

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 SEPTEMBER 13, 2012

3 The Owensboro Metropolitan Planning Commission
4 met in regular session at 5:30 p.m. on Thursday,
5 September 13, 2012, at City Hall, Commission Chambers,
6 Owensboro, Kentucky, and the proceedings were as
7 follows:

8 MEMBERS PRESENT: Drew Kirkland, Chairman
9 Ward Pedley, Vice Chairman
10 David Appleby, Secretary
11 Gary Noffsinger, Director
12 Madison Silvert, Attorney
13 Margaret Cambron
14 Tim Allen
15 Irvin Rogers
16 John Kazlauskas
17 Jason Strode
18 Fred Reeves

14 * * * * *

15 CHAIRMAN: I would like to welcome everybody
16 to our September 14, 2012, meeting of the Owensboro
17 Metropolitan Planning Commission. Please stand while
18 our pledge of allegiance and our invocation will be
19 given by Mr. Tim Allen.

20 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

21 CHAIRMAN: Our first order of business is to
22 consider the minutes of the August 9, 2012 meeting.
23 Are there any corrections, questions?

24 (NO RESPONSE)

25 CHAIRMAN: If not the chair is ready for a

Ohio Valley Reporting

(270) 683-7383

1 motion.

2 MR. PEDLEY: Motion for approval.

3 CHAIRMAN: Motion for approval by Mr. Pedley.

4 MR. STRODE: Second.

5 CHAIRMAN: Second by Mr. Strode. All in favor
6 raise your right hand.

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: Motion carries unanimously.

9 Next item, please.

10 -----

11 PUBLIC HEARING

12 ITEM 2

13 Consider revisions to the Goals and Objectives of the
14 Comprehensive Plan for Owensboro, Whitesville and
15 Daviess County, Kentucky.

16 MR. SILVERT: Would you state your name,
17 please?

18 MS. STONE: Becky Stone.

19 (BECKY STONE SWORN BY ATTORNEY.)

20 MS. STONE: You have before you two proposals
21 that are submitted for your consideration for changes
22 to the Goals and Objectives of the Comprehensive
23 Plans. I'll go through each of those proposals to
24 highlight what the revisions are.

25 Both of these revisions are based on citizen
meetings that we've held this summer and had comments

Ohio Valley Reporting

(270) 683-7383

1 from the public.

2 Proposal 1: The revisions include on Page 10
3 to add Objectives under the Rural Service Area to
4 "Encourage the application of increased buffers where
5 heavy industrial and coal mining uses may be located
6 in close proximity to existing rural residences."

7 Another objective added is: "The location of
8 new rural residential uses in close proximity to
9 existing natural resource reserves should be
10 discouraged."

11 The Staff crafted these two objectives as a
12 way to recognize the impact that the extraction of
13 natural resources may have on existing residences in
14 the area while still maintaining the balance for
15 property owners to be able to extract minerals that
16 they own on their property. We think that encouraging
17 the increased buffer strikes an appropriate balance
18 between the rights of those with existing homes in the
19 area and those who wish to mine coal on their
20 properties.

21 It also attempts to put people on notice who
22 are considering new uses in that area that they need
23 to consider those locations based on where mining may
24 occur where coal reserves are.

25 The second change in Proposal 1 are changes

Ohio Valley Reporting

(270) 683-7383

1 based on comments from the Active Living Greenway
2 Expansion Task Force. This was, of course, request to
3 the OMPC Staff December of 2001. These are on Pages
4 12 and 13 of Proposal 1.

5 The language is revised under the Objectives
6 of the Bikeways to encourage active living and
7 encourage inclusion of bikeways with connection to the
8 Greenbelt in designs of neighborhoods and in the
9 designs of new streets and roads.

10 Objectives under the Walkways are revised to
11 assure that adequate walkways and/or shared paths are
12 considered in new urban areas. These changes are
13 supported by the Staff. As I said, they result from
14 that task force that was several months to revise
15 language, to strengthen the language, encouraging act
16 of the community through bikeways and walkways. They
17 don't differ greatly from the current goals and
18 objectives that are in the plan. They do encourage
19 the connectivity of walkways and bikeways within our
20 community.

21 So those are the two changes proposed in
22 Proposal 1.

23 In Proposal 2, these revisions also are based
24 on input and comments we got from public meetings.

25 The first revision is based on a comment,

Ohio Valley Reporting

(270) 683-7383

1 saying that cities and counties should not rely on
2 outside funding sources. So on Pages 7 and 8
3 Objectives 4.8.3, 4.9.3, 4.11.6 are eliminated. That
4 strikes language that refers to federal, state and
5 regional policies and funding for housing in the
6 community.

7 This was a comment at a meeting. However, the
8 Staff's position is that utilizing federally and state
9 subsidized housing programs and funding and
10 coordinating local housing policies should be
11 encouraged as our agencies provide affordable housing
12 to the citizens of our community.

13 The Community Development Block Grants have
14 been used to stabilize neighborhoods and rehabilitate
15 dilapidated neighborhoods, and that benefits the
16 entire community. So we think providing houses
17 services in cooperation and conjunction with the
18 state, regional and federal policy adds to the health,
19 safety and welfare of the entire community.

20 I've got a change on Page 6 and a change on
21 Page 10 that sort of go together. There was language
22 removed from Goal 4.3, Objective 4.3.2. This
23 objective was to allow agricultural and other natural
24 resource uses wide arrange to apply traditional
25 production techniques and other natural resources have

Ohio Valley Reporting

(270) 683-7383

1 been eliminated from that objective because that would
2 include coal extraction and that was removed in this
3 proposal.

4 On Page 10 the goal of the rural service area
5 has changed. It reads now on this proposal to,
6 "Reserve the land in the Rural Service Area primarily
7 for residential and agricultural uses, and support
8 uses that need to be near such activities."

9 Additionally Objective 4.15.1 is changed to
10 read, "Accommodate rural residential uses throughout
11 the RSA for people who wish to live in a rural
12 setting." The language in there but only to the
13 extent that rural residential uses do not
14 significantly impinge on the primary uses of the RSA
15 noted above has been eliminated.

16 Objective 4.15.2 is changed to read,
17 "Accommodate the extraction of natural resources
18 within the Rural Service Area in the Rural Preference
19 and Rural Maintenance plan areas, but only to the
20 extent that the activity does not cause negative
21 impacts to residential uses."

22 This requested change under the Rural Service
23 Area is a major change to the land development
24 policies that have been applied in this community for
25 some time. We have seen and continue to see

Ohio Valley Reporting

(270) 683-7383

1 residential lots and agricultural lots develop along
2 with existing county roads for a number of years. We
3 have tried to institute land development policies to
4 try to slow that rapid rural development and reduce
5 numerous access points along roadways.

6 Some examples of the regulations that have
7 been applied in the last ten years have been
8 restricting a lot creation to one new lot per year,
9 applying a three to one ratio to avoid a series of
10 flag lots. Requiring minimum frontage of development
11 lots of 100 feet on public and maintained roads.
12 Require fire protection when more than one lot is
13 divided. Those are currently used to attempt to steer
14 development to areas where urban services are
15 available or can be easily extended.

16 Then rural communities are identified in the
17 comp plan as appropriate places for residential uses.
18 Those are the pink areas on the land use map that have
19 been identified.

20 So just to give you a little bit of statistics
21 on lot development. From 1980 to August of 2011, 62
22 percent of the number of lots that have been created
23 county wide have occurred in the urban service area.
24 However, of those total lots, only 25 percent of the
25 acreage that has been divided in the county occurred

Ohio Valley Reporting

(270) 683-7383

1 within those 62 lots. So 39 percent of the lots are
2 created in the county and that accounts for 75 percent
3 of the acreage divided.

4 So we have to be careful in making sure we're
5 not using that viable farmland in the community. That
6 number doesn't even consider the number of
7 agricultural divisions that are created, and those are
8 lots that are over ten acres in size and are
9 considered add divisions that are exempt from
10 subdivision regulations. Many time when those lots
11 are sold, they are taken out of agricultural
12 production and they're used to build a home.

13 Since 2003 when we started tracking those,
14 there have been 390 agricultural tracts making up
15 9,995 acres of land in the county.

16 As I said, they continue to be created along
17 existing county roads. Some of the difficulty with
18 that is, you know, rapid rural subdivision can create
19 the amount of economically viable farmland in Daviess
20 County. It can also have an environmental impact if
21 more septic systems are constructed in the county. It
22 has an impact on our roadways as each new lot has
23 another access point. They also need fire protection,
24 water, electricity, etcetera. There can also be
25 conflicts between new residences and agricultural uses

Ohio Valley Reporting

(270) 683-7383

1 which were still in this proposal saying our primary
2 use in the rural service area.

3 So for all of those reasons, rural residential
4 uses have not been identified previously in the comp
5 plan as a primary use in rural service areas, you
6 know, outside of rural communities. They're still
7 allowed to occur under the current regulation, but the
8 recognition in the previous plan is agricultural and
9 natural resource extraction such as coal, oil and
10 timber is the primary use.

11 So this proposed change, you know, will affect
12 land development policies that have been in place and
13 we will have to be very careful if this goes forward
14 about crafting new development policies in the land
15 use portion of the plan to accommodate this
16 residential use as a primary use in that area.

17 We need to make sure we're not diminishing
18 farmland, impacting our water quality, creating
19 conflict with ag uses, access point on roadways. All
20 of those things have to be considered when we develop
21 the rest of the plan, if we go with this proposal.

22 Additionally, it doesn't recognize the right
23 of the property owners to have minerals on their
24 property.

25 Another objective that was added under

Ohio Valley Reporting

(270) 683-7383

1 Transportation, Objective 5.2.6, Goal 5.2 states,
2 "Maintain and preserve the 'Blue Bridge.'"

3 We're proposing that in this version, however
4 the bridge a state facility. While we would hope that
5 we would have a seat at the table regarding
6 transportation issues, we wouldn't have any local
7 authority to make the decision about that bridge.

8 We think that this is covered under, we know
9 it's an important facility to the community and we
10 believe that that objective would be covered under the
11 general goal of "Providing for the movement of people
12 and goods from one place to another in a safe,
13 efficient, and cost-effective manner," and it's
14 further addressed under the objective that states,
15 "Assure that our highways are adequate by supporting
16 an on-going transportation planning program."

17 Again, we have the same changes that were
18 shown in Proposal Number 1 relative to the bikeways
19 and walkways. Again, those are supported by the
20 Staff.

21 The last item that we added as a result of the
22 meetings was Objective 6.3.4, and it was revised to
23 include space and facilities for religious
24 organizations in publicly financed building and
25 development projects.

Ohio Valley Reporting

(270) 683-7383

1 We think that there's a possibility that may
2 be in violation of the First Amendment. The proper
3 extent of separation between government and religion
4 in the United States remains an ongoing subject of
5 debate.

6 The Staff would recommend Proposal 1 as the
7 Goals and Objective of the Comprehensive Plan. There
8 certainly may be people here who wish to speak to that
9 and give you their comments.

10 CHAIRMAN: Thank you, Ms. Stone.

11 Is there anybody that would like to make any
12 comments?

13 Yes, sir.

14 MR. ESEEP: May I ask how much time I have?

15 CHAIRMAN: Step to the podium. How much time
16 do you need, sir?

17 MR. ESEEP: I don't know. I just know that I
18 read previous minutes --

19 MR. SILVERT: Before you go on, let me swear
20 you in, sir.

21 Could you state your name, please.

22 MR. ESEEP: My name is Paul Eseep.

23 (PAUL ESEEP SWORN BY ATTORNEY.)

24 MR. ESEEP: How much time do I have?

25 CHAIRMAN: How much time would you like, sir?

Ohio Valley Reporting

(270) 683-7383

1 MR. ESEEP: I know in the past I've read in
2 the minutes that you allow three minutes only. Do I
3 have more than three minutes?

4 CHAIRMAN: Go ahead and start making your
5 point.

6 MR. ESEEP: I will not take 20 minutes. How
7 is that?

8 First off, I would like to address some of the
9 comments Becky Stone made.

10 The comment about the federal funding. I
11 don't know if that actually captures my idea or not.
12 My issue was the fact that just as when you teach your
13 kids. You don't teach your kids in your household to
14 go out there and get as much federal money as they
15 can, to get as much welfare, to get as much grants.
16 You want them to be self-sufficient and work for their
17 effort. That's the idea behind this.

18 As a community, do we want to have a goal to
19 be the best of beggar in the federal government. I
20 don't think so. I'm not opposed to using these
21 grants. I just don't think it should be a goal.
22 Okay.

23 The other issue on, I think was the last one,
24 the religious issue. My concern was the fact that
25 ever since I've lived in this community, this

Ohio Valley Reporting

(270) 683-7383

1 community has had a lot of faith, religious faith. I
2 can't even schedule a meeting on Wednesdays because
3 most of the people I know can't be there because
4 they're at church.

5 When you have a vision of Daviess County, that
6 does not include any mention of religious and
7 religious faith that's in this community, I find it
8 hard to accept that you can call this a vision. I'm
9 sure there are many Christians here on the board. Can
10 you accurately describe yourselves without mentioning
11 your faith or your vision of what you want to do in
12 the future without mentioning your faith?

13 If you take the sum of all the people in
14 Daviess County, you think we can actually have a
15 vision in Daviess County that doesn't mention
16 religious faith in this community? I don't think so.

17 The main reason why I'm here is I want to ask
18 the board to vote down the two proposals or vote to
19 postpone to allow more time for comments.
20 Specifically so the Owensboro Tea Party members and
21 others could have a public meeting with OMPC Staff to
22 either make more revisions to Proposal Number 5, an
23 alternate proposal.

24 At the July 17th Pride Meeting, the OMP Staff
25 announced that there would be another meeting to allow

Ohio Valley Reporting

(270) 683-7383

1 public comment on the goals objectives. Many of us
2 planned to make additional comments after reviewing
3 the proposed changes. What the Staff failed to note,
4 and I assume this is just a miscommunication, is that
5 that meeting would be this one. A final vote on the
6 proposal.

7 Sure I'm free to make comments, but you're
8 voting tonight on it so my comments would be left out.

9 Also, for my perspective, while I'm sure it's
10 not the intend of the Staff, the plan, if you read the
11 plan, it tries to limit what a valid comment is and
12 who a valid comment comes from. When the plan
13 includes such passive aggressive attacks as found in
14 Section 041, what to do with the plans, "Sometimes
15 exaggerated and attack totally unrealistic in
16 describing it."

17 It's words like these which confirms what the
18 community suspects is in store for them when they
19 attend meetings to comment on. That they will be
20 ignored and possible ridiculed.

21 I do want to thank the Staff for listening at
22 the Pride Meeting and including some of my comments.
23 I just wish there was more time to make comments. One
24 other reason I ask the board to postpone the vote is
25 so there's some serious technical, professional and

Ohio Valley Reporting

(270) 683-7383

1 ideological issues in this plan. I would like to just
2 touch on a few.

3 The plan takes approximately 100 pages to
4 summarize the detailed plan, which only is 300 pages.

5 Now, I can't see -- I've written many
6 documents in my life. I've worked for the military.
7 I reviewed many documents. I don't know anyone that
8 thinks you need 100 pages to summarize a 300 page
9 document. A document that already has a summary in
10 it.

11 Section 030 Plan and Summary. You can save 25
12 percent of the printing cost just by taking out the
13 summary. You can save almost 25 percent of the effort
14 to update this plan, and 25 percent of that I use to
15 actually read this plan or people that do read it.

16 The principals of subsection needs to be
17 completely rewritten. This section is to provide
18 "narrative background on the philosophy of the
19 planning effort in Daviess County."

20 The environmental section is particularly
21 troublesome to me. When I read in the plan, "The land
22 provides a resting place or a foundation for gravity
23 bound people." Who talks like this? Who talks about
24 gravity bound people in a public document?

25 "It must be objective to welcome trees, grass

Ohio Valley Reporting

(270) 683-7383

1 and wildlife." I like trees. I like wildlife. I
2 don't know if I go around welcoming them though. Who
3 talks like this?

4 Or "The land exist in its own right. It's not
5 dependent upon the assistance of humans or its
6 continuation or validity." When I read, "The
7 irreplaceable resources are sparingly and wisely used"
8 or "possibly spared completely by either doing without
9 or securing proper substitute" or "you must be very
10 careful of the selection of land that will be
11 urbanized to withdraw or research for the bank to
12 sparingly and wisely as possible."

13 I know some of you members of the board are
14 members of the American Planning Association. Is this
15 environmental ideology that the APA is suggesting you
16 put into these committee plans? Is this professional?
17 You can find such ideological and philosophical
18 nonsense throughout plan. I'm not against the
19 planning. What I'm against is the plan in a local
20 government that takes it upon itself to plan what's
21 best for me on where I should live.

22 In Section 060, official participation under
23 ample mentation, success and failures we, "we need to
24 arrive at a community consensus on how much rural
25 development we can afford and what to accommodate and

Ohio Valley Reporting

(270) 683-7383

1 how to encourage or direct urban growth, most urban
2 areas."

3 It's my view that the free market is the best
4 way. Development throughout the land where people
5 want to live or else they wouldn't develop it. They
6 wouldn't be able to sell their lot. People like
7 living in the areas that the developers develop. We
8 don't need some rules from some government bureaucrat
9 to say where we should live.

10 Another one. This is a goal. Concentrate
11 Daviness County, urban development inside urban service
12 areas by reducing urban sprawl.

13 Mr. Kirkland, I believe you live in
14 Thoroughbred East.

15 CHAIRMAN: No, sir, I do not.

16 MR. ESEEP: Well, Thoroughbred East is a
17 perfect example of why of what they call urban sprawl.
18 It's large houses on large lots in the county so
19 people far away, so people have to drive into work
20 burning gas. It's also characterized as strip malls.

21 Well, I like living in that area. People make
22 a choice whether they live in the county or the city.
23 To have people tell us that you shouldn't be doing
24 that, you shouldn't be living in this urban sprawl I
25 think is wrong.

Ohio Valley Reporting

(270) 683-7383

1 In Section 120, Principals and Assumptions
2 under movement. The community objective is to provide
3 well thought out plans and programs to its
4 development.

5 Becky just used the word steering. Trying to
6 steer people into certain areas. When a Comprehensive
7 Plan should be is a plan which anticipates how people
8 want to live and where they want to live and plan
9 appropriately how to accommodate them now and in the
10 future. Not push guide or steer them according to
11 some plan.

12 Lastly I want to thank the board members for
13 bringing some common sense to the implementation of
14 the Comprehensive Plan. The goals and objective for
15 most of the part is common sense. Promote the
16 creation of high paying jobs. Minimize the
17 expenditure of tax dollars i providing unnecessary
18 services to the greatest number of people, and
19 encourage the stability in existing neighborhoods.

20 It's the plans ideological and principals and
21 implementation process that is at issue here. I can't
22 see how else other than this board how Daviess County
23 could spare for an agenda this plan is trying to push.
24 Thank you.

25 CHAIRMAN: Thank you.

Ohio Valley Reporting

(270) 683-7383

1 Are there any other comments?

2 Ms. Stone.

3 MS. STONE: I just have a clarification.

4 Maybe I didn't make this clear.

5 You are considering only the goals and
6 objectives in the Comprehensive Plan tonight. There
7 were other sections that were alluded to. Those are
8 not being adopted tonight. That's going to come at a
9 later time after goals and objective are adopted.
10 Once you make a recommendation, if you choose to do
11 that tonight on the goals and objectives, that also
12 goes to Daviess County Fiscal Court, the City of
13 Owensboro and the City of Whitesville for their
14 adoption of that as well.

15 Then also Thoroughbred is in the urban service
16 area.

17 CHAIRMAN: Thank you.

18 Are there any other comments?

19 Yes, sir.

20 MR. SILVERT: Could you state your name,
21 please?

22 MR. VanMILLIGAN: My name is Neal VanMilligan.

23 (NEAL VanMILLIGAN SWORN BY ATTORNEY.)

24 MR. VanMILLIGAN: I agree with some of what
25 Mr. Eseep said in his remarks in general. In that I

Ohio Valley Reporting

(270) 683-7383

1 object to being steered to living in a certain rural
2 service area.

3 To have us concentrate our residences in an
4 area under the excuse that it would provide for better
5 service, for example, water and electricity, electric
6 lines runs up and down nearly every road in the
7 county. Probably everyone. To drop another line
8 because there's another residence there I don't think
9 is any big chore for Kenergy or anyone else, OMU.

10 There is an issue I read about recently about
11 how waterlines are not extended to every place in the
12 county. There are probably half a dozen residences
13 that are some issue about extending a waterline to
14 them because they are so remote. In areas where water
15 is available, city water is available, I don't see any
16 reason why that objection to concentration of service
17 should be issue.

18 Fire protection, we have very aggressive and
19 active volunteer fire departments. They're very
20 effective in the rural area particular.

21 Ms. Stone did talk about how we need to have
22 concern for the impact on water quality in the county.
23 Specifically concerned about issues that involve
24 additional housing that might have septic tanks.
25 Septic tanks are modern scientific design devices that

Ohio Valley Reporting

(270) 683-7383

1 are very effective in what they do. Likely to have a
2 significant impact on water quality, unlike strip
3 mining which is likely to have a significant impact on
4 water quality.

5 Also, Ms. Stone remarked on the impact that
6 additional residences would have on roads. My pickup
7 truck going down the road is not likely to have
8 anything like the impact that a 65 ton coal truck is
9 likely to have going down that same road.

10 It appears in the offering that you folks have
11 had before you tonight, I'm guessing that you have a
12 choice to vote up or down Proposal 1 or vote up or
13 down Proposal 2, as opposed to being able to shuffle
14 the deck and pick some statute modifications from
15 each. I don't know if that's true or not. If that is
16 the case, Proposal 1 appears to have been crafted in
17 the least offensive manner given that we know you
18 already like the Comprehensive Plan the way it is.
19 Mr. Noffsinger has told us he considered it to be
20 virtually perfect.

21 Proposal 2 not only contains several elements
22 that are more controversial, but also contain elements
23 that are liable to be offensive. I consider that to
24 be a rather stacked deck since Proposal 2 is the one
25 that would satisfy at least the landowners that were

Ohio Valley Reporting

(270) 683-7383

1 the most aggressive in the last few months. Almost a
2 year in contention with some of the issues that have
3 been facing the board.

4 Proposal 1 would follow more along the
5 accommodation that was offered to the residents out at
6 Pleasant Ridge by Fiscal Court which we consider to be
7 wholly and adequate and a token and of no consequence
8 to protect our rights whatsoever.

9 The changes that are in Proposal 2 are more in
10 line with what we think is appropriate for rural
11 residents to be protected from aggressive activity
12 that might impact the peace and enjoyment of their own
13 property. But if it's an all or nothing vote, since
14 it contains other items that are less plain on their
15 face as being for the benefit of the community, its
16 subject to being dismissed in favor of Proposal 1
17 because those items that are unrelated to the issues
18 which we consider to be important. It strikes us that
19 being able to select, and I don't know if you do or do
20 not, to select which of these changes should be
21 applied rather than merely having an up or down vote
22 on a wholesale plan that involved Proposal 1 or
23 Proposal 2. Unless we can make the decisions, unless
24 you can make the decision based on individual statute
25 changes, I think that the proposed changes to the

Ohio Valley Reporting

(270) 683-7383

1 Comprehensive Plan have been predetermined against us
2 and not something we find very attractive. Thank you.

3 CHAIRMAN: Excuse me. I have one comment.

4 Based on your closing comment about
5 predisposed and stacked against you, what draws you to
6 that conclusion?

7 MR. VanMILLIGAN: Mr. Noffsinger told us at
8 least one of the meeting that we had about these --

9 CHAIRMAN: Excuse me. Mr. Noffsinger does not
10 vote.

11 MR. VanMILLIGAN: I know.

12 CHAIRMAN: Thank you.

13 MR. VanMILLIGAN: He told us that you folks
14 consider the Comprehensive Plan as it stands now to be
15 virtually perfect. That you would prefer not to have
16 any changes to it.

17 Also, that the plan is employed in pieces,
18 depending on the situation that is in front of the
19 board. When we objected to that he told us that we
20 were naive to think that Planning and Zoning was
21 anything but a political process.

22 What we would like to see would be not only
23 that the Comprehensive Plan be modified to encourage
24 human activity, residences, peaceful enjoyment of your
25 property, but also that the plan be employed or

Ohio Valley Reporting

(270) 683-7383

1 enforced universally so that sections that would apply
2 on Monday in one consideration would apply on Tuesday
3 for a different consideration.

4 CHAIRMAN: Thank you, but I just wanted to
5 bring out the point that Mr. Noffsinger does not vote.
6 Thank you.

7 MR. SILVERT: I would like to remind the
8 Commission at this time that these individual goals
9 and objectives can be adopted and changed
10 individually; however, we do have to stick with what's
11 been proposed from one option or the other because
12 they've been advertised as such. So if it's the
13 Commission's will to adopt some goals and objectives
14 from Option 2 and some from Option 1, they may do so,
15 but they cannot recraft the language or it would have
16 to be advertised again.

17 Shuffling the deck, as Mr. VanMilligan said,
18 is an option to this commission and I just want to
19 make sure that you all know that.

20 CHAIRMAN: Thank you.

21 Anybody else have any comments?

22 Yes, sir.

23 MR. SILVERT: State your name, please.

24 MR. CONDON: My name is David Condon.

25 (DAVID CONDON SWORN BY ATTORNEY.)

Ohio Valley Reporting

(270) 683-7383

1 MR. CONDON: My address is 2161 East 19th
2 Street. I am executive director of the Housing
3 Authority of Owensboro.

4 I just recommend that the Commission adopt
5 Proposal 1 as it relates to the housing element in the
6 plan, if the board is going to shuffle the deck. We
7 suggest that Proposal 1 option with respect to the
8 housing be adopted.

9 With respect to a comment that was made
10 whether that should be goal. I think it is clear that
11 the goal of this community should be to access all
12 available resources to provide for the development and
13 maintenance of safe, decent and affordable housing for
14 our residents. These include federal projects, state
15 projects, low income tax credit projects, private
16 developer, private citizens, Section 8 properties,
17 which are private landlords that provide housing. We
18 think it is important to maintain that as a goal to
19 utilize all available resources to provide that sort
20 of housing to all of our residents in our community.

21 If the Commission wants to shuffle the deck
22 between Proposal 1 and Proposal 2, we stand with
23 Proposal 1 on the housing element.

24 CHAIRMAN: Let me ask you one thing. The
25 federal housing dollars, where originally do those

Ohio Valley Reporting

(270) 683-7383

1 dollars come from?

2 MR. CONDON: Well, the federal housing dollars
3 comes from the tax payer.

4 CHAIRMAN: Those being people in this room?

5 MR. CONDON: Yes. People in this room.
6 People across the country. As any federal budget item
7 that goes to Washington, and I suspect that we get a
8 larger share of those than some other communities.

9 Now, in terms of the public housing program, I
10 want to make clear that's what I represent. I'm not
11 going to speak for all the other. There are a
12 multitude of developers and participants in the
13 program here in this community, but our residents pay
14 way well over \$1.2 million in rent every year. So
15 this is not a freebee. They're paying rent. They're
16 paying utilities and so forth. So this is not a
17 handout. This is an effort to get them safe, descent
18 housing so they can move up and move out. Our average
19 tenants is certainly far less than three or four
20 years.

21 There are state dollars that come in. There
22 are tax credits which are federal and so forth.

23 CHAIRMAN: Exactly. I was just making a point
24 that you were saying about federal and state dollars,
25 but all the dollars originally come from the citizens.

Ohio Valley Reporting

(270) 683-7383

1 MR. CONDON: Yes, sir.

2 CHAIRMAN: Thank you.

3 Anybody else have a comment?

4 Yes, sir.

5 MR. SILVERT: Could you state your name
6 please?

7 MR. HESTER: My name is Scott Hester.

8 (SCOTT HESTER SWORN BY ATTORNEY.)

9 MR. HESTER: I also encourage shuffling the
10 deck on this situation because I think that there's
11 some elements of Proposal 1 that are more acceptable
12 than some of the same other elements in Proposal 2 and
13 vice versa.

14 I agree with Mr. Condon that the housing
15 elements in Proposal 1 are much more acceptable than
16 those in Proposal 2.

17 I agree with Mr. VanMilligan that the elements
18 in 4.1.5 regarding the rural service area are much
19 more acceptable than those in Proposal 1. So I would
20 encourage the adoption of those.

21 I listened with interest to Ms. Stone's
22 comments about the development in the rural service
23 area. I wish I had had her statistics at my disposal
24 when I was thinking about how I wanted to address this
25 commission.

Ohio Valley Reporting

(270) 683-7383

1 I've addressed both of the meetings that the
2 Staff held. My concerns are that the rural areas of
3 Daviess County where 40 percent of the residents of
4 Daviess County live seems to get disregarded as a
5 choice of a living space in a lot of ways. As Ms.
6 Stone pointed out, there are efforts to control or
7 limit development in the rural parts of Daviess
8 County. There have been efforts made to limit the
9 expansion of housing in Daviess County, and I
10 understand that there are some legitimate reasons for
11 parts of that. I don't disagree with limiting
12 expansion of conversion of prime agricultural land to
13 housing. It's odd to me that that happens in the
14 urban service area much more than so than it happens
15 in the rural service area.

16 What you don't see out in my part of the
17 county, out in the rural service area is people
18 building homes on prime agricultural land for the most
19 part. You see folks building homes on rolling wooded
20 land. Not out in the middle of a corn field. We
21 value our corn fields out in the county. You see
22 folks building subdivisions on the edge of town in
23 corn fields. That land is too valuable for those of
24 us living out in the county.

25 The thing that I'm really concerned about is

Ohio Valley Reporting

(270) 683-7383

1 that we're not getting the concept of the value of
2 rural home sites to the development of Daviess County.
3 There's a lot of folks who really want that lifestyle.
4 A lot of professional people. A lot of business
5 folks. A lot of the bright young folks that we keep
6 hearing about that we need for progress for Daviess
7 County, for Owensboro to grow. We hear it from the
8 doctors and the universities that the folks that we
9 want to attract and retain in Daviess County, a lot of
10 those kind of folks want a place out in the county to
11 live where they've got some peace and quiet and we are
12 diminishing that. We are decreasing that availability
13 in a lot of ways.

14 Now, obviously one of those is, if we go in
15 there and strip mine it it's permanently removed from
16 any chance of ever being a home site. Once you turn
17 it upside down, 50 to 90 feet deep, it's never going
18 to be a home site ever. We've already torn up a huge
19 sloth of Southwest Daviess County and a huge sloth of
20 Southeast Daviess County. There's a sloth of Southern
21 Daviess County that some would have that happen to
22 now. From Pleasant Ridge to Browns Valley. That's
23 rolling land. It's not farmland for a large part.
24 Some of it is, but it's rolling land. It's wooded.
25 It's land that people would love to build homes on.

Ohio Valley Reporting

(270) 683-7383

1 That attracts folks that want to live in a rural
2 setting. Give them ten acres to build them a nice
3 home and live here and help Daviess County grow. We
4 can't afford to take that land permanently out of that
5 home market. You pick up the Sunday newspaper and
6 look in the real estate section and look at the real
7 estate ads. Look at the homes for sale.

8 I remind you that 40 percent of the folks in
9 Daviess County live out in the country. Look at the
10 homes for sale. Forty percent of the homes for sale
11 aren't in the county. Forty percent of the homes for
12 sale aren't country homes. Maybe ten percent are.
13 The reason they're not is because if a home comes up
14 for sale out in the country that doesn't have any
15 problems, it gets sold immediately. Last one I knew
16 of sold the first person that came and looked at it.
17 There's a huge demand for homes out in the county, in
18 rolling rural country side. We can't afford to keep
19 destroying that kind of land, and I don't think that
20 we want to continue to put roadblocks in the way of
21 people developing and building out in that area, and
22 that's what we're doing. I think that's a mistake. I
23 think we ought to see if we can't sit down and figure
24 out ways to make it work better. There are ways to
25 get into that kind of business and make it work.

Ohio Valley Reporting

(270) 683-7383

1 I don't know. It seems to me that there's a
2 better way to do this where everybody gets to where
3 they want to go.

4 I am asking this Commission to vote in favor
5 of the section in Proposal 2 as it applies to the
6 rural service area. To give priority in the rural
7 service area, to residential use of property above
8 mineral extraction. I'm not opposed entirely to
9 mineral extraction, but priority of residential use.

10 Proposal 1 is all right with me. Proposal 2
11 with mineral extraction.

12 CHAIRMAN: Thank you.

13 Does anybody else that has any different or
14 anything addition to add to comments that have been
15 made?

16 MR. SILVERT: Could you state your name,
17 please?

18 MR. RINEY: William Lance Riney.

19 (WILLIAM LANCE RINEY SWORN BY ATTORNEY.)

20 MR. RINEY: Assuming, and I don't know what
21 that word "broken down" means.

22 Assuming the Comp Plan is a derivative of
23 Agenda 21, I would like to read some comments here.

24 Alex Newman from the New American points out
25 how the United Nations views the scheme of what is

Ohio Valley Reporting

(270) 683-7383

1 being funded in Agenda 21. He writes, "The 30 second
2 review of UN's web page on Agenda 21 would have to
3 reveal that the scheme is about much more than the
4 bike lane."

5 In the first sentence of the summary of Agenda
6 21 posted on line, the UN states that Agenda 21 is
7 actually a Comprehensive Plan of action to be taken
8 globally, nationally and locally by organizations of
9 the United Nations; governments and major groups in
10 every area in which human impacts on the environment.

11 To understand the scope of such an agenda
12 consider, the UN considers carbon dioxide, gas exhale
13 by human beings and need of regulation.

14 As the GOP resolution noted, the global body
15 has also repeatedly refer to national sovereignty and
16 private land ownership as social and justices.

17 That was why activists are up in arms. It has
18 nothing to do with black claims.

19 I want to address the carbon dioxide and
20 global warming thing.

21 There is a website, www.petitionproject.org
22 which lists 31,000 American scientists, almost 10,000
23 of them are PhD's, who wrote this: "We urge the
24 United States government to reject the global warming
25 agreement that was written in Japan in December of

Ohio Valley Reporting

(270) 683-7383

1 '97, and any other similar proposals; the proposals
2 limits on greenhouse gases will harm the environment,
3 hinder the advance of science and technology and
4 damage the health and welfare of mankind. There is no
5 convincing scientific evidence that human release of
6 carbon dioxide, methane or other greenhouse gases is
7 causing or will in the foreseeable future cause
8 catastrophic heating of the Earth's atmosphere and
9 disruption of the Earths' climate. Moreover, there is
10 substantial scientific evidence that increases in
11 atmospheric carbon dioxide produce many beneficial
12 effects upon natural plant and animal environments of
13 the Earth."

14 I believe Mr. Gore took 600 mostly government
15 subsidized scientists to the Japan conference. 31,000
16 Americans, just American scientists, 10,000 PhD's.
17 Thank you.

18 CHAIRMAN: Is there anybody else that has
19 anything to comment on?

20 Yes, ma'am.

21 MR. SILVERT: Could you state your name,
22 please?

23 MS. SCOTT: Joann Scott.

24 (JOANN SCOTT SWORN BY ATTORNEY.)

25 MS. SCOTT: I want to reiterate the request to

Ohio Valley Reporting

(270) 683-7383

1 delay this until we have more opportunity to evaluate
2 it and understand its meaning. I don't feel like I
3 can comment on it at this point and understand it at
4 this point. I would like time to do that and have the
5 community to have a chance to run it back and forth as
6 was previously stated.

7 I wanted to mention about the separation of
8 church and state. I don't really know the impact of
9 the statement about what's the plan as far as toward
10 the community yet. The terminology separation of
11 church and state might be misunderstood by a lot of
12 people because people assume it's like in the
13 constitution, the terminology, separation of church
14 and state. From what I've understood, which I'm not
15 prepared to really speak on it, but just off the cuff,
16 is that that wasn't something found in the
17 constitution, but was quoted from a letter of one of
18 our founding fathers. Jefferson. It was the Monroe
19 Document maybe. Anyway, it was a letter, quotation
20 from a letter. The design in the constitution isn't
21 to prevent expression of our religious faith, but
22 solely to prevent the government from directing and
23 enforcing our worship to be of a certain denomination
24 with our founding fathers. There was a lot of
25 expression of faith. For instance, the prayer before

Ohio Valley Reporting

(270) 683-7383

1 the meetings of the legislature and federal church and
2 such along those lines. There's expression from the
3 start, expression of our faith, but the constitution's
4 language is to prevent the federal government from
5 directing our expression of that to a certain and
6 specific belief. I think we should feel free to
7 exercise our religion even publicly, but just not, for
8 instance, okay, we're going to make it a Catholic
9 facility or we're going to make a Baptist facility. I
10 just wanted to add that. I think with more study that
11 it could be easily understood that we should have
12 freedom and even public expression, public
13 involvement, but just not a direction of a certain
14 faith.

15 Myself, I'm an import from another state. I
16 chose to put my finances in this area because I wanted
17 to live in an urban area. I wanted to have freedom.
18 I wanted to have space. I think that we should
19 recognize that that is a great draw from this area.
20 That people want to come live here and invest in
21 sections of land where they could have that freedom
22 and have their American dream. I would like for us to
23 support and recognize that.

24 CHAIRMAN: Thank you.

25 Is there anybody else that has anything that

Ohio Valley Reporting

(270) 683-7383

1 they'd like to add?

2 (NO RESPONSE)

3 CHAIRMAN: If not the chair would be ready for
4 a motion.

5 MR. APPLEBY: Motion to approve the Goals and
6 Objectives in Proposal 1 as recommended by the Staff.

7 CHAIRMAN: We have a motion to approve
8 Objectives and Goals of Item 1 by Mr. Appleby.

9 MR. ROGERS: Second.

10 CHAIRMAN: Second by Mr. Rogers. All in
11 favor raise your right hand.

12 MR. KAZLAUSKAS: Wow. Wow. Wow.

13 People on the board haven't had an opportunity
14 to speak on that, Mr. Chairman.

15 CHAIRMAN: I'm sorry, Mr. Kazlauskas.

16 MR. KAZLAUSKAS: Because I do have a statement
17 and I do have some problems with some of the things in
18 here. I would like to have the opportunity to
19 addressed them.

20 CHAIRMAN: Mr. Kazlauskas, just a correction.
21 I asked, before I asked for a vote if anybody had any
22 further comments. I wasn't trying to cut you off.

23 MR. KAZLAUSKAS: I understand that. But I
24 think there's some things that need to be address
25 before we take a vote on it.

 Ohio Valley Reporting

 (270) 683-7383

1 First thing is, Mr. Chairman, you were correct
2 in the fact that the CDBG grants, that they are tax
3 payer dollars. We have a lot of dollars that leave
4 this community and go to Washington and Frankfort and
5 it's a small percentage that comes back to this
6 community in CDBG grants. I know that the city and
7 the county has made good use of those dollars over the
8 years. I think that's very important that we continue
9 on with that.

10 One of the things that, and several people
11 have spoken to this tonight and I think very important
12 that we spend just a couple of minutes because on the
13 first proposal on Page 10, 4.15.4, "The location of
14 new rural residential uses in close proximity to
15 existing natural resource reserves and coal deposits
16 should be discouraged."

17 I understand what they're trying to do, but
18 there's something about the way that that's written
19 that just really doesn't set well with me.

20 Number 2, and several people have talked about
21 this, you know, the way that it was worded,
22 "Accommodate the extraction of natural resources
23 within the RSA in a rural preference and rural
24 maintenance plan area, but only to the extent that the
25 activity does not cause negative impact to residential

Ohio Valley Reporting

(270) 683-7383

1 uses."

2 That's kind of tough too, you know, the way
3 these things are written. I'm just wondering, and I'm
4 going to ask the Staff if these can be rewritten to
5 maybe make it more palpable for Proposal Number 1.

6 I personally definitely don't like the way
7 that 4.15.4 is written in Number 1. It just doesn't
8 read well to me. I understand what several people
9 have said about 4.15.2 in Proposal Number 2.

10 I guess I need to ask Mr. Noffsinger and
11 counsel, if the Staff can go back and maybe work on
12 this to bring us something that's different than what
13 we have right now?

14 MR. NOFFSINGER: We could certainly do that,
15 but what we need would be direction from you or this
16 Commission as to what you want us to work on.

17 MR. KAZLAUSKAS: And I'd be glad to work with
18 the Staff because right now I don't know. I'm just
19 telling you that in Proposal 1 I don't like the way
20 it's written. It just doesn't set well with me.

21 I like some parts of 4.15.2 in the second
22 proposal, but understand the problem that the Staff
23 has also.

24 I don't have an answer for it right now, but
25 maybe we should take a couple of minutes to work with

Ohio Valley Reporting

(270) 683-7383

1 the Staff and see if we can formulate a different
2 proposal in this 4.15. That's my suggestion.

3 CHAIRMAN: Are you finished?

4 MR. KAZLAUSKAS: Right now.

5 CHAIRMAN: Does anybody else on the Commission
6 have any other comments?

7 (NO RESPONSE)

8 CHAIRMAN: Mr. Silvert, I believe we do have a
9 motion and a second on the floor.

10 MR. SILVERT: Correct.

11 CHAIRMAN: We have a motion for approval by
12 Mr. Appleby and we have a second by Mr. Rogers. All
13 in favor of that proposal raise your right hand.

14 (BOARD MEMBERS IRVIN ROGERS, MARGARET CAMBRON,
15 DAVE APPLEBY DREW KIRKLAND, WARD PEDLEY AND FRED
16 REEVES RESPONDED AYE.)

17 CHAIRMAN: All opposed.

18 (BOARD MEMBERS TIM ALLEN, JOHN KAZLAUSKAS AND
19 JASON STRODE RESPONDED NAY.)

20 CHAIRMAN: Motion carries six to three.

21 Next item.

22 -----

23 ZONING CHANGES

24 ITEM 3

25 5540 Highway 54, 3.200 acres - Postponed at the August
9, 2012 Meeting

Ohio Valley Reporting

(270) 683-7383

1 Consider zoning change: From A-U Urban Agriculture
and R-1A Single-Family Residential to B-4 General
2 Business

Applicant: Francis Hagan; Estate of Eva E. Smith,
3 Robert Smith Executor

4 MR. NOFFSINGER: Mr. Chairman, Mr. Howard is
5 here tonight to give you an update on this proposal.

6 MR. SILVERT: Would you state your name,
7 please.

8 MR. HOWARD: Brian Howard.

9 (BRIAN HOWARD SWORN BY ATTORNEY.)

10 MR. HOWARD: As directed at the last meeting,
11 the item was postponed.

12 We got together with the applicant and the
13 applicant's attorney and the Kentucky Transportation
14 Cabinet last week to just discuss what from a state's
15 viewpoint access may look like along the Highway 54
16 corridor. The county engineer was invited to that
17 meeting. He was unable to attend. So discussed with
18 him outside of that meeting as well on Ed Foster Road.
19 He did not have any concerns really about access on Ed
20 Foster Road. I think from the county's perspective,
21 there shouldn't be any issues.

22 When we met with the state and the applicant,
23 the end result was Staff didn't change their Staff
24 Report. From the meeting, I completely understand
25 where the applicant is coming from. Of course,

Ohio Valley Reporting

(270) 683-7383

1 they're here tonight and will likely address you with
2 what their concerns are.

3 You heard those last month. They don't want
4 to limit the possibility of potentially having an
5 access point on Highway 54 at some point in the
6 future. Right now they don't have plans for what will
7 develop on that site. They want to leave that option
8 open.

9 In discussions with the state, transportation
10 officials, they said, we can't rule out potential --
11 we can never say never if a Traffic Impact Study came
12 back and said an access may be viable. Maybe a right
13 in, right out. Maybe full access. We don't know.

14 Towards the end of the meeting they said, you
15 know, if we had to look at it right now we would
16 probably say there's a 95 percent chance that we would
17 not allow an access point to Highway 54, but we can
18 never say never.

19 With them putting that great of a percentage
20 on the likelihood that there would not be access,
21 that's why Staff didn't change the Staff Report. I
22 felt comfortable after hearing them and what they
23 discussed, that it's not real likely that they're
24 going to permit access.

25 Again, that's our recommendation and they're

Ohio Valley Reporting

(270) 683-7383

1 here to, the applicant and their attorney are here to
2 provide their information. I would be happy to answer
3 any questions that you all may have based on the
4 meeting or in response to whatever their comments are.

5 CHAIRMAN: Do we have somebody representing
6 the applicant?

7 MR. SILVERT: Could you state your name,
8 please?

9 MS. KNIGHT: Tera Knight.

10 MR. SILVERT: You're sworn as an attorney.

11 MS. KNIGHT: As Mr. Howard said, we were able
12 to meet, and I do appreciate him arranging that
13 meeting and getting state representatives there for us
14 to discuss this issue.

15 The result of the meeting was, as he said, it
16 was Staff's recommendation and condition prohibiting
17 access remain.

18 Again, as we stated last month, Mr. Hagan is
19 just asking that it not be closed at this point in
20 time. He understands that there will be a need for a
21 final development plan, as the specific use of the
22 property is decided at a later point. At that point
23 in time, to look at the circumstances of the property,
24 of the area, the specific use of the property then
25 would be the best point in time to say whether access

Ohio Valley Reporting

(270) 683-7383

1 should be allowed or not. I know Mr. Hagan is here
2 tonight so he can speak more directly on those issues.

3 At this point there is no real specific plan
4 for the property other than to clean it up, connect it
5 to his existing business, and then perhaps at some
6 point down the road develop it further. Again, based
7 on that specific development, if access to 54 is
8 completely closed off, except at this point, it may
9 tender his ability to development the property for
10 certain uses or not. I understand that there's access
11 potentially on Ed Foster Road. Again, he would ask
12 that access to 54 not be completely closed at this
13 point.

14 I would also point out, you can see on the
15 survey on the screen, the property directly across 54
16 was recent, well, July 14, 2011. So about this time
17 last year, was rezoned to I-1. That property has
18 access to 54. It also has access on 142. In fact
19 they recently reconcreted the access to 54.

20 The property catty-corner from this property
21 is a used car lot. It has a large access on Highway
22 54, and it also has access on 142. I would point out
23 that there were no recommendations on the one property
24 that was rezoned I-1. No access restriction on that
25 at all. In fact, access wasn't even mentioned at that

Ohio Valley Reporting

(270) 683-7383

1 point in time. If it wasn't an issue there, I don't
2 know why it's an issue here.

3 Again, I think Mr. Hagan would appreciate at
4 least having the option to decide at a later point.

5 Also last month, and this was discussed a
6 little at the meeting about a final development plan,
7 a Traffic Impact Study. I think Mr. Hagan would be
8 agreeable to doing those at some point once the actual
9 use of the property, the specific use of the property
10 was decided. At this point there's really no, I think
11 a Traffic Impact Study would not be, it wouldn't do
12 much good because, again, there's not a specific use
13 of the property planned, but I think that is something
14 he is willing to consider if it was required or
15 recommended. Again, he's not trying to create an
16 unsafe situation out there. He just wants to have the
17 option for whatever future development there might be.

18 Again, we would ask the Commission to approve
19 the rezoning from residential and agricultural to B-4,
20 but without the condition that prohibits access to 54.

21 CHAIRMAN: Thank you.

22 Does anybody else in the audience have a
23 comment?

24 (NO RESPONSE)

25 CHAIRMAN: Does anybody on the commission have

Ohio Valley Reporting

(270) 683-7383

1 a comment or a question?

2 MR. REEVES: I have a question, Mr. Kirkland.

3 I want to make sure I know exactly. I think I
4 do because I was just out there recently.

5 Is this the property where there's kind of an
6 abandon house on it?

7 MS. KNIGHT: Yes.

8 MR. REEVES: Is there not currently an
9 existing driveway cut in there?

10 MS. KNIGHT: There is to the residence, yes,
11 but it is my understanding that would be closed off
12 once the change of the property or once the property
13 is changed in use.

14 MR. REEVES: I guess a question for Staff,
15 particularly for Mr. Howard.

16 Ultimately if we were to put no conditions on
17 this, Mr. Howard, would the transportation cabinet
18 have the option to not allow ingress and egress there?
19 I guess my question is: Is it really that important
20 that we be the deciding factor on this if there's a
21 higher authority on this particular issue?

22 MR. HOWARD: Any type of access to a state
23 maintained facility would require approval from the
24 Kentucky Transportation Cabinet. If a condition was
25 not placed on the rezoning to eliminate for access,

Ohio Valley Reporting

(270) 683-7383

1 then yes, they would be able to say, you can have one
2 or you can't. Historically if there's a court order
3 of importance and we do have access management within
4 the urban service area, and we pointed out last month
5 this is outside the urban service area, but we feel
6 that access could be of a concern here. We work well
7 with the state and they work, you know, we communicate
8 with each other. They understand that if at the local
9 level, we have a concern and the Planning Commission
10 were to make a recommendation for no access, they
11 would typically abide by that and go along with what
12 the local did instead of substituting their own
13 opinion at some future time.

14 MR. REEVES: I agree that is a very, very
15 short area. I grant you. I just don't know how wise
16 it is for us to be the one restricting Mr. Hagan's
17 option to look with the state with that down the road.

18 CHAIRMAN: I understand where Mr. Reeves is
19 going with that. In other words, he was saying if we
20 leave it open, I'm just going to paraphrase your
21 question so I understand it myself.

22 I think his question is, if we leave it open,
23 could the state come back in the future and close it?

24 MR. HOWARD: Yes, they could.

25 CHAIRMAN: I was having a --

Ohio Valley Reporting

(270) 683-7383

1 MR. REEVES: Yes. That's what I wanted to
2 see.

3 CHAIRMAN: I was having a little trouble with
4 that myself.

5 MR. HOWARD: As Ms. Knight pointed out, during
6 the meeting we had with the state, they were clear
7 that just because you have what is now a residential
8 access on Highway 54 that does not guarantee a
9 commercial access point. Once there is a change in
10 use, they re-evaluate completely. I don't want to put
11 words in their mouth, but basically at this standpoint
12 with the change in use, with the change in zoning, in
13 their mind that access would be closed and it would
14 have to be proven to them that a safe access point
15 could be established.

16 CHAIRMAN: In other words, even if we did not
17 put that condition upon you, we wouldn't want you to
18 move forward with a development plan or anything else
19 thinking that that would be allowable.

20 Am I saying it correctly, that there was
21 probably a great chance the state would not allow
22 that?

23 MR. HOWARD: That's the impression I got from
24 them. It's not a great likelihood.

25 CHAIRMAN: So if we go ahead and pass it, have

Ohio Valley Reporting

(270) 683-7383

1 that condition on it, then he can move forward with
2 surety that's the way it's going to be. He can always
3 appeal or do whatever.

4 MS. KNIGHT: Right. I do understand and I
5 agree with Mr. Howard. The state representatives that
6 were there said, you know, as of right now with the
7 property, there's a large or likelihood that they
8 would not allow access. Mr. Hagan understands that,
9 but again, as he said, they could never say never. If
10 we don't completely cut off access now but we wait
11 until there's a specific use for the property, a final
12 development plan. You know, we talked about future
13 development of Highway 54 that the state has planned
14 for it; whether it's widening it. One of the
15 representatives mentioned closing off the Old Highway
16 54 access onto 54 if it were to come to that.

17 CHAIRMAN: Let me ask you: What do you want
18 us to do?

19 MS. KNIGHT: Mr. Hagan would like to approve
20 the rezoning to B-4, but without the condition of the
21 Staff that says, there is no access to 54. We would
22 just like to leave that option open for some future
23 time, with the understanding that it may never be
24 granted. We understand that the state may not grant
25 access to 54. We feel like this is not the best time

Ohio Valley Reporting

(270) 683-7383

1 to make that restriction at this stage.

2 CHAIRMAN: Thank you.

3 Commission have any other thoughts or ideas on
4 that?

5 MR. HOWARD: Could I make one quick point?

6 CHAIRMAN: Yes.

7 MR. HOWARD: If you do move along that line,
8 and they're aware of it because it was discussed at
9 the meeting. I would just like to get on the record
10 that the Traffic Impact Study requirements established
11 by the Kentucky Transportation Cabinet have changed
12 pretty significantly over the last couple of years.
13 It was discussed at the meeting that the 3.2 acres,
14 depending on use, the likelihood that a Traffic Impact
15 Study would be required to establish the
16 appropriateness of an access point would be very high.

17 Just want to make sure that they're aware a
18 Traffic Impact Study may be likely at some point in
19 the future. I'm sure they are, but I just want to
20 make sure.

21 CHAIRMAN: Let me ask you something, Mr.
22 Howard. If we did pass this and not use that
23 restriction, then the burden of the traffic study
24 would go with the client?

25 MR. HOWARD: Yes.

Ohio Valley Reporting

(270) 683-7383

1 CHAIRMAN: Then before they could do any kind
2 of development, they would have to do the traffic
3 study?

4 MR. HOWARD: Yes. If the state required a
5 Traffic Impact Study to determine access they would.

6 MR. APPLEBY: Or we could require it.

7 MR. HOWARD: Or you as a commission could say,
8 we're going to eliminate their requirement to no
9 access be permitted and require that a Traffic Impact
10 Study be done in the future, regardless of whether or
11 not the state would necessarily require it based on
12 use and acreage just to make sure that access is
13 adequately addressed.

14 CHAIRMAN: As long as your client is aware.
15 That's all we're doing.

16 MS. KNIGHT: Right. And he is aware. I think
17 the request is that, you know, yes, if the state
18 requires a Traffic Impact Study he is aware of that.
19 Again, it would be based on a specific development
20 proposed at the time and a final development plan or
21 whatever.

22 CHAIRMAN: Thank you.

23 MR. NOFFSINGER: Mr. Chairman, what it does is
24 if you attach no condition it takes the local Planning
25 Commission out of the decision and the decision rest

Ohio Valley Reporting

(270) 683-7383

1 solely with the state. In the past that has not been
2 a wise move and then the state does not have access
3 standard that they've been able to use. Today they
4 are looking much harder to access control and
5 requiring traffic studies.

6 If you require a submission of a development
7 plan with the emphasis placed on access, then that
8 keeps the local Planning Commission involved and you
9 do have the opportunity to be involved. If there are
10 no conditions, it takes the local Planning Commission
11 out of it.

12 MR. APPLEBY: Mr. Chairman, could I make a
13 suggestion?

14 CHAIRMAN: Absolutely.

15 MR. APPLEBY: I can understand them not
16 wanting to have a decision on this at this point. I
17 don't want to give you the impression that even with
18 the condition that I would propose that you're going
19 to get this access. I personally don't think it ought
20 to have one, but I would make a recommendation for
21 approval without the Staff's condition, but adding a
22 additional condition. That before any development of
23 the property may occur the applicant would be required
24 to submit a development plan and a Traffic Impact
25 Study which specifically deals with access to the

Ohio Valley Reporting

(270) 683-7383

1 property from Highway 54, and with the following
2 Findings of Fact, 1 through 3 and Findings of Fact
3 Number 4 would now read, the proposal should not
4 overburden the capacity of roadways and other
5 necessary urban services that are available in the
6 affected area.

7 CHAIRMAN: Mr. Appleby, my question is: I
8 don't want us to do something and actually put the
9 applicant in a worse situation than he was when he
10 began. I mean by putting the requirement where he
11 would have to do this traffic survey and everything.

12 MR. APPLEBY: My concern is that there's going
13 to have to be a Traffic Impact Study because I can see
14 an access point at this particular location causing
15 conflicting right and left turn at the intersection.

16 CHAIRMAN: That was my question. I didn't
17 want to do something --

18 MR. APPLEBY: I don't think it needs to be
19 done. It's up to the applicant whether he's willing
20 to do that. This would give him the option.

21 MR. SILVERT: Would you state your name,
22 please?

23 MR. HAGAN: Francis Hagan.

24 (FRANCIS HAGAN SWORN BY ATTORNEY.)

25 MR. HAGAN: I don't really understand why

Ohio Valley Reporting

(270) 683-7383

1 we're worried about this here. This is a state
2 highway and the state is going to decide that when I
3 need to do something there. I don't really know
4 exactly what I'm going to do or I would tell you. I
5 just want to keep the door open right now. Like I
6 say, to me we should strike the whole thing. The
7 thing right across the road from me there it's the
8 same thing that I got. They've got access no problem.
9 I don't know that I even want to. I don't know why we
10 need to close the door on it right now.

11 CHAIRMAN: Mr. Hagan, my question to Mr.
12 Appleby, I just want to make sure by what we were
13 doing we weren't going to put you in a worse situation
14 by it being turned over to the state.

15 MR. HAGAN: I appreciate that. I would like
16 to strike the whole thing and forget it. The state
17 will take care of it when I get ready. I'll have a
18 development plan and then all of that will have to
19 happen.

20 CHAIRMAN: I just didn't want you to be moved
21 up with the state and then have to spend a whole lot
22 more money. That's what I was protecting.

23 MR. HAGAN: I appreciate that.

24 CHAIRMAN: All right. That was my question.

25 Mr. Appleby.

Ohio Valley Reporting

(270) 683-7383

1 MR. APPLEBY: The proposal that I am making
2 would give you the possibility of an access point on
3 that property or perhaps a combined access joint,
4 combined access point on the property line. I don't
5 know. You could possibly get an access point with
6 what I'm proposing. It doesn't tie your development
7 specific, your zoning specifically to having no access
8 on 54. What I'm asking is that the Planning Staff
9 have a say in whether or not that access is granted at
10 such time as you submit a development plan. You
11 wouldn't necessarily be required to submit a
12 development plan, would he, for a single lot?

13 MR. NOFFSINGER: Yes. What we're recommending
14 is a financial development plan to be approved
15 in-house by the director. If he disagrees with that
16 plan, it can be appealed to the Planning Commission.

17 MR. APPLEBY: I'm leaving you the option to
18 justify and determine that you can get an access point
19 there. I don't know that it would be granted or not.
20 With what I'm proposing, you do at least have that
21 option to still attempt to get one if that's
22 determined that's what you want to do there.

23 MR. HAGAN: Whatever you all think is best.

24 MS. KNIGHT: Mr. Chairman, may I ask?

25 CHAIRMAN: Yes, ma'am.

Ohio Valley Reporting

(270) 683-7383

1 MS. KNIGHT: You were talking about rather
2 than turning it over to the state, and I don't know
3 what the state require on that. I guess there's a
4 possibility that they wouldn't require a Traffic
5 Impact Study. Is that maybe what you were thinking?

6 CHAIRMAN: My thought was I didn't want you to
7 go and be put in a different situation where you would
8 incur a great deal more expenses and then not get an
9 access. You know, I was asking to clear my mind that
10 we weren't giving you something, but yet we were
11 hurting you in the long run by more expenses.

12 MS. KNIGHT: I understand.

13 CHAIRMAN: Mr. Howard, did you have something?

14 MR. HOWARD: No. Just to answer her question.

15 It would depend on the use as far as what the
16 state would require in regards to a Traffic Impact
17 Study. If it was a very low traffic generator, one
18 may not be required. You all could make it a
19 condition and that's part of what Mr. Appleby's
20 condition is.

21 MR. APPLEBY: If they want access on 54, I
22 think that they will do a Traffic Impact Study.
23 That's what I'm proposing.

24 CHAIRMAN: Anybody else have any other
25 questions or comments?

Ohio Valley Reporting

(270) 683-7383

1 MR. REEVES: I would second Mr. Appleby's
2 motion because I think it is reasonable. I think it
3 is reasonable. It could be some additional expense,
4 but I still think it's reasonable for us to stay
5 involved to that extent. We have some assurance that
6 a prudent traffic study to make sure it is safe.

7 CHAIRMAN: Mr. Reeves, you've got a second.

8 We've got a motion and a second. All in favor
9 of the motion raise your right hand.

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: Motion carries unanimously.

12 Next item.

13 -----

14 MAJOR SUBDIVISIONS

15 ITEM 4

16 Robert J. Wimsatt, 2.785 acres

 Consider a request by the applicant for revocation of
17 a major subdivision preliminary plat.

 Applicant: Robert J. Wimsatt

18

19 MR. NOFFSINGER: Mr. Chairman, I have a letter
20 from Mr. Wimsatt that I would like to read into the
21 record.

22 "On 12/11/03 the OMPC approved a preliminary
23 plat on 2.783 acres I own on Medley Road titled the
24 Robert J. Wimsatt Amended Preliminary Subdivision
25 Plat. This plat was submitted with the expectation

 Ohio Valley Reporting

 (270) 683-7383

1 that a particular builder would purchase these lots as
2 approved and construct homes. Since that has not
3 occurred and I have no expectation of such, I am
4 hereby officially asking that the OMPC revoke the
5 preliminary plat approved at that time. Cordially,
6 Robert J. Wimsatt."

7 With that, Mr. Chairman, Planning Staff would
8 recommend that you revoke the approval of this
9 preliminary plat.

10 CHAIRMAN: Do we need a motion and a second?

11 MR. NOFFSINGER: Yes, sir.

12 MR. APPLEBY: Motion to revoke the previous
13 plat.

14 CHAIRMAN: Motion by Mr. Appleby.

15 MR. PEDLEY: Second.

16 CHAIRMAN: Second by Mr. Pedley. All in favor
17 raise your right hand.

18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19 CHAIRMAN: Motion carries unanimously.

20 Next item, please.

21 -----

22 AGRICULTURAL DIVISION

23 ITEM 5

24 2855 Highway 554, 76+/- acres

 Consider review of agricultural division plat.

25 Applicant: James R. Wilhoite

 Ohio Valley Reporting

 (270) 683-7383

1 MR. NOFFSINGER: Mr. Chairman, Brian Howard is
2 here to speak to this division.

3 MR. HOWARD: This plat comes before you with
4 several exceptions.

5 It currently is about a 75 acre parcel. When
6 the 75 acre parcel was created back in the 2000's,
7 there was a note that was put on the plat, "that
8 subject property should not be further subdivided."
9 It didn't meet subdivision regulations.

10 I know the applicant's surveyor is here
11 tonight to answer your questions as well.

12 My understanding is that they wish to create
13 the 10 acre parcel around an existing home and have
14 the 65 acre parcel on a separate parcel due to some
15 mortgage and finance issues. The existing lot has no
16 road frontage. It has an access easement and passway
17 to Highway 554. Therefore, with it being an existing
18 parcel with no road frontage creating a second parcel
19 with no road frontage, Staff could not sign it
20 in-house and we cannot recommend approval to you all
21 because we are creating additional tracts without road
22 frontage.

23 Again, the applicant's surveyor is here and
24 may be able to address it further. They have noted on
25 the plat that the property won't be further subdivided

Ohio Valley Reporting

(270) 683-7383

1 until it meets subdivision regulations. They also
2 added a note to the plat today that stated that the
3 use of both parcels is for agricultural use only and
4 no additional building permits will be issued for
5 residential structures on either parcel, on any of the
6 75 acres. So they made those changes in an attempt to
7 maybe make it more powerful in creating a second lot
8 with no road frontage at all.

9 Again, Staff couldn't sign it in-house and
10 Staff can't recommend the approval of it because it's
11 creating additional parcel with no road frontage.

12 CHAIRMAN: Anybody here representing the
13 applicant?

14 APPLICANT REP: Yes.

15 CHAIRMAN: Do we have any questions?

16 (NO RESPONSE)

17 CHAIRMAN: Anybody from the commission have
18 any comments?

19 MR. APPLEBY: I can't see that it would make
20 the situation really any worse than it is. I
21 understand they're probably not wanting to mortgage
22 the whole property. I don't know. I make a motion to
23 approve it.

24 MR. KAZLAUSKAS: Second.

25 CHAIRMAN: Approval by Mr. Appleby. Second by

Ohio Valley Reporting

(270) 683-7383

1 Mr. Kazlauskas. All in favor raise your right hand.

2 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

3 CHAIRMAN: Motion carries unanimously.

4 Next item.

5 -----

6 NEW BUSINESS

7 ITEM 9

8 Consider approval of the August 2012 financial
statements.

9

10 MR. NOFFSINGER: Mr. Chairman, each individual
11 member has been mailed a copy of the financial
12 statements and are ready for your consideration.

13 CHAIRMAN: Is there anybody from the audience
14 or commission have questions?

15 (NO RESPONSE)

16 CHAIRMAN: If not the chair is ready for a
17 motion.

18 MR. KAZLAUSKAS: So move.

19 CHAIRMAN: Motion for approval by Mr.
20 Kazlauskas.

21 MR. REEVES: Second.

22 CHAIRMAN: Second by Mr. Reeves. All in favor
23 raise your right hand.

24 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

25 CHAIRMAN: Motion carries unanimously.

Ohio Valley Reporting

(270) 683-7383

1 Before we make a motion for adjournment, Mr.
2 Kazlauskas, I want to apologize for possibly cutting
3 you off. There was no intention. I was just moving
4 forward. I had no intentions of cutting you off.

5 With that being said the chair is ready for
6 one final motion.

7 MR. PEDLEY: Motion to adjourn.

8 CHAIRMAN: Motion for adjournment by Mr.
9 Pedley.

10 MR. KAZLAUSKAS: Second.

11 CHAIRMAN: Second by Mr. Kazlauskas. All in
12 favor raise your right hand.

13 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

14 CHAIRMAN: We were adjourned.

15 -----

16

17

18

19

20

21

22

23

24

25

Ohio Valley Reporting

(270) 683-7383

1 STATE OF KENTUCKY)

)SS: REPORTER'S CERTIFICATE

2 COUNTY OF DAVIESS)

3 I, LYNNETTE KOLLER FUCHS, Notary Public in and
4 for the State of Kentucky at Large, do hereby certify
5 that the foregoing Owensboro Metropolitan Planning
6 Commission meeting was held at the time and place as
7 stated in the caption to the foregoing proceedings;
8 that each person commenting on issues under discussion
9 were duly sworn before testifying; that the Board
10 members present were as stated in the caption; that
11 said proceedings were taken by me in stenotype and
12 electronically recorded and was thereafter, by me,
13 accurately and correctly transcribed into the
14 foregoing 61 typewritten pages; and that no signature
15 was requested to the foregoing transcript.

16 WITNESS my hand and notary seal on this the
17 30th day of September, 2012.

18

19

LYNNETTE KOLLER FUCHS
NOTARY ID 433397
OHIO VALLEY REPORTING SERVICES
202 WEST THIRD STREET, SUITE 12
OWENSBORO, KENTUCKY 42303

22

23 COMMISSION EXPIRES: DECEMBER 16, 2014

24 COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

25

Ohio Valley Reporting

(270) 683-7383