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1 STATE OF INDIANA)
)SS:
2 COUNTY OF ALLEN)
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8 BOARD OF COMMISSIONERS
9 OF THE COUNTY OF ALLEN

10 RE: LEGISLATIVE SESSION OF

11 APRIL 16, 2003
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16 DATE: April 16, 2003
17

18 TIME: 10:05 a.m.
19

20 LOCATION: Room 200
Commissioners Courtroom
21 City-County Building
22 1 East Main Street
Fort Wayne, Indiana 46802

23 REPORTER: Alan R. Bunn
24
25

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1 PRESENT:
2 Marla J. Irving Allen County Commissioner
3 Mary Hitchens Allen County Board of
Commissioners' Office
4
John McGauley Allen County Public
5 Information Department
6 G. William Fishing Allen County Council
7 Mike Fitch Allen County Highway Dept.
8 Miguel Trevino DLZ
9 Craig Yoder Colonial Development, Inc.
10 Tim Claxton Colonial Development, Inc.
11 Michelle Wood Allen County Department of
Planning Services
12
Kim Bowman Allen County Department of
13 Planning Services
14 Shiela Hudson Allen County Department of
Community Corrections
15
Brian McNaughton Allen County Department of
16 Community Corrections
17 Jon A. Bomberger Baker & Daniels
18 Phil Knapke
19 Ed LaRoque Allen County Department of
Emergency Management and

20 Homeland Security
 21 Joshua Burkhardt Beers, Mallers, Backs &
 Salin
 22
 23 Deb Hudson Allen County Insurance
 Coordinator
 24 Lin Wilson Allen County Auditor's
 Office

25
 0003
 1 Larry Banks Allen County Public Library
 2 Andy Gammill Journal Gazette
 3 Alan Bunn Rolf Reporting, Inc.

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| 3 Presentations by: | |
| 4 Kim Bowman, Michelle Wood & Mike Fitch | 9-25 |
| 5 | |
| 6 Ed LaRocque | 25-27 |
| 7 | |
| 8 Shiela Hudson & Brian McNaughton | 28-39 |
| 9 | |
| 10 Mike Fitch | 40-43 |
| 11 | |
| 12 Deb Hudson & Joshua Burkhardt | 43-47 |

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2 Agenda:

3 1. Approval of Minutes of 4/09/03
4 Legislative Session 8

5 2. Public Hearing: Vacation Petition 366/03
6 Petition to vacate the road right of way
7 for Dunpointe Way in Section XVI of
8 Cherry Hill subdivision. Petition
9 filed by Bradley and Deborah Nussbaum
10 and Colonial Development, Incorporated 9

11 3. Rezoning Petition 1479/03: Request to
12 rezone property and approve a primary
13 development plan to allow the
14 development of a 327,000 square foot
15 shopping center. The approximately 44.8
16 acre site is located at the northwest
17 corner of Dupont and Tonkel Roads, on
18 the north side of the 4900 and 5500
19 blocks of Dupont Road and on the west
20 side of 10400 and 10700 blocks of
21 Tonkel Road. The Oaks and Oak Crossing
22 subdivisions are north of this site.
23 Present zoning is C-3/General Commercial
24 and A-1/Agricultural. Proposed zoning
25 C-2C/Metropolitan Shopping Center 13

18 4. Plat Signature - Secondary Plat of
19 Willow Run, Section II 24

20 5. Addition to the Allen County Code:
21 Title 12/Article 84 (Community
22 Emergency Response Team Training Fund 25

23 6. Addition to the Allen County Code:
24 Title 12/Article 85 (Comprehensive
25 Emergency Management Planning Fund 26

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1 7. Acceptance of an Amendment to the 2001-
2 2003 Indiana State Grant to Allen County
3 Community Corrections. This amendment
4 awards an additional \$90,000 to the
5 Transitions Program 27

6 8. Change Orders - Allen County Justice Center
7
8 Williams Painting Co.
9 #16 contract addition \$200.00
10 Great Oaks Construction
11 #29 contract addition \$727.00 39

8

9. Approve traffic posting changes at the following locations:

a) Minnich Road, from 1500' north of town limits of Hoagland to Hoagland town limits -- Post 45-mph speed limit

b) Minnich Road, from 1500' south of town limits of Hoagland to Hoagland town limits -- Post 45-mph speed limit

c) Hoagland Road, from 1500' west of town limits of Hoagland to Hoagland town limits -- Post 45-mph speed limit

d) Hoagland Road, from 1500' east of town limits of Hoagland to Hoagland town limits -- Post 45-mph speed limit

e) Old Leo Road, from Mayhew Road to Arapaho Passover -- Post "No Parking" (both sides)

f) Spencerville Road, from Grabill Road to 1800' s/o Grabill Road -- Post 45-mph speed limit

g) Spencerville Road, from 1800' s/o Grabill Road to SR37 -- Post 30-mph speed limit

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1 10. Other Business -

2 Establishment of rules to implement the Health Insurance Portability and
3 Accountability Act

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5 11. Approval to waive the 2nd Reading on any matter approved today and for which it
6 may be deemed necessary for the
7 Legislative Session of April 16, 2003

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8 12. Comments from the Public.

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1 IRVING: Good morning. Thank you for joining us for
2 the Wednesday, April 16th Legislative Session. First
3 order of business, we would like our Commissioner
4 Rousseau, which is an ex-veteran, to head us in the
5 Pledge of Allegiance and a moment of silence.

6 (At this time, the Pledge of Allegiance
7 was recited in unison.)

8 ROUSSEAU: A moment of silence, please.

9 IRVING: Thank you.

10 (At this time, a moment of silence
11 was recognized by all.)

12 ROUSSEAU: Thank you.

13 IRVING: Last week we had George from Veteran Affairs
14 come and do the pledge for us.

15 ROUSSEAU: Well, good.

16 IRVING: So welcome back. Okay, item one, approval
17 of the minutes for the April 9th--

18 ROUSSEAU: The only thing about George, is it--George
19 is a Navy guy. I'm not sure--did he say it all right
20 and everything?

21 IRVING: Well, he didn't have quite the expertise
22 that you show, but he did a pretty good job.

23 ROUSSEAU: Okay.

24 IRVING: Okay.

25 ROUSSEAU: Thank you.

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1 IRVING: Okay, approval of the minutes for the April
2 9, 2003 Legislative Session. Make a motion?

3 ROUSSEAU: I make a motion.

4 IRVING: I second. All in favor say, "Aye."

5 ROUSSEAU: Aye.

6 IRVING: Aye. Motion passed. I'd like to have a
7 Public Hearing on Vacation Petition 366/03 to vacate
8 the road right of way for Dunpointe Way in Section 16
9 of Cherry Hill subdivision. The petition for the
10 filing is Bradley and Deborah Nussbaum and Colonial
11 Development, Incorporated. Good morning, ladies.
12 How are you this morning?

13 BOWMAN: Good morning.

14 WOOD: Good morning.

15 IRVING: Good morning.

16 BOWMAN: My name is Kim Bowman. I'm the executive
17 director of the Department of Planning Services.
18 This is Michelle Wood, principal land use planner for
19 Department of Planning Services. We have items two,
20 three and four on your agenda.

21 IRVING: Okay, well let's take item number two first.
22 Welcome to the April 16th Public Hearing for the
23 Allen County Board of Commissioners for Vacation
24 Petition 366/03. Michelle Wood, which is the
25 principal land use planner from the Department of

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1 Planning Services will act as staff for this
2 morning's Public Hearing on the proposed vacation.
3 According to the Indiana law, today's Public Hearing
4 may include only those matter which have been
5 advertised? Michelle, had proper notice been

6 published?

7 WOOD: Yes, it has.

8 IRVING: Thank you very much. This Public Hearing is
9 for the purpose of taking testimony. The board will
10 discuss the merits of this proposal following the
11 Public Hearing and under normal circumstances, vote
12 to determine the outcome. We do hold the authority
13 to continue our discussion until a later meeting, if
14 we believe that it to be the best interest of the
15 public. I'd like to have the staff recommendations
16 before I open the Public Hearing.

17 WOOD: Staff recommends approval of vacation 366/03.

18 IRVING: Okay, thank you very much. I would now like
19 to open the Public Hearing. Do we have anyone here
20 to speak in favor of the vacation?

21 WOOD: Just--

22 IRVING: Would you like to--

23 WOOD: --I was going to tell the Commissioners that
24 Mr. Tim Claxton, representing Colonial Development
25 and also Mr. Craig Yoder are here on behalf of the

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1 petition.

2 IRVING: Okay, gentleman, would you like to come up
3 and say anything.

4 CLAXTON: It's our understanding that Kim was going
5 to go ahead and make the presentation.

6 IRVING: Okay--or Michelle, that's fine.

7 WOOD: Just to familiarize you with where this is.
8 This is in Section 16. I gave you a little handout
9 of the area to be--the petition to vacate. In
10 Section 16 of Cherry Hill which is off of Nighthawk
11 Drive. Dunpointe Way is a right of way that extends
12 from Section 16 to the property line of Section nine,
13 which was previously platted. There is a platted lot
14 that Dunpointe Way, essentially dead ends into. The
15 Plan Commission, when it approved Section 16 in 2002,
16 required this stub street, however, the neighbors
17 really didn't want this street and the developer
18 later petitioned that the requirement of this stub
19 street basically--not being required anymore. On
20 September 19, 2002, the resolution of this stub
21 street or the need for his stub street was on the
22 business agenda for the Plan Commission. Staff did
23 describe the nature of this request and Plan
24 Commission did agree to, basically not require the
25 stub street. The applicant has notified all the

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1 agencies and anyone needing an easement within that
2 area. There are several agencies that will need an
3 easement. They have prepared documents to allow
4 those easements to remain between the right--the old
5 right of way of Dunpointe Way and through lot 255.
6 The intent is to take both the right of way on 255
7 and deed that back to the neighbors on either side.

8 IRVING: John, do you need us to hold up a second
9 here for the audio?

10 MCGAULEY: Go ahead.

11 WOOD: Can I answer any questions about that
12 description.

13 ROUSSEAU: I don't have any questions.

14 IRVING: Okay, I don't either. Thank you very much.
15 WOOD: Thank you.
16 IRVING: Do we have anyone else here to speak in
17 favor of this vacation? (No response.) Do we have
18 anyone here to speak against this vacation, against
19 the vacation? (No response.) Okay, I--
20 ROUSSEAU: I move the hearing be closed.
21 IRVING: I'll second it. All in favor say, "Aye."
22 ROUSSEAU: Aye.
23 IRVING: Aye. I'll entertain a motion for the
24 passage of the vacation.
25 ROUSSEAU: I so move.

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1 IRVING: I'll second it. All in favor say, "Aye."
2 ROUSSEAU: Aye.
3 IRVING: Aye. Thank you very much. Motion has
4 passed. Can I have motion to waive the 2nd Reading
5 on this parcel?
6 ROUSSEAU: I make a motion we waive the 2nd Reading.
7 IRVING: I'll second it. All in favor say, "Aye."
8 ROUSSEAU: Aye.
9 IRVING: Aye. Thank you very much ladies.
10 WOOD: Thank you.
11 IRVING: Now, item number three is the rezoning
12 petition 1479/03. Request to rezone property and
13 approve a primary development plan to allow the
14 development of a 327,000 square foot shopping center.
15 The approximately 44.8 acre site is located at the
16 northwest corner of Dupont and Tonkel Road, on the
17 north side of the 4900 and 5500 blocks of Dupont Road
18 and the west side of 10400 and 10700 blocks of Tonkel
19 Road. The Oaks and the Oak Crossing subdivision are
20 north of this site. Present zoning is C-3/General
21 Commercial and A-1/Agricultural. Proposed zoning is
22 C-2C/Metropolitan Shopping Center. This is a down
23 zoning, correct?
24 BOWMAN: This is a down zoning. The site was zoned
25 C-3 General Commercial back in 1965. It's part of a

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1 C-3 zoning as--as well as any type of zoning
2 classification, it does allow certain uses that are
3 permitted by right. Uses permitted in a C-3 zoning
4 district allow body shops, auto sales, trailer/mobile
5 home sales, night clubs, shooting galleries,
6 different repairs--exterminating shops. C-3 is a
7 fairly heavy retail classification. In addition,
8 because current zoning is C-3, without a planned
9 designation with that, the applicant or the property
10 owner can simply come in, go through a routing
11 procedure without a Public Hearing--and to establish
12 any of these heavy--heavier general commercial uses.
13 IRVING: Okay.
14 BOWMAN: With the down zoning to C-2, those uses are
15 not permitted. Another benefit of the C-2 zoning by
16 the zoning ordinance, it does require a Public
17 Hearing, public participation, review by staff and
18 other county agencies. I would like to call your
19 attention to this--this zoning map, included in your
20 packet. Some of our zoning maps, we had some
21 difficulties with production of our notebooks, but I
22 think this map shows very clearly that the C-3 that

23 exists in the area. The other commercial zoning
24 districts, most of which are planned zoning
25 districts. Plan Commission did have a Public Hearing

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1 on this and recommended do pass to the Board of
2 Commissioners. Could I answer any questions?
3 ROUSSEAU: Yes, I have a question. On a C-3, if I
4 wanted to, for instance, put a body shop there for
5 automobiles. And I would--what would I have to then,
6 if I owned the ground. Then I'd say to you, "I want
7 to put a body shop here." What restrictions would I
8 have or whatever if I wanted to--I own the ground and
9 I wanted to put a body shop there, what would be my--

10 BOWMAN: The on--
11 ROUSSEAU: --what provisions would I have to go
12 through and so forth--do?
13 BOWMAN: You would be required to go through the
14 commercial routing process, which is a staff
15 administrative process. Which does not go through
16 Public Hearing with Plan Commission. You would need
17 to put together plans and you would be required to
18 meet just the minimum levels of the zoning ordinance.
19 That means minimum buffering, minimum landscaping.
20 It's a minimal process. When the zoning ordinance
21 was adopted, there was not a plan zoning
22 classification which was later added--

23 ROUSSEAU: So it's already basically zoned for use?
24 BOWMAN: Uh-huh (affirmative). It is zoned for that.
25 ROUSSEAU: And as long as they meet current

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1 restrictions as far as the incidentals like that,
2 they can go ahead and build a body shop there?

3 BOWMAN: That's correct.
4 IRVING: When this was--
5 ROUSSEAU: Thank you.
6 IRVING: --Mr. Rousseau, when this was first brought
7 up in Plan Commission I was very impressed that they
8 would voluntarily go to a C-2, which is very
9 restrictive. I think it will blend much better with
10 the existing neighborhood. As we can see on our map,
11 this has become a real suburban area. I think
12 probably back in 1965, when this was first zoned, I'm
13 sure a body shop would have been wonderful because
14 there were probably dirt roads back then. No, I'm
15 just kidding, not quite, but almost.

16 ROUSSEAU: In '65?
17 IRVING: Well, I was barely born. I have a hard time
18 remembering but I--
19 ROUSSEAU: My underwear--
20 IRVING: --and I know you do too.
21 ROUSSEAU: --my underwear is older than that.
22 IRVING: We're not going to talk about your ties
23 today, okay. One of the things that I thought was
24 real interesting and I know that the highway
25 department is here and can speak on this project too if we'd like them to. When

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1 this was brought before
2 Plan Commission I really was impressed with their
3 presentation. I think have worked very well with our
4 Department of Planning Services. I think that they

5 were very open to some new innovative things that we
6 want to do with this property, such as it is--since
7 it's at an intersection here at the corner, we are
8 going to be doing sidewalks this way and this way.
9 And hopefully continue the sidewalk pattern all the
10 way to I-69, which is one thing that we continually
11 hear here in legislative about--where are our bike
12 paths, where are our sidewalks this time. So, you
13 know, we've listened to the people and the developer
14 has been very gracious in wanting to do this for us.
15 Second part--that I know has been a little bit a
16 confusion. When Oak--help me out, is this Oak
17 Crossing--Oak Crossing. Oak Crossing, which is this
18 development right here, there were a couple people
19 that lived along these lots. Maybe we had six people
20 that came and they discussed those lots a little bit.
21 And their main concern was the stub street, as you
22 can see right here. A Fort Wayne policeman came up
23 and talked to us from the private sector, he lives in
24 one of these lots. He said, "Do you know that"--that
25 he was concerned with that stub street because of the

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1 traffic. And I asked him, I said, "Well, were you
2 one of the very first houses being built"? And he
3 said, well, he was probably one of the first ones.
4 And I said, "And what year did you move in there"?
5 And he said, "1986." And I think that's '86, '87 is
6 when this addition was built. So anyone that bought
7 any of these lots, and you're a real estate agent,
8 realized that this had commercial zoning and
9 commercial three, which is probably the most liberal
10 of them all. As I asked the gentleman, "When you
11 bought your property there, did you not realize that
12 this was commercial property"? And he said, yes, he
13 did, but he just figured eventually that it would be
14 changed to residential. So it made me aware that
15 these people did know that there was a stub street
16 there and that this was commercial zoning. Another
17 concern that came up, they were afraid that there
18 would be a traffic pattern that would come from Leo
19 Road--Leo Road--Dupont would want to cut through and
20 come across this way and down and around through
21 their addition. From the highway department, and I
22 see that Mr. Fitch is here, but Mr. Eckert, which
23 sits on our Plan Commission and advises us--with the
24 lights that are going to be put in and the
25 improvements that are going to be--that it would be a

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1 very roundabout way for people who want to do that.
2 It would be senseless to try to cut through because
3 it would take you more time to cut through. We went
4 to great lengths to change the hours of operation for
5 garbage pick-up to make it very convenient for these
6 people to make sure that they weren't being woke up
7 at 4:00 in the morning to have their garbage removed.
8 We talked about lighting and buffering and--I know
9 that there are a few people that are concerned along
10 these lots, but I think it's a unanimous decision and
11 I will have to stay behind my original decision.
12 This is a good project. It has had a lot of fore
13 thought into. Department of Planning Services, I

14 think have done a remarkable job with this developer
15 in order to meet the neighbors needs. If the highway
16 department--do they have anything they want to add or
17 not? Or have I covered it? Would you like to come
18 up and just introduce yourself. Go over by Bill.
19 See if there's anything that you would like to add
20 that may help Commissioner Rousseau approve the
21 update.

22 FITCH: Good morning. Mike Fitch, Allen County
23 Highway Department. The developer for this project
24 came to the highway department very early in the
25 process. Even before, you know, plans were developed

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1 and talked to our staff about the concerns about
2 traffic flow and cut through traffic. And we've
3 readdressed the issue at Oak Crossing. We also
4 required a traffic study which has been completed.
5 And we've review the traffic and agree with their
6 assumptions and their projections on traffic flow.
7 Two of the, I guess, significant things that we felt
8 that were positive for the project is that they are
9 putting a traffic signal on Tonkel Road at a main
10 entrance on Tonkel Road, just south of the Oak
11 Crossing entrance. And also a traffic signal on
12 Dupont Road at their other entrance which will be
13 connected to the stub street. Because of the
14 location of the traffic signal on Tonkel Road, we
15 looked at, you know, would people coming from the
16 north, come south and cut through Oak Crossing,
17 instead of coming down to the signal. And when you
18 look at the plan, just from a geographic standpoint,
19 it's much simpler to drive another three or four
20 hundred feet to the traffic signal and make the right
21 turn and go through the development, if you're going
22 to make a cut through and try to shortcut the
23 intersection at Tonkel and Dupont, than it would to
24 cut through Oak Crossing. So we felt that that would
25 not be an issue as far as increasing traffic through

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1 that subdivision. The one other positive thing we
2 felt is that currently Oak Crossing has two
3 entrances. They have an entrance on Tonkel and a
4 second entrance on Dupont to the west of the new
5 signal. There is about five to six hundred homes
6 currently, in that addition only on two entrances.
7 So this would provide them with a third access point.
8 And we felt the stub street or the additional access
9 would provide more benefit to the people who live
10 there who want to access that shopping center, or I
11 would imagine a lot of those people live or work
12 either to the west or to the south. And if you go to
13 69 down Dupont on your return trip home, you're more
14 likely going to make that right turn--or left turn at
15 the new signal and go north through the stub street
16 into the subdivision. So if anything, the ultimate
17 would be that we'd probably reduce the traffic on
18 that short section from Tonkel within their
19 subdivision. And probably increased traffic on the
20 stub street, which is unfortunate, but again, it's
21 all to the benefit of the people in the addition. We

22 didn't see any additional traffic because of this
23 development being added to the subdivision. It would
24 be--all of the improvements would actually enhance
25 the access for those people that live there. And the

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1 developer--and we talked about this as far--whether
2 we should or shouldn't connect. I mean, it was a
3 toss up. We basically left it up to the Public
4 Hearing and the information that we received from the
5 public. And we received very few negative comments.
6 We talked to a couple people from this subdivision
7 and they asked us if we would put a three-way stop at
8 the intersection of the stub street and the main
9 street and we said we could that. And other than
10 that, we received very few negative comments about
11 the plan. And at the Public Hearing, there were a
12 few people that talked against the project, but it
13 was more or less, at that point--

14 IRVING: Well, the garbage was an issue, if I
15 remember correctly--

16 FITCH: Right.

17 IRVING: --the stub street--the three-way stop, they
18 were--and there is the mounding which you have worked
19 with with the neighborhood. The other thing that I
20 thought was really remarkable to that we had people
21 from Oak Grove, the villas--and I apologize if
22 they're not called Oak Grove Villas, but I think they
23 were, which are these over here. See they can come
24 through their stub street--they can come to the light
25 and they'll be able to go directly across and they

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1 thought that this maybe be an attraction for, you
2 know, kids to want to ride their bikes because there
3 is really no place. So I thought that by putting the
4 light there and making it adjacent to that would help
5 be a safety issue for, you know, walkers and bike
6 riders. Again, we're in a suburban type area now. I
7 appreciate all your work on it--

8 ROUSSEAU: The thing I want to know is, did Linda and
9 Marla give you that tie? I mean--I'll look--and I've
10 wore it--they bought me this tie because they
11 couldn't stand my other tie, but that looks just like
12 the one I left at home this morning.

13 FITCH: No they didn't give this to me.

14 ROUSSEAU: Okay, because I was going to be jealous.

15 FITCH: Do you think they're selling your used ties?

16 ROUSSEAU: Yeah. Okay.

17 IRVING: Well--

18 ROUSSEAU: I believe that we're doing the right thing
19 here. You can always discuss that we have larger
20 distances between one spot or another, but given the
21 fact that it is a C-3 and someone could use it
22 basically as long as they just met local particulars,
23 they could go ahead and do it there and would not--no
24 one would have anything to say about whatsoever. And
25 I think this, personally, will end up in the long run

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1 being an upgrade for the situation and I make a
2 motion that we place a passage here.

3 IRVING: I'll second the motion. All in favor say,
4 "Aye."

5 ROUSSEAU: Aye.

6 IRVING: Aye. Thank you very much.

7 BOWMAN: Thank you.

8 IRVING: Well, are you on again?

9 BOWMAN: Third time.

10 IRVING: Okay, agenda item number four. A plat
11 signature for Willow Run, Section 2. Michelle--

12 WOOD: I have this here for your signatures.

13 IRVING: And you only needed to bring the right-
14 handed pen this time. Linda's always been given a
15 hard time about where's the left-handed, but, you
16 know, Ed and I are--you know Linda could run for
17 President of the United States because there has been
18 more left-handed presidents than right-handed, did
19 you know that.

20 ROUSSEAU: Okay.

21 IRVING: Now, you do.

22 ROUSSEAU: Humor her.

23 IRVING: Humor her. Well, this is an old one. It's
24 got Linda as president, me as vice president and you
25 as secretary. You were a good secretary though.

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1 ROUSSEAU: Yeah.

2 IRVING: You were a really good secretary. Well,
3 Kim, what else do you have for us today?

4 BOWMAN: That's all we have today, thank you.

5 IRVING: Okay, thank you.

6 ROUSSEAU: Now, I assume that those signatures do not
7 necessarily have to have the correct designation.

8 BOWMAN: We--

9 IRVING: No.

10 BOWMAN: --we can change those.

11 WOOD: We'll change that so it's correct.

12 ROUSSEAU: Okay.

13 IRVING: Okay.

14 WOOD: Thank you.

15 IRVING: Thank you.

16 BOWMAN: Thank you.

17 IRVING: Agenda item number five. Addition to the
18 Allen County Code, Title 12/Article 84, Community
19 Emergency Response Team Training Fund. I had a
20 feeling it would be you. Good morning.

21 LAROCQUE: Good morning, Commissioners. My name is
22 Ed LaRocque and I am the director for Allen County
23 Emergency Management and Office of Homeland Security.
24 The next two items on the agenda--

25 IRVING: Do we want to take item--we have to vote on

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1 them separately anyways, though.

2 LAROCQUE: That's fine. These are both items that
3 were brought before you two or three weeks ago,
4 federal block grants administered through the state
5 to the county. The first one on item five is money
6 that can be used for the Citizens Corp program that
7 we'll be starting to purchase equipment from the
8 state for the citizens emergency response teams. You
9 had approved earlier to apply for that grant--

10 IRVING: Yes.

11 LAROCQUE: --and County Council approved the line
12 item. And so we are back to ask you then to make the

13 final approvals for that.
14 IRVING: For our stamp of approval?
15 LAROCQUE: Yes, ma'am.
16 ROUSSEAU: So moved.
17 IRVING: Seconded. All in favor say, "Aye."
18 ROUSSEAU: Aye.
19 IRVING: Aye. Agenda item number five is the same,
20 it's Allen County Code Title 12/Article--no wait a
21 minute.
22 ROUSSEAU: It's six.
23 LAROCQUE: Number six.
24 IRVING: I'm sorry. Item number six is Title
25 12/Article 85 is the Comprehensive Emergency
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1 Management Planing Fund.
2 LAROCQUE: This money will be similarly used only for
3 training and planning--
4 IRVING: Okay.
5 LAROCQUE: --for terrorism related issues.
6 IRVING: Could I have a motion?
7 ROUSSEAU: So moved.
8 IRVING: Seconded. All in favor say, "Aye."
9 ROUSSEAU: Aye.
10 IRVING: Aye. Thank you very much.
11 LAROCQUE: Thank you folks. These--both of these
12 line items, because they're federal--they're federal
13 grants need to be non-interest bearing.
14 IRVING: I knew that.
15 LAROCQUE: Right, so that's--
16 IRVING: So you need to relay that to treasurer.
17 ROUSSEAU: What's that mean to me?
18 IRVING: They're non-interest bearing accounts.
19 FISHERING: It means the bank is making money on it.
20 ROUSSEAU: If there isn't any interest in it, I'm not
21 interested.
22 IRVING: Well, I'll second that one.
23 LAROCQUE: Thank you.
24 IRVING: Agenda item number seven--thank you, Ed--
25 acceptance of amendment to the 2001-2003 Indiana

0027
1 State Grant to Allen County Community Corrections.
2 This amendment awards an additional \$90,000 to the
3 Transition Program. Good morning.
4 HUDSON: Good morning, Commissioners.
5 McNAUGHTON: Good morning.
6 IRVING: Thank you.
7 HUDSON: Good morning. I'm Shiela Hudson. I'm the
8 director of Allen County Community Corrections. This
9 is Brian McNaughton, he's the controller at Community
10 Corrections and what he's handing out to you is a
11 preface to my request to have this amendment accepted
12 into this county. What I have done is--what I've
13 asked Brian to do is to put a funds balance sheet
14 together regarding all the funds that Community
15 Corrections has and how we're going to present some
16 of this to the council tomorrow. And a brief
17 explanation of what--under estimate means on the
18 Transition Fund and I'll explain that in a minute.
19 IRVING: Go ahead.
20 HUDSON: The second group of intere--group of
21 statistics is the number of people that are on

22 electronic monitoring and other programs at Community
23 Corrections. This is going to be part of our annual
24 report that we put together for the advisory board
25 that will be in May. And then also the--some

0028
1 interesting information on the urine screens and the
2 investigations. And as you'll see that Ralph West,
3 who does the investigations for Community Corrections
4 in the first three months of this fiscal year, has
5 investigated 371 individuals. And of those
6 individuals, 50% of them are considered violent under
7 the statute. And I wanted to talk about that in a
8 minute, too. The third document that I put together
9 is the clinical and program team. This is the team
10 of experts that work at Community Corrections to do
11 the evaluations because I feel very strongly about
12 the forensic psychological tools that we use at
13 Community Corrections. And I wanted to give you an
14 idea of the credentials and experience that the
15 people that do the staffing and diagnosis of these
16 individuals as they're intaked into the program.
17 That's what the--these three documents are. So then
18 what I really wanted to start out with is after 18
19 years and especially with Mr. Rousseau, to thank you
20 for supporting Community Corrections as it's expanded
21 through the years. But I also realize that in this
22 fiscally trying time with the county and with the
23 State of Indiana, that it's time that Community
24 Corrections takes a hold of itself. And with the
25 help of the council and yourselves and the Auditor's

0029
1 Office, we are going to try--attempt and do our best
2 to get in line with especially the monies that we owe
3 the Commissioners. Now, I want to explain to you the
4 past due rent and the Workman's Comp that's owed the
5 Commissioners. It would have been paid by now if it
6 hadn't been for the unforeseeable--or unforeseen
7 \$50,000 we owed in the medical--the health insurance
8 premium that we had to pay. But I commit to you that
9 we will take care of that and that we'll also take
10 care of the \$50,000 rent that you have asked for us
11 to begin as of July 1--and to take care of that.
12 There will be no--the budgets for the Community
13 Corrections program, including all raises will be
14 flatlined in order to accommodate any financial
15 obligations we have to the county or to the
16 Commissioners. Now, the transitions monies--the
17 amendment. I feel very strongly about the
18 corrections budget for the State of Indiana has been
19 flatlined. That means that there will be more and
20 more offenders returning to this community either
21 released early or just released.

22 ROUSSEAU: I was going to bring that up.
23 HUDSON: Yeah, I feel very strongly that to be
24 released into the community and the statistics that
25 are apart of this county say that 63 to 65% of those

0030
1 people will be returned either on a new crime or
2 technicals. That means they will sit in the county
3 jail until their case is disposed of by the local

4 courts or until the parole board decides that they
5 want to return them to prison. If you look at what's
6 happened to re-entry in the re-entry court. Using a
7 controlled approach to Community Corrections in the
8 court, the recidivism rate preliminarily, shows
9 anywhere between a 19.7 and 23% recidivism rate as
10 compared to a 63% recidivism that was before the
11 re-entry. It would behoove the county to please
12 consider this transitions as the way of the future.
13 And all counties in the State of Indiana if not this
14 and the State Department of Corrections is coming up
15 in two weeks to look at how we're doing it. But in
16 order to meet the need of the offenders coming back,
17 it's almost--if you bring the offenders back with
18 electronic monitoring and programs--they have a
19 substance abuse program in prison, but it's not a
20 treatment program. They have a sex offender program
21 in prison, but it's not a treatment program and it's
22 not mandatory and they don't get out early if they
23 attend it. If they do not have an eval--they have
24 done away with the Regional Diagnostic Center. In
25 order to assess what programs and services a person

0031
1 needs, you have to know what's going on inside their
2 heads. This per diem that the state pays me, takes
3 care of the assessment and the programs and
4 treatments of these people coming back. It also
5 assists us in the other program because I can pretty
6 much operate the program for all offenders at about
7 \$10.00 a day. But considering the type of offender
8 that I have that is sentenced on home detention front
9 end vi--in coming out, they don't have jobs, they
10 have no marketable skills, no life skills to speak
11 of, no education to speak of and that's what my
12 mission, as I continue on in this job, is. So I need
13 to--but I am committed to get our budgets in line to
14 what the council wants us to do and committed to pay
15 back--and to continue to pay the expenses and
16 obligations I have to the Commissioners.

17 ROUSSEAU: Of course, I for one have been sitting on
18 the board for most of the time of the existence, know
19 that--what a fine job that we do. We might very well
20 be the best there is in Indiana. I would guess that
21 we are. And we do a terrific job. We have a great--
22 our director here is the best, but we have a little
23 problem on the financing end of it and it's--we just
24 built, a couple years ago, a \$2 million facility over
25 there which we were getting \$10,000 a year rent.

0032
1 There's people paying more rent than that for houses,
2 you know--I suppose not very many, but anyhow, we
3 need to have, you know, some things coming in which
4 is why we need to get the money. You're doing a
5 great job--the thing I think we have to be careful of
6 is with the state. There is a tendency by them to
7 be--what I consider to be somewhat callused about the
8 way they handle things. And we frequently--
9 especially larger counties in the State of Indiana.
10 The 10 or 12 larger counties are always the one's
11 that say well, we'll--you take care of the storm
12 water, you take care of the prisoners, you take care

13 of whatever it is--you big counties, then if it works
14 out all right there, then we'll have the rest of the
15 counties--so there's probably 80 or more counties out
16 there that really aren't being forced to take any of
17 the extra expenses, but we get them. And so the next
18 question will be then, can you deal with--if the
19 governor does what he's saying he's going to do, is
20 there any economic help coming to fund the additional
21 work. And not only that, but do we have the capacity
22 on our equipment to do this--we just purchased--we
23 try to keep updated on our monitoring program, but
24 are--where are we sitting on our equipment at
25 capacity?

0033
1 HUDSON: The Department of Corrections over the last
2 fiscal year purchase one--we had one time request for
3 the main--a new mainframe that holds up to 1,000
4 offenders. And that was \$175,000.00. The problem
5 with the electronic monitoring is that there is no
6 insurance. And with the higher level of offender,
7 there comes the risk of escape and the cutting off
8 the anklet and damaging the FMB that goes into the
9 house. And those cost anywhere between 2,500
10 [\$2,500.00] and \$3,000.00 for the whole unit. So it
11 becomes very expensive. And there also is a
12 maintenance agreement that Brian and Ken Scheele were
13 here before you--

14 IRVING: Uh-huh (affirmative).

15 HUDSON: --a couple weeks ago. The maintenance on
16 the equipment itself is \$25,000.00 a year. That's
17 just for the mainframe. We don't have any
18 maintenance agreement on the anklet, so--but I feel
19 very strongly about the electronic monitoring being
20 part of the reintegration back into the community.
21 I'm going a roundabout way of answering your
22 question, Mr. Rousseau, because I believe with the
23 state coming up and talking to Allen County in the
24 next two weeks, they're going to ask, you know, "What
25 else can they do"? Because they're going to have to

0034
1 release them and then it's back. That's why I gave
2 you the document on the clinical team. If they're
3 willing to pay--because they're not doing it as they
4 go into prison--on evaluating what they need and
5 where they are and what's going on in they're head.
6 We'll accept--because the judges are all in line and
7 the judges have the ultimate authority to refuse
8 entrance back into this community. They will not
9 release them unless the judges say okay. So that's
10 still there. That still protects us. So if they
11 release them, then they will pay for the assessment
12 and they will continue to pay the per diem. It's in
13 all of our benefits, the community's benefit, to have
14 these people released to us early, if the assessment
15 is taken care and they are contained through
16 electronic monitoring and through programs and
17 services. So they just don't come out with \$35.00 in
18 their pocket and walk back home--there are many
19 places where they don't--they're not wanted anyway.
20 ROUSSEAU: The only problem with the re-entry

21 program, and we've all been interested in that--and
22 it appears to be the working. What I'm afraid of is
23 that the state, which has hundreds maybe thousands of
24 prisoners that they're going to turn loose earlier
25 than what we normally would release--you know, and

0035

1 early entry person.

2 HUDSON: But the county could make a determination on
3 where those people go when they come out early. And
4 the judges can do it at sentencing. But they are to
5 be returned--

6 ROUSSEAU: Okay.

7 HUDSON: --to somewhere.

8 ROUSSEAU: All right, so it's--the governor, when he
9 says he's just going to let people out, that worries
10 me.

11 HUDSON: It does not have to happen that way.

12 ROUSSEAU: Okay, thank you.

13 IRVING: I have two questions. I thought--my
14 understanding for--that if we had someone from the
15 re-entry who needed to go back because they--I mean,
16 I can think of some prime examples, I didn't realize
17 that they stayed in our jail. I thought the D.O.C.
18 came and picked them and took them back after Judge
19 Surbeck said, "You've had it, you're done."

20 HUDSON: What happens to them if they've committed a
21 new crime, the crime now becomes Allen County's
22 problem. And what I was trying to say was--

23 IRVING: But what if they haven't committed a--

24 HUDSON: Committed a new crime. They come--

25 IRVING: --new crime, but they don't won't to fit

0036

1 into our rules and regulations?

2 HUDSON: They, usually--because of the excellent work
3 that this--Steve Kever, who's the regional
4 supervisor of parole in this area. He is a native of
5 Fort Wayne and Allen County--has with the parole
6 board, he's the parole supervisor.

7 IRVING: Right.

8 HUDSON: He'll move them out within--anywhere between
9 two days and five days--

10 IRVING: Okay, that's--

11 HUDSON: --and they're back. But the point I was
12 making, Commissioner Irving, is that if it weren't
13 for this program, 63% of the 400 people that come
14 back every year will be either in one of those two
15 categories. They'll be sitting in the jail or
16 they'll be sitting there for two to five days and
17 then going back. So we're trying to reduce that.

18 IRVING: Right.

19 HUDSON: So we're looking at the long haul picture
20 instead of saying, you know, crime is silent and
21 let's just ignore it and let them go back. But
22 they're going to be back in the system.

23 IRVING: Okay, the second question I have, Shiela, is
24 do you have an idea on how much money you owe to the
25 Commissioners?

0037

1 HUDSON: I believe it is \$20,000.00 with Workman's
2 Comp. and with a month of back rent. Now,
3 apparently--

4 IRVING: Is that true--is that true, Mr. Fishing?

5 FISHERING: Judy's number is 23,500 [\$23,500.00], so
6 that's--

7 IRVING: Okay, so you know where you're at?

8 HUDSON: Yes, I do.

9 IRVING: Well, that's important.

10 ROUSSEAU: But who's counting?

11 FISHERING: Well, I mean, for a guess that's pretty
12 close.

13 HUDSON: There is one concern I have though. Judy
14 made the comment that Workman's Comp. is paid in a
15 lump sum of money at the beginning of a calendar year
16 for the county and like auto insurance and other
17 things that we--the legal services--is it possible
18 though that we could pay this on a quarterly basis or
19 a monthly basis because, you know--it's just not
20 the--

21 ROUSSEAU: We'll take it anyway you can pay it.

22 HUDSON: All right.

23 ROUSSEAU: Including a Commissioner coming over and
24 getting it.

25 HUDSON: Well, I would rather pay it than have you

0038

1 come over and get it.

2 ROUSSEAU: Okay.

3 IRVING: Whatever--we'll make sure we work with you
4 on that.

5 HUDSON: Thank you very much.

6 IRVING: I'll entertain a motion to accept--

7 ROUSSEAU: So moved.

8 IRVING: Seconded. All in favor say, "Aye."

9 ROUSSEAU: Aye.

10 IRVING: Aye. Thank you very much and good luck.

11 HUDSON: Thank you very much. Thank you.

12 ROUSSEAU: Thank you for the information.

13 IRVING: Yes.

14 MCNAUGHTON: Thank you both.

15 IRVING: I have two change orders here that are
16 really Commissioner Bloom's, but she has approved
17 them. One is change order number 16 for \$200.00 for
18 a painting change and then Great Oaks Construction,
19 which is change order number 29 for \$727.00.

20 ROUSSEAU: So moved.

21 IRVING: Seconded. All in favor say, "Aye."

22 ROUSSEAU: Aye.

23 IRVING: Aye. Agenda item number nine--and my
24 understanding is that we can take A through G as one
25 motion. Approve traffic posting changes from the

0039

1 following location, Minnich Road from 1500' north of
2 town limits of Hoagland to Hoagland town limits, post
3 45 mile per hour speed limit.

4 ROUSSEAU: Let me ask a question. I don't think
5 Hoagland's a town, is it?

6 FISHERING: We wouldn't be posting--

7 FITCH: It's not an incorporated town.

8 FISHERING: --it if it was a town.

9 IRVING: Okay, so is that okay for the record--okay.

10 B, Minnich--

11 ROUSSEAU: What do we call it.

12 FITCH: This is, like I say, town of Hoagland. It's
13 not an incorporated town.
14 ROUSSEAU: I know that, but when you say that--
15 FISHERING: The area formerly know as.
16 FITCH: Yeah, it's--
17 FISHERING: It is not a town.
18 ROUSSEAU: It'll be all right?
19 FITCH: Yeah.
20 ROUSSEAU: Okay, go ahead.
21 FISHERING: We don't have the authority to post speed
22 limits in towns.
23 ROUSSEAU: We all understand, all right.
24 IRVING: Item B, Minnich Road from 1500' south of the
25 town limits of Hoagland to Hoagland town limits, post
0040
1 45 miles per hour. C, Hoagland Road from 1500' west
2 of the town limits of Hoagland to Hoagland town
3 limits, post 45 mile per hour speed limit. D,
4 Hoagland Road from 1500--I bet you knew that this was
5 going to be east then didn't you--foot east of town
6 limits of Hoagland to Hoagland town limits, post 45
7 miles per hour. E, Old Leo Road from Mayhew Road to
8 Arapaho, is that--
9 FISHERING: Arapaho.
10 IRVING: --Arapaho Passover, post "No parking" both
11 sides. Spencerville Road, from Grabill Road to 1800'
12 south Grabill Road, post 45 mile per hour. Is that
13 supposed to be south, is that what that is on letter
14 F?
15 FITCH: South of Grabill Road, yes.
16 IRVING: I'm sorry.
17 FITCH: South of Grabill Road.
18 IRVING: South of Grabill Road. Okay, post 45 mile
19 per hour speed limit. G, Spencerville Road, from
20 1800' south of Grabill Road to State Road 37, post 30
21 miles per hour speed limit. I'll entertain--
22 ROUSSEAU: I so move on all the above mentioned.
23 IRVING: Okay, seconded. All in favor say, "Aye."
24 ROUSSEAU: Aye.
25 IRVING: Aye. Highway has an item of other business
0041
1 of the Perpetual Highway Easement, parcel 11-C,
2 Hillegas.
3 FITCH: During the design of Hillegas Road project,
4 along the Chevy property we had to construct a short
5 retaining wall along their parking lot to maintain
6 difference in grade. This perpetual easement is--the
7 retaining wall is constructed within our right of
8 way, but it's adjacent to the property line. So this
9 perpetual easement is just in case the retaining wall
10 would ever have to be reconstructed in the future,
11 that we could go in there and do that work. That's
12 the purpose of this document--
13 ROUSSEAU: So moved.
14 FITCH: --Commissioner Bloom had a question about the
15 need for the retaining wall. It's primarily because
16 of the change in grade and we didn't want to have to
17 go back in and reconstruct the--
18 IRVING: Ed and I knew that, but--
19 FITCH: --yeah.
20 IRVING: --you know, we understand grade level

21 differences. I'm just kidding.
22 ROUSSEAU: She's not here to defend herself.
23 FITCH: The fact is--
24 IRVING: I know, I know and don't you just love it, I
25 mean, we can just pick on her to know end.

0042

1 FITCH: Well, the fact--
2 IRVING: Like you did when I was gone.
3 FITCH: Yeah, the facts are the paperwork is just
4 catching up to the project. The retaining wall I
5 think is already built--
6 IRVING: I have a motion on the floor, I'll second
7 it. All in favor say, "Aye."
8 ROUSSEAU: Aye.
9 IRVING: Aye.
10 FITCH: That's all. Thank you very much.
11 ROUSSEAU: You snooze, you lose.
12 IRVING: Thank you very much, Mike.
13 FITCH: Yeah.
14 IRVING: Okay, I think we have Deb Hudson here under
15 other business. Establishment of rules to implement
16 the Health Insurance Portability and Accountability
17 Act. Thank you very much, come on up.
18 HUDSON: Thank you.
19 BURKHARDT: I have copies of information to pass out
20 to you.
21 IRVING: Thank you very much. I'd like you to
22 introduce yourselves then.
23 HUDSON: I'm Deb Hudson, Insurance Manager for Allen
24 County.
25 BURKHARDT: I'm Joshua Burkhardt, and associate with

0043

1 Beers, Mallers, Backs and Salin and designated by
2 Bill Fishering, HIPAA specialist.
3 FISHERING: So nice to be able to designate for a
4 change. I so rarely get that opportunity.
5 IRVING: I know it--god, he's just as red as can be.
6 ROUSSEAU: I know.
7 IRVING: You know, I hope the TV cameras are on you.
8 You know, it's almost a good a blush as you did in
9 front of City Council.
10 ROUSSEAU: I have to remember what he said. I ought
11 to make him blush like that.
12 IRVING: Okay, Josh, can you sum up exactly what the
13 implementation of this act is?
14 BURKHARDT: Well, HIPAA stands for the Health
15 Insurance Portability and Accountability Act. And it
16 was in 1996, passed by Congress. And it provided
17 that if they did not provide for privacy regulations
18 within three years, that the Department of Health and
19 Human Services would do so. And the Department of
20 Health and Human Services provided rather lengthy
21 regulations where they went to the extreme in
22 insuring privacy of personal health information. And
23 the compliance date for this act was April 14th,
24 which was Monday and Deb and I have been working on
25 compliance for sometime now. We had training

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1 sessions. Our first one was March 19, 2003 and we
2 had one on March 25, 2003. And we had our last

3 training session on April 2, 2003. And since then we
4 have several documents that I have prepared which are
5 before you. The first--

6 IRVING: I think we've reviewed these documents--yes,
7 we previously have reviewed them Josh.

8 BURKHARDT: Okay.

9 IRVING: Thank you.

10 BURKHARDT: Your welcome. And we've prepared the
11 privacy notice that was sent out to all Allen County
12 employees.

13 IRVING: Yes.

14 BURKHARDT: And there's one small change that we made
15 and provided you a copy with the revised copy of the
16 privacy notice as well, just because we're able to
17 make minor changes without resending out the notice
18 to everybody else.

19 IRVING: Okay.

20 BURKHARDT: And it was just to make sure that we
21 provided our address and request any complaints--that
22 be in writing. And we also have provided--and have
23 worked on procuring business associate contracts with
24 Proclaim Plus--with Chuck Baldwin and IPS. And our
25 firm will also enter in a business associate contract

0045
1 since we provide legal services, which may require us
2 to have personal health information on rare
3 occasions.

4 FISHERING: Very rare, I hope.

5 BURKHARDT: I do too. I do too. And do you have any
6 questions about any of the documents since you've had
7 a chance to review them or--

8 IRVING: I think we've reviewed them--how many copies
9 of this, Josh, do you need?

10 FISHERING: He just needs your approval of the rules.

11 BURKHARDT: Yeah--

12 IRVING: Oh, you're just looking for a motion of
13 approval of the rules?

14 BURKHARDT: Right, and your--

15 IRVING: Oh, okay.

16 BURKHARDT: --signature on the first two copies of
17 the documents. Because we have to--the first one
18 designates Deb as the privacy officer and other
19 polices and procedures that will be followed by the
20 health--Allen County Group Health Insurance Plan.
21 And the second one is the plan amendments to that
22 above plan that were required about HIPAA as well.
23 Those both need to be executed.

24 ROUSSEAU: I move we adopt the plan, here.

25 IRVING: I second it. All in favor say, "Aye."

0046
1 ROUSSEAU: Aye.

2 IRVING: Aye. Thank you. Does it need a 2nd
3 Reading, Bill?

4 FISHERING: Just waive it as a part of the regular.

5 IRVING: Okay, can we have a--thank you very much.

6 HUDSON: Thank you.

7 ROUSSEAU: Is there any other business?

8 IRVING: Would you like to make a motion to waive all
9 2nd Readings?

10 ROUSSEAU: I make a motion to waive the 2nd Readings
11 on any matter approved today for which it may be

12 deemed necessary of the Legislative Session of April
13 16, 2003.
14 IRVING: You are good. I'll second that motion. All
15 in favor say, "Aye."
16 ROUSSEAU: Aye.
17 IRVING: Aye. Is there any other business to come
18 before legislative today. (No response.) Do we have
19 any comments from the public? (No response.) Thank
20 you very much for joining us today and have a nice
21 week.

(Adjourned 10:45 a.m.)

* * *

0047

1 STATE OF INDIANA)
) SS:
2 COUNTY OF ALLEN)

3 REPORTER'S CERTIFICATE

4 I, Alan R. Bunn, a Notary Public in and for
5 the State of Indiana, County of Allen, do hereby
6 certify that the above and foregoing is a true and
7 accurate transcript of the Board of Commissioners of
8 the County of Allen, Legislative Session, held before
9 me on April 16, 2003 in the Allen County
10 Commissioners' Courtroom, Room 200, City-County
11 Building, 1 East Main Street, Fort Wayne, Allen
12 County, Indiana; that I am not related to, employed
13 by or interested in any of the parties to this cause
14 of action.

15 IN WITNESS WHEREOF, I have hereto affixed my
16 hand and seal this 22nd day of April, 2003.

17
18 _____
19 Alan R. Bunn, Notary Public
20 Residing in Wells County, Indiana

21 My Commission Expires:
October 23, 2010