

0001

1 STATE OF INDIANA)
)SS:
2 COUNTY OF ALLEN)
3
4
5
6

7 BOARD OF COMMISSIONERS
OF THE COUNTY OF ALLEN

8
9 RE: LEGISLATIVE SESSION OF
10 DECEMBER 31, 2003
11
12
13
14

15 DATE: December 31, 2003

16 TIME: 10:04 a.m.

17 LOCATION: Room 200
Commissioners Courtroom
18 City-County Building
1 East Main Street
Fort Wayne, Indiana 46802

19 REPORTER: Rhonda M. Mullholand
20
21
22
23
24
25

0002

1 PRESENT:
2 Marla J. Irving Allen County Commissioner
3 Linda K. Bloom Allen County Commissioner
4 Edwin J. Rousseau Allen County Commissioner
5
6 Susan Elser Allen County Board of
Commissioners' Office
7 Mary Hitchens Allen County Public
Information Department
8
9 John McGauley Allen County Public
Information Department
10
11 Michelle Wood Allen County Department
of Planning Services
12 Kim Bowman Allen County Department
of Planning Services
13
14 Al Frisinger Allen County Surveyor
15 William Hartman Allen County Highway
Department
16
17 G. William Fishing Allen County Counsel
18 Sheriff James Herman Allen County Sheriff
19 Thom Hathaway Allen County Jail

20 Commander
 21 Frank Sutter Allen County Human
 22 Resources Department
 23 Sandra Flum Allen County Legislative
 24 Liaison
 25 Henry P. Najdeski Barrett & McNagny, LLP
 0003
 1 Miguel Trevino DLZ
 2 Thomas Smith Fort Wayne City Council
 3
 4 Rhonda M. Mullholand Rolf Reporting, Inc.
 5 Kevin Leininger News-Sentinel
 6 Dan Stockman Journal-Gazette

7
 8
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25
 0004

I N D E X

Page

3	Presentations by:	
4	Michelle Wood	7-12
5		
6	Michelle Wood, Kim Bowman, Al Frisinger	12-30
7		
8	William Hartman	32
9	G. William Fishing	33-36
10		
11	Sheriff James Herman and Thom Hathaway	37-39

19
20
21
22
23
24
25
0005

Page

Agenda:

- 1
- 2
- 3 1. Approval of minutes of 12/24/03
- 4 Legislative Session 7
- 5
- 6 2. Rezoning Petition 1499/03: Petition
- 7 to rezone property and approve a
- 8 primary development plan to allow an
- 9 existing recording studio to conform
- 10 to the appropriate zoning classification
- 11 and to allow for an 11,000 square foot
- 12 expansion. The approximate 11 acre
- 13 site is located on the south side,
- 14 between the 5300 and 5500 blocks of
- 15 Bass Road, in the southwest corner of
- 16 its intersection with Kroemer Road.
- 17 Present zoning is RS-1/Suburban
- 18 Residential. Proposed zoning is
- 19 C-1A(P)/Planned Professional and
- 20 Personal Services 7
- 21
- 22 3. Rezoning Petition 1500/03: Petition
- 23 to rezone property and approve a
- 24 primary development plan for a
- 25 9-building 54,000 square foot office
- 0006 development. The approximately
- 1 6.1 acre site is located on the west
- 2 side of the 400 through 500 blocks
- 3 of Scott Road. Present zoning is
- 4 A-1/Agricultural. Proposed zoning is
- 5 C-1A(P)/Planned Professional and
- 6 Personal Services 12
- 7
- 8 4. Change Order:
- 9
- 10 Allen County Justice Center 30
- 11
- 12 C.O. #004 Montgomery Kone
- 13 Contract Addition
- 14 \$1,801.00
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 0006
- 1 5. Warranty Deed/Right of Entry between
- 2 Allen County and Peter Franklin
- 3 Jewelers, Inc. at 610 E. Dupont Road,
- 4 Allen County, and Fort Wayne, IN 31
- 5
- 6 6. Other Buisness:
- 7 - Renewal of Attorney's Contract 32
- 8 - Sheriff's Office - Extension

of Contract between Allen County
and ABL Management, Inc. for
Food Services at the Allen
County Jail 37

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
0007

- 7. Approval to waive the 2nd Reading on any matter approved today and for which it may be deemed necessary for the Legislative Session of December 31, 2003 41
- 8. Proclamation - Frank Sutter 41
- 9. Comments from the Public --

1 IRVING: Good morning, and welcome to the
2 Commissioners' Legislative Session. It's New Year's
3 Eve Day, December 31st, 2003. Commissioner Rousseau,
4 would you like to lead us in the Pledge and a moment
5 of silence.

(At this time the Pledge of Allegiance is recited,
followed by a moment of silence.)

8 ROUSSEAU: Thank you.

9 IRVING: Thank you. Approval of the minutes from the
10 December 24th Legislative Session.

11 ROUSSEAU: So moved.

12 BLOOM: Second.

13 IRVING: All in favor say "aye."

14 ROUSSEAU: Aye.

15 BLOOM: Aye.

16 IRVING: Aye. Motion approved. Finally, the last
17 meeting of the year, and you get to start with a
18 motion. Is that not excite--

19 ROUSSEAU: I was excited. I was--I had primed myself
20 for making that motion.

21 BLOOM: I'm gonna let you do all of them, Ed.

22 IRVING: Right now, we have Rezoning Petition
23 1499/03. It's a petition to rezone property and
24 primary development plan for an 11 acre site located
25 on the south side--the south side, between 5300 and

0008

1 5500 blocks of Bass Road, in the southwest corner of
2 the intersection with Kroemer Road. Present zoning
3 is RS-1, and proposed zoning is C-1A. Good morning,
4 how are you?

5 WOOD: Good morning.

6 BLOOM: Good morning.

7 WOOD: I am Michelle Wood, Department of Planning.

8 As you just described, this proposal is on the south

9 side of Bass Road. If you're familiar with Stone
10 Canyon, and Hickory Point, some of the new
11 subdivisions on Bass, it's across from that. You're
12 probably also aware that this has been a long
13 existing use in the area. This petition is primarily
14 to bring it into the correct zoning. It's--it's been
15 allowed under a BZA use variance for the past 10 or
16 14--10 to 14 years, and it's had a couple of
17 different variances to allow for expansion. This
18 expansion is 11,000 square feet, and the applicant
19 thought it would be best to come in and just have the
20 property rezoned. It is adjacent to industrial and
21 residential. The commercial zoning that this would
22 be would be less intensive than those uses, than the
23 industrial uses, and staff did not have an issue with
24 that rezoning classification. And, we did recommend
25 approval, and the Plan Commission voted unanimously.

0009
1 So, do you have any questions about this proposal?
2 IRVING: I really can't comment on the next two, I
3 was on my medical leave for my surgery when these two
4 happened, so--was there much remonstrating?
5 WOOD: There really wasn't. The only issues that
6 came up were with sewer and water. It is on private
7 well, and a packaged treatment plant.

8 IRVING: Right.
9 WOOD: They did recently, I think February, get
10 another five year approval from IDEM. And part of
11 the conditions from the Plan Commission were to watch
12 this, and that they would give all the documentation
13 to the Plan Commission staff. And, then if they were
14 to expand again they would need to come back to Plan
15 Commission, and at that time they said they would
16 hook up to public water and sewer, which is close by,
17 with the new work that's gone on.

18 BLOOM: That's what I was wondering, why they can't
19 now. With this 11,000 square foot expansion, if
20 there--if--

21 WOOD: The--the approval that they have--
22 BLOOM: Yeah.
23 WOOD: --took that into account, and the employees
24 that they expect to have, so I think their thinking
25 is that we just put the money into this treatment

0010
1 plant, and made--they did do upgrades to it. So, if
2 they can get a little more time out of what they've
3 put into it, and then they'd be happy to hook up, you
4 know, if they were to expand again, or when the five
5 years is up.

6 IRVING: Are they within the 300 foot?
7 WOOD: They're not within the 300 feet. It's close.
8 It's not immediately adjacent, it's at the property
9 south. So, there would be a considerable cost.
10 There's also a--kind of a wetland pond behind, and so
11 I think there's some issue there, with the cost, but
12 --but, they are willing to do it once this time
13 period's up.

14 BLOOM: We've had other locations in our County that
15 got a continuation on their treatment plant and have
16 not hooked up. And, I know it's extremely expensive.
17 And, I can't believe, if they're that close, that's a

18 pretty big expansion here. I'm not sure I like this.
19 WOOD: It's--it's about half of what their last
20 expansion was under a BZA approval.
21 BLOOM: But, part of it, they were going to do, and
22 didn't, right?
23 WOOD: That's correct.
24 BLOOM: Weren't they going to expand it one time, and
25 then chose not to?

0011
1 WOOD: They--they did part of it. I believe it was
2 about 4,000 square feet that they didn't complete,
3 which is taken care of with--taken care of with this
4 proposal.
5 BLOOM: It's a great operation out there. It's a
6 wonderful company. I'm proud that they're here. I'd
7 feel much more comfortable if DPS could get the
8 reports, however often necessary, and keep on top of
9 this, because I'd really like to see them on sewer
10 and water--
11 WOOD: Yeah.
12 BLOOM: --before five years even.
13 WOOD: We--we do have their current approval, and it
14 is being maintained by Aqua Source, that's--they've
15 contracted with Aqua Source--
16 BLOOM: Okay.
17 WOOD: --for maintenance. So, there's some--
18 BLOOM: Okay. I feel better there.
19 WOOD: --comfort there. And, item 10, if you have
20 time to look through the findings, outlines--
21 IRVING: I've looked at them.
22 BLOOM: You did?
23 IRVING: Yes.
24 WOOD: --the conditions of approval. So, we will be
25 keeping an eye on it, and--and they'll keep us

0012
1 updated.
2 BLOOM: Like I said, they're a great company, and I'm
3 proud to have them here. I'll make the motion that
4 we accept Rezoning Petition 1499/03.
5 ROUSSEAU: Second.
6 IRVING: All in favor say "aye."
7 BLOOM: Aye.
8 ROUSSEAU: Aye.
9 IRVING: Aye. Motion carried.
10 BLOOM: Thank you.
11 IRVING: Next on--no, we have one more here.
12 BLOOM: Yeah, I know.
13 IRVING: Rezoning Petition 1500/03, it's for a nine
14 building, 54,000 square foot office development,
15 approximately 6.1 acres, located on the west side,
16 400 through 500 blocks of Scott Road. Present zoning
17 is A-1/Agricultural. Proposed zoning is C-1A(P).
18 WOOD: Okay. This site is just--just north of the
19 Scott's out on Scott and 14. You might recall that
20 the Scott's was zoned as part of the Chestnut Hills,
21 that whole group was--was zoned together. So, the
22 RSP-1/Single Family, and the Scott's area, and also
23 down with the Walgreen's, and--and McDonald's, that
24 was all zoned at the same time. To the north, we do
25 have agricultural, and then some--some more

0013

1 residential to the east. And, recently, residential
2 was approved up on Bass and Scott Road.

3 This office zoning staff feels is--is a nice
4 buffer between the more intense use of the--the
5 metropolitan shopping center to the south. Staff did
6 write findings, that were approved by the Plan
7 Commission, that talk about buffering of the offices
8 for the homes in Chestnut Hills. There was quite a
9 bit of discussion about that. The staff feels we
10 came to a good solution for that. It--we recommended
11 approval, and the "do pass" recommendation was passed
12 on to you for this proposal.

13 BLOOM: How much remonstrance was on this?

14 WOOD: Quite a bit. Quite a bit. Primarily--some--
15 some of it was about buffering, some of it was about
16 drainage. Obviously, this site, with any other site,
17 will have to take care of it's own--

18 IRVING: Uh-huh (affirmative).

19 WOOD: --site drainage, on site.

20 BLOOM: Yeah, I see that on here.

21 IRVING: Bef--bef--

22 ROUSSEAU: But, when you say--

23 IRVING: --wait a minute, bef--can we bring--we have
24 two guests that we're going to bring up, because, as
25 I said, I was not here for this when it--it was when

0014

1 I was on my medical leave. Our surveyor, Al, do you
2 want to come up and introduce yourself. And, Kim
3 Bowman, can you come up here to the first seat. I
4 knew there was going to be a lot of questions on
5 this, and I've asked both of them to join us--

6 BLOOM: Great.

7 IRVING: --and maybe they can answer some--or give a
8 synopsis before we answer any questions. Kim went
9 that way. Okay, Al, one of the things, and we did
10 get a couple calls here in the office about this,
11 too, we would--maybe you can shed some light a little
12 bit on the drainage in that area, and then, Kim, if
13 you could please follow up and talk about--a little
14 bit about the buffering that--one of the calls we
15 had. Mr. Frisinger?

16 FRISINGER: Al Frisinger, Allen County Surveyor.
17 This site is a part of the overall area that was
18 designed for discharge into the adjacent pond at
19 Chestnut Hills, the residential area to the west.
20 The pond itself that is--would be accepting this
21 discharge, is set aside specifically for the
22 commercial development of Chestnut Plaza. Most or
23 none of the water, I think, from the residential
24 subdivision goes to this actual storm water control
25 area. So, the developed area of Chestnut Plaza is

0015

1 set aside to discharge here, and then have a
2 controlled release through the pond. The site that
3 you're looking at today, for rezoning, would also
4 discharge to this pond, under a controlled release
5 that would have a very specific discharge rate,
6 stipulated as to their portion of the overall storage
7 capacity of that pond.

8 The issues that were brought forward, at the

9 hearing, were in a large part due to the rain event
10 of June 26th, 2002--

11 BLOOM: Yeah.

12 FRISINGER: --was an eight inch rain in approximately
13 a four hour period. That's one of the events we
14 don't necessarily design for, or most private
15 engineering firms do not design for. Right now,
16 before you, at--in your capacity as the Drainage
17 Board, you have a petition relative to the
18 obstruction of a mutual drain, or natur--natural
19 surface water course. That particular petition has
20 no--has not been ruled on by you at the Drainage
21 Board level. The concerns that were voiced by the
22 residents in that area were that the additional water
23 that would be added to this pond would affect their
24 well-being. What I tried to explain to them was that
25 the release rate given to this site would be no

0016
1 greater than the preexisting condition. Again, there
2 is a petition--

3 BLOOM: It would not?

4 FRISINGER: It would not, no.

5 BLOOM: Okay.

6 FRISINGER: Because, there--they would have an on-
7 site basin that would release no greater discharge
8 than the preexisting condition. So, that--their
9 basin would discharge to this basin, and then to the
10 Chestnut Hills Golf Course. Part of the issue is
11 that they believe, or have filed this petition about
12 an obstruction of a mutual drain and natural surface
13 water course. We're in the investigative part of
14 that, trying to determine why there was water
15 inundation, either through their lowest openings, or
16 their sump drains, or their, you know, actual sewer
17 systems. I know there was a power outage, I know
18 that there was some level of inundation of some
19 specific homes, and the residents of those homes are
20 at this time giving--sending me letters to illustrate
21 exactly what they experienced. You know, if it was
22 due to a power outage, that's one thing, if it was
23 due to their lowest elevation being inundated, that's
24 another thing.

25 BLOOM: Uh-huh (affirmative).

0017
1 FRISINGER: If their--if the elevation of those
2 lowest areas, either their walk-outs, or their
3 daylight windows, was set incorrectly, that's a--
4 that's another--if it's--if it's below the actual
5 flood production grade, that's another issue. So,
6 these are all things we will investigate at--at your
7 level, or position on the--on the Allen County
8 Drainage Board, once we have all the details
9 together. I guess what I'm saying today is, that
10 those issues will be rectified by the developer,
11 maybe not of this site, but of the whole Chestnut
12 site, if there are issues that need to be rectified,
13 with regard to the pond, its discharge, or its
14 overflow capabilities. So--are there any questions?

15 BLOOM: Is this not premature if we don't have all
16 the problems solved here?

17 FRISINGER: The--the--
18 BLOOM: I mean, why would we have not deferred this?
19 FRISINGER: --right. The implication that the
20 property owners have made is that there--there is a
21 problem. My look has not determined that there is a
22 problem, or that the problem is necessarily
23 unresolvable by some means through Drainage Board.
24 The fact that you already have this site draining to
25 the pond, and the fact that it will be required to

0018
1 detain its water, and release no--no greater amount
2 of water to this basis, is in effect--that says to me
3 there's no reason not to rezone. I believe that we
4 will act on this issue at Drainage Board in the very
5 near future. Again, I'm--I'm receiving information
6 from the residents who filed the petition.

7 It's kind of im--impossible for myself, or
8 the department, to make a determination of what a
9 problem is without the specific information being
10 supplied by the affected residents who had some level
11 of inundation of what they would consider flood
12 waters.

13 BLOOM: Right.

14 FRISINGER: So, we're--we have went back--I've--my
15 crews went out, re-shot specific elevations of the
16 pond, reevaluated the overflow structure, the sizing,
17 the engineering calculations, and now putting that
18 whole puzzle together is what we're attempting to do,
19 and we'll present all that information at Drainage
20 Board, and get it resolved.

21 IRVING: You had mentioned to us, Mr. Frisinger, that
22 this is going to come before Drainage Board in the
23 very near future?

24 FRISINGER: Yes.

25 IRVING: Like January, February, do--

0019
1 FRISINGER: Yes--
2 IRVING: --you know yet--
3 FRISINGER: --January.
4 IRVING: In January?
5 FRISINGER: Uh-huh (affirmative).

6 IRVING: Would it be possible for us to defer this
7 until Drainage Board has met and made a ruling on it?

8 FRISINGER: That's completely up to the--you know,
9 the Commissioners. I don't know that that's a--an
10 appropriate response to this particular developer.
11 I--I believe the issues can be resolved, if they're
12 --whatever those issues are. Again, I have to reach
13 back and say, an eight inch rain in--in four hours--

14 IRVING: Right. Right.

15 FRISINGER: --is very--it's well beyond the bounds of
16 what statistically we can expect at any point in
17 time.

18 BLOOM: Exactly. Well, we had people move out of
19 their homes, I mean--

20 FRISINGER: Right.

21 IRVING: What was the vote on this, in Plan
22 Commission, please?

23 BOWMAN: It was unanimous.

24 WOOD: Uh-huh (affirmative).

25 IRVING: It was unanimous?

0020

1 BOWMAN: "Do pass," unanimous.

2 IRVING: Okay. Kim--Michelle, maybe you can scoot
3 over--

4 WOOD: Uh-huh (affirmative).

5 IRVING: --and let Kim there for one second. Maybe
6 you can kind of give us a--an update. I had a
7 meeting with Kim yesterday on this. Maybe you can
8 shed a little bit of light to--

9 BOWMAN: Okay. Kim Bowman, Department of Planning
10 Services. As Michelle said, this--the requested
11 zoning for the site is for offices, C-1A(P). Part of
12 the--the conditions that the Plan Commission
13 establish for the project, in--in--it does coincide
14 with the developer's concept for the development.
15 This will be one-story office buildings, brick on the
16 front, other materials similar to the surrounding
17 neighborhood. In addition, the Plan Commission did
18 establish some conditions, similar to other office
19 parks, the offices on Coldwater Road, that--that back
20 up to--I forgot the subdivision, north of Badiac,
21 that the Thomases are developing, and also Parkwood
22 Plaza, that backs up to--oh, I forgot the
23 subdivision--

24 WOOD: Longwood.

25 BOWMAN: --Longwood Subdivision. Both of those

0021

1 cases--it's New Year's Eve--both of those cases are--

2 ROUSSEAU: Did the Plan Commission have their party
3 already, or something, or--

4 IRVING: I'm glad you said it, and not me. The way
5 she said it, it was like, well, I'm sorry I drug you
6 in here from your champagne. I mean, you know--I'm
7 just kidding.

8 BOWMAN: Well, it started yesterday. No, in both of
9 these cases, they're--

10 IRVING: You're red, Al.

11 BLOOM: Yeah, he is.

12 BOWMAN: --one-story office buildings that back up to
13 a residential area. And, with those situations, and
14 also with this, the Plan Commission required that the
15 HVAC units be placed on the sides, that there are no
16 lights in the back, that there are no exit doors for
17 the buildings adjacent to the residence. In
18 addition, the Plan Commission required a six foot
19 high, solid board, fence to be placed.

20 In--in addition, the developer also agreed to
21 try to--there are some weird elevations out there,
22 the--from Chestnut Hills, to the Scott's, there--
23 there is some of the store visible, and there's a
24 clump of trees on the--the southwest side of this
25 property. The developer agreed to try to shift the

0022

1 drainage area around to save some of those trees
2 that--that, believe it or not, from Chestnut Hills,
3 are used as--as kind of a visual buffer. In
4 addition, the developer agreed to add more
5 landscaping to provide that buffer. But, if you--if
6 you can picture a Parkwood Plaza with the roof lines,
7 and the buildings, that the development itself will

8 provide some additional buffer, for the shopping
9 center, to the south.

10 Timing-wise, typically developers don't dive
11 into a lot of the engineering, and--and site design,
12 until they have zoning approval. So, your decision
13 today may delay their project some.

14 BLOOM: I hear you.

15 BOWMAN: In addition, it may assist the Surveyor's
16 Office with some information from the site, as far as
17 engineering-wise it could potentially help the
18 situation in Chestnut Hills. Um--

19 IRVING: Kim, could you also touch a little bit, and
20 you did just--but, I want to get back to it, just so
21 everyone understands, the neighbors, or neighbor,
22 requested a 12 foot high brick fence, and the
23 landscaping to be put on his side of the brick wall,
24 and the negotiation point, or the--they were very
25 reasonable in wanting to do some--some buffering

0023
1 along with a six foot wooden fence, is that correct?

2 BOWMAN: Yea--

3 IRVING: We're--we have never required a brick--a 12
4 foot high brick buffering area before, have we, Kim?

5 BOWMAN: No. And--and, in fact, that--that 12 foot
6 high would be in violation of the zoning ordinance--

7 BLOOM: Right.

8 BOWMAN: --for the height limits for a fence in that
9 zoning district. There were--there was another mem--
10 neighbor that requested a--a brick wall, but as
11 --as long as I've worked for the department, which
12 has been several years, the Plan Commission has never
13 required--

14 BLOOM: No.

15 BOWMAN: --a brick wall, as--as far as buffering or
16 screening. Usually, a--a fence, and some
17 landscaping, and the developer seems very willing to
18 work with staff, and--

19 IRVING: Okay.

20 BOWMAN: --and to try to resolve the issues. The
21 developer met with some of the adjacent property
22 owners before the public hearing, and realizes that
23 there are a lot of concerns with that. Some of the
24 concerns go back to when Scott's was constructed, and
25 a lot of that is out of our control because we can't

0024
1 go back on Scott's and say, "Hey, add some more
2 trees," or "raise your mound up five feet," and so
3 we're trying to work with some of the issues and try
4 to make a better situation.

5 IRVING: Do we have any questions from the
6 Commission?

7 BOWMAN: I would like to--

8 ROUSSEAU: Well, again, the--the thing of interest,
9 and it doesn't--you know, for the citizens that live
10 there it looks fairly complicated. The County
11 Surveyor made a point to say that this particular
12 piece of property, because of the process of ponding,
13 allows for the water to be dissipated at exactly the
14 same rate, or maybe better than what is currently
15 being done--what would currently be there. If you're
16 worried about drainage, now maybe it--you know, maybe

17 the people that live there don't believe that, you
18 know what I mean, or if you haven't dealt with it you
19 have a tendency to not maybe accept that as being the
20 truth. And, especially, if your property has been--
21 your home, and so forth, has been subjected to
22 uncomfortable situations, or having water in your
23 home, and that kind of thing, it would be tough to
24 live with. Mr. Frisinger has said, as the Draining
25 Board, though, we have to go by the engineers, and
0025

1 what they've proposed, the proposal is that the
2 ponding, and the calibrations that they've made, has
3 allowed that water to be dissipated at the same rate
4 that it is now, or certainly not more than.

5 IRVING: Right.

6 ROUSSEAU: If--the drainage is certainly one of the
7 considerations here, I believe--

8 BLOOM: Certainly.

9 ROUSSEAU: --that's--fortunately, or unfortunately,
10 is one of the decisions that the Drainage Board
11 members have to make--

12 IRVING: Right.

13 ROUSSEAU: --which is ourselves, make all the time.
14 And, we've got a County Surveyor that works very,
15 very hard, and sometimes against great obstacles, to--
16 to try to solve the other things, the--when you have
17 a brick wall, or a fence, and so forth, other
18 decisions to make, you know. I mean, that's--I can
19 understand why they would want to be pursued that
20 way, I can kind of understand, the fact that we
21 haven't done it before, maybe we should be doing it,
22 but we have not--County government has not, up to
23 this point, gotten into very high masonry type walls.
24 So--

25 IRVING: So, are you--
0026

1 ROUSSEAU: Well, what I'm--

2 IRVING: --what are you proposing here?

3 ROUSSEAU: --what I'm--I would--the drainage is the
4 thing I'm most concerned about--

5 BLOOM: I am, too.

6 ROUSSEAU: --the other things can be resolved by the
7 developer. But, our--our check, from the County
8 Surveyor, says that that property isn't going to have
9 any worse of a drainage problem because of this
10 development here, and I have a tendency to believe
11 him.

12 FRISINGER: If--

13 BLOOM: What I make a motion--do you have something
14 else?

15 FRISINGER: --I was just going to add, that in
16 addition to what Commissioner Rousseau said, if our
17 policy was such that we let this development go, with
18 no storm water control policy in place, that would be
19 one thing, that means, you know--

20 BLOOM: But, we do.

21 FRISINGER: --we developed this 54,000 square feet of
22 building, and hard surface parking area, to--

23 IRVING: Uh-huh (affirmative).

24 BLOOM: Right.

25 IRVING: Right.

0027

1 FRISINGER: --to just discharge, yes, that would make
2 a--that would make an impact. But, no, we do have
3 those safeguards in place, and, again, you will be
4 working to resolve the issue of what happened during
5 that specific rain event.

6 IRVING: We'll be looking--

7 BLOOM: I just--

8 IRVING: --forward to that presentation in January.

9 BLOOM: --I just remember some past projects where
10 promises were made, and I started receiving a lot of
11 phone calls, and had to call the Department of
12 Planning, and suggest that we monitor these more
13 closely. Some run very smoothly, but some of the
14 subdivisions that you suggested, or you forgot the
15 names of, are the ones that I worked very closely
16 with to make sure that everything was done properly.
17 I could make a motion on Rezoning Petition 1500/03,
18 subject to the drainage situation and the Drainage
19 Board approval, but to just let this go, at this
20 point, they have had water problems out there, and
21 drainage problems, it's not good, and that's my
22 motion, subject to Drainage Board approval and
23 Surveyor approval.

24 ROUSSEAU: By--we need to ask the County Attorney.

25 I--

0028

1 BLOOM: Can't do that?

2 ROUSSEAU: --years--years ago--years ago, we made a
3 "subject to" and found that I was not able to make a
4 "subject to," so--

5 BLOOM: Oh, so my "subject to" isn't any good either?

6 ROUSSEAU: Well, I don't know, I--

7 FISHERING: That rule's still the same.

8 BLOOM: The same rule.

9 IRVING: So, the motion is either--

10 FISHERING: You can either defer it, approve it, or
11 deny it. There are only--

12 IRVING: --defer it, approve it, or deny it. Okay.

13 BLOOM: Definite decisions.

14 FISHERING: Yes. Sorry. No such--

15 ROUSSEAU: Having made that mistake once, I just
16 thought I'd share that with you.

17 IRVING: You know--

18 BLOOM: I'm so happy.

19 IRVING: --if I remember, at the beginning of this
20 meeting, Mr. Rousseau was going to make all the
21 motions.

22 BLOOM: Watch it.

23 IRVING: Okay, so that motion is an inaccurate
24 motion, so will you--

25 ROUSSEAU: Well, it failed for lack of a second.

0029

1 BLOOM: So, I--

2 IRVING: Okay. Okay.

3 ROUSSEAU: It failed for a lack of a second.

4 IRVING: So, where do you want to go from here? Yes,
5 no, maybe.

6 ROUSSEAU: Well, I know it's--

7 IRVING: I can't make the motion because I'm still

8 President.

9 BLOOM: Oh, you can too.

10 BOWMAN: If I could add--

11 IRVING: I'll make a motion that we defer this for 30
12 days.

13 BLOOM: Second.

14 ROUSSEAU: Well, you made a--

15 IRVING: Any dis--

16 ROUSSEAU: --motion--you made a motion, and she
17 seconded it--

18 IRVING: Okay.

19 ROUSSEAU: --you can take the vote.

20 IRVING: Yes.

21 ROUSSEAU: What do you want me to do, I--

22 IRVING: Well, Kim--you know, it worries me when I
23 have the Department of Planning Services, that on New
24 Year's Eve Day, is confused to begin with, and then
25 jumps up and says "Stop," and I don't know whether I

0030
1 should go ahead and--and have any further discussion
2 or not. We're in the midst of a motion, we really
3 can't.

4 BLOOM: I made a motion--

5 IRVING: Okay, it's been first and--

6 BLOOM: --or, you made a motion, I seconded.

7 IRVING: --seconded. All in favor say "aye."

8 BLOOM: Aye.

9 ROUSSEAU: Aye.

10 IRVING: Aye. Motion carried. Thank you very much.

11 BOWMAN: Okay. Thank you. Happy New Year.

12 BLOOM: Happy New Year.

13 IRVING: Deferred for 30 days.

14 BLOOM: Party on.

15 IRVING: Please wait till you get home from work,
16 though.

17 WOOD: I'm gonna drive her home.

18 BLOOM: Oh, goody, she's gonna drive her home.

19 FRISINGER: The cab's waiting, right?

20 IRVING: Change Order for the Allen County Justice
21 Center for Montgomery Kone. Change Order Number 4,
22 for \$1,801.00.

23 BLOOM: I have reviewed this. It is for openings in
24 the elevator panels on the jail side, to permit
25 interior buttons and speakers for security, and I'll

0031
1 make a motion we accept this.

2 ROUSSEAU: Seconded.

3 IRVING: All in favor say "aye."

4 BLOOM: Aye.

5 ROUSSEAU: Aye.

6 IRVING: Aye. Motion carried. In the future, I
7 would hope when we bit out elevators, that they come
8 with buttons and control panels.

9 BLOOM: These are additional ones for security.

10 IRVING: Oh. Oh. Okay. Just kidding. Just
11 kidding. Number five, Warranty Deed and Right of
12 Entry--

13 ROUSSEAU: We may have a few suggestions for you--

14 IRVING: Oh, wait till you see--

15 ROUSSEAU: --Marla Jean, is that her name?

16 BLOOM: Marla Joanne.
17 IRVING: Joanne.
18 ROUSSEAU: Or, Joanne, I'm sorry. Marla Joanne.
19 IRVING: Wait till you see the whole list coming for
20 the Juvenile Center.
21 ROUSSEAU: I can--
22 BLOOM: That you're going to--
23 ROUSSEAU: --I can stand it.
24 BLOOM: --approve?
25 IRVING: I didn't necessarily say that either, did I?

0032
1 Warranty Deed and Right of Entry between Allen County
2 and Peter Franklin Jewelers, Incorporated, 610 East
3 Dupont Road. I think we have someone here from the
4 Highway Department, that would like to address us.
5 BLOOM: Good morning.
6 HARTMAN: Good morning. Good morning, I'm Bill
7 Hartman--
8 IRVING: Good morning, Bill.
9 HARTMAN: --with the Allen County Highway Department.
10 This is just a right-of-way dedication, you know,
11 based on development of the site, that we request,
12 and it's all drawn up, ready to go.
13 BLOOM: So moved
14 ROUSSEAU: Second.
15 IRVING: All in favor say "aye."
16 ROUSSEAU: Aye.
17 BLOOM: Aye.
18 IRVING: Aye. Motion carried.
19 HARTMAN: Thank you very much.
20 IRVING: Thank you, and have a Happy New Year.
21 BLOOM: Thank you. Happy New Year.
22 IRVING: Under "Other Business," we have the renewal
23 of the attorney's contract. Oh, well, now we know
24 why you stayed.
25 BLOOM: Look at his hair, all--

0033
1 IRVING: I know it.
2 BLOOM: --he's got a cowlick in the back of his hair.
3 IRVING: Well, you don't have to tell the whole TV
4 audience.
5 BLOOM: He's had a hat on. Yes, we--you tell them.
6 IRVING: No, you tell him.
7 BLOOM: Okay, why do I have all these copies? Ed,
8 have you got a copy?
9 FISHERING: There should just be three copies.
10 ROUSSEAU: Oh, good.
11 ELSER: To sign.
12 BLOOM: Okay, this is a continuation of--
13 FISHERING: This is an update of a contract that I
14 know has been in existence since 1960.
15 IRVING: Before I was born. I love those contracts.
16 BLOOM: Oh, ha!
17 FISHERING: Before you were born. I have copies that
18 far back, at least I believe I do.
19 IRVING: I'm just kidding.
20 FISHERING: There are very small changes in this from
21 the previous one, other than have the current
22 Commissioners execute it, which would be sort of
23 nice. But, the most significant changes are, the
24 Board of Health, for many years, had the authority to

25 hire its own attorney, that has been rolled in, as a
0034

1 result of a statutory change, into the County

2 Attorney's staff--

3 BLOOM: Right.

4 IRVING: Okay.

5 BLOOM: Exactly.

6 FISHERING: --so, where it used to exclude the Board
7 of Health, the Board of Health is now covered--

8 BLOOM: Included.

9 FISHERING: --by this contract. The other most
10 significant change is the elimination of the
11 representation of the County Council, which has been
12 in and out through all of our periods, some years we
13 do it, some years we don't--

14 BLOOM: Right. Right.

15 FISHERING: --at the current time we're not. So,
16 that's eliminated. A few changes in terms, for
17 instance, it's now a PTABOA Board, which we don't
18 represent, it used to be a Property Tax Adjustment
19 Board, which we didn't represent. So, it's just
20 generally an updating with no significant changes in
21 the overall terms.

22 ROUSSEAU: A question on the County Council
23 representation--

24 FISHERING: Yes?

25 ROUSSEAU: --ourselves, does that eliminate them to
0035

1 ask and, you know, a question that might be necessary
2 at some time.

3 FISHERING: Ne--never has.

4 ROUSSEAU: That--that worries me.

5 BLOOM: Never has, exactly.

6 ROUSSEAU: Well, I've got--

7 FISHERING: You've been around, you've been through--

8 ROUSSEAU: Yeah.

9 FISHERING: --I mean, you were the President when we
10 did do the work, I think you were the President the
11 first time the Council hired its own attorney.

12 ROUSSEAU: Well, I was--I was the President when we
13 were--did both of them.

14 FISHERING: Yes, and--and so you've gone both ways.

15 I think you know that we pretty uniformly have

16 answered any County Council question--

17 ROUSSEAU: Yeah.

18 FISHERING: --that's ever been presented to us,
19 whether it's inside the contract, or outside of the
20 contract.

21 ROUSSEAU: Yeah. Okay.

22 FISHERING: We just take the position that we're
23 doing it on your behalf when that occurs. But, this
24 clarifies that they do have their own attorney, and
25 so on, and so forth.

0036

1 ROUSSEAU: Yeah. Okay.

2 IRVING: Can I make a request from our County
3 Attorney that we not wait another 40 years for an
4 update, that maybe this ought to be something--

5 FISHERING: Well, I--

6 IRVING: --we look at like every three to five years.

7 FISHERING: --well, I really think the last update
8 was like '87, so--
9 IRVING: Well, that makes me feel a little bit
10 better.
11 FISHERING: --we're only like 15 years out.
12 IRVING: Okay.
13 BLOOM: I'll make a motion that we accept the
14 contract from the--
15 ROUSSEAU: Second.
16 IRVING: It's been moved and seconded. All in favor
17 say "aye."
18 BLOOM: Well, I wanted to say what--I wasn't
19 finished, from--this isn't your contract, this is the
20 County Attorney's--
21 IRVING: Attorney's.
22 BLOOM: --contract?
23 FISHERING: Yes. With me as the County Attorney.
24 BLOOM: Right.
25 FISHERING: That's right.

0037
1 BLOOM: That's my motion.
2 IRVING: Well, it's already been seconded and--all in
3 favor say "aye."
4 BLOOM: Aye.
5 ROUSSEAU: Aye.
6 IRVING: Aye. Motion carried.
7 FISHERING: Thank you very much.
8 IRVING: Do you have anything else for us?
9 FISHERING: No.
10 IRVING: Okay. Thank you very much. Happy New Year.
11 FISHERING: Same to you.
12 IRVING: Now, we have the Sheriff with us. The
13 Sheriff's Office has an extension of a contract
14 between Allen County and ABL Management for food
15 services at the Allen County Jail.
16 HATHAWAY: Good morning.
17 IRVING: Good morning. How are you?
18 HATHAWAY: Good.
19 HERMAN: Good morning. Sheriff Jim Herman, and Jail
20 Commander Thom Hathaway.
21 HATHAWAY: Right.
22 HERMAN: We wanted to get--put this contract out for
23 bid. We didn't want to do it in the middle of
24 changing over to the--to the new kitchen, which we
25 are in the process of doing right now.

0038
1 BLOOM: Right.
2 HERMAN: We felt that--I think the last time we
3 talked about this contract it was in anticipation of
4 this being done at this point, to--that we could
5 probably put this out for bids at this time, and go
6 on from there. However, since we're in the middle of
7 this changeover right now, we didn't anticipate that
8 we would--that we would be--in the process of the
9 move right now. We would like to extend the contract
10 at the same price for--until April 30, and then the
11 Jail Commander will be beginning the process, right
12 after the first of the year, to get a RFP out, and--
13 BLOOM: Yeah.
14 IRVING: Great.
15 HERMAN: --and get a contract for food services at

16 the jail.
17 BLOOM: I'll make a motion that we extend the
18 contract with Allen County and ABL Management, Inc.,
19 for food services until April 30th.
20 ROUSSEAU: I--I second that. Did you--
21 BLOOM: Same price.
22 ROUSSEAU: --just for public consumption, we'll say,
23 what's the price per meal, or something, you have a
24 --that we've been using.
25 HERMAN: The price per meal, I believe, Commander, is
0039
1 at 85 cents?
2 BLOOM: That's--
3 HATHAWAY: It's right at 83 cents right now--
4 BLOOM: --that's what I thought it was, eighty--
5 HATHAWAY: --because our population's--
6 BLOOM: --uh-huh (affirmative).
7 ROUSSEAU: Yeah. It's always a startling figure.
8 HATHAWAY: It's been that way for seven years now.
9 IRVING: Yeah.
10 BLOOM: Yeah.
11 IRVING: That's fantastic.
12 HERMAN: Yeah, it may--because of the--because of the
13 help that's going to be needed in the new jail, we do
14 anticipate that when we re-bid this, that it will go
15 up.
16 IRVING: Well--
17 HERMAN: But, this is another--
18 IRVING: --that's a shocking revelation for the end
19 of the year.
20 BLOOM: Seven--seven years, or something, the same
21 price--
22 HERMAN: Yeah.
23 IRVING: It's been moved and seconded. All in favor
24 say "aye."
25 ROUSSEAU: Aye.
0040
1 BLOOM: Aye.
2 IRVING: Aye. Motion carried.
3 ROUSSEAU: Well, we have plenty of money, so just
4 don't worry about it.
5 HATHAWAY: Thank you.
6 IRVING: Yeah.
7 HERMAN: Thank you.
8 HATHAWAY: Happy New Year.
9 IRVING: Thank you very much.
10 HERMAN: Do you want this? This is another original.
11 IRVING: I think we've already signed the other one.
12 ELSER: We've signed two--
13 HERMAN: Oh.
14 ELSER: --but we can do another one.
15 IRVING: Thank you very much. Happy New Year to both
16 of you.
17 HATHAWAY: There was an envelope that went with that.
18 Did you get it?
19 HERMAN: Thank you, and Happy New Year to you.
20 IRVING: May I have--
21 BLOOM: Happy New Year.
22 IRVING: --do we have any other business to come
23 before us?

24 ELSER: No, I have no other business.

25 IRVING: Okay.

0041

1 BLOOM: I'd like to approve to waive the 2nd reading
2 on any matter approved today and for which it may be
3 deemed necessary for the Legislation Session of
4 December 31st.

5 ROUSSEAU: Seconded.

6 IRVING: All in favor say "aye."

7 BLOOM: Aye.

8 ROUSSEAU: Aye.

9 IRVING: Aye. Motion carried. Before we have public
10 comment, we have a very sad, but special, day for one
11 of our employees. Frank, would you like to come up
12 here, please.

13 BLOOM: Bittersweet.

14 IRVING: Why don't we walk around here. We're going
15 to do a Proclamation for Frank Sutter.

16 BLOOM: Here comes the gang.

17 IRVING: Oh, they're all coming--why don't you come
18 right up here in front, Frank.

19 SUTTER: Here?

20 BLOOM: Great sweater, Frank.

21 SUTTER: Thank you.

22 ROUSSEAU: Who--who's got the check?

23 IRVING: I do. Oh, no--

24 BLOOM: Or the watch. The watch.

25 IRVING: Frank, we decided you--you really didn't

0042

1 want a party, you didn't want any--and to-do about
2 leaving, although I did notice that now, for the last
3 six weeks, your desk has been cleaned up--but, no,
4 I'm just kidding on that. We would like to read a
5 Proclamation from you, because you have been a very
6 intricate part of--of our team, us here. The Allen
7 County Board of Commissioners complained whereas, for
8 more than 10 years Frank Sutter has been a dedicated
9 Allen County employee--

10 SUTTER: Did you "complain" or "proclaim"?

11 BLOOM: That's what I thought. I thought that she
12 said--

13 SUTTER: She complained.

14 BLOOM: --something like--how about "proclaim."
15 Proclaim.

16 IRVING: Proclamation.

17 BLOOM: Proclaim. You said--

18 ELSER: You said "complain."

19 ROUSSEAU: Do you want me to read it for you?

20 BLOOM: Do it over. Start over.

21 IRVING: Well--

22 ROUSSEAU: I'll be glad to read it for you.

23 IRVING: --well, no, because of that--what happened
24 at the Board of Health earlier this week, I figured
25 it was a little safer with me. Would you like me to

0043

1 repeat that?

2 ROUSSEAU: Well, she was--she was--

3 SUTTER: That's--that's okay.

4 IRVING: Okay. Having worked in the County
5 Assessor's office, and as Risk Manager, before taking
6 the petition--position of Human Resource Director in

7 1995, and as Risk Manager, Frank designed the Auto
8 Accident Reporting form, that can be found in the
9 glove boxes of every County vehicle, a useful tool
10 for collecting often overlooked details, such as road
11 or weather conditions, while they are still fresh in
12 the driver's mind. And, during his tenure as H.R.
13 Director, Frank was instrumental in implementing the
14 Short Term Disability Program, a policy which greatly
15 reduced the County's unfunded liability. There are
16 two more that we will let you read after the TV
17 cameras are off, explaining a little more about your
18 humor. Now, therefore, the Board of Commissioners,
19 of the County of Allen, hereby proclaim December
20 31st, 2003, as Frank Sutter Day, in Allen County, and
21 wishes him a restful and satisfying retirement.

22 Signed by--

23 BLOOM: Well, did--you didn't put this in there.

24 IRVING: Well, because we took a few other things out
25 of it, Commissioner Bloom.

0044

1 BLOOM: I think that one's just--

2 IRVING: Signed by our Secretary, Commissioner
3 Bloom--

4 BLOOM: Give me a break.

5 IRVING: --Vice President, Commissioner Rousseau--

6 BLOOM: Oh--

7 SUTTER: I will miss you.

8 (Applause.)

9 IRVING: Do we have any--oh, go ahead.

10 ROUSSEAU: Well, Frank was a high school friend of
11 mine, North Side High School, the greatest high
12 school institution in the state of Indiana--

13 IRVING: Oh, I agree.

14 ROUSSEAU: --soon to be remodeled. And, anyhow, I've
15 known Frank for a long period of time, and he has
16 been absolutely a fantastic guy to have around, and
17 he has saved us many broken hearts, I would say that,
18 and--

19 BLOOM: Broken hearts?

20 ROUSSEAU: Yeah.

21 BLOOM: What in the heck does that mean?

22 ROUSSEAU: Well, if somebody--if we're doing
23 something wrong it will break our hearts--

24 BLOOM: Oh.

25 ROUSSEAU: --along with maybe some other things.

0045

1 IRVING: Don't go into the physical, that we wanted
2 earlier in the week, from the other one that we did--

3 ROUSSEAU: But, anyhow, Frank, we're gonna miss you,
4 you've done a terrific job, and--

5 SUTTER: Thank you.

6 ROUSSEAU: --and you're--you'll be missed--

7 BLOOM: Yes.

8 ROUSSEAU: --by us.

9 BLOOM: Yes.

10 ROUSSEAU: But, it's been great knowing you for a
11 thousand years, like I--

12 SUTTER: Has it been that long?

13 ROUSSEAU: Yeah.

14 IRVING: And, Frank has been very instrumental in

15 grooming someone to take his place, a nice young man,
16 Brian Dumford, and we will be looking forward to
17 seeing him, too. And, Frank has been very kind to
18 say anytime we need anything, to give him a jingle,
19 he'll be glad to--I'm not going to say, leave the
20 house, that kind of scenario.

21 SUTTER: Well, please say that.

22 IRVING: As I often say, I married my husband for
23 better or for worse, but never for lunch, so feel
24 free to join us for lunch at any time.

25 SUTTER: Thank you.

0046

1 BLOOM: I think you'll--he'll have a part-time job
2 soon, because this retirement ain't what it cracked
3 up to be, I don't think, and his wife--

4 SUTTER: Probably.

5 BLOOM: --his wife isn't going to want him around
6 every minute of the day. What do you think?

7 SUTTER: Have you been--

8 BLOOM: Uh-huh (affirmative).

9 SUTTER: --talking to her?

10 BLOOM: Uh-huh (affirmative).

11 SUTTER: Well, she announced this morning that she's
12 retiring too, so that means that she's expecting me
13 to assume some of the household duties, I think. I
14 don't know, we have to talk about that.

15 ROUSSEAU: I'd--

16 IRVING: Well, thank you very much. We--

17 SUTTER: Thank you.

18 IRVING: --appreciate it, Frank. And, are there any
19 comments from the public on our meeting today?

20 (No response.)

21 IRVING: Hearing none, I wish everyone a very safe
22 and Happy New Year, and looking forward to seeing you
23 in 2004. Thank you very much.

24 BLOOM: Happy New Year.

25 (Adjourned 10:46 a.m.)

0047

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

4 REPORTER'S CERTIFICATE

5 I, Rhonda M. Mullholand, a Notary Public in
6 and for the State of Indiana, County of Allen, do
7 hereby certify that the above and foregoing is a true
8 and accurate transcript of the Board of Commissioners
9 of the County of Allen, Legislative Session, held
10 before me on December 31, 2003, in the Allen County
11 Commissioner's Courtroom, Room 200, City-County
12 Building, 1 East Main Street, Fort Wayne, Allen
13 County, Indiana; that I am not related to, employed
14 by or interested in any of the parties to this cause
15 of action.

16 IN WITNESS WHEREOF, I have hereto affixed my
17 hand and seal this 2nd day of January, 2004.

18

19 _____
Rhonda M. Mullholand, Notary Public
Residing in Allen County, Indiana

20

21 My Commission Expires:
June 21, 2009

22