

WHEREAS, in the opinion of the County Auditor, the public interests required that the Lake County Council, should be called to meet in special session at this time, for the purpose of considering Plan Commission Ordinance # 2324, a written notice was sent to each member of the Council, and proper advertisement made, and all other acts performed in accordance with the laws governing such matters.

And now in obedience to such call, come Thomas O'Donnell, President, Ted Bilski, Ernie Dillon, Elsie Franklin, Jerome A. Prince, Christine Cid, and Larry Blanchard County Councilpersons, together with Ray Szarmach, County Council Attorney.

In the Matter of Plan Commission Ordinance # 2324 – Lake County Trust Company # 5240, Owner & Singleton Stone, LLC, Petnr. 9-15-10 A1 to CDD, Unfavorable Recommendation with Conditions, (Vote 5-3)

Discussion

President O'Donnell explained that the meeting tonight is about the Singleton Stone Quarry, which is Ordinance # 2324, Lake County Trust Company # 5240, the Owner & Singleton Stone, Limited Liability Company are the Petitioners. The request is for rezoning from A-1 to CDD. O'Donnell said it comes to the Council with unfavorable recommendation from the Plan Commission.

Attorney Jim Wieser is the Attorney for Singleton Stone, LLC. Attorney Wieser explained that this matter was filed in January of 2009. He said that they tried to condense 1,000 pages of stuff into a booklet which was provided to the Council within the last week.

Attorney Wieser stated that the Planning and Zoning Law, in the State of Indiana is designed for a very specific purpose, and the purpose is that, we, as a developer, or those that propose whatever the plan may be, in this case a rezoning from Agricultural to CDD, can do that and provide it to you based on facts, based on the technical data, and hopefully designed to try to take out a lot of the speculation, a lot of the emotion because these are difficult projects, we recognize that. We understand that these projects invite people's interest, that these projects have an effect on, in this case, the entire county, in this case, particularly some homeowners, and some farm owners, and we understand that, but the whole process is designed to eliminate that emotion, and unfortunately it didn't quite work the way it normally does, in this particular situation, but we're past that, and we all know about it, and we are going to move forward, so on that basis, that is, we want to provide the facts to you .

Attorney Wieser said the facts in this situation are pretty clear. We intend, or would like to develop a stone quarry, a limestone quarry in South East Lake County. We all know where it's located, east of I-65, a little West off of Clay Street, and South of Rt. 2, about a quarter, a half a mile South of Rt. 2.

In doing that, we filed our petition, and we followed the rules prescribed by your Plan Commission, which are similar to rules prescribed by any Plan Commission in Indiana, and in Lake County. When we did that, I think it's important to point out to you, we are required, before we even file our application, as is every application for re-zoning, that we have to get certain approvals for zoning, and this really an important point it's been very difficult to get this point across. Our request is for a change of zone, it relates to the use of the land. The zoning process takes place first. Permitting processes, in this case, permits by the Lake County Drainage Board, permits by the Department of Natural Resources, which will be required, and any other permits that may be required come subsequent to this. That's how the law works, that's how the process works, and that's how it's always worked. In this particular situation, we kept running into the "cart before the horse", and kept getting bounced back to the Drainage Board, regardless, that's how the process works.

I just want to point this out to the members of the County Council who may not have had an opportunity to see this. When we filed our application, as I said, before we filed, we had to get approvals from the impacted County agencies, that being Highway, Health Department, and Surveyor's Office. I have those here, and I just wanted to read one phrase out of each one of these, just so you get the sense of how we were proceeding according to the law, and according to process that's always been employed by Lake County. We received an approval in January, it's almost a year ago, from the Surveyor's Office, and that's for zoning. The approval from the Surveyor's Office says, I won't read the whole thing, but here's what it says. "We recommend zone change only, approval based on commitments outlined in our engineering preparation. Those commitments have been reiterated, and filed with you as Tab number 7. Almost five full pages of zoning commitments, which we submitted to the Plan Commission, and it kind of got lost in the shuffle. We've cleaned them up and we've made them in a report and presented them to you.

The letter goes on to say, " Please note that the Petitioner's engineer, that is our engineer, that's the Engineer we had at the time, until the Engineer was removed by the County, is fully aware, that no construction will take place until full engineering construction plans are reviewed, and approved, pursuant to the Lake County Storm and Water Ordinance Manual." Attorney Wieser said that's exactly how the

process works, and that's exactly the State of the Law. You get zoning approval, then we go to the Drainage Board. That's exactly what their letter said, when we got the approval for zoning.

We went to the Highway Department. This is a letter dated January 8th, that's how long ago this took place, and in the Highway Department said, "based on our review, the Highway Department has no, no objections to the requested zone change, contingent upon final engineering plans to be submitted for review". Those plans were to include the following: the following were conditions and commitments, all of which you will find under Tab 7, that we've agreed to. That involves the repaving and the widening, and the acceleration and deceleration of lanes for Clay Street, the limited use of Clay Street from the North entrance from North of the entrance only, can't go South. The improvement of the intersection of State Rd 2, and Clay Street, a number of things, it's all in there. So, and the Health Department, so what we have, is the County Agency, according to your process, approved this, for zone change only. Somewhere along the way, that kind of got overlooked and although we kept trying to get back to it.

Attorney Wieser said that there is going to be an impact on drainage, and particularly on the drainage at the Singleton ditch. Our position, we've demonstrated that not only will we not have a negative impact on the Singleton ditch, we will enhance. We'll certainly make it no worse, but we will enhance it. This is a large detention area, a detention area that ultimately, if the County chooses to do so, will be turned over to the County as a reservoir, and as a recreational use, and that's in our commitments. Not that we're going to keep it, or the landowner' going to keep it and use it for their own benefit. When it's time, when the useful life is done, it goes to the County, if the County chooses to accept. We think that's a tremendous benefit to the County, not only for recreational purposes, but for storm water and management purposes, but we have demonstrated, and what you have received, and what we continually heard at the Plan Commission was you are going to have so much water going in there. There was a report that was done by our primary competitor, about 5 years ago where they said, in a narrative, that it's going to have this impact. This is going to be the ground water impact, this is going to be the drainage impact. We don't agree with that, we can't get the technical data because they refused to give it to the Plan Commission. All they gave them was a narrative report, so nobody has been able to decipher, or even compare or determine the technical data, but we said, "okay, here's what we'll do, we'll take that", worst scenario, that report, we will turn our second engineers, because they booted out our first engineers, but our second engineers that we hired in August, we will turn them loose, and we will have them review this, and they did.

We've provided that to you, I think Tabs 3 & 4, or maybe 4 or 5, in this document. We've taken the worst scenario, and what it says is we are not going to have a negative impact, we are not going to cause flooding, we are not going to cause any deterioration in the flowing and the movement of water in the Singleton Ditch, in fact we're going to make it better. We're going to make it better because on-site, we have a series of ponds, on-site we have an ultimate quarry that can hold probably billions of gallons of water. There's a lot that we are doing to enhance the storm water impact. We've demonstrated in here how we will control any questions regarding the ground, there's a lot of questions about domestic wells. We've shown you that domestic wells are few, they're in the report, and if those are impacted in any way, although the engineering demonstrates that they shouldn't be, but if they are, we've agreed in the zoning commitment to dig a new well and replace it.

O'Donnell had a question, and said, in the transcript of the proceedings, there is communication that there is roughly 20-plus wells, but now there's been information provided that that's wrong. This of course, wasn't submitted at the time of the petition, but that there is actually 200 to 250 domestic wells in that radius. Have you seen anything that would support that?

Attorney Wieser answered, no. That was never presented at the Plan Commission, that was never discussed at the Plan Commission, we went out and did a detailed analysis of the area, a 2 mile radius, and the report is accurate as to the fact that there's 27 wells, several of which are test wells they did not put in, and some other wells that are non functioning, and very few, and only a couple maybe about 3 or 4 that are really directly adjacent to the property.

Attorney Wieser said you have to pay reasonable regard to 5 statutory criteria. I have set forth the 5 statutory criteria as Tab 8 in the summary that was provided to you. I have set forth the reasons in every one of those 5 incidents, why we do, in fact meet that criteria that's set forth, why we're consistent with the Comprehensive Plan, and I know that's a significant issue, I know that's not an issue with which the Plan Commission, or certainly with which the Plan Commission staff takes exception. The fact of the matter is that we demonstrate that your Plan says in (inaudible) districts, there's areas reserved for agricultural, recreational, and limited development. We are demonstrating that we are going to improve that area for drainage, and that we are going to openly provide a recreational facility for this County. So we meet that criteria. The current condition, the adjacent property of farmland, we know that this project as designed, is not going to have any negative impact on that property. They are going to be able to farm that property, and continue to farm that property. So we're not interfering with that in any way. The most desirable use of the land, this land contains high quantities of dolomite limestone, really high quality dolomite limestone. The highest and best use of that property is to mine that limestone, so we can continue, or engage in economic development in this County, create 24 permanent jobs, at least, 75 construction jobs, hundreds of thousands of dollars in real estate taxes, increase in assessed valuation, \$2 million dollars in overall taxes, and provide competition, and continue to improve economically, in this County, so clearly the most desirable use of the land is to mine that dolomite, there's just no question about it. In the conservation of

property values through the district, we're talking about investment, an initial investment of over \$16 million dollars, \$16 million dollars that will benefit the folks in Lake County, everybody here in Lake County.

The development is designed with a lot of screening, the 25 foot berm along Clay is not only going to provide a steady buffer, and a noise buffer, but is going to provide for additional drainage because it's going to have pipes through it that will take that flow that comes now from across Clay Street that just comes unabated across Clay Street, when they have difficulties and it will channel and put it into our property and it will greatly enhance and improve the storm water drainage in the County.

Finally, we believe that it's consistent with responsible development and growth, this County is desperately in need, in our humble opinion, of economic development. We know that there's times when folks think that, well, I don't know if a quarry is the answer, and I'm not going to suggest that it is, I'm simply going to say, it is one of the answers. It is moving in the right direction. It is providing jobs for a whole lot of these folks that sit here in the audience tonight. Good jobs, good paying jobs, and it provides an incredible benefit to us in Lake County. We won't have to transport the aggregate from the quarry. We will control our own destiny in this, and for all of those reasons, we believe that, and I have the greatest respect for the members of the Plan Commission, and for Ned and for the staff. We just simply think that they kind of missed it on this one, and that really the appropriate thing to do is zoning, is to re-zone this property.

Attorney Wieser said that in terms of the re-zoning, this isn't the end of it. This is not the end of it. I don't want anyone to think that if we get re-zoning that tomorrow there's going to be all kinds of heavy equipment moving dirt. It isn't going to happen. Folks still know that we have to go through a very rigorous permitting process, with the Lake County Drainage Board, and at the Department of Natural Resources minimally, those 2 agencies. It's not unlike the landfill project. In the landfill project, that was a concern by everybody. Well, we got the zoning approved, and the Plan Commission stuck right by their procedures, and their policies. Unlike what happened this time, they stuck right by it, and it was a fair process, and it was an equitable process. It was a tiring process, and a long process, but it was fair. We got our zoning, no landfill. There's no landfill there today, why we couldn't get the permits. Couldn't get the permits from IDEM, ultimately IDEM said no. Solid Waste Board said, if you don't need it, you don't get the permit. Same situation here, the zoning is the first step. There's a whole lot of steps after that. So I don't want anybody to be concerned, or anybody to be confused to say, "Oh they got zoning, they get to go, not true, it's the first step in a series of processes, but we think it's an appropriate step, and we're asking you to consider tonight overturning the actions of the Plan Commission, and approving the request for re-zoning.

Blanchard said the question that I have is the depths that the quarry will be, when you start mining limestone? What is that depth?

Jeff Vann, a Principal with DBG a local site development and Civil Engineering Firm located in Crown Point, IN, who said that their expectation is that we will be minimally 150 feet deep, and as we excavate and start to mine the limestone in the quarry, the quarry limestone quality will be the determining factor as we go north, south, east, or west, or down. So as the quality continues to be strong, the deeper we go, the expectation will be that we will continue to go deep until we get quarry limestone that would of high grade, high quality.

Blanchard said in your staff report that we got indicates that at 145 feet, there would be 24.2 million gallons of water pumped per day, and at 45 foot level, there was a report that 4.3 million gallons of water pumps out per day, is that accurate?

Jeff said those are numbers that were calculated from a report that our team has completed. That was the estimate of ground water contained in what's called the (inaudible). This limestone is encased with about 35 feet to 50 feet of ground of soil, of gravel of sand before we get to the actual limestone at 35 to 50 feet of depth. That is the amount of water that would be generated by our estimates coming from the actual overburdened layer, and that is the number that I think you referenced.

Blanchard said I don't believe you answered my question but what I'm asking is, is it correct that we're talking about 24.2 million gallons of per day, and approximately 145 feet, is that accurate?

Jeff said, you're referencing the report that Attorney Wieser had referenced. We have not gone through the complete detailed engineering, and this is one of the things that we talked with the Plan Commission and the Drainage Board. We have another step to go through, and that is to actually go in and drill the limestone at numerous locations to create pumping so we can do estimates of what the limestone ground water is going to produce. We have not done that yet, but in our analysis to the Plan Commission, we have used some of the data that was provided to us by the Plan Commission from the Patrick Report, and created hydraulic modeling of what the impact on the ditch would be.

Cid said I need clarification so am I hearing that it's not a fact that 23.some million gallons of water is going to be pumped out of that hole, or are you saying that it's not a fact?

Jeff said that the number that you are referring to is coming from a report that our team did not do. We did presume that if, in case the Patrick Report is correct in their assumption of 24 million gallons a day, that was in their report, we analyzed the impact of that on the Singleton Ditch. We took 24 million gallons a

day, which is 17 gallons a minute, that results the reference that was the likely amount of water that the quarry could produce, we looked at how that impacts the ditch.

Franklin said my question is related to the wells. I did hear Attorney Wieser say that there were possibly 3 wells that would be affected, not the 200 that we've read about, so tell me how many wells will possibly be affected.

Jeff said that the 200 wells that you are referring to is not any information that we have ever seen. If you are a well driller, and someone calls to have you drill a well, you are supposed to file a report with the Department of Natural Resource and register that well. that way state wide, water quality can be regulated. What we have done the research, and we looked at what was within 2-mile radius, of our site that has been registered and on file with the Indiana Department of Natural Resources, there were 26 wells that were registered within 2 mile radius. Of those 26 wells, 11 of those were test wells, and another 5 of those were also test wells in a different category. So really within the confines of a 2- mile radius, we are calling 17 active wells. (The audience laughs).

O'Donnell asked if it is possible that if it is possible that people would sink their own wells without getting approved by them?

Jeff answered that is very possible, that is correct.

Dillon asked if that property, about 600 acres, and if that land that they are going to be developing has been purchased, something that you've already done, and procured the land for this project to go forward?

Attorney Wieser answered, yes. The property has been zoned by the Van Kalker family, it is subject to an option agreement with the developer to utilize it for the purpose of mining, and I just wanted to add one other quick thing to Larry' question. Part of the confusion here about the drilling down, and how far down the quarry is going to be. We drill down to satisfy the requirements of the ordinance, to satisfy our requirements that we knew what we had there, and that we also knew that we had to do further drilling. So Larry you're right. We know that we have to do some further testing That further testing is going to cost anywhere from \$150 to 200,000 dollars and up. It's always been the approach of this developer in situations like that is, nobody is going to spend those kind of dollars, and that kind of money if they don't even have the zoning, so the question is, you get the zoning first, and then you do the final engineering. If the final engineering happens to show something entirely different than what we think it's going to show, or we expected it to show, and turns out, it isn't what we thought it is, then there's not going to be a project. But we don't think it's going to show that. But that's for a determination under a permitting process for another time, and another day.

Prince said to Attorney Wieser that one of the considerations that I will take seriously would be the issue of need. Prince said from what I'm understanding is there is at least a couple of other quarry's in the area, so how would you justify a need for this particular quarry when there are already some that exists?

Attorney Wieser said obviously that's not a part of the 5 criteria, but it did come up during the Plan Commission meeting in September when there was reference made to it in the Staff Report. They made a determination in reviewing the quarry, and there wasn't a (inaudible).

Attorney Wieser said there is one Quarry actively operating in Lake County. The other Quarry is operating over in Illinois. Rieth-Riley utilized, on an average year, between 500,000 and 1,000,000 tons of aggregate.. They are literally their own market, or they certainly serve as the basis for their own market. You have some documentation in what we've provided here, in terms of letters of support. One from INDOT that favors this project that said, we need competition. Those people are out there every year increasing their prices, 8%, 10%. We need competition. We need to level the playing field. We need competition so the County Highway Department can lower their cost. We need competition in this market. It is there, we have our own market, we have our own user, and we clearly, clearly, there's a market for it, and a need for it.

Prince said one other point, also a subject of concern has been the impact that this project will have on the aquifers, and asked Attorney Wieser if he could speak to that at all.

Attorney Wieser said I will let Jeff speak to that.

Jeff said part of what we need to do is continue drilling, as I referenced earlier. He said that in using some of the figures that the Patrick Report provided, their assumption, and their calculations had determined that there would be about 4 feet of draw down in the groundwater levels, and it would extend to about a distance of about 4 miles away from the quarry, and when we looked at the depths of the from the registered wells that are on file at the DNR, those depths of wells are anywhere from 35 to almost 80 feet deep, and it's of our opinion, that that draw down, if it is correct, will not impact the quantity, or the quality of the well supplies. As Mr. Wieser indicated earlier, in our written commitments, that we have filed, that if there is a negative impact of a private water well, we would replace it. Part of our plan will include a ground water monitoring system around the perimeter of our quarry, so that we can determine what impact we are going to be having with our adjacent properties.

Prince said that the combining of soils, I have heard is an issue also, or a concern. That soils would be combined causing a negative impact, I guess on the land around, or some of the property owners around.

Jeff said, the combining of soils, I am not aware of that issue.

Prince said it's just a concern from the people, I guess who oppose this project, and I'm not an engineer either.

Jeff said we will not be touching anyone's property adjacent to our site. In fact what we've done is we've established in our design a 25 foot tall aesthetic and also acoustical sound barrier berm, that would be around our perimeter, and the way we've designed the site is to create the quarry operations in the center, trying to keep about a quarter mile radius around our site from the adjacent properties. We don't believe there's any impact on adjacent property owners with combining soils.

Blanchard said in a flood hazard area, this is, we've been experiencing a drought within the last few months, do you feel that if you started mining tomorrow, that the barriers would eventually fill up with water without any moisture from the sky, without any rain. Do you understand what I'm asking here? In other words, it's going to come from the ground up.

Jeff answered, we're going to need a new watering system, no different than any other quarry here in this County, or throughout the State of Indiana. It will be ground water that will be migrating to the bottom of the quarry, so we will have a new watering system to take care of that.

Blanchard asked do you know how deep that aquifer is? How deep do you have to go before you hit that aquifer?

Jeff said the ground water, through the information provided in both the (inaudible) we did, and the analysis that we have ground water levels of about 4 to 8 feet below existing (inaudible), that's about the average of the ground water that you see (inaudible) come back (inaudible).

Blanchard said then we're speaking of mining anywhere from 150, possibly, 350 feet, or best.

Jeff said, that's correct.

Franklin said, property values, if that quarry located in that (inaudible), please tell me what negative impact does it have on the value of the property?

Attorney Wieser answered, as we've stated in our findings, and in our response to the 5 criteria, it is our belief that there is no negative impact. These quarries have been operating successfully, particularly in the Southern part of the State, and successfully throughout the Midwest. The adjoining properties will still be able to farm, as we previously stated, what we intend to do will be on our site, and our site only. We are going to provide, as we said before, along Clay Street a 25 foot berm. There is actually on the East side of Clay Street between St. Rt. 2, and the entry, the proposed entry to the site, there is only one residence on the east side. There are several, just beyond that, but we've agreed the truck traffic cannot go that way, so the impact in terms of truck traffic, directly one residence. We've indicated that we believe that a development of this significance properly screened, with the proper aesthetics, operated the way it should be operated professionally operated, not only will have no negative impact on the adjoining properties because they can continue to farm, and continue to use it as they have in the past. It will have no negative implication of that, and we think that, quite frankly, if anything, depending on how our assessed valuation goes, and how the economy goes, it could be an enhancement.

Franklin is speaking, but it is inaudible.

Blanchard said that he would ask that the wells, the rest is (inaudible).

Attorney Wieser said that's what we show identified, Larry. I don't think we would preclude, if there was a determination made that there was a well or additional wells within there, that for some reason weren't filed with the DNR, like they should be, and they were clearly within the impacted area, and there was a problem, I don't think we would preclude at all taking care of those wells, just like we promised in our commitment.

O'Donnell said, Jim, I read every page of every transcript that was provided, I don't recall, (Attorney Wieser asked "are you crazy?"). O'Donnell answered, yes I was. I don't recall any evidence submitted to the Plan Commission regarding property values, the impact on property values, or if it was negative.

Attorney Wieser said, no there was not. There was no evidence at all submitted at all to the Plan Commission regarding (inaudible).

O'Donnell asked do you know how that could have gotten into their findings then?

Attorney Wieser answered, my recollection is, and I'm sure Ned knows a lot more about this than I do, but my recollection is that when Ned submitted the report at the September meeting, he made reference to, this is my recollection, he made reference to a report done by, I think some Professor or something at Auburn University or some University, I'm not exactly sure, that said kind of like, "well everybody knows that there is this negative impact, when you're next to a quarry". That was not ever submitted in evidence. That was not part of the evidence that was submitted. The remonstrators never presented anything in opposition to this. Anything, quite frankly, with some minor exceptions, so I don't need to say that. The remonstrators have clearly said, "we don't like this, we're opposed to it, we think, and we believe that it's going to have a negative impact, that it could cause us flooding". But they have never submitted one item of evidence, to my recollection, supporting those statements whatsoever, and clearly, not regarding the property values.

O'Donnell said the other question that I have is for Jeff. Jeff my understanding is that about three quarters of the way through the process, the County Commissioner's Attorney determined that it was a conflict of interest for Christopher Burke to be involved in this project, I don't see the conflict, but they apparently found this to be a conflict and require that they be off the case. That has now caused some delay in other engineering hasn't it?

Jeff answered, that's correct. Christopher Burke's firm was engaged by our team in December of last year. We started the preliminary feasibility analysis of ground water, of storm water, hydrologic, and hydrology components of the project. That was their specialty, water resources. We continued to work with them. They prepared a preliminary feasibility report, which was part of our original submittal for our February Public Hearing, which addressed how much storm water was going to be generated by this project, addressed the kind of discharge rates that we would be discharging into the Singleton Ditch, the things that are related to the County Drainage Ordinance. As we went through the process through the Plan Commission, at the May Plan Commission meeting, the Plan Commission required us to get a Drainage Board Permit, so with Christopher Burke's firm, we completed an application, submitted it at the end of May through the Lake County Drainage Board, the Surveyor Office as their agent reviewed the documentation, their firm by the name of BLA reviewed the documentation, came up with review comments, we responded, we went through an exchange of review and responses, and around the early part of July, this is when our team received notice from the County Attorney that there was a concern of conflict with Christopher Burke, and that the Drainage Board and the Plan Commission was not allowed to utilize Christopher Burke's any of their information. We went through about a 30 day process of engaging another firm, went through a request for proposal process, and received a proposal from URS, Brian Brown, and Maggie represent URS, they are out of Indianapolis, URS is a national firm. Brian is the Water Resource Division Director Manager of their firm down there in Indy. The early part of August, we engaged their performance, they were given strict orders not to review Christopher Burke's firm's report. They were given strict orders to come up with a completely independent third party report. So that's what we've been doing through the months of August, September, and October. One of the things that's lacking, in terms of the Drainage Board, is what Jim referred to is the very expensive drilling, and pump testing to determine how much ground water is going to be coming out of the limestone. We feel, by (inaudible), some of the geologic information that is public domain, of what we know that limestone generally produces, and created some calculations, and created feasibility on our team site on why this makes sense, and that we are not going to be always under water during normal working operations, which has been insinuated through the Plan Commission process. How do you pump all of this water, well if you think about it quarries traditionally, and typically are an outwash basis, which is where rivers and streams are there, because that's what the glaciers did, they put large deposits of aggregate, etc. in the (inaudible) through glacier times, so this is not untypical of what you see throughout the State, or throughout the United States for that matter.

So, in any event, we've engaged the URS, we are probably 90% complete, with a report, which we want to complete fully on behalf of our submittal with the Drainage Board. We've met with the Surveyor's Office within the last few weeks, to bring them up to date on where we're at, and it's through the analysis that they did with the computer modeling that FEMA, and the DNR require us to do, as we go through permitting that looked at, if we had the worst case scenario, that's identified in the Patrick Report of 17,000 gallons a minute, which equates to the 24 to 25 million gallons a day. What impact does that have on the ditch,
and Bill, if you don't mind...

O'Donnell interjected, that's what I think is kind the missing part of the puzzle piece that I'm not getting here. O'Donnell said I can't remember a time, in the 12 years that I've on the County Council, that the Plan Commission has gone out and hired an expert to (inaudible). But that's apparently what's happened here, and we spent about \$14,000 dollars. They have the Patrick Report, I assume, did they put any evidence, I didn't see it in the transcript, that they could do the same calculations that you did with the Patrick Report, about the Singleton Ditch?

Jeff said absolutely, and it's a model that we get through FEMA, and DNR, it's not something... O'Donnell interjected, "so you didn't invent this?"
Jeff said no, it is on-line, and anybody that's (inaudible) these are FEMA studied streams, this is what we use. Singleton Ditch, at our point of discharge, drains over 35 square miles. If you go to Lake of Four Seasons, Lake of Four Seasons drains (inaudible) our front door.

That's one of the things that Mr. Van Til in the Surveyor's Office was very, very stringent with us in December when we first met. He said for me to really get into this and review this on a positive basis. You've got to give some benefit to the drainage basin, so that's what started the basis of design of our site is to create a benefit to Singleton Ditch drainage basin. That's why we have this reservoir of the quarry being a holding tank for flood waters, and we recognize, and Mr. Rhodes of Rieth-Riley recognizes there may be periods of time, because of floods, that their quarry may not be operating. But in the case here, this is at the bottom of the ditch, and we're at elevation 634 on average. And if you're looking at dry weather period, which is what we have now, when you put your stick in the water, you'll see about a foot to a foot and a half depth, that pale blue area is the existing stream. If we're pumping in the worst-case scenario, as defined by the Patrick Report, we're adding ten inches of water, onto the water surfaces there.

And I would tell you from what I've heard from some of the "feet on the ground" information is that a lot of farmers in this area draw water from the Singleton, and their irrigation channels that finger into the farm fields, and there are streams and pumps that farmers will then attach to their irrigation systems that you see that are on wheels and whatnot, so it is our opinion in dry weather cases, this is a benefit to the irrigation systems of the Singleton ditch tributary. What we did, we measured this we went up to an elevation of 637, which is only 2 1/2 feet, we would be developing an impact of about 8 inches of water would be coming into the singleton ditch. If we go 1 foot higher at elevation 638 if that's what the ditch elevation was, we would be adding 4 inches of water to the water surface elevation. At 639 we would be adding 3 inches of water, at elevation of 640, we would be adding 2.4 inches of water, and at elevation 641, we would only be adding 1.92 inches of water into the Singleton. This is not our opinion. This was taken the Federal Government, and the State Government' computer models for this ditch, and implemented (inaudible) gallons of minute, into there, and what's that impact? If it's URS, it's Christopher Burke, or anybody else. This is the same general information they are going to get.

Jim further explained that our ponds for our sites have about 3 feet of water for storage, and then from our storage maximum high water level, we have another 3 feet that will provide benefits for flood waters coming to the Singleton.

Jim further stated that they have designed spillways, high volume, gushing water quantity spillways that would take all of the Singleton Ditch floodwaters, over those spillways, and into our site completely inundating our quarry. That has been the design, that is what we've committed to, this has been our written commitment, this has been part of the plan from day one, so this is what we think provides a strong benefit to the storm water basin for the Singleton.

Blanchard asked Jim to go back to a particular slide that Jim made reference to during his presentation because Blanchard had some questions.

In the meantime, George Van Til wanted to make one correction, for the record, he said they said "potential conflict of interest", they were quite clear on that, "potential" conflict of interest. Mr. Van Til was referring to the notice from the County Attorney.

Blanchard asked where did they get the designs on those maps from?

Jim said that those cross sections come from models that have been provided, and FEMA created.

Blanchard asked how old the computer model is, and were those recently drawn?

Brian Brown from URS Corporation explained that they were updated with current elevations from the way it is now. They were taken from the compost of the Dinwiddie and the Singleton. The 2 ditches that come through to the site. He said the cross section is updated based on current contours, that are out there now.

He said part of requirements for doing permits with the DNR which we planned for, is you have to take what is out there now, the rest of the explanation is (inaudible).

He said they had Kroll & Sons as our Surveyor, who took topographic survey data, which was given to URS and they created what's called a corrected model to reflect the current conditions.

Cid said there is a Change of Zone check list, and one of the items is clearance of the Lake County Surveyor's Office for preliminary (inaudible) approval, and asked was that received, or not received?

Attorney Wieser answered, yes, that's the document I held up before and referred that the Surveyor's Office gave us. That is what we have always understood that document to be, a zone change approval, for preliminary purposes only, and subject to final engineering and drainage approval because we're impacting a regulated drain.

O'Donnell clarified that this is not a public hearing. This is a public presentation by these guys, and the public doesn't get to comment.

Commissioner Scheub said that my concern is the zone change, and that's what we're here for tonight. The Comprehensive Plan states this property is for agricultural, recreation, or limited development. The stone quarry is definitely not a limited development.

The Indiana Court ruled that this is a flood hazardous zone, that we do have jurisdiction. It's been proved in court that we do have jurisdiction over this because it's a flood hazardous area, so it's not that we don't have any say so on the re-zoning. We do have a say so. That area, the water table goes from zero to about six to twelve feet, depending on how much rain we have. So, I don't know how you can pump 24 million gallons into the Singleton, which pictures I've given you show where it's flooded after 3 inch rain, and not have a consequence on the farmers, and the residents.

The draw down from the aquifers is going to affect wells. We will have a person to speak on it, 200, 260 wells in a minute, but the soil does consolidate when the aquifer goes down, and it could cause cracking up to 4 miles from what they state. I'm not sure of that, but that's what I've been told.

There's wetlands on this property. This is the first time we have heard that it's 350 feet deep, so how much water is going to go, is it 24 million, or is it going to be 40 million? You can't tell me they're going to hold a 24 million gallons on that property. If they are, we don't have an argument. If they keep the 24 million and never let it go in the Singleton, and let it go back in the aquifer, nobody gets hurt. But they can't do that. That's why a zone change is so critical here.

You talked about jobs, well what about the future of Rt. 2? It's going to kill the rest of Rt. 2, from I-65 to Porter County. So you're going to take a couple of jobs down, and sacrifice jobs in the future for one of the best developed areas in town?

I have a gentleman up here that I'd like for to stop down, Mr. Zimmerman. He is Pottowattomi, and he came down from Michigan, and I just want him to talk, just for a minute so he can address his concerns.

Mr. Zimmerman began speaking in another language.

O'Donnell asked does Mr. Zimmerman not speak English?

He responded, Mr. Zimmerman speak many languages.

O'Donnell said we would appreciate it if you would speak English.

Mr. Zimmerman said he will speak (inaudible) first then he will speak the English. With all due respect, I am one of the last speakers in my area, so it's very important that I finish, and this is our area, so with that said, my name is (inaudible) Zimmerman, Jr, in English. In (inaudible) it is may his light shine through, and also (inaudible) strikes the earth. I am 29 years old. He starts speaking another language again. He then said he is also a (inaudible) store preservation officer, (inaudible).

He said this area, which was homeland to our people, and also (inaudible). With that said, one of the previous attempts to develop an area, not far from here. He made reference to the area being used for burials, and it's their homeland, and it's their job to protect it. He said that it's our job also to protect those who can't speak. He is here today to speak on their behalf. So with that said, I'm just letting you know that in the event that any archeological sites are disturbed, or any ancestor' remains are disturbed, that it would be our task, specifically my tribe and the others too, I will try to get them repatriated, reburied.

Cid asked is there documentation of such, you are talking about burial grounds?

O'Donnell said, there is no documentation. There is no indication of burial grounds.

Scheub said I understand there's five historical sites, now I don't know if they are burial grounds or not.

O'Donnell said, well you read the report, I mean, there's not.

Scheub said, well I don't know.

O'Donnell said the report that's in evidence says it's not. It says it's got some pottery and stuff like that. It doesn't say anything about a native burial ground.

Scheub said I don't know if anybody's ever investigated.

O'Donnell said he put into evidence the report is from the Indiana University the University Archeological.

Prince said I think it's important whether there is, or isn't, or there aren't burial grounds there, but equally, or maybe even more important is how the Petitioner's plan to deal with this. I think Mr. Zimmerman' concern is not the fact that they are there, but how would they address them.

If the next question or when the Petitioners get an opportunity, I'd like them to speak to that, but I don't want to interrupt you Commissioner.

Scheub said I did talk to people in Indianapolis and they said that Phase III would be required on all the sites. They are in to Phase II right now. But if they do get a zone change, then they would have to do the study, and they would have to go into a Phase III.

Prince said I'm familiar with what is required, but again their request would actually come from the Petitioners to see how they (inaudible)

Scheub said and we haven't discussed the Singleton downstream. There's 11 tributaries that connect into the Singleton, after Clay Street. Many of our problems are going to happen downstream, which nobody is addressing and the picture of the Norfolk Rail Road shows where the water level downstream on Parrish, on 221st goes up onto the steel railings on that bridge, and stops the water and makes it back up and that's what 24 million gallons is going to add to that problem. So this is a concern why the zone change should not be allowed, and this goes from Clay Street all the way down to Illinois

The wind turbine people just pulled out of South County because of the drainage problem and decided potential disruption wasn't worth it. The Kankakee River Basin Commission, which is made up of Commissioners from eight counties, the Surveyors from eight counties signed a letter requesting that this not be approved. The Kankakee River Basin in Illinois is also doing a Study right now too, so we don't have the report from them. The most desirable use for this is definitely farming. Because when you take that water and put it into the Singleton, and you're pumping 24 million gallons a day, the ecology on the Singleton is going to change, and probably the Kankakee will change, and that endangers the fish, the wildlife, the aquatic conditions, it affects everything.

We asked for a statement that there wouldn't be any reduction in property values, we did ask for that. We didn't get it. We did get one, we were able to get one from Dr. Hite, who is a Professor at Auburn University, and she did a study on this and property adjacent to the quarry, the property value reduced 30%. One mile - 14 ½ per cent, 2 miles - 8 ½ per cent, 3 miles - 5%, never to be regained. The owners of farms and homes have their life savings invested in this area. If we do not support their future, and protect their investment who will? We are here to protect the people that we represent, and that's so important. I just want to, again, the Comprehensive Plan is important, and it calls for this to stay agricultural, recreation, or like development. Not such an enormous thing as a quarry that's going to bring 400 trucks in a day. Route 2 can't handle it the site can't handle it. They can say all they want, but we have a serious problem with the future and the County taxpayers are going to be responsible for any damages because that Singleton right now, can not handle what's going in it, during serious rain storms, and all we're going to do is add more to the burden of everybody, down there and we can cause a lot of people their livelihood.

Rick Niemeyer said he has a quick comment because he is on the Plan Commission, and most of my comments have been through the Plan Commissions, and part of the minutes. I have been living in that area all of my life, and the intensity that that area has for drainage, before the Kankakee basin, and for that area for farm ground is immense. I don't think there's a magnitude, I can't argue with Jeff and all of these calculations and things that they throw out today, but I can go by practical what's going on in the area.

In the last 10 years, we've got more water dumped on that area than you can believe with developments from Four Seasons, St. John, Crown Point, that basin starts at 101st Avenue, which is south of St. John, and goes all the way to the river, and 95% of that drainage goes into the Singleton before it goes into the Illinois and the Kankakee River. We can't handle anymore water, and now we're doing a development down there that's going to take away from some of the best farm ground that we have in this County, and we're going to turn that over to commercial project. Would a garage work down there? Yeah, you can make money with a garage down there, or a body shop, or anything else. Anything can make money, or business. Is that the number one idea here, is to make money, tax base, and everything else that goes with it? That's my concern with the zoning. My problem with zoning, the best use right now it should remain that way it's a conservation of farm area. That's what it is intended to do. No one had more passion than my Dad did. He was in the Senate for 12 years, he developed a lot of the drainage, the laws that we're using now in this County, the Drainage Board. They get things done in that area, they get done in the Calumet Basin area. The representation that we have in that, back in the 70's the Towns of Shelby and Schneider with floods, we got a dike built down there through his work. He carried it out to the County level as County Commissioner, Drainage Board, and it carried over into me, the passion for that area. So I think I want you to just remember that in your decision, how important it is to make sure there are areas that need to be reserved in this Town for what they were intended to be used for.

Cid said you said this is the best farm ground that we have right now, so this is being farmed right now, yet we have a gentleman that wants to sell it, because that's a question from the other side. There is a gentleman that wants to sell or am I correct on this or not, or that hasn't been determined yet?

O'Donnell said there's an option, they have an option to purchase.

Attorney Wieser said, I'm sorry, they have an option to lease, not purchase, lease.

Commissioner Scheub said that farmland generates about \$700,000 a year. That's in corn. Soybean generates about \$1.5 million dollars a year, so it is very productive, and it does bring a lot of money into Lake County.

Ned wanted to explain the Plan Commissions' recommendations. Ned said that the public hearing closed February 17, 2010, yet we're still accepting new documents into the records.

Ned said the Petitioner presented nothing to show that they were not negatively affecting the property values. He said the burden of proof is not on the Plan Commission, it's not on the individual remonstrators, it's on the Petitioners to show. They also put nothing in the records to show that they were going to (inaudible) property.

Ned wanted to say a couple of things about your ability to regulate land use. Ned said I believe you have the ability to regulate this. State Law enabling legislation gives you that responsibility, and you've exercised that authority by adopting local ordinances. Specifically, the Lake County Zoning Ordinance grants you the authority to regulate quarry under it's conditional development. Ned said the purpose, and that's important cause it's something that we really haven't talked about, but the purpose in the CDD Zoning is stated in that Ordinance that you approved and passed is to protect the public from uses that have a serious impact on the environment and on neighboring property.

If that, in and of itself wasn't enough, tonight's request for a quarry is located entirely in a special flood hazard area. There is specific case law that gives you additional authority to regulate this use in a flood plain, flood (inaudible), or floodway area, exclusive of the fact that this property lies directly adjacent to the (inaudible).

With that said, you have the request before you to establish a quarry south of State Rd 2, north of the Singleton Ditch, east of I-65, and west of (inaudible).

The County Plan Commission forwarded an unfavorable recommendation to, and based their decision on the failure of the Petitioner, Singleton Stone, LLC, to provide adequate information by which the Plan Commission could properly attempt to regulate this highly unique use.

During presentation tonight, many of the questions that you've asked, and it's around this entire request, should have been already asked. They should have come to you with the set of conditions and criteria by which to regulate this use. You don't have that. The Petitioners have given you a great deal of testimony, none of which is supportive of the evidence they submitted.

Ned said if you check the information that was forwarded to you, along with our file, you should know there is no credible evidence or data has been submitted to support any of the claims of the Petitioners.

Jeff, himself said they did a study which addressed ground water down 45 feet, yet he stands here tonight and says we're going to go 350 feet deep, and doesn't address that additional ground water that's going to be (inaudible) by the 300 additional feet they're going to dig.

O'Donnell asked if Ned could remember a time, or a case when the Petitioner for a zone change, had to get not just preliminary approval from the Surveyor, but Drainage Board approval?

Ned answered, yes.

O'Donnell asked Ned to tell him the name of that case.

Ned answered, Hickory Hills, USA.

O'Donnell said you're the one that's cost us \$8 million dollars.

Ned answered, no we are in a similar situation, and the Council approved the Zone.

O'Donnell said, so there's been one time in 31 years.

Ned said, no I think there's been more but I didn't go back and look at them. He said that every time there is a unique specific situation, like this one, the Plan Commission' job is to investigate and report to you. I think that is what they were attempting to do, in making this recommendation to you, but they got (inaudible), unless Hickory Hills, I went back and I was tempted to bring the boxes of studies, and reports that were done before the Plan Commission meeting. We have boxes of information of studies and reports that were done before (inaudible). So, I don't believe it's unique and specific. I believe this request generated that request to go to the Drainage Board. We asked for other material, in that summary, you will find 14 items that we asked for all of which, many of which weren't addressed, many of them having to do with drainage and ground water versus stormwater.

O'Donnell said, and if I read the transcript correctly, I think I did. The indication on the record as Commissioner Scheub indicated that those 14 questions came from (inaudible) attorney. Ned said no. I have had no contact with (inaudible) attorney, don't even know who he would be.

O'Donnell said well I'll read the transcript when I get home. That's what it said.

Ned said then the transcript would be incorrect because that is not true. Those 14 questions, if you want to know, the 14 questions came from the Plan Commission staff, in the staff summary that you have.

Ned said the Petitioner has stated all along that they believe that since they satisfied the requirements for filing their application, Jim pointed that out earlier, along with the agency comment, they feel that the Plan Commission should not be able to request additional information to answer any of their questions. Ned said that's a totally inappropriate review. The only thing that Jim pointed out to you, and Christine mentioned, when talked about it. We have a form that requires certain things to get on our agenda. I think that the view that Jim proposed to you is that he has gotten approval, and by the way that sheet doesn't say approval, it says you have to get comments from the Health, Highway, and Surveyor's Department for every Petition before you, not approval. They are allowed to comment. I think that after they comment, and we take it before the Plan Commission, you shouldn't minimize the role of the Plan Commission in this entire process. The Plan Commission' role shouldn't be minimized because the County Agencies have made comments on the specific items that they are...

Ned asked Cid, does it say approval.

Cid and O'Donnell answered, it says clearance.

Ned said comments, we always refer to it, you shouldn't minimized the role of the Plan Commission. The Plan Commission holds the public hearing, they hear the remonstrators, they hear the petitioners, they look at those comments, and then they address, collectively, just like you're doing tonight, all of that information, and then they make a decision.

So I really, throughout this entire process felt bad for the Plan Commission because their role is minimized by (inaudible). The Plan Commission asked the Petitioner to supply specific items, in order to reach a fair conclusion regarding regulation, but they denied (inaudible). You can read the 14 items over there yourself. I think that they were important especially with respect to this use and the environmental consequences they'd have. As a result the Plan Commission hired their own engineering group to assess the information we had been given regarding (inaudible). Yes, (inaudible), yes from Jim, and BBG.

They assessed everything. The result from that investigation, and the reason I handed you that summary was at the end, you will see a letter from Environ Engineering, dated September 14th to the Plan Commission Staff. This letter was done, and addresses questions, it questions the documents that were submitted by the Petitioner as being incomplete, or insufficient to assess the impact issues it may have on the community.

If you look at that letter by Environ they say that adding 10 inches of water to that ditch, is not something to joke about, it's a serious matter, but they went over it, and don't make a big deal out of it, they show you the ditch as being empty, and then show you as they add gallons of water, naturally, the "V" shape, it's going to be less as you have the same amount of water.

O'Donnell asked was the same engineer on the Environ team from the start?

Ned said they are the same group of individuals that are attached to the back of that Staff summary were the same individuals who, along with their credentials that were on it from the start.

Ned said so consequently the Plan Commission had no way to assess, protect, or regulate this unique use. At the September 15th meeting in the Plan Commission our Attorney, Joe Irak asked the Petitioner for more time to submit the materials required by the Plan Commission, and they responded, and it may not be exact, but they responded by saying no that they wanted a decision immediately, that night.

Therefore, lacking the necessary materials to make an informed decision, the Plan Commission forwarded an unfavorable recommendation.

Finally, the Public hearing has been closed for a long long time. There should be no new information permitted into the files. This petition as presented needs to be determined tonight, I hope you guys vote on it tonight, and I hope you make a decision one way, or another.

Nothing prevents the Petitioner from initiating a new zoning petition, because Jim said it's almost a year old, and he is exactly right. Containing adequate information so that the Plan Commission can provide conditions, and regulations that are fair to everybody involved. That's really all I have to say and that's really the synopsis of what the Plan Commission went through these last 10 months.

Jim Brown, an Attorney in Crown Point, Indiana and he represents one of the affected property owners of this proposed site. Attorney Brown said one of the particular concerns is the water wells, and his client

says that his water well happens to be 50 years old but (inaudible). I'm sure that is probably the case, in this area throughout because there are many well that are much older than what (inaudible) the creation of the indexing and record keeping by the State. I didn't come here tonight prepared to argue point by point the petitioner's presentation. I did come here tonight to comment on behalf of my client and an observation I've made because anytime you get a two or three lawyers, in a room, and a bunch of engineers and the more time we spend, and the longer things go on, the more complicated and complex things start to get.

Attorney Brown said I simply ask that you step back and think about what it is that we're trying to do tonight, what your duty is, and I'd suggest that it's really not that complicated. We're talking about changing the zoning of a piece of property that's located in a particular location from agriculture which is what was determined to be the best use, and most appropriate use in Lake County, by our Planning Commission, which is an extremely competent professional organization, and that recommendation by the Plan Commission, going back to the Comprehensive Plan was ultimately adopted by your very body, the Lake County Plan Commission years ago. Yes, members change and so forth, but you guys, your body determined many years ago that this area was an A-1 Zone, which was the highest and best use, and that was the appropriate use for this area. What we're talking about tonight now, is whether or not we should take this particular use, a stone quarry, and instead of having that land being used for agricultural purposes, start digging limestone. I would suggest that it is not, but that decision has already been made for very good reason as outlined in the Comprehensive Plan as outlined in the findings that the Plan Commission has made.

In the past, similar questions have been presented to the Planning Commission, and to the Council, that is, we would like to put a stone quarry at a particular point in Lake County, and those requests have been acted upon favorably, in fact there are 2 active quarries, much further to the west that's been in operation, that's been approved by the Plan Commission, that's been approved by the Legislative body, you the County Council, so it's not a question of quarries don't belong in Lake County. It's a question of where is the best and appropriate use for it.

Attorney Brown said that he thinks this is a simple matter. He said that one thing that he and Attorney Wieser can agree upon is that the criteria you are suppose to consider, as a legislative body, number 1, the comprehensive plan, #2, current conditions and the character, current structures, the usage in the districts, #3, the most desirable use of which the land in each district is adapted #4, the conservation of property values throughout the jurisdiction, and finally, responsible development and growth. Those were the criteria that you, the, as the County Council were charged with paying attention to when you adopted the Comprehensive Plan, when you initially zoned the property for agricultural purposes and those were the exact same criteria you are supposed to be following today, when you consider this petition. The burden is on the Petitioner, who has convinced you that the County Council, many years ago was wrong, when they zoned that area, A-1 to begin with.

I don't believe they were wrong then, I think the Plan Commission, in fact was right on the money, that this area should stay A-1. I would hope that you would follow the, consider the experience and expertise of your Plan Commission.

Attorney Wieser commented in reference to Attorney Brown's statement. Attorney Wieser wanted to correct the record by saying that there are not two active quarries. There is one current active quarry, and one zoned, but not active. Interestingly enough, neither one of those quarries required the engineering that they required for this quarry, neither of those quarries required drainage board approval, prior to them being permitted, and that an active quarry utilized millions of gallons of water, goes through that quarry, and gets pumped out of that quarry because that's a quarry operation. They never had to do anything like this, but somehow it was okay. So I would just like to point that out, and the other one has been zoned, but they didn't have to do it either.

I want to dispel one notion here because it's just not accurate. The notion that says that we somehow have an obligation to present affirmative evidence regarding property values, that isn't what, Jim just read you the criteria. It just says you need to pay reasonable regard to conservation of property values, throughout the jurisdiction. We demonstrated that. It's in our Findings, I read it to you before. We've clearly demonstrated that. There isn't, as was pointed out before, not one shred of evidence, and I agree with Ned. I'd even hate to walk across the street and see all of the documentation from the landfill. I would get nauseous. I spent a lot of time, about a year and a half of my life on that. And I could tell you one thing, you know why it's so voluminous, it's because the remonstrators presented engineering studies, and reports, and economic studies, and property value studies, that was all presented. There is not one thing that has been presented here to you. All that's been presented to you is what I started out talking about an hour and a half ago. And that is it's all supposition, and it's all emotion. Think about this for a second. This just boggles my mind. You asked for the representatives of the remonstrators to come forward. Who were the first two representatives of the remonstrators? Two Plan Commission members. Are you kidding me? And we are supposed to believe that they are unbiased, that they will make a fair and impartial judgment, let's think about it. You talk about conflicts. Take those guys who are clearly remonstrators, out of the role, and you would be facing a 3 to 3 vote here, not a 5 to 3 vote. That's what happens. That's what happens when emotions take over, and politics takes over instead of (inaudible). What we've done is stuck with the facts, so I just find it so difficult to believe that anybody could consider that accurate, and I also want to say that word, I know that we use agency comments. I talk to Ned about

it all the time, and it's the agency comments, the agency clearance. The agency clearance isn't an approval. Not only isn't it an approval, I read to you the relevant portions of both of those, and both of them said approval, subject to final engineering, subject to final plans. They both said that. So what we did, is we complied with the process, and I feel so, Mr. Zimmerman, if you're still here. I feel so bad for how you've been misused.

Here is the report, interestingly enough. You asked who supplied this report? The Plan Commission they supplied it, not the remonstrators. The Plan Commission supplied this report, a 51 page report. I would tell you, we have read this report backwards and forward. I defy anybody to look at this report and say there is any reference whatsoever to burial ground. You know why, because there is not. What there is, and these are the facts, it's right in here, 5 identified archeological sites. Two of which are not even within the perimeters of our quarry design. They are outside, so that's 3. Three archeological sites on which were found pottery shards, some arrowheads, and some identified darker earthen areas, and a couple of other minor things. We put in our commitments, and we told the Plan Commission, whatever is required, if it requires, like Gerry said, a Phase III analysis, and we don't need to get into the technical aspects of that, we will do it. We will do it. We will preserve whatever needs to be preserved, and we will identify it. We spoke with the person who discovered that stuff, and he confirmed that that's what it was, and that that was all that it was. So the facts dispel the notion that there's anything that we need to worry about in reference to that.

I will agree, with Ned, Gerry, and Rick that the County has certain jurisdiction in the flood plain area. I will disagree, as to the type of nature of it, or that they have jurisdiction. I don't dispute that. That's not what we're talking about. We're talking about a process that's been abused, and it needs to be corrected, and a decision that needs to be overturned.

Mr. Scheub talked about, or maybe Ned did, this 14 questions that were asked, just so the record is straight, because that is one portion of the record I read, on more than one occasion. On May 19th meeting, Mr. Scheub, in a question posed by me, said, acknowledge, and admitted that the list was partially developed, and I'll give him credit. He said partially, partially developed from documentation received from Vulcan Materials, and their legal counsel. That's on the record, and you'll be able to look back at the record and see that. As far as the 14 questions goes, on August 9th, we submitted an answer to each and every one of those questions, so to say that we didn't, is not correct. We responded to every one. They didn't like some of the responses, but they were responded to.

I'm just going to give you one example so you'll understand what we've been going through. The last question said provide us with an environment impact analysis, pursuant to the Indiana Environmental Policy Act. That was a new one to me, so I looked up the Environmental Policy Act. I consulted with Attorney in Indianapolis because I wanted to make sure I was correct about it. The Indiana Environmental Act doesn't apply to municipalities, counties, or local jurisdictions. The terms and conditions to the Indiana Environment Policy Act apply only to certain projects that are done by and developed by the State of Indiana, only. So we provided that answer and said, what you're asking us to do, we can't do because we would not be in compliance with the law, so we can't do that. Their response was "too bad". We wanted it, you didn't give it to us. What are we talking about here? We need just to stick to the facts. That's simply what we need to do.

The Kankakee River Basin, and before I make a comment on that, and I will just say this real quick. I agree with Ned, and this is what I agree with Ned on. No evidence that wasn't submitted at the Public Hearings is permissible. Therefore, we clearly object to pictures that Gerry was referring to, that I don't even know what he was referring to because they weren't introduced at the public meeting, but he says you guys have them. Okay, there's other evidence that obviously they say you have that we don't even know about. That's clearly wrong, that's clearly erroneous, if it wasn't brought up at the public meeting, we object to that, and we want to let you know that, but I want to say one other thing.

Kankakee River Basin Commission sent a letter after the Plan Commission made their decision, saying we oppose this. As I've stated before, nothing ever brought up at the Plan Commission about it, never presented in to public record, but a letter comes from them saying we oppose this. Did we get called to say, could you appear before us so we could hear what your project is, or what your proposal is, no. Our County Commissioner went down there and said, "I need a letter". "Give me a letter". They gave him a letter. It's interesting. I don't remember the Kankakee River Basin Commission sending a letter and objecting to the landfill that's now built in Newton County, that never was built in Lake County, or the ethanol plant that's down there, but they got a letter against us without us ever being able to comment on it, and without it being introduced in the public process. It goes back to what we said from the start. This needs, your determination needs to be based on the facts, and the facts is what we have presented. The remonstrators have presented no facts, no evidence, no studies, no recommendations. They have simply said, as Gerry got up here and said, "I can't believe that much water doesn't have an impact on it", "I can't believe that the groundwater wells aren't going to be impacted". Then show us. Show us something empirical that says it won't be. Nothing like that is in the record, therefore, based on the facts, the impartial facts, by an unbiased impartial Board, such as yourself, not representing remonstrators as several Plan Commission members did. The determination is clear, the action of the Plan Commission should be overturned, and the zoning should be approved.

Bilski made a motion to approve zone change ordinance # 2324, Lake County Trust Company # 5240, Owner & Singleton Stone, LLC, Petitioner, from an A-1 to a CDD. Prince seconded the motion.

Cid said there is mention that there is another quarry. Was that quarry in a flood hazard zone, or carryoff or not?

Ned answered I don't believe so, the quarry that Mr. Wieser was referring to, there are two of them, they are off 210th an Austin Street, across the street from each other. He was exactly right, when he spoke that one of them is not functional, the other one is operational. The reason they were no provisions, such as the that is required tonight is when it came before us in 94, it was already, it already had been a stone quarry previously that was abandoned, and there was no reason, it was already a stone quarry, it had already been mined, there was no reason to address all of those (inaudible).

Cid commented this is a very tough decision, and she would like to defer it because she would like to consult somebody, a third party who has no emotions towards this because I don't know what the truth is here. I'm supposed to base this on facts, you know 26 wells?, No it's 200 wells, Comprehensive Plan says yes, no Comprehensive Plan says no. Yes we can retain that water, no we fill, because, that's right, I haven't really seen the evidence that says that what they have adjusted cannot be done. I have not seen that, so I mean, I don't know how I'm supposed to vote today when I don't, I believe, cannot determine what is the true facts in this case. I just can't determine that.

O'Donnell said, but that's our job to do.

Cid said I know, but....

Dillon said this is like deja vu, a little irony, when I first came on the Council we had that 1 per cent option income tax issue, which was people half wanted it, half didn't and this issue with the quarry, do we have a quarry, do we not have a quarry, and for me, I guess I'm trying to look at green space, land preservation, going green, and these types of concepts in South Lake County and there's a lot of activity in South Lake County with the trash ethanol movement, homeownership, and development and growth out that way. Of course the South county highway that's coming in, east and west, and I would not be supporting the quarry at this time, and so my vote is usually the first vote, and I guess my position is no, and know why. I know that there's a lot of people that want it, and why, and union jobs, and I know that's important, and the homeowners in their future, and the potential of contaminating their waters, you know, their concern, and I just wanted my position known.

Franklin said I've heard so much tonight that I'm not sure what I heard. Recognizing and understanding that it's our responsibility to make a decision, as it relates to this particular issue, for me, I can't make a decision based on things that I'm not even sure of. I've read so much, and it's so confusing, there's a study here, there's a study there, there's a picture here, it is totally confusing to me, and I will not sit and make a decision on anything that I am uncomfortable with, and I am just not comfortable with the different things that we've heard tonight. We've interrogated our staff, as if they are in a Court of law. And if we don't have anything else, we should have some confidence in our Planning Department. That is what they were hired for, they should be there to give us some guidance. I have listened to Ned over the years, and I have never been disappointed in the things that he the things that he has said to me. There are some things that disturb me about this project, it is not (inaudible).

We need to have some, I think we need to have an independent study of our own, because this is

O'Donnell interjected we've already paid for one, it's not done, \$14,000 dollars we've paid.

Franklin asked well then, if we don't have one, why are we even sitting here talking about voting on it?

Blanchard made a motion to defer till the December 14th meeting.

O'Donnell said we will do that after everyone' had a chance to talk, out of respect. If we could wait, let everybody talk, with all due respect.

Prince said a couple of things are certain here, and one is that and I just confirmed with Ray, and that is that whether this thing is approved or not, this isn't the end. If it's approved tonight, then they still have to go through permitting, and things like that. If it isn't approved then, or we do nothing, then by December 28th it gets defeated automatically. I think as the Chairman suggested, that's what our responsibility is, is to make a determination. Obviously, there's two different concerns here. There are those who support it, and those who oppose it, but it's my opinion, and I think it's our responsibility to listen to all of the information that's been presented tonight, and through the last 10 months, and make a determination one way or the other. I personally would not be in favor of a deferral, but if it comes to that, I'll certainly vote for it, so that everybody gets their due process and ultimately, hopefully we can come back within a week or so and make a decision, one way or the other because as I started off in my comments, it's not done one way or the other. Whether we approve it, or not, it certainly is not done tonight.

Bilski said I've been living this since the beginning (inaudible), unlike my colleagues I'm probably a little more in tune to what is going on here. I think that neither side wants to see any harm or reproach come to any of the residents there, and I can assure you that if, in fact these (inaudible) were to take place that there would be an injunction on this project that it would be stopped immediately, and I truly believe that. I think there are a lot of wells out there that probably aren't registered. I think that that's been addressed. I think that you're dealing with a competent company in Rieth Riley that has made a commitment to Lake County, and I don't believe that they would continue on and push that issue if there was to be any harm caused from that ditch, and I made my decision and voted at the Plan Commission, at the last meeting.

O'Donnell said I would like to apologize to Larry Blanchard, Larry Blanchard is my closest friend on this Council, and I don't believe he has ill intent. The problem is this, there's a process that you go through at zoning, and Mr. Wieser had pointed it out, and there's steps, and those steps have to be followed, and you can't be arbitrary, or capricious and the Plan Commission makes the recommendations to us, and we sit as Judges. We make determinations based on the facts that are presented, not a whole new record, although that's what happened because there's been lots of lobbying from the sides. But the facts that are in the records are what we're supposed to base our opinion on. We don't get to say "give us more facts", "give us different facts", "give us new facts". We are charged statutorily with making the decision tonight. We don't get to ask for more evidence. We have the evidence that we have, and if you vote "no" on it, then vote "no" on it, but I'm going to tell you what's going to happen when this is voted down, and that's when the lawsuit is going to be filed because Jim Wieser nailed it. The unbiased Plan Commission members come down and remonstrate against the very, the very event that they're trying to be impartial about, to us.

The very Plan Commission members, who are supposed to be unbiased, you think that they are going to give them problems at the zoning level, guess who the Chairman of the Drainage Board is? Commissioner Scheub, who I have a boatload of respect for, but here is what I can't tolerate this happening. We paid \$8 million dollars, \$8 million dollars on Hickory Hills. I don't want to do that again. These guys have followed the rules, they've done what they're supposed to do. They've presented all kinds of evidence, and this gentlemen here with the (inaudible) hat on keeps shaking his head no, as if he's got other evidence, but there is no other evidence. The evidence that's before this Board is that the Singleton Ditch can accommodate that. That the ... George Van Til came up with a great idea, a few years back. He suggested that we buy a golf course in Illinois, dig it out and make it a retention pond for Calumet River Basin. Great idea, \$22 million dollars, way too much money. We've got a group that comes in and says, we'll give you a free retention pond, that will hold 3,300 acre feet of water. Billions and billions of gallons, instead in the last 3 years, we've had rain events 3 times in a year that have flooded everybody's farm fields here. This will alleviate that. You have to acknowledge....(crowd gets loud)

O'Donnell asked Mr. Neimeyer is everybody down there buying bottled water?

(inaudible) the crowd is shouting.

O'Donnell said, the bottom line is this, I'm off the Board as of January 1st, but I still pay property tax on my home. I pay property tax on the office building that I own, and I pay income tax, so I'm a taxpayer just like you guys are, and 490,000 other taxpayers live in this County, who would like to work at that quarry, who have followed the process, and done what they're supposed to do. Can't hear, (inaudible) the crowd is very rowdy.

O'Donnell asked Bilski is the motion to approve, with the commitments that's tendered?

Bilski answered, yes.

Blanchard said I would like to say, I know it wasn't intentional, but I never received the packet.

Attorney Wieser said we delivered it out to the County Council to you Larry.

Blanchard said, I never got it.

Blanchard said I also received a call prior to the Plan Commission's decision. One phone call on this re-zoning issue, and prior to the Plan Commission's recommendation, I had no involvement whatsoever. I wouldn't talk to people, I wouldn't go to meetings because I thought it could be conflict. I didn't want to get sued.

Blanchard said I understand that there has been tremendous pressure placed on my colleagues here, which I think is very unfair, whichever side it is. It's very unfair for them to receive that type of pressure, individuals that are able to apply the pressure, but that should end.

I will make a motion, I'm not quite sure what date, but I said December 14th, but if that's not fitting everyone's schedule. **Blanchard made a motion, seconded by Franklin to defer to December 14, 2010.**

Attorney Wieser said he can't. There's a motion on the floor.

O'Donnell said he can defer.

Attorney Wieser said, he can't. The main motion for (inaudible) procedure has to be heard. A motion to defer does not trump a motion to approve, it does not.

O'Donnell said I think you're right.

Attorney Wieser said that's correct. It does not.

Attorney Szarmach said during the motion, a main motion (inaudible)

Someone said a motion to table always takes precedence, it's not debatable.

Attorney Szarmach said yes, it's not debatable.

O'Donnell said, motion to defer then, I'll refer to our legal counsel, on the motion to defer then, roll call:

All voted "Yes", except Bilski, and O'Donnell, "No". Motion to defer to December 14, 2010 carried 5-yes, 2-no.

There being no further business to come before the Council, it was moved and seconded that the Council does now adjourn, to meet again as required by law.

President, Lake County Council

ATTEST:

Peggy Holinga Katona,
Lake County Auditor