

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 MARCH 13, 2014

3 The Owensboro Metropolitan Planning Commission
4 met in regular session at 5:30 p.m. on Thursday, March
5 13, 2014, at City Hall, Commission Chambers,
6 Owensboro, Kentucky, and the proceedings were as
7 follows:

8 MEMBERS PRESENT: Ward Pedley, Chairman
9 Fred Reeves, Vice Chairman
10 David Appleby, Secretary
11 Gary Noffsinger, Director
12 Terra Knight, Attorney
13 Steve Frey
14 Wally Taylor
15 John Kazlauskas
16 Larry Boswell
17 Beverly McEnroe
18 Irvin Rogers
19 Larry Moore

20 * * * * *

21 CHAIRMAN: Call the Owensboro Metropolitan
22 Planning Commission March 13, 2014 meeting to order.
23 We will begin our meeting with a prayer and pledge of
24 allegiance to the flag. Mr. Appleby will lead us.
25 Would you stand, please.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: I would like to welcome everyone.
Anyone that would like to speak on any item, we
welcome your comments and questions. We ask that you
come to one of the podiums and state your name and be

1 sworn in. Please speak into the microphone. We have
2 people at home that likes to watch these meetings.

3 Commissioners, you too. If you would, speak
4 into your microphone.

5 With that the first item on the agenda is
6 consider the minutes of the February 13, 2014 meeting
7 and the February 20, 2014 work session. We will take
8 these separately in case there are any additions or
9 corrections or comments.

10 First will be the minutes of the February 13
11 commission meeting. Are there any additions or
12 corrections?

13 (NO RESPONSE)

14 CHAIRMAN: If not the chair is ready for a
15 motion.

16 MR. APPLEBY: Motion to approve.

17 CHAIRMAN: We have a motion for approval by
18 Mr. Appleby.

19 MR. FREY: Second.

20 CHAIRMAN: We have a second by Mr. Frey. All
21 in favor of the motion raise your right hand.

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: Motion carries unanimous. The
24 minutes are approved.

25 Now to the February 20, 2014 work session.

1 Are there any additions or corrections on that?

2 (NO RESPONSE)

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

5 MR. APPLEBY: Move to approve.

6 CHAIRMAN: We have a motion to approve by Mr.
7 Appleby.

8 MR. BOSWELL: Second.

9 CHAIRMAN: Second by Mr. Boswell. All in
10 favor of the motion raise your right hand.

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion carries unanimous.

13 Next item.

14 -----

15 PUBLIC HEARING

16 ITEM 2

17 Consider adoption of text amendments to Chapters 8 and
18 Chapter 13 of the Owensboro Metropolitan Zoning
Ordinance.

19 MS. KNIGHT: State your name.

20 MR. HOWARD: Brian Howard.

21 (BRIAN HOWARD SWORN BY ATTORNEY.)

22 MR. HOWARD: There are two portions of the
23 text amendment. One deals with Article 8 and the
24 other is Article 13.

25 These come to you tonight at the request of

1 Daviness County Fiscal Court. We received a letter
2 from Judge Mattingly asking that we look at the
3 potential of allowing both large contract equipment
4 and large farm dealers to be potentially conditionally
5 use permitted in agricultural zones. So the Staff
6 undertook that process. We looked at the zoning
7 ordinance and what is allowed now. We came up with a
8 recommendation that you have on the Staff Report in
9 regards to the potential. I'll deal with the large
10 farm equipment and contractor equipment first.

11 The second is Article 13 and that deals with
12 the full requirements of landscape buffer.

13 Article 8, what we did we looked where those
14 are permitted now. Currently both large farm
15 equipment and contractor equipment are only permitted
16 in B-5, I-1 and I-2 zones.

17 Part of what the county asked us to look at is
18 if they could be conditionally permitted in
19 agricultural zones. I think because these types of
20 uses often are, they serve the agricultural community.
21 Farms need pieces of equipment. They're close to
22 where they would be using them. They also have huge
23 contractor type equipment.

24 The end result was that we feel that there are
25 good and bad aspects of it. The good aspects are that

1 if these are conditionally permitted in an
2 agricultural zone, that allows the Board of
3 Adjustments to have a public hearing, which all of the
4 adjoining property owners would be notified. It
5 allows them to have a public hearing where there would
6 be public input. It allows them some negotiation
7 capabilities that Planning Commission doesn't have.

8 As we discussed last month, on a case that
9 would fall under this category, the Planning
10 Commission is limited as far as what you can negotiate
11 on. You can't approve a rezoning say to I-1 with a
12 specific use in mind with conditions that apply only
13 to that use and that zone. So the conditional use
14 permit would allow the Board of Adjustments to
15 negotiate some of those items.

16 It also allows not only the flexibility there,
17 but it also allows that one use to go in and it
18 doesn't allow for future expansions of that zoning.

19 Say a property was zoned I-1 Light Industrial,
20 in the future because that I-1 zoning has been
21 establish that would allow further zoning of I-1 in
22 the vicinity. There's specific language in the
23 proposed ordinance exchanges that says that the
24 conditional use permit of one of those uses in an
25 agricultural zone does not set a precedence, does not

1 set a criteria for that to be considered a logical
2 expansion of industrial zoning at some point in the
3 future.

4 So that's the key point there.

5 So the Board of Adjustment can negotiate this
6 as far as lighting, and noise, and dust control, and
7 hours of operation, that type of thing.

8 The second aspect of the ordinance amendment
9 is Article 13. Right now large agricultural equipment
10 is provided an exception to the full paving
11 requirement. It allows you to have gravel on the
12 property with some paved drive aisles.

13 Based on testimony we've heard over the years,
14 and we've had more than one example where this type of
15 use has tried to go in, and there are issues based on
16 the weight of the machinery, the steel tracks on the
17 machinery, that it will tear up asphalt or concrete.
18 We have always heard we have to have gravel, we have
19 to have gravel or else our operation won't work. So
20 what the proposed ordinance does is in Article 13 it
21 applies the paving exception to contractor equipment
22 dealers as well. They have not enjoyed that privilege
23 in the past. Then it sets the parameters for when
24 screening would be required.

25 With that we would submit the text amendment

1 to you for consideration tonight through the public
2 hearing. We have prepared some Findings of Fact and
3 I'll go over those.

4 1. The proposed text amendments reflect uses
5 that are occurring in our changing economy and should
6 be recognized to encourage economic development;

7 2. The Comprehensive Plan contains an adopted
8 goal to "Reserve the land in the rural service area
9 primarily for agricultural uses, other natural
10 resources activities, and support uses that need to be
11 near such activities";

12 3. The Comprehensive Plan contains an adopted
13 goal to "Avoid the introduction of urban activities
14 that would have a detrimental effect on residential
15 activity, but allow some mixture of appropriate
16 nonresidential uses";

17 4. Allowing conditionally permitted large
18 farm and contractor equipment dealers in A-U Urban
19 Agriculture and A-R Rural Agriculture zones would
20 promote the development business that support our
21 agricultural economy while providing protection to
22 residential and agricultural uses in those areas by
23 limiting the intensity of the allowable activity
24 through the conditional use permit process;

25 5. Evidence presented and gathered at

1 previous public meetings supports the paving exception
2 for contract equipment as it is comparable to large
3 agricultural equipment that already enjoys the
4 exception and the proposed buffer standards should
5 allow sites to develop while still maintaining
6 adequate screening; and,

7 6. The addition of a provision to
8 conditionally permit large farm and contractor
9 equipment dealers in agricultural zones is in keeping
10 with other uses that are currently conditionally
11 permitted within agricultural zones.

12 With that the Staff would recommend that you
13 consider this for approval. We enter that Staff
14 Report into the record as Exhibit 1.

15 CHAIRMAN: Commissioners, I agree with
16 Mr. Howard on these issues. I've served 20 years on
17 the Board of Adjustments. It does allow more
18 flexibility, but it also more control when you place
19 these in more residential or farming. When we put
20 conditions on it and the conditions are monitored and
21 in case they do not abide by those conditions, that
22 can be revoked.

23 One other thing. On the gravel not requiring
24 paving, this kind of plays in Chapter 14, the Clean
25 Water Act. Trying to put more water back in the

1 ground and not runoff. This helps when they have to
2 be in phase two of the boundaries of the Clean Water
3 Act. So the gravel situation does help. I think it's
4 a good rule. It's a good thing to do since I've
5 served 20 years on the Board of Adjustments and
6 understand a lot about it.

7 With that I'm going to ask is there anyone in
8 the audience that would like to speak on this?

9 MS. KNIGHT: State your name, please.

10 MR. PAYNE: David Payne.

11 (DAVID PAYNE SWORN BY ATTORNEY.)

12 MR. PAYNE: First of all, the gravel part.
13 The particular company we're talking about has no
14 gravel now and they've been operating there for years
15 and they don't have any trouble tearing their pavement
16 up. I take equipment there myself.

17 As far as the gravel/dust problem, there is a
18 subdivision and there is a school in the area that we
19 are talking about. I don't know if this is without
20 the fence or any of that stuff too. I don't even know
21 if Worthington Road is properly wide enough for
22 lowboys and heavy equipment and a bus trying to get
23 out at the same time. I don't know if you realize
24 that that school does not even have a school zone on
25 it. If this goes there, not only is the school zone

1 going to be put, but the state is going to have to put
2 a turn lane better than they have coming off
3 Worthington. That area is not set up for industrial
4 at all roadway.

5 If it is to end up going there, I would rather
6 it have a proper fence and the blacktop. Not gravel
7 and a low fence.

8 First of all, we have to remember that there's
9 grade school children across the street every day when
10 school is in session. You know how kids and tractors
11 are. Hopefully that would never happen, but it is a
12 possibility.

13 I would just ask you to consider that before
14 you make a ruling on this. If you start changing the
15 rules for one person and one company, what are they
16 going to ask next? That's my biggest concern. Thank
17 you.

18 CHAIRMAN: Mr. Noffsinger, would you address
19 his concerns?

20 MR. NOFFSINGER: Yes, sir.

21 Mr. Payne, this item is about a public hearing
22 in order to consider a text amendment to the zoning
23 ordinance for Owensboro and Daviess County. It is not
24 about a specific business or a named business.

25 Now, the issue you speak of is part of a

1 zoning change that is with the Daviess County Fiscal
2 Court now. However, we're not here tonight to speak
3 about a particular business or to determine if a
4 location you're talking about is appropriate for any
5 type of use. What we're here tonight is to consider
6 whether or not large contractor equipment and farm
7 dealerships should be allowed to locate in
8 agricultural zones with a conditional use permit and
9 then to address screening issues as well.

10 MR. PAYNE: I understand that, but if you rule
11 to change the ordinance, then that going to Fiscal
12 Court would be mute because there wouldn't need to be
13 a zoning change. That's why Mr. Mattingly asked you
14 to do this and look at it; is that correct?

15 MR. NOFFSINGER: That is absolutely correct.
16 There would be a public hearing before another board,
17 the Board of Adjustment, to consider whether or not
18 these types of uses would be conditionally allowed to
19 operate there with a conditional use permit. That
20 board would have to consider what you're speaking of
21 at a location to make a determination as to whether or
22 not it's appropriate, if it's compatible with the
23 neighborhood, and what conditions would be necessary
24 if they approve it to make it compatible with the
25 neighborhood, which could go above the requirements of

1 the zoning ordinance.

2 MR. PAYNE: But the problem is the adjoining
3 landowners would be notified. That's only two houses
4 in the subdivision. So how would we know when that
5 hearing is going to be? Would it be published?

6 MR. NOFFSINGER: Well, the same as a zoning
7 change, which is required by the statute. We notify
8 the same way. Again, we're not speaking to a
9 particular location. I just want to make sure the
10 record reflects. We're speaking to the community as a
11 whole, and on notification of a conditional use
12 permit. Just like on a zoning change, we are required
13 to notify those property owners that adjoin a proposed
14 property. This would be the same type of notification
15 on a conditional use permit that you would have on the
16 zoning change.

17 MR. PAYNE: I mean for the public hearing to
18 change the ordinances, that would be notified the
19 entire county?

20 MR. NOFFSINGER: Well, this is a public
21 hearing tonight before the Planning Commission. If it
22 is, whatever the recommendation is by this board, it
23 has to go to the city and county for their two
24 readings and public hearings before any change is
25 made.

1 MR. PAYNE: Thank you.

2 MR. NOFFSINGER: You're welcome.

3 CHAIRMAN: Anyone else like to speak?

4 Yes, sir. Step up to the mike, please.

5 MS. KNIGHT: Would you state your name for the
6 record?

7 MR. JOHNSON: Charlie Johnson.

8 (CHARLIE JOHNSON SWORN BY ATTORNEY.)

9 MR. JOHNSON: I had a question regarding the
10 fencing, the appropriate screening, because that's the
11 property we're looking at or discussing here which it
12 could be anywhere.

13 If the road is higher than the property, the
14 property is down in a little valley. So I guess what
15 determines that screening? What determines the height
16 of the screening?

17 MR. NOFFSINGER: Per ordinance that height
18 would be measured at grade where that fence is. Not
19 from a road. It would be measured at grade where the
20 fence or screening material is located.

21 MR. JOHNSON: That kind of makes it irrelevant
22 because you can see right over it. That's what I was
23 asking.

24 MR. NOFFSINGER: In some cases it could, but
25 again, we're not talking about a specific location

1 here. We're just speaking of the ordinance and what
2 the height would be.

3 Again, if you have a conditional use permit,
4 then those types of items can be taken into
5 consideration if that conditional use permit is
6 granted. If the ordinance requires a minimum of say a
7 three foot high fence, the Board of Adjustment may
8 place a condition that to be compatible with the
9 neighborhood you have to have a six foot high fence.
10 I'm not saying they will. I'm just saying with that
11 conditional use permit you do have the ability with
12 that board to set conditions that are in excess of the
13 zoning ordinance in order for that use to be
14 considered compatible with the neighborhood.

15 MR. JOHNSON: Thank you.

16 MR. NOFFSINGER: You're welcome.

17 CHAIRMAN: Anyone else?

18 MS. KNIGHT: Please state your name for the
19 record.

20 MR. KENNEDY: Robert Kennedy.

21 (ROBERT KENNEDY SWORN BY ATTORNEY.)

22 MR. KENNEDY: I have a question about when we
23 go to put these zoning ordinances in and you have a
24 certain area that you zone for agricultural mix, who
25 is the governing body for the area as far as

1 entranceways and coming and going? Would it be the
2 city, the county or the state for the entrance?

3 MR. NOFFSINGER: It would be determined based
4 upon which jurisdiction has that right-of-way.

5 For example, on Highway 60, it would be
6 federal and state maintains that. They have the say.

7 On the local county roads, that would be say
8 the Daviess County Fiscal Court.

9 On city roads, it would be the city that would
10 review that.

11 This board as well makes recommendations and
12 does make certain requirements regarding access to
13 roadway, but ultimately the jurisdiction rests with
14 that jurisdiction that's required to maintain it.

15 MR. KENNEDY: That's what I was wanting to
16 know. Because I know like going down Frederica Street
17 you can only have new entrances now every 500 feet.
18 They have new rulings on that. Of course, you know,
19 decorations and everything else. Everything has a
20 ruling on that. I just wanted to know who the
21 governing body for the area. Thank you.

22 MR. NOFFSINGER: You're welcome.

23 CHAIRMAN: Anyone else?

24 (NO RESPONSE)

25 CHAIRMAN: Commissioners, do you have any

1 comments or questions?

2 MR. KAZLAUSKAS: Yes.

3 After reviewing this, Mr. Chairman, on the
4 second page where will we talk about "C/26 Farm
5 equipment dealer," I for one certainly agree with
6 that. I think that that type of a business or a
7 dealer that would serve as farm equipment would be a
8 help not only to the farming community, but it helps
9 that farmer from having to get that farming equipment
10 into the city or into an industrial park where it
11 could cause a traffic problem.

12 Going back over to the first page, C/26 where
13 we talk about contractor equipment dealer, I guess I
14 need a definition of a contractor equipment dealer.
15 Are we talking about backhoes or are we talking about
16 pieces of equipment that could be used in a coal mine
17 with a 12 to 16 foot wheel on it? As I went through
18 this, as I reviewed this, I could not find any
19 descriptions of what a contractor equipment dealer
20 would be. Although, I'm in favor of the farm
21 equipment dealer, because I think that's just a common
22 sense issue, I have some questions about what a
23 contractor equipment dealer would be. Maybe the Staff
24 could help me out with that.

25 CHAIRMAN: I can speak on that because I am a

1 contractor and am quite familiar with heavy equipment.
2 There are several different types of equipment that is
3 contract equipment. You have your large tractors,
4 what they call a Challenger. You have your dozers
5 that's on steel tracks. Your Challengers are on pad.
6 You have your track hoes. You have your backhoes.
7 You have your rental equipment. You have large
8 trenchers. You have your big dirt pans. Some are
9 self-propelled. Some are not. A lot of the contract
10 equipment is very similar to the farm equipment these
11 days. In fact, you can use those big Challengers or
12 tractors either in the contractor business or you can
13 use them on a farm. In fact, some of the farmers rent
14 their Challengers and equipment to the contractor to
15 pull those big dirt pans.

16 So when you get into contractor equipment it's
17 anything from a small backhoe to a monster tractor, or
18 earth moving equipment, or a track hoe. So there's
19 many, many things in contract equipment. A lot of it
20 is very similar to farm equipment these days.

21 Most of your contractors like to when they
22 sell and rent equipment they like to locate on a main
23 thoroughfare because of exposure. They don't like
24 industrial parks. As far as the ground use itself,
25 the activity between farm equipment and contract

1 equipment, as far as sales is concerned, is not a
2 major difference in my opinion.

3 MR. KAZLAUSKAS: I guess the question I have
4 though, Mr. Pedley, would contractor equipment, would
5 that be the same thing as equipment that's used in
6 coal mining? What I'm talking about is big monster
7 trucks. I mean those big things.

8 CHAIRMAN: Normally you don't see that type of
9 equipment out that is on display for sale or display
10 for rental. Most of your big dealers like CAT and
11 those people, they work directly with the coal mine
12 industry. Most of the time you see the equipment go
13 straight to the mines. I can't answer all the
14 questions you have. If you go out Highway 81 and look
15 at Wayne Supply there, you'll see what I'm talking
16 about. They have contract equipment sitting out front
17 on display. It's all of your equipment. It's very
18 nice. It's very clean. It all depends to me on how
19 they locate their used equipment and what I call the
20 junk area on their site. Get it back off the road.

21 When you come to the Board of Adjustments,
22 we're going to look at these things. That's what the
23 Board of Adjustments does. We can put conditions on
24 it that require them to, if they have a storage yard
25 or old used junk equipment, we could actually require

1 them to put it in a more screened area.

2 This by far would be better, in my opinion, to
3 take an agricultural zone and allow a conditional use
4 permit than it wouldn't to do a zoning change.
5 Because as Mr. Howard stated, a zoning change, once
6 you do that and you open the door and they can just
7 keep expanding, expanding, expanding.

8 The conditional use permit is for strictly
9 that business and nothing else. If that business goes
10 bust or goes out, no one else can come in and use
11 that. It's strictly for that business. It does not
12 run with the land. It runs with that business.

13 A variance runs with the land. A zoning
14 change runs with the land. That's about all I can
15 tell you about it.

16 Mr. Reeves has got his hand up so I'll
17 recognize him.

18 MR. REEVES: I want to point out that if
19 you'll look at Chapter 8, Page 9 down at the bottom
20 green screen stuff there. It says, "An applicant for
21 such conditional use shall make the Board of
22 Adjustment aware of the maximum scope of business
23 which will we operated on site."

24 So they would have to define what kind of
25 equipment was going to be there. As Mr. Pedley said,

1 the Board of Adjustment could make a condition as far
2 as limiting what type of equipment could go there. If
3 we wanted to say you could not put coal mining
4 equipment on there, that could be a condition for
5 approval.

6 MR. KAZLAUSKAS: You understand my concern.

7 MR. REEVES: Yes.

8 MR. KAZLAUSKAS: I think the concept is good.
9 I think it serves a purpose, but I don't want to see
10 it being misused and that's where the Board of
11 Adjustment would have to make a decision on what type
12 of equipment would go in.

13 CHAIRMAN: Yes. That's exactly right.

14 Mr. Boswell.

15 MR. BOSWELL: Just a point of clarification.
16 As I read this, it would seem to me that really you've
17 got a farm equipment dealer in actuality could also be
18 a contractor dealer because he's going to be leasing
19 or contracting that equipment out, whatever it may be.
20 So essentially they're one in the same. Am I
21 interpreting that correctly?

22 MR. NOFFSINGER: Yes, sir, that is correct.

23 MR. BOSWELL: Thank you.

24 MR. NOFFSINGER: The zoning administrator is
25 nodding his head "yes."

1 CHAIRMAN: Commissioners, anyone else?

2 Yes, Mr. Moore.

3 MR. MOORE: Thank you, sir.

4 My question is: This request came from the
5 Daviess County Fiscal Court. Is that normal? Is that
6 how it normally happens or did they just call, I want
7 you guys, the Staff, to look at this or did someone
8 ask them to look at that or how did this come about?
9 Is that the normal the way it occurs?

10 MR. NOFFSINGER: Yes, sir. That would be the
11 normal process as recognized by the Kentucky Revised
12 Statutes.

13 CHAIRMAN: Correct me if I'm wrong, Mr.
14 Noffsinger, but Fiscal Court may adopt this, but the
15 city may not?

16 MR. NOFFSINGER: That is correct.

17 CHAIRMAN: Yes, sir.

18 MS. KNIGHT: Would you please state your name
19 again.

20 MR. PAYNE: David Payne.

21 MS. KNIGHT: I would remind you you're under
22 oath.

23 MR. PAYNE: Thank you.

24 Two things. The first thing that comes to
25 mind is if you change these ordinances any type of

1 this kind of business can ask you for a conditional
2 use permit anywhere in the county or if the city
3 adopts it in the city. I know you would have more
4 control of things, but that wouldn't stop it from
5 going anywhere. If you pass this is to where they
6 don't have a zoning change, then I can go get a John
7 Deere affiliate myself and start one if I can get a
8 conditional use permit. That's my concern.

9 The main concern, Mr. Pedley, is what you just
10 said. Their junk area. I don't want to see a junk
11 area anywhere in Daviess County because there are
12 ordinances against that. If they can have a junk
13 area, then they don't need to be in business anyway.
14 That's my big concern right there.

15 CHAIRMAN: Here is what the Kentucky Statute
16 says. It must have a harmonious integration into the
17 neighborhood, and it will not adversely affect future
18 development. That's the things that the Board of
19 Adjustment we have to consider and make a judgment
20 call. Will it harmoniously integrate into the
21 neighborhood, and will it have an adverse influence
22 for future development.

23 Mr. Noffsinger, correct me again, I believe
24 that's what the Kentucky Statute says.

25 MR. NOFFSINGER: You are correct.

1 MR. PAYNE: Thank you.

2 CHAIRMAN: Thank you, sir.

3 Anyone else?

4 (NO RESPONSE)

5 CHAIRMAN: Commissioners, any other questions?

6 (NO RESPONSE)

7 CHAIRMAN: Audience, anyone in the audience?

8 Yes, sir.

9 MS. KNIGHT: State your name for the record,
10 please.

11 MR. MORTON: My name is Tom Morton.

12 (TOM MORTON SWORN BY ATTORNEY.)

13 MR. MORTON: I understand that you put a fence
14 around your business, but I don't understand why you
15 have to put a fence and trees and shrubbery on the
16 inside of the fence. That never made no sense to me.
17 I'd kind of like to get you all to explain it a
18 little.

19 CHAIRMAN: Mr. Noffsinger.

20 MR. MORTON: I can understand one, but I
21 cannot understand both. Trees and all of that, it
22 gets pretty expensive when you're trying to start a
23 business.

24 MR. NOFFSINGER: I agree with you. This
25 ordinance attempts to reduce the landscape

1 requirements for these types of uses, but also is
2 respectful of adjoining uses.

3 The fence that you're speaking of generally is
4 a chain-link fence which provides absolutely no
5 screening whatsoever. The bushes would provide three
6 foot high continuous element and it should be in front
7 of that fence along say a public right-of-way so that
8 it will break up that fence and that graveled area.
9 Certainly you're not going to see bushes and then a
10 solid privacy fence, but a chain-link fence does
11 absolutely no good for screening or to control any
12 dust whatsoever.

13 MR. MORTON: Whenever I read it in the paper,
14 it says that it's going to be trees and shrubbery on
15 the inside of a privacy fence. A privacy fence to me
16 is not a chain-link fence. It's a solid fence.

17 MR. NOFFSINGER: No, sir, that is not the way
18 the ordinance is proposed.

19 MR. MORTON: Okay. I just wanted to kind of
20 explain it to me and the people out.

21 MR. NOFFSINGER: I agree with you.

22 MR. MORTON: Thank you.

23 CHAIRMAN: One other thing. The trees,
24 according to the ordinance, can be clustered anywhere
25 on the property. Those trees are for environmental

1 purposes as much as esthetic appeal. So they can be
2 clustered. It doesn't have to be, I might be wrong on
3 this, Mr. Noffsinger, but they can be clustered
4 according to the ordinance.

5 MR. NOFFSINGER: That is correct, sir.

6 CHAIRMAN: Thank you.

7 Anyone else?

8 (NO RESPONSE)

9 CHAIRMAN: If not the chair is ready for a
10 motion.

11 MR. APPLEBY: Mr. Chairman, I make a motion
12 for approval of the text amendments based on the
13 Planning Staff Recommendations and the Findings of
14 Fact as stated by Brian, Findings of Fact 1 through 6.

15 CHAIRMAN: We have a motion for approval by
16 Mr. Appleby.

17 MR. REEVES: Second.

18 CHAIRMAN: We have a second by Mr. Reeves.
19 Comments or questions on the motion?

20 (NO RESPONSE)

21 CHAIRMAN: All in favor of the motion raise
22 your right hand.

23 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

24 CHAIRMAN: Motion carries unanimous.

25 Next item, please.

1 -----

2 CELLULAR TELECOMMUNICATIONS FACILITIES
3 PER KRS 100.987

4 ITEM 3

5 381 Thruston Dermont Road
6 Consider approval of a wireless telecommunications
7 tower.
8 Applicant: New Cingular Wireless PCS, LLC d/b/a AT&T
9 Mobility; Heritage Baptist Church of Owensboro

10 MS. KNIGHT: Please state your name for the
11 record.

12 MS. EVANS: Melissa Evans.

13 (MELISSA EVANS SWORN BY ATTORNEY.)

14 MS. EVANS: This tower proposed is a 175 foot
15 monopole tower with a 15 foot lightning arrestor. The
16 cellular tower proposed does meet all the distance
17 requirements for residential structures and the
18 applicable setback from the property lines. The
19 applicant is proposing an 8 foot wooden privacy fence
20 around the entire tower, but they are however asking
21 for a waiver of the 6 foot tall staggered evergreen
22 trees around the property.

23 As you can see in an aerial photo that we did
24 have for you that's not showing up on your screen,
25 this property sits back on Heritage Baptist Church
property on Thruston Dermont Road and it's surrounded
by trees most of the way around the property. So

1 they're asking for a waiver of the required trees, but
2 they are going to provide an 8 foot privacy fence.

3 Staff would recommend approval with the
4 following Findings of Fact:

5 1. The application is complete with all
6 materials in accordance with the Owensboro
7 Metropolitan Zoning Ordinance;

8 2. The site is in compliance with all design
9 criteria of the Owensboro Metropolitan Zoning
10 Ordinance;

11 3. The permanent tower will improve service
12 for users within the community; and,

13 4. By providing the opportunity for three
14 total service providers on this tower, we are
15 promoting the goal of the Comprehensive Plan to
16 encourage collocation in order to minimize the number
17 of telecommunication towers.

18 We would like to enter the Staff Report into
19 the record as Exhibit B.

20 CHAIRMAN: Anyone here representing the
21 applicant?

22 MR. PIKE: David Pike, Pike Legal Group.

23 MS. KNIGHT: You're sworn as an attorney.

24 MR. PIKE: Mr. Chairman, do you want to start?

25 CHAIRMAN: Mr. Pike, I'll ask the

1 commissioners.

2 Commissioners, do you have any questions of
3 Mr. Pike?

4 (NO RESPONSE)

5 CHAIRMAN: Anyone in the audience have any
6 questions of Mr. Pike?

7 (NO RESPONSE)

8 CHAIRMAN: If not I think --

9 THE WITNESS: I think Mr. Pike will sit down.
10 I would indicate before I do sit down,

11 Mr. Chairman, with your permission I would like to
12 thank your entire zoning staff. We worked very hard
13 to come up with a well configured site. This is the
14 first of several as part of AT&T's commitment to
15 deploy their ultra high speed wire system here in the
16 county. I have a number of expert witnesses with me
17 here today on a wide range of issues that we could
18 have called, but I'm grateful for the Staff's thorough
19 review. If this is an expedited proceeding, then it's
20 due in large measure to their assisting us in
21 developing a well-formulated, well-articulated
22 application. We're grateful for their help.

23 CHAIRMAN: Thank you, sir.

24 If there are no comments or questions, chair
25 is ready for a motion.

1 MR. REEVES: Mr. Chairman, I make a motion for
2 approval based on Staff's Findings of Fact 1 through 4
3 and also requesting the waiver of the 6 foot staggered
4 evergreen trees be waived.

5 CHAIRMAN: We have a motion for approval by
6 Mr. Reeves.

7 MR. APPLEBY: Second.

8 CHAIRMAN: We have a second by Mr. Appleby.
9 Comments or questions on the motion?

10 (NO RESPONSE)

11 CHAIRMAN: All in favor of the motion raise
12 your right hand.

13 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

14 CHAIRMAN: Motion carries unanimous.

15 MR. PIKE: Thank you very much for that
16 approval.

17 CHAIRMAN: You're welcome.

18 Next item.

19 Related Item:

20 ITEM 3A

21 3581 Thruston Dermont Road
22 Consider approval of minor subdivision plat.
23 Applicant: Heritage Baptist Church of Owensboro

24 MR. NOFFSINGER: Mr. Chairman, this is the
25 plat for the cellular tower facility that you just
approved. It does come to you as an exception to the

1 subdivision regulations and it does not meet all the
2 minimum lot requirements for the zone; however it is
3 for utility purposes. That is noted on the plat.
4 It's recommended for your approval.

5 CHAIRMAN: Anyone in the audience have any
6 comments or questions on this item?

7 (NO RESPONSE)

8 CHAIRMAN: Commissioners, comments or
9 questions?

10 (NO RESPONSE)

11 CHAIRMAN: Chair is ready for a motion.

12 MR. APPLEBY: Motion for approval.

13 CHAIRMAN: We have a motion for approval by
14 Mr. Appleby.

15 MR. BOSWELL: Second.

16 CHAIRMAN: We have a second by Mr. Boswell.
17 Comments or questions on the motion?

18 (NO RESPONSE)

19 CHAIRMAN: All in favor of the motion raise
20 your right hand.

21 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

22 CHAIRMAN: Motion carries unanimous.

23 Next item.

24 MR. PIKE: Thank you again.

25 -----

1 COMBINED DEVELOPMENT PLANS/MAJOR SUBDIVISIONS

2 ITEM 4

3 4200, 9.561 acres

4 Consider approval of combined final development
5 plan/major subdivision preliminary plat.

6 Applicant: Jagoe Land Corporation

7 MR. NOFFSINGER: Mr. Chairman, this plan comes
8 to you having been reviewed by the Planning Staff and
9 Engineering Staff. It's found to be in order. The
10 use is consistent with the underlying zone. It meets
11 the minimum requirements of the zoning ordinance and
12 subdivision regulations and is ready for your
13 consideration.

14 CHAIRMAN: Anyone here representing the
15 applicant?

16 APPLICANT REP: Yes.

17 CHAIRMAN: Anyone have any comments or
18 questions on the application?

19 (NO RESPONSE)

20 CHAIRMAN: Commissioners, do you have any
21 comments or questions?

22 (NO RESPONSE)

23 CHAIRMAN: Chair is ready for a motion.

24 MR. BOSWELL: Motion for approval.

25 CHAIRMAN: We have a motion for approval by
Mr. Boswell.

1 MR. TAYLOR: Second.

2 CHAIRMAN: We have a second by Mr. Taylor.

3 Comments or questions on the motion?

4 (NO RESPONSE)

5 CHAIRMAN: All in favor of the motion raise
6 your right hand.

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: Motion carries unanimous.

9 Next item, please.

10 -----

11 NEW BUSINESS

12 ITEM 5

13 Subcommittee on Bylaws and Personnel Policy
14 Presentation on Amended Bylaws

15 CHAIRMAN: Commissioners, we've had a
16 committee working on the bylaws and personnel policy
17 and Mr. Kazlauskas is the chair of that. I'm going to
18 ask him to do a presentation. After that, I'm going
19 to ask you to approve the bylaws.

20 MR. KAZLAUSKAS: Thank you, Mr. Chairman.

21 First of all, I would like to publically thank
22 Mr. Pedley, our chairman, and Larry Boswell, Fred
23 Reeves, our director, Mr. Noffsinger, for the time
24 that they spent going over these bylaws. Thank you.

25 Then, of course, special thanks to Brian

1 Howard who kept meticulous minutes. We want to thank
2 him. I don't think we could have got through it
3 without him taking down every word.

4 The committee did have three meetings in the
5 last week to consider this. What I would like to do,
6 if there's no objection, is go over the proposed
7 changes and then I'll entertain any questions from any
8 of the commissioners that might have any.

9 If we go to Page 1, Section 2, under Section 2
10 you'll see "Planning Commission shall perform his
11 duties as described by proper parliamentary
12 procedure." That was stricken out and the words
13 entered were "codified in the latest edition of
14 Robert's Rules of Order."

15 After speaking with our attorney, our attorney
16 advised us that we really need to go back to proper
17 parliamentary procedure instead of the latest edition
18 of Robert's Rules of Order. I certainly agree with
19 our attorney in that. She can explain why she's
20 advising us to do that.

21 MS. KNIGHT: Thank you, Mr. Kazlauskas.

22 Just to clarify, I believe the way that that
23 should read, all of it should be left in. The
24 paragraph should read, "The Chairman shall be the
25 presiding officer at all meetings and hearings of the

1 Planning Commission and shall perform his duties as
2 described by proper parliamentary procedure codified
3 in the latest edition of Robert's Rules of Order."

4 The reason that I think it should all be left
5 in is parliamentary procedure is the way that we
6 conduct meetings as a general idea or concept. That
7 procedure is codified by Robert's Rules. So we're
8 still operating under parliamentary procedure, it's
9 just that that's the specific book that we look to for
10 guidance if we need it. Does that make sense?

11 MR. KAZLAUSKAS: Very good. Thank you.

12 The next change we want to talk about is in
13 Section 6 on Page 2. We've omitted under "and to call
14 this roll when required." "The duties of the
15 Secretary-Treasurer are as follows: To keep records
16 and minutes of each meeting or hearing of the
17 Commission; to keep a roll of the members," and we
18 felt like "and to call this roll when required" was
19 not needed at this time. So we suggested that
20 verbiage be omitted.

21 On Page 3 under Article III on Section 1, the
22 last sentence, "in each year except that the first
23 election will be held immediately after the Commission
24 is legally organized."

25 That was placed in there when the OMPC was

1 organized. It's really verbiage at this point that
2 can become confusing. The committee felt that it
3 ought to be omitted at this point because we are
4 legally organized at this point and continue on. We
5 really don't need that verbiage in there.

6 If you go down to Section 3, you'll see that
7 we struck out "except as provided in Section 1 of this
8 Article." That relates back to the Section 1 which
9 was omitted. So we suggest that that verbiage also be
10 omitted.

11 Going over to Page 4 under Meetings, Section
12 3, there was a lot of discussion, and I don't want to
13 say hours of discussion, but there was certainly a lot
14 of discussion on this simple paragraph. "Simple
15 majority vote of all members present where there is a
16 properly constituted quorum shall be necessary to
17 transact any official business, except that a vote of
18 a simple majority of the total membership shall be
19 necessary for the adoption or amendment of the
20 Commission's Policies or elements of the Comprehensive
21 Plan or regulations."

22 Basically what we're saying is we've got to
23 have six members majority there to vote.

24 Am I right, Counsel? Isn't that what we're
25 talking about there?

1 MS. KNIGHT: Yes. I know this was probably
2 the most confusing part for sure.

3 Just to give the other commissioners a little
4 bit of background. I think the way that this ended up
5 being changed was to mirror the language of the
6 charter. That one was studied on as well. Then also
7 to mirror KRS.

8 There were a few things added such as the
9 Commission's Policies. I think that's intended
10 because the personnel policies are being reviewed at
11 this time as well. That's important that we know how
12 to amend those.

13 The elements of the Comprehensive Plan, that's
14 specific in the statute. The word after that, "or
15 regulations" is not in the statute, but is in the
16 charter. So that was the only kind of iffy thing and
17 probably the only one thing that really calls for
18 questioning even at this point.

19 I do think that the way that you all have
20 amended that definitely clears up Section 3.

21 MR. KAZLAUSKAS: Believe me, we spent a lot of
22 time or verbiage on that trying to get it corrected.
23 We appreciate the help of counsel on that.

24 MS. KNIGHT: Absolutely.

25 MR. KAZLAUSKAS: On Section 4, "The notice of

1 such a meeting shall specify the purpose of such a
2 meeting and no other business may be except by
3 unanimous consent of the Commission." This has to do
4 with special meetings. The committee felt that once a
5 special meeting is called that that meeting should be
6 for that specific item that the meeting was called
7 for. That it should not, other items should not be
8 considered. So we took out that "except by unanimous
9 consent of the Commission." We felt that that was
10 confusing and might have opened the door for some
11 conflicts in the future. So we felt that that really
12 needed to be removed.

13 Article VI Order of Business, if you'll
14 notice, and I won't go over them. The Order of
15 Business is in green. Basically what we did was,
16 well, what the Staff did was put into order the way
17 that we have been conducting our meetings for the last
18 several years. That has worked very well for us.

19 The old order that is marked out in red was
20 actually taken from Robert's Rules of Orders. Really
21 we weren't following them correctly. So the ones in
22 green we are following right now. Hopefully that will
23 send us on our way.

24 Under Article VII Transaction of Business, we
25 struck out "Any member of a Planning Commission who

1 has any financial interest in any question called to
2 vote shall notify the Commission of such interest and
3 thus, disqualify himself from voting on the matter."

4 We included the verbiage "Any member of the
5 Planning Commission who has any direct or indirect
6 financial interest in the outcome of any question
7 before the body shall disclose the nature of the
8 interest and shall disqualify himself from voting on
9 the question, and he shall not be counted for the
10 purpose of a quorum."

11 We felt very strongly that this brought us
12 into compliance with KRS 100. Following that KRS we
13 felt very good with that verbiage.

14 Under Section 3, "Any member of a Planning
15 Commission found to have any direct or indirect
16 financial interest in a question called to vote shall
17 not be considered in the quorum count prior to the
18 voting."

19 Again, this was stricken out. We believe that
20 this brings us in closer compliance with KRS 100.

21 On the very last page under Section 5, "The
22 Planning Commission may appoint one (1) or more of its
23 members to act as a hearing examiner or examiners and
24 report his findings to the Commission," that was
25 struck out and we put in the verbiage, "The Planning

1 Commission may appoint one (1) or more of its members
2 to act as a hearing examiner or examiners to preside
3 over a public hearing and make recommendations to the
4 Commission based upon a transcript of record of the
5 hearing."

6 Again, this verbiage brings us into compliance
7 with KRS 100. We feel that that verbiage protects us
8 to a certain degree.

9 Although, these article are only about eight
10 pages, I think we spent somewhere close to six or
11 eight hours going over them. I certainly want to
12 thank everyone that spent their time and energy on
13 this.

14 I'll open the floor to any questions that the
15 commissioners might have. If I can't answer them, I'm
16 sure our counsel can.

17 CHAIRMAN: Anyone have any questions or
18 comments on the bylaws?

19 MR. REEVES: I'd like to make just one comment
20 to reenforce what Mr. Kazlauskas said.

21 As we look at amending these, there were
22 things we thought we could do and would like to do,
23 but found that KRS 100 and the enabling legislation
24 that created the body was very descriptive in most
25 cases. So therefore we tried to be sure that we were

1 in exact compliance with those documents and those
2 legal requirements.

3 I think the previously had probably not been
4 done that well. Once we had those documents in hand,
5 it really gave us some guidance and tied our hands a
6 little bit. That was a good way to have them tied.

7 CHAIRMAN: Anyone else have any comments?

8 MR. ROGERS: Mr. Chairman, I'd just like to
9 thank the committee for putting all the time in this.
10 They done a great job. Appreciate it. I'm sure the
11 rest do too.

12 CHAIRMAN: Anyone else?

13 MR. TAYLOR: Mr. Chairman, I'd like to thank
14 John and the committee. You did a great job on this.

15 I'd like to have a little clarification on
16 Article VII, Section 1 where you have "Any member of
17 the Planning Commission who has direct or indirect
18 financial interest," what do you all consider
19 indirect?

20 MR. KAZLAUSKAS: Counsel.

21 MS. KNIGHT: We had some discussion about this
22 as well. It's not defined in the statute or elsewhere
23 really. I know just as a traditional rule adjoining
24 property ownership, anything that's being viewed as a
25 direct financial interest.

1 Indirect could be anything. If you're not
2 sure, always discuss it with me, bring it up. Be
3 happy to discuss it with you beforehand. It's very
4 fact specific determination. So it's really going to
5 hinge on every case by case by case basis. That's the
6 best definition or explanation I can give you.

7 MR. KAZLAUSKAS: Wally, we discussed at length
8 about what the commissioners should do when they're
9 placed in that situation. I think we finally came
10 down to the conclusion that if there was any doubt at
11 all, that that commissioner should go ahead and excuse
12 himself such as Mr. Appleby did at the last meeting.
13 If there's any -- we know what the law says. I mean
14 the law is very black and white. If you look at it,
15 you know, you can set up here in some circumstances,
16 but I think most of us on this board, if there was any
17 question at all we should get up and leave. Even if
18 it's direct and/or indirect.

19 MR. MOORE: I'm going to say indirect
20 financial interest, could that be a spouse?

21 MS. KNIGHT: Absolutely. Yes.

22 CHAIRMAN: Mr. Boswell.

23 MR. BOSWELL: I just want to make a couple of
24 comments.

25 As a member of that committee, I think John

1 did an outstanding job on his work with the committee.
2 All the members did as well.

3 Interesting thing about this was we were all
4 in total agreement that we wanted to try to review
5 this and find something that was the best workable
6 plan and that would work for the entire commission and
7 everybody involved in this. We wanted to make sure
8 that we were as fair as we could with the discussion.
9 There was a lot of back and forth discussion about,
10 there was some disagreements as well about how things
11 should go. I think at the end of the day, we all felt
12 like that we needed to work toward something that
13 would be very beneficial in the way of bylaws that
14 this commission could operate under for this
15 community.

16 CHAIRMAN: I would like to thank
17 Mr. Kazlauskas. He did a great job as chairman.

18 Mr. Boswell, you too, and Fred.

19 Brian Howard, your keeping the minutes. You
20 did an amazing job. Thank you very much.

21 Mr. Noffsinger, all your input and help. I
22 want to thank you.

23 I appointed this committee and we have done
24 what I thought we needed to do. I think our chairman,
25 Mr. Kazlauskas, did a great job.

1 If there are no more comments, I'm going to
2 ask for a motion to approve these bylaws?

3 MR. MOORE: Motion to approve.

4 CHAIRMAN: We have a motion to approve by
5 Mr. Larry Moore.

6 MR. FREY: Second.

7 CHAIRMAN: Second by Mr. Steve Frey. Any
8 comments or questions on the motion?

9 (NO RESPONSE)

10 CHAIRMAN: All in favor of the motion raise
11 your right hand.

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: Motion carries unanimous.

14 Next item.

15 ITEM 6

16 Consider approval of January 2014 financial statements

17 MR. NOFFSINGER: Mr. Chairman, each member has
18 been mailed a copy of the their ready for your
19 consideration.

20 CHAIRMAN: Is there any comments or questions
21 on the financial statement?

22 (NO RESPONSE)

23 CHAIRMAN: If not chair is ready for a motion.

24 MR. KAZLAUSKAS: Motion to approve by Mr.
25 Kazlauskas.

1 MR. APPLEBY: Second.

2 CHAIRMAN: Second by Mr. Appleby. Any
3 comments or questions on the motion.

4 (NO RESPONSE)

5 CHAIRMAN: All in favor of the motion raise
6 your right hand.

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: Motion carries unanimous.

9 ITEM 7

10 Comments by the Chairman

11 CHAIRMAN: Commissioners, last month on
12 February 20th we had a work session to address the
13 mayor's business committee recommendations. That
14 meeting was held. It was a two hour meeting. We had
15 a lot of good comments, suggestions. I thought the
16 meeting was very, very productive. We have set
17 another meeting for March 20th at 5 p.m.

18 Is that correct and okay with everyone?

19 (NO RESPONSE)

20 CHAIRMAN: Anyone have any --

21 MR. NOFFSINGER: That will be in Room 406 in
22 City Hall.

23 CHAIRMAN: The next meeting will be next
24 Thursday at 5:00 at the work session. I want to thank
25 every one of you for your work on that. I thought it

1 was very productive. It was educational for all of
2 us. We all learned something, I believe.

3 The next thing is the personnel policy. We've
4 been working on getting started on that. We have the
5 planning director, a position description. I'm going
6 to ask Mr. Kazlauskas to bring us up-to-date on where
7 we are on the personnel policy.

8 MR. KAZLAUSKAS: Thank you, Mr. Chairman.

9 Actually we moved fairly quickly on the
10 document that I believe all the commissioners have.
11 We've already had, what, two or three meetings. I
12 forget.

13 MR. REEVES: Three or four.

14 MR. KAZLAUSKAS: Three or four. We were able
15 to move through very quickly and we were able to make
16 some changes. I think what was really helpful was
17 that Mr. Noffsinger and the Staff was there to answer
18 the multiple questions that we had.

19 As we met last -- well, no. I guess it was
20 earlier this month on the committee to review the work
21 session that we had, we talked about the evaluation.
22 We have gone through that. Have worked that out and
23 actually all of the work is done. It will be
24 presented to this commission on I think we discussed
25 May, in May. We want to give the Staff the

1 opportunity to go back, make all the changes like they
2 did in the bylaws, where the commissioners have the
3 opportunity and the time to go back and read. Then
4 we'll go through those again. So we covered all the
5 points that we felt needed to be done.

6 In that we found that there was not a good job
7 description for the executive director of the OMPC.
8 The Staff, Mr. Noffsinger and the Staff worked and
9 presented the Working Committee with a working
10 document that turned out to be what is in front of you
11 tonight. It's probably one of the best descriptions
12 of a Director of OMPC that we could have come up with.

13 To be honest with you, the Staff went out and
14 searched other communities and picked what was best
15 from other job descriptions. Brought them back to the
16 Working Committee. The Working Committee went over
17 and approved what you see, what is in front of you at
18 this point.

19 Pretty self-explanatory. Pretty definitive.
20 Gives a good overview of what we expect the executive
21 director to do.

22 So if anybody has any question, we'll try to
23 answer them.

24 CHAIRMAN: I would like to state that we need
25 to go ahead and act on this and approve this. We can

1 either do that tonight, if I'm correct, Counsel.

2 MS. KNIGHT: That's fine.

3 CHAIRMAN: Or we can do it at the April
4 meeting. It's my opinion we need to go ahead and get
5 this approved.

6 If anyone has any comments, suggestions or
7 questions on this before I ask for a motion to approve
8 tonight or we make an agreement to present this at the
9 April meeting for approval. I think we need to go
10 ahead and approve this either tonight or the April
11 meeting and not go to the May meeting with it. Are
12 there any comments or questions on this?

13 (NO RESPONSE)

14 CHAIRMAN: Anyone?

15 (NO RESPONSE)

16 CHAIRMAN: Would you like to go ahead and
17 approve it tonight?

18 (NO RESPONSE)

19 CHAIRMAN: Chair is ready for a motion.

20 MR. BOSWELL: I'll make a motion for approval
21 of the director's position.

22 CHAIRMAN: We have a motion for approval by
23 Mr. Boswell.

24 MR. TAYLOR: Second.

25 CHAIRMAN: Second by Mr. Taylor. Comments or

1 questions on that motion?

2 (NO RESPONSE)

3 CHAIRMAN: All in favor of the motion raise
4 your right hand.

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: Motion carries unanimous.

7 Next item, please.

8 ITEM 8

9 Comments by the Planning Commissioners

10 CHAIRMAN: Commissioners, anyone have any
11 comments or questions or anything you would like to
12 bring tonight? It's open for your comments or
13 questions.

14 (NO RESPONSE)

15 CHAIRMAN: Anyone?

16 (NO RESPONSE)

17 CHAIRMAN: If not, next item.

18 ITEM 9

19 Comments by the Director

20 MR. NOFFSINGER: Comments by the Director and
21 I've lost my audience.

22 I would like to state that the Planning
23 Commission had a booth at the Home and Garden Show
24 that was put on by the Home Builders Association over
25 the weekend. I want to thank them for doing that. It

1 was at the Convention Center. The Planning Staff was
2 able to meet a number of people to provide information
3 about the Planning Commission. To answer questions
4 that customers or future customers might have. It was
5 a very good opportunity.

6 I would just like to compliment this community
7 on a Convention Center that was absolutely phenomenal
8 for that event. I've heard that there were probably
9 twice the number of people in attendance at this show
10 than what we had last year. I can tell you the people
11 we talked to was many more than what we did last year.
12 It was just great facility. The lighting was
13 excellent. The space was excellent. The people were
14 really I think happy and proud.

15 CHAIRMAN: Could I interrupt you for a minute?

16 MR. NOFFSINGER: Yes, sir.

17 CHAIRMAN: I would like to thank you, Manuel
18 and Jim Mischel. I was there Friday night and I was
19 there Saturday. They were there the entire time on
20 the garden show, three days, and talking to a lot of
21 people. I want to thank them. That was really an
22 educational thing for the public. It's something we
23 need to do more of. We need to do everything we can
24 to educate the public about what the Planning and
25 Zoning does. I can tell you, I listened to some of

1 them. They were doing a great job. People coming up
2 and asking questions. They were able to answer the
3 questions. I just want to thank all three of you.

4 MR. NOFFSINGER: You're certainly welcome.
5 We've been doing these Home and Garden Shows since
6 they were at the Executive Inn. We've been to the
7 Sports Center, a hanger out at the airport, an
8 industrial warehouse somewhere. I'll say this was
9 really good.

10 The next item, and typically I speak without
11 prepared papers, but I would like to read this for
12 you. If you would, just please bear with me.

13 "In June of 1988 I was hired by the OMPC as an
14 entry level planner fresh out of Western Kentucky
15 University with a degree in geography and an emphasis
16 in city and regional planning. I must admit I had no
17 clue as to the road ahead.

18 I would like to thank Roger Anderson and Gary
19 Adams for taking a chance on me. They showed me the
20 way and prepared me for the long road ahead.

21 In September of 2000 I was selected as
22 director of the OMPC. I must admit I was excited and
23 anxious.

24 I would like to thank Mike Armstrong, Ward
25 Pedley and the Home Builders Association of Owensboro

1 for believing in me and showing me strong support.

2 During my tenure as executive director, I'm
3 proud of many notable accomplishments. I have
4 inspired all Staff Planners to become certified by the
5 AICP. Three Comprehensive Plan revisions to the
6 community's Comprehensive Plan have been completed
7 in-house without the use of outside consultants. This
8 has been a significant cost savings to the community.

9 It has always been my desire to streamline a
10 development process.

11 In 2003 I initiated the committee consisting
12 of elected officials, chamber of commerce staff, and
13 design professionals in the community to perform a
14 comprehensive review of the zoning ordinance. The
15 result was a relaxing or an adjustment of regulations
16 to become more community friendly.

17 I take great pride in having recommended many
18 more adjustments that have resulted in enhancing the
19 development process in this community such as fast
20 track zoning change process and in-house approval of
21 surety releases, most development plans and final
22 plats.

23 The use of technology has been at the
24 forefront of my tenure. Immediately after becoming
25 director work began on creating a website. The

1 website is chalked full of information and includes a
2 user friendly search feature. Permitting software has
3 been enhanced from a costly custom made application to
4 a web based application at a significant cost savings
5 to our users. Inspectors have long since put away
6 their two-way radios and communicate now by cell
7 phones. iPads are used in the field by the inspector
8 to prepare realtime reports. Customers may view
9 inspection reports via the internet and customers are
10 called when the inspector is on the way. Very few
11 inspection programs offer these services. The OMPC
12 has been a leader throughout this state and the
13 nation.

14 I give all credit to Roger Anderson for
15 creating an inspection program of cross-training
16 inspectors qualified to inspect building and
17 electrical installations. Under my watch this program
18 has been maintained and is well respected throughout
19 the state.

20 In 2011 the OMPC was requested by the local
21 HVAC contractors and the Owensboro Home Builders
22 Association to install a program to permit and
23 inspection HVAC as opposed to a state maintained
24 program. This program was embraced by the OMPC with
25 existing OMPC Staff a testament to Staff

1 cross-training.

2 I would be remised if I did not stop to thank
3 this community for the opportunity to serve. The OMPC
4 has been good to my family and me. Much thanks to
5 current and past board members for their service,
6 support and encouragement along the way.

7 Special thanks to Drew Kirkland for his
8 inspiration to me in both the easy and hard times.
9 His leadership was priceless.

10 Judy Dixon, thank you for your encouragement
11 and vision throughout my career. You showed me that
12 my role was not one of a popularity contest and to be
13 fair and consistent in all that I do.

14 To my family, thank you for your love and
15 support.

16 The future of this community is bright. Great
17 things are happening. The financial position of the
18 OMPC is strong. The Staff of the OMPC is
19 well-educated and qualified to carry out their task.
20 I am fortunate to have had the opportunity to work
21 with each of them. For they have made my job easy.

22 Special thanks to Jim Mischel for his positive
23 attitude and witty sense of humor.

24 Thanks to Sonie Brown, a former Staff member,
25 for correcting my poor grammar and inspiring me to be

1 more professional.

2 Judge Executive Al Mattingly spoke his 2014
3 State of the County Address to the Rooster Booster
4 crowd about new leadership and very important
5 organizations in our community. Bright young people
6 ready to take their place in leadership. I was
7 inspired by his comments.

8 Over the past several years I have thought
9 about the time in my departure from the OMPC. When
10 would be the right time. I now know the answer to
11 that question.

12 Thank you, Judge Mattingly, for your
13 inspiration.

14 With all that I have said here tonight I feel
15 the OMPC is well suited for my departure. My work is
16 near completion. It is time for new leadership and
17 vision. I will retire from OMPC to pursue other
18 interests with a termination date of August 31, 2014,
19 and a retirement date of September 1, 2014. This will
20 give the OMPC adequate time to find my replacement.
21 Much as I started this position as executive director,
22 I once again feel excited and anxious as to the road
23 ahead. Thank you.

24 CHAIRMAN: I don't think I can even find words
25 to show my gratitude to Gary. I won't even try

1 tonight. This is kind of sad for me. I'm going to
2 cut it off right before I get too emotional.

3 Commissioners, I'll turn it over to you.

4 MR. BOSWELL: Just in my short tenure I'd like
5 to say, I'd like to wish Gary well. I'm sad to see
6 him go because he's taught me an awful lot in the
7 short tenure that I've been here. He's been a
8 valuable resource and I've always valued his opinion.
9 I thought he's done an outstanding job as director of
10 the Planning Commission and the planning group as a
11 whole. I just want to thank him for all his efforts
12 and all the work he's put in for all these years and
13 wish him well in whatever his next endeavor may be.

14 CHAIRMAN: Anyone else have any comments?

15 MR. KAZLAUSKAS: I certainly want to thank
16 Gary for his service and probably one of the hardest
17 positions, one of the hardest seats to sit in in our
18 community. Gary and I haven't always seen eye to eye.
19 We've always kept our disagreements as gentlemanly. I
20 appreciate his professionalism and the way that he has
21 handled himself. Most appropriately over the last few
22 weeks the work that he helped with our committee sped
23 it up and made it easier on our committee. We
24 couldn't have done it without Gary.

25 Gary, I want to thank you for your cooperation

1 for the work you did and for the contribution you've
2 made to our community while you were director.

3 MR. REEVES: I guess I'm stunned. I'll have
4 more to say at another time, I think, Gary, when we do
5 something more formal for you.

6 I've known Gary in several capacities since
7 I've been working downtown and everything in the past
8 few years.

9 John, I will say he has the toughest job in
10 the community. I really believe that. It's kind of
11 like being the assistant principal. You get all the
12 bad stuff and none of the good stuff.

13 I have respected consistently your integrity,
14 your ethics, and that you truly believe every time you
15 say something on behalf of this commission you're
16 trying to make this community a better community. I
17 respect that very highly. I look forward to a few
18 more months with you. I'm still having to digest the
19 whole thing. It kind of caught me off guard. You'll
20 be missed, truly missed.

21 CHAIRMAN: Anyone else?

22 (NO RESPONSE)

23 CHAIRMAN: We're fortunate to have Gary to
24 stay with us for another four or five months to guide
25 us through the transition.

1 At the April meeting I will be appointing a
2 committee, a search committee for a new director.
3 That will be coming up at the April meeting. That's
4 one reason it's important to get this Owensboro
5 Metropolitan Planning Commission position descriptive
6 of the executive director, get it approved because we
7 will be starting our search.

8 I'm like Fred, I'm going to save most of my
9 comments and things when I regain my composure. To me
10 it's not good news, but I am very happy for you.

11 MR. NOFFSINGER: Thank you.

12 CHAIRMAN: Anyone else?

13 (NO RESPONSE)

14 CHAIRMAN: If not we need a motion to adjourn.

15 MR. TAYLOR: Motion to adjourn.

16 CHAIRMAN: We have a motion by Mr. Taylor.

17 MR. BOSWELL: Second.

18 CHAIRMAN: Second by Mr. Boswell. All in
19 favor raise your right hand.

20 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

21 CHAIRMAN: We are adjourned.

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