He said the one thing that, I don't really want to say it's a negative, but where there will be a change will be the distribution of LIT, or Local Income Tax, is typically based on levee so we are now adding a new levee into the game here. He said so the analogy I always like to use is a pie, so right now we have a pie which is all the LIT and right now the county gets, and on the next slide I have the numbers, gets a certain share of it, each city and town within the county gets a certain share of it, so as Victoria Woods kind of comes in the mix they are going to want a piece of the pie, per say. He said and I tell you what lets go ahead and flip to that so I can talk real numbers to you. He said so we used 2022, there's kind of two tables in this schedule. He said at the top you have 2022 so we will just kind of look at the county right now in 2022, they were 73.65% of the LIT distribution for the entire county and then you can see the rest of them there. He said so I ran a model and I said okay so if we bring Victoria Woods on, and that's the table below here, so were looking out 10 years at full build out. He said so if we bring Victoria Woods on their levee... so basically the allocation factor is based on levee, without getting into all the little minute details and so we assume that Victoria Woods in 2033 would have a million dollar levee. He asked so what does that do. He said that creates a redistribution, they're going to take a piece of the pie. He said so everybody's piece of pie is going to get a little bit smaller but what we expect to happen is with the development and the homeowners' out there, they will be bringing a significant amount of income taxes to the county so the pie... while everybody's piece of the pie may be getting smaller, the pie gets bigger. He asked does that make sense. He added so if we all get one slice of pizza of a medium pizza it's going to be one size but if we order a large pizza and we each get a slice it is a bigger piece of pizza, okay.

The Board laughed.

Jarrold Hall asked is that a laugh as you don't get it or it is a bad analogy.

Mrs. Barnhill replied no I get it, I like pizza.

Amanda Mosiman said there really is no better analogy than with pizza.

Jarrold Hall said yeah, so you can see that Warrick County went from 73.65% down to 71%, so it was a reduction in 2.15%. He said so I ran some assumptions, we assume levee is going to increase every year, we assume the income tax revenue is going to increase every year so this assumes 1.5% growth on both of those. He added and I also did a calculation and I estimate that, conservatively, the income tax revenue coming from Victoria Woods is about \$825,000 dollars a year so we added that to the total pie, as you will and redistribute it and as you can see that column on the right there is everybody's revenues increase by 17.91% so while their piece of pie gets smaller we expect that everybody is still at least preserves their position as far their dollars go and that's... you know like I said, I hate to use the word negative but that's probably a

significant impact of this that, you know, will change. He asked is there anything else. He said yeah, that's all I got.

Stephen Unger, Bose Means Business, Attorney, returned to the podium.

Stephen Unger said so just, and again we will be here to answer, I am sure you may have lots of questions and we are happy to answer those but if we go to the next slides in terms of timing. He added again, this is fixed by statute so in order to accomplish this this year really would be important for the County Commissioner's to adopt an ordinance before June 1st, as long as that happens and this, if you're interested, 36-5-1-10.5 the elections would be held in November of this year. He added there is no primary election so the deadline for, to file for a major political party would be August 1st and June 30th to file for Independence so those elections then would be held in November. He said so then by statute, they don't take office on January 1, they actually take office on November 30th of this year so that provides an opportunity for, in the last month of the year, to get some things adopted and you know, some kind of general ordinance adoptions and stuff by the new town council before the 1st. He said again, this is really the Commissioner's have control here in terms of their ordinance, and so our proposal would be that they adopt it, again, before June of this year, hold the elections, and then I know there are questions about the exact transition and I think what we would propose for the County Commissioner's in their ordinance is to be clear that the effective date of the new town acquiring jurisdiction would be as of January 1, 2024. He said again, just the point that the way we exercise jurisdiction or our powers and responsibilities at that point are fixed by statute so right-of-way, we can control and are responsible for right-of-way at that point. He said so that is our 30,000 foot 101 on incorporation so hopefully we answered a lot of your questions but we can... Jordan is here as well and I think Jordan wanted to say something else as well.

Jordan Aigner, Oakland Holdings LLC, Representative and Petitioner, returned to the podium.

Jordan Aigner said well we have been talking a long time so I think maybe we should just let you guys pepper us if you have any. He asked do you have any questions.

Richard Reid asked who will pay for the election.

Stephen Unger said I can address that.

Jordan Aigner said yeah, that would be great.

Stephen Unger said so again, it is by statute and when a town is under 3,500 people the county pays for the cost of the election.

Richard Reid asked do you know how much money we have in funding for that.

Stephen Unger said I do not.

Richard Reid said we are in the hole from last year so.

Stephen Unger asked from the election last year.

Richard Reid said yep.

Stephen Unger said yeah well over 3,500 the county bills municipalities for their share of it but under 3,500 it's, I believe its 3,500... but yeah.

Jordan Aigner said I have a question for you, Rick.

Richard Reid said yeah.

Jordan Aigner asked what would that cost, I have no idea.

Richard Reid said I don't know, I know Boonville...

Jarrold Hall interjected how many voters do you have.

Jordan Aigner said well, okay... so we have 8, 8 houses right now so yeah I mean you are talking 8 or less. He said 8 people so I don't know if, I mean, there is...

President Valiant said well you actually have 8 people and 3 of them would be running for office, right.

Jordan Aigner said that is true.

Amanda Mosiman said a little premature.

Jordan Aigner said but I will say this, so there are questions just like that, which I am glad you asked that, because we hadn't talked about that but there are all these administrative costs that have to happen and there has to be this bridge financing, right.

Richard Reid said right.

Jordan Aigner said the town would either go to the bank and do it or myself, as the developer, could bridge that financing and were prepared to do that. He added if that is something by statute we are able to do if there is an incremental cost that were... I don't want to burden the county, right, if there for us to legally to support that or help that I am sure we would look into that. He said I don't know what that would be. He added you know, hey you cost us \$5,000 more, you know, would you want to pay this, okay we will look at that... not if it is \$500,000. He added I don't know what it is, I don't know what these costs are.

Richard Reid said well you know with 8 people voting I wouldn't think it would be that much.

Jordan Aigner said yeah, I have no idea... I don't even know, but that is a good point.

Richard Reid added on page 22 you have capitol costs. He asked who is covering that cost, like year 10 it is \$382,000.

Jarrold Hall said that is all built into the towns budget, so this is all the towns.

Stephen Unger continued property taxes, I mean it would be supported by property taxes, the towns share of the LIT, the towns share of MVH and local road streets. He said I mean, the same funding sources that all of the other municipalities have; that Chandler, Newburgh, and Tennyson and everybody.

Jarrold Hall agreed yeah.

Jeff Willis said at year 10 though it looks like you start running a deficit. He asked how long can you sustain that.

Jarrold Hall said well we just backed it... so in that year 10 I think we have like a one time infusion. He added we bought a bunch of cop cars and stuff like that.

Jeff Willis said it's like okay were going up and up and then were negative in the last year and um...

Stephen Unger said and again, I think Jarrold made this point, but these are projections and estimates based on a budget build out that he has done and what he is showing is that, you know, by year 10 you have about 12 months of cash balance on hand which is a good financial position for a municipality to be in but he can get into...

Jarrold Hall said oh, I got to get my capitol costs squared away.

Stephen Unger said certainly what the levee is and how much revenue is actually generated and what kind of services the municipality can provide in year 10 and what kind of capitol expenditures they can do will be restrained by how much revenue they generate from property taxes and what their other expenses are. He added so while he may put in there you know, a capitol cost for vehicles in year 10, they may not be able to replace them in year 10 for various reasons or their may be other things they want to spend money on or they may be able to do it without a negative in year 10 because their cost hadn't caught up as much.

Jarrold Hall said so in that specific year, I have \$240,000 in police department, I think we bought like 4 police cars. He said we just assumed 4 officers would be hired in that year, so that is not a recurring cost, it is just a one year cost. He said and like Steve said I think we were trying, and like I was telling before, as an accountant you know, this is ideal. He said you know if every town had a 12 month reserve in their operating balance, so we built a budget that is sustainable but it is also probably...

Stephen Unger interjected conservative.

Jarrold Hall said yeah I mean it is also very conservative.

Jordan Aigner said yeah, when we first looked at it, I gave it to my dad, and I am sorry he can't be here. He added he actually had a really bad toothache, but he was looking at this he said,

“How in the world are you going to have this much cost?”, and I told him I don’t know, the accountant here just kind of put the worst case scenario.

Jarrold Hall agreed yep.

Jordan Aigner said you know, I shouldn’t say that but a very conservative approach to it because if we look at it you’re only going to have the cost that you can afford for your revenues, you know. He added and because you are a town that is starting from a blank canvas you don’t have that, you know the biggest cost of most any municipality or town is your crumbling infrastructure and their’s will be brand new. He said of which, you know, the developer is on the hook for some maintenance anyways right. He said I would be with county and I have to be with them and so they kind of get the best case scenario, you know, where you don’t have to start with deficits.

Jeff Willis said well one of my concerns is 20 years from, when you are retired or whatever, and I am a mile away from you guys and you all decided, like Newburgh, Chandler, or Boonville, they keep annexing everybody. He said not everybody but you know.

Richard Reid said especially Boonville.

Jeff Willis added you know, however many years they annex people, and I don’t want to be annexed.

Amanda Mosiman said Newburgh is wonkily overdue.

Jordan Aigner said so I think well I am going to let Steve talk about that because we talked about that and that was my dads question, he asked, “Well what if people are concerned about that?”

Amanda Mosiman said mhm.

Jordan Aigner said so I will let him speak to what has happened recently I guess on that.

Stephen Unger said yeah, and I do a lot of annexation, like hundreds, I have probably done a hundred annexations, well at least between the two of us, we probably have.

Jarrold Hall said yeah.

Stephen Unger said and I will say is it, again... the annexation law constantly is changing, it is getting more and more difficult to annex. He said technically right now after this town is created, do they have the statutory... is there a statutory mechanism to annex, yes, but it is a lot more difficult to do so, so it is very unlikely now that people are annexing unless it is a petition for annexation where a majority of the property owners are requesting it. He said I did the Boonville annexation, out to Walmart, about 8 years ago.

Jordan Aigner added which we were opposed to.

Stephen Unger said which they were opposed to.

Jordan Aigner said at the time, not anymore but...

Stephen Unger continued at that time, for example, to get into court to challenge an annexation 65% a remonstrance petition and that got you into court to challenge the annexation. He said now, under the statute, if 65% of the property owners sign a petition the annexation is killed so that annexation would not have gone through under the law currently. He said also over 51% of the property owners oppose an annexation, so between 51% and 65%, you go to court and the elements in a remonstrance trial have changed such that it makes it more difficult or easier to defeat an annexation. He added so while there are some involuntary annexations that I am doing out there that are in court and are tied up into court for some time, you know, most people who call me and want to do an annexation now I say here is a form petition you need to go knock on property owner's doors and get their consent in order to annex. He said so, like, just under the state of the law right now is it technically could they annex, now if you are a mile away maybe not, because there are contiguity restrictions.

Jeff Willis said well yeah, but I am assuming if they jump across the next neighborhood, and then they jump across the road, and then there I am.

Stephen Unger reiterated again, I would be saying we need to go get a significant number of the property owner's in order to request it. He said there is a bill right now, Jim Buck, Senator Buck, has a bill right now, pending, I think it passed out of the Senate that would make all annexations... municipalities cannot initiate an annexation if it would pass both houses. He said a municipality cannot initiate, it would have to be initiated by a property owner. He said so every year there is legislation to make it more and more difficult to annex and that certainly is where the pendulum is continuing to swing, you know, but if you are asking me technically could a town annex contiguous parcels, yes just like Chandler can annex, just like Newburgh can annex, just like Boonville can annex. He added you just don't see people doing as much anymore because it is so... if you know what you are doing its harder to do.

Jordan Aigner said so just to that point, I want to make a point here on our petition. He said we had the option to do... lets draw a bigger circle, right, lets go get something that has... that might be some really good tax revenue, some commercial revenue, or something like that. He said we had that option and one could argue that you could look at the statute and say this is your best chance to get bigger, to be bigger because annexation after the fact is so hard, right. He said your initial petition is much easier, if you have certain number of petitioner's in agreeance, right. He said so we looked at it, we really did, you know and I might get into it a little bit, we have a neighbor that is not the best neighbor, and we looked at that as a protection mechanism for our people for 10 to 20 years from now. He said we chose not to do that, we are only seeking incorporation for property we own or that we have recently sold to other people, of which their deeds, before they paid for it said in there that we may or may not incorporate and then after we

signed those deeds we went and got this petition acknowledgement form signed after the fact so we took some extra steps to say hey, I don't want to over reach, we are not, you know, maybe some of the reason no remonstrators are here is because everyone is in agreeance who lives in there and they were well educated. He added so we choose not to go further, right now. He said it might have been better for the town, 10 years from now they may say why didn't you go bigger, you know, well we didn't choose to do that right now, this is good enough right here, you know.

Amanda Mosiman said so currently, kind of on that point, so currently, according to this, there are 18 parcels. She asked how many of those are sold to outside parties.

Stephen Unger said 118, sorry 118 parcels.

Amanda Mosiman said in the presentation it says currently 118 parcels and at your build out it is 357.

Stephen Unger said yes.

Amanda Mosiman asked how many of those are sold.

Jordan Aigner said so in your secondary plat that we have recorded we have sold I am going to guess 60, 50 to 60, somewhere in there.

Amanda Mosiman said okay, so 100% is 60ish.

Jordan Aigner said right, and the rest we own.

Amanda Mosiman said right.

Richard Reid asked Jordan, how did you come up with the LIT tax on you getting 2.92% of that LIT tax.

Jordan Aigner responded that should be Warrick County I believe, correct.

Richard Reid said no, the Warrick County is 71%.

Jarrold Hall said no, he is seeing the allocation.

Jordan Aigner said I will let you speak to that Jarrod.

Jarrold Hall said yeah, it is just a million... well, that column allocation factor on the left, so that million dollars is the 2.9% of the total 34,276,000.

Richard Reid asked you think you are going to have that many people in 10 years.

Jordan Aigner said okay, I am glad I brought that up because I have thought about this when Steve was talking about this because that is another great question. He said okay so we do this

and that is great and you have to pay for it but how do you know people are going to build there. He said okay, so as... lets just say the developer outside the county, for our investment and for the success is what we really like to see is people breaking ground and building houses.

Richard Reid said sure.

Jordan Aigner said that is activity, right, you are in real estate you know. He said so that gets people excited maybe they will buy more lots, right. He said well we have it before where people buy it as an investment and they hang on to it and that is there right, okay, but with our restrictive covenants, originally, which we have restrictive covenants out there and we said, I think we said 18 months before you have to build, okay, but because of supply chain issues and issues coming out of COVID, which were real on the construction industry, people couldn't get that done, okay. He said just with planning and trying to find a builder so we extended that out so right now in our restrictive covenants we say in 5 years you have to build, okay. He said so if you think about that, you are kind of bound by those restrictive covenants and if you come in here you know ahead of time, okay, and that is a way that the town can continue to put out there as a bench mark for success and for build out. He said you know, and so people know that coming into it.

Richard Reid said so 5 years is your...

Jordan Aigner said that is my current, that is my current... if I sell a lot you have 5 years.

Richard Reid asked to have it completed.

Jordan Aigner responded yes, yep. He said like I said, we originally looked at 18 months and we were getting some people concerned, you know.

Richard Reid said yeah.

Jordan Aigner said that is our restrictive covenants... okay, I want to back up that is what our covenants say that you guys have already approved that we are working on right now.

Richard Reid said mhm.

Jordan Aigner said okay, and we have sold lets say 60 lots that we have sold out of 94 or 95. He added we would have to work with the town to be and see if we would want to extend that very same restrictive covenant on everybody else, I probably would, if we did it on the first phase I don't know why we wouldn't do it on the other one, you know.

Attorney Doll said fellas, on page 10 of your presentation, Section 8 Subsection 6, is that the standard that this Area Plan has to measure your petition in deciding how to refer it to the Commissioner's.

Stephen Unger said Section 6, no its not...

Attorney Doll corrected him Section 8, Subparagraph 6.

Stephen Unger said sorry, Section 8, Subparagraph 6.

Attorney Doll asked isn't that its... that's the standard they are supposed to judge your application on.

Stephen Unger said not just 6, but all of the factors.

Attorney Doll said alright. He asked can you address, for the Board, so they have something to hear from you about why the incorporation is in the best interest of the territory involved. He asked why is making that 500 acres a town in the best interest of that 500 acres.

Jordan Aigner responded yeah I am going to take that one, okay. He said so this gets me back to the original, really just why in the world are we doing this, okay. He said these are all, not all, but all the reasons I have in my brain that brought me to this collective reason to petition, okay. He asked can any of you describe where this place is.

Amanda Mosiman said mhm.

Jordan Aigner said it is not Newburgh, it is not Boonville, okay, yeah it is Warrick County but we really do not have a good sense of place and were not talking about a 20 acre development or a 40 acre development, this is a bigger idea, right. He said so number one, if you will, and these are in no order of priority, but a sense of place, okay, that's one. He said the second thing and probably the most difficult when we look at the success of this territory, this is a previously mined area, a strip mine, okay, and the topography is what we call the "old stuff", right, a lot of it like what is around Lynnville, this older stuff is probably the most southern project that looks like this in our county. He said a lot of it is in central and northern and up around Selvin area so, you know, you have really high peaks and valleys, it did not get reclaimed, okay. He continued so when we brought this before your board and the other board's in the county to develop we had to do major things to the property to fit the ordinance. He added so our challenge is the topography and property itself to make it... I can't keep what is there which is; nature, and beauty, and trees, and watercourses, and riparian areas and develop it in an economical manner, which is why this project failed the first time, and fit your ordinance. He said that is nothing against you, the county, your ordinance, we have done plenty of projects that have succeeded but I have to completely moonscape the whole thing and it doesn't look like it does when you come out there and say this is beautiful and I want to live here, okay. He said I could go into detail a lot more on that particular point but that is a big one, okay. He said third thing, another real big hurdle, and maybe arguably the biggest on why it didn't succeed from the previous developer was utilities. He said this is... you think it is in a great spot but it is in the middle of nowhere when it comes to utilities and it was an enormous challenge, okay. He said so we had to work with the City of Boonville, and they were very good to work with on this, but we had to go... I think in one season we laid 40,000 feet of pipe to get water and sewer to this spot, okay. He added we did not go to the Economic Development and ask for any money, they played that out previously and they let all that money drop, thankfully that group saved it and it went to Freidman Park which is why we have the conference center. He said that money was supposed to go to this project and I am telling you, I know my project budget and it would have been nice to have some of that so out in the middle of nowhere to get utilities. He said so why do I want to...

how does it help me to incorporate, because when you are a municipality you have a lot of advantages that just a regular developer does not have. He said you can make contracts with other utilities that they are probably not going to make with a normal developer, and these are long term commitments and we want to see long term success and so the entity of a municipality in the state code is much better than an HOA. He said HOA's are okay, I am sure they are somewhat successful, I have seen them fail more than they have succeeded especially when you are talking big ideas like this. He said Vectren, or CenterPoint excuse me they would never sign a contract with the previous owner because there is a back end, there is a claw back, and right now I am going to have that burden, okay, of if you want to continue on developing you might and probably are going to have to upgrade our system for redundancy. He asked why am I doing that. He said so I don't have an audience, I don't have any backing really because it is a regulated area you have to go to CeterPoint so when Jordan, the developer, says, "Hey I think maybe you guys might want to upgrade your own system and aren't I going to provide paying customers for you?". He continued I don't have an audience. He said when you're a municipality, when we're talking numbers this big, you have advantages. He said they make you post you Letter's of Credit and right now my next step to go to the next part of our development I would have to get off-site easements and upgrade miles and miles of overhead lines. He said I don't know why I am doing that and they just kind of tell me well, that is how we do business and for such a big thing it would help if we had something like a municipality come and say hey, let's talk about this. He asked do you guys have any questions about those items.

Attorney Doll said but Jordan is it possible that Warrick County can, under Subparagraph B, "adequately and economically" provide the same essential services and functions more economically than a new town.

Jordan Aigner asked from what I just said.

Attorney Doll said well...

Jordan Aigner said because those things were unrelated to what you provide.

Attorney Doll said well, for example, yeah. He said to use your own example utilities, whatever.

Jordan Aigner said okay.

Attorney Doll asked could Warrick County provide those utilities that you are speaking on.

Jordan Aigner said no, Warrick County does not provide those at all. He continues Warrick County does not provide services for water, nor sewer, nor electric, nor gas, at all.

Attorney Doll said but the town of Boonville does.

Jordan Aigner said the town of Boonville does, some but not all.

Attorney Doll asked and you are using their services.

Jordan Aigner said I am using their services for water and sewer, correct, and I had to go through a laborious process to get there and it is not over yet. He said the activities and commitments and agreements I was going through should be a municipal, inter-local type of agreement. He added it really should be.

Attorney Doll said either that or it should be an annexation.

Jordan Aigner said correct.

Attorney Doll said that is the options.

Jordan Aigner said that is the option.

Attorney Doll said there are other ways they can provide services outside their corporate limits.

Jordan Aigner agreed mhm.

Stephen Unger interjected Boonville would not, for the reasons we have talked about I don't think Boonville would be able to annex that area and I think they recognize that.

Jordan Aigner said agreed, yes I agree. He said so...

Attorney Doll interjected I know they recently just annexed the golf course.

Jordan Aigner said they did and we share that border, we share that border.

Attorney Doll said it's contiguous.

Jordan Aigner said yes, from the statute standpoint yes. He said so they could... future boards, if they go through the very difficult process, if it still exists, if we are unincorporated then Boonville could.

Amanda Mosiman said but then they will have a higher tax rate.

Jordan Aigner said so let me talk for a moment.

Stephen Unger said well...

Jordan Aigner said I am sorry.

Stephen Unger continued on the golf course annexation there were sewer waivers in exchange for sewer service on the golf course so that is why Boonville was able to annex the golf course.

Jordan Aigner said okay, so lets talk conservation and nature and that vision. He said so again, if you have... if you are able to have, and we know Warrick County has a wonderful Parks Department, probably funding is not the best for that. He said they have a lot of things and they

can't take care of what they have currently, okay. He said inside of our little area we already have trails planned, some are, hopefully... well they are committed with the County Trail System that is coming through. He added but we want to do more and we want to have pocket parks and preservation areas, and we do have those but those programmed by an HOA are much different than programmed by a town parks department, and they will succeed in future years and be sustainable much better by a town structure than an HOA, and I feel that strongly. He continued another reason why it will help is to the north, and this was prior to us getting the project, there is 200 acres to the north that we would like to incorporate that in some manner, bad word, we would like to utilize that in some manner with our development and maybe even with a trail coming through our development that links up with Freidman Park. He said that 200 acres is held by a conservation company, we own the title, but they have a conservation easement, North American Land Trust, prior to my ownership, and just to get the sewer through we had to go through a very difficult process just to get the sewer through. He said so to do anything else that would benefit, not only our potential incorporated area but for the county transitioning from Freidman Park maybe even up to Boonville we would have to have some sort of eminent domain rights because they don't have to work with us. He added and it was very difficult just to get sewer and we don't have the ability to do eminent domain and the town would and so that would be, again, a future thing. He said so when you start adding all these things up... this was not brought to you or certainly to the commissioner's in a light manner. He said this is expensive, it's difficult, it's a long process but, we live here I am not going anywhere, if we are going to develop something for 10, 15, 20 years it is okay to think big.

Attorney Doll said can I ask about the 5 or 6 points that we previously discussed with Jordan and your response.

Stephen Unger said yes.

Attorney Doll said we sort of had a site review, that is what we do locally with a plat.

Stephen Unger said mhm.

Attorney Doll said Jordan came in and we discussed it, the application and petition, and we had some issues, some questions and you responded in writing which I recommended. He said the first thing I wanted to ask about is that if this petition is approved and it is implemented, time wise when is it going to be effective. He said now various parts of this are effective at different dates; the petition is approved on what, July 1st.

Stephen Unger said before June 1st would be...

Attorney Doll said before June 1st.

Stephen Unger said yeah.

Attorney Doll said then you don't have a town board until the first election, the first election is in November, and then they take office at the end of November.

Stephen Unger said mhm.

Attorney Doll said then they begin to adopt ordinances and etc. He said so parts of this are not going to become effective until into 2024. He asked would you agree with that.

Stephen Unger said so, well, yeah the effective date of the town would be... now will there be, you know, so then again the statutes say... for example, planning and zoning, until such time that the town adopts the advisory planning law by adopting a comprehensive plan and a zoning ordinance this body would continue to exercise jurisdiction which could be a month, it could be six months, right.

Attorney Doll said right.

Stephen Unger said yeah, so there can be different dates and will it take some time. He said I mean, will it take some time for the new town to begin implementing services, yes.

Attorney Doll asked and there is no way to pin that down, there is no way for you to tell us in the petition that as of this date APC you will not be providing planning services for um, I keep getting the name wrong.

President Valiant and Stephen Unger said Victoria Woods.

Attorney Doll said Victoria Woods, I was going to say Hills but...

Stephen Unger said yeah, no I would agree with that. He said because there are factors that are beyond our control, including when do the commissioner's... for example, if the Commissioner's do not adopt an ordinance until after June 1st it would for a full other year that there would be an election and a new town council taking office.

Attorney Doll asked what about roads and highways. He said when we approve subdivisions out there the plat gets recorded, the plat dedicates the right-of-ways to the county.

Jordan Aigner said yeah.

Attorney Doll continued and specifications on how you are supposed to... the County Engineer supervises the quality of the installation of those roads and now you are going to create a town and the town is going to have responsibility for that.

Stephen Unger said correct.

Attorney Doll asked what are we going to do. He asked are we going to undedicated, are we going to reassign the dedication.

Jordan Aigner said so that question that we had in our sub review, site review meeting was a very good question and I did not know the answer and I went back and talked to Steve and he took a deeper dive, well really he didn't have to, and apparently jurisdiction...

Stephen Unger said yeah.

Jordan Aigner said the state code allows for that, correct.

Stephen Unger said again, annexation is the best example. He said I have done a hundred annexation probably and never once have we post-annexation have we gone back and dedicated, taken land for example that was dedicated to the county and transferred it to the name of the municipality. He said just by law we have exclusive jurisdiction and responsibility for the right-of-way. He continued now, if there is something that needs to be done to help clarify that, I know there are several roads that Jordan hasn't transferred over yet because he has initial responsibility...

Attorney Doll said Letter's of Credit.

Stephen Unger said yeah, I am not concerned about that. He said we can get those transferred and work through those if that needs to be done as well, but I mean legally effective January 1 the new town would have exclusive jurisdiction over all of the public infrastructure.

Attorney Doll said so if some of the roads have been constructed, some of the asphalt has been laid, some of the sidewalks or trails have been built and we turn them over to the town Warrick County has no lingering liability there.

Stephen Unger said right.

Attorney Doll said if in the future there is a maintenance issue something isn't right, which I am absolutely sure wouldn't be the case knowing the builder and knowing the county, wouldn't be the case, but we don't have any further liability in the 500 acre area of the town, true.

Stephen Unger said correct.

Jordan Aigner said yeah, but let me take it a step farther because were petitioning at this time my normal course of action, as the developer, would have been to probably get with Molly. He said we have already reduced our Letter of Credit very recently, I don't know if we have finalized that or not, but we have reduced it but then I would say hey let's get up here and let's get these streets and everything submitted to you for acceptance. He said I am not going to do that now so really, technically in the interim because I have not come to the county and said please accept these streets under our normal ordinance courses of action then if there is a problem whether it's now or at the time of implementation it is mine anyway and it would have never been, at this point, it will never be the county's problem because the developer hasn't turned it over to you.

Attorney Doll said right.

Jordan Aigner said right, now we would be in a little bit more of a pickle if I had already. He added there would be more of a question there.

Attorney Doll said well in a way but aren't you somewhat going to be turning it over to yourself. He said I don't mean legally speaking, I mean factually speaking. He said if this town had a mayor, but it doesn't, you would be the mayor.

Jordan Aigner right.

Attorney Doll said you would be the person out there calling the shots so who is going to review the construction.

Jordan Aigner said yeah, yeah, yeah.

Attorney Doll said and I am not implying that you would do anything improper, I am just saying that is... right hand, left hand.

Jordan Aigner said yeah, so I would say that at the time implementation happens and really this year, if everything is approved, then you have a council. He added this council is acting, legally acting, in December, okay, so I am not there, I don't live there. He said I can't run, right, so it is a little... it's a little careful that I am going to turn over the keys, right. He said it is whoever lives there and they're the council.

Stephen Unger said and maybe one thing to clarify so to the extent that, again, until the new town adopts the advisory planning law and creates its own planning department to the extent that primary plat and secondary plat approval is a function of a zoning ordinance and a unified development ordinance it would continue to operate through this body by statute, again that's the 36-7...

Jordan Aigner said but to Morrie's point the responsibility is separate...

Stephen Unger said right, right. He said maintenance responsibility of plowing roads, patching holes, maintaining roads would be the town's responsibility.

Jordan Aigner said right, even though there might be some involvement with stuff like this, the county itself doesn't have to have any real costs involved after the fact.

Attorney Doll said let me turn to drainage, MS4.

Amanda Mosiman said yep, there is a big difference between MS4 and that...

Attorney Doll said pardon me.

Amanda Mosiman said there is a big difference between MS4 and Section 5. She said I had some questions on that as well.

Attorney Doll said and we are having 500 year floods every 5 years, okay. He said this county is drowning of excess water as my observation as legal council to the Drainage Board. He said it cant, I mean this cant go on forever we have to have a better way of handling rain water. He said

you are excluded from the MS4 participation upon creation of this town until you meet the MS4 criteria and the state blesses you with an MS4 designation and that is largely a population based calculation, isn't it.

Stephen Unger said no, there are other factors and I will tell you that my impression when talking with the state MS4 coordinator is that it would probably be designated at some point as its own MS4.

Attorney Doll asked what is the some point.

Stephen Unger responded she didn't tell me.

Attorney Doll said yeah.

Stephen Unger said yeah, but population is one factor, where it is in the state, flooding issues and she was aware that there are flooding issues in the county and that seemed to be of concern.

Attorney Doll asked what happens to storm water assessments. He said we assess in the unincorporated areas of the county tax payers, like myself, we pay a storm water fee, okay. He asked what happens to those funds after the town's creation.

Stephen Unger said yeah so the county keeps it funds that have already been assessed per ERU or whatever is in the ordinance, the fees or the county storm water fees would no longer apply in the municipality's boundaries by statute in 8-1.5-5-5. He said the county's district for purposes of imposing a special benefits tax or a storm water fee is everywhere inside the county and not inside of a municipality.

Attorney Doll said right.

Stephen Unger said and then a municipality can then impose its own storm water fee so the county's storm water fee would no longer apply per ERU.

Attorney Doll said in these 500 acres.

Stephen Unger said the town would have the same ability as a municipality or local unit of government to impose a storm water fee on those boundaries or you could always do an inter-local agreement.

Attorney Doll said budget wise, I am curious about the budget calculations. He asked you are projecting \$1.8 million in revenue.

Jarrold Hall said yes.

Stephen Unger said by year 10.

Jarrold Hall said by year 10, yes.

Attorney Doll asked and in year 10 you are expecting your fees, your operating expenses to be \$1.6.

Jarrold Hall said yes.

Attorney Doll said but of that, local income taxes are \$800,000 of the \$1.8.

Jarrold Hall said yeah.

Attorney Doll said so if this doesn't populate.

Jarrold Hall said yeah.

Attorney Doll said as quickly as Jordan thinks it will.

Jarrold Hall said sure.

Attorney Doll said you have a potential short fall where you can't make revenue expenses.

Jarrold Hall said assuming that we have the same operating budget. He said if we don't, if we don't develop half of it we are not going to need as many police officers and this is kind of a challenge.

Attorney Doll said I mean isn't this a function of the population growth of the county.

Amanda Mosiman said I am sorry, what.

Stephen Unger asked LIT.

Attorney Doll said isn't this LIT a function of the population growth of the county. He said and by that I am asking this...

Amanda Mosiman said but also the allotment of the levee increase, yeah.

Attorney Doll said yeah, Jordan is going to build beautiful new homes or have beautiful new home sites out there. He said my wife and I, hypothetically Jordan we are not a perspective customer, decide to downsize because there is absolutely no justification for having this many square feet and so we move out there and I am in Ohio Township, not in Newburgh, and I move to your property. He said so I pay LIT now and I will pay LIT out there so it is not really new LIT.

Jarrold Hall said right.

Attorney Doll said the only possibility of new LIT is if I find a doctor who wants to buy my too big of a house and he moves into Warrick County.

Jarrold Hall said correct.

Attorney Doll said that is where the new LIT comes in, right.

Stephen Unger said or everybody else's...

Attorney Doll said or you raise the levee.

Stephen Unger said or salaries increase.

Jordan Aigner said or you talk to Ms. Stone out of Nashville like I have this week who wants to move into this area.

Attorney Doll said no, no, no, I agree. He said if you have attracted and I don't want to hold you to this, you say there's... you have sold 60 lots, the majority of those, how about this question, being current Warrick County residents or not.

Jordan Aigner said I don't know that breakdown. He said I don't know, probably the majority are, I don't know that breakdown.

Attorney Doll said yeah.

Jordan Aigner said but we are talking to, I mean the amount of people we talk to it is probably 50/50 but what converts to a sale.

Attorney Doll said okay, so here is my question. He said so lets assume that the LIT doesn't raise \$800,000 in year 10.

Jarrold Hall said yep.

Attorney Doll said so now we can't cash flow.

Jarrold Hall said under this scenario, yes. He said okay.

Attorney Doll said so we will either have to diminish services or what.

Jarrold Hall said raise the tax levy.

Stephen Unger said and I want to be... when he agrees he doesn't mean were going to provide a service and then cut a service what's going to happen is...

Attorney Doll said not grow it.

Stephen Unger continued the services are going to commensurate with the revenue that is available.

Attorney Doll said yeah, you are going to offer a diminished service level to the citizens.

Stephen Unger said well maybe you don't need 4 officers, you only need 2.

Attorney Doll said yeah.

Jordan Aigner said or just your capital fund as well.

Stephen Unger said that's right.

Jordan Aigner said you adjust your capital fund, and those were assumptions in the first place.

Attorney Doll said okay, but there is no other revenue source you can turn to offer your projected services and cover your projected costs.

Jarrod Hall said not significantly, I mean those are your two major revenue sources and...

Stephen Unger said well you have LIT and you have property tax revenue but there are funding mechanisms for addressing short falls such as; short-term loans, banks, financing.

Attorney Doll said yeah, yeah, yeah.

Stephen Unger said I mean municipalities deal with these constraints in growth and...

Attorney Doll said so there are assumptions here that we really are depending upon and we don't know them yet because...

Jordan Aigner said yeah, until you arrive there right, you are going to grow your costs are going to align with your revenue. He added and DLGF makes you do that, you know. He said you're not going to submit a budget to DLGF to say this won't work.

Attorney Doll said okay, so if this board is asked to recommend to the commissioner's your petition, here is the bottom line question and I heard somebody say it a few minutes ago. He asked aren't we premature.

Jordan Aigner stated no.

Attorney Doll said tell me why.

Amanda Mosiman said you only have 17% of what you are thinking when this is full build out.

Attorney Doll said tell me why you don't think you are premature with this application.

Jordan Aigner asked what would be on time.

Attorney Doll said I don't know, it is like art. He said it is in the eyes of the beholder.

Jordan Aigner said so what I am telling you with this petition is I have challenges, I could be more successful in your county, which happens to be mine.

Attorney Doll said yes, and mine.

Jordan Aigner said at the level of incorporation that I am talking about. He said I am saying that if I don't, I have all those reasons for incorporation now become hurdles that I continue to have to fight. He said so I am sharing with you all the hurdles of why I can't be as successful to develop in this county. He said so to be on time or early, you wouldn't incorporate after the fact.

Attorney Doll said no, you would incorporate once you... okay are you fulfilling your growth expectations, is it happening, are you seeing construction out there occur, do you have more than however many. He asked how many people live there 7.

Jordan Aigner said I don't want to diminish.

Attorney Doll said no I am not making fun, I am not diminishing.

Jordan Aigner said I know, but I want it on the record this is the bestselling development that we ever had, okay and if you are in business you know, when do you strike. He said when the iron is hot and you have to ride the wave and you have to be able to anticipate movements in the market, what's going on right now. He said high inflation, sales are probably going to dip so these are all things that we want to do to foster positive growth, okay. He said I think we are absolutely on time, I have these hurdles and I am asking your Board and the Commissioner's to understand those and see those and say what do we have to lose.

Attorney Doll said right.

Jordan Aigner said one thing you could say is well he is going to develop it anyways right, I may not. He said there is no guarantee, I may not. He said I am telling you I cannot be as successful, okay, without this vision and I know that I sit on a couple other boards on the county that all we ever want is to try to grab somebody to come develop, right. He said we have a vacant building up in North Warrick Industrial Park that we are asking people to please come make an offer, right. He said I am not asking for any money, you know, just support.

Attorney Doll said right, I understand.

Stephen Unger said I will say as well that annexation can be a little bit analogous but it is especially figuring out the initial costs and dealing with the ramp up of service and ramp up of costs now is the ideal time to do that; not waiting until after it is developed and you have you know, the full build out where you are imposing another tax rate or a new tax rate on top of an area that wasn't paying it before and you had already developed. He said you are already in your home and now you're looking at a %0.85 tax increase verses doing it on the front end and being able to ramp up as the element occurs.

Attorney Doll said but Warrick County will lose some of its property taxes.

Stephen Unger said no.

Attorney Doll said you won't lose schools, I mean they will still get their share of the property tax.

Stephen Unger said no, Warrick County will not lose property tax as a result of this.

Attorney Doll asked \$0.85 is new.

Amanda Mosiman said it is stacked. She said you have your county levee which is your property tax, then you have the town levee on top, then you have you're...

Attorney Doll asked so this is going to be \$0.85 on top of the current taxes.

Amanda Mosiman said mhm. She asked what is Elberfelds tax rate, Jeff.

President Valiant said I am not sure.

Jarrold Hall said \$1.54, I think.

Amanda Mosiman said yeah, I think most towns are around \$1.50ish.

Jarrold Hall said no, no, I am sorry the townships... the current area is about \$1.54.

Stephen Unger asked do you know what Elberfeld's is.

Jarrold Hall said I don't know about Elberfeld off the top of my head, I know Newburgh is about \$0.85, I think.

Jordan Aigner said if this petition is successful then the county is not out any money but does not also service this area. He said if this is not successful you are going to have to take care of the streets...

Attorney Doll said well they're not out of any property tax money, they are out LIT aren't they.

Jordan Aigner said no, remember I am getting you a jumbo pizza.

Attorney Doll said maybe, maybe.

Amanda Mosiman asked can you tell me somewhere else in the state that has done this that would be comparable-ish.

Stephen Unger said incorporations do not happen very often. He said the last one that I am aware of is the Town of Avon in 1995 was the last one.

Amanda Mosiman said no wonder I didn't have many email responses today from educators across the state.

Stephen Unger said I feel like there is another one in northern Indiana maybe.

Amanda Mosiman said you are bringing us something novel.

Stephen Unger said it is up off of 65, Maryville. He said Maryville incorporated since 1995, I want to say early-2000s.

Attorney Doll asked Fishers.

Stephen Unger no, Fishers would have been before 1995.

Jarrod Hall said they are a city, not a town.

Stephen Unger said its Maryville.

President Valiant asked how many people live in Maryville.

Stephen Unger said I don't know, it's grown a lot.

Attorney Doll said yeah.

Jeff Willis said that is what I am worried about.

Stephen Unger said they did that under prior law, pre-2015.

Amanda Mosiman said so I was kind of intrigued with Section 8 Subsection 4, the six of the following services that are provided on an adequate basis. She asked can you confirm which six.

Stephen Unger said so, and I want to be clear on what the statute does say and what it doesn't say.

Amanda Mosiman said okay.

Stephen Unger said so I am going to push back a little bit, the statute doesn't say that the municipality will provide at least six of the following services, it is that at least six of these services, that a substantial majority agree that...

Amanda Mosiman said that they will be provided.

Stephen Unger continued that they will adequately be provided and I will give you an example, Health Department is one of them, okay, and municipalities cannot provide that.

Amanda Mosiman said no.

Stephen Unger said schools, we can't. He said the school district boundaries are determined all over the state now. He said so it's really a question of are they adequately provided and do the substantial majority of the property owner's agree to it. He said if you go back to the petition itself, right, all of the property owner's agreed that at least six of these will be provided and we have addressed how all of them will be provided but in terms of the town itself.

Attorney Doll said yeah.

Stephen Unger said if you wanted to read it, what six is the town providing, right. He said police protection, you could argue fire protection because we will join the fire territory.

Richard Reid commented for five years.

Stephen Unger said police... for...

Richard Reid asked for five years right.

Stephen Unger said no, no, no, police will be indefinitely. He said just for the first five years we won't have to go hire our own police officer, we are going to have an agreement with Boonville so Boonville would patrol the area and provide police protection. He continued street construction maintenance and lighting, storm sewers would be three and a half or four, parks and recreation, planning and zoning and subdivision control, and then stream pollution control and water conservation. He said again, we do have jurisdiction over water courses and those things, of course we don't take away from soil and water.

Amanda Mosiman asked and have you talked with soil and water.

Jordan Aigner said yeah I have, I met with them on Friday. He said I would have met with them earlier but I was educated after our meeting about the whole MS4 thing because we had talked about why does Boonville do it the way they do certainly they should be an MS4 and so we, Steve, contacted the IDEM MS4 coordinator and the way Boonville is handling is apparently the way IDEM wants it to happen and we would be just another one like them and I said... I told Ms... Mcutchen...

Amanda Mosiman said Holly.

Jordan Aigner said Holly, thank you and I talked to Susan as well and there like hey, you know, we are not happy about more work for our current funding but we can do the work. He said that is what she told me to say anyway.

Amanda Mosiman said well can they do that work. She said that would be a massive undertaking under Rule 5.

Jordan Aigner said well so I think that we currently have an active storm water pollution prevention plan that the county has and so it would be as we continue to develop your just dealing with one large land owner that's dividing up into all these small lots, right. He said so very, very doubtful that any person unless I sell the property to another person or 10 other developers, right, it is very unlikely that you wouldn't just have a variation or the SWCD wouldn't have a variation of the current plan and however they would implement or enforce. He said but they were aware of it, they understood it and Steve had mentioned, he has been involved in some places that had some additional funding for SWCD and I said we might connect with them just to help them out.

Stephen Unger said yeah, there is a state grant that matches 100% of local contributions.

Amanda Mosiman said okay, alright.

Jordan Aigner asked so I guess my question, maybe Morrie, is from looking at what was submitted or is it a recommendation. He said I am asking.

Attorney Doll said well that's what you have asked the Board.

Jordan Aigner said okay.

Attorney Doll continued is to recommend it to the Commissioner's. He said we are an advisory board on this topic, it is like rezoning.

Jordan Aigner said yeah, okay.

Attorney Doll added but the power to do it is... well, its here in this room but it is a different set of people.

Jordan Aigner said yeah. He said okay, so I guess that is what we are asking Jeff, we are asking I mean we can certainly answer any more questions but that is what we are asking that you guys would recommend this petition to be approved to the County Commissioner's. He said that's our ask.

Attorney Doll said and to be fair, how much time does this Board have to consider your petition and to determine if they're going to recommend it to the Commissioner's or not.

Jordan Aigner said for me, I don't think there is a huge rush other than the timeline laid out in the statute once it's filed.

Attorney Doll said okay, and I want to understand that timeline. He said the March to April dates in your presentation is that the window of time for us to make the recommendation, is that for the commissioner's to hold the hearing, to vote on that, or not.

Stephen Unger said that is the window of time for the Commissioner's to hold their public hearing.

Attorney Doll asked they can't hold their public hearing until after we make our recommendation.

Stephen Unger said no, actually...

Mrs. Barnhill said they have 60 to 90 days.

Stephen Unger said yeah that is, actually it is the opposite. He said you have to make your recommendation to them at least 10 days before that public hearing is what it says.

Attorney Doll said alright so the last date that this Board could make its recommendation to the commissioner's to be in compliance with the statute is 10 days before the longest date on...

Stephen Unger said I would say.

Attorney Doll said 10 days prior to April 3rd.

Stephen Unger said no, it's dependent on the date that the County Commissioner's set for the public hearing. He added if they set it for example, for March 10th, March 1st would be your deadline.

Attorney Doll said okay, well as we are sitting here tonight we will have to guess when the commissioner's are going to set the public hearing because they haven't done that yet.

Stephen Unger said I have reached out to their attorney's and asked, I hadn't gotten an answer yet on when that is but I will follow back with them.

President Valiant asked wouldn't you assume they would do it during their regular meeting. Richard Reid said it would have to have a notice, public notice.

Amanda Mosiman said it would have to be special.

President Valiant said yeah, but you would just then send a notice.

Attorney Doll said wait a minute, one of our Commissioner's is here.

Dan Saylor, Warrick County Commissioner, was present.

Commissioner Saylor said my understanding is we would have a separate meeting. He said that is preliminary and up for discussion but...

Attorney Doll said okay, if their deadline is June 1st, that is there drop-dead deadline for you to vote on the petition because that qualifies them for the November election which they want to make that timeline, okay. He added and I know you're not the Board of Commissioner's you are just a Commissioner. He asked but when did you think you would hear this petition if that is

their drop-dead deadline, and I understand it is not binding, it is not controlling, it is just your individual opinion. He said who knew that the Kansas City Chiefs were going to win the Superbowl but somebody had that opinion.

Commissioner Saylor said counselor, I mean it is kind of hard to speak for everyone. He said I mean in my opinion I would say 30 days and we could get that...

Attorney Doll said so May 1st.

Commissioner Saylor said yes.

Attorney Doll said alright so this Board has the option, the luxury if you wish, if you think it is necessary to take this under advisory tonight rather than to vote on it and I am not advocating that I am just explaining options.

Jeff Willis said well since this hasn't been done in the state in twenty years or twenty-seven years we might want to think about it.

Richard Reid said motion to table it for one meeting.

Attorney Doll said well that's what tabling means is table to the next meeting so.

Jordan Aigner said so as the petitioner I would tell you I do not want you to think irrationally about this, I don't want this to be... it is a big deal. He added I, I mean we think this going to be something very exciting for the entire county but it is a big step so if there are any other questions tonight I would love to hear him.

Attorney Doll said well we don't want you to have to bring your experts back down and...

Jordan Aigner said right, because right.

Attorney Doll said time is money and we understand that, but maybe the board doesn't need that. He added I mean, I don't know.

Jordan Aigner asked is there anything from us or from our experts that you have heard tonight that...

Jeff Willis said more from you, you talked about how our zoning department doesn't allow you to build on a lot you want to build on.

Jordan Aigner said correct, very well.

Jeff Willis asked is there some way we can work with you to make that happen.

Amanda Mosiman said no.

Attorney Doll said not... let me explain, land reclamation of coal sites changed in 1979. He said in 1979 I served on the Indiana Representatives House Committee on Reclamation Law and I was drug all over Warrick County looking at failed reclamation projects where the coal companies didn't reclaim the ground and so that led to a new, Federal Law and I think that was in 1979 and then Indiana was compelled to enforce the federal reclamation statutes and that is when we started leveling coal mine ground.

Jordan Aigner said correct, yeah.

Attorney Doll said and I am not sure which was better but that is what it was so Jeff that is when that changed but it is controlled by federal statutes.

Jeff Willis asked so would the city or the incorporation be able to work better with it than we would. He said so what if the elected representatives of the incorporation decide that is not what they want to do and then you would be...

Jordan Aigner said my short answer would be, I don't think your ordinance needs to or can really change. He said your ordinance has to be a little bit vanilla because you are trying to cover the entire county and ours is very tight and very specific and I don't know how without variances, and we already had to become before at least the Commissioners I forget how it went, for just very simple variances and I don't... I mean it was difficult for all these Boards to allow the sewer to go in the middle of the street. He asked do you know where the sewers are in Boonville, everyone are in the middle of the street.

Attorney Doll said not our issue, we don't have jurisdiction.

Jordan Aigner said I know, that is why I am petitioning.

Attorney Doll said we don't have jurisdiction.

Jordan Aigner said case and point because to be able to develop in a manner that has some variations out there I would be before this Board... you would get sick of me.

Attorney Doll said and in all fairness, every time you have a sewer problem you know what you have to do. He said you have to dig up the street.

Jordan Aigner said right, but what you end up getting is a corridor of houses, go down any of those houses and it is 30' wide back-of-curb, mailbox, you know there is no character at all and there is a reason why there is no character. He said we are going so far away from nature, conservancy, interesting nooks and crannies, dead end street, alley, backload, rear load stuff to just vanilla and that was my point number two.

Attorney Doll said I hear you and the time and place but that is why.

Jordan Aigner said I understand, I understand. He said so when... to answer your question, I don't think it is... I mean that property out there looks like Cashiers, North Carolina and I want it to stay that way but I can't develop in the best way with our current ordinance.

Jeff Willis asked well I mean could we do it with a bunch of variances or would it be... He said I mean we have had like 10 variances like I want to do the sewers in the middle, I want to do this, I want to do that...

Jordan Aigner said you know it was very difficult and cumbersome last time and remember that is just one reason, right. He added it was very difficult. He said if it was, if you guys said hey you know what we are going to do a special ordinance where anything goes, you know just design it and if a professional engineer will stamp it then we will agree to it, I would still seek petition because of the other reasons and they are just as... I didn't even talk about my neighbor.

Mrs. Barnhill said Jeff, he got variances and waivers last time but there is a sewer line under the road and really the county doesn't want to be responsible for maintaining.

Attorney Doll said it doubles the cost of repair.

Jeff Willis said well it will be 20 years before it needs repaired, right.

Jordan Aigner said well my thing is... I am not going to argue that, I already argued it once.

President Valaint asked Richard did you make a motion over there.

Richard Reid said I haven't.

President Valiant said I thought you made a motion to table.

Amanda Mosiman said you know technically you did.

Richard Reid made a motion to table the Petition to Incorporate the Town of Victoria Woods.
Doris Horn seconded the motion.

Attorney Doll asked what meeting.

Mrs. Barnhill said the meeting is on March 13th.

Jordan Aigner asked and do you feel that we need our whole team here.

Attorney Doll said no, I mean I don't. He said I am sorry, President gets to make that decision.

The Board said no.

The motion was then carried unanimously.

Jordan Aigner asked what was that date again please.

President Valiant said March the 13th.

Stephen Unger said so the only thing I want to be clear on is from the Commissioner's perspective, that basically means they would need to hold their public hearing between March 23rd and April 4th. He added that is the window of time prior to them making their recommendation.

Attorney Doll said we have to send it to you 10 days prior to the public hearing so if we...

Stephen Unger said no, April 4th is the last day they can hold their public hearing.

Mrs. Barnhill said and they have to advertise.

Attorney Doll said I just thought we decided they could hold it on May 1st.

Stephen Unger said no, no, no they could adopt the ordinance in May but their public hearing has to be between March 4th and April 3rd.

Jordan Aigner said so we can circulate an email that outlines that if you like.

Stephen Unger said that is a statutory timeline.

Mrs. Barnhill asked do they have to send notice of the Commissioner's meeting.

Stephen Unger said we will, the petitioner's, have to send notice to all of the property owner's, we will publish it, and the statute doesn't actually require we publish in the newspaper but we will.

Attorney Doll said be careful with the newspaper.

Mrs. Barnhill added our local paper.

Attorney Doll said they don't get it right sometimes and you have to be careful with the newspaper, check and re-check and re-check.

Mrs. Barnhill said so we have to do a certified report after this and then, which we get 10 days, and then they need 10 days prior to the meeting with the commissioner's.

Attorney Doll said why don't you give us an outline of the dates so we don't get this screwed up.

Stephen Unger said you want an outline of the date that they have to...

Attorney Doll said we are having a meeting on March 13th, okay. He said I anticipate that, do you Mr. President that it will be voted upon that night one way or the other.

President Valiant said yeah.

Attorney Doll said so count that forward and give us an outline of the due dates in the statute to trigger all this so that the Commissioner's get it in time to have their public hearing and then still have time to vote after the public hearing to make your deadline of June 1.

Commissioner Saylor said give us a window of 5 days when we need to have our hearing.

Stephen Unger said so, and I want to talk through this right now because I want everyone to understand. He said so there window then, if you wanted a 5 day window, would be March 28th to April 3rd. He said that is the very back end that you could hold the public hearing.

Jordan Aigner asked so does that allow you to do your certified X, Y, Z.

Attorney Doll said we have the hearing on the 13th, the continued hearing and it takes 2, 3, 4 days for Molly to get certification ready and I am giving you a cushion because she is fast.

Stephen Unger said if she had it done by 17th that would give the Commissioner's the week of the 27th to hold their public hearing.

Attorney Doll said the last week of March is when the public hearing needs to be. He asked is that right.

Stephen Unger said if she can have that done by the 17th.

President Valiant said April 4th is the cutoff date, right.

Stephen Unger said April 3rd, sorry I went back and looked which is the following Monday. He said so that would give them that week, if you guys had the recommendation by the 17th.

Mrs. Barnhill said yeah, tonight's meeting will be the worst of it so yes.

Attorney Doll said and don't read anything into this but the Board could choose to recommend it, the Board could choose to not recommend it. He asked can the Board refer to the Commissioner's without a recommendation.

Stephen Unger said so that, as you know, 36-7-4 contemplates that on a rezone, right. He said 36-1-5 does not contemplate would be my answer.

Attorney Doll said so yes or no but no we don't have an opinion.

Jeff Willis said which could happen if the Commissioner decides to abstain so he doesn't vote on it. He said we could have a 3 to 3.

Attorney Doll said we have 7 members and if the Commissioner is going to hold his vote until he is sitting as a Commissioner and not sitting as an APC Member, and it's not this Commissioner it

is Commissioner Johnson, yeah you are right. He said it could be a 3 to 3 tie and that is not necessarily a good thing. He said you know though we really don't have very many ties. He said I would have thought that the solar farm would have been more likely to be a tie than this, by the BZA, but anyway.

Jordan Aigner said thank you guys, I know it was a long day, long meeting and I appreciate it.

ATTORNEY BUSINESS:

None.

EXECUTIVE DIRECTOR BUSINESS:

None.

Richard Reid made a motion to adjourn at 8:19 PM. Doris Horn seconded and the motion carried unanimously.

ATTEST:

Molly Barnhill, Executive Director

Jeff Valiant, President