

1 FRANKLIN COUNTY PLANNING AND ZONING
2 PLANNING AND ZONING COMMISSION
3 FRANKLIN COUNTY GOVERNMENT CENTER
4 SECOND FLOOR COMMISSION CHAMBERS
5 400 EAST LOCUST STREET
6 UNION, MISSOURI 63084

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9 TRANSCRIPT OF PROCEEDINGS
10 JULY 17, 2018
11 (COMMENCING AT 7:00 P.M.)
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16
17

18 Reported by:
19 Patsy A. Hertweck, C. R.
20 Alaris Litigation Services
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1 P R O C E E D I N G S
2 (JULY 17, 2018)
3 CHAIRMAN EVANS: I'm going to
4 go ahead and call our Tuesday, July 17th, meeting of
5 the Franklin County Planning and Zoning Commission.
6 Scottie, will you please take roll.
7 MS. EAGAN: Bill Evans?
8 CHAIRMAN EVANS: Here.
9 MS. EAGAN: Jay Schultehenrich?
10 COMMISSIONER SCHULTEHENRICH:
11 Here.
12 MS. EAGAN: Todd Boland?
13 COMMISSIONER BOLAND: Here.
14 MS. EAGAN: Tim Reinhold?
15 COMMISSIONER REINHOLD: Here.
16 MS. EAGAN: Tom Tobbin?
17 COMMISSIONER TOBBIN: Here.
18 MS. EAGAN: Bill McLaren?
19 COMMISSIONER McLAREN: Here.
20 MS. EAGAN: Stan Voss?
21 COMMISSIONER VOSS: Here.
22 MS. EAGAN: Dan Haire?
23 COMMISSIONER HAIRE: Here.
24 MS. EAGAN: Russell McCreary?
25 COMMISSIONER McCREARY: Here.

1 MS. EAGAN: And, Ron Williams?

2 COMMISSIONER WILLIAMS: Here.

3 MS. EAGAN: Okay. We have a
4 full Board.

5 CHAIRMAN EVANS: Thank you.

6 At this time, I will give the Planning
7 and Zoning Commissioners the opportunity to declare
8 any conflict, communication or relationship they may
9 have had that might influence their ability to
10 consider today's issues impartially.

11 (NONE)

12 There are no declarations.

13 Scottie, will you please give us the
14 presentation of the meeting procedures and exhibits.

15 MS. EAGAN: Tonight's Planning
16 Commission meeting is governed by the Franklin County
17 Unified Land Use Regulations.

18 Some matters on the agenda may be for
19 action by the Planning and Zoning Commission. These
20 matters do not involve public hearings.

21 Other matters on the agenda require
22 public hearings under Missouri law. If a matter
23 involves a public hearing, all individuals who desire
24 to testify will be given an opportunity to do so.

25 At this time, I would like to place into

1 the record these regulations as Exhibit A, the
2 official Zoning Map as Exhibit B, the official Master
3 Plan as Exhibit C, and the case file for each case as
4 Exhibit D for all the cases to be heard during the
5 public hearing.

6 All Old Business items on the agenda will
7 be dealt with first. Once the Old Business issues
8 have been taken care of, each item of New Business
9 will be opened.

10 As each case is opened, a staff report
11 will first be read to the Commission, followed by any
12 questions for the staff.

13 Then if anyone in the audience would like
14 to speak or comment on a file that is part of the
15 public hearing, they must first print their name on
16 the sign-in sheet provided, and then be sworn in by
17 the Chairman.

18 When it is your turn to speak, you will
19 come to the front of the room, you will come to the
20 front of the room to address the Commission and only
21 the Commission, not anyone in the audience, with your
22 comments.

23 It is possible for the Planning
24 Commission to decide to move a New Business issue to
25 Old Business and vote on it the same night.

1 At the conclusion of all questions,
2 comments, and discussion concerning each case, the
3 Planning Commission will proceed. Any final decision
4 by the Planning and Zoning Commission concerning
5 Conditional Use Permits may be appealed to the Board
6 of Zoning Adjustment any time within 90 days.

7 Applications for such an appeal may be
8 acquired from the Department offices during normal
9 business hours.

10 CHAIRMAN EVANS: Thank you.

11 All the Commissioners should have
12 received a copy of the minutes; however, they were
13 e-mailed, but the hard copy was not received until
14 today. I'm not sure how many Commissioners, besides
15 Russell, actually had a chance to read all 189 pages.

16 So we can approve them or I would suggest
17 we postpone approval of the minutes until the August
18 meeting if the Commissioners would like to have more
19 time to review them.

20 Any discussion?

21 COMMISSIONER McCREARY: Well,
22 there's -- yeah, Mr. Chairman, there's a few
23 corrections in here. Do you want to put those in now
24 or wait till August?

25 CHAIRMAN EVANS: I would wait

1 till August.

2 COMMISSIONER McCREARY: Very
3 good. Thank you.

4 CHAIRMAN EVANS: And then do it
5 all at one time. That is, if there was a motion to
6 postpone the approval till August.

7 COMMISSIONER SCHULTEHENRICH:
8 Mr. Chairman, I have not received those minutes yet.
9 Even on the e-mail, I did not receive an e-mail today
10 but -- so I don't -- there's got to be something of
11 e-mail problems with the office and my e-mail.

12 So...

13 CHAIRMAN EVANS: Yeah, I think
14 they were just e-mailed this afternoon.

15 COMMISSIONER McCREARY: About
16 two o'clock.

17 COMMISSIONER SCHULTEHENRICH: I
18 looked in my phone, and they're not there. So anyway,
19 I wasn't going to ask for a delay because if everybody
20 looked at them and thought they were fine, I'd be okay
21 with it, however you wish to do that, Mr. Chairman.

22 CHAIRMAN EVANS: Yeah, there
23 was an issue so they weren't even e-mailed to anyone
24 till this afternoon. Matter of fact, I didn't know
25 they were e-mailed till I talked to Scottie.

1 Any thoughts, approval or postponed until
2 the August meeting?

3 COMMISSIONER BOLAND: Did you
4 make a motion or do I need to?

5 CHAIRMAN EVANS: Someone needs
6 to make a motion.

7 COMMISSIONER BOLAND: I make a
8 motion that we postpone the minutes from the June 26th
9 to the August to approve them.

10 COMMISSIONER McLAREN: Second.

11 CHAIRMAN EVANS: We have a
12 motion and a second to postpone approval of the June
13 26th minutes until the regular meeting of the Planning
14 and Zoning Commission in August.

15 All in favor signify by saying aye.

16 COMMISSIONER REINHOLD: Aye

17 COMMISSIONER VOSS: Aye.

18 COMMISSIONER McLAREN: Aye.

19 COMMISSIONER WILLIAMS: Aye.

20 COMMISSIONER BOLAND: Aye.

21 CHAIRMAN EVANS: Aye.

22 COMMISSIONER HAIRE: Aye.

23 COMMISSIONER TOBBIN: Aye.

24 COMMISSIONER SCHULTEHENRICH:

25 Aye.

1 COMMISSIONER McCREARY: Aye.

2 CHAIRMAN EVANS: Opposed?

3 (NONE)

4 The motion is carried.

5 Comments -- Communications and Visitors

6 Comments. Anyone present wishing to address the

7 Commission?

8 (NONE)

9 If not, we'll move on to Old Business.

10 We have none.

11 New Business. Scottie, question. Without

12 looking at this, is this New Business or were these

13 tabled?

14 MS. EAGAN: They were tabled,

15 but they would still be considered New Business.

16 CHAIRMAN EVANS: Okay. But the

17 motion would be to take it off the table rather

18 than...

19 So we have File 180070, Planning and

20 Zoning public hearing. Scottie, if you'd give us the

21 details.

22 COMMISSIONER McLAREN: Do we

23 have to have a motion to do that before?

24 CHAIRMAN EVANS: I was going to

25 get the summary, but we all know what it is. So easier

1 to just do a motion now. It would be a motion to take
2 that file off the table.

3 COMMISSIONER McLAREN: I would
4 make that motion.

5 COMMISSIONER HAIRE: Second.

6 CHAIRMAN EVANS: We have a
7 motion and a second to take File 180070 off the table
8 and address it.

9 (NO VOTE WAS TAKEN HERE.)

10 Scottie, will you please give us the
11 details.

12 MS. EAGAN: Again, this is
13 Article 2, our definitions.

14 The majority of the changes in this
15 Article are -- came directly from FEMA of what we
16 needed in our Code. They wanted it only in Article
17 11, but I wanted it also in Article 2 so we just have
18 a complete list of our definitions, which is why on
19 any of them related to floodplain, it says for
20 purposes of Article 11 only.

21 I did make two minor changes since last
22 month. The first one is I fixed my typos on
23 agricultural structure. So instead of stricture it
24 says structure, and instead of raining it now says
25 raising of agricultural commodities.

1 And then on my definition of vacation
2 rentals, it now says "a private single-family dwelling
3 which is rented out on a temporary reservation basis
4 for paying guests."

5 And I took out the part of being an
6 accessory is okay being an accessory dwelling because
7 our regulations for accessory dwelling does not allow
8 them to be rented out.

9 So those are the changes to Article 2.

10 CHAIRMAN EVANS: Okay.

11 Any questions of Scottie?

12 All right. Jay?

13 COMMISSIONER SCHULTEHENRICH:

14 While you're on correct -- on the spelling or so on
15 corrections on there, on 2.11, under flood boundary
16 and floodway map, underneath in the title, it says
17 Article. Underneath that is the word "food". I think
18 it's flood, "flood hazard" area.

19 MS. EAGAN: Oh, special "food
20 hazard".

21 COMMISSIONER SCHULTEHENRICH:

22 Then if you go down, Scottie, to flood hazard boundary
23 map. The first word is -- that doesn't make sense
24 with the work "on" there. I think the word "and" --

25 MS. EAGAN: "And." Okay.

1 COMMISSIONER SCHULTEHENRICH:

2 And that's the two that I did notice when I was going
3 through it.

4 MS. EAGAN: Thank you.

5 CHAIRMAN EVANS: Bill?

6 COMMISSIONER McLAREN: Are we
7 going -- are we going to discuss this whole thing as
8 we go, or how are we -- I made some notes that I got
9 some questions on. But I don't know if we're going to
10 page by page or how we're going to do this.

11 CHAIRMAN EVANS: Yeah. Any
12 questions or discussion the Commission will have now,
13 and before -- because it is a public hearing, then we
14 would ask for any other proponents or opponents to
15 come forward. But the Commission has first crack.

16 COMMISSIONER McLAREN: So you
17 know, it's probably just me, but I've never --

18 It's probably just me, but I've never
19 heard the term flood fringe before. Is that stuff
20 that FEMA's giving us?

21 MS. EAGAN: Everything in here
22 is directly from FEMA. They gave us word for word
23 what needs to be in our regulations, and then Tori is
24 also here. He's our flood plan administrator. So when
25 we get to the nuts and bolts of the regulations, he

1 can answer any questions.

2 COMMISSIONER McLAREN: Okay.

3 So when it says administrator in these definitions, is
4 it talking about Tori?

5 MS. EAGAN: Yes.

6 COMMISSIONER McLAREN: Or is it
7 talking about somebody from FEMA?

8 MS. EAGAN: I believe it's
9 talking about Tori, right.

10 COMMISSIONER SCHULTEHENRICH: I
11 think that's another question that I had on this. The
12 definition says that it's the federal insurance
13 administrator, under administrator, and then when you
14 go back into another of these articles back here, I
15 think it's Article -- whatever it is here, it
16 identifies Tori as the administrator. But it sort of
17 conflicts each with the definition unless you
18 basically say the administrator is the federal
19 insurance administrator or a designee determined by
20 Franklin County or something like that, I would think.

21 But --

22 MS. EAGAN: I don't know what
23 definition you're on.

24 COMMISSIONER SCHULTEHENRICH:
25 The definition I'm looking at is on page 2.2. It's

1 the administrator.

2 MS. EAGAN: Two. Oh, I was
3 looking at the federal.

4 COMMISSIONER SCHULTEHENRICH:
5 It says the federal insurance administrator is the
6 definition of administrator for purposes of Article 2
7 only -- or Article 11 only.

8 And then in Article 11, when I read it,
9 it does designate Tori as -- as the individual, but it
10 sort of conflicts because it doesn't identify anybody
11 in the definition other than federal insurance
12 administrator. Or maybe I'm missing something. Maybe
13 I'm reading something here or missing something that
14 should be.

15 If you want me to find that in Article
16 11, I'll look for it, but I know --

17 MS. EAGAN: I'll let Tori
18 answer these questions because he's the one that
19 enforces these regulations.

20 MR. KARIM: Okay.

21 COMMISSIONER SCHULTEHENRICH:
22 Well, that was --

23 MR. KARIM: FIA is a federal
24 insurance administrator which is employed by FEMA, and
25 I'm a flood plan administrator for Franklin County.

1 It is two different things.

2 COMMISSIONER SCHULTEHENRICH:

3 Do we identify that in the definitions, both of them
4 then, Tori?

5 MR. KARIM: It should be in the
6 floodplain definition is in there already.

7 COMMISSIONER SCHULTEHENRICH:

8 But do we identify the administrator of the floodplain
9 as being Franklin County Zoning Enforcement Officer?

10 MS. EAGAN: I believe in
11 Article 11 it does spell that out.

12 COMMISSIONER SCHULTEHENRICH:

13 It does identify it in Article 11, I believe.

14 MS. EAGAN: Yeah.

15 COMMISSIONER SCHULTEHENRICH:

16 The word is used that the administrator --

17 MS. EAGAN: It says designation
18 of floodplain administrator. The zoning enforcement
19 officer is hereby appointed to administrate and
20 implement the provisions of this article.

21 Under Section 244.

22 COMMISSIONER SCHULTEHENRICH:

23 So it identifies as a different person or a different
24 position person as being the administrator. I just
25 point out, in my mind at least, I think it somewhat is

1 in conflict with the definition of administrator as
2 defined in Section -- or on page 2.2. But if
3 everybody is comfortable with it, so be it. But I'm
4 just saying that there is the potential. Either it
5 needs to be clarified or something needs to happen in
6 that regard.

7 COMMISSIONER WILLIAMS: Okay.
8 I got one big question. These are all federal
9 regulations that's passed down through FEMA. So these
10 have already been -- went through the process or gone
11 through the public process at the federal level for
12 amending the FEMA regs.

13 And what happens is, having been through
14 all of these or a couple of these in the past where I
15 work, once they do that and if we are under the
16 National Flood Insurance Program, in order to keep
17 certified in that, you have to do these amendments for
18 FEMA.

19 We may not like them, may not understand
20 then, but they don't care. They just want it done.

21 So I'm not -- and if you don't do them,
22 you get kicked out of the National Flood Insurance
23 Program. That's the bottom line. And if that
24 happens, then everybody's insurance rates go up who
25 are in a flood zone area. And we don't want that to

1 happen.

2 So we need to get this done whether we
3 like it or not. Period. Whether you like the
4 definitions, whether you do -- I'm telling you I've
5 been through this. They just pass them out and say do
6 this. And that's probably what you all have done.
7 You've done it to try to adapt it to your regulations,
8 you know, the best that you can.

9 But I'm telling you FEMA will be looking
10 at certain -- a lot of these things in here that they
11 say you got to get done, you got to get done by a
12 certain time. Period.

13 COMMISSIONER SCHULTEHENRICH:
14 That was going to be my question, then to you, Ron,
15 since you brought it up. Has to have any other
16 counties -- are all counties in Missouri expected to
17 adopt these? And if so, have other counties already
18 adopted these or --

19 COMMISSIONER WILLIAMS: I will
20 almost -- pardon me. Without stepping on everybody's
21 toes, I'll almost guarantee you without doing any
22 research, anybody, whether it be a local community
23 like a city, a county, a township, anybody who's in
24 the National Flood Insurance Program will be getting
25 this because it's national.

1 Now --

2 COMMISSIONER SCHULTEHENRICH:

3 So the answer to my question I guess is we don't know
4 if any other counties have adopted this yet.

5 COMMISSIONER WILLIAMS: To me
6 it's -- I'll be honest with you, Jay. It doesn't
7 matter to me. I'm not going to be the one to stop and
8 not do these and cause insurance rates to go up
9 astronomically.

10 COMMISSIONER SCHULTEHENRICH:

11 Well, I mean, when I talk about a definition, I'm
12 trying to be helpful, trying to say that it seems to
13 be a little bit contradictory or confusing.
14 Therefore, maybe one of it needs to be a little bit on
15 the amending side to make sure it's not in conflict
16 with the other article. Okay.

17 So that's the only reason why I pointed
18 that out. Be that as it may, there's another section
19 in here, Ron, that basically changes and says that the
20 adoption is for all of Franklin County. Whereas, the
21 language prior to this said it was for adoption of the
22 covered, the unincorporated areas of Franklin County.

23 So the question that I would have tonight
24 would be is, why is that changing to cover all of
25 Franklin County, because I'm not sure if some

1 municipalities would agree that they -- that they
2 would be covered by us adopting this. Okay.

3 So that would be a question that I also
4 was going to ask tonight, was to see why -- why that
5 language has changed. So...

6 CHAIRMAN EVANS: Let me just
7 add it's like September 14th is the deadline.

8 MR. KARIM: Yes, it is.

9 CHAIRMAN EVANS: And if we do
10 not have this approved --

11 MR. KARIM: We'll be suspended.

12 CHAIRMAN EVANS: -- it will be
13 -- we will be suspended from the program. It has to
14 go from us to the Commission and be approved by the
15 Commission by September 14th, or Franklin County is
16 suspended.

17 MR. KARIM: Right.

18 CHAIRMAN EVANS: And I've had a
19 similar conversation with Scottie about these, and
20 basically Tori is the subject matter expert, has gone
21 through these, and basically I'm relying on his
22 expertise as the administrator to provide us with
23 information that is accurate and acceptable.

24 MR. KARIM: Can I read part of
25 the FEMA letter that was sent to me?

1 CHAIRMAN EVANS: Sure.

2 MR. KARIM: Okay. I'll just
3 read the basic parts.

4 It says:

5 "I commend you for
6 the efforts that been put
7 forth in implementing the
8 flood management measures
9 for Franklin County, Missouri,
10 to participate in the
11 national flood insurance
12 program.

13 "As you implement
14 these measures, I want to
15 emphasize the following.

16 The FIS" --

17 Which is Federal Insurance Study.

18 -- "and FIRM" --

19 Which is Federal Insurance Rate Map.

20 -- "effective date, the

21 Department of Homeland

22 Security Federal Emergency

23 Management Agency, FEMA,

24 regional office is required

25 to approve the legally

1 enforceable floodplain
2 management measures for
3 your community adopts
4 accordance to Title" --

5 So and so. So in other words, basically
6 we have to have these adopted. These are all legally
7 binding from FEMA, and we have till September 14, 2018
8 to have this done.

9 And this also says in here there's no
10 significant changes to -- it says no significant
11 changes have been made to the flood hazard data on the
12 preliminary or revised preliminary copies of FIRM for
13 Franklin County. So...

14 CHAIRMAN EVANS: Thank you.

15 And again, I'm not disagreeing that there
16 are things that we don't understand, but -- Jay?

17 COMMISSIONER SCHULTEHENRICH:

18 The point I was -- I did find where that -- where that
19 change was located at that I didn't quite understand.
20 And that was under -- on page 11.10(b), Lands to which
21 Article applies.

22 And in there, that's where it says this
23 Article shall apply to all lands within the old
24 language reads, "This Article shall apply to all lands
25 within the jurisdiction of the unincorporated area of

1 Franklin County, Missouri identified," and so on and
2 so forth.

3 Now, what has occurred is it now reads,
4 "This Article shall apply to all lands within the
5 jurisdiction" -- I guess the word "of" should be in
6 there -- "of Franklin County, Missouri."

7 It takes out the unincorporated areas.
8 Is there -- is there a reason why we are taking out
9 unincorporated areas?

10 MS. EAGAN: I can't speak for
11 FEMA because I don't know what they were thinking when
12 they amended our regulations, but whether we say the
13 jurisdiction of Franklin County or the jurisdiction of
14 unincorporated Franklin County, Franklin County as a
15 whole still only has jurisdiction of things outside
16 the city limits.

17 So Tori still can't go into the city of
18 Washington and start trying to enforce Franklin County
19 Codes. So I don't know if FEMA just thought it was
20 redundant to say that. I can't speak on behalf of
21 them. You'd have to talk directly to them.

22 Again, this came directly from them and
23 said do it.

24 COMMISSIONER SCHULTEHENRICH:
25 Well, let me ask then, Scottie, if I may. Mr.

1 Chairman, if you don't mind. Okay?

2 CHAIRMAN EVANS: No, go ahead.

3 COMMISSIONER SCHULTEHENRICH:

4 Are the changes that are made in there, are they all
5 changes that came directly from FEMA, or are they
6 changes that we made, meaning Planning and Zoning
7 office, and in our opinion in accordance to what FEMA
8 sent us in their materials?

9 MS. EAGAN: This is word for
10 word what FEMA sent us.

11 COMMISSIONER SCHULTEHENRICH:
12 And then so this -- what is in here, all the words
13 that are in here, et cetera, are all from FEMA?

14 MS. EAGAN: All the changes
15 are, yes.

16 COMMISSIONER SCHULTEHENRICH:
17 Well --

18 MS. EAGAN: So all the stuff
19 that are what I consider red-lined or just crossed
20 out, FEMA said take them out. Everything underline,
21 FEMA said you need to put that in your Code.

22 And they sent us our -- these sections of
23 our code with the wording, and I then went into my
24 Article 11 and put them in.

25 COMMISSIONER SCHULTEHENRICH:

1 So has FEMA seen these revised definitions and
2 articles?

3 MR. KARIM: Yes. Yes.

4 COMMISSIONER SCHULTEHENRICH:
5 And they've given their nod of approval?

6 MR. KARIM: Yes, they have.

7 COMMISSIONER SCHULTEHENRICH:
8 Verbally or in writing?

9 MR. KARIM: Both.

10 COMMISSIONER SCHULTEHENRICH:
11 Can you explain a little bit in regards again on that
12 'B' of page 11.10, noting that we took out "AO" and
13 "AH"?

14 MS. EAGAN: Can we wait until
15 we get to Article 11?

16 COMMISSIONER SCHULTEHENRICH:
17 Oh.

18 MS. EAGAN: We're still on
19 Article 2.

20 COMMISSIONER SCHULTEHENRICH:
21 Oh, okay.

22 MS. EAGAN: Just the
23 definitions at this point.

24 COMMISSIONER SCHULTEHENRICH:
25 Then I wondered a little bit too far ahead. I'm

1 sorry.

2 MS. EAGAN: That's okay.

3 CHAIRMAN EVANS: Any other
4 discussion? Bill?

5 COMMISSIONER McLAREN: Since we
6 have Tori here and I'm a little confused about this,
7 and I think it seems to me like it's a really
8 important situation, can you explain, since you're the
9 administrator, a couple of these definitions to me
10 better?

11 MR. KARIM: Sure.

12 COMMISSIONER McLAREN: And I
13 don't understand free board.

14 MR. KARIM: Free board is
15 basically base flood elevation. FEMA says the base
16 flood elevation is 480 feet.

17 The free board is one extra foot above
18 that which supercedes the FEMA regulations that we
19 adopted. We have two foot of free board.

20 So in other words, when you go to FEMA,
21 this is fine to build a house at that base flood
22 elevation.

23 COMMISSIONER McLAREN: All
24 right.

25 MR. KARIM: But the County

1 says, no, you have to do two feet above, which is two
2 feet free board.

3 COMMISSIONER McLAREN: And
4 that's what's been adopted by --

5 MR. KARIM: By the County.

6 COMMISSIONER McLAREN: Okay.

7 MR. KARIM: Uh-huh.

8 COMMISSIONER McLAREN: And the
9 second one is -- and I appreciate that. That made a
10 lot of sense to me.

11 The second one is I really as I read
12 this, and I should be able to understand it, but I'm
13 afraid I don't understand it as well as can.

14 Can you explain a floodway to me better,
15 please.

16 MR. KARIM: Sure. Floodway is
17 the channel flow of water which the channel that flows
18 in the middle of the river. That's the floodway.

19 The flood fringe is outside of the
20 floodway, which is on both sides.

21 COMMISSIONER McLAREN: You know,
22 I --

23 MR. KARIM: I have a picture
24 that may explain it better to you, if I can --

25 COMMISSIONER McLAREN: Well,

1 and it might because I live just out of Pacific.

2 MR. KARIM: Uh-huh.

3 COMMISSIONER McLAREN: If
4 anybody understands water, the people in Pacific do.

5 And it seems to me like the floodway is
6 something that moves back and forth depending on the
7 political climate of the people that want to do
8 something, and it doesn't -- I mean, it doesn't have
9 anything to do with current or it's just purely
10 elevation?

11 The floodway is a concept that I really
12 don't understand, I think, as well as I should. I
13 mean, I understand the hundred-year floodplain and the
14 500-year floodplain, and that's just purely elevation.

15 MR. KARIM: Uh-huh.

16 COMMISSIONER McLAREN: But it
17 doesn't seem to me like the -- and your definition of
18 free board, your explanation of that made a lot of
19 sense.

20 MS. EAGAN: Isn't the floodway
21 the channel of the stream --

22 MR. KARIM: The channel of the
23 stream.

24 MS. EAGAN: -- or the river?

25 MR. KARIM: Uh-huh.

1 MS. EAGAN: The actual channel
2 that --

3 MR. KARIM: That's the
4 floodway.

5 MS. EAGAN: -- that flows? Is
6 how I understand it.

7 COMMISSIONER McLAREN: Okay.
8 So you can go into a hundred-year floodplain and
9 elevate the hundred-year floodplain and build in it,
10 correct?

11 MR. KARIM: You can -- yes, you
12 can build in a floodplain. In a floodway --

13 COMMISSIONER McLAREN: You can
14 build --

15 MR. KARIM: You can build in a
16 floodway too if you have a no-rise certificate. In
17 other words, anything you do in a floodway by an
18 engineer, it has to have a HECRAS 2 study done, and it
19 cannot cause any rise whatsoever whatever you do in
20 the floodway. So you can do stuff in the floodway as
21 long as it doesn't cause a rise.

22 COMMISSIONER McLAREN: And I
23 understand that. That's the way I understood it, but
24 after what you just explained to me, it sounds to me
25 like the floodway is only in the river channel or the

1 creek channel or whatever.

2 MR. KARIM: It is. Uh-huh.

3 COMMISSIONER McLAREN: That
4 doesn't seem like reality. Thank you.

5 CHAIRMAN EVANS: Any other
6 questions from the Commission? Jay?

7 COMMISSIONER SCHULTEHENRICH:
8 Question under definition of floodplain. We've
9 changed that definition. Again, it is -- it
10 identified what land area is susceptible by saying it
11 is to be inundated by water from the base flood. And
12 it talks about therefore, without that, it says any
13 land area susceptible to being inundated by water from
14 any source.

15 Is -- does that mean basically impervious
16 areas that are there that would potentially cause
17 significant runoff of water that potentially goes into
18 a dry creek that causes --

19 MR. KARIM: They looked -- they
20 changed that to 1 percent annual chance now. It used
21 to be a flood haz- -- well, it was a flood hazard
22 area, which is changed into 1 percent annual chance of
23 flooding.

24 COMMISSIONER SCHULTEHENRICH: I
25 saw that in the Article 11.

1 MR. KARIM: Uh-huh.

2 COMMISSIONER SCHULTEHENRICH:

3 Okay. But I go back to -- we're on definitions, I
4 thought. And therefore, my question goes back to
5 floodplain as to why are we saying from any source
6 when we're identifying in the previous material what
7 we had previously about the -- where it says it's
8 basically from water inundated from base flood. Okay?

9 MR. KARIM: Uh-huh.

10 (CROSSTALK)

11 COMMISSIONER SCHULTEHENRICH:

12 Meaning it has to be from an area in which we have
13 designated to be --

14 MR. KARIM: Flood hazard.

15 COMMISSIONER SCHULTEHENRICH:

16 Uh-huh.

17 MR. KARIM: Flood hazard zone.

18 Uh-huh.

19 COMMISSIONER SCHULTEHENRICH:

20 Right, but now we've opened it to the part of being
21 inundated by water from any source. That seems a
22 little bit --

23 MR. KARIM: Well, it probably
24 can flood from any source. I mean, it can, but it's
25 not our changes. That's the FEMA changes.

1 COMMISSIONER SCHULTEHENRICH:

2 Well, I guess are we just --

3 MS. EAGAN: We can't answer why
4 they changed it. That's the problem. FEMA didn't say
5 here are the changes and why. They just said these
6 are the changes you need to make.

7 (CROSSTALK)

8 MR. KARIM: I've --

9 COMMISSIONER SCHULTEHENRICH:
10 You mean to tell me, from what I'm hearing, they say
11 is that you have a federal government agency that's
12 come in and said here's what needs to be done. Okay?

13 MR. KARIM: Uh-huh.

14 COMMISSIONER SCHULTEHENRICH:
15 And if you don't adopt every one of these changes, is
16 that the way they worded it, or are they --

17 MS. EAGAN: That's correct.

18 COMMISSIONER SCHULTEHENRICH:
19 -- giving you an opportunity to look at it and to see
20 if there's any type of potential issue that may in
21 fact -- I'm --

22 MS. EAGAN: It's --

23 MR. KARIM: It's a federal
24 program. It's a federal insurance program. We don't
25 -- it's -- we don't sell that insurance. It's a

1 federal insurance. They're the ones selling insurance
2 to people. We don't.

3 COMMISSIONER SCHULTEHENRICH:

4 Well --

5 MS. EAGAN: It's mandated here
6 and --

7 CHAIRMAN EVANS: Tori, would it
8 be right to say this done unilaterally in all
9 jurisdictions?

10 MR. KARIM: All except the
11 coastal zone, which is the V zones. That's totally
12 different.

13 CHAIRMAN EVANS: Okay. I'm
14 just saying across counties and all jurisdictions?

15 MR. KARIM: Across -- yes.

16 CHAIRMAN EVANS: Everyone is
17 doing this --

18 MR. KARIM: Uh-huh.

19 CHAIRMAN EVANS: -- if they
20 want to participate?

21 MR. KARIM: If they're part of
22 the program, they have to do this.

23 CHAIRMAN EVANS: Okay.

24 We don't have to approve it, and we don't
25 participate then.

1 MR. KARIM: You don't have to,
2 exactly.

3 CHAIRMAN EVANS: All right.

4 MR. KARIM: Like I said we have
5 \$27 million worth of insurance in Franklin County
6 right now, and to keep the rates down, you have to
7 approve it.

8 If not, we'll be suspended. That's fine.

9 CHAIRMAN EVANS: Okay.

10 COMMISSIONER McLAREN: Mr.
11 Chairman, would you entertain one more question for
12 Tori, please?

13 CHAIRMAN EVANS: Sure.

14 COMMISSIONER McLAREN: So there
15 has to be a reason that we're doing something here.
16 And I understand that we're not FEMA and you're not
17 FEMA and we can only surmise.

18 My question is: Are they doing this so
19 they make flood insurance available for more people,
20 expanding the definitions, or are they doing this so
21 they're -- it's actually a taking and they're taking
22 the -- away from potential somebody being able to do
23 something with their property?

24 MR. KARIM: I can't -- I can't
25 answer that for FEMA. The only thing I know that

1 anybody can buy floodplain insurance, even if they're
2 not in a floodplain. Anybody can purchase insurance
3 even if you're not in the floodplain.

4 And what -- to answer your question,
5 they've had houses that flooded from the rain that
6 were not in the floodplain. The basement flooded. So
7 if you were talking about that, that's what it refers
8 to.

9 COMMISSIONER WILLIAMS: Tori, I
10 have a question. We're only dealing with regulations
11 here. So actually the flood -- the FIRM maps haven't
12 changed?

13 MR. KARIM: No, they haven't
14 changed.

15 COMMISSIONER WILLIAMS: So the
16 flood zones are --

17 MR. KARIM: Exactly --

18 COMMISSIONER WILLIAMS: -- are
19 still in the floodplain areas, and everything that's
20 shown on the FIRM --

21 MR. KARIM: Exactly the same.

22 COMMISSIONER WILLIAMS: -- if
23 you go to FEMA, that -- we're not changing anything?

24 MR. KARIM: We're not.

25 COMMISSIONER WILLIAMS: We're

1 changing --

2 MR. KARIM: Just the
3 definitions.

4 COMMISSIONER WILLIAMS: -- the
5 regs.

6 MR. KARIM: Uh-huh.

7 COMMISSIONER WILLIAMS: Which
8 again went through the federal process for many
9 federal regs.

10 COMMISSIONER SCHULTEHENRICH:
11 Well, you've really raised a question now in my mind
12 on there, but I think if the maps haven't changed,
13 then why are we changing the definition?

14 COMMISSIONER BOLAND: We're not
15 changing the definitions.

16 MR. KARIM: We're not changing
17 the definitions. FEMA is.

18 COMMISSIONER BOLAND: FEMA,
19 we're not.

20 COMMISSIONER REINHOLD: If you
21 want flood insurance, you're going to have to adopt
22 these because that's basically it is.

23 MS. EAGAN: And we didn't have
24 a lot of these definitions, Jay.

25 COMMISSIONER SCHULTEHENRICH:

1 Yeah.

2 MS. EAGAN: If you notice, all
3 the ones that are completely underlines, those are
4 ones we didn't even have in our Code.

5 The ones that have the cross-outs and the
6 underlines, those are the deducted. So all in all we
7 maybe had three to four of these definitions in our
8 Code in the past.

9 MR. KARIM: Uh-huh.

10 COMMISSIONER SCHULTEHENRICH:
11 Yeah, we did have the definition of floodplain in
12 there.

13 MS. EAGAN: Right, we did.

14 MR. KARIM: Uh-huh.

15 MS. EAGAN: I agree with that.

16 COMMISSIONER SCHULTEHENRICH:

17 Okay.

18 COMMISSIONER REINHOLD: Jay,
19 the only thing is that they're the ones that
20 underwrite the flood insurance.

21 MR. KARIM: Yeah.

22 COMMISSIONER REINHOLD: Either
23 adopt their regulations or you don't.

24 MR. KARIM: Uh-huh.

25 COMMISSIONER REINHOLD: So you

1 either go into the program or you don't go in the
2 program.

3 MR. KARIM: The maps haven't
4 changed from --

5 COMMISSIONER REINHOLD: We --
6 they -- we can't change that. So I don't know why you
7 keep going through it.

8 MR. KARIM: Previous to 2011
9 maps, the old maps were 1984, and that's how old they
10 were. So they had some funding. They changed the
11 maps in 2011 from 1984, and that's the latest ones we
12 have.

13 CHAIRMAN EVANS: Any other
14 questions of Tori?

15 COMMISSIONER VOSS: I've got a
16 question that to me make sense. We're worried about
17 getting these definitions right to appease FEMA.
18 Okay.

19 Is there any way we could put something
20 in there that says we are -- FEMA's regulations
21 supercedes so we don't mess up? I mean, it just seems
22 like we're trying to get everything for FEMA, and we
23 keep like oh, we didn't get this right.

24 CHAIRMAN EVANS: Tori.

25 COMMISSIONER VOSS: It's almost

1 like we --

2 MR. KARIM: Well, like they
3 sai, we don't have to adopt these if you don't want to
4 adopt them.

5 COMMISSIONER VOSS: No, I'm
6 thinking we should, but it seems like we're getting
7 confused that we're not doing it properly, like we got
8 a word wrong in a definition.

9 So is there a reason we shouldn't say
10 that FEMA's regulations supercedes? I mean, that's
11 what we're after, right?

12 MR. KARIM: Correct.

13 Scottie, do you think -- I don't know
14 about this one. I don't -- I can't answer that one.

15 COMMISSIONER VOSS: I mean,
16 we're trying to do everything to give them what they
17 want.

18 MR. KARIM: Uh-huh.

19 COMMISSIONER VOSS: And it's if
20 we don't, we're going to -- people are going to pay
21 through the nose for insurance and not have any. So
22 it seems like we just keep trying to get it right,
23 and...

24 COMMISSIONER WILLIAMS: Well, I
25 go back to the fact that I believe because I know FEMA

1 keeps every jurisdiction, no matter how big or small,
2 the regulations on file. And when something like this
3 comes out, what happens is they just send them out
4 with the corrections they want to see made, whether
5 it's deletions, additions, changes, here's what it is
6 and you need to do this, the new federal regulations
7 that we have adopted.

8 Because they have been adopted at the
9 federal level, because what happens is they get passed
10 down to the local level because you're in the program,
11 National Flood Insurance Program.

12 We're talking two different programs.
13 One is FEMA which handles floodplain management, and
14 the other is the National Flood Insurance Program that
15 handle's the flood -- the insurance portion of that.
16 Okay.

17 But the National Flood Insurance Program
18 is -- is banking on FEMA to do the regulations so that
19 they understand there's lower flood hazard risks. If
20 you understand what I'm saying.

21 You're trying to -- it's all about risk
22 because they're an insurance company. So they're
23 trying to keep that low, as low as they can, realizing
24 that some people are in a flood prone area and they
25 should not have to pay through the nose for flood

1 insurance. So they --

2 COMMISSIONER VOSS: Well, they
3 could change that at any time.

4 COMMISSIONER WILLIAMS: That's
5 correct.

6 COMMISSIONER VOSS: Well, that
7 -- that I don't like.

8 COMMISSIONER WILLIAMS: I
9 understand.

10 COMMISSIONER VOSS: I'm just
11 thinking we're trying to do everything we can to get
12 FEMA on board with us so no one loses their insurance
13 by September. I think our hands are tied.

14 MR. KARIM: Actually we're
15 trying to get on board with FEMA, not them with us.

16 COMMISSIONER VOSS: Okay. Yes,
17 sir.

18 CHAIRMAN EVANS: I mean,
19 basically it's a contract. If we do this, then the
20 insurance can be sold. We don't have to enter the
21 contract. There's an option here. If we want to get
22 in, and that's what I said before, all jurisdictions
23 accept the same requirements. We've dealt with
24 federal agencies before, and they're presenting it to
25 us. And it's I hate to say take it or leave it, but

1 it's pretty much here are our changes. Please
2 implement them, and you get the privilege of staying.

3 Thank you very much.

4 MR. KARIM: Thank you.

5 CHAIRMAN EVANS: Mark, did you
6 have anything?

7 COUNTY ATTORNEY PIONTEK: No, I
8 was just going to basically add to what you said.

9 This is a kind of a take-it-or-leave-it
10 thing. At the risk of muddying things up further, and
11 I hope not to, you can adopt regulations that are more
12 stringent than these.

13 These are a set of minimum requirements
14 that you have to adopt in order to participate in the
15 flood insurance program. You can adopt something like
16 Tori said, we require two feet above the base flood
17 elevation. You could require five feet or ten feet.
18 You don't have to, but you can adopt something that's
19 more stringent, but not less.

20 I would hesitate to adopt something that
21 says whatever the federal regulations are, they
22 control, because you have no idea the extent of those
23 regulations.

24 You think this is a problem today. You
25 don't even want to see what that looks like. So I

1 would -- my recommendation would be that you adopt
2 what's before you. I understand there are people have
3 concerns about the language, but really your hands are
4 tied. If you want flood insurance for the County,
5 this is what you get.

6 So...

7 CHAIRMAN EVANS: Thank you.

8 Any other discussion?

9 (NONE)

10 Since this is a public hearing, I'll ask
11 if there is anybody present who's a proponent of this
12 file.

13 (NONE)

14 Anyone present who is in opposition to
15 this file?

16 State your name and address and sign in,
17 please.

18 MR. CHARLES SCHROEPFER: My
19 name is Charles Schroepfer. I live at --

20 CHAIRMAN EVANS: And you have
21 five minutes.

22 MR. SCHROEPFER: Okay.

23 I have just a question.

24 MS. REPORTER: I need to --

25 MR. SCHROEPFER: Well, let me

1 -- first, my name is Charles Schroepfer. I'll sign in
2 and then you can swear me in.

3 MS. REPORTER: Okay.

4 MR. SCHROEPFER: I just have
5 one question. What my question is really we got an
6 order --

7 MS. EAGAN: She needs to swear
8 you in.

9 CHAIRMAN EVANS: Haven't been
10 sworn in yet.

11 MR. SCHROEPFER: Okay. I'll
12 sign in.

13 (Thereupon, the witness was
14 sworn.)

15 I'm confused about Article 2. I don't
16 know nothing about Article 2, and last time we talked
17 about a floodplain, we talked about Article 11 and the
18 changes, this book.

19 Is this here include the changes to the
20 book on Article 2 or Article 11?

21 MS. EAGAN: That's Article 11.
22 We never got to Article 11 last time.

23 MR. SCHROEPFER: That's my
24 question. And I thank you very much for answering
25 that for me. I was confused. Thank you.

1 CHAIRMAN EVANS: Thank you.
2 Anyone else wishing to speak in
3 opposition?

4 (NONE)

5 If not, Chair would entertain a motion to
6 move this to Old Business.

7 COMMISSIONER BOLAND: I'll make
8 a motion to forward this to Old Business.

9 COMMISSIONER HAIRE: Second.

10 COMMISSIONER REINHOLD: Second.

11 CHAIRMAN EVANS: We have a
12 motion and a second to move File 180070 to Old
13 Business. All in favor signify by saying aye.

14 COMMISSIONER REINHOLD: Aye

15 COMMISSIONER VOSS: Aye.

16 COMMISSIONER McLAREN: Aye.

17 COMMISSIONER WILLIAMS: Aye.

18 COMMISSIONER BOLAND: Aye.

19 CHAIRMAN EVANS: Aye.

20 COMMISSIONER HAIRE: Aye.

21 COMMISSIONER TOBBIN: Aye.

22 COMMISSIONER SCHULTEHENRICH:

23 Aye.

24 COMMISSIONER McCREARY: Aye.

25 CHAIRMAN EVANS: Opposed?

1 (NONE)

2 The motion is carried.

3 Moving on to File 180072. This was a

4 Planning and Zoning public hearing that was also

5 tabled. So we would need a motion to remove it from

6 the table and address it.

7 COMMISSIONER McCREARY: I make

8 a motion to remove it from the table --

9 COMMISSIONER HAIRE: Second.

10 COMMISSIONER McCREARY: -- and

11 address it.

12 CHAIRMAN EVANS: We have a

13 motion and a second to remove File 180072 from the

14 table for discussion.

15 All in favor signify by saying aye.

16 COMMISSIONER REINHOLD: Aye

17 COMMISSIONER VOSS: Aye.

18 COMMISSIONER McLAREN: Aye.

19 COMMISSIONER WILLIAMS: Aye.

20 COMMISSIONER BOLAND: Aye.

21 CHAIRMAN EVANS: Aye.

22 COMMISSIONER HAIRE: Aye.

23 COMMISSIONER TOBBIN: Aye.

24 COMMISSIONER SCHULTEHENRICH:

25 Aye.

1 COMMISSIONER McCREARY: Aye.

2 CHAIRMAN EVANS: Opposed?

3 (NONE)

4 The motion is carried.

5 Scottie, will you give us the details.

6 MS. EAGAN: Okay. I'll let
7 Tori talk about the bulk of Article 11. Then if you
8 guys have any questions for him of specifics, he can
9 answer them.

10 I know some of the major changes in
11 Article 11 came from our penalties for violation. We
12 had to change and we had to add a whole section
13 regarding floodplain management variances.

14 So those are the bulk of the changes.
15 There were other ones in there, but I'll let Tori
16 address them, or if you guys have specific questions
17 you want Tori to address, that might be best. But
18 I'll let him talk about it.

19 CHAIRMAN EVANS: Okay. Tori,
20 like everyone else, you're looking at five minutes
21 except if we ask questions.

22 MR. KARIM: Sure.

23 (Thereupon, the witness was
24 sworn.)

25 Tori Karim.

1 CHAIRMAN EVANS: And I do have
2 one question for Mark. Since he is County staff, does
3 he have to be sworn actually?

4 COUNTY ATTORNEY PIONTEK: He
5 does not.

6 CHAIRMAN EVANS: Okay. Just
7 for future reference.

8 MR. KARIM: I'm the zoning
9 enforcement officer for Franklin County. I'm also
10 flood plan administrator, and I've been flood plan
11 administrator for 24 years.

12 MS. EAGAN: Don't worry about
13 signing in.

14 MR. KARIM: Okay.

15 CHAIRMAN EVANS: Go ahead.

16 MR. KARIM: Do you have
17 questions or...

18 CHAIRMAN EVANS: Again, I think
19 we're dealing with the changes here that have been
20 provided by FEMA.

21 MR. KARIM: Uh-huh.

22 CHAIRMAN EVANS: Basically the
23 same thing we had in Article 2 --

24 MR. KARIM: Two.

25 CHAIRMAN EVANS: -- that's word

1 for word.

2 MR. KARIM: That's correct.

3 CHAIRMAN EVANS; We're just
4 adhering to what we have to adhere to in order to
5 participate in the program.

6 MR. KARIM: Correct.

7 MS. EAGAN: Tori, my only
8 question for you is, the whole part of the Code where
9 it says "on Franklin County Index Panel dated
10 September 14, 2018 as amended." Do you know what has
11 been amended on that FIRM panel?

12 MR. KARIM: What we adopt
13 today, that will be amended by that date.

14 MS. EAGAN: But it says
15 something about the FIRM panel.

16 MR. KARIM: That FIRM panel
17 which was 105(d) which affects partial City of New
18 Haven because the levee is partially -- part of the
19 levee has changed upstream and has nothing to do with
20 -- it says no significant change has been made to the
21 Franklin County; however, it was done to City of New
22 Haven.

23 If can I read that to you real quick. So
24 basically it didn't affect anything with our FIRM
25 panel. It affected more of the City of New Haven FIRM

1 panel, just on the same FIRM panel which is 105(d).

2 MS. EAGAN: So for anyone who
3 doesn't understand what a FIRM panel is, it's just
4 basically a picture of an aerial photo of Franklin
5 County showing you where the floodplain is, and
6 they're all numbered differently for you.

7 MR. KARIM: Basically these are
8 FIRM panels right here, which identify each county --
9 part of the county, and these are Franklin County
10 numbers which is National Registry number that's
11 assigned by FEMA.

12 And FIRM panels are basically shows you
13 which part of the county the map is as far as the
14 floodplain.

15 Okay. It also is basically just the FIRM
16 panel right here. So we have like 32 different FIRM
17 panels within the county.

18 CHAIRMAN EVANS: Okay.

19 Any other questions for Tori?

20 COMMISSIONER WILLIAMS: Just a
21 quick one on because there was extension revisions in
22 the variance procedure and the variance what it
23 applies to. In a nutshell is it --

24 MR. KARIM: Basically --

25 COMMISSIONER WILLIAMS: -- more

1 difficult?

2 MR. KARIM: I was told by FEMA
3 anybody can apply for a variance, but they have never
4 granted a variance.

5 COMMISSIONER WILLIAMS:
6 Fantastic.

7 COMMISSION McCREARY: There you
8 go.

9 CHAIRMAN EVANS: Any other
10 questions.

11 COMMISSIONER SCHULTEHENRICH:
12 Just --

13 CHAIRMAN EVANS: Jay?

14 COMMISSIONER SCHULTEHENRICH:
15 Just being clear on penalties or violation, that's a
16 FEMA requirement of \$100 per day, each day is
17 considered a separate incident?

18 MR. KARIM: Yes. And I believe
19 we have that too, don't we?

20 MS. EAGAN: Ours is actually
21 higher than that, --

22 MR. KARIM: A thousand?

23 MS. EAGAN: -- but yes, that is
24 FEMA's.

25 MR. KARIM: I think ours is a

1 thousand, up 1,000 per day.

2 COMMISSIONER SCHULTEHENRICH:

3 Wonderful.

4 MS. EAGAN: Our normal
5 violation process is what he's talking about in
6 Article 5. Our penalty is up to a thousand dollars a
7 day potentially. FEMA wants us to implement this one
8 of a hundred dollars a day.

9 COMMISSIONER SCHULTEHENRICH:

10 But this is on the floodplain is what's in this?

11 MS. EAGAN: Uh-huh.

12 COMMISSIONER SCHULTEHENRICH:

13 Okay. And all of these changes again, I ask the
14 question. Are all the changes that have come directly
15 from FEMA?

16 MR. KARIM: Yes.

17 COMMISSIONER SCHULTEHENRICH:

18 And they've looked over Article 11 also and given
19 their okay --

20 MR. KARIM: Yes.

21 COMMISSIONER SCHULTEHENRICH:

22 -- for Article 11?

23 MR. KARIM: We made the changes
24 where they wanted them changed. We sent them back,
25 and they said this looks great. This is what you

1 needed to adopt.

2 COMMISSIONER SCHULTEHENRICH:

3 Okay. Thank you.

4 MR. KARIM: You're welcome.

5 CHAIRMAN EVANS: Any other
6 discussion or questions for Tori?

7 (NONE)

8 Thank you.

9 Anyone else present wishing to speak
10 that's a proponent on Article 11?

11 (NONE)

12 If not, is anyone present wishing to
13 speak in opposition?

14 Can you state your name and address and
15 sign in, please.

16 MR. TERRY SCHWOEPPE: It's
17 Terry Schwoeppe from Labadie, Missouri.

18 CHAIRMAN EVANS: And again, you
19 have five minutes.

20 (Thereupon, the witness was
21 sworn.)

22 MR. SCHWOEPPE: I'd just like
23 to thank you guys for letting us have the opportunity
24 to speak tonight. And I do have some handouts for you
25 so that you can kind of follow along as -- while I'm

1 speaking here. And because there has been -- seems
2 it's been brought to my attention there have been
3 changes on some maps and some other river levels and
4 that that raise enough question that I need you to
5 look at this a little further than what has been.

6 COMMISSIONER SCHULTEHENRICH:
7 Scottie, you want this one first?

8 MS. EAGAN: We'll have to give
9 one to Patsy for her to mark.

10 (Thereupon, evidence was
11 marked for identification as
12 Schwoeppe Exhibit 1, and submitted
13 for the record.)

14 MR. SCHWOEPPE: I guess like I
15 said, the numbers on the bottom there is not what --
16 they're kind of -- they're different numbers and we'll
17 just go like from top second page, third page whenever
18 we're going through this.

19 I've got a few things just highlighted
20 that seem to really raise questions, and it seems like
21 it's been for a number of years that the same
22 questions have been brought up time and time again.
23 And these are questions from engineers, not just from
24 a lay person, you know. This is from the engineer
25 from MoDOT.

1 On the first page when you look down at
2 the bottom of that first paragraph, for the City of
3 Washington there then they had that flood insurance
4 study done for Warren County. And then the Army Corps
5 of Engineers for the hydraulic analysis.

6 The report was previous communication and
7 significant differences in the 100-year flood
8 elevation of 493, and then this study was 1 foot
9 higher in the '93 flood record elevation of 192, as
10 well as the 500 year evaluation of 492.

11 And which to me that doesn't -- somewhere
12 there's some numbers missing because of 500-year flood
13 being less than a 100-year flood. That just --
14 there's numbers there that's just not -- I mean, I'm a
15 lay person and that doesn't -- a 500-year flood should
16 be higher than a 100-year flood. It just doesn't make
17 sense to me. I don't -- I don't understand that, and
18 I don't know if it was from --

19 On the second page when you go through,
20 this is what the -- basically the engineers questioned
21 regarding these studies. It says:

22 "However, regarding the
23 hydraulic analysis requirements
24 pertaining to this project,
25 we are concerned that the COE

1 study of 100-year flood
2 evaluation does not appear
3 to be consistent with the
4 actual flood data reported
5 in the National Weather
6 Service historical records
7 for this specific site or
8 the historical flooding
9 records as reported by
10 MoDOT."

11 That's where -- I mean, to me if the
12 wrong information was given, there's going to be some
13 conflicting numbers.

14 COMMISSIONER REINHOLD: Can I
15 ask you a question?

16 MR. SCHWOEPPE: Sure.

17 COMMISSIONER REINHOLD: This
18 letter that you gave us is dated January 23, 2009.

19 MR. SCHWOEPPE: Right.

20 COMMISSIONER REINHOLD: And it
21 looks like it's all the information for the City of
22 Washington.

23 MR. SCHWOEPPE: Well, and we're
24 -- we're dealing with Franklin County, but the thing
25 of it is this is all going to pertain to what I'm

1 getting to is that the levels seem to be concurrent
2 with the questions that were asked as far as the
3 levels not representing a true level of the river.

4 COMMISSIONER REINHOLD: Okay.

5 MR. SCHWOEPPE: You know, with
6 the 500 --

7 COMMISSIONER REINHOLD: This
8 one says referring period is November 30, 2001 through
9 December 14, 2001. Several years ago.

10 MR. SCHWOEPPE: Right. Well,
11 and that's what -- from 2009 to 2001, the same
12 questions were asked.

13 COMMISSIONER REINHOLD: Okay.

14 MR. SCHWOEPPE: If you -- on
15 the next pages and that, it basically will show you,
16 if you read on, you are another study that it was
17 done. On the third page, it's basically stating the
18 same going up to through the Dubois Creek when they
19 went up and through the evaluations for the incoming
20 water, they found that the levels were off again also.

21 I mean, they keep saying that the maps
22 are not going to change, but when you look at FEMA's
23 map now as of July, the fourth and the fifth page that
24 I've got here are two maps, and they're basically
25 showing the floodway in the City of Washington there,

1 and you can actually see on page 4 in the purple
2 highlighted area, that is now considered a floodway
3 due to what they're levels are.

4 Prior to July, this wasn't on FEMA's
5 website. They basically had the picture -- or that
6 you have there and what we had submitted earlier.
7 These are the pictures that are up there now.

8 So that's what basically draws a concern
9 to me, and page 5 is actually where the bridge is.
10 You can see where 47 goes across and the houses that
11 it actually entails right now are on the bluff.

12 MR. KARIM: But this also says
13 LOMA (ph.) on here which is letter map amended.

14 MR. SCHWOEPPE: Right. It just
15 -- well, it -- it had just came up.

16 MR. KARIM: But it's saying
17 that better map amendment you can take some of the
18 properties out of the floodplain.

19 CHAIRMAN EVANS: You have to
20 address the Commission.

21 Question for you. The information you
22 provided, I guess, what particularly are you saying
23 that in Article 11 that it is violating or that you
24 have concerns about?

25 MR. SCHWOEPPE: Well, I'm

1 concerned that there's a lot of questions. This
2 actually just shows that there have been engineering
3 studies that have showed (sic) questions about the
4 flood levels and they keep saying that there's no
5 changes, no changes, especially in the maps.

6 Well, they -- on their website itself,
7 they have changed the maps just as recently as July --
8 just as recently as July.

9 CHAIRMAN EVANS: My question is
10 though there are no maps in Article 11?

11 MR. SCHWOEPPE: Well, that's
12 what I'm saying, is they keep telling us that there
13 have been no map changes, but there is map changes.

14 CHAIRMAN EVANS: I know. What
15 I'm saying is that there are no maps in here to change
16 on Article 11.

17 So my question is the information you're
18 providing, I understand it.

19 MR. SCHWOEPPE: Right.

20 CHAIRMAN EVANS: I'm asking you
21 what it has to do with Article 11.

22 COMMISSIONER SCHULTEHENRICH:
23 Mr. Chairman, there is -- there is a map referenced in
24 Article 11. It's on page 11.10(d) again of the flood
25 charts rate map.

1 CHAIRMAN EVANS: Right.

2 COMMISSIONER SCHULTEHENRICH:

3 That map is identified. Is that what you're referring
4 to?

5 CHAIRMAN EVANS; Well, the
6 reference, but -- and that's why I'm trying to tie
7 this specific information to specific information in
8 here. If we're saying, you know, one is good and one
9 is bad, I'm trying to relate these two specifically.

10 MR. SCHWOEPPE: Well, basically
11 because of the fact that the questions are being
12 raised on -- on the maps and because of the flood
13 rates will change if you are deemed into a floodway
14 versus a floodplain that will make a very big
15 difference. Because apparently in a floodway there
16 you're not really supposed to be building anything in
17 a floodway.

18 Floodplains, you can come above the
19 floodplain level, according to whatever your zoning
20 is, but in a floodway there could be -- there's not
21 supposed to be anything built in that floodway.

22 That's why with these maps, I mean,
23 you're basically -- there's questions of being yes
24 there will be no changes, there's been no map
25 amendments. There are changes, but there actually

1 have been on their website, and that does affect
2 Article 11 because of the fact that the rate changes
3 and that map, if the map that is labeled in Article 11
4 is not updated to the current what we're going to be
5 voting on or being asked to take into effect, it could
6 encourage a lot of extra people to have to have flood
7 insurance that may not deem need to have, especially
8 if you look through there with the five foot elevation
9 difference from --

10 CHAIRMAN EVANS: Okay.

11 MR. SCHWOEPPE: You know.

12 MR. KARIM: You can apply for a
13 LOMA (ph.) if you're not --

14 MS. EAGAN: Bill, it's --

15 CHAIRMAN EVANS: Tori.

16 MR. KARIM: Some of the
17 property that were not in the floodplain before prior
18 to studies, they are in floodplain. However, the
19 structure is not in the floodplain, only the
20 properties may be in the floodplain. And you can also
21 apply for LOMA (ph.) which is a map amendment. You
22 send it off to FEMA, and they will take your structure
23 out of the floodplain so it doesn't say you have to
24 buy insurance.

25 CHAIRMAN EVANS: Okay.

1 COMMISSIONER WILLIAMS: And if
2 I can add. I was always taught that there's only
3 three ways that those maps ever change. One is FEMA
4 will change them.

5 CHAIRMAN EVANS: Right.

6 COMMISSIONER WILLIAMS: They'll
7 do another full study and that's usually a big study
8 on either creeks or waterways or whatever it is in a
9 certain area. Letter a map revision and letter of map
10 amendment.

11 So the maps are always changing. It
12 depends on which methodology or what method is
13 utilized. They're never going to be static because
14 some of those revisions are put in for by the property
15 owners themselves. Not necessarily --

16 MR. SCHWOEPPE: I can
17 understand -- yeah, I understand that a floodplain
18 will change, but normally a floodway does not change
19 without a surrounding boundary of a floodplain.
20 Because normally you would have a floodplain that
21 would go around.

22 MR. KARIM: Floodway changes
23 all the time. It's changed -- over the last 30 years
24 it's change because the current of the water of the
25 river it changes. And you can do stuff in the

1 floodway if you have a no-rise certificate from the
2 engineer. Which means they have to put on there that
3 whatever you do in the floodway cannot cause any rise
4 whatsoever. So you can do stuff in the floodway.

5 CHAIRMAN EVANS: Any other
6 questions for this individual?

7 (NONE)

8 All right. Thank you.

9 Anyone else wishing to speak in
10 opposition?

11 (Thereupon, the witness was
12 sworn.)

13 MR. SCHROEPFER: Again, I'm
14 Charles Schroepfer. I appreciate you guiding me
15 earlier.

16 I have a question I guess is we're going
17 to look at this, and is the County going to accept
18 this book which says September 14, 2018?

19 Is that going to accept this on the --
20 what is this? -- the --

21 MR. KARIM: Hydraulic studies?

22 MR. SCHROEPFER: Yeah.

23 MR. KARIM: Hydraulic studies
24 are done by FEMA, not by the County.

25 MR. SCHROEPFER: No, my

1 question is. Is the County going to accept this book?
2 Is that what this meeting is about, because that's
3 what Article --

4 MR. KARIM: The County will
5 accept the definitions.

6 MR. SCHROEPFER: You're not
7 going to accept -- you're not going to accept this
8 book?

9 MR. KARIM: Yes, all of it.

10 MR. SCHROEPFER: Okay. You're
11 accepting this book.

12 Now, when you accept this book, it says
13 two things on here that's really different and
14 everybody is saying well, the flood elevations are not
15 changing, everything's the same.

16 But this book is going to be dated at
17 September 14, 2018, and also when you look at the
18 number of the floodplain study, the number is
19 29071CV001B. The other book what we have today is 1A.
20 So 1A is going to be thrown out, and 1B is going to be
21 put in.

22 I would like to hand these items out.

23 CHAIRMAN EVANS: Short question
24 for Tori. Whether it's 1A or 1B, would the
25 definitions in Article 11 still be relevant?

1 MR. KARIM: Yes.

2 CHAIRMAN EVANS: Okay. Thank
3 you.

4 MR. SCHROEPFER: Okay. If I
5 may, I'd like to hand these out if I can have one for
6 you.

7 (Thereupon, evidence was
8 marked for identification as
9 Schroepfer Exhibit 1 and submitted
10 for the record.)

11 Okay. It seems to me and it was done
12 before and over and over again that if you want to
13 change this book, and we are. We're going from 1B --
14 or 1A to 1B. If you're changing this book, it's
15 clearly on Chapter 3 that there's appeals period.
16 FEMA and it clearly says here that it's got to be
17 publicized in the Federal Register and also it has to
18 be publicized two times in a paper generally about a
19 week apart, and after the second publication, a 90-day
20 appeal period begins. And we should have 90 days to
21 look at this.

22 And we wouldn't have had any time to look
23 at it if it wouldn't have been for this Board to give
24 us an opportunity to table this last time because we
25 never had the book. We had nothing to look at.

1 Now, our concerns here is this book is
2 pretty much what 1A is, and when 1A was adopted in
3 2011, Washington, Missouri and the surrounding
4 Washington, Missouri was affected by enormous -- like
5 the other gentleman was saying -- like a five-foot
6 height in some places that engineers say is wrong.

7 And three engineering companies -- and it
8 was done over like three different times and then it
9 was all crammed together for 2011 by three different
10 engineering companies doing different things on
11 different creeks and rivers.

12 And it -- and I just got this copy too.
13 Along the Missouri River in Washington, of course,
14 we're not in Washington, but it shows a floodway where
15 they're building them beautiful nice buildings down
16 there.

17 I don't think the City would want to
18 build them in a floodway, and that's what it shows.
19 There's so many mistakes here that it -- it takes a
20 closer look. Thirty days or fifteen days or whatever
21 it is isn't enough time, and it clearly says you got
22 to have a ninety-day appeal period. We didn't get
23 that. And it doesn't say if you changed the book or
24 not, you have changed this book when you put a
25 different date on and a different floodplain study

1 number on. You have changed this book.

2 The old one has been throwed (sic) out.

3 This is the new one. We should have a 90-day
4 opportunity to take a look at this, not 30 days or 10
5 days or a few days. We should have that time.

6 I thank you very much.

7 CHAIRMAN EVANS: Thank you.

8 Anyone present wishing to speak in
9 opposition?

10 (NONE)

11 Tori or Scottie, did you have any
12 rebuttal?

13 (NONE)

14 Tori, one question then. It's again that
15 the book the gentleman referenced, we don't have in
16 evidence, but whatever book is available, the Article
17 11 will still be accurate?

18 MR. KARIM: Yes. All these
19 numbers, the first one, I don't know what the 1B and
20 2B is. The first number are community numbers which
21 is identified for Franklin County 29071C. That's
22 basically what that -- all that is.

23 So I wouldn't look 1B and 2B stands for.
24 That I have no clue.

25 CHAIRMAN EVANS: Any other

1 questions.

2 COMMISSIONER WILLIAMS: Just to
3 clarify that. So that is our index panel that covers
4 the whole county?

5 MR. KARIM: That is correct.
6 Uh-huh.

7 COMMISSIONER WILLIAMS: Thank
8 you.

9 CHAIRMAN EVANS: Bill?

10 COMMISSIONER McLAREN: Mr.
11 Chairman, I understand that we're doing definitions
12 here. I also understand that there's a lot of people
13 here that's a lot smarter about this than I am. I'm
14 sure there's two gentlemen here on either side of me
15 that is much smarter.

16 But this -- Tori is -- works underneath
17 the Planning and Zoning Department, so -- and you have
18 experience of reading what was handed to us here. At
19 some point in time, even if we accept the changes to
20 the definitions today and accept the changes to
21 Article 11 today, is there a possibility that somehow
22 or other Tori needs to -- or you need to as a County
23 engineer address this five foot plus that's been shown
24 here so that somebody's not paying flood insurance
25 where they -- I know communities do that, that they

1 have stuff resurveyed and taken out of the floodplain.
2 Is that something that needs to happen in
3 Franklin County if we're handed something -- I know
4 this is not a lot more than hearsay I guess right now,
5 but it looks pretty apparent there's a bust in the
6 map.

7 COMMISSIONER WILLIAMS:

8 Possibly. I mean, I'm not a hydraulic expert by any
9 means, you know, but I can tell you from working in
10 another community there was some concern about how a
11 creek, major creek, was mapped by FEMA. And FEMA
12 would not go back and review or pay for another study
13 or do anything.

14 So that community went out and paid an
15 engineer to go through there and remap that, did all
16 the hydraulic studies. Now that was resubmitted or
17 submitted to FEMA, and actually did a map amendment
18 that changed the floodplain for that creek. It didn't
19 have a floodway all the way through it only for a
20 portion of it, but it did change the floodway.

21 That is, like I said previously, there's
22 only three ways to change a map. Either FEMA is going
23 to do it, somebody is going to do a letter of map
24 amendment, or somebody's going to do a map -- a letter
25 of map revision. Usually revisions are small areas

1 that maybe property owners want to look at and say
2 okay, can we look at this area again, but they still
3 have to have studies done. You don't get off carte
4 blanche, but they'll say I don't think this is right.

5 So if you're saying we should do a major
6 study on the Missouri River, get ready to open your
7 checkbook because that will take some doing.

8 COMMISSIONER McLAREN: Well,
9 I'm more concerned about the creek that somebody may
10 build a house on. I mean, we're fortunate that most
11 of -- awful lot of our ground is bluff on the Missouri
12 River side. So we're fortunate there.

13 But if it's back -- if it's along a creek
14 and --

15 COMMISSIONER WILLIAMS: Very
16 honestly, it could be. It depends on when the study
17 was done. It depends when they updated it, you know.
18 Some of the studies for FEMA are very old, you know.
19 They haven't updated them in some areas for a long
20 time.

21 Right, wrong or indifferent, that's what
22 you got.

23 MR. KARIM: That's why you have
24 two different phases. It says detailed study and
25 approximate study on FEMA maps, and with approximately

1 if you're questioning as far as flooding, we can
2 require an elevations certificate from an engineer.
3 Right, Ron?

4 COMMISSIONER WILLIAMS: Right.

5 MR. KARIM: Uh-huh.

6 COMMISSIONER WILLIAMS: Yeah,
7 if there -- if there is listed on a map approximate,
8 then it's at -- if there's some question as to --

9 MR. KARIM: There's a question
10 that we require a floodplain development permit and
11 also an elevations certificate.

12 COMMISSIONER WILLIAMS: Right,
13 which requires an engineer to certify it. You know,
14 and then -- so there are approximate numbers on there
15 r elevations, I should say, that are there.

16 Most of the time, especially on major
17 waterways like rivers and creeks and stuff like that,
18 they've done those studies and you have to find
19 floodways and floodplains on there.

20 You know, but when they get, when they
21 stop that maybe the creek goes on or maybe it's areas
22 where they didn't study, you know, it's like well, we
23 think this is probably where it is because it was
24 interpolated to be that way, but it's noted on the
25 maps as being approximate.

1 And that's where it is where you have the
2 discretion to go back in and ask for elevation
3 certificate and floodplain both permit.

4 COMMISSIONER McLAREN: But that
5 is up to the property owner or developers to do that?

6 COMMISSIONER WILLIAMS: That's
7 correct. Usually if you have a defined flood study
8 because what will happen is when the map was developed
9 but there's also a book that goes along with it that
10 shows the flood route, per se, of that creek or river.
11 And that gives a little bit more detail.

12 Unfortunately, they have stopped publishing those
13 things, or at least I'm not aware -- I haven't seen
14 one on their website, FEMA website, for a lot. But
15 they used to have the studies and when new maps or a
16 map was amended, they'd come out and give you this
17 study.

18 And basically it would show you floodway
19 elevation, the floodplain elevation, I'm going to hear
20 floodplain, and what's called the cue (ph.) or the
21 flow at a certain location.

22 MR. KARIM: They have two
23 different zones, A zone and AE zone. I can only go by
24 what they're providing me on a map as far as somebody
25 coming here to build a house. I can -- if it's the

1 question, I can ask for the certificates. And whoever
2 signs off these accept them, not me.

3 COMMISSIONER WILLIAMS: Yeah,
4 if you adopt these and you're looking at September
5 14th of 2018, you may get a map revision because
6 somebody put in a LOMA or LOMAR two weeks later.

7 MR. KARIM: I get LOMAs all the
8 time.

9 COMMISSIONER WILLIAMS: And
10 then you basically have to make that notation on your
11 maps that that's revised and do what's called, for
12 lack of a better term, a FIRM map where you get a
13 small area of that FIRM and we got to note it.

14 MR. KARIM: This -- every town
15 has some, at least two or three, of these that FEMA
16 takes out at the same time. Gives you some idea
17 that's a LOMA. Which is a letter map amendment.

18 CHAIRMAN EVANS: Any other
19 questions or further discussion?

20 (NONE)

21 Did that answer your question, Bill?

22 COMMISSIONER McLAREN: Not
23 really.

24 CHAIRMAN EVANS: Okay.

25 COMMISSIONER McLAREN: I mean,

1 my question is it seems to me like that we're adopting
2 this and they're asking us to adopt this, and
3 potentially here's some people paying flood insurance
4 that maybe aren't required to. But unless we spend a
5 lot of money to try to help those people, we're not
6 going to change that.

7 CHAIRMAN EVANS: Okay. And
8 again, I think the point is on Article 11, it doesn't
9 really affect that, that that would be done with the
10 maps and revisions or whatever. But Article 11
11 wouldn't affect that.

12 COMMISSIONER McLAREN: I
13 understand.

14 CHAIRMAN EVANS: Any other
15 questions, discussion?

16 (NONE)

17 If not, the Chair would entertain a
18 motion.

19 COMMISSIONER WILLIAMS: To move
20 it to Old Business?

21 CHAIRMAN EVANS: Pardon?

22 COMMISSIONER WILLIAMS: We move
23 it to Old Business.

24 CHAIRMAN EVANS: To move it to
25 Old Business.

1 COMMISSIONER WILLIAMS: I'll
2 make a motion we move File 180072 to Old Business.

3 COMMISSIONER REINHOLD: I
4 second it.

5 CHAIRMAN EVANS: We have a
6 motion and a second to move File 180072 to Old
7 Business. All in favor signify by saying aye.

8 COMMISSIONER REINHOLD: Aye

9 COMMISSIONER VOSS: Aye.

10 COMMISSIONER McLAREN: Aye.

11 COMMISSIONER WILLIAMS: Aye.

12 COMMISSIONER BOLAND: Aye.

13 CHAIRMAN EVANS: Aye.

14 COMMISSIONER HAIRE: Aye.

15 COMMISSIONER TOBBIN: Aye.

16 COMMISSIONER SCHULTEHENRICH:

17 Aye.

18 COMMISSIONER McCREARY: Aye.

19 CHAIRMAN EVANS: Opposed?

20 (NONE)

21 The motion is carried.

22 Moving on to File 180073, Planning and
23 Zoning again. Again, this was tabled. So we motion
24 to take it off the table to discuss it.

25 COMMISSIONER BOLAND: I make a

1 motion to remove it from the table.

2 COMMISSIONER TOBBIN: Second.

3 CHAIRMAN EVANS: We have a

4 motion and a second to remove File 180073 from the

5 table. All in favor signify by saying aye.

6 COMMISSIONER REINHOLD: Aye

7 COMMISSIONER VOSS: Aye.

8 COMMISSIONER McLAREN: Aye.

9 COMMISSIONER WILLIAMS: Aye.

10 COMMISSIONER BOLAND: Aye.

11 CHAIRMAN EVANS: Aye.

12 COMMISSIONER HAIRE: Aye.

13 COMMISSIONER TOBBIN: Aye.

14 COMMISSIONER SCHULTEHENRICH:

15 Aye.

16 COMMISSIONER McCREARY: Aye.

17 CHAIRMAN EVANS: Opposed?

18 (NONE)

19 Scottie, will you please give us the

20 details.

21 MS. EAGAN: Okay. There's two

22 minor changes to Article 7.

23 The first one has to do with our

24 definition of vacation rentals. We realized that our

25 definition of bed and breakfast did not encompass the

1 area B and Bs that are becoming popular. So we wanted
2 to have our own separation classification for vacation
3 rentals. So we added that in Article 7 anywhere bed
4 and breakfast was allowed. So now it will say bed and
5 breakfast and vacation rentals in zoning district.

6 And then in Community Development, if you
7 guys remember, a while ago we added as a permitted use
8 manufacturing light with five or fewer employees were
9 permitted. What we failed to do was add that if you
10 have more than five employees, it would be a
11 conditional use. So that would be the change in
12 Community Development I would ask you to do.

13 And those are the only changes to Article
14 7.

15 CHAIRMAN EVANS: Any discussion
16 or questions?

17 (NONE)

18 If not, is there anyone present who
19 wishes to speak as a proponent about adding vacation
20 rentals to Section 7?

21 (NONE)

22 If not, then anyone present who wants to
23 speak in opposition?

24 (NONE)

25 If not, any further discussion or

1 comments by the Commission?

2 (NONE)

3 There being none, the Chair would
4 entertain a motion preferably to move this to Old
5 Business.

6 COMMISSIONER McCREARY: I'll
7 make that motion, Chairman, to move File 180073 to Old
8 Business.

9 COMMISSIONER McLAREN: Second.

10 CHAIRMAN EVANS: We have a
11 motion and a second to move File 180073 to Old
12 Business. All in favor signify by saying aye.

13 COMMISSIONER REINHOLD: Aye

14 COMMISSIONER VOSS: Aye.

15 COMMISSIONER McLAREN: Aye.

16 COMMISSIONER WILLIAMS: Aye.

17 COMMISSIONER BOLAND: Aye.

18 CHAIRMAN EVANS: Aye.

19 COMMISSIONER HAIRE: Aye.

20 COMMISSIONER TOBBIN: Aye.

21 COMMISSIONER SCHULTEHENRICH:

22 Aye.

23 COMMISSIONER McCREARY: Aye.

24 CHAIRMAN EVANS: Opposed?

25 (NONE)

1 The motion is carried.

2 Moving back to Old Business, we have File
3 180070, Article 2. Any further discussion, comments?

4 COMMISSIONER SCHULTEHENRICH:

5 Mr. Chairman, are you going to ask for an
6 abstentions -- or abstaining votes on this issue?

7 CHAIRMAN EVANS: I'm sorry?

8 COMMISSIONER SCHULTEHENRICH:

9 Are you going to ask for any votes to abstain on this
10 issue?

11 CHAIRMAN EVANS: You don't have
12 to ask for abstention, but they can. Yes.

13 COMMISSIONER SCHULTEHENRICH:

14 Okay.

15 CHAIRMAN EVANS: Any further
16 discussion?

17 And again, while we -- these are in our
18 land use regulations, this does go to the Commission
19 for approval. Correct, Scottie?

20 MS. EAGAN: Correct.

21 CHAIRMAN EVANS: Then we are
22 not the final say. We can recommend revisions to the
23 land use, but they'll make the final decision.

24 No further discussion. The Chair would
25 entertain a motion, and I will include abstentions.

1 COMMISSIONER McCREARY: Mr.
2 Chairman, I'd like to make a motion to approve File
3 180070.

4 COMMISSIONER BOLAND: Second.

5 CHAIRMAN EVANS: We have a
6 motion and a second to approve File 180070. All in
7 favor signify by saying aye.

8 COMMISSIONER REINHOLD: Aye

9 COMMISSIONER VOSS: Aye.

10 COMMISSIONER McLAREN: Aye.

11 COMMISSIONER WILLIAMS: Aye.

12 COMMISSIONER BOLAND: Aye.

13 CHAIRMAN EVANS: Aye.

14 COMMISSIONER HAIRE: Aye.

15 COMMISSIONER TOBBIN: Aye.

16 COMMISSIONER McCREARY: Aye.

17 CHAIRMAN EVANS: Opposed?

18 (NONE)

19 Any abstentions?

20 COMMISSIONER SCHULTEHENRICH:

21 Abstention.

22 CHAIRMAN EVANS: Duly noted.

23 The motion is carried.

24 File 180072. Again Article 11. Any
25 further discussion?

1 (NONE)

2 If there is no further discussion, then
3 Chair would entertain a motion.

4 COMMISSIONER BOLAND: Make a
5 motion to accept File 180072.

6 COMMISSIONER HAIRE: Second.

7 CHAIRMAN EVANS: We have a
8 motion and a second to approve File 180072. All in
9 favor signify by saying aye.

10 COMMISSIONER REINHOLD: Aye

11 COMMISSIONER VOSS: Aye.

12 COMMISSIONER McLAREN: Aye.

13 COMMISSIONER WILLIAMS: Aye.

14 COMMISSIONER BOLAND: Aye.

15 CHAIRMAN EVANS: Aye.

16 COMMISSIONER HAIRE: Aye.

17 COMMISSIONER TOBBIN: Aye.

18 COMMISSIONER McCREARY: Aye.

19 CHAIRMAN EVANS: Opposed?

20 (NONE)

21 Abstentions?

22 COMMISSIONER SCHULTEHENRICH:

23 Abstention.

24 CHAIRMAN EVANS: Duly noted.

25 Moving on to File 180073, Planning and

1 Zoning Article 7. Any further discussion?

2 (NONE)

3 If not, the Chair would entertain a
4 motion.

5 COMMISSIONER BOLAND: I make a
6 motion that we accept File 180073.

7 COMMISSIONER TOBBIN: I'll
8 second that motion.

9 CHAIRMAN EVANS: We have a
10 motion and a second to approve File 180073. All in
11 favor signify by saying aye.

12 COMMISSIONER REINHOLD: Aye

13 COMMISSIONER VOSS: Aye.

14 COMMISSIONER McLAREN: Aye.

15 COMMISSIONER WILLIAMS: Aye.

16 COMMISSIONER BOLAND: Aye.

17 CHAIRMAN EVANS: Aye.

18 COMMISSIONER HAIRE: Aye.

19 COMMISSIONER TOBBIN: Aye.

20 COMMISSIONER SCHULTEHENRICH:

21 Aye.

22 COMMISSIONER McCREARY: Aye.

23 CHAIRMAN EVANS: Opposed?

24 (NONE)

25 Any abstentions?

1 (NONE)

2 All right.

3 Moving on to Preliminary Plats, File
4 180108, Wayne Mohesky. Only written comments from the
5 public may be submitted. No oral testimony will be
6 accepted.

7 Scottie, will you give us the details.

8 MS. EAGAN: This is File
9 180108.

10 The applicant is BFA for Wayne Mohesky.

11 The applicant wishes to create a two-lot
12 major subdivision in the Commercial Activity Highway
13 Service zoning district.

14 The property is located at 2978 Highway
15 100, approximately 1,000 feet west of Robertsville
16 Road, in Boles Township.

17 Facts: The property is approximately 1.1
18 acres in size.

19 The applicant is wishing to subdivide
20 this property into two lots, one being approximately
21 .53 acres and the other one being approximately .62
22 acres.

23 This property is located in the
24 Commercial Activity Highway Service zoning district.
25 The minimum lot size is 10,000 square feet in this

1 zoning district with a maximum density of one dwelling
2 unit per 5,000 square feet.

3 The density of this development is
4 approximately one dwelling unit per 25,000 square
5 feet.

6 This property is in the Public Water
7 Supply District No. 3 and Brush Creek Sewer District.
8 The preliminary plat indicates those services will be
9 provided by those districts.

10 Planning and Zoning has not received any
11 stormwater plans for this development.

12 The preliminary plat shows all utility
13 easements meeting the standards set forth in the
14 Franklin County Regulations.

15 All utilities shall be located
16 underground.

17 A land disturbance permit from DNR is
18 required to disturb more than one acre of land as well
19 as erosion controls during development.

20 The applicant shall provide fire
21 protection in accordance with Article 8, Section 175.
22 Because this development is located within Boles Fire
23 Protection District, they will be required to meet the
24 standards of that district.

25 This development has access to Highway

1 100. This is a State-maintained road.

2 This property is surrounded by a mobile
3 home park to the west and south and commercial
4 buildings to the north and east.

5 Staff Comments: Improvement plans to be
6 reviewed by Franklin County should be submitted before
7 final approval showing the requirements as set forth
8 in Article 8, Section 175, Subsection D.

9 Prior to recording the final plat,
10 Planning and Zoning shall receive proof of an approved
11 access, either pre-existing or proposed, for any
12 access onto Highway 100.

13 There are two existing buildings on the
14 property that do have services being provided by
15 Public Water Supply District No. 3 and Brush Creek
16 Sewer District.

17 CHAIRMAN EVANS: Thank you.

18 Scottie, quick question for you. You
19 have received all the information required for the
20 preliminary plat --

21 MS. EAGAN: Yeah, the only --

22 CHAIRMAN EVANS: -- except for
23 the stormwater?

24 MS. EAGAN: -- question I have
25 is the stormwater. After talking with the applicant,

1 they said they had a meet with Ron and Nichole back in
2 May, I believe it was, where Ron indicated that
3 because it was already developed, that stormwater
4 plans wouldn't be required.

5 COMMISSIONER WILLIAMS: Yeah,
6 I'll amplify on that. Bottom line is there's no
7 additional buildings, no additional hard surface area
8 that was indicated that was going to be created. So
9 it exists as it exists, and because of that, there's
10 no detention required.

11 CHAIRMAN EVANS: Is the
12 applicant present?

13 Will you please state your name and
14 address and sign in, please.

15 MR. MARV FRANKENBERG: Marve
16 Frankenberg, 103 Elm, Washington.

17 (Thereupon, the witness was
18 sworn.)

19 CHAIRMAN EVANS: Okay. Just
20 give us a little detail on what you're proposing.

21 MR. FRANKENBERG: What's
22 happening here is Wayne is selling the house to the
23 left-hand side of this drawing to the lady that's been
24 renting from him. The car shop or the car sales has
25 moved out, and he's actively looking for a buyer on

1 that or another renter.

2 So the gist of it is he'd like to sell
3 the house to the lady that's living there.

4 CHAIRMAN EVANS: Any questions?

5 (NONE)

6 All right. Thank you.

7 MR. FRANKENBERG: You're

8 welcome.

9 CHAIRMAN EVANS: Again,
10 Scottie, we received all the information required for
11 the preliminary plat?

12 MS. EAGAN: That's correct.

13 CHAIRMAN EVANS: This seems
14 relatively cut and dried for us what the applicant is
15 proposing.

16 Any discussion or comments by the
17 Commission?

18 COMMISSIONER McLAREN: Do we
19 have to know that it's got existing overhead electric
20 and that that's acceptable?

21 CHAIRMAN EVANS: Only if it's
22 required in the information for the preliminary plat.

23 MS. EAGAN: Any new development
24 would require underground. What was there would be
25 non-conforming.

1 CHAIRMAN EVANS: Any other
2 questions?

3 And I'd just say stormwater wise that was
4 the only issue, and that's not an issue?

5 COMMISSIONER WILLIAMS: Right,
6 without any new hard surface area, no buildings,
7 nothing new, every indication that was give was that
8 it's going to be use as is.

9 CHAIRMAN EVANS: All right. If
10 there's no further discussion, Chair would entertain a
11 motion to approve Preliminary Plat.

12 COMMISSIONER BOLAND: I'll make
13 the motion to approve 180108.

14 COMMISSIONER HAIRE: Second.

15 CHAIRMAN EVANS: We have a
16 motion and a second to approve File 180108. All in
17 favor signify by saying aye.

18 COMMISSIONER REINHOLD: Aye

19 COMMISSIONER VOSS: Aye.

20 COMMISSIONER McLAREN: Aye.

21 COMMISSIONER WILLIAMS: Aye.

22 COMMISSIONER BOLAND: Aye.

23 CHAIRMAN EVANS: Aye.

24 COMMISSIONER HAIRE: Aye.

25 COMMISSIONER TOBBIN: Aye.

1 COMMISSIONER SCHULTEHENRICH:

2 Aye.

3 COMMISSIONER McCREARY: Aye.

4 CHAIRMAN EVANS: Opposed?

5 (NONE)

6 The motion is carried.

7 Planning and Zoning Commission Forum.

8 I would think that our ongoing discussion
9 of changes in our by-laws monthly we talk about how to
10 address those who are addressing the Commission, and
11 right now we're as directed by the courts over the
12 last two meetings we've done five minutes for every
13 presenter, everybody gets five minutes.

14 We discussed last time possible changes,
15 but didn't take any action. We talked about leaving
16 it at five minutes or extending it, and that has
17 different solutions have been tossed out. So if there
18 are any other comments by the Commission about how
19 this is working or how it could possibly be improved.

20 COMMISSIONER WILLIAMS: I don't
21 think it's bad, but nobody else wants to talk about
22 it. You know, it's like -- it seems like five minutes
23 is adequate to convey your point and get your comments
24 across.

25 I realize some issues may be more

1 in-dept, for lack of a better term, than others. But
2 you know, at the same time, if you've got to give
3 everybody a chance to speak and you've got a large
4 crowd, it's going to take forever. And you've got a
5 lot of redundancy, and if people are allowed to come
6 up, they generally say the same thing over and over
7 again.

8 Not that they're not allowed to, but you
9 know, it just seems that way. I think five minutes if
10 fine. I've worked for other communities, and they've
11 -- they've allowed the five minute timeframe.

12 COUNTY COMMISSIONER BRINKER:
13 If I may, Mr. Chairman and the Board, and I've
14 discussed this with counsel and a few other people as
15 well.

16 I think the policy 90 percent is good. I
17 think the presenters in some cases, especially on
18 larger developments that are going to have to have
19 some expert witness and a lot of information to put
20 forth before this panel, will probably need more than
21 that five-minute period.

22 I would say the five minute pros/cons
23 after the present is made would be probably most
24 applicable and most apropos. And I think that's fair.
25 I think it has to be fair to the presenter and the

1 County as a whole.

2 You know, a guy comes up here with a
3 200-lot subdivision with another commercial side of it
4 and some other things over here, to get through that,
5 it's going to take more than five minutes. And to go
6 through a dog-and-pony show of four different
7 individuals at five minutes each, a lot of people pay
8 a lot of money to legal counsel in some cases or
9 representation to come up and present for them on
10 their behalf.

11 I think it would be fair to consider this
12 Board strongly consider adopting a policy that allows
13 the presenter the time they need to present the facts
14 as they wish to have it at least considered. After
15 which, proponents and opponents will have five minutes
16 each. I think that would be an ideal solution, just
17 in my simple mind right now before you.

18 That's all.

19 COMMISSIONER BOLAND: Well, are
20 you suggesting that we put a time limit on it though
21 so that we're not sitting here or --

22 COUNTY COMMISSIONER BRINKER:
23 On the initial presentation?

24 COMMISSIONER BOLAND: Yeah.
25 I'm saying --

1 COUNTY COMMISSIONER BRINKER:
2 No, I don't think you'd have that typically. I mean,
3 for the most part, initial presentations as they're
4 being considered, be it change in the zoning codes or
5 -- because quite frankly we should be limited too in
6 these type considerations, and we really haven't run
7 into somebody filibustering a presentation when they
8 want to get something passed.

9 What they -- what you want and what we
10 all want are all the facts before initially so we have
11 everything to consider, and that's where my take is.

12 To cut that short, I think we short
13 change A presenter and B the recipients of the
14 knowledge as well. So...

15 COMMISSIONER WILLIAMS: And hat
16 I was talking about was at the public hearing stage,
17 you know, for the five minutes. You know, once you
18 get through the presentations and stuff, I kind of
19 agree with Commissioner Brinker that there's going to
20 be times when, you know, you're going to have a large
21 development, I can -- but for my time since I've been
22 here for the last three and half years, the people who
23 come up here regularly, for lack of a better term,
24 know that they need to try to get their point across
25 and give a pretty decent presentation, you know.

1 They're not here to, for lack of a better
2 term, to bamboozle you or dazzle you with facts or
3 sorts of stuff. It's just here's what we're
4 presenting and here's what we've got and here's why
5 we're doing it and they understand that whether
6 they've got a Power Point or not.

7 COUNTY ATTORNEY PIONTEK: I
8 understand the concern. I had a fairly lengthy
9 discussion with one of the local engineers that does
10 quite a bit of development work.

11 My concern is that if whether you call
12 them the presenter or the applicant or whatever, if
13 you're allowing that presenter or the applicant an
14 unlimited amount of time and then that particular
15 presentation he told me he was going to take at least
16 70 minutes to fully present his case, if you're going
17 to allow them that length of time but you're only
18 going to allow opponents five minutes each, there's
19 something strikes me as fundamentally unfair about
20 that. You're letting them monopolize the time, and
21 you know, I realize these meetings can go late and
22 sometimes people are sitting here, eight, nine o'clock
23 and they got to go work in the morning and they
24 haven't had a chance to speak because the applicants
25 have taken up all the time and they've got to leave.

1 How is that fair to them?

2 In my profession, in my business, I'm
3 used to dealing with time limits all the time. If I
4 may have a case that's worth millions of dollars and I
5 want to go argue an appeal at the Missouri Supreme
6 Court, I get 15 minutes. That's it. I don't care how
7 important my case is, how significant it is, how
8 worthwhile it is, I get 15 minutes. That's it.

9 When my 15 minutes are up, I don't care
10 if I'm in mid sentence, they actually have lights up
11 there and the red light comes on, thank you very much.
12 Have a seat.

13 So there are very few -- in my view,
14 there are very few presentations that can't be done in
15 15 minutes. If there are presentations that require
16 more detail than that, they certainly have the option
17 of submitting written documentation in advance. I
18 know you all read your packets in advance. You have
19 an opportunity to go over that stuff before they even
20 show up here.

21 To me and I looked at what some other
22 places do. The most lenient policy I've seen is where
23 they give the proponent or the applicant 15 minutes,
24 they give other people who want to speak 5 minutes
25 each, they give people who are opposed to it 5 minutes

1 each, and then the applicant gets to come back up at
2 the very end and gets 2 -- between 2 and 5 minutes.

3 That seems to work other places I've
4 seen. It keeps the meetings moving along. It doesn't
5 monopolize the time so that, you know, proponent --
6 basically you wear out the opponents because they're
7 not going to stay here long enough to get to speak.

8 So that's my two cents.

9 COMMISSIONER HAIRE: But, Mark,
10 so -- but if we have questions, we could technically
11 expand that, correct?

12 COUNTY ATTORNEY PIONTEK: You
13 can if -- and that's true like I said. Even if I've
14 argued cases at the Missouri Supreme Court, if I'm --
15 if they are taking up my time while they're
16 questioning me, they will give me an extension to
17 finish my point.

18 But yeah, I mean, if you're going to take
19 the entire 15 minutes of time by asking questions,
20 yeah, you can give them time.

21 CHAIRMAN EVANS: Yeah, and I
22 think that is, again, our one concern if we do come up
23 with something complex. Because even in the -- like
24 you said, the appellate stage, the judges have the
25 trial. They've got all the documentation.

1 COUNTY ATTORNEY PIONTEK:

2 Right.

3 CHAIRMAN EVANS: Sometimes we
4 do get some where we're starting from scratch. So we
5 could we could 15 minutes, but it could be an hour
6 and a half because then we will have to pull facts and
7 information out of the person who's presenting.

8 That would be my concern. It's like all
9 right, your 15 minutes is up. Now just stand there
10 for the next hour while we get the information that we
11 didn't get that we think we should have.

12 COUNTY ATTORNEY PIONTEK: I
13 understand the point. I think when you place a time
14 limit on it, it forces people to get to the point to
15 address the highlights. They're not going to get
16 everything in the most minute detail, but they're
17 going to give you all the facts that are relevant. It
18 forces them to focus the issues, and not -- I mean,
19 the same way when I've got to argue a case.

20 I may have ten issues that I want to
21 raise, but I only have 15 minutes. So I'm going to
22 hit what I think are the high points, what I think is
23 going to be the deciding factors.

24 CHAIRMAN EVANS: And again,
25 speaking on behalf of myself it's sometimes we're not

1 talking broad issues. We have to drill down so much
2 into the details.

3 I know that talk provided some
4 information on what you thought would be appropriate
5 and it may be a good idea just to, like next week,
6 share that with the Commission as kind of a staw man.

7 COMMISSIONER HAIRE: I think
8 you need to say that, 15 and 5, is what I heard.

9 COUNTY ATTORNEY PIONTEK: And
10 that's pretty much it. The Commissioners, of course,
11 are allowed as much time as they want, but the
12 applicants would get 15 minutes on the first go
13 around. Anybody who wants to speak either in favor of
14 it or opposition would get five minutes each, and then
15 the applicant would get another two minutes or five
16 minutes to respond to some of the comments.

17 You can extend those periods of time, but
18 I think there's got to be some reasonable correlation
19 between the two. You can't give the proponents an
20 hour and a half, and then only give the opponents five
21 minutes. That I don't think any court is going to
22 look at that and say that that's fair.

23 COMMISSIONER HAIRE: So your
24 recommendation would be to put those time limits in
25 our by-laws.

1 COUNTY ATTORNEY PIONTEK:

2 They're in there now.

3 COMMISSIONER HAIRE: And if we
4 are having a meeting --

5 CHAIRMAN EVANS: They are in
6 there.

7 COMMISSIONER HAIRE: -- that's
8 getting out of control, we just need to make sure
9 we're balancing both sides in case there is, you know,
10 an appeal afterwards then? That's pretty much what
11 you're saying, correct?

12 COUNTY ATTORNEY PIONTEK: Well,
13 I wouldn't wait till the meeting gets out of control
14 before you start balancing those time limites.

15 COMMISSIONER HAIRE: No, I
16 know. But you know what I'm saying.

17 COUNTY ATTORNEY PIONTEK: Yeah.

18 COMMISSIONER HAIRE: If we
19 start to see where it's got a little out of hand, make
20 sure there's ample time for the other side to balance
21 it.

22 COUNTY ATTORNEY PIONTEK: Yeah.
23 You have -- and you have time limits in your
24 requirements now. Matter of fact, if you would want
25 to extend that to 15 minutes for the proponents or

1 applicants, you would have to revise those, but that
2 can be done.

3 CHAIRMAN EVANS: Currently our
4 rules, we actually don't follow them because of the
5 court decision. We're using five minutes for
6 everybody.

7 COUNTY ATTORNEY PIONTEK:
8 Right.

9 CHAIRMAN EVANS: So our rules
10 and the by-laws aren't currently being followed.

11 COUNTY ATTORNEY PIONTEK:
12 Right.

13 CHAIRMAN EVANS: So we're just
14 -- we'll proceed until we actually change the by-laws.

15 But again, I would go ahead and maybe
16 share what we had in the e-mail one of the talking
17 points for next session. Would that be a problem?
18 With basically what you'd said.

19 COUNTY ATTORNEY PIONTEK: Yeah,
20 I don't have any problem. I can -- I think Scottie
21 has it and she has all of your e-mail addresses if she
22 wants to forward that out to you all, I don't have any
23 problem with that.

24 CHAIRMAN EVANS: Right. Okay.
25 I mean, that would give us some talking points.

1 Otherwise, we're going to continue this way forever.
2 That at least gives us a straw man to work with.

3 COUNTY ATTORNEY PIONTEK: Yeah,
4 sure.

5 MS. EAGAN: This is a Code
6 change, so it would be a process to change. So if
7 it's something you guys are considering doing, then
8 I'd like to get a jump on it.

9 CHAIRMAN EVANS: A what?

10 MS. EAGAN: It's a Code change.
11 So it's going to take at least two months to get any
12 changes.

13 CHAIRMAN EVANS: Right. And
14 that's why I wanted to get like something out on the
15 agenda, because we can't change anything till it's on
16 the agenda. So tonight we couldn't decide to change
17 it at all.

18 MS. EAGAN: Do you want me to
19 do for next month a proposal --

20 CHAIRMAN EVANS: Yes.

21 MS. EAGAN: -- for a change to
22 Article 4?

23 CHAIRMAN EVANS: Yes.

24 MS. EAGAN: Okay.

25 COMMISSIONER REINHOLD: Are we

1 going to change what we want to put in it now, or do
2 we need to wait till next month to change it?

3 CHAIRMAN EVANS: We can wait
4 till next month as long as it's on the agenda as far
5 as a possible change, and it will be open for
6 discussion, and we'll -- the Commission will come up
7 with what we'd like to do. And then we'll be told if
8 it's legal or not.

9 Anything else the Commission would like
10 to discuss?

11 COMMISSIONER McLAREN: Mr.
12 Chairman, I have two things I'd kind of like to ask
13 Scottie.

14 As, you know, every time that we do a
15 definition change, I just start reading through
16 definitions and I find stuff that I'm like, well, how
17 is this correct. And it's minor stuff, but as I read
18 through, I was reading micro brewery and micro
19 distillery, and our definition, and it may be the
20 state definition that we just take, but micro
21 distillery says that we -- or micro brewery says we
22 need to use hops from Missouri.

23 There's virtually no hops grown in
24 Missouri. So I don't know how we can have a micro
25 brewery that uses hops from Missouri.

1 And I know that we have a micro brewery
2 and somebody could argue the point if they didn't want
3 a micro brewery next to us to say well, you can't have
4 it because there's not any locally raise hops.

5 So that's one comment as I read through
6 the definitions.

7 My second thing is are we getting any
8 closer to getting a new zoning map done? I thought
9 that -- I didn't hear well enough last month, and I
10 thought that was something we were going to discuss
11 this month. And I personally think that, especially
12 people wanting to change stuff to not NUA and say well
13 the future land use map shows this as NUA, that I
14 think we're wearing a collar here that I think is
15 uncomfortable. Especially in the Calvey Township and
16 Boles Township, I don't know if the whole county has
17 to be done at one time, and I don't want to slight
18 anybody else, but it seems like our two townships are
19 getting most of the activity and was wondering if it
20 was any closer to either getting a new land use map
21 that isn't being used as a weapon against us, or the
22 actual change in the zoning map.

23 Thank you.

24 MS. EAGAN: Well, the future
25 land use map won't change until the Master Plan

1 changes or you guys want to see changes to it. Then
2 we can make changes to it.

3 The zoning map I meant to have copies for
4 you all this month so you can take your own township
5 home and see where you guys want to see the zoning,
6 and I just didn't get a chance to do it.

7 We are working on it in our department,
8 but between, you know, the cases like Muckler and
9 Landvatter and all those coming up again, our time is
10 kind of on those right now and not so much on the
11 zoning. But we are working on it in the department,
12 and I will -- I promise you, I will have maps for you
13 next month.

14 I will get with Curtis tomorrow.

15 CHAIRMAN EVANS: Yeah, it's our
16 responsibility to suggest changes to the Master Plan.

17 MS. EAGAN: I think it's every
18 September when we --

19 CHAIRMAN EVANS: That's when we
20 have to review it, but I think that any time we see an
21 issue, we can bring it up.

22 MS. EAGAN: Right. That's
23 correct.

24 COMMISSIONER SCHULTEHENRICH:
25 Mr. Chairman, I have one question if you wouldn't

1 mind, and I'm not going to prolong the meeting. But
2 with Mark being here, I'd like to ask a question that
3 pertains a little bit to last meeting in which we had
4 a -- in which we had a proposed rezoning or a zoning
5 change, and it came in without any type of what they
6 were going to be putting there on that property as a
7 zoning change.

8 And I know there was some cringers here,
9 and I think I may have caused one of them when I was
10 heading towards asking well, what are you going to put
11 there. Because at least in my opinion, when it talks
12 about the general welfare and prosperity and safety
13 and et cetera, I think maybe we had that right to ask
14 that type of a question, particularly when we ask them
15 to fill out a form that basically says is it going to
16 benefit the county, and their answer -- and I question
17 this -- yes it will. Again, we don't know what -- in
18 their mind, they probably know what they're going to
19 be using it for, but we still don't know what it's
20 going to be used for under the way they presented it
21 last meeting.

22 And I just have a question as to are we
23 allowed to ask that type of a question as to what
24 exactly are you planning on putting there?

25 COUNTY ATTORNEY PIONTEK: You

1 can ask that question, and they can answer that
2 question if they choose to, but as soon as it gets
3 rezoned, if they choose to walk out the door and put
4 something entirely different in, that's allowed under
5 that zoning classification, they can.

6 COMMISSIONER SCHULTEHENRICH:

7 And that I can understand.

8 COUNTY ATTORNEY PIONTEK:: So
9 what they're telling you is may be their best estimate
10 of what they think is going to go there at the moment,
11 but it may ultimately not be developed that way, and
12 you really can't base your decision on, you know, they
13 say they're going to put a nursery in here and that's
14 the only thing that's going to go there. So I'm
15 either going to approve this or not approve this.

16 You really can't base your decision on
17 that. You have to look at the whole laundry list of
18 things that could go in there to decide whether you
19 think that rezoning is appropriate.

20 You can ask the questions, but --

21 MS. EAGAN: On all of our
22 forms --

23 COUNTY ATTORNEY PIONTEK: I'm
24 sorry. You can ask the question and they choose to
25 answer or not, but either way, once it's rezoned, they

1 can do anything they want that fits that.

2 COMMISSIONER SCHULTEHENRICH:

3 That I understand. My question was do we have the
4 means of asking that type of a question.

5 COUNTY ATTORNEY PIONTEK:

6 Oh, yeah, you can. You can ask the question. They may
7 not answer it or may tell you I don't know.

8 COMMISSIONER SCHULTEHENRICH:

9 Well, that's fine.

10 COUNTY ATTORNEY PIONTEK:

11 But...

12 MS. EAGAN: I was just going to
13 say all of our forms that are for rezoning are based
14 on zoning district not individual activity.

15 CHAIRMAN EVANS: Yeah, and I --
16 Mark, again, I think what has happened probably in the
17 last couple of years we have moved away from CUPs
18 where we do have control. We know what the activity
19 will be --

20 COUNTY ATTORNEY PIONTEK:

21 Right.

22 CHAIRMAN EVANS: -- and we can
23 put conditions on it --

24 COUNTY ATTORNEY PIONTEK:

25 Right.

1 CHAIRMAN EVANS: -- to
2 rezonings.

3 COUNTY ATTORNEY PIONTEK:
4 Right.

5 CHAIRMAN EVANS: Which we know
6 we can do and some people may, you know, have an issue
7 as we look who -- somebody wants to put in a nursery,
8 and we look at all 47 permitted uses in that zoning
9 district and say, all 47 of these won't work.

10 COUNTY ATTORNEY PIONTEK:
11 Right.

12 CHAIRMAN EVANS: And then deny
13 the rezoning based on the fact because the rezoning
14 is, like you say, forever.

15 COUNTY ATTORNEY PIONTEK: Well,
16 and when you -- and that may be more of a problem, not
17 with that particular rezoning, but with those
18 particular uses that are in that category. If that
19 category of zoning is so broad that there are uses in
20 there that you don't think would be appropriate in
21 that zoning district under any circumstances, then
22 maybe you ought to look at revising your zoning
23 ordinance.

24 CHAIRMAN EVANS: And that's
25 issue, is that we've moved from a considerable number

1 of CUPS --

2 COUNTY ATTORNEY PIONTEK:

3 Right.

4 CHAIRMAN EVANS: -- to

5 rezoning, and that's what has been done. Is that
6 those permitted uses have been changed within the
7 last, I guess, couple of years, and it -- still it
8 causes the get into this conundrum where you have
9 control with CUPs, you know what's going to happen.
10 And we've taken a lot of the, I think, CUPs out of the
11 zoning districts, brought them and put in more
12 permitted uses.

13 And we have to look at all the permitted
14 uses in a zoning district, and sometimes half work and
15 half don't. And I don't know that we can -- unless we
16 end up with 37 zoning districts.

17 COUNTY ATTORNEY PIONTEK: Yeah.

18 And I realize that is -- that is a
19 difficult situation, and I appreciate that. The only
20 way I know of to address that is to go back to the way
21 you used to do it, which would be with more
22 conditional use permits.

23 I don't know why or what the rationale
24 was for getting away from that, but that's the -- and
25 even with the conditional use permit, the presumption

1 is that that particular use is permissible in that
2 zoning district but with certain conditions attached.

3 So even though it's a CUP, there's still
4 an assumption or presumption that it's a permissible
5 use.

6 CHAIRMAN EVANS: Right. And I
7 think part of the issues that we moved away from it
8 was what, litigation. And so we've moved to rezonings
9 and got litigation.

10 MS. EAGAN: We got litigation.

11 COUNTY ATTORNEY PIONTEK: Yeah.

12 CHAIRMAN EVANS: So...

13 (CROSSTALK)

14 COMMISSIONER WILLIAMS: Well, I
15 think one of the other big issues in the conditional
16 use permit is the conditions, in being able to enforce
17 them. I mean, if you don't have the staff or the
18 ability to go out enforce like time constraints or
19 something like that, what good are the conditions.

20 COUNTY ATTORNEY PIONTEK: And
21 that's a very valid concern.

22 And I don't want to get too deeply into
23 the weeds here, but there is a difference of the
24 standard of review in the courts, whether it's a
25 rezoning or a CUP.

1 A CUP is considered an administrative --
2 an administrative -- or you're acting in an
3 administrative capacity when you grant a conditional
4 use permit.

5 If a rezoning is considered a legislative
6 capacity, and the standards of review are different.
7 Like I said, I don't want to get too deeply in the
8 weeds with this.

9 CHAIRMAN EVANS: No, we
10 understand because administratively that's why we're
11 the final say on CUPS.

12 COUNTY ATTORNEY PIONTEK:
13 Right.

14 CHAIRMAN EVANS: Where
15 rezonings are legislative acts reserved for the
16 Commission.

17 COUNTY ATTORNEY PIONTEK:
18 Right.

19 CHAIRMAN EVANS: But we are
20 glad you're on board and going to fix all of this.

21 COUNTY ATTORNEY PIONTEK: I'll
22 do my best.

23 COMMISSIONER McLAREN: Mr.
24 Chairman.

25 CHAIRMAN EVANS: Bill.

1 COMMISSIONER McLAREN: While
2 there's nothing that's in front of us that is any kind
3 of contentious, I would like to personally say that
4 the rezonings to the NUA I think are to the point of
5 being extremely uncomfortable. As I thought about it,
6 I think I can make an argument that Franklin County
7 needs a livestock barn and it would be good for
8 Franklin County and there's not one in four
9 surrounding counties and yada, yada, yada.

10 But I don't think that just because it
11 says on the map that it's future agricultural or
12 whatever, there's very many people that would want a
13 livestock barn in their area. And as I look at what's
14 on the potential uses, like I said, I think I could
15 easily make the argument that one of those be
16 applicable for almost any place in Franklin County,
17 but I don't think that somebody that's living next to
18 it on three and five and seven and ten acre lots want
19 a livestock barn next to them.

20 CHAIRMAN EVANS: Yeah.

21 COMMISSIONER McLAREN: So I
22 think that as we look at Non-Urban and Agriculture,
23 that has got to be one of the most critical things
24 that we have to look at zoning down through that.

25 And I don't know if I'm making sense or

1 not, but --

2 CHAIRMAN EVANS: Oh, yeah. Put
3 in your barn and maybe grow some hops next to it.

4 COMMISSIONER McLAREN: We
5 always pick on Bill.

6 COMMISSIONER WILLIAMS: Poor
7 Bill.

8 CHAIRMAN EVANS: Is there
9 anything else? If not, we'll move on to the Planning
10 Director's Report.

11 MS. EAGAN: We did get an
12 application from Roger Landvatter on Friday. So he
13 will be on the agenda in August to hear that rezoning
14 again.

15 And then also this is Debbie. She will
16 be on our Board next month. I just did not get it on
17 the Commission's agenda this week. I'm going to get
18 it hopefully on the agenda next week to appoint her to
19 fill in Ray's position.

20 CHAIRMAN EVANS: Welcome.

21 (CROSSTALK)

22 MS. EAGAN: And that's all I
23 have.

24 CHAIRMAN EVANS: Is there
25 anything else?

1 (NONE)

2 If not, the Chair would entertain a

3 motion to adjourn.

4 COMMISSIONER BOLAND: Make a

5 motion to adjourn.

6 COMMISSIONER McLAREN: Second.

7 CHAIRMAN EVANS: Motion and

8 second to adjourn. All in favor signify by saying

9 aye.

10 COMMISSIONER REINHOLD: Aye

11 COMMISSIONER VOSS: Aye.

12 COMMISSIONER McLAREN: Aye.

13 COMMISSIONER WILLIAMS: Aye.

14 COMMISSIONER BOLAND: Aye.

15 CHAIRMAN EVANS: Aye.

16 COMMISSIONER HAIRE: Aye.

17 COMMISSIONER TOBBIN: Aye.

18 COMMISSIONER SCHULTEHENRICH:

19 Aye.

20 COMMISSIONER McCREARY: Aye.

21 CHAIRMAN EVANS: Opposed?

22 (NONE)

23 We are adjourned.

24 (Thereupon, the proceedings

25 concluded at 9:00 p.m.)

1 CERTIFICATE OF REPORTER
2 I, PATSY A. HERTWECK, Professional Court
3 Reporter and Notary Public within and for the State of
4 Missouri, before whom the foregoing proceeding was
5 taken, do hereby swear that: the aforementioned was
6 held at the time and in the place previously
7 described; the proceedings were taken down in
8 stenographic notes by me and transcribed by me, or
9 under my supervision, to the best of my ability; and
10 that the aforementioned represents a true and accurate
11 transcript of said proceedings.

12 IN WITNESS WHEREOF, I have hereunto set
13 my hand.

14
15 _____
16 Patsy A. Hertweck, Court Reporter
17 Notary Public, State of Missouri

18 My Commission Expires:
19 August 26, 2018
20
21
22
23
24
25

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