The Owensboro Metropolitan Planning Commission met in regular session at 5:30 p.m. on Thursday, January 9, 2014, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT: Ward Pedley, Chairman
Irvin Rogers, Vice Chairman
David Appleby, Secretary
Gary Noffsinger, Director
Terra Knight, Attorney
Wally Taylor
John Kazlauskas
Beverly McEnroe
Fred Reeves
Larry Boswell
Larry Moore

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CHAIRMAN: Call the Owensboro Metropolitan Planning Commission January 9, 2014 meeting to order. We will begin our meeting with a prayer and pledge of allegiance to the flag. Mr. Noffsinger will lead us.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: The first item tonight is always in January we elect officers and I'll turn that over to counsel.

MS. KNIGHT: Thank you, Mr. Chairman.

KRS 100.161 requires that each Planning Commission annually elects a chairman and any other
officers deemed necessary.

Article 2 of our bylaws state that the Planning Commission will consist of a Chairman, Vice Chairman and Secretary/Treasurer.

Article 3 of the bylaws provide that nominations and election of officers be held on the second Thursday in Thursday of each year, which is what we're doing tonight.

Voting for officers shall be either by voice, show of hands, balloting, role call or general consent.

I believe traditionally we have begun with the voting by show of hands which is the way we'll start tonight.

Article 3 of the bylaws provide that a candidate must receive a majority vote of the entire membership of the Planning Commission in order to be declared elected. Therefore any person nominated must receive six votes to be elected.

The bylaws also provide that any officer shall serve for a term of one year or until the successor shall take office.

We elect officers in the order which they're listed in the bylaws so the nominations of elections will be first for chairman, then vice chairman, then
secretary/treasurer.

So at this time I will open the floor for nominations for our chair.

MR. APPLEBY: I'd like to nominate Ward Pedley for chairman.

MS. KNIGHT: Mr. Pedley, do you accept the nomination?

Well, let me ask is there a second for the nomination?

MR. BOSWELL: Second.

MS. KNIGHT: Mr. Pedley, do you accept the nomination?

MR. PEDLEY: Yes, I accept the nomination.

MS. KNIGHT: Any other nominations for chair?

MR. REEVES: I nominate John Kazlauskas.

MS. KNIGHT: Is there a second for that nomination?

MR. FREY: Second.

MS. KNIGHT: Mr. Kazlauskas, do you accept the nomination?

MR. KAZLAUSKAS: I do.

MS. KNIGHT: Any others?

(NO RESPONSE)

MS. KNIGHT: Entertain a motion that the nomination cease.
MR. APPLEBY: So moved.

MS. KNIGHT: Is there a second?

MR. BOSWELL: Second.

MS. KNIGHT: So our two nominees for chair are Mr. Ward Pedley and Mr. John Kazlauskas.

Let's start by show of hands. All in favor of Mr. Ward Pedley as chair raise your right hand.

(BOARD MEMBERS DAVE APPLEBY, WARD PEDLEY, IRVIN ROGERS, WALLY TAYLOR AND LARRY BOSWELL RESPONDED AYE.)

MS. KNIGHT: I count five votes for Mr. Pedley.

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

(BOARD MEMBERS LARRY MOORE, BEVERLY McENROE, STEVE FREY, JOHN KAZLAUSKAS AND FRED REEVES RESPONDED AYE.)

MS. KNIGHT: That's five votes for Mr. Kazlauskas.

The bylaws require a majority of the entire membership six votes to be elected. Let's do the voting by show of hands one more time.

Again, our nominees are Mr. Ward Pedley and Mr. John Kazlauskas.

All in favor of Mr. Pedley for chair please
raise your right hand.

(BOARD MEMBERS DAVE APPLEBY, WARD PEDLEY, IRVIN ROGERS, WALLY TAYLOR AND LARRY BOSWELL RESPONDED AYE.)

MS. KNIGHT: Again, five votes.

All in favor of John Kazlauskas please raise your right hand.

(BOARD MEMBERS LARRY MOORE, BEVERLY McENROE, STEVE FREY, JOHN KAZLAUSKAS AND FRED REEVES RESPONDED AYE.)

MS. KNIGHT: Five votes.

What I think I would like to do at this time is, of course, the bylaws did state that the voting can also be done by ballot. I have asked that a ballot be prepared.

Ms. Evans, would you mind to --

MR. NOFFSINGER: Let me prepare it first.

MS. KNIGHT: What I would suggest that we prepare a ballot. Our director will be happy to do that and I would be happy for him to do that.

It has the names of the two nominees on it with a box beside their name. We will just pass those ballots out and check the box for the nominee that you vote for.

Does everybody understand what I mean by that
you? Do you all have any questions about that?

(NO RESPONSE)

MR. NOFFSINGER: I created ten. The first box would be Ward P. and the second box would be John K.

MS. KNIGHT: Ms. Evans, if you would please hand those out to the commission members.

Again, if you would please check the box beside the name of the nominee that you select. Once you have done that, please fold your ballot. Ms. Evans will come back around and pick those up.

(MS. EVANS COLLECTING BALLOTS.)

MS. KNIGHT: Mr. Director, would you please read the results.

MR. NOFFSINGER: First vote Ward Pedley.
Second vote John Kazlauskas.
Third vote Ward Pedley.
Fourth vote John Kazlauskas.
Fifth vote John Kazlauskas.
Sixth vote John Kazlauskas.
Seventh vote Ward Pedley.
Eighth vote Ward Pedley.
Ninth vote John Kazlauskas.
Tenth vote Ward Pedley.

MS. KNIGHT: So we are again at a tie.

MR. NOFFSINGER: Will you collect these?
MS. KNIGHT: Yes.

At this point I would advise the commission.

Neither the statutes nor our bylaws provide for a tiebreaker. Our bylaws do provide that meetings will be conducted under proper parliamentary procedure, and that means Roberts Rules of Order.

Chapter 14 of Roberts Rules is Nominations and Elections. It provides that voting or balloting should be repeated for office as many times as necessary to obtain a majority vote for a single candidate.

I know there are several things on the agenda tonight. That's why I'm addressing this now, to see how the commission wants to handle it.

Roberts Rules also provides that to ensure the continued services of officers in the event of this type of situation, difficulty of obtaining a nominee or a winning nominee for an office, it is well to provide in the bylaws that officers shall hold office for a term of specified years or until their successors are elected.

Article 3 of our bylaws do make this provision so that our current chair can continue in office and business can be conducted until such time as a successor is elected.
So at this time I'd be happy to entertain a motion for a different method of voting, if anybody has an alternative solution or a voting at the table or to table the voting on chair so other business can be conducted and then we would proceed with tonight's business with the current chair in place and then vote for the vice chair and secretary. Are there any such motion?

MR. APPLEBY: Move we postpone, table this vote to take care of business on the agenda.

MS. KNIGHT: Is there a second?

MR. TAYLOR: Second.

MS. KNIGHT: All in favor raise your right hand.

(BOARD MEMBERS IRVIN ROGERS, BEVERLY McENROE, DAVE APPLEBY, WARD PEDLEY, STEVE FREY, WALLY TAYLOR AND LARRY BOSWELL RESPONDED AYE.)

MS. KNIGHT: Seven.

All opposed raise your right hand.

(BOARD MEMBERS LARRY MOORE, JOHN KAZLAUSKAS AND FRED REEVES RESPONDED NAY.)

MS. KNIGHT: Three opposed.

So we will table the election of chair at this time and put it on the agenda for the next meeting.

At this time we will move on to the nomination
for vice chair. I will open the floor for nomination of vice chair.

MR. BOSWELL: I'd like to nominate Irvin Rogers for vice chair.

MS. KNIGHT: Is there a second?

MR. APPLEBY: Second.

MS. KNIGHT: Mr. Rogers, do you accept the nomination?

MR. ROGERS: Yes.

MS. KNIGHT: Are there any other nominations?

MR. KAZLAUSKAS: I nominate Fred Reeves.

MS. KNIGHT: Is there a second for the nomination?

MR. FREY: Second.

MS. KNIGHT: Mr. Reeves, do you accept the nomination?

MR. REEVES: Yes.

MS. KNIGHT: Are there any other nominations?

(NO RESPONSE)

MS. KNIGHT: I'll entertain a motion that nomination cease.

MR. APPLEBY: So move.

MR. BOSWELL: Second.

MS. KNIGHT: Nominations are closed.

We will start with show of hands.
Our first nominee is Irvin Rogers. All voting for Irvin Rogers please raise your right hand.

    (BOARD MEMBERS IRVIN ROGERS, DAVE APPLEBY, WARD PEDLEY, WALLY TAYLOR AND LARRY BOSWELL RESPONDED AYE.)

MS. KNIGHT: Five votes for Irvin Rogers.

All in vote for Fred Reeves raise your right hand.

    (BOARD MEMBERS LARRY MOORE, BEVERLY McENROE, STEVE FREY, JOHN KAZLAUSKAS AND FRED REEVES RESPONDED AYE.)

MS. KNIGHT: Five votes for Fred Reeves.

Just to make sure I counted correctly let's try that again.

By show of hands all voting for Irvin Rogers please raise your right hand.

    (BOARD MEMBERS IRVIN ROGERS, DAVE APPLEBY, WARD PEDLEY, WALLY TAYLOR AND LARRY BOSWELL RESPONDED AYE.)

MS. KNIGHT: Five votes again for Irvin Rogers.

All voting for Fred Reeves please raise your right hand.

    (BOARD MEMBERS LARRY MOORE, BEVERLY McENROE, STEVE FREY, JOHN KAZLAUSKAS AND FRED REEVES RESPONDED
MS. KNIGHT: Five votes again.
So we will do the same ballot procedure.
Mr. Director, I believe you're already creating that.
MR. NOFFSINGER: Yes, ma'am.
MR. FREY: Do we have the potential this evening to move it to the bottom this evening?
MS. KNIGHT: I would be willing to entertain a motion to that effect, yes.
MR. FREY: I can make a motion that we would go ahead and do this tonight after we conduct business?
MS. KNIGHT: I believe there's already been a motion and a second of approval for tabling the chair's vote for the next meeting.
MR. FREY: Understood. I may have misunderstood the first one.
I would like to make a motion that we --
MS. KNIGHT: We'll go through the process and then if we need to pass it, if we get a tie for the written ballot, as far as voting for vice chair.
MR. NOFFSINGER: I prepared ten ballots. First name is Irvin Rogers. Second name Fred Reeves for vice chair.
MS. KNIGHT: Again, check the box beside the name of the individual you've selected. Fold in half once you've made your selection and Ms. Evans will pick them back up.

(MS. EVANS COLLECTS BALLOTS.)

MS. KNIGHT: Mr. Director, if you will count the votes, please.

MR. NOFFSINGER: First vote Irvin Rogers.
Second vote Fred Reeves.
Third vote Fred Reeves.
Fourth vote Irvin Rogers.
Fifth vote Fred Reeves.
Sixth vote Fred Reeves.
Seventh vote Irvin Rogers.
Eighth vote Irvin Rogers.
Ninth vote Fred Reeves.
Tenth vote Irvin Rogers.

MS. KNIGHT: Again, we have a tie.

Now I will open floor for a motion to either table this until the end of the meeting or until next month.

MR. FREY: I would like to make a motion that we table this until later this evening so we can conduct business and then come back to it.

MS. KNIGHT: To clarify. The current vice
chair would remain the vice chair through this meeting in order to conduct business and then we can revisit this issue again.

Is there a second for that motion?

MR. BOSWELL: I have a question associated with that.

MS. KNIGHT: Sure.

MR. BOSWELL: When we took the first vote, did we not table it until the next meeting?

MS. KNIGHT: We did.

MR. BOSWELL: Then how are we going to be able to change that?

MS. KNIGHT: We're not changing the vote on the chair. Only the vice chair.

MR. BOSWELL: Doesn't that operate under the same requirements?

MS. KNIGHT: We have to vote on both of them, yes, which is what we're doing tonight. If we table the chair vote until the next meeting, our chair will serve this entire meeting and will end this meeting still as the chair. We may have a new vice chair at the end of the night, but that vote will be taken the next meeting. It may be in the best procedure if we're tabling one until the next meeting that we may want to table all until the next meeting.
MR. BOSWELL: That's my point.

MS. KNIGHT: Any other comments?

Yes, Mr. Kazlauskas.

MR. KAZLAUSKAS: If I can go back and revisit the 100.161 of KRS, which is the law that you voted earlier. The law is very clear where it states each Planning Commission annually shall elect a chairman and any other officers which deem necessary.

It also says where you quoted that we will follow all procedures.

My concern is that even though you stated the parliamentary procedures in our bylaws, the bylaws do not in fact take the place of 100.161. Consequently, if we were to continue to table this month after month after month, why have elections. Roberts Rules of Order also states that elections will continue until a chair or a presiding person of a commission is elected. My concern is that when we table something like this, is that all we are, all we're doing is putting this off until the next meeting. It doesn't solve the problem that we are facing here tonight. Because I would suggest that the vote is going to be the same.

Now, this is very unfair to our community.

It's very unfair and doesn't treat the members of the
commission with dignity and respect.

I have to disagree with counsel by saying that we're going to follow parliamentary procedure and table this election which is actually KRS -- an incumbent could continue to serve a year, a year, a year. That's why we have elections.

So I would put forth that we need to continue, we need to go back and revisit this because I don't think it's actually legal in what we're doing because our bylaws do not take precedence over KRS 100.161.

MS. KNIGHT: If I may respond. We are holding elections in accordance and in compliance with the statute. That's what we're doing here and that's what the statute requires. Is that we annually elect. Once that is all the statute, there is no interpretation of how that works, then we look to our bylaws, the parliamentary procedure under our bylaws as to how we are to give that application, how we are to elect our chairman, etcetera. That's what I stated at the beginning. Our bylaws provide that a chairman shall be elected by a majority of the membership or until there's a successor, and they will serve until their successor is elected. That's how Roberts Rules sets that forth as well. That's why that provision is in there in just such an event. That we are not able
to elect a successor. The current elected officer can continue to serve. That is not in violation of the statute.

MR. KAZLAUSKAS: Well, let the record show that I disagree with counsel on this. I think it's a disservice to our community that we don't continue to hold this election until chairman is elected.

MS. KNIGHT: I will again be happy to entertain any other suggestions from the commissioners about how we could conduct elections differently to see that there is a majority selected. Those are the provisions of our bylaws we have conducted, two of the different types and still not gotten a majority vote. So if anybody does have any alternative, suggestions, I'm more than open to motions to hear that.

MR. REEVES: Question, please. Does the Roberts provide for any alternative way to resolve the ties such as drawing straws, flipping a coin?

MS. KNIGHT: It does not. It states that elections will continue to be held until a majority is met. Then it also provides for the event that there is no -- if there's difficulty getting a winning nominee, that if the bylaws provide -- it basically advises that bylaws should provide that an officer can serve for a specific term or until a successor is
elected, and that's the reason given. Does that answer your question?

MR. REEVES: Yes.

MR. KAZLAUSKAS: Well, Counsel, what you're telling us, if we come back next month and we have five to five, that the incumbent continues to serve.

MS. KNIGHT: That's correct.

MR. KAZLAUSKAS: That defeats the purpose of an open election.

MS. KNIGHT: Well, we don't have a majority vote to attain a successor. The statute doesn't require that a new officer be elected. Just that an election be held, and that's what we're doing. That's all we can do.

Any other questions, Commissioners?

MR. BOSWELL: Just a point I want to make. Based on what you're saying, we have to operate under what our current bylaws state and the KRS 100 states. We have no other options.

MS. KNIGHT: That's correct. We're not here to amend bylaws tonight. So we operate under what we have. The bylaws do refer to parliamentary procedure as well. That's our source of information.

MR. REEVES: We're the in process of looking at our bylaws. So my assumption would be, if you look
at grandfathering as a concept, any new change we made in the bylaws regarding the election of officers could not impact this current election because it's being held under our current bylaws. Is that the case?

MS. KNIGHT: I would agree with that.

MR. REEVES: Is it within the commission's power to authorize an alternative way to resolve the election such as the drawing of straws or flipping of a coin?

MS. KNIGHT: Not at this point, no, because it is not under our current bylaws.

I believe that there was a motion on the table to pass this election of vice chair until the end of the meeting. If that motion is still made, is there a second or if not then we just discussed maybe be better to table it until the next month hearing, but again there's currently a motion now to pass this until the end of the meeting. Is there a second for that motion?

(NO RESPONSE)

MS. KNIGHT: So if there's no second then I would entertain a new motion. Is there a motion to table until the next meeting?

MR. APPLEBY: So moved.

MR. BOSWELL: Second.
MS. KNIGHT: All in favor of that motion please raise your right hand.

(BOARD MEMBERS IRVIN ROGERS, BEVERLY McENROE, DAVE APPLEBY, WARD PEDLEY, WALLY TAYLOR AND LARRY BOSWELL RESPONDED AYE.)

MS. KNIGHT: Five to six. So there are six votes. That's the majority. Election for vice chair will also be tabled until next month's meeting.

So we will move on to the election of secretary/treasurer. At this time I will open the floor for the nomination of secretary/treasurer.

MR. PEDLEY: I nominate Dave Appleby.

MS. KNIGHT: Is there a second for that nomination?

MR. ROGERS: Second.

MS. KNIGHT: Mr. Appleby, do you accept the nomination?

MR. APPLEBY: Yes.

MS. KNIGHT: Are there other nominations?

(NO RESPONSE)

MR. PEDLEY: Make a motion that nomination cease.

MS. KNIGHT: Is there a second?

MR. ROGERS: Second.

MS. KNIGHT: All in favor of Mr. Appleby
serving as secretary/treasurer please raise your right
hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
MS. KNIGHT: Motion carries unanimously.
Mr. Appleby is our secretary/treasurer.
That concludes the election of officers. I
will turn the floor back over to our chairman,
Mr. Pedley.

CHAIRMAN: We're ready to move forward.
First, I would like to recognize a new member
we have. Mr. Larry Moore down on the end.
Welcome, Larry. Glad to have you. Thank you
for stepping up and serving this community.
MR. MOORE: Thank you very much.
CHAIRMAN: Anything I can do for you, give me
a call.
With that the next item on the agenda is to
consider the minutes of the December 12, 2013 meeting.
Are there any additions or correction on that?
(NO RESPONSE)
CHAIRMAN: If not chair is ready for a motion.
MR. APPLEBY: Motion to approve.
CHAIRMAN: Motion for approval by Mr. Appleby.
Do we have a second?
MR. TAYLOR: Second.
CHAIRMAN: Second by Mr. Taylor. All in favor of the motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimous. The minutes are approved.

Next item, please.

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PUBLIC HEARING

ITEM 3

Consider adoption of text and exhibit revisions and additions involving Chapters 2, 5 and 14 of the Owensboro Metropolitan Public Improvement Specifications.

MR. NOFFSINGER: Mr. Chairman, this is a document that this community has been working on for actually several years. Chapter 14 of the Public Improvement Specifications pretty much being mandated to us by the EPA. That we address our storm water discharge and we address many facets of that in our community. As many of the Planning Commissioners have witnessed, this is not going to be an easy pill to swallow. The items that are being considered here for adoption are going to effect this community, as well as other communities across this great country in a pretty major way. It's going to come at a cost to the
development community throughout this country.

As I have found and learned over the years, that when the developers' cost increase so do our cost increase as consumers of their product. Many of the changes in this article that are added to this Chapter 14 to the Public Improvement Specifications are going to be difficult at best to be complied with. However, I can tell you the Staff of this community, and I'm looking out and I see the city engineer's office represented by Joe Shepers and Bailey Bennett. The county engineering department, that would be Mark Brasher, and Dean Benke with Regional Water Resource Agency has provided countless hours in trying to put this document together.

Planning Staff Brian Howard has worked in conjunction with them. There is a committee that assisted this group and it's know as the Public Improvement Specification Review Committee that's made up of private engineers in this community, as well as some developers, your city and county engineering staff. Really they have a big hand in this. I won't go through all the names, but I can tell you that they waive the consequences of what we were doing compared to what we're required to do. I can tell you they really took the interest of this community to heart.
and tried to make it easy and as adaptable as possible.

What we're considering tonight I understand has been reviewed by the Owensboro City Commission and their staff. It has been reviewed by the Daviess County Fiscal Court and their staff. I do have a letter from the city manager, Bill Parrish, stating that they have reviewed it. They presented it to the city commission and they're asking that you move forward with the adoption of Chapter 14 and what Brian is going to discuss tonight, as well as from the Daviess County Judge Al Mattingly. That they too have reviewed and are recommending that it be moved forward.

So with that I'd just like to thank all of those that have been involved and know that if these documents are approved here tonight, that it doesn't end there. We are going to have to work through these changes and through what's being proposed here tonight and probably be back before this commission tweaking this article and what's going to be involved because it's not a perfect document. It's a document that we're going to have to live with and work through, come back before this body and probably make some changes, but we don't know what those are going to be
until we have time to work through it.

I've said enough. I'll turn it over to Brian
to give you a brief description of what's being
proposed.

MS. KNIGHT: Would you state your name,
please?

MR. HOWARD: Brian Howard.

(BRIAN HOWARD SWORN BY ATTORNEY.)

MR. HOWARD: As Mr. Noffsinger stated, this
has been a rather long process, especially in dealing
with Chapter 14 which pertains to storm water quality
management.

The other two items that are also part of the
public hearing tonight are some changes and additions
to Chapter 2 which deals with the materials, and then
Chapter 5 that deals with sanitary sewer.

Basically what the Public Improvement
Specification document is, is a guide as to all public
improvement, whether it's waterlines, fire hydrants,
sidewalk, street, curb, anything that would be a
public improvement, how that's constructed and
installed. It's a document that developers use and
the city and county engineers, and RWRA use greatly to
ensure that the infrastructure that's put in is
adequate and will be long lasting.
As Mr. Noffsinger stated, Chapter 14 was really something that the city and county engineer's office both worked on extensively over the last two plus years. There have been numerous meetings through the Green River Area Development District, Water Quality Advisory Committee. They've had some meetings with the Home Builders Association. They've met with our staff. We met twice in December with the Public Improvement Specifications Committee at which time both the changes to Chapters 2 and 5 and then the addition of Chapter 14 was discussed.

As the end result, what comes to you tonight comes with the support of the Public Improvement Specification Committee. They serve a great role in providing assistance to the engineering offices, both city and county, to RWRA, to the Planning Staff, to help generate the final product that you have for consideration tonight.

That's my brief overview. As Mr. Noffsinger stated, we do have a representative from the city engineer's office and RWRA here tonight if you all have some specific questions about what that entails.

CHAIRMAN: Thank you, Mr. Noffsinger and Mr. Howard. I don't have anything to add to that.

I would like to thank the engineers, Joe
Shepers and Dean Benke, and the county engineer, Mark Brasher, and their hard work and they also work very well with the PI Committee. This has been ongoing for four or five years. I think they have done an excellent job putting this together. It is quite lengthy. It's well done. I've read some in other communities.

Joe, and Dean, and Mark, thank you very much for working with us on this issue.

If you have anything you like to state, any comments, come to the podium. We'd like to hear it.

MR. SHEPERS: Here to answer questions.

CHAIRMAN: Thank you very much.

Commissioners, do you have any comments or questions?

Mr. Kazlauskas.

MR. KAZLAUSKAS: Thank you, Mr. Chairman.

I had the opportunity to talk with Mr. Dean Benke today because one of the elements that are included, is included in the 5-1 Sanitary Sewers was an article that also appeared in our local newspaper. When I read that, it jumped to my attention about some of our homes and our older residential neighborhood that continue to be hooked up to our dual sewer system. The sanitary and the storm water system that
runs together. We had quite a lengthy conversation about that this morning because there are still homes in Owensboro that when we have a large downfall that water still backs up in the basement. The sanitary problems that develop.

Also, what he was able to explain to me was that some of the discharge from washing machines, if the homeowners have a way to get those into the sanitary system, that that would be all right, but EPA is more concerned with ground water, the ground water going into the system than they are the sanitary problems.

I'm glad to here Staff say that this is going to be tweaked in the future because I don't think this is a cure all. Because, like I said, there are several homes that are experiencing problems now and will continue to experience problems because their basement is hooked up to that single dual sewer line that we have in the older part of Owensboro.

I do want to thank all the engineers and everyone that spent a lot of time on this. Of course, I think everyone knows that this is being driven by the EPA to begin with. A lot of work went into this, but there are some problems that homeowners are going to face in the future. I don't think that we want to
try to pull the wool over their eyes because there are
some problems there that will have to be addressed.

CHAIRMAN: Thank you, Mr. Kazlauskas. Are you
asking Mr. Benke to address this now?

MR. KAZLAUSKAS: No. I had time to speak with
him today and he was very, very thorough. I
appreciated his answers.

CHAIRMAN: Thank you very much.

Any other comments or questions?

MR. APPLEBY: I have one comment.

I think probably the public ought to be made
aware of and they probably are of this. The city and
county have already adopted a storm water ordinance
which refers to our ordinance. So this is a
continuation of the process, but I think it might be
good to have either Joe or Dean come to the podium and
explain a little bit more about who has mandated this
and what the consequences of not enacting some form of
ordinance would be.

CHAIRMAN: Joe, would you like to address
those questions and issues?

MS. KNIGHT: Would you state your name, please?

MR. SHEPERS: Joe Shepers.

(JOE SHEPERS SWORN BY ATTORNEY.)
MR. SHEPERS: Basically, as you said, this was mandated by the EPA. This is still part of the Clean Water Act. We have an NPDES permit which basically the permit that allows us to discharge our storm water into the creeks into the Ohio River. As part of that permit, we're required to pass a storm water ordinance and we're required to put, we're required to capture what's called the first flush. That is, for example, the example I gave the city commission when we voted on the ordinance was, the easiest example to try to grasp is take like a large parking lot in front of a place like Wal-Mart or Kroger's where we're trying to capture the first flush. That's where a car is sitting on a parking lot. It's dripping out your antifreeze and fluids onto the parking lot. Your first flush is, the first bit of rain to hit that parking lot is taking all that antifreeze, all that oil, washing it off the parking lot and it's getting out into the creeks and the ditches.

After that first flush and the parking lot is a little bit cleaner, from there on the water is coming off of the parking lot is a little bit cleaner. So EPA has mandated that we pick up the first five-eighths of an inch roughly of water that comes on that parking lot, capture it, treat it, and then put
it back out into the creeks and the ditches.

That's the way to oversimplified example, but that is what is required of us to do. That's what both storm water ordinance and what this PI Spec is forcing the developers to do. Whether it be residential, commercial, any other type of development.

That's what we're doing here. Failure to comply with this, the EPA does have some pretty stringent fines. We're actually noncompliant as we speak. We have worked with the Division of Water on a basically monthly basis. You understand that we're here tonight. You understand that both us and the county passed our ordinances that refer to this, the understanding that we're here tonight.

As we stand right now, we are noncompliant, but we are getting a little bit of leeway with the Division of Water, contingent upon us passing it.

CHAIRMAN: Thank you.

Any other commissioners have questions?

MR. BOSWELL: Not really a question. In reviewing this I just wanted to commend all the folks that worked on this because my former background of being a subcontractor many years ago where I dealt with architectural, structural, some civil work many
years ago, this type of work brings tremendous clarity to anyone that's going to be putting together a bid that might include any of these type of items.

From my perspective, it would seem that -- Mr. Noffsinger mentioned something about potential for cost increases, but that's bringing clarity also allows for you to be able to put together a more accurate bid as a result of having very good detailed information that leads you in that direction so you know what you have to do. It's not interpreted as some of these issues used to be many years ago.

Just wanted to commend you folks. This is some really great information.

CHAIRMAN: Any other commissioners, comments or questions?

MR. TAYLOR: I have one.

I know you mentioned, and I think you all did a great job on this, but you've mentioned that you're going to take this storm water and put it in ditches and creeks. Beforehand it went towards the sewage plant and then in the river; is this right?

MR. SHEPERS: No, sir, that's incorrect. This only covers the section of town -- not to be confused with what John K. said a little bit ago.

Chapter 14 only deals with the section of the
city and the county where the storm and sanitary are separate.

Now, what he was referring to, I believe, was Chapter 2 and 5 which is dealing with the combined. Chapter 14 that I'm referring to only deals with the part that's separated for storm and sanitary are the two separate systems.

MR. TAYLOR: My question would be, you know, you mentioned going in ditches and creeks. Are you going to do anything to the ditches and creeks to help handle more water?

MR. SHEPERS: That's not the purview of any of this. This has nothing to do with the quantity of water. Only the quality of water. We can talk about the quantity of water if you would like, but Chapter 14 only deals with the water quality. This is not putting any more water into the creeks and ditches. If anything, this takes water out of the creeks and ditches because part of this would be trying to get water to soak into the ground. A good part of this is getting like infiltration where water is soaking into the ground and not being put into it. Really this is about water quality; however, it kind of does have affected on quantity by getting some water out of the creeks and ditches and putting it into the ground.
water table.

MR. TAYLOR: Thank you.

CHAIRMAN: Any other comments or questions for Mr. Shepers while he was up?

MR. NOFFSINGER: I do, Mr. Chairman.

I would like to state that, Joe, since you're standing there, I want to talk just a little bit about the cut and fill and cut and fill permit process.

I want folks to understand that the Planning Commission is in charge of issuing building permits. We want to make sure that building permits are issued just as quickly as possible. This process we're about to go through with the storm water requirements, as well as the cut and fill permit, as the city engineering office will be requiring is going to affect pretty much every application of our permits that we get in. In the planning office, we strive very hard to get the permit out the same day, if it's residential. If not the same day, the next day. If we're going to have to hold up building permits for residential structures until that cut and fill permit is issued, there may be a delay. I say that only, I want everyone to know that up front and realize that because the city engineering department, the county engineering department, they only have so many people.
Today they are overloaded. They have a full plate. They're going to be pushed to get these cut and fill permits out even on the simplest of applications the same day.

Joe, if you'd just like to comment on that.

That is a concern I have. That we don't slow down the permitting process. I know you'll work hard not to do that, but it may be unavoidable.

MR. SHEPERS: Yes. Another part of the EPA requirement that is pushed on us in addition to what I have stated earlier is they are requiring us to have a permitting process for all construction activities that go on. They required a separate permitting process. Cut and fill permit is what Gary is talking about. That is an unfortunate byproduct of this, but again, it is not something that any one of us picked up voluntarily and said we wanted. It's part of the permitting that's coming from the fed's to the state, the state to the city, and that's what we have created.

Now, we worked with the developers to try to make our cut and fill permit as a single step process to help speed this up so we don't slow up any dirt work, so we don't slow up any construction of streets. We're going to do a multiple step, a three step at
least, if not more step process in doing our cut and 
fill. That way when the developer is ready to do the 
work we can keep moving with them, but it is, as Gary 
said, it's an unfortunate but unavoidable product. 
That there may be some permits that gets slowed up a 
little bit. You know, we'll do our due diligence and 
I'm sure Mark back here will also do to keep things 
moving as quickly a pace as we can. 

We are not adding additional staff to do this. 
We're not hiring an additional people. We'll be doing 
it with our current staff. 

CHAIRMAN: Any other questions or comments for 
Joe?

(NO RESPONSE)

CHAIRMAN: If not, Joe, thank you very much. 
Again, I would like to thank you and your staff for 
all your hard work. 

Dean, you and your staff. 

Mark, you and your staff. You've done an 
excellent job. You've worked very hard. Our 
community realizes that. 

With that, Commissioners, do you have any more 
comments or questions? 

(NO RESPONSE)

MR. NOFFSINGER: See if the public has any

Ohio Valley Reporting
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comments.

CHAIRMAN: Any comments or questions from the public.

(NO RESPONSE)

CHAIRMAN: If not --

MR. APPLEBY: Is the chair ready for a motion?

CHAIRMAN: -- the chair is ready for a motion.

Mr. APPLEBY: I'd like to make a motion that we adopt text and exhibit revisions and additions involving Chapters 2, 5, 14 of the Owensboro Metropolitan Public Improvement Specifications.

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

MR. REEVES: Second.

CHAIRMAN: We have a second by Mr. Reeves.

Comments or questions on the motion?

(NO RESPONSE)

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimous.

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ZONING CHANGES

ITEM 4

242 Church Street, Portion of 7481 US Highway 60 West, 2.279+/- acres

Ohio Valley Reporting
(270) 683-7383
Consider zoning change: From R-1A Single-Family Residential to I-1 Light Industrial
Applicant: John Phillip Fogle; Stanley AG Service, LLC

MR. HOWARD: I will note that the rezoning heard here tonight will become final 21 days after the meeting unless an appeal is filed. If an appeal is filed, we will forward the final record of the meeting along with the application to the appropriate legislative body for them to take final action. The appeal forms are available on the back table, in our office and on our website.

PLANNING STAFF RECOMMENDATION

The Planning Staff recommends approval subject to the condition and findings of fact that follow:

CONDITIONS:

Submission of a division/consolidation plat to consolidate 242 Church Street with the portion of 7481 US Highway 60 West.

FINDINGS OF FACT:

1. Staff recommends approval because the proposal is in compliance with the community's adopted Comprehensive Plan;

2. The subject property is located in a Rural Community Plan Area, where light industrial uses are appropriate in limited locations;
3. Use of the property as an agricultural services business meets the criteria for nonresidential use;

4. The proposal is an expansion of existing industrial zoning to the north of the subject property; and,

5. The proposal satisfies the criteria for a new location with frontage on US Highway 60 West which is classified as an arterial roadway and it is located at the corner of US Highway 60 West and a public alley.

We would like to enter the Staff Report into the record as Exhibit A

CHAIRMAN: Is there anyone here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Does anyone have any questions of the application?

If so, would you step to one of the podiums.

Are you representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Does anyone have any comments or questions for the applicant?

(NO RESPONSE)

CHAIRMAN: Do you have anything you would like
to tell us?

APPLICANT REP: I wouldn't know what to tell you. You've said it all.

CHAIRMAN: That's good.

Commissioners, do you have any comments or questions?

(NO RESPONSE)

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

MR. ROGERS: Motion for approval based on Planning Staff Recommendations with the one condition and the Findings of Facts 1 through 5.

CHAIRMAN: We have a motion by Mr. Rogers for approval.

MR. FREY: Second.

CHAIRMAN: Second by Mr. Frey. Comments or questions on the motion?

(NO RESPONSE)

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 5

131 Ewing Road, 2.35 acres
Consider zoning change: From R-4DT Inner-City
Residential and B-4 General Business and R-4DT Inner-City Residential
Applicant: Presley A. & Doris M. Bullington

MS. KNIGHT: State your name, please.
MS. EVANS: Melissa Evans.

(MELISSA EVANS SWORN BY ATTORNEY.)

PLANNING STAFF RECOMMENDATION

The Planning Staff recommends approval subject to the findings of fact that follow:

FINDINGS OF FACT:

1. Staff recommends approval because the proposal is in compliance with the community’s adopted Comprehensive Plan;

2. The subject property is partially located in a Central Residential Plan Area where Urban Low-Density Residential uses are appropriate in general locations and partially located in a Business/Industrial Plan Area where Urban Low-density Residential uses are not generally recommended;

3. The proposal is a logical expansion of existing R-4DT Inner City Residential zoning existing on a portion of the subject property and on the properties to the north and east; and

4. With the business located on the subject property no longer in operation, rezoning the property to a single zoning classification of R-4DT Inner City Residential and B-4 General Business and R-4DT Inner-City Residential.
Residential zoning is more appropriate than the split zoning that currently exists.

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

CHAIRMAN: Anyone here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Does anyone have any comments or questions on the application?

Step to the podium, please.

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

MS. CAINE: Beverly Caine.

(BEVERLY CAINE SWORN BY ATTORNEY.)

MS. CAINE: I just had a question about the zoning itself. I mean is it going to be a houses? My property is right next to the field. We've seen a lot of surveyors down there. They've been surveying. This is my brother-in-law and my sister. They own the houses next to me. They've been surveying the street, the alley. We just didn't know what was going on. Are they going to open the alley, the street or is it just going to be the houses there? How is it going to affect us? The house that I own, it was my parents' home. We've owned that home for 40 years.
CHAIRMAN: Let's see if I can get some answers for you.

Melissa, would you address her concerns?

MS. EVANS: To our knowledge the applicant purchased this property at auction and does intend to divide the property into several lots that will have frontage on Ewing Road and possibly on Nelson Avenue and Pardon Avenue, the streets that stub into the property. We were in contact with the city engineer's office. They would recommend or support a recommendation to extend either Nelson Avenue or Pardon Avenue over to Ewing Road, but we don't know whether or not that will happen or not happen. As far as we know, they're going to divide the property for residential purposes.

MS. CAINE: I was just wondering, like you said, if they're proposing maybe to open the road; is that correct? I'm trying to understand.

MS. EVANS: Right. The applicant is not proposing to do that. The city engineer's office may ask them to do that to one of those two stub streets there. The applicant -- we haven't received a proposal yet from the applicant on what exactly they're going to do with the property. What we have been told is that they're going to divide it to sell
for residential purposes. In an R-4DT zoning, they
could only do residential purposes. It couldn't be a
business.
MS. CAINE: Anybody could buy a house or buy
land and put a house on it?
MS. EVANS: Yes. Yes.
MS. CAINE: So if something were to happen, I
could, if they're going to open the road would I hear
that they're going to open the road or they'd just go
ahead and do it? I'd like to know, you know, as far
as my property is the way it's sitting, you know, here
is the field here.
MS. EVANS: Which property are you?
MS. CAINE: I'm on Pardon Avenue.
MS. EVANS: This one?
MS. CAINE: Yes. I'm right there. I just
want to know if they're going to open that road, you
know, would I hear about it or are they just going to
go ahead and do it? Can I appeal it whenever they do
it? I don't understand.
CHAIRMAN: I think Ms. Evans will have to
address that. She's been working with the applicant.
MS. EVANS: Actually the applicant is here and
I think to address what they intend to do with the
property.
CHAIRMAN: Okay. Would you step up to the
podium, please.
MS. KNIGHT: If you would state your name,
please?
MS. BULLINGTON: My name is Doris Bullington.
(DORIS BULLINGTON SWORN BY ATTORNEY.)
MS. BULLINGTON: We are working with Joe
Simmons, the surveyor. When we bought the property at
auction, our intention was residential and divide it
out into half acre lots. Of course, where the old
house is, our intention is to tear the house down and
probably build possibly. We don't have an appraisal
and all of that yet. Keep the old building and
refurbish it and also sell the other two lots off
there as residential lot. There is no intention, our
intention, no intention of opening Nelson or Pardon,
our intention. So I don't know if there is anything
else. Joe just hasn't finished the survey. That's
why you're seeing flags. You're also seeing OMU
putting flags in so they know where the water and
sewer all that of that is.
CHAIRMAN: Thank you very much.
Ma'am, does that answer your questions?
MS. CAINE: Yes.
CHAIRMAN: Thank you very much.
Anyone else? If so step to the podium, please.

MS. KNIGHT: State your name, please.

MR. SCOUT: Will Scout.

(WILL SCOUT SWORN BY ATTORNEY.)

MR. SCOUT: My only thing just about the road because I have grandkids. As long as -- I have no problem with them building the houses or anything like that. That's not a problem. It's just this road is a dead end and our grandkids go out there and they play on that road. All we're wanting to know is if they are going to do this if we can address the city at a later time about it to keep this road from opening just to make thoroughfare. The houses is not a problem. It's just the road.

MR. NOFFSINGER: Mr. Chairman, if I might address that question.

As stated tonight, we do not know whether or not the road will be extended. They are dead-end stub-streets. They do have the opportunity to be extended. They may be extended in the future. Your contact should be with the city engineer's office, Mr. Joe Shepers. Certainly Brian Howard that's here tonight in the planning office can take down your information and let you know if and when they do.
propose to develop that property, how they intend to
do it. This board here tonight cannot give you any
satisfaction as to whether or not those streets are
going to be extended. They may or may not. This is a
zoning change to change the property from residential
and commercial to residential. So it's a down-zoning,
if you will, in terms of the uses that can be on the
property. It's more compatibility with the uses that
you enjoy on your adjoining property.

So I'd advise that you talk to the city
engineer, Mr. Joe Shepers, or Brian Howard who is here
tonight about contacting you in the future.

CHAIRMAN: Thank you, Mr. Noffsinger.

Are there any other questions on the
application?

MR. REEVES: I have a question, Mr. Chairman.

Mr. Noffsinger, being as they're going to
subdivide this, they're going to consolidate these
lots, subdivide them into several lots. Will they
have to bring back a development plan to us for
approval?

MR. NOFFSINGER: Not necessarily. If there
are no new streets involved, that would be a plat that
I would sign in-house. If there are new streets
involved, new public infrastructure, then it would
have to come back before this body; however, there is no required notification of adjoining property owners.

MR. REEVES: But it would have to come back to our office?

MR. NOFFSINGER: Anything they do on the property is going to be dealt with our office.

MR. REEVES: Will they have to put easements on the property to allow for the extension of Nelson and Pardon Avenue? Would they have to do that as they divide the lot?

MR. NOFFSINGER: They would extend the right-of-way of Nelson and Pardon across this property to connect to Ewing Road or potentially have to finish those dead-end streets into a cul-de-sac. That needs to be determined as to how the streets will terminate and what easements or right-of-ways there would be across the subject property. These individual's property should not be burdened by any such easements.

MR. REEVES: I understand. But it would be a burden by it becoming a thoroughfare, if their concern is additional traffic in here. That's the question I'm getting at. Who would make the decision about extending those streets and who would have the approval and authority to extend those streets?

MR. NOFFSINGER: Streets are extended it's
going to be this body because you would have to bring
a preliminary subdivision plat to extend the street to
Ewing Road.

MR. REEVES: Will these folks ever see this
coming? Will they know in advance that it's proposed
to extend those streets?

MR. NOFFSINGER: No, not unless they inquire.

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

MR. SUMNER: Aaron Sumner.

(AARON SUMNER SWORN BY ATTORNEY.)

MR. SUMNER: I just have some questions based
on what he's asking.

The building that's existing that is the
commercial building, I'm her son. My intentions are
to remodel that and turn that into a residence with a
garage in the rear. Not sure what they decide with
the house.

That property being right on the Nelson
Street, I would not want it to be passed through
either. I don't want that road opened.

I don't know. Mr. Reeves part of it is, yes,
I would want to know if that's going to be processed
through either on that one or the other street. I
think our intentions are if we do sell the other two
properties, if somebody wants to build a 1500 square foot home or something like that, like what's across the street, down the street and similar.

MR. REEVES: That's my only concern. Would the owners of the property in fact have an option to know it's going to be extend as well as the neighbors so if they can make a justifiable reason why that it shouldn't be extended, they would have sort of I guess forum to express their concerns.

MR. NOFFSINGER: Well, the owners of the property would definitely be involved. It's not going to happen unless they're involved. The neighbors would not receive official notification because none is required.

MR. REEVES: So the city could not arbitrarily extend the street and take it as an easement or eminent domain, I guess?

MR. NOFFSINGER: They could do that, but that's highly unlikely.

MR. REEVES: Okay. Thank you very much.

CHAIRMAN: Are there any other questions?

(NO RESPONSE)

CHAIRMAN: Commissioners have any other questions?

(NO RESPONSE)
MR. APPLEBY: Is chair ready for a motion?

CHAIRMAN: Chair is ready for a motion.

MR. APPLEBY: Motion for approval based on the Staff Recommendations with Findings of Fact 1 through 4.

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

MR. FREY: Second.

CHAIRMAN: Second by Mr. Frey. Comments or questions on the motion?

(NO RESPONSE)

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimous.

ITEM 6

4200 Old Hartford Road, 9.561 acres
Consider zoning change: From P-1 Professional/Service to R-1B Single-Family Residential
Applicant: Jagoe Land Corporation; Jagoe Homes, Inc.

PLANNING STAFF RECOMMENDATION

Planning Staff recommends approval subject to the Condition and Findings of Fact that follow:

CONDITION:

Access to Old Hartford Road shall be limited to a single access point in alignment with Liberty
Point.

FINDINGS OF FACT:

1. Staff recommends approval because the proposal is in compliance with the community’s adopted Comprehensive Plan;
2. The subject property is located in a Professional/Service Plan Area where Urban Mid Density Residential uses are appropriate in limited locations;
3. The proposal is a logical expansion of existing R-1B Single Family Residential zoning to the northwest and northeast;
4. Sanitary sewer service is available to be extended to the subject property;
5. The subject property has road frontage on Old Hartford Road, a major street; and
6. At less than 10 acres, the subject property should not overburden the capacity of roadways and other necessary urban services that are available in the affected area.

We would like to enter the Staff Report into the record as Exhibit C.

CHAIRMAN: Anyone here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Anyone have any comments other
questions on the application?

(No response)

Chairman: Commissioners have any comments or questions?

Yes, sir. Step up, please.

Mr. DeWitt: My name is Timothy DeWitt.

(Timothy DeWitt sworn by attorney.)

Mr. DeWitt: We have talked tonight about storm water, EPA regulations and different things.

This is a major watershed. I live just on Mount Vernon Drive which overlooks this — to use a redneck term — holler. I have seen water standing three feet deep at the bottom of this valley. That water stays there for weeks on end and then it eventually seeps into the ground.

The other concern I have with a subdivision being put in this area, Old Hartford Road is a very highly travelled avenue, as we all know. By putting more homes in there, you're going to be doubling the traffic volume on Old Hartford Road that is congested at best at times when the high school lets out or the college lets out, and you're going to have residential traffic in and out of this area that's just going to complicate everything.

I would ask that we take these things into

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consideration to look at the zoning. Like I said, I've lived on that hill for a long time. I've seen wrecks in that area. Old Hartford Road jobs to the right just a little bit. As an EMT with the county, I'm hanging laundry in the backyard and heard a wreck in this area. This is a very dangerous place to be putting a residential neighborhood and to have egress off of Old Hartford into this area. It would be a very haphazard thing to do to put houses down there. That's my opinion. Thank you.

CHAIRMAN: Thank you. I'll see if I get you some answers.

Mr. Jagoe's engineer, would you address the storm water issue.

MS. KNIGHT: State your name for the record.

MR. BAKER: Jason Baker.

(JASON BAKER SWORN BY ATTORNEY.)

MR. BAKER: I'll start with storm water. Of course, we're rezoning the property. This will be followed with a design plan. We will design the system such that -- I know what he's talking about. The long drainage channel that extends through this area, it's really flat, which would be supportive of the evidence he's saying it stays there a while. We will be designing the storm system to carry that water
through. There will be retention basins that will control the amount of discharge to the conditions. We will be accepting the water from off site as well. So we're charged with designing that to handle the storm water.

With regards to the access point, we are limited to the access point that is directly across the street from another residential neighborhood. We will be aligning with that intersection which is typically the best practice for locating those.

I think there was three comments. What was the third?

CHAIRMAN: We had storm water and basically the traffic. I didn't catch the third one.

MR. NOFFSINGER: You might want to address sight distance at that intersection, proposed intersection, as well as the comment was made this development would double the amount of traffic on Old Hartford Road, I believe.

MR. BAKER: As far as sight distance goes, in both directions the roadway is, you're in the outside of the curve so you can see further in both directions. I don't have the exact distances for sight distance that has been measured. This is a state route. We will be required to get a state
encroachment permit. All of those things are looked at as part of that state encroachment permit.

With regard to doubling traffic, I can't really speak to that. It's a residential development with 40 homes. I dare say it wouldn't double any traffic on that roadway given that there are residential subdivisions all around much larger than that. Does that answer the question?

CHAIRMAN: I think right now, yes, it does. The fact is it's a zoning change. It's not a development plan. The development plan has to come back before this commission; is that right, Mr. Noffsinger?

MR. NOFFSINGER: Yes, sir, that is correct. I will say that in terms of the amount of traffic on Old Hartford Road, there is a considerable amount of traffic. That's coming from a much broader area than just this residually developed area. We have people that are using Millers Mill Road, Settles Road to get over to the New Hartford Road to get to the high school. So we have a lot of traffic coming from different directions.

I cannot speak specifically as to the transportation improvement plan for the community, but I do know this area of Old Hartford Road is within the
transportation plan to be upgraded in the future; however, it is not a funded project. Any development that occurs on this property will be reviewed by the Planning Staff, by the GRADD office, as well as the state, and if transportation improvements are warranted based upon this development to make it safe regarding their impact, then they'll be required to make improvements. We don't know what those are at this time.

This is a down-zoning from professional office which you could have professional offices here. It's a down-zoning to residential which is more compatible with the adjoining residential uses in the area.

CHAIRMAN: Mr. Noffsinger, will this be required when they present a development plan for state highway review on this?

MR. NOFFSINGER: Yes, sir.

MR. BOSWELL: Mr. Chairman, I do have a question associated with the issue about the transportation.

This there is a comment that Kentucky Transportation Cabinet does not anticipate this development will overburden capacity roadways in the area, will not require a Traffic Impact Study or any roadway.
Is that being said because they have already previously looked at this?

MR. NOFFSINGER: They have looked at it, but I don't know to the degree that they will eventually be involved in it. Brian Howard might be able to add to that, but we have not seen detailed plans on how they're going to develop this.

MR. HOWARD: You're correct. We contacted the Kentucky Transportation Cabinet. Talked with Kenny Potts. He's the chief engineer over permitting with the Madisonville office.

The area that they're rezoning the proposed for indicated that we thought it would be around 40 residential lots that would be part of the development. The comments that are in the Staff Report are a result of that contact with the Transportation Cabinet.

Again, as Mr. Baker stated, before they would be allowed to put another street cut in, they will have to receive an encroachment permit from the state. At that time they would look at sight distance and the more detailed plan. Again, we just want to get some conceptual feedback based on what we anticipated taking place on that site from the Transportation Cabinet at this point.
MR. BOSWELL: When that would occur, would the gentleman or anyone out there be made aware of any of this at some point in time to try to rest their concerns about this?

MR. HOWARD: As Mr. Noffsinger said with the previous item, a preliminary plat, a development plan doesn't require adjoining property owners to be notified. Certainly if we get some contact information here with me tonight, I'll be glad to talk with Mr. DeWitt after the meeting as well. Get contact information and be glad to let him know whenever that is submitted.

MR. BOSWELL: Thank you.

CHAIRMAN: Thank you, Mr. Howard.

Are there any more questions from the commissioners or the public?

(NO RESPONSE)

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

MR. REEVES: Mr. Chairman, I move for approval of this rezoning with the condition as specified by Staff and Findings of Fact 1 through 6, plus one additional finding; Number 7, that this is in fact a downgrading rezoning and should be much less densely used than if it were developed commercial.
CHAIRMAN: We have a motion for approval by Mr. Reeves. Do we have a second?

MR. APPLEBY: Second.

CHAIRMAN: Second by Mr. Appleby. Comments or questions on the motion?

(NO RESPONSE)

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimous.

ITEM 7

927 East 18th Street, 1.44 acres
Consider zoning change: From I-1 Light Industrial to B-5 Business/Industrial
Applicant: MW Parrish, LLC; Thekla's Rentals, LLC

PLANNING STAFF RECOMMENDATIONS

The Planning Staff recommends approval subject to the conditions and findings of fact that follow:

CONDITION:

1. Submission of a site plan to be approved by the City Engineer’s office and OMPC prior to building occupancy; and,

2. The roadway buffer shall be maintained on site which will require the establishment of a green strip and sidewalk within the road right-of-way meeting the requirements of the City Engineer’s office
and the removal of the first parking spaces on the
east and west side of the building. The parking
spaces shall be removed, returned to grass and
appropriate vehicular use area landscaping installed.

FINDINGS OF FACT:

1. Staff recommends approval because the
proposal is in compliance with the community’s adopted
Comprehensive Plan;

2. The subject property is located within a
Business/Industrial Plan Area, where general
business and light industrial uses are appropriate in
general locations;

3. The subject property lies within an
existing area of mixed general business and light
industrial uses;

4. The Comprehensive Plan provides for the
continuance of mixed use areas; and,

5. The proposed land use for the subject
property is in compliance with the criteria for a
Business/Industrial Plan Area and a B-5
Business/Industrial zoning classification.

MR. HOWARD: We would like to enter the Staff
Report into the record as Exhibit D.

CHAIRMAN: Is there anyone here representing
the applicant?
APPLICANT REP: Yes.

CHAIRMAN: Does anyone have any comments or questions on the application?

(NO RESPONSE)

CHAIRMAN: Commissioners have any comments or questions?

(NO RESPONSE)

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

MR. BOSWELL: Mr. Chairman, I make a motion that we approve the rezoning based on Findings of Fact and also include the condition that Staff recommends to be met.

CHAIRMAN: We have a motion for approval by Mr. Boswell. Do I have a second?

MR. KAZLAUSKAS: Second.

CHAIRMAN: Second by Mr. Kazlauskas. Comments or questions on the motion?

(NO RESPONSE)

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimous.

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MINOR SUBDIVISION

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ITEM 8

2200 Christie Place, 2060 Lewis Lane, 8.032 acres
Consider approval of minor subdivision plat.
Applicant: Owensboro Board of Education

MR. NOFFSINGER: Mr. Chairman, this plat has
been reviewed by the Planning Staff and Engineering
Staff. It's found to be in order. It does come to
this commission as an exception to the subdivision
regulations in that it does not have frontage on a
public right-of-way. However, this is for a utility
substation that's been in existence for a number of
years. I believe OMU currently has a lease on this
lot. They plan to own the lot with this division.
With that being an existing utility and it's noted
that it's for utility purposes only, we recommend this
plat be approved.

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

(NO RESPONSE)

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

MR. APPLEBY: Motion for approval.

CHAIRMAN: We've got a motion for approval by
Mr. Appleby.

MR. BOSWELL: Second.

CHAIRMAN: Second by Mr. Boswell. Comments or
questions on the motion?

(NO RESPONSE)

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimous.

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NEW BUSINESS

ITEM 9

Consider approval of November 2013 financial statements

MR. NOFFSINGER: Mr. Chairman, each member has been mailed a copy of the financial statements that were prepared by our outside accounting firm. They are ready for your consideration.

CHAIRMAN: Commissioners, comments or questions?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MR. KAZLAUSKAS: So move.

MR. FREY: Second.

CHAIRMAN: We have a motion and a second.

Comments or questions on the motion?

(NO RESPONSE)

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimous.

ITEM 10

Consider approval of the amended Public Improvement Specifications surety unit cost.

CHAIRMAN: Commissioners, comments or questions on the application?

MR. NOFFSINGER: Mr. Chairman, this item comes to you as recommended by the city and county engineers. It is for the maintenance bond for the storm water that we talked about, storm water quality. It's based upon the acreage of the site. This was reviewed by the PI Speck Review Committee. We don't know if -- we may need to tweak this number as well, but this is the number everyone agreed to go with for bonding purposes and we'll revisit this at a later date once we have some projects coming through and we see these bonds and we see how they're work.

We review and recommend changes to this document every December, January of each year. It will be back before you within a year anyway, but we do recommend you move forward with the adoption of these new bonding surety amounts.

CHAIRMAN: Commissioners has any questions
on this?

(NO RESPONSE)

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

MR. APPLEBY: Motion to approve.

MR. BOSWELL: Second.

CHAIRMAN: We have a motion to approve by Mr. Appleby and a second by Mr. Boswell. Comments or questions on the motion?

(NO RESPONSE)

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimous.

Next item.

ITEM 11

Comments by the Chairman.

CHAIRMAN: It's been a long night. I don't have any more comments except I would like to set a work session on the mayor's committee recommendation. Have a work session on that sometime maybe in February. I believe, Counsel, if I'm right, we need a motion.

MS. KNIGHT: You're referring to the committee that was formed at the last meeting?

MR. NOFFSINGER: No. That would be the
Mayor's committee Business Friendly Committee.

Did you want to set that for at the end of our meeting in February or do you want to set it for another date? That's what you need to determine.

Mayor Ron Payne has asked that this commission forward recommendations or their opinions in terms of that committee's recommendation. Each one of you received a letter. I think that's what you're trying to address. See if this commission would like to establish a time for a work session to go over that.

Chairman: Yes, that's it. I think the commission needs to vote on approval.

Ms. Knight: Not for a work session, if that's what you're asking. You're not establishing a separate committee to review that committee's recommendation. That's not what you're doing, correct?

Chairman: I'm looking for a work session to review the mayor's committee's suggestions.

Ms. Knight: By the entire commission?

Chairman: Yes.

Ms. Knight: You do not need a motion for that.

Chairman: I would like to, Mr. Howard is gone, but someone from the Planning Commission to set
that. We have to give a seven day notice; is that correct?

MR. NOFFSINGER: No, sir. If you would like to establish a time for a work session after our regularly scheduled meeting, certainly we can notify the media to that. Now, do you want to schedule it for then or do you want to schedule it for another time?

CHAIRMAN: No, sir, I do not want to schedule it for after our regular meeting. I want to set a meeting date for a work session. It could be later in February or it could be whatever the commission would like to do. The issue is we have a lot of people that work and is not available. What would be the best time? That's what I'm asking the commission for.

What would be your desired time to have a work session? Four in the afternoon, five in the afternoon? We could do it after a regular meeting, but these meetings sometimes carries on and on and on. We don't need to get into a longer meeting. I'm asking the commission what you would prefer to have a work session to address the mayor's committee recommendation.

MS. KNIGHT: I will address your issue of publishing, giving notice of it. Yes, if we do a
separate work session at different times, yes, we would.

CHAIRMAN: We have to give seven days notice.

MS. KNIGHT: We will have to notify the media.

CHAIRMAN: Commissioners, do you have any comments on that?

MR. APPLEBY: After 5:00.

CHAIRMAN: After 5. Week date, do you have any preference on that?

MR. KAZLAUSKAS: Tuesday. I'm just throwing it out.

MR. APPLEBY: When does Kentucky play?

MR. NOFFSINGER: The city commission meets the first and third Tuesday of each month. Shouldn't be the first and third.

MR. REEVES: UK plays on Tuesdays and Saturdays or Wednesdays and Saturdays. So if you want to avoid conflict with the games.

MR. APPLEBY: Thursdays after five.

CHAIRMAN: Want to do it on Thursday after 5?

MR. FREY: Thursdays in February are the 6th, 13th, 20th and 27th.

CHAIRMAN: We meet the second. The Board of Adjustment meets the first Thursday and the second Thursday. We've got the third and fourth Thursday.

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MR. FREY:  The 20th is a Thursday.

CHAIRMAN:  After 5?

MR. KAZLAUSKAS:  5:30.

MR. APPLEBY:  That's good.

CHAIRMAN:  You will be sent a notice seven days prior to that.

Am I correct on that?

MS. KNIGHT:  Twenty-four hours on a special meeting. That's what we're calling this.

CHAIRMAN:  We'll have Staff to get that out to you. I think that's something we need to do.

Mr. Reeves, is that something you want to move forward on?

MR. REEVES:  Oh, absolutely, yes. The mayor has asked us to do that and I appreciate you moving it forward.

CHAIRMAN:  I would like to do that. You will be notified. Okay.

That's all the comments I have.

ITEM 12

Comments by the Planning Commissioners

CHAIRMAN:  Do you have any comments you would like to make?

MR. FREY:  Mr. Chairman, the only thing I would like to make, I guess I incorrectly voted on the
first one. I was hoping that we would get the
election done tonight. I thought when Mr. Appleby
made the motion to table we were going to do at the
end of the meeting. Just want to state for the record
I incorrectly voted. I was hoping that we could get
that done tonight one way or the other. It wasn't my
concern, but it was just getting it done. I didn't
know we were tabling it until the next meeting. Just
want to get on the record I voted incorrectly. It
would have been 6 to 4 vote.

        CHAIRMAN: Mr. Kazlauskas.

        MR. KAZLAUSKAS: I just want to bring to
everyone's attention that the subcommittee to review
the bylaws and personnel policy will be meeting on
Wednesday, January 15th at 2:00 p.m. at OMPC in the
conference room up there.

        CHAIRMAN: That's good. Thank you.

        Anyone else have comments?

        MR. MOORE: So next month when we have our
meeting and we vote again for the chair, say it's five
and five. We raise our hands and we vote, and we
vote, then we go in to March?

        MR. APPLEBY: If that's the motion.

        MS. KNIGHT: If that's the motion. If there
is a motion to make to table to next month's meeting,
there's a second and it's approved by a majority decision. The only other option, again, is to keep
voting and keep voting until we get a majority. I understand frustration if someone that has accepted
the nomination -- if someone willing to decline the nomination or change their vote, that's the only way
we're going to get a majority.

CHAIRMAN: Anyone else?

MR. FREY: Can we get that on the agenda to
where it's not first so we don't have to make a motion to move it? I'd rather do it at the end. Does it have to be on there first?

MR. NOFFSINGER: Yes.

MR. FREY: Okay. Fine. I would prefer it to be later so we don't --

MS. KNIGHT: That is the order of business of the bylaws. It is --

MR. FREY: Understood.

MR. APPLEBY: We can make a motion at that meeting to move it to the end of the meeting?

MR. REEVES: We could do that, couldn't we?

Surely. We could make a motion then.

Is that true or not, Terra?

MS. KNIGHT: You mean before we even go through the process to make a motion?
MR. REEVES: Yes. Make a motion to move that item to the end of the agenda?

MS. KNIGHT: I'll consider that.

MR. FREY: If it's easier to go through the process.

MS. KNIGHT: First and then move it.

MR. FREY: That's okay.

MR. KAZLAUSKAS: But that would be in violation of the bylaws, wouldn't it?

MS. KNIGHT: That would be my concern.

MR. FREY: So go through the steps first?

MS. KNIGHT: At this point, yes. If I come up with something different before the next meeting, we'll address it then. I think we have to go through the motions first. Motions first of trying the election, trying to get a majority vote, and then having a motion to table it to the end.

CHAIRMAN: But that would be at the next meeting?

MS. KNIGHT: Yes.

CHAIRMAN: If that's all, Commissioners.

ITEM 13

Comments by the Director.

CHAIRMAN: Mr. Noffsinger.

MR. NOFFSINGER: Thank you, Mr. Chairman.
I would like to remind everyone that at 4:30 before our next Planning Commission meeting we're going to have a work session on Findings of Fact. That will be presented by Brian Howard and Terra Knight. So please make every effort to attend that. I think you'll find it very useful and helpful in adopting Findings of Fact.

The second item I'd just like to share with the commissioners and the general public. Mr. Malcolm Bryant came into my office this morning and requested to meet with Manuel Ball who is our associate director of building, electrical and housing, as well as Dennis Thurman. Dennis Thurman has been the primary inspector for the new hotel that Mr. Bryant is developing. He wanted to share with me how appreciative he was for their efforts on that hotel.

He shared with me words such as partnership, cooperation. He shared with me how Manuel and Dennis have been very easy to work with. They have been very conscientious of the code, but also they have been very helpful in terms of working with their people and the designers.

Certainly I wanted to share that with each one of you because that's a gentleman in this community that has done a lot of development. Not just in
Owensboro, but in other places. He shared with me his appreciation of our Staff members.

I'd just like to thank him for doing that.

I'd also like to thank Manuel Ball, as well as Dennis Thurman for their outstanding efforts and just ask that you continue that.

The last item I have, I have gifts. It would be the revised KRS Chapter 100 which is the Planning Enabling Legislation for the State of Kentucky. The document most of you have is probably dated 2002. It's probably 98 percent correct and probably contains everything you need to know, but there has been a few changes over the years. This takes you up to I believe the current date. So happy reading. Just wanted to make sure you have the most current and up-to-date version. Thank you.

CHAIRMAN: Need one more motion.

MR. APPLEBY: Move to adjourn.

MR. FREY: Second.

CHAIRMAN: We have a motion and a second. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: We are adjourned.
STATE OF KENTUCKY )
     )SS: REPORTER'S CERTIFICATE
COUNTY OF DAVIESS )

     I, LYNNETTE KOLLER FUCHS, Notary Public in and
for the State of Kentucky at Large, do hereby certify
that the foregoing Owensboro Metropolitan Planning
Commission meeting was held at the time and place as
stated in the caption to the foregoing proceedings;
that each person commenting on issues under discussion
were duly sworn before testifying; that the Board
members present were as stated in the caption; that
said proceedings were taken by me in stenotype and
electronically recorded and was thereafter, by me,
accurately and correctly transcribed into the
foregoing 74 typewritten pages; and that no signature
was requested to the foregoing transcript.

     WITNESS my hand and notary seal on this the
20th day of January, 2014.

LYNNETTE KOLLER FUCHS
NOTARY ID 433397
OHIO VALLEY REPORTING SERVICES
2200 E. PARRISH AVE, SUITE 106E
OWENSBORO, KENTUCKY  42303

COMMISSION EXPIRES:  DECEMBER 16, 2014
COUNTY OF RESIDENCE:  DAVIESS COUNTY, KENTUCKY

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