

**Regular Meeting #49 - 2019  
Fairfield County Commissioners' Office  
November 19, 2019**

**Review**

The Commissioners met at 9:00 a.m. to review legal issues and pending or future action items and correspondence. Commissioner Levacy called the meeting to order with the following Commissioners present: Steve Davis, Dave Levacy, and Jeff Fix. Also present were Carri Brown, Rachel Elsea, Tom Lininger, Joshua Horacek, Tony Vogel, Dennis Keller, Jake Tharp, Mark Conrad, Chief Lape, Jeff Barron, Dave Burgei, David Miller, Jeff Porter, Ray Stemen, Rick Szabrak, Branden Meyer, and Aunie Cordle.

- Welcome

- Legal Update

- a. Timbertop Annexation Procedure Update – Memo Received from Assistant Prosecutor Horacek

Mr. Horacek reviewed the memo regarding the procedures for the annexation hearing and answered questions. Mr. Davis asked who was eligible to conduct cross examination, and Mr. Horacek replied that only necessary parties (the petitioner, Greenfield Township, and the City of Lancaster, along with the Board) could cross examine witnesses. Mr. Horacek confirmed that those presenting evidence would be under oath and that objections would be ruled by the presiding Commissioner subject to appeal to the Board of County Commissioners.

- Administration and Budget Update/Carri's List

- a. Announcements

November 21 – Elected Official and Department Head Roundtable

November 23 – National Adoption Day – Juvenile Court

November 28, 29 – Thanksgiving Holiday – Offices are Closed

December 8 – Township Association Meeting

December 10 – Holiday Open House

December 24 – Close at Noon

December 25 – Christmas Holiday

(Thanks to maintenance staff for putting up the holiday decorations.)

- b. Highlights of Resolutions

Dr. Brown provided highlights of 21 resolutions planned for the voting meeting.

We proposed a resolution authorizing the approval of a license for use of property by the All Accessible Sports Complex & Park, Inc., for the creation of an all-accessible sports complex and park at the location of the Board of Developmental Disabilities at property near the Forest Rose School. DD will approve all plans and work with the organization on the project. Work will begin only after that approval and only after the proper insurance certifications are in hand.

Juvenile Court proposed renewal of Sentinel contracts.

The County Engineer proposed changes to bridge load ratings. The County Engineer also proposed approval of a resolution to approve a Change Order for the Leib's Island Road and Sellers Drive Improvement Project.

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There were financial and grant related resolutions to approve, such as:

- A fund to fund transfer of cash from the Clerk of Courts Certificate of Title fund to the general fund for 2019;
- JFS proposes repayment of an advance;
- Appropriations from unappropriated funds for Juvenile/Probate Court, the Sheriff, Utilities, and the Engineer (six resolutions);
- Interest credits for the Board of Health and Parks District;
- Account to account transfers of appropriations for JFS and the Commissioners to properly classify expenditures (three resolutions);
- Reimbursements by operation of law for JFS (three resolutions); and
- The payment of bills.

In queue, there were several resolutions.

For example, JFS will be proposing approval of contracts for protective placement in network, , IV-D contracts (for child support hearing officers); and transportation.

Common Pleas Court will be proposing renewal of the Sentinel contract.

For Thursday of this week, we expect resolutions for the electronic idea box honorees, to reappoint Airport Authority Board members, to approve agreements for services with Functional Training, and to approve a contract for protective placement in network.

For next week, we will have the resolution for the Airport related debt which is being converted from internal debt to external debt.

c. Administrative, Program, and Budget Update

**Administrative Approvals**

The review packet contained a list of administrative approvals. No questions were posed.

We are planning a press release for the opening of the Baldwin Facilities and Emergency Management Complex in December. The first formal events at the new complex will be a regular meeting, roundtable, time with the Commission, and tours on February 6.

Dr. Brown reported the conference session for the National Association of Social Workers (November 14<sup>th</sup>) went very well. She included a page from the conference booklet in the review packet.

Participants were very engaged in the discussion about organizational citizenship behavior, job satisfaction, and turnover for protective services workers and similar populations. During a roundtable discussion, participants were impressed with the county's implementation of 20 recommendations addressing the strategic theme of recruitment and retention of employees.

Dr. Brown attended the Board of Revision meeting on November 15, 2019. The market values for all property classes of new construction for TY2018 was \$142,257,780. For TY2019 the new construction market value was \$189,505,400. This is an increase of 33%. About half of new construction was in the Violet Township area.

The parking lot on Main Street is nearly ready to be opened for use.

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MAGNA will begin its main hiring in January 2020, instead of December 2019, as previously reported.

**Budget Update**

We will continue to monitor revenues and expenditures.

Performance assessments are due November 30 (unless negotiated otherwise).

November 25<sup>th</sup> is the deadline for final access to budget entry (level 4).

The projected date to pass the appropriation measure is December 10, with a back-up date of December 17.

From a general fund perspective, we had only one department to update as of November 18<sup>th</sup>. On November 18<sup>th</sup>, the County Coroner provided information resulting in an administratively recommended departmental budget of \$ 477,028 for 2020, or 10.62% above the current budget. The \$477,028 is \$3,841 over the previous proposal, which was adjusted to include independent contractors, as opposed to employees, for the deputy coroner and investigators. Also, for employee(s) contemplating retirement, appropriations for sick leave payout were added.

For the County Coroner, the contract services line now includes projections for a deputy coroner (\$21,916), investigators (\$72,220) and other contracted services, such as autopsy services (\$115,000). Salaries include those for the administrator, assistant to the coroner, and the chief investigator, who will monitor contracted services. Overall, an approximate \$25,000 above parameters is recommended to allow for additional services.

From a county wide perspective, the total budget will be about \$186 Million.

Also, we are not making any adjustments to the court-appointed attorney fees just yet. We will need to monitor those accounts.

We reviewed revenue reports and made no adjustment to the planning tool.

We opened the responses to the request for proposal for housekeeping on November 14<sup>th</sup>. We plan to continue the contractual relationship we have with ServiceMaster.

d. November 21<sup>st</sup> Roundtable

The Board of County Commissioners will be hosting an elected officials and department head roundtable meeting on November 21 at 8:30 a.m. in the hearing room.

The review packet contained an agenda for the roundtable meeting.

e. BRAVOs

Congratulations to the FCFACF Council Firefly Award Winners. The Firefly Award recipients for 2019 were:

- Jenna Dodson, Fairfield County Department of Developmental Disabilities
- Jessica McCoy, The Recovery Center
- Kate Varga, Fairfield County Job and Family Services
- Elyssa Wanosik, Fairfield County Job and Family Services
- Debra Bates, Lancaster City Schools
- Lt. Shad Caplinger, Ohio State Highway Patrol

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Commissioner Levacy, Carri Brown, and Aunie Cordle attended the annual breakfast. A copy of the FCFACF Council annual report was in the review packet.

Thanks to Rick Szabrak and Steve Wigton for presenting in Columbus about the career readiness program.

Bravo to Jason Dolin, BOR Administrator, for preparing a BOR Practice Handbook. This is a useful tool to improve organizational knowledge.

- Old Business

- a. Court Appointed Attorney Fees

Mr. Davis reported that he presented to the Bar Association on November 14<sup>th</sup>. There were a number of attorneys representing the indigent defense attorneys. He reviewed the proposal and presented the math showing if the state reimburses at 70% the county will see a \$300,000 benefit to the general fund. If the reimbursement rate is 60% it would net the general revenue fund \$86,000. Historically, the reimbursement has been lower than what the state has said it would be. If the Commissioners increase the rate to \$60 at 60% reimbursement, the GRF would lose money. Mr. Davis gave the bar association the option to accept his proposal and continue discussions over the next year or to reject the proposal. He sensed the group's desire for flexibility with the proposal, but Mr. Davis stood firm in what was offered.

Mr. Levacy asked if the bar association understood the consequences of rejecting the proposal.

Mr. Davis replied that they were aware that the Commissioners would continue as is if they rejected the offer. Mr. Davis added while every member of the judiciary has said "if it's not broken, don't fix it," there are storms brewing throughout the state, and the state is expected to crack down on those counties it perceives as having rates that are too low.

- b. Law Library Board Vacancy

We received an application from Mitchell Harden, Assistant Prosecutor for the City of Lancaster, to serve on the Law Library Board, and have reached out to set a time for him to meet with the Commissioners.

- c. Meeting with Licking County Commissioners

Mr. Davis stated the Commission expected a joint meeting with the Licking County Commissioners at 2:00 p.m., but it appears two of the Commissioners are ill. Mr. Bubb is still planning on attending. Mr. Davis looks forward to the meeting for an attainable solution and payment model relating to the MCJDC.

- d. JFS Holiday Drive

The donation drive is under way. They will be highlighting donors and families on social media this year.

- New Business

- General Correspondence Received

- a. CORSA Memo

Mr. Porter will attend the December 4<sup>th</sup> meeting.

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b. CFLP 3<sup>rd</sup> Qtr Combined Education & Recycling Contract Report

- Calendar Review/Invitations Received

- a. Columbus Region Economic Development 411 – Friday, December 6<sup>th</sup> from 8:30 a.m. – 1:30 p.m. at the Ohio Union at the Ohio State University

- 1. Commissioners Fix and Levacy will attend. Rick Szábrak will also attend.

- FYI

- a. Jail Population – 290

- b. FCC Notice re: MARCS tower

- c. Department of Youth Services Notice re: Juvenile Court Grants

- d. Department of Commerce Notice re: Objections to Renewal of a Liquor Permit

- e. Stuff-A-Bus Campaign – Now through December 11<sup>th</sup>

- Open Items (none)

Commissioner Levacy stated at 9:36 a.m. that the Commission would be in recess until the 10:00 a.m. Regular Meeting.

**Commissioners' Regular Meeting**

A regular meeting of the Fairfield County Board of Commissioners was held on Tuesday, November 19, 2019 beginning at 10:00 a.m., with the following Commissioners present: Steve Davis, Jeff Fix, and Dave Levacy. Also present were Carri Brown, Rachel Elsea, Staci Knisley, Joshua Horacek, Tom Lininger, Jeff Porter, Ray Stemen, Dennis Keller, Rick Szabrak, Tony Vogel, Loudan Klein, David Miller, Jake Tharp, Jeff Barron, Chief Lape, and Branden Meyer.

**Pledge of Allegiance**

Commissioner Levacy asked everyone to rise as able, and he led the Pledge of Allegiance.

**Announcements**

Commissioner Levacy asked if there were any announcements.

**Public Comment**

Commissioner Levacy asked if anyone from the public who would like to speak or offer comments.

There were no public comments.

**Approval of Minutes for Tuesday, November 12, 2019**

On the motion of Jeff Fix and the second of Steve Davis, the Board of Commissioners voted to approve the minutes for the Tuesday, November 12, 2019 Regular Meeting.

Roll call vote of the motion resulted as follows:

Voting aye thereon: Jeff Fix, Steve Davis, and Dave Levacy

**Approval of the Clerk of Court - Legal Resolution**

On the motion of Jeff Fix and the second of Steve Davis, the Board of Commissioners voted to approve the Clerk of Court – Legal resolution to approve to declare a surplus for the Clerk of

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Courts Title Fund #2326 and a fund to fund transfer from the Clerk of Courts Title Fund #2326 to the General Fund #1001; see resolution 2019-11.19.a.

Discussion: The Commissioners thanked Mr. Meyer for his service and the transfer. They applauded him and his staff for their customer service. Mr. Meyer noted that title numbers are down this year.

Roll call vote of the motion resulted as follows:

Voting aye thereon: Jeff Fix, Steve Davis, and Dave Levacy

**Approval of the Commissioners Resolutions**

On the motion of Jeff Fix and the second of Steve Davis, the Board of Commissioners voted to approve the Commissioners' Office resolutions:

- |              |  |
|--------------|--|
| 2019-11.19.b | A resolution to approve a memo expense for interest allocation reimbursement for Fairfield Department of Health – Fund #7012 & Fund# 7321 [Commissioners]  |
| 2019-11.19.c | A resolution approving an account to account transfer in major object expense categories for General Fund# 1001 – Fairfield County Commissioners [Commissioners]   |
| 2019-11.19.d | A resolution authorizing the approval of a license for use of property by the All Accessible Sports Complex & Park, Inc., for the creation of an all-accessible sports complex and park at the location of the Board of Developmental Disabilities at property near the Forest Rose School [Commissioners] |
| 2019-11.19.e | A resolution to approve a memo expense for interest allocation reimbursement for Fairfield County Historical Parks – Fund # 7308 [Commissioners]   |

Roll call vote of the motion resulted as follows:

Voting aye thereon: Jeff Fix, Steve Davis, and Dave Levacy

**Approval of the Engineer's Office Resolution**

On the motion of Jeff Fix and the second of Steve Davis, the Board of Commissioners voted to approve the following Engineer's Office resolutions:

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|--------------|--|
| 2019-11.19.f | A resolution to approve a Change Order for the Leib's Island Road and Sellers Drive Improvement Project. [Engineer]  |
| 2019-11.19.g | A resolution to appropriate from unappropriated in a major expenditure object category County Engineer 2024-Motor Vehicle for remainder of 2019 salary expenses [Engineer]   |
| 2019-11.19.h | A resolution to appropriate from unappropriated in a major expenditure object category County Engineer 2580-Subdivisions for subdivision inspections of Violet Meadows Section 5 Phase 1, Chesapeake-Milnor Road, Heron Crossing Section 4 and Spring Creek Section 3 Phase 1 [Engineer] |
| 2019-11.19.i | A resolution to appropriate from unappropriated in a major expenditure object category County Engineer 2024-Motor Vehicle for auto property damage [Engineer]  |
| 2019-11.19.j | A resolution to change bridge load ratings. [Engineer]   |

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Roll call vote of the motion resulted as follows:

Voting aye thereon: Jeff Fix, Steve Davis, and Dave Levacy

**Approval of the JFS Resolutions**

On the motion of Jeff Fix and the second of Steve Davis, the Board of Commissioners voted to approve the following JFS resolutions:

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|--------------|--|
| 2019-11.19.k | A resolution authorizing the approval of repayment of an advance to the General Fund from Sub-Fund #8185 Kinnect, Fairfield County Child Protective Services (CPS) Division. [JFS] |
| 2019-11.19.l | A resolution approving an account to account transfer Fund 2072 Public Children Services [JFS]   |
| 2019-11.19.m | A resolution to approve a memo receipt and expenditure for Fairfield County Job & Family Services, Fund 2015 reimbursing Fund 2018 [JFS]   |
| 2019-11.19.n | A resolution to approve a memo receipt and expenditure for Fairfield County Job & Family Services, Fund 2072 reimbursing Fund 2018 [JFS]   |
| 2019-11.19.o | A resolution to approve a memo receipt and expenditure for Fairfield County Job & Family Services, Fund 2758 reimbursing Fund 2018 [JFS]   |
| 2019-11.19.p | A resolution approving an account to account transfer Fund 2018 Public Assistance [JFS]  |

Roll call vote of the motion resulted as follows:

Voting aye thereon: Jeff Fix, Steve Davis, and Dave Levacy

**Approval of the Juvenile/Probate Court Resolutions**

On the motion of Jeff Fix and the second of Steve Davis, the Board of Commissioners voted to approve the following Juvenile/Probate Court resolutions:

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|--------------|--|
| 2019-11.19.q | A resolution to appropriate from unappropriated in a major expenditure object category – Juvenile Court Fund #2036 Department of Youth Services (reclaim) [Juvenile/Probate Court] |
| 2019-11.19.r | A resolution authorizing the approval of a service agreement by and between Fairfield County Juvenile Court and Sentinel Offender Services, LLC [Juvenile/Probate Court]           |

Roll call vote of the motion resulted as follows:

Voting aye thereon: Jeff Fix, Steve Davis, and Dave Levacy

**Approval of the Sheriff's Office Resolution**

On the motion of Jeff Fix and the second of Steve Davis, the Board of Commissioners voted to approve the Sheriff's Office resolution to appropriate from unappropriated in a major expenditure object category Sheriff's Office Fund 2683 Wireless 911; see resolution 2019-11.19.s.

Roll call vote of the motion resulted as follows:

Voting aye thereon: Jeff Fix, Steve Davis, and Dave Levacy

**Approval of the Utilities' Resolution**

On the motion of Jeff Fix and the second of Steve Davis, the Board of Commissioners voted to approve the Utilities' resolution to appropriate from unappropriated in a major expenditure object category for High Service Area 4 Fund #4488; see resolution 2019-11.19.t.

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Roll call vote of the motion resulted as follows:

Voting aye thereon: Jeff Fix, Steve Davis, and Dave Levacy

**Approval of the Payment of Bills**

On the motion of Jeff Fix and the second of Steve Davis, the Board of Commissioners voted to approve the following Payment of Bills resolution authorizing the approval of payment of invoices for departments that need Board of Commissioners' approval; see resolution 2019-11.19.u.

Roll call vote of the motion resulted as follows:

Voting aye thereon: Jeff Fix, Steve Davis, and Dave Levacy

The Commissioners discussed the Opiate Task Force on Tuesday, November 26<sup>th</sup> at 4:00 p.m. at ADAMH. Commissioner Davis will be speaking. He also provided an update on the opiate meetings he had been attending in Columbus.

Commissioner Levacy stated at 10:10 a.m. that the Commission would be in recess until the 2:00 p.m. meeting the Licking County Commissioners.

**Meeting with the Licking County Commissioners**

The Commissioners met at 2:05 p.m. for a meeting with the Licking County Commissioners. Commissioner Levacy called the meeting to order with the following Commissioners present: Steve Davis, Dave Levacy, and Jeff Fix. Also present were Carri Brown, Rachel Elsea, Licking County Commissioner Tim Bubb, Dana Moore, and Joshua Horacek.

Mr. Davis thanked everyone for the courtesy of attending the meeting.

Mr. Bubb stated the other two Commissioners sent their regrets.

Mr. Davis stated he and Mr. Bubb had a very productive conversation in Mr. Bubb's office, and the meeting with the full board had little commentary. There has been no discussion in Fairfield County Commission meetings of Mr. Davis and Mr. Bubb's conversations. He thought they could recap the conversations and address "dangling modifiers" that still existed.

In the prior meetings they had looked at the four-year look back of MCJDC usage and rounded Fairfield County's share from \$508,000 to \$600,000 in 2021 and 2022 with the benefit of the rounding being in Licking County's favor.

Mr. Bubb stated that was based on past usage to get to a fair representation on who was using the beds.

Mr. Davis stated he thought they could address, if in agreement on the base amount, if under the four-year lookback, Perry and Hocking County would also see a discount. He stated they needed to decide if Perry and Hocking Counties would be included on new negotiations and receiving a discount or if they would stay with their historical contributions. Mr. Davis favored the discount as it is associated with the four-year look back, and if they don't apply that method, it looks more like a hybrid lookback.

Mr. Bubb replied it was fair to look at their use as well, but they have a small bed commitment. Mr. Bubb believed that while they have it, they intend to honor their commitment and while not a host county, they are original partners who are covering some of the overhead of the place because they own it. He is not interested in a hybrid-lookback with Perry and Hocking County. But he would like them to step up as part owners.

Mr. Davis appreciated that. He stated that once everyone is settled in their contributions, they should understand what everyone gets for their contribution and rent. He would like the contribution to the base to be transferred to the bed allocation. The larger the contribution, the more beds that county is allowed to access.



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Mr. Davis also wanted to discuss the carryover. It is a good business practice for an entity to have a carryover and establish an amount they would like to not dip below. He suggested there be a policy established by the joint board to target carryover with a use or purpose for any overage.

Mr. Bubb stated there were several options. They could refund counties for a percentage or take some to the capital fund for future use or put it all in carryover and credit contributions for the next year. Mr. Bubb would prefer to have the carryover credited to the contribution the following year. He thinks that is the fairest way to do it for all four counties involved.

Mr. Davis agreed. He stated the primary goal in 2021 and 2022 was to operate without utilization of carryover for budget purposes. He does not want to dip into carryover as part of the operating budget.

Mr. Davis stated the Commissioners had recommended a two-year moratorium on capital fund contributions as the capital fund is currently healthy. Fairfield County's debt on the facility is nearing maturity.

Mr. Bubb asked if the original debt was prorated as a percentage of usage.

Dr. Brown replied contributions were determined based on the shares of beds. Some counties may have had cash on hand. Fairfield County issued debt for its share of initial costs.

Mr. Davis stated he is pretty happy, but not thrilled with the 2021/2022 deal due to its duration. He'd rather the arrangement be longer, but he perceives that the shorter time was more palatable as in a few years Licking County may find itself in Fairfield County's shoes.

Mr. Bubb stated he thought it was fair to state it that way. He is not that fearful of taking it past 2022, though. Licking County is going to grow in population, and they cannot count on that growth to be all honest people, and he understood additional population meant additional needs. He does not expect the numbers to go down.

Mr. Fix asked if that was the case, could they do a longer agreement?

Mr. Bubb replied he was not fearful their numbers would go down.

Mr. Davis asked if they could add a year, 2023, taking care of the next four years. He would be happier at that length of arrangement if they would be amenable.

Mr. Bubb stated he was not fearful of 2023 and that they would need most of the beds.

Mr. Davis mentioned how there could be other facilities potentially closing due to the change in market dynamics.

Mr. Bubb asked how they could accommodate other counties who want to be a part of the MCJDC community on an annual basis.

Mr. Davis replied that they needed to consider that in the coming months as there are multiple gradations of that questions. Bringing individuals in at \$105 a night, does not help solve the problem when the four member counties are paying \$300 a night. If the market for bed space is tightening, you should be seeing an increase in price.

Mr. Bubb would like to see a yearly buy-in for a certain number of beds which would guarantee revenue over what the other four counties are doing.

Mr. Davis asked if the unit itself was the only lessor or if the users could be sublessors. He is more comfortable with the unit itself being the lessor.

Dr. Brown discussed the option of equity share option and bringing in a new equity partner for the joint venture.

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Mr. Bubb liked that idea because then they'd become an order and if you have to redefine the board and voting composition, it should be based on the level of equity. There used to be times when the Licking and Fairfield didn't always agree with the smaller partners, but all voting percentage was the same. The larger contributing counties were being outvoted by the smaller ones.

Mr. Davis stated that he thought one of the things that will take some time is letting people see the product of what they are trying to do, in saving the facility.

Mr. Davis asked Ms. Moore what her thoughts or feelings were before they took the concepts back to the full MCJDC board.

Ms. Moore asked about the four-year lookback and if they would do the look back each year, or looking at it and creating four years, then looking at it again.

Mr. Davis stated his position was to do the lookback now with 2020 already agreed to. He's not suggesting looking at it every year and recalibrating. He would like to have another four year look back in 2023 to form a basis for the next four years. He thinks that would be helpful for the board to get out of the financial survival discussion and come back to it in 2023.

Ms. Moore stated that seems to mirror what they have been doing where each year the contributions stay the same and leaving it difficult for the facility to budget.

Mr. Davis stated it was the percentages that they were looking at.

Dr. Brown asked if there were other revenues.

Ms. Moore replied there absolutely were and those were taken off before coming up with the number needed. She wants to make sure going forward, they are using a static percentage not a static contribution.

Mr. Davis stated this process has been bruising up to this point and he'd like to put a bow on it and have this discussion again in four years. He's not walking away and is more plugged in than ever to be helpful. He knows in the coming years they need to figure out what the horizon has. He wants to get away from the internal survival discussion.

Mr. Fix asked what happens if the carryover is below the target, would the contributions increase to bring it back to the target.

Mr. Davis replied yes.

Mr. Fix asked what the carryover was today.

There was not an exact number, but it was believed to be around \$500,000.

Dr. Brown checked the current cash balance and reported the current cash balance was \$1.27 million with a carryover to approach \$1,000,000 based on encumbrances now in place and expected payroll. The capital fund cash balance was \$582,000 with no encumbrances.

Ms. Moore added that the carryover has been used when short on health insurance or needing extra money for legal fees.

Mr. Davis thinks the reason why the carryover was so much higher than what was expected was because a portion of it was already thought of to be used in the 2020 budget.

Mr. Davis stated he asked Mr. Horacek to attend because they will need to put this on paper in the upcoming weeks and he is not sure how they will do that - whether the bylaws will be amended, or a resolution or resolutions will be passed.

Mr. Bubb thought an MOU would be okay if all entities agreed to it and passed it on their ends.

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Mr. Horacek replied he thought there would have to be something adopted by the joint board.

Dr. Brown suggested that the policy statements be included as adoptions of the joint board.

Mr. Davis asked Ms. Moore if there was anything they were not thinking of.

Ms. Moore asked if Hocking and Perry were using the four-year look back who would be making up the difference.

Mr. Davis stated that if you use the look back with the only change being that Fairfield County's rounding is to benefit Licking, then Licking is taking care of the downdraft on Hocking and Perry.

Mr. Davis asked if Mr. Horacek could prepare a draft document that would be sufficient to carry out this discussion for Licking County and Fairfield County's review. Post that review, they would take it to the joint board of Commissioners.

Mr. Bubb thought he could do that. This would include a moratorium on capital contributions. There is a sufficient amount there to handle repairs as they come. He added the only thing they have not discussed is what happens if they run in the black. He would like to keep it in the carryover and credit the contributions in the following year based on the percentage contributions.

Mr. Davis asked what the schedule was for contributions.

Ms. Moore replied it was quarterly and contributions came in when expected.

Mr. Fix asked what the appropriate carryover number was.

Mr. Bubb replied that he was not sure, but 25% sounded appropriate.

Mr. Levacy asked if there were any contracts that came in early in the year.

Ms. Moore replied there were several due at the beginning of the year.

Mr. Davis and Dr. Brown thought the carryover was too high at 25%.

Mr. Bubb asked what 20% of the budget looked like.

Mr. Fix replied 20% would be \$720,000.

Mr. Bubb was fine with 20% and suggested they move forward with that substantial number.

Ms. Moore replied that while they know their county contributions, the school billing, which results in \$600,000 a year, is based on population, and if the population decreases so does that revenue source.

Mr. Davis asked Mr. Horacek what his thought was on the information and guidance given him.

Mr. Horacek stated he had enough to put together a decent draft.

Mr. Davis asked Mr. Bubb to share his email address with Mr. Horacek so he receives the draft when Fairfield County does, making both counties equal in the process.

Mr. Bubb appreciated that.

Mr. Davis stated Mr. Barron had asked if he could be updated and if Mr. Bubb was fine with that.

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Mr. Bubb agreed it was a productive conversation and that the group agreed on an agreement in principal to carry MCJDC through 2023. The document will be drafted and taken to the joint board for their approval.

Mr. Bubb added that if the market changes as they expect, he thinks they will have to look at adding a new partner or two and amending the bylaws.

The Commission was in recess at 3:14 p.m.

**Public Hearing – Annexation Petition – Greenfield to Lancaster – 76.877 +/- acres**

The Commissioners met at 6:00 p.m. to hold a public hearing on the petition to annex 76.877 +/- acres from Greenfield Township into the City of Lancaster. Commissioner Davis called the meeting to order with the following Commissioners present: Steve Davis, Dave Levacy, and Jeff Fix. Also present were Carri Brown, Rachel Elsea, Joshua Horacek, Amy Brown-Thompson, Tom Lininger, Julia Lamb, Lt. Marc Churchill, Sgt. Collins, Randall Ullom, Tom Winkhart, Tony Perez, Brad Hutchinson, and Fairfield County residents.

Please see the attached transcript of the public hearing.

The hearing was in recess at 7:32 p.m.

The hearing was back in session at 7:42 p.m.

The hearing was closed at 8:13 p.m.

**Adjournment**

With no further business, on the motion of Jeff Fix and a second of Dave Levacy the Board of Commissioners voted to adjourn at 8:14 p.m.

Roll call vote of the motion resulted as follows:

Voting aye thereon: Jeff Fix, Steve Davis, and Dave Levacy

The next Regular Meeting is scheduled for Tuesday, November 26, 2019 at 9:00 a.m.

Motion by:

Seconded by:


that the November 19, 2019 minutes were approved by the following vote:

YEAS:

NAYS: None

ABSTENTIONS: None

*December 10, 2019 (PE)*  
\*Approved on November 26, 2019

  
Steven A. Davis  
Commissioner

  
Dave Levacy  
Commissioner

  
Jeff Fix  
Commissioner

  
Rachel Elsea, Clerk

1                   BEFORE THE FAIRFIELD COUNTY  
2                   BOARD OF COMMISSIONERS

3                                   - - -

4  
5       IN RE:   ANNEXATION OF AN  
6       ADJACENT 76.877 ACRE TRACT  
7       OF LAND LOCATED IN  
8       GREENFIELD TOWNSHIP,  
9       FAIRFIELD COUNTY, OHIO,  
10      TO THE CITY OF LANCASTER,  
11      FAIRFIELD COUNTY, OHIO

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14                                   PROCEEDINGS

15       before Commissioners Steve Davis, David Levacy,  
16       and Jeff Fix, at the Fairfield County  
17       Commissioners' Office, 210 East Main Street,  
18       Lancaster, Ohio 43130, November 19, 2019, at  
19       6:00 p.m., taken before Julia Lamb, RPR, CRR, a  
20       Notary Public in and for the State of Ohio.

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2 PROCEEDINGS

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4 COMMISSIONER DAVIS: Go ahead and call  
5 this meeting to order. Appreciate everybody  
6 coming out tonight. We're here to hear a  
7 petition for annexation. At the request of  
8 Commissioners Levacy and Fix, I have got the  
9 honor of being the presiding officer tonight.

10 So what I'll start off by doing is  
11 explaining to everybody the process that we  
12 would envision going through tonight for  
13 purposes of conducting this hearing, and I'll  
14 start right there. Can the folks in the back  
15 hear me okay? Are we doing good on volume?

16 All right. I appreciate it. Want to  
17 make sure everybody can hear.

18 So what we'll do is we'll go through the  
19 process that we are required to go through under  
20 the Ohio Revised Code. So in advance of the  
21 hearing this evening the Commissioners' office  
22 sought legal counsel from the office of the  
23 prosecutor, because it has been a great many  
24 years since the Commission has heard this type



1 of annexation. In recent years most all  
2 annexations are something called a type 2  
3 expedited which doesn't involve much process.  
4 So we sought out that advice from the  
5 prosecutor's office as to the conduct of the  
6 hearing. We have that memo and then we will be  
7 following the prosecutor's memorandum on  
8 process.

9 What that will involve is under the Ohio  
10 Revised Code there are three what's defined as  
11 necessary parties to this annexation hearing.  
12 Those involve the Petitioner or counsel for the  
13 Petitioner, those involve the City of Lancaster  
14 as the receiving entity of the annexation if it  
15 were to be approved, and Greenfield Township.

16 Our office has been in communication  
17 with legal counsel for Greenfield Township, and  
18 they advised us that they did not intend to  
19 appear or be represented at this hearing  
20 tonight.

21 So we had three tables arranged for each  
22 of what the Ohio Revised Code called the  
23 necessary parties, and we had space and  
24 accommodation for that if that were necessary.

1 As it turns out they're not here. That's fine.  
2 That's on them, not us.

3 In terms of the conduct of the hearing  
4 what we'll -- the process will be is first the  
5 Petitioner or an agent for the Petitioner will  
6 begin with opening remarks, and then they'll  
7 have the opportunity to present evidence either  
8 through direct examination of witnesses or  
9 through the submission of documents for  
10 evidentiary purposes.

11 Again, under the Ohio Revised Code,  
12 filings made up to this point in time with the  
13 clerk of the Commissioners' office are a part of  
14 the record and available for the deliberations  
15 of the Commission when we get to the point where  
16 we're ready to make a decision on this, which  
17 will not be tonight. And I will explain that  
18 shortly as well, why that won't happen tonight.

19 After the Petitioner has been given an  
20 opportunity to present their case, if you will,  
21 the case for annexation, the next opportunity  
22 will be for necessary party, the City of  
23 Lancaster. They will be given the option to  
24 present documents or evidence for purposes of

1     our record if they choose to. They do not have  
 2     to. If Greenfield Township were here, they  
 3     would go third with the opportunity to present  
 4     their case evidence through the direct  
 5     examination of witnesses or the production of  
 6     documentary evidence.

7             Following all of the necessary parties  
 8     being given an opportunity to present evidence,  
 9     we'll then move for the opportunity for those of  
 10    you in attendance who are not necessary parties,  
 11    you'll be given the opportunity to address the  
 12    Commission.

13            One warning in advance, because we're  
 14    operating under the dictates of the Ohio Revised  
 15    Code, if you choose to comment or question for  
 16    or against, it doesn't matter to us what your  
 17    position is, but by coming up and commenting I  
 18    just want you to be aware that you do expose  
 19    yourself to cross-examination by the Petitioner.  
 20    If they want to question you as to your comments  
 21    or statements, they have the right to do that  
 22    under the Ohio Revised Code section.

23            Once everybody who wishes to comment has  
 24    been given the opportunity, then we'll return to

1 the necessary parties per the right, not the  
2 obligation, to present rebuttal evidence, if  
3 necessary. I can't predict whether that will or  
4 will not be deemed necessary for the necessary  
5 parties to do that. So that's our process.

6 The only time limitation that will be  
7 employed this evening will be when we get to the  
8 comment section. For those who would wish to  
9 address the Commission with questions, comments,  
10 pros, cons, whatever the case may be, you'll be  
11 initially operating under a five-minute time  
12 limit, at least until everyone who wishes to  
13 address the Commission has been given the  
14 opportunity to do so.

15 If at the conclusion of everyone having  
16 had that opportunity to present you got cut off  
17 because of the five-minute rule, I will invite  
18 you to return and briefly conclude your remarks.  
19 So that will be -- those are the rules for our  
20 meeting tonight.

21 Couple other points. We have a court  
22 reporter here who's going to be transcribing  
23 everything that happens here tonight from a  
24 verbal standpoint. So if you're a witness and

1     you're asked a question, I would ask for you to  
2     respond to that question verbally as opposed to  
3     with body language or shrugs. I would also ask  
4     in responding to questions if you avoid the  
5     phrases uh-huh and huh-uh. In a transcript  
6     sometimes those words become confused and  
7     difficult to interpret. So we ask that the  
8     answers be yes or no, or maybe, or I don't know,  
9     or some verbal response that the court reporter  
10    can take down.

11           Other than making sure that everybody  
12    who would like to address the Commission tonight  
13    during the course of this hearing gets the  
14    opportunity to do so, I would also ask you to  
15    please respect the process, and I would ask you  
16    to please not be disruptive. I'll try to deal  
17    with that if that were to unfortunately arise.

18           With that, I would ask if anybody  
19    anticipates that they will be a witness tonight  
20    and would like to offer sworn testimony or  
21    anticipates that they would like to comment for,  
22    against, ask a question, whatever your statement  
23    may be when we get to that, if you would please  
24    rise now and raise your right hand.

1 (All witnesses duly sworn.)

2 COMMISSIONER DAVIS: Thank you. We will  
3 now allow an opportunity for the Petitioner  
4 through, I believe, Counsel Winkhart -- and you  
5 swore, correct?

6 MR. WINKHART: I did.

7 COMMISSIONER DAVIS: You're on. Oh, I'm  
8 sorry. Commissioner Fix has mentioned something  
9 that is important. I had mentioned earlier that  
10 we would not be making a decision on this issue  
11 tonight and I wanted you to understand why.

12 Under the Ohio Revised Code when a  
13 decision on this issue is rendered by the  
14 Commission, it must be accompanied by written  
15 findings of fact. That's under the Ohio Revised  
16 Code we're required to do that. It was  
17 impossible for us to prepare written findings of  
18 fact in advance of this hearing tonight without  
19 first having heard the evidence and the  
20 documents to support one side or one position or  
21 the other. So given the fact that we have not  
22 heard any evidence and we have not taken any  
23 position it's impossible for us to have already  
24 prepared the findings of fact. Following this

1 hearing at some point in the near term within 30  
2 days the Commission will deliberate and give the  
3 prosecutor's office guidance as to the direction  
4 that we would like for the findings of fact to  
5 follow, but that has not yet and will not occur  
6 tonight.

7 Thank you, Commissioner Fix, for picking  
8 me up on that issue, and now we'll have the case  
9 for the Petitioners being presented by Attorney  
10 Winkhart.

11 MR. WINKHART: Good evening. May it  
12 please the Board. With your permission, may I  
13 sit during our presentation and examination?

14 COMMISSIONER DAVIS: You may. And I  
15 want to mention to you as you're sworn and your  
16 information is being offered for purposes of the  
17 record I would like you and every other witness  
18 and commenter tonight to begin by stating your  
19 name and residential address.

20 MR. WINKHART: And I don't know if the  
21 folks behind us can hear if I speak in this  
22 tone?

23 UNIDENTIFIED SPEAKER: I can't hear.

24 COMMISSIONER DAVIS: We have a

1 microphone if you would like to take advantage  
2 of that. I don't think it will give you a lot  
3 of distance. I appreciate your courteousness in  
4 making sure the people can hear you. Thank you.  
5 Please proceed.

6 MR. WINKHART: Thank you. Good evening.  
7 My name is Tom Winkhart. I am an attorney for  
8 the proposed developer of the property and I'm  
9 the agent for the Petitioner, the Mithoff  
10 Companies, petitioning for annexation tonight.  
11 My residential address is 7008 Victoria Court in  
12 Canton, Ohio 44708. I have with me tonight  
13 Mr. Tony Perez. Tony is the president of Lemmon  
14 Development Company. I anticipate that he'll be  
15 making an address to the Board under direct  
16 examination. Also with me is Mr. Brad  
17 Hutchinson, president and sole owner of the  
18 Mithoff Companies which is the property owner of  
19 the territory to be annexed.

20 What I'd like to do is make a brief but  
21 formal presentation regarding the annexation of  
22 the property with an intent to satisfy the  
23 requirements of Ohio Revised Code Section 709.03  
24 which is the Revised Code section that governs



1 the procedure tonight.

2 Initially, I would ask that the  
3 Commissioners take notice, and I would -- I  
4 would expect that the record would reflect that  
5 the annexation petition meets all of the  
6 requirements of Ohio Revised Code Section 709.02  
7 in form and in substance.

8 If I could first just kind of go through  
9 a bit of a timeline of the actions that our  
10 office has taken along with the Petitioner, the  
11 Mithoff Companies, and the developer, Lemmon  
12 Development Company, again for the record, and I  
13 would assume that the county's record of the  
14 proceedings reflects all of the things that I'm  
15 about to say.

16 On September 16th of 2019 a petition for  
17 the regular annexation of the proposed -- of the  
18 territory proposed for annexation was filed with  
19 the Fairfield County Clerk. We also filed the  
20 statement of adjoining parcel owners and -- the  
21 adjoining parcels and parcel owners.

22 On September 17th of this year we  
23 received a notice of hearing electronically from  
24 the Fairfield County Clerk. On September 20th

1 of this year we sent a notice of filing of our  
2 annexation petition to the Clerk of the  
3 Lancaster City Council. That was sent certified  
4 mail, and we also sent that to the Clerk of  
5 Greenfield Township again by certified mail.  
6 Regular mail delivery of the same was sent to  
7 the Lancaster City Engineer, the Lancaster Law  
8 Director, the Mayor of Lancaster, and the  
9 Fairfield County Engineer.

10 On September 25th we filed a statement  
11 of adjoining parcels and owners as amended and  
12 we did that in conjunction with the Fairfield  
13 County Clerk's tweaking of our matrix of  
14 adjacent property owners. Again, that was an  
15 updated statement.

16 On October 7th, 2019 we filed an  
17 original notice of filing. That included an  
18 amended legal description, the annexation plat,  
19 again our matrix of adjacent property owners,  
20 and copies of that were also provided to the  
21 Clerk of Lancaster City Council, Greenfield  
22 Township, the Fairfield County Engineer, the  
23 Lancaster City Engineer, Law Director and Mayor.

24 On October 8th we sent an amended notice

1 of hearing to the adjacent property owners via  
2 regular mail, and we filed in evidence of  
3 certificate of mailings of the same.

4 On October 11th we received notification  
5 from Teresa Sandy on behalf of Attorney Randall  
6 Ullom, the Lancaster City Law Director, with  
7 copies of the public services resolution and the  
8 resolution to approve the pre-annexation  
9 agreement and the ordinance to establish zoning  
10 in the city of Lancaster.

11 On October 14th Lancaster City Council  
12 met for the first reading of the above  
13 ordinances. On October 16th of 2019 we emailed  
14 the public notice to the Lancaster Eagle  
15 Gazette, and I have for introduction at the  
16 conclusion of my remarks the original affidavit  
17 of publication from the Eagle Gazette indicating  
18 that the public notice was properly included in  
19 the newspaper on October 24th, 2019 in  
20 compliance with the Revised Code.

21 COMMISSIONER DAVIS: If I can interrupt,  
22 sir, the document that you're intending to offer  
23 for purposes of the record, does it have an  
24 exhibit sticker yet?

1           MR. WINKHART: It does not. And we can  
2 do that individually or all at the same time.

3           COMMISSIONER DAVIS: When we get to the  
4 admission of evidence which the Commission will  
5 decide on we're going to want those documents  
6 identified with exhibit stickers. I didn't mean  
7 to interrupt you.

8           MR. WINKHART: Not a problem.

9           COMMISSIONER DAVIS: Please proceed.

10          MR. WINKHART: In anticipation -- I  
11 don't know if we have A, B and C or 1, 2 and 3,  
12 but we would mark this as Petitioner's Exhibit  
13 A.

14          COMMISSIONER DAVIS: That will be fine.  
15 Thank you for doing that, sir.

16          MR. WINKHART: We'll proffer these at  
17 the end.

18          COMMISSIONER DAVIS: Thank you.

19          MR. WINKHART: On October 17th a copy of  
20 the original affidavit of compliance, which was  
21 dated September 30th, was sent via regular mail  
22 to the county engineer, the city law director  
23 and the city engineer.

24          On October 28th Lancaster City Council

1 met for the second reading of the above  
2 ordinances which were subsequently tabled at  
3 that meeting.

4 On November 4th of this year a second  
5 affidavit of compliance was sent first-class  
6 mail to Fairfield County Clerk evidencing  
7 compliance with the publication requirement.  
8 Copies of the affidavit were sent via regular  
9 mail to the county engineer, the city law  
10 director, and the city engineer, and I think  
11 that brings us up to last week's November 14th  
12 Lancaster City Planning Commission meeting at  
13 which time the Lancaster City Planning  
14 Commission voted in favor of the approval of the  
15 zoning application that was filed with the City.

16 Okay. At this time I would like to call  
17 Brad Hutchinson as our first witness and perhaps  
18 Brad could join me here.

19 COMMISSIONER DAVIS: I apologize for  
20 just having one mike, but if you gentlemen  
21 wouldn't mind sharing that, just again to make  
22 sure that all those in attendance have an  
23 opportunity to hear both the question that's  
24 being asked and the answer that's being given.

1           MR. WINKHART: And I apologize for  
2     having my back to the audience, but if  
3     somebody's giving you the high sign that they  
4     can't hear us, if you would please let us know.

5           BRAD HUTCHINSON  
6     called as a witness by the Petitioner, being  
7     previously duly sworn, testifies as follows:

8           DIRECT EXAMINATION

9     BY MR. WINKHART:

10        Q. Brad, could you please state your name  
11        and give your residential address for the  
12        record.

13        A. Brad Hutchinson, 433 South Columbus  
14        Street, Lancaster, Ohio.

15        Q. Mr. Hutchinson, were you duly sworn at  
16        the beginning of this hearing?

17        A. Yes, I was.

18        Q. And did you swear to tell the truth  
19        according to that affirmation?

20        A. Yes, sir.

21        Q. Brad, could you please state your  
22        relationship to the Mithoff Companies?

23        A. I'm the sole owner and operating  
24        manager.

1 Q. Okay. And you're familiar with the  
2 property that is proposed to be annexed?

3 A. Yes, sir.

4 Q. Could you describe that property?

5 A. It's the Timber Top property on Columbus  
6 Street. 2200 North Columbus Street.

7 Q. Okay. And for the record purpose we  
8 have on the screen above the Commission members  
9 a copy of the annexation plat that has been  
10 filed as part of our proceedings. Feel free to  
11 refer to that as you want to as the territory  
12 proposed for annexation.

13 Brad, I'm handing you --

14 COMMISSIONER DAVIS: Mr. Winkhart, I'm  
15 going to ask you to please keep your voice up  
16 nice and high. Don't worry about yelling. I do  
17 it all the time.

18 MR. WINKHART: All right. Thank you  
19 very much.

20 BY MR. WINKHART:

21 Q. Brad, I'm handing you what is part of  
22 the record. I don't know that it's necessary to  
23 proffer it as evidence, but it is an action by  
24 unanimous consent of the members of the Mithoff

1 Companies. Is that your signature on that?

2 A. Yes, sir, it is.

3 Q. And to your knowledge did that authorize  
4 and direct you to -- as the member of the  
5 Mithoff Companies to execute and deliver the  
6 annexation petition?

7 A. Yes.

8 Q. I'm also showing you a document that is  
9 entitled Petition for Regular Annexation.  
10 Again, this is part -- currently part of the  
11 record of our annexation and on here there is  
12 the listing of seven parcels, each of which  
13 appears to have your signature beside it. Is  
14 that your signature?

15 A. Yes, sir, it is.

16 Q. Brad, was it your intent when signing  
17 this to authorize and direct the application and  
18 petition for the territory proposed for  
19 annexation to be, in fact, annexed from the  
20 township into the city of Lancaster?

21 A. Yes, sir, it was.

22 Q. Okay. And, Brad, how long have you  
23 lived in Fairfield County?

24 A. I've been in Lancaster, Fairfield



1 County, my whole life.

2 Q. In general terms how many years?

3 A. 46.

4 Q. Very good. And obviously how long have  
5 you owned the Timber Top property?

6 A. 19 months, not quite two years.

7 Q. Okay. And we know that to be  
8 approximately 77 acres. Is that correct?

9 A. Yes, sir.

10 Q. Okay. You're familiar with the  
11 geographic make-up of the city of Lancaster and  
12 the township?

13 A. Yes, sir.

14 Q. That 77 acres, does that area feel like  
15 it is an unreasonably large piece of property to  
16 be annexed into the city of Lancaster?

17 A. You're asking if it's unreasonably large  
18 to be annexed, or do I believe it should be  
19 annexed?

20 Q. Let's start with to be. Do you feel  
21 like it's too big of a piece of property for the  
22 city of Lancaster to take into its -- into the  
23 ranks of its property?

24 A. No, sir.

1 Q. Okay. Do you feel that it should be  
2 annexed into the city?

3 A. I was surprised when I first started  
4 looking at the property it wasn't already part  
5 of the city of Lancaster.

6 Q. And why do you feel like that property  
7 would be better served in the city of Lancaster?

8 A. Well, it's already surrounded by the  
9 city other than the Woodland Heights  
10 development, and you can't get utilities for the  
11 property without being from the city of  
12 Lancaster. The county has no utilities in that  
13 area.

14 Q. And if I could, I'm just going to bounce  
15 around a little bit, but in keeping with this  
16 witness, Brad, do you believe that it is for the  
17 general good of the 77-acre property to be  
18 annexed and that it will be served and benefit  
19 from being annexed into the city of Lancaster?

20 A. I believe being a retirement community  
21 is the ideal situation for the Timber Top  
22 property. It is a beautiful property. Right  
23 now it's completely underutilized in my opinion.

24 Q. And you've testified that you've been a

1 life-long resident of the area surrounding the  
2 Timber Top property. Do you have an opinion as  
3 to whether or not annexing this property into  
4 the city will be detrimental to any of the  
5 adjacent properties?

6 A. I don't believe it will, no.

7 Q. Okay.

8 MR. WINKHART: I have nothing further  
9 for Mr. Hutchinson.

10 COMMISSIONER DAVIS: At this time any  
11 necessary parties that would like to  
12 cross-examine this witness are given the  
13 opportunity to do so. Greenfield is absent.

14 City of Lancaster is welcome to  
15 cross-examine at this time if they so desire.

16 MR. ULLOM: No, we have no comments or  
17 questions.

18 COMMISSIONER DAVIS: This witness is  
19 excused, but you are subject to recall and  
20 rebuttal, sir.

21 MR. HUTCHINSON: Okay. Thank you.

22 MR. WINKHART: Thank you. Next I'd like  
23 to call Tony Perez as my next witness.

24 ANTHONY J. PEREZ

1 called as a witness by the Petitioner, being  
2 previously duly sworn, testifies as follows:

3 DIRECT EXAMINATION

4 BY MR. WINKHART:

5 Q. Tony, if you could please state your  
6 full name and give your residential address for  
7 the record.

8 A. Yes. It's Anthony J. Perez, 1705 State  
9 Street Northwest, Uniontown, Ohio 44685.

10 Q. Thank you. Tony, could you describe for  
11 the Commissioners your position with Lemmon  
12 Development?

13 A. I am an owner/principal of Lemmon  
14 Development, and the address there is 1201 South  
15 Main Street, North Canton, Ohio 44720.

16 Q. For how long have you worked for Lemmon  
17 Development?

18 A. Six, almost seven years here.

19 Q. For the Commissioners and for those in  
20 attendance, could you describe a little bit  
21 about the kind of work that Lemmon Development  
22 has done and give a bit of a historical  
23 perspective of the company?

24 A. So Lemmon Development has been in

1 business for over 40 years. Our patriarch  
2 founder is still involved. He is a big part of  
3 the business. And we've completed multiple  
4 mixed-use developments over the state of Ohio,  
5 including retail, residential, apartments,  
6 multi-family, and most recently concentrated on  
7 senior living communities in the state.

8 Q. You say that you've concentrated on  
9 senior living facilities. How many senior  
10 living facilities has your company developed?

11 A. So we currently have 20 senior living  
12 communities in the state of Ohio ranging from  
13 Mentor all the way down to Dayton, and we own,  
14 operate and manage everything that we've  
15 completed on the senior side.

16 Q. And describing kind of with an eye  
17 toward what you envision where this property  
18 were to be annexed into the city, could you  
19 describe what one of those typical senior living  
20 facilities would look like and how it would  
21 operate?

22 A. So our typical senior living community  
23 would be licensed through the Ohio Department of  
24 Health as a residential care facility. We would

1 be basically assisted living, and then we would  
2 have some memory care units as well. We range  
3 from 80 to 130 units, and we've also started to  
4 add an independent living villa component that  
5 would be detached from the main building, and  
6 they would offer services as well from the main  
7 building. The main building would have  
8 different amenities: Full-time dining, 24-hour  
9 operations so there's somebody there at all  
10 times, and just other different amenities, pub,  
11 bistros, salons, different things like that.

12 Q. Mr. Perez --

13 COMMISSIONER DAVIS: Gentlemen, I  
14 apologize again for interrupting. I want to try  
15 to encourage you to keep your voices up and  
16 you're not going to be too loud for anybody.

17 THE WITNESS: I can get loud.

18 COMMISSIONER DAVIS: Let's do it.

19 BY MR. WINKHART:

20 Q. Mr. Perez, you said these facilities are  
21 licensed residential care facilities with the  
22 Ohio Department of Health. Is that correct?

23 A. It is, yes.

24 Q. Would you -- are these operated as

1 traditional nursing homes?

2 A. They're not, no. They're all private  
3 pay, and they are market -- kind of like a  
4 market rate type deal that people would come in,  
5 and once our residents have a certain need that  
6 we cannot provide under the Ohio Department of  
7 Health regulations, then they would have to move  
8 on to somewhere more suitable, probably more  
9 like a skilled nursing community.

10 Q. And what would be the level of  
11 investment that the ownership group would make  
12 to fully develop one of these residential care  
13 facilities?

14 A. So with the residential care building,  
15 the main building and certain villas that we  
16 would propose for this, we're probably looking  
17 at 20 to \$25 million of investment just on the  
18 senior side of this.

19 Q. And on average a single resident taking  
20 an average of the services rendered, meals, what  
21 would an average resident anticipate paying in a  
22 facility like this?

23 A. It all depends on the size of the units  
24 and different things like that, but between 3

1 and \$5,000 a month.

2 Q. Thank you very much.

3 MR. WINKHART: Rachel, if I could, would  
4 it be possible for you to put the -- very good.  
5 Thank you.

6 Q. Mr. Perez, I know this is going to be  
7 difficult for the record, but as best you can  
8 would you please describe the diagram that  
9 appears on the screen above the Commissioners,  
10 and if you can refer to it as the colors that  
11 are represented in your description of the  
12 properties.

13 COMMISSIONER DAVIS: Can we pause just a  
14 moment on that? Is this something that has  
15 previously been filed with our -- so we do not  
16 have this in our record at this point.

17 MS. ELSBA: It was emailed to me about  
18 an hour ago.

19 COMMISSIONER DAVIS: That's fine. So  
20 I'm going to ask if you'll identify that as  
21 Exhibit B. I assume that's here in paper form  
22 somewhere?

23 MR. WINKHART: It is, yes.

24 COMMISSIONER DAVIS: Would you mind



1     doing that? We'll call this Exhibit B. You can  
2     label it later, but I think that will help with  
3     the record. And again, I apologize for the  
4     interruption. Please proceed.

5           A. Okay. I'll try with the colors here.  
6     I'll start with the bottom left. This is a CG  
7     zoning through the city of Lancaster that we're  
8     proposing. It's going to zone under commercial  
9     retail, but we're actually trying to and working  
10    towards a skilled nursing community to take  
11    residents here. So that is CG. It's  
12    approximately eight total acres.

13           COMMISSIONER DAVIS: May I ask a  
14    question?

15           THE WITNESS: Yes.

16           COMMISSIONER DAVIS: I don't want to get  
17    down in the weeds with you. I want you to do  
18    your thing, I'll do mine, but I don't know what  
19    a skilled nursing facility is.

20           MR. WINKHART: Thank you.

21    BY MR. WINKHART:

22           Q. So, Mr. Perez, you testified earlier  
23    that it's your company's plan to develop a  
24    licensed residential care facility. Could you

1     please distinguish that from a skilled nursing  
2     facility?

3           A.   So our community would be licensed under  
4     the Ohio Department of Health as a residential  
5     care facility.  We would be able to do some  
6     minor medical things, but there's -- I'm on the  
7     development side and not on the management side  
8     of these communities, but on our side there's  
9     certain things we can and cannot do medically.  
10    We can't give trachs and we can't, you know,  
11    give certain types of different things like  
12    that, certain treatments we can't do.  So that  
13    would push our residents from our residential  
14    care facility to a skilled nursing facility  
15    where they are obviously under the Ohio  
16    Department of Health as well, but they'll be  
17    able to do more and -- do more treatments than  
18    we will.

19           COMMISSIONER DAVIS:  So if I could just  
20    make sure I'm understanding, people would live  
21    in a skilled nursing facility, and they call it  
22    that because they have access to skilled nursing  
23    which is some greater level of care --

24           THE WITNESS:  Than what we would be

1 providing.

2 COMMISSIONER DAVIS: I appreciate it.

3 Thank you for that clarification. Please

4 proceed.

5 THE WITNESS: Thank you.

6 A. And then above -- in this mixed-use  
7 development above this we would have a CN,  
8 commercial neighborhood, zoning. It's  
9 approximately 12.8 acres. We're proposing and  
10 working with a few different developers for a  
11 garden-style apartment community. It would be a  
12 luxury-type apartment community with a hundred  
13 to a hundred-plus units for that.

14 The top left is we're proposing an RS3  
15 zoning. It's 26.2 acres. Since that's abutting  
16 the residential up on that corner, we're  
17 definitely talking to a lot of different  
18 residential home builders hopefully locally and  
19 a few in the Columbus market. So we envision  
20 that to be a residential community.

21 Q. Mr. Perez, if I can interrupt you for  
22 just a second that RS3 zoning which is showing  
23 as lot three in the upper left-hand corner, to  
24 your understanding is that the same zoning that

1 exists for the residential property that is to  
2 the west and to the north?

3 A. Yes, it is.

4 Q. Thank you.

5 A. To the right of that, top right, the  
6 purple RM2 is a multi-family -- multi-family  
7 zoning. It's approximately 11 and a half acres.  
8 We're looking at a one-story villa-type unit,  
9 hopefully an extension off of what's below that  
10 in the blue, which would be our CN -- yes, our  
11 CN zoning, which the blue portion of this would  
12 be where we're proposing our Danbury or senior  
13 living community. That will be the residential  
14 care community where we'll add some villas on  
15 that piece, and then hopefully if it does well,  
16 extend over to the RM2, the purple portion, and  
17 go that route.

18 Q. Thank you very much. And again,  
19 Mr. Perez, that zoning plan was submitted to the  
20 City of Lancaster Planning Commission, and do  
21 you know how the City of Lancaster Planning  
22 Commission received that application?

23 A. How they received it?

24 Q. Did they approve that?

1 A. They did.

2 Q. Okay. Thank you.

3 Mr. Perez, you indicated that you're the  
4 president of Lemmon Development Company. Would  
5 it be fair to say that if your development  
6 company suffered any complaints relative to any  
7 of your prior projects that you would be  
8 generally aware of those?

9 A. Yes.

10 Q. If you have an opinion, could you share  
11 with the Commission what the overall reception  
12 of your senior living communities in other  
13 communities is?

14 A. Yes. It's been very good. We come in  
15 and serve as a need for the senior residents of  
16 the community. Most municipalities that we go  
17 into enjoy having the seniors stay in the  
18 community instead of going elsewhere. It also  
19 helps with growth in the community, because it's  
20 getting some of the seniors out of their homes,  
21 out of their residential homes, getting them  
22 into our communities and giving an opportunity  
23 for new growth and people to come into those  
24 residential homes that they lived in to help

1 with the city.

2 Q. And, Mr. Perez, do you have an opinion  
3 as to -- as to the level of quality of the  
4 proposed development that you would have just  
5 generally?

6 A. Just generally. So -- and this came up  
7 a little bit during planning commission. I feel  
8 like with us being an owner, developer, manager  
9 of our senior living community we're making a  
10 large investment. So it's our goal to bring  
11 everything in around our community, and this  
12 mixed-use development at a very high level, a  
13 high quality and continue obviously the  
14 landscaping, the finishes, the quality of our  
15 community within this whole mixed-use  
16 development.

17 Q. Thank you. Mr. Perez, you've been  
18 working for several months with representatives  
19 from the City of Lancaster with respect to the  
20 proposed provision of city services to this  
21 property. Is that correct?

22 A. Yes.

23 Q. Is it your opinion that the City of  
24 Lancaster has the ability to provide all of the

1 necessary municipal services to this property?

2 A. Yes.

3 Q. And as such we're contemplating that  
4 approximately 77 acres would be annexed into the  
5 city of Lancaster. Based on your dealings with  
6 the City representatives, does it feel to you  
7 that this property is of reasonable size to be  
8 annexed into the city?

9 A. Yes.

10 Q. Thank you. And, Tony, finally, is it  
11 your opinion that the general good of the  
12 territory proposed to be annexed into the city  
13 will be served by annexing it into the city of  
14 Lancaster?

15 A. Yes.

16 Q. And I appreciate that most of the  
17 surrounding property is already in the city, but  
18 I'd ask that you think about the areas that  
19 surround the community. Understanding the  
20 significant experience that you've had  
21 developing these high-end senior living  
22 facilities, is it your belief that the  
23 surrounding area will be benefited by the  
24 proposed annexation and the development as you

1 currently contemplate?

2 A. Yes.

3 Q. And do you believe that the benefit to  
4 the surrounding area will outweigh any  
5 detrimental effect that this annexation may have  
6 to the surrounding area?

7 A. Yes.

8 Q. Thank you.

9 MR. WINKHART: Thanks, Tony.

10 COMMISSIONER DAVIS: Sir, you're not  
11 excused.

12 THE WITNESS: Oh, sorry.

13 COMMISSIONER DAVIS: Sorry. I'm not  
14 being rude. I'm just --

15 THE WITNESS: That's okay.

16 COMMISSIONER DAVIS: The necessary  
17 parties have an opportunity to cross-examine  
18 this witness if they would so choose. Does the  
19 City of Lancaster want to cross-examine this  
20 witness?

21 MR. ULLOM: Yes, Commissioner Davis, I  
22 have a question for the witness.

23 COMMISSIONER DAVIS: Please speak up  
24 loud and clear so everybody can hear your



1 question and his answer.

2 CROSS-EXAMINATION

3 BY MR. ULLOM:

4 Q. Mr. Perez, with regard to this  
5 development one of the things, of course, that  
6 always gets talked about in a development like  
7 this is traffic. To your knowledge, what has  
8 been your conversations with the City with  
9 regard to determining what that traffic  
10 situation would be?

11 A. The City's put out a scope for our  
12 traffic study to address a very large area  
13 that's connected and has some type of connection  
14 to this property. So we are abiding by and will  
15 accommodate obviously anything that our traffic  
16 study comes back at and will work with the City  
17 to make sure that those items are addressed.

18 Q. So if I could just to clarify, so  
19 parameters for a traffic study have been issued  
20 by the City to the Lemmon group?

21 A. Yes.

22 Q. And have those parameters -- are they  
23 still being discussed or have they been defined?

24 A. They've been defined.

1 Q. They have been defined?

2 A. Yeah.

3 Q. Could you walk the Commissioners through  
4 the process then of we've -- the City has  
5 established those parameters. How does that  
6 traffic study -- tell us how you go about that.

7 A. Okay. So I've hired a consultant that  
8 obviously has been looked at and approved by the  
9 City, the city engineer, and they will work with  
10 the city engineer, and the city's consultant  
11 will work with our consultant that we've hired  
12 to make sure that all the parameters that are in  
13 the scope of work that were produced by the City  
14 to then -- obviously we'll produce our findings,  
15 we'll give them back, and then we'll address the  
16 areas of concern that are highlighted in the  
17 report.

18 Q. And as a developer what is your  
19 experience with once those -- that traffic study  
20 is done and those determinations are made what  
21 sorts of things -- kind of asking you -- what  
22 sort of things come out of that traffic study as  
23 far as roadway?

24 A. It can all -- it can all vary. You

1 know, in some cases there's been a traffic light  
2 added. In some cases there's been turning lanes  
3 added. It just all depends on the development,  
4 the use, and what was in the actual scope and  
5 areas to be looked at by the City.

6 Q. And I think you already stated this, but  
7 just for clarification -- point of clarification  
8 this traffic study -- to your knowledge, I guess  
9 I would ask, does this traffic study encompass  
10 more than just the area of North Columbus Street  
11 or the roadway that is immediately adjacent to  
12 your property -- or to this property?

13 A. It does. It does. It's actually --  
14 it's a larger area than what we'd be used to  
15 looking at as a developer. So I think the city  
16 engineer has covered a pretty large area.

17 MR. ULLOM: Thank you very much.  
18 Commissioner Davis, thank you. No further  
19 questions.

20 COMMISSIONER DAVIS: Thank you. You're  
21 still in the box. I've been advised that  
22 Commissioner Fix has questions of you which he's  
23 entitled to ask. Once he's had an opportunity  
24 to ask his questions, I've also been advised

1 that Commissioner Levacy may have a question or  
2 more that he's entitled to ask.

3 So at this time I'm going to ask  
4 Commissioner Fix to inquire of the witness.

5 COMMISSIONER FIX: Thank you,  
6 Commissioner.

7 EXAMINATION

8 BY COMMISSIONER FIX:

9 Q. Mr. Perez, thank you for being here  
10 tonight. \$25 million investment's a pretty big  
11 deal. I'm assuming coming from North Canton  
12 that you wouldn't be coming to Lancaster to  
13 invest that kind of money unless you've done  
14 some kind of surveying to understand that  
15 there's a demand for what you would like to  
16 provide. Can you talk about how you came to  
17 that conclusion that this is a place to be?

18 A. Yes. So we, internally with our senior  
19 living side of our management business, have an  
20 internal demographics-type person who does our  
21 internal market studies. He'll look at an area,  
22 he'll look at the population, just everything in  
23 the demographics that we can compile, and first  
24 make a recommendation if this is a good place to

1 start looking. Then we'll hire a professional  
2 consultant. In this case we used somebody out  
3 of Columbus, VSI. They are professional --  
4 professional person that does all of our market  
5 studies across the state, and they present a  
6 report that says these are the demands of X, Y,  
7 and Z. In this case it's our senior living. So  
8 they will say, yes, there's a demand for how  
9 many beds in assisted, how many beds in memory  
10 care, how many beds in independent living. So  
11 they'll compile the data and push it to us, and  
12 in this case there is a great demand for that.

13 Q. And that demand is not currently being  
14 met?

15 A. Yes, sir.

16 Q. Okay. I get it. Did I understand you  
17 correctly when looking at the bottom left of the  
18 map did you say that that is going to be a  
19 skilled nursing center?

20 A. We are working with the skilled nursing.  
21 We are working with actually a few different  
22 skilled nursing operators. Our intent would be  
23 likely to have somebody in the skilled nursing  
24 community there. We feel like it's a good

1 complement to our residential care facility  
2 which will be next door.

3 Q. Do you have any idea what size or how  
4 many residents they would have in that kind of  
5 skilled nursing center?

6 A. The person that we're talking with now  
7 is an 80- to 90-unit community.

8 COMMISSIONER DAVIS: Mr. Fix, I ask you  
9 to please keep your voice up.

10 COMMISSIONER FIX: Yes, sir. Thank you.

11 Q. For the apartment community above to the  
12 north of that I guess --

13 A. Yes.

14 Q. -- how many apartments do you  
15 anticipate?

16 A. Right now what -- the developer we're  
17 working with -- working with in Columbus has  
18 proposed 100 to 150 units.

19 Q. Do you have any idea what type of rent  
20 you would be looking for in those 150 units?

21 A. It all depends on size of units and  
22 square footage of units, but I would anticipate  
23 somewhere between a thousand and \$1500 a month.

24 Q. Okay. Thank you. The residential

1 neighborhood in the top left, how many homes do  
2 you think you're looking at?

3 A. It's hard to say. We have a couple  
4 different ideas out there, but it all depends on  
5 how big the lots are. Three to four units  
6 probably per acre, and we have around 26 acres.

7 Q. So around a hundred units?

8 A. Right around a hundred units.

9 Q. Any idea on the price range you would be  
10 looking for?

11 A. We develop a lot of single-family  
12 residential land in Stark and Summit County, and  
13 a starter home these days with the improvements  
14 of the road and just the construction costs for  
15 how high they are it seems like we're pushing  
16 almost 300,000 plus.

17 Q. So you see these as starter homes?

18 A. I don't. I see it as -- well, I've  
19 worked with a lot of different -- I've already  
20 talked with some different single-family home  
21 builders in the area, and it could be a starter,  
22 it could be a different product. I'd love to  
23 get somebody local in here and build custom  
24 homes. It all depends on -- you know, we really

1 don't have anybody lined up yet for this piece.

2 Q. In the villa, how many people roughly  
3 live in the villa?

4 A. In the RM2 in the purple?

5 Q. Yes.

6 A. So that piece really truly hasn't been  
7 completely defined yet. Like I said, speaking  
8 down below there on the CN where the senior  
9 living portion is going to go, I'd like to start  
10 out with the senior portion there, the senior  
11 building, and add probably 15 to 20 villas, and  
12 then if the villas take off -- it would  
13 basically be a two-bedroom, two-bath, two-car  
14 garage patio-style home. And if those do well,  
15 I'd like to extend that across or up to the  
16 north to the purple RM2 and eventually do more  
17 villas there.

18 Q. What capacity do you think that area  
19 holds for villas? 15 to 20, 20 to 30?

20 A. We're at --

21 Q. In the purple section?

22 A. Yeah. I would say at 11 acres could we  
23 get 50-plus units in there? I'd like to.

24 Q. 50 or 15?



1 A. 50.

2 Q. Thank you.

3 COMMISSIONER FIX: That's all I have.

4 Thank you very much, sir.

5 COMMISSIONER DAVIS: Thank you,

6 Commissioner Fix.

7 Commissioner Levacy has advised me that  
8 the questions he anticipated asking just got  
9 asked by Commissioner Fix. With that follow-up  
10 questioning, I want to come back to the City of  
11 Lancaster and ask if you have any further  
12 cross-examination that you didn't anticipate  
13 until you heard the answers to those questions  
14 that were just asked?

15 MR. ULLOM: I do not. Thank you,  
16 Commissioner Davis.

17 COMMISSIONER DAVIS: I want to come back  
18 to you, Counselor. Any further redirect?

19 MR. WINKHART: Thank you. Just one  
20 question.

21 REDIRECT EXAMINATION

22 BY MR. WINKHART:

23 Q. Tony, we've walked around the property  
24 pretty well, anticipate -- talking about what

1 your anticipated development vision would be.  
2 The one thing we haven't talked about is the  
3 beautiful manor house that currently is on the  
4 property. Could you speak a little bit about  
5 your intent relative to that house?

6 A. Yeah. So it is a beautiful house. I  
7 feel like it's a landmark, and my intent is not  
8 to touch it and to utilize it in some type of  
9 fashion. Can we use it as a clubhouse for the  
10 community? I just -- I'm not quite there yet,  
11 but my main intent is not to touch or tear down  
12 the house.

13 Q. Thank you. And one more thing. We'll  
14 go a little bit out of order here, but in the  
15 interest of efficiency, Tony, if you know, the  
16 property is bordered on the south by North  
17 Columbus Street. Do you know who currently  
18 maintains that road?

19 A. North Columbus Street? It's the City.

20 Q. Right. So to your knowledge as a result  
21 of the annexation North Columbus Street or no  
22 other street or highway will be divided or  
23 segmented relative to Greenfield Township or the  
24 City of Lancaster?

1           A. No.

2           MR. WINKHART: I have nothing further  
3 for this witness.

4           COMMISSIONER DAVIS: Okay. Either of my  
5 colleagues have any other follow-up questions as  
6 a result of that redirect?

7           Any questions from the City of  
8 Lancaster?

9           MR. ULLOM: No, sir.

10          COMMISSIONER DAVIS: Sir, you are now  
11 excused, but you are subject to being recalled  
12 so I would ask you to please remain for the  
13 balance of the hearing.

14          THE WITNESS: Thank you.

15          MR. WINKHART: While this may be a  
16 little bit unusual, it's with his permission  
17 that I would like to call the City of Lancaster  
18 Law Director Randall Ullom as my next witness.

19          COMMISSIONER DAVIS: That is unusual,  
20 and I wasn't paying attention when we rose and  
21 swore, and would ask you if you did?

22          MR. ULLOM: I did, yes.

23          COMMISSIONER DAVIS: Okay. So you can  
24 call anybody you want. Go ahead.

1           MR. ULLOM: I guess my question,  
2 Commissioner Davis, should I just sit here so I  
3 can actually project, or should I go over there  
4 to the microphone?

5           COMMISSIONER DAVIS: If you're willing  
6 to keep your voice up and I don't get a high  
7 sign from the back that you dropped too low,  
8 we're good to go.

9           MR. WINKHART: I've been in a couple  
10 meetings with Attorney Ullom, and quietness is  
11 not something that I would accuse him of.

12           RANDALL ULLOM  
13 called as a witness by the Petitioner, being  
14 previously duly sworn, testifies as follows:

15           DIRECT EXAMINATION

16 BY MR. WINKHART:

17 Q. So, Randall, you've been working on  
18 behalf of the City for several months with  
19 respect to this project. Is that correct?

20 A. That is correct.

21 Q. To your knowledge, has the City of  
22 Lancaster complied with Ohio Revised Code  
23 Section 709.03(D) which in general terms is  
24 undertaking legislation to extend and provide

1     municipal services to the territory proposed for  
2     annexation?

3           A. Yes, it does. That particular section  
4     you're speaking about for purposes of the record  
5     just requires that upon the City's receipt of  
6     the certified copy of the petition for  
7     annexation we prepare legislation specifically  
8     with regard to a resolution to provide services  
9     to the territory should it be annexed.

10           So we did receive the certified copy of  
11     the annexation petition that you filed with the  
12     Commissioners. Upon receipt of that, we  
13     prepared -- one of the resolutions or one of the  
14     pieces of legislation prepared was Temporary  
15     Resolution 129-19 which was specific as to the  
16     provision of services should this property be  
17     annexed into the city, and that would include,  
18     of course, all utilities, that would include  
19     police, fire and EMS services.

20           Also with regard to that particular  
21     section of the statute we introduced that piece  
22     of legislation October 14th of this year, 2019.  
23     It received introduction that night and first  
24     reading. On November 4th of 2019 it received

1 second reading. At which time that piece was  
2 tabled, but on the night of introduction,  
3 October 14th of 2019, the next day I believe the  
4 Clerk of Council Teresa Sandy certified a copy  
5 of that resolution to the County Commissioners  
6 so that we were in compliance with the Ohio  
7 Revised Code, and I did confirm that the  
8 Commissioners received that and they have that  
9 in their filing of this annexation.

10 Q. Very good. Thank you.

11 And not that I don't trust Mr. Perez's  
12 previous testimony, but are you familiar with  
13 what political subdivision maintains North  
14 Columbus Street as it abuts the territory  
15 proposed for annexation?

16 A. Yes. It is the City of Lancaster that  
17 maintains North Columbus Street throughout  
18 there. As we have talked about, I think it's  
19 been testified to before, this particular piece  
20 of property, while in Greenfield Township, is an  
21 island surrounded by the city of Lancaster. So  
22 also with regard to utilities that's -- it's  
23 surrounded by city utilities already.

24 Q. And to your knowledge are those

1 utilities in sufficient capacity or contemplated  
2 to be upgraded to sufficient capacity to allow  
3 for the development of this property were it to  
4 be annexed into the city?

5 A. To my knowledge and conversations with  
6 the city engineer, yes.

7 Q. Thank you very much.

8 And specifically because it's a  
9 requirement of the statute, as a result of this  
10 annexation, if you know, would it be your  
11 understanding that if this territory proposed  
12 for annexation is, in fact, annexed into the  
13 city that it would not create a divided or  
14 segmented highway or street particularly as it  
15 relates to North Columbus Street?

16 A. That is correct. It would not.

17 Q. Thank you very much.

18 COMMISSIONER DAVIS: Can I ask a  
19 question? And I'm not sure who would be the one  
20 to answer it, but the manor that's there now or  
21 the home that you spoke of in your testimony,  
22 Mr. Perez, is that well and septic now?

23 MR. HUTCHINSON: It does have city water  
24 service and it is on a septic system.

1           COMMISSIONER DAVIS: I was just curious  
2 about that. I appreciate your willingness to  
3 answer that question.

4           Do any of my colleagues -- are you done  
5 with Mr. Ullom or are you still going?

6           MR. WINKHART: I'm done with him.

7           COMMISSIONER DAVIS: All right. I'm  
8 asking if my Commission colleagues have any  
9 questions that they would like to ask of  
10 Mr. Ullom. Commissioner Fix?

11          COMMISSIONER FIX: No. Thank you.

12          COMMISSIONER DAVIS: Commissioner  
13 Levacy?

14          COMMISSIONER LEVACY: No.

15          COMMISSIONER DAVIS: All right.

16          Sir, you're excused from your status as  
17 a witness, but you are subject to being  
18 recalled. We would ask that you remain for the  
19 balance of the hearing.

20          MR. ULLOM: Yes. Thank you, sir.

21          COMMISSIONER DAVIS: Sir, continue with  
22 your case.

23          MR. WINKHART: Commissioner Davis, I  
24 have nothing further to go forward with. I



1 would reserve the right -- I think you've given  
2 me the ability to rebut testimony should we feel  
3 that necessary.

4 COMMISSIONER DAVIS: Understood. Thank  
5 you. The presentation of the Petitioner's case  
6 is submitted.

7 At this time the City of Lancaster has  
8 the right, but not the obligation, to present  
9 testimony through the examination of witnesses  
10 or the production of documents.

11 Sir, do you wish to present any case at  
12 this time?

13 MR. ULLOM: I have no further evidence.

14 COMMISSIONER DAVIS: As we explained at  
15 the beginning of the hearing, if Greenfield  
16 Township had chosen to participate in this  
17 hearing, they would similarly be given the  
18 opportunity to present witnesses and evidence  
19 regarding this particular annexation, but they  
20 have elected -- not commenting on the  
21 propriety of that election, but that's just  
22 the way that is.

23 Now, as we mentioned earlier tonight at  
24 the conclusion of the presentation of the cases

1 for the necessary parties, which is where we  
2 are, we'll now have an opportunity for those in  
3 attendance to comment, question, and take any  
4 position you like, pro or con.

5 I want to touch on a couple of those  
6 issues for just a moment. Number one,  
7 previously I asked if any of those who were here  
8 anticipated commenting at this portion of the  
9 meeting if you would please rise if you were  
10 able and be sworn. A few people have come in  
11 since that opportunity to rise and be sworn, and  
12 so I'm going to ask now again if anybody who did  
13 arrive late or perhaps you were already here and  
14 have since changed your mind and decided that  
15 you would like the opportunity to comment, if  
16 you would now please rise if you're able.

17 (More witnesses duly sworn.)

18 COMMISSIONER DAVIS: The witnesses are  
19 sworn. The County Administrator Carri Brown is  
20 going to facilitate your order. There's nothing  
21 special to it. She's just going to politely go  
22 about and bring you up.

23 I want to make a couple of comments on  
24 process there. If anyone would like to stand

1 for your testimony, the microphone can be moved  
2 up here to Rachel's desk. If you would like to  
3 sit for your testimony, you're welcome to do  
4 that. I'll remind those who may have arrived  
5 late that we will be under a five-minute  
6 timeline for your comments at least until such  
7 time as everybody who wishes to address the  
8 Commission's been given an opportunity to do so.

9 If you're asked to conclude your remarks  
10 as a result of the time limit, once everybody  
11 has spoken you will be given an opportunity to  
12 come back up and briefly conclude your remarks.

13 Also remind you that we've asked all the  
14 witnesses tonight, including you all, to please  
15 begin by stating your name and residential  
16 address.

17 Thank you. I'm sorry to have delayed  
18 your comments.

19 MS. DYBALL: Glenda Dyball, 2072 North  
20 Columbus Street.

21 COMMISSIONER DAVIS: Please proceed.  
22 And, again, I apologize for not recalling if you  
23 heard the prior instructions at the beginning of  
24 the hearing, but by testifying tonight you do

1 open yourself to cross-examination by either  
2 counsel or the Commissioners if they so desire.

3 Please proceed.

4 MS. DYBALL: Okay. I have a concern  
5 that I went to the mayor's office about  
6 yesterday, and I also went to the planning  
7 office, because in the planning meeting that we  
8 had they told us that everything -- all the  
9 properties across the street on Columbus were --  
10 I can't -- I'm starting to lose my train of  
11 thought. I'm nervous.

12 COMMISSIONER DAVIS: Please take your  
13 time, ma'am.

14 MS. DYBALL: Was commercial property,  
15 and so I knew that it wasn't commercial  
16 property. So I didn't really know how to handle  
17 myself properly in a meeting, nor this one. So  
18 before they voted, I yelled out there's a  
19 mistake with that map, because I wanted them to  
20 know that that wasn't true about these  
21 properties over here being commercial property.

22 So I went into the planning office and  
23 he gave me this map. Pete Vail is his name.  
24 He's in charge of planning. Then he agreed that

1     these properties are not. So what we're told  
2     was because they were putting commercial  
3     properties here they felt comfortable putting  
4     the commercial properties here because this was  
5     also commercial. So that's one concern. I kind  
6     of felt like we were misled about that  
7     situation.

8             COMMISSIONER DAVIS: I understand, and I  
9     just want to help you for a moment there. The  
10    map that you were showing was a demonstration,  
11    and your statement, your testimony is that the  
12    property south of Columbus Street on the subject  
13    map is the property previously identified as  
14    having been commercial property, and your  
15    testimony is that it is not?

16            MS. DYBALL: That's correct.

17            COMMISSIONER DAVIS: Please proceed.

18            MS. DYBALL: My other -- another major  
19    concern that I tried to bring up, and I felt  
20    that I was bullied in that meeting by Paul  
21    Martin, he was in charge of the meeting, was I  
22    moved here in my home in April. So it was all  
23    new to me and this whole world is new. That's  
24    why I was late, because I couldn't figure out

1       where to park.

2               But anyway I ended up with a big train  
3       wreck in my house, and I wanted to make the  
4       developer aware of this situation because it's  
5       very serious, and somebody isn't saying things  
6       the way they really are. What happened was we  
7       had a few big storms, and when we had those big  
8       storms -- I even took a video of it on my phone.  
9       I was looking out and the water was shooting out  
10      of the storm -- well, I didn't know it was a  
11      storm drain. I didn't know what that was. It  
12      was shooting out of this manhole in my front  
13      yard, and it filled my whole entire front yard  
14      literally like a lake it was so bad.

15              COMMISSIONER DAVIS: Just going to ask  
16      is that storm water or sanitary sewer?

17              MS. DYBALL: Well, at the time I didn't  
18      know. I can tell you now I know that it was  
19      storm water.

20              COMMISSIONER DAVIS: Thank you.

21              MS. DYBALL: So then little did I  
22      know -- because I've been living in California.  
23      I didn't have a basement. -- the water came  
24      down underneath my house, and then it came up

1 and flooded my basement and my garage. Any,  
2 like, little hole or little crack it just came  
3 in there. And at the same time I had the same  
4 problem with my sewer. It was really, really  
5 weird. So I do -- I could do dishes, I could do  
6 little things, take a shower, didn't have a  
7 problem, but the minute that I did laundry all  
8 of a sudden my basement was backing up with  
9 sewer, the toilet would back up and the --  
10 there's two drains down there. And the sewer  
11 was just coming in. I called my real estate guy  
12 and I said, hey, is part of this house on a  
13 septic tank, you know. I don't know what they  
14 do in Ohio. And he's like, no, I don't think  
15 so.

16 And so I called the plumber, and the  
17 plumber came out and looked around and couldn't  
18 find -- well, he found the manhole in my front  
19 yard because the metal thing on there stated  
20 that it was sewer. So he opened it up -- and it  
21 was a young guy -- and he looked in there and  
22 he's, oh, this is bad. You need to call the  
23 City. This thing's all the way filled up with  
24 debris and blah, blah, blah.

1           So I called the City, the sewer  
2 department, and they came out and they looked,  
3 and they said, no, that's the storm drain. You  
4 need to call them.

5           And so I called them and had to argue  
6 with them to get them out, and they came out and  
7 they found out that all the storm drains were  
8 all the way plugged up on Columbus Street bad,  
9 really, really bad. So that's what had caused  
10 that to come down and flood my basement.

11           So they came out -- and I've got videos  
12 of them, you know, cleaning that out. But I had  
13 the same conversation with them as I did with  
14 the sewer guys. The sewer system is a whole  
15 different situation because that's a health  
16 concern.

17           COMMISSIONER DAVIS: I'm -- ma'am, I'm  
18 sorry to interrupt you. I've been a little bit  
19 kind in going over our five-minute time limit.

20           MS. DYBALL: Oh, I'm sorry, but I have  
21 to tell you about this.

22           COMMISSIONER DAVIS: You're going to get  
23 that opportunity, because once everybody who  
24 wishes to speak has had the opportunity to do



1     so, I'm going to invite you back up to conclude  
2     your remarks. Okay?

3             MS. DYBALL: Okay.

4             COMMISSIONER DAVIS: We're going to stay  
5     consistent with our timeline. I did give you a  
6     little bit more there. I'm not meaning to be  
7     rude and all. I'm telling you you're going to  
8     get a chance to come back up once everybody who  
9     wishes to speak has the opportunity.

10            MS. DYBALL: Can I finish one last thing  
11     real quick?

12            COMMISSIONER DAVIS: Yes, you may.

13            MS. DYBALL: So when I asked them why  
14     they don't maintain the system, the sewer system  
15     and the storm drain system, they said they  
16     didn't have the funds to do it, they said they  
17     didn't have the manpower, and they didn't have  
18     the equipment. That is a big concern.

19            But you don't have to ask me back.

20            COMMISSIONER DAVIS: I don't mean to be  
21     rude. I hope you don't take it that way.

22            MS. DYBALL: No. That's okay.

23            COMMISSIONER DAVIS: Thank you.

24            MS. DYBALL: Thank you.

1           COMMISSIONER DAVIS: Oh, I'm sorry,  
2     ma'am. I missed something on that. I had to  
3     give the necessary parties an opportunity to ask  
4     you questions if they wanted to and they've  
5     elected not to. I apologize for the confusion  
6     on that.

7           Sir, if you would please begin by  
8     stating your name and residential address.

9           MR. GERKEN: I think I can stand up and  
10    everybody can hear me, right? Really I don't  
11    have -- well, I got all kind of questions.

12          COMMISSIONER FIX: Your name and  
13    address, sir.

14          MR. GERKEN: My name is George Gerken,  
15    2214 Landcrest Drive. I live on the other side  
16    of this project. My biggest problem I keep  
17    hearing traffic, we're going to do a traffic  
18    study. Well, I can go back to a traffic study  
19    way back to 1950 when they said 22 -- Route 33  
20    was not going to be on Columbus Street any  
21    longer, we got a plan to move it down, and we  
22    now have a four-lane highway.

23          But on Columbus Street you're talking  
24    about putting somewhere, if I'm counting right,

1     6 to 7 -- 6 to 700 different people moving into  
2     this area onto a two-lane street that's already  
3     overcrowded. I would like to had you with me  
4     when I come down here tonight. You would all  
5     have to agree with me we have a traffic problem,  
6     and now you're going to add to that traffic  
7     problem. Now, that's just part of the problem I  
8     see.

9             The gentleman over there said he's been  
10    watching this area for 40-some years. Sir, I've  
11    been watching it for 80. I watched the thing  
12    blow up, and now I'm a part of it. I live over  
13    there in part of that addition, but the part  
14    you're doing now you're destroying -- I haven't  
15    yet figured out how they're going to get all  
16    these different entities into that 70-plus  
17    acres.

18            I really would like to say in summing up  
19    I would like to see them go back and study this  
20    thing so when they ask questions and when they  
21    answer questions they're answered, and I don't  
22    have to go back and try to figure out whether  
23    they said they was going to build a hundred  
24    houses, they're going to build 150 houses,

1     whether there's going to be -- which is the  
2     purple up there? Which is the blue? Which is  
3     the green? I don't understand half the time how  
4     many people are going to be in these different  
5     areas. So I guess I'm back to one thing:  
6     Traffic. And when they can resolve that and  
7     tell me it's going to be actually the way it  
8     should be, I'll go along with it and say we just  
9     move in. Thank you.

10           COMMISSIONER DAVIS: Thank you, sir. If  
11     you'll remain for just a moment until I've asked  
12     the necessary parties if they'd like to ask any  
13     questions of you at this time.

14           MR. WINKHART: Thank you. I have  
15     nothing for this witness.

16           COMMISSIONER DAVIS: Any questions from  
17     the City of Lancaster?

18           MR. ULLOM: No.

19           COMMISSIONER DAVIS: Any questions from  
20     my colleagues?

21           Sir, we thank you for your time and your  
22     courtesy.

23           MR. GERKEN: May I say if they had no  
24     questions on the fact that I'm involved with

1 this traffic, then it must be a real problem.

2 COMMISSIONER DAVIS: Thank you, sir.

3 Please begin by stating your name and  
4 residential address.

5 MS. HUFFMAN: Lisa Huffman, 1580  
6 Woodland Heights Lane. And I apologize I had  
7 some dental work so I can't speak up loudly.  
8 I'll try to do the best I can.

9 I guess my overall question to the panel  
10 is according to the Ohio Revised Code there has  
11 to be some fact finding from which your decision  
12 is made. And all I've heard so far are two  
13 witnesses who are the -- consist of Mr. Perez  
14 and Mr. Hutchinson and in addition the City of  
15 Lancaster prosecutor? Okay.

16 I guess my question first is to the  
17 prosecutor, because you were at the meeting as  
18 well as -- well, actually all of you were.  
19 Could you state for the record how many --  
20 besides these gentlemen here -- proponents of  
21 the zoning change that was approved by the  
22 planning commission were there who spoke at the  
23 meeting?

24 COMMISSIONER DAVIS: Ma'am, I don't mean

1 to interrupt you, but I want to be clear on our  
2 process. This is your opportunity to provide  
3 testimony to the Commission. It's not an  
4 opportunity for you to examine these people as  
5 witnesses. If you ask questions -- or you have  
6 questions that you want the answer to, you can  
7 identify what those questions are. Their choice  
8 at their point of rebuttal to respond to those  
9 questions or not respond to those questions will  
10 be taken into weight by the Commission in our  
11 decision-making process. So if you'll please  
12 direct your questions, comments or concerns to  
13 the Commission, I would appreciate it.

14 MS. HUFFMAN: I understand. Thank you.

15 Well, then I as a witness who was at the  
16 planning commission meeting can assert, subject  
17 to cross-examination, that there were no other  
18 proponents other than the parties who were  
19 interested in zoning change. There was an  
20 overwhelming opposition by the community.

21 The statute requires fact finding, as I  
22 said, and I've heard nothing tonight but  
23 opinion, and there's a huge difference between  
24 fact and opinion. Statements like, well, I feel

1     like it would be really beneficial, that is not  
2     fact, and I would submit that there has to be a  
3     traffic study done by an impartial third party  
4     independent of the proponent of the annexation  
5     in order for you to make -- before you can make  
6     your decision.

7             In my opinion having lived here for 26  
8     years it's insane to propose annexation without  
9     a traffic study before you make that decision.

10            Also to the questions that were  
11     repeatedly asked whether this was considered an  
12     unreasonably large tract of land, one of the --  
13     I know they're not here tonight, but one of the  
14     requirements is that the -- that the -- if it  
15     remains -- if it gets annexed, the ability of  
16     the remaining Greenfield Township to sustain  
17     itself would be a critical issue. In other  
18     words, if it's considered that Greenfield  
19     Township would have difficulty -- would lose a  
20     huge chunk of revenue from its current territory  
21     and would have difficulties, there's no  
22     financial data. That's what I'm saying. You  
23     need financial data in order to make your  
24     decision from Greenfield Township as to what it

1 is losing. That is fact that needs to go into  
2 this unreasonably large test, not opinion as was  
3 given to you tonight. You have to have that.

4 And I also would submit that you have to  
5 have factual data that on balance the general  
6 good of the territory proposed to be annexed  
7 will be served, and the benefits to the  
8 territory proposed to be annexed and the  
9 surrounding area -- that's Woodland Heights  
10 Lane, that's every property within half a mile  
11 of Timber Top, there would be a benefit. Well,  
12 first of all, I don't see any benefit to us so  
13 that's zero right there. -- will outweigh the  
14 detriments to the territory proposed to be  
15 annexed and the surrounding area.

16 You have to be given factual data, you  
17 have to have facts, evidence, real evidence, not  
18 a matter of opinion, or gee, you know, when I  
19 look at this property, I thought it was lovely,  
20 or I wondered why it hasn't been developed  
21 before. That is opinion. That is not fact.

22 There is no evidence before you right  
23 now -- I'm submitting that there's no evidence  
24 before you that -- upon which you can make a



1 decision as to whether these factors have been  
2 met, and on balance it will not detriment the  
3 surrounding area more than it will benefit.  
4 That's all I have to say.

5 COMMISSIONER DAVIS: Ma'am, hold on just  
6 a moment. Let me get through the procedural  
7 formalities if I might.

8 Do any of the necessary parties wish to  
9 examine this witness?

10 MR. WINKHART: Nothing for this witness.

11 MR. ULLOM: I have no questions.

12 COMMISSIONER DAVIS: Commissioner Fix?

13 COMMISSIONER FIX: No.

14 COMMISSIONER DAVIS: Commissioner  
15 Levacy?

16 Ma'am, I thank you for your time and  
17 your courtesy.

18 Your name and residential address, sir.

19 MR. HUFFMAN: Robert Huffman, 1580  
20 Woodland Heights Lane Northwest.

21 COMMISSIONER DAVIS: If I might make a  
22 comment, your body language and demeanor and  
23 smile out there is a pleasure for me to see, and  
24 I appreciate you being here tonight.

1           MR. HUFFMAN: Thanks. I would like to  
2 state, first of all, that I do oppose the  
3 development. Obviously, it's a fantastic site  
4 to be next to. We've been there for 26 years.  
5 That was part of the reason we purchased the  
6 house we bought, and I hate to see that gone. I  
7 do understand that developing property is  
8 something that happens. I do believe that they  
9 will seek to do an excellent job at that, but  
10 that it will be at a detriment to us, the  
11 neighbors, to our home values, to the kind of  
12 living that we have currently. So I don't take  
13 the development lightly.

14           I have two major concerns with this.  
15 One is -- which everyone's brought up -- is the  
16 traffic. If I go through, we've got at least a  
17 hundred -- proposed, a hundred single-family  
18 homes, 150-plus unit apartment complex, anywhere  
19 from 20 to 80 villas.

20           You've got -- in the planning commission  
21 it was brought up there will probably be about  
22 150 employees, you've got the 80- to 90-unit  
23 skilled nursing facility. I think I've left a  
24 few out, but that just in and of itself is a

1     tremendous number of additional cars that will  
2     be flowing through this area.

3             We've already -- the zoning has already  
4     been approved for this without having that  
5     traffic study. I'm very concerned with that.  
6     This is a major concern already. We have a huge  
7     traffic problem right now getting out of  
8     Woodland Heights Lane, getting into Woodland  
9     Heights Lane, and this is already basically a  
10    done deal, that they have been zoned for this  
11    approval, to have all of this -- you know, all  
12    of the traffic that will come with us without  
13    having that traffic study, and I think that is a  
14    step that really should be put -- the traffic  
15    study first before the annexation, before the  
16    zoning approval, et cetera.

17            The second great concern that I have is  
18    with the piece of GCs, the light pink at the  
19    very bottom corner there. If you look for as  
20    far as you can go up the street, all the way  
21    back down, we're all residential. Now, adding  
22    in a nice retirement community, that kind of  
23    sways from that, but that probably could fit in  
24    well. The apartment complex, single-family

1 homes obviously fit, but I'm very concerned with  
2 GC. That opens it up to everything from a  
3 tavern to a kennel to other things that would be  
4 very detrimental, and that is actually right  
5 next to the Woodland Heights properties.

6 I have a great concern with why -- with  
7 the proposed need only being a skilled nursing  
8 facility why is that going to be stepped up to a  
9 more permissive zoning instead of given the  
10 zoning that would meet their needs, but not then  
11 adversely affect us by possibly allowing it to  
12 be used for use that would be very detrimental  
13 to us to have that next door.

14 So these are my two major concerns: The  
15 zoning respect and the traffic respect. And yet  
16 we're already at the point of where it seems  
17 that the City is pushing this to be a done deal,  
18 and that greatly concerns me. Because usually  
19 that's when the residents and the neighbors are  
20 greatly affected.

21 You know, I understand the need to hurry  
22 and the desire to hurry with this process to get  
23 actually building and such, but when you're  
24 talking about affecting peoples lives, our real

1 estate, our values of our homes is the largest  
2 asset that we have and will have. I'd like to  
3 be able to have that value appreciate as I  
4 retire.

5 COMMISSIONER DAVIS: Sir, I thank you,  
6 and if you'll just remain there for a moment  
7 until I give folks an opportunity to -- for me  
8 to find out if they have questions of you.

9 The necessary parties have any questions  
10 of this witness?

11 MR. WINKHART: Nothing for this witness.

12 MR. ULLOM: No.

13 COMMISSIONER DAVIS: Commissioner Fix,  
14 any questions of this witness?

15 COMMISSIONER FIX: No.

16 COMMISSIONER DAVIS: Commissioner  
17 Levacy?

18 Sir, thank you for your time and your  
19 courtesy.

20 MR. KOZAR: Good evening. My name is  
21 Tim Kozar. I live at 2157 North Columbus Street  
22 in Lancaster, and I'm one of the houses across  
23 the street from the light pink that's been  
24 rezoned commercial. I obviously disagree with

1 the opinion of Mr. Perez and Mr. Hutchinson that  
2 I will not be impacted by this development.  
3 It's my opinion.

4 I do have some concerns about what  
5 happened last Thursday, and I would like to --  
6 it was my understanding that the gentleman named  
7 John Sigafoos was the individual who motioned to  
8 accept the proposal for the rezoning of the  
9 property. It's been my understanding -- I've  
10 been told that Mr. Sigafoos lives -- is a  
11 resident of the third floor of the Mithoff  
12 building downtown, which means that  
13 Mr. Hutchinson is his landlord. To me, I  
14 believe that's a conflict of interest.

15 Correct me if I'm wrong here, but I just  
16 have a concern about how the events of Thursday  
17 went down, and this is a residential -- this is  
18 a residential area. It's all been single-family  
19 homes in the North Columbus Street, River Valley  
20 Highlands, Woodland Heights, it's always been  
21 single-family homes, and I disagree  
22 wholeheartedly.

23 And I know progress happens, but the  
24 other owners of Timber Top after Cy Fulton, they

1 chose to keep the property as is, to maintain  
2 the property as is. And now, of course,  
3 Mr. Hutchinson owning it, that's his business,  
4 but he has to realize that it impacts an entire  
5 neighborhood, and I just have concerns about  
6 this so that's all I have to say. Thank you.

7 Any questions?

8 COMMISSIONER DAVIS: Thank you for your  
9 time and your courtesy. If you'll give me just  
10 a moment here. Are there any questions from  
11 either of the necessary parties?

12 MR. WINKHART: Nothing for Mr. Kozar.

13 MR. ULLOM: Nothing.

14 COMMISSIONER DAVIS: Commissioner Fix?  
15 Commissioner Levacy?

16 Sir, thank you for your time and your  
17 courtesy.

18 I'll give you a moment to sign in before  
19 we start the clock, sir.

20 Folks, I'm going to give you a warning  
21 shout here. There is no time constraint on the  
22 length of this hearing, only on the length of my  
23 ability to not have a brief recess at some  
24 point. So I'm alerting you to that so you won't

1 think something has happened in the hearing that  
2 has caused me to call for a recess. It has  
3 nothing to do with the hearing, but there will  
4 be a recess at some point. I'm guessing before  
5 the conclusion of the hearing. I thank you for  
6 your time and for your courtesy.

7 Sir, if you'll begin by stating your  
8 name and residential address.

9 MR. BLAISDELL: Sure. My name is Howard  
10 Blaisdell. I live at 2220 Landcrest Drive in  
11 Lancaster. I live on the north side of the  
12 property. I've got a couple comments. I did  
13 speak extensively at the previous hearing, tried  
14 to ask some particular questions to get answers  
15 for some of the neighbors. I do recognize that  
16 the developer of the property, from what I've  
17 seen, has the best interest in the community at  
18 heart, and they're trying to do this in a  
19 reasonable manner, but I did want to bring up a  
20 couple things that have already been stated  
21 today and maybe add just a little bit of flavor  
22 to it.

23 One is making sure that that traffic  
24 study has -- as it's being looked at -- I know



1 you've got the information from it, but did  
2 that -- did the parameters for that include the  
3 renovations that are being done to Ety and to  
4 Election House Road as part of that traffic  
5 study as far as the expectation intent going  
6 forward?

7 COMMISSIONER DAVIS: Sir --

8 MR. BLAISDELL: And I understand they  
9 won't answer unless they choose to, but I just  
10 want to state it again for the record that I  
11 hope that they will really look at that in great  
12 detail. Especially being the hill as you go  
13 down toward Whittier which we expressed before  
14 is a major concern of our neighbors.

15 It's been identified -- Glenda mentioned  
16 the concern about the water to the neighborhood.  
17 We just want to make sure that we understand  
18 that the City really does understand the extent  
19 of the water service being expected to be added  
20 to this area of town. And I don't know what the  
21 impact is going to be on the City to provide  
22 additional water for these additional units, but  
23 I think it's worth being said for the community.

24 I also have a concern with the CG zoning

1 on the pink parcel. I understand from what Tony  
2 has mentioned is that the ideal use for that and  
3 what you're pursuing is the skilled nursing  
4 facility. I think most of us neighbors are  
5 concerned that the City has been the one pushing  
6 for the CG with the idea that there could be  
7 some offices there if the nursing facility  
8 doesn't go through.

9 But part of what our concern from the  
10 neighbors is without rezoning, if something  
11 happened, if the development fell through, that  
12 zoning does allow for other less restrictive  
13 uses even such as automobiles and service  
14 establishments under the commission -- under the  
15 commercial general. So I know a lot of us  
16 neighbors have been thinking about this and  
17 saying, why is this not being zoned as a  
18 commercial neighborhood, because the commercial  
19 general still requires a special use exemption  
20 for that skilled nursing home.

21 So we're asking has that been thought  
22 about, has that been really thought about in  
23 detail? Because we're concerned -- granted, I  
24 understand if your -- Tony, since your group is

1 going to be building this and maintaining this,  
2 it's in your best interest to have a good  
3 facility next to you as well, but we just want  
4 to make -- you know, our concern is us as  
5 neighbors, we've not worked with you before,  
6 there is a new experience for us, and making  
7 sure that we understand that those things are  
8 taken into account when we look at this zoning.

9 We also have a concern about the amount  
10 of woodlands that are on this land. It's called  
11 Timber Top for a reason. And we understand that  
12 a lot of this will be impacted by the  
13 development and we're hoping that it is done in  
14 the sustainable manner that maintains some of  
15 those buffers to the rest of the community for  
16 the existing trees that provide buffers to the  
17 adjoining community as amenity to the community  
18 as a whole.

19 And then lastly I think it was brought  
20 up and I believe that you mentioned at that  
21 hearing there's a property, it's lot 10 in the  
22 Woodland Heights zone, that currently has a fire  
23 easement across there, and I didn't know where  
24 those people should be looking at in terms of

1 the process that should be done, whether it's  
2 from the county or for Greenfield Township, how  
3 is that easement annulled? Because it's really  
4 just a fire lane easement to provide access to  
5 the Timber Top estate. Since the new roads  
6 service that, the fire department won't need  
7 that. I was hoping Timber Top -- I was hoping  
8 Greenfield Township would be here tonight and be  
9 able to answer that in terms of that, because I  
10 know you're willing to erase the road for them  
11 which I think is great. I was just thinking  
12 something should be entered into legislation  
13 somewhere along the way to annul that easement  
14 as part of that.

15 MR. HUTCHINSON: Can I address his  
16 comments about the service road?

17 COMMISSIONER DAVIS: Not at this point  
18 in time. And I just want you to understand that  
19 it's not me being rude to you. It's me making  
20 sure that the process as we've described it and  
21 the rules of the conduct of the hearing are  
22 followed at all points by all parties. You will  
23 be given an opportunity during rebuttal to go  
24 under direct examination from your counsel and

1 at that time you'll have an opportunity to  
2 answer any questions that your counsel may put  
3 to you.

4 25 years of conducting public hearings,  
5 if I just even give an inch, a mile's going to  
6 get taken. So I apologize to you, sir.

7 And I did not discount your time. You  
8 have a few seconds remaining, sir.

9 MR. BLAISDELL: That's fine. I had one  
10 last thing to take about 15 seconds, is from my  
11 math on the number of units we're looking at  
12 we're looking at probably 860 cars being added  
13 to this development, being added to this, and at  
14 that point I'm open for any questions.

15 COMMISSIONER DAVIS: Thank you, sir, for  
16 your time and your courtesy. If you'll give me  
17 just a moment.

18 Counsel for the Petitioner have any  
19 questions?

20 MR. WINKHART: I do.

21 COMMISSIONER DAVIS: You do have  
22 questions of this witness.

23 Sir, your on cross-examination now.

24 MR. BLAISDELL: Sir.

1 CROSS-EXAMINATION

2 BY MR. WINKHART:

3 Q. Mr. Blaisdell?

4 A. Yes.

5 Q. Hi. I'm handing you what will be marked  
6 as Petitioner's Exhibit Number 3.

7 COMMISSIONER DAVIS: C.

8 MR. WINKHART: Okay. It actually says  
9 Exhibit Number 3 on there. We'll mark it as  
10 exhibit --

11 COMMISSIONER DAVIS: That's fine. Three  
12 is fine. We will keep the record at 3.

13 MR. WINKHART: Okay. Thank you.

14 BY MR. WINKHART:

15 Q. Mr. Blaisdell, can you identify that  
16 seal in the lower left-hand corner of the map?

17 A. City of Lancaster.

18 Q. Okay. And right below Exhibit Number 3  
19 can you say what that map says?

20 A. It's a zoning map.

21 Q. Okay. To your knowledge is that the  
22 accurate zoning map for the city of Lancaster  
23 for the property that affects the territory  
24 proposed for annexation?

1           A. I do not know for sure, because Glenda  
2       noted there may have been a mistake on that map  
3       in the area across -- directly across the street  
4       that's listed as commercial. What I can say is  
5       that anything commercial that's been on the  
6       other side of the street is accessed off of  
7       Memorial Drive rather than accessed off of  
8       Columbus Street.

9           Q. Okay. So if I could take you down a  
10      little bit of a path here and if you could, if I  
11      said to you that that was, in fact, the zoning  
12      map for the city of Lancaster, would you at  
13      least accept that for purposes --

14          A. Yes.

15          Q. Okay. Directly across the street to the  
16      south across Columbus Drive -- Columbus North  
17      you see there are several parcels, I'll count,  
18      1, 2, 3, 4, 5 that are shaded in orange and  
19      designated as commercially zoned property. Is  
20      that correct?

21          A. That's what I see there.

22          Q. Okay. And do those properties access  
23      Memorial as you've said all of the parcels do?

24          A. Those houses do not.

1           Q. If you know, are those parcels currently  
2 used as single-family residential homes?

3           A. That is my understanding and  
4 observation, yes.

5           Q. But zoned commercially, those houses  
6 could be used -- or those parcels could be used  
7 for an automotive repair facility as you  
8 previously indicated could occur across the  
9 street?

10          A. That is possible. It could occur, yes.

11           MR. WINKHART: I have nothing further  
12 for this witness.

13           MR. ULLOM: Nothing from the City.

14           COMMISSIONER DAVIS: City of Lancaster  
15 any questions for this witness?

16           MR. ULLOM: No, sir.

17           COMMISSIONER DAVIS: Commissioner Fix,  
18 any questions for this witness?

19           COMMISSIONER FIX: No.

20           COMMISSIONER DAVIS: Commissioner  
21 Levacy?

22           COMMISSIONER LEVACY: No.

23           COMMISSIONER DAVIS: Sir, we thank you  
24 your time and your courtesy. You're dismissed



1 as a witness in this matter, and I am going to  
2 take advantage of a recess. For anyone who's on  
3 a schedule, I apologize. We'll have a 10-minute  
4 recess. It's -- now I got military time and  
5 regular time. It's 7:32 and we'll be on recess  
6 for 10 minutes.

7 (Recess taken.)

8 COMMISSIONER DAVIS: This hearing is  
9 back in session. At this time I'm advised by  
10 County Administrator Dr. Brown that the only  
11 remaining witness at this section --

12 MS. BROWN: Maybe two. One. Maybe two.

13 COMMISSIONER DAVIS: All right. So,  
14 ma'am, earlier in the evening you were asked to  
15 conclude your remarks, and I'm going to give you  
16 an opportunity now to please conclude your  
17 remarks.

18 MS. DYBALL: Should I say my name?

19 COMMISSIONER DAVIS: Yes, please.

20 MS. DYBALL: Glenda Dyball. I was just  
21 wondering if anybody needs to see what the  
22 community's going to be missing as far as the  
23 beauty that the property offers as it stands  
24 right now? How do I show that?

1           COMMISSIONER DAVIS: Well, we can see  
2     that from here, and speaking for myself, I've  
3     been to that property in my time.

4           MS. DYBALL: Does the city master plan  
5     come into question or do they read that city  
6     master plan that was done in 1990 regarding  
7     their rules that they set forth to protect  
8     certain things in the city?

9           COMMISSIONER DAVIS: So the Commission  
10    isn't subject to examination tonight, but I will  
11    just highlight for you, frustrating as it is I  
12    know for some of you -- and I've heard both  
13    through your testimony and side comments that  
14    many were not pleased with the process or the  
15    conduct of the city zoning hearing.

16          MS. DYBALL: That's correct.

17          COMMISSIONER DAVIS: But I do want to  
18    make clear that this is not a rehearing of the  
19    city zoning process. I know that doesn't  
20    directly answer your question, but please,  
21    you're free to conclude your remarks.

22          MS. DYBALL: So I just wanted to finish  
23    up on the sewer that I was talking about. It  
24    took the city a full day to find where my sewer

1     went to. There was a manhole that went straight  
2     to my property. I was like at the end of the  
3     line of all the properties in my area, and they  
4     had to dig down three feet to find the manhole,  
5     and then it was full of methane gas because it  
6     hadn't been maintained for -- they didn't even  
7     know how many years.

8             And so when they took that off, it was  
9     eight feet deep with sewer, and so it was acting  
10    like a septic tank. And the part that I didn't  
11    get in when I spoke with them, when I asked them  
12    about maintaining the sewer system, they also  
13    told me they didn't have the manpower, they  
14    didn't have the funds, they didn't have the  
15    equipment. So what they had to do rather than  
16    maintaining the system was they had to be pro --  
17    I mean, reactive rather than proactive.

18            So it's something I don't really know  
19    who I ask, or if it's a concern to you guys  
20    about it being a health issue or where the proof  
21    is that it's running properly, but as far as the  
22    city master plan goes you can find it online,  
23    and it states before any big developments come  
24    in that they're supposed to have all of these

1 problems taken care of beforehand, not during  
2 and not after. And that concludes my statement.

3 COMMISSIONER DAVIS: Thank you for your  
4 time and your courtesy. Give me just a moment,  
5 please.

6 Are there any questions for counsel for  
7 the Petitioner?

8 MR. WINKHART: Nothing for this witness.

9 COMMISSIONER DAVIS: From the City of  
10 Lancaster?

11 MR. ULLOM: No questions.

12 COMMISSIONER DAVIS: Commissioner Fix?

13 COMMISSIONER FIX: No. Thank you.

14 COMMISSIONER DAVIS: Commissioner  
15 Levacy?

16 COMMISSIONER LEVACY: No.

17 COMMISSIONER DAVIS: Ma'am, we thank you  
18 for your time and your courtesy, and you are  
19 excused.

20 MS. DYBALL: Thank you.

21 MS. BROWN: No others.

22 COMMISSIONER DAVIS: So at this point in  
23 the hearing the Petitioner -- and for those of  
24 you who may not have been here at the beginning

1 of this hearing when the process was explained  
2 at this point in the hearing the Petitioner is  
3 given the right, but not the obligation, to  
4 offer rebuttal testimony, and I'm going to ask  
5 now counsel for the Petitioner if you would like  
6 to offer rebuttal testimony?

7 MR. WINKHART: If I may, just a few  
8 questions.

9 COMMISSIONER DAVIS: Of whom?

10 MR. WINKHART: If I could first recall  
11 Mr. Brad Hutchinson.

12 COMMISSIONER DAVIS: Yes, you may.

13 Sir, you remain under oath.

14 THE WITNESS: Yes, sir.

15 REBUTTAL EXAMINATION

16 BY MR. WINKHART:

17 Q. Brad, if I can, just a couple of  
18 clean-up items, and then a couple questions just  
19 to understand some of the testimony that came  
20 from some of the nearby residents.

21 First of all, at the time that the  
22 annexation petition was signed were you the  
23 owner of the Timber Top property?

24 A. Yes, sir, I was.

1 Q. And have you continuously owned the  
2 Timber Top property for in excess of a year?

3 A. Yes, sir, I have.

4 Q. And currently you own that property?

5 A. Yes, sir, I do.

6 Q. Thank you. Mr. Hutchinson, do you know  
7 how much real estate tax you pay on an annual  
8 basis for the 77 acres at Timber Top?

9 A. I believe the total tax paid is about  
10 \$17,000 per year and the Greenfield Township  
11 portion of that is \$258 a month.

12 COMMISSIONER DAVIS: I apologize for  
13 interrupting you, but I've been asked to make a  
14 clarification for purposes of the record as it  
15 relates to the series of questions just asked  
16 about ownership. When you asked Mr. Hutchinson  
17 if he has continuously owned the property, we  
18 want our record to be clear that isn't it the  
19 Mithoff Company that has continuously owned the  
20 property of which you are the sole owner?

21 THE WITNESS: Yes, sir, that is correct.

22 COMMISSIONER DAVIS: Okay. Are we good  
23 over there?

24 I apologize for interrupting you.

1 Please continue.

2 MR. WINKHART: Yeah. I appreciate the  
3 clarification.

4 BY MR. WINKHART:

5 Q. So, Brad, it's my quick math that if  
6 \$258 per month of the real estate taxes goes to  
7 Greenfield Township that would be approximately  
8 \$3,096 a year of real estate tax revenue that  
9 would be received by Greenfield Township?

10 A. That is correct.

11 Q. So, Brad, there's a neighborhood that is  
12 to the north and to the west of your Timber Top  
13 property. I believe it's called River Valley  
14 Highlands. Is that correct?

15 A. Yes, sir, that's correct.

16 Q. And to your knowledge approximately how  
17 many homes would you say are in that  
18 development?

19 A. I believe there's over a thousand. I  
20 don't know the exact count, but I believe the  
21 total development now is over a thousand homes.

22 Q. And was that property originally in  
23 Greenfield Township to your knowledge?

24 A. Yes, sir, every bit of it I believe so.

1           Q. Was that annexed into the city of  
2 Lancaster at some point?

3           A. Yes, sir.

4           Q. And so those thousand or so homes there  
5 have really been the product of a process very  
6 similar to what we're going through right now?

7           A. I believe so, yes.

8           Q. Thank you. Earlier we heard some  
9 testimony about an easement that comes off of  
10 the cul-de-sac at the end of Woodland Heights  
11 Lane that I understand serves the large house on  
12 your property. Can you give some history  
13 relative to that easement?

14          A. So I've had conversation with the  
15 retired Greenfield Township fire chief, Chief  
16 Terry Morris, and I've talked to Kevin Yeaman  
17 who is the Greenfield Township Zoning  
18 Coordinator. So when Timber Top was initially  
19 built, it had one driveway in and it was one  
20 home.

21               When Woodland Heights was developed, the  
22 concern come into play about all of these great,  
23 beautiful big trees. However, on Woodland  
24 Heights if one of those trees down close to



1 Columbus Street were to fall in the road, the  
2 Greenfield Township Fire Department needed to  
3 have a secondary access road if a house up on  
4 top of the hill catches on fire and they can't  
5 access Woodland Heights. So the easement was  
6 put in really for the benefit of Woodland  
7 Heights and also for the Timber Top property.

8 Timber Top today has two driveways. It  
9 didn't have when it was initially developed. So  
10 from my standpoint as an owner I don't have a  
11 problem if it goes away, but I would certainly  
12 think the folks of Woodland Heights need to  
13 think twice about their security if a tree falls  
14 in the road and a fire department can't get  
15 across that driveway.

16 Q. Thank you very much. So, Brad, after  
17 having had an opportunity to hear the neighbors  
18 and residents and hear the things that they say,  
19 has anything changed your mind relative to the  
20 opinion that you previously gave that the Timber  
21 Top property and the surrounding property would  
22 be benefited from and further served by the  
23 annexation of that property into the city of  
24 Lancaster?

1           A. No. My mind has not changed. I believe  
2     a retirement community is absolutely the best  
3     use for the property, for residential homes.

4           The one thing I would like to point out  
5     that I think people are overlooking is under the  
6     current zoning under Greenfield Township there's  
7     a lot of things that could go in there. I've  
8     had meetings with Greenfield Township, with the  
9     trustees, as well as with Kevin Yeamans, as I  
10    said. You know, as it's zoned currently today I  
11    could put a hog farm on that property, and it's  
12    currently zoned the way it is. I would not have  
13    to get any alterations to do that. So there are  
14    worse things that could go into the property.

15           MR. WINKHART: Thank you very much. I  
16    have nothing further for this witness.

17           COMMISSIONER DAVIS: Just a moment, sir.  
18           City of Lancaster, do you have any  
19    questions of this witness?

20           MR. ULLOM: No questions. Thank you.

21           COMMISSIONER DAVIS: Commissioner Fix?

22           COMMISSIONER FIX: No.

23           COMMISSIONER DAVIS: Commissioner  
24    Levacy?

1 COMMISSIONER LEVACY: No.

2 COMMISSIONER DAVIS: All right. Sir,  
3 thank you. You are excused. Your testimony is  
4 concluded. You're welcome to remain or leave.

5 MR. WINKHART: If I could call Tony  
6 Perez on redirect, please.

7 COMMISSIONER DAVIS: You may.

8 Mr. Perez, you remain under oath.

9 REBUTTAL EXAMINATION

10 BY MR. WINKHART:

11 Q. Mr.. Perez, I'm handing you what's been  
12 previously marked as Exhibit 3 or C. I've  
13 marked it both ways. Can you identify that  
14 exhibit?

15 A. It's the zoning map that was in the  
16 packet for our planning commission meeting held  
17 last week.

18 Q. And do you believe that to be the  
19 correct and accurate zoning map for the property  
20 that is proposed to be annexed into the city of  
21 Lancaster?

22 A. Yes.

23 Q. Mr. Perez, there's been some conflicting  
24 testimony tonight, but by your read I would

1 direct your attention to the several residential  
2 properties on the south side of North Columbus  
3 Drive. Would it be correct to say at least five  
4 of those parcels are shaded orange and currently  
5 zoned commercial?

6 A. Yes. And I mean part of the Lowe's  
7 property that's CG is across from our -- from  
8 the Timber Top property as well.

9 Q. So based on this map would it be fair to  
10 say that at least half of the road frontage  
11 across the street from the Timber Top property  
12 is consistently zoned as commercial zoning  
13 exactly the same way that it's been proposed  
14 across the street on the Timber Top property?

15 A. Yes.

16 Q. Thank you. Mr. Perez, is it your  
17 understanding that this zoning -- the future  
18 zoning for this property in the event that it's  
19 annexed into the city of Lancaster will  
20 ultimately be determined by the Lancaster City  
21 Council?

22 A. Yes.

23 Q. And to the extent that there are utility  
24 upgrades necessitated by the proposed

1 development on the property proposed for  
2 annexation are those utility upgrades going to  
3 be borne -- the cost of those utility upgrades  
4 going to be borne by the developer?

5 A. Yes.

6 Q. Mr. Perez, you've been developing  
7 multiple commercial sites over the last several  
8 years. Is that correct?

9 A. Yes.

10 Q. And would it be fair to say that as part  
11 of your site plan approval on your commercial  
12 developments that storm water retention and  
13 detention is something that is imposed upon you  
14 by the applicable political subdivision where  
15 you're working?

16 A. Yes.

17 Q. And do you, in fact, have to retain or  
18 detain your storm water runoff in a way that  
19 doesn't increase the flow or rate off of your  
20 property being developed?

21 A. Yep. It's all calculated by engineers  
22 and signed off by the municipality that's the  
23 engineer.

24 Q. Mr. Perez, there's been talk about a

1 traffic study. Is that traffic study for the  
2 Timber Top property currently underway?

3 A. Yes.

4 Q. Is that traffic study being conducted by  
5 a professional engineering firm or firm  
6 credentialed to do a traffic study?

7 A. Yes.

8 Q. Do you have any interest in that company  
9 doing the study?

10 A. No.

11 Q. Would it be fair to say it's a third  
12 party, independent company doing that?

13 A. Absolutely.

14 Q. And that will be delivered to the City  
15 of Lancaster for their evaluation and review by  
16 their engineering department?

17 A. Yes.

18 Q. Mr. Perez, based on your experience in  
19 other communities and based on your  
20 conversations with the city engineer and the  
21 administration do you believe that whatever the  
22 requirements are resulting from that traffic  
23 study that the developer is going to have to  
24 comply with those findings?

1           A. Yes.

2           Q. And is it your intent in developing a  
3 class A multi-use development that good traffic  
4 mechanics is something that you would like to  
5 see achieved for the benefit of your project?

6           A. Yes.

7           Q. Tony, you've had an opportunity to  
8 listen to the testimony here tonight. Is there  
9 anything that you have heard that would dissuade  
10 your opinion and your previous testimony that  
11 the territory proposed to be annexed will be  
12 benefited by the annexation of this property  
13 into the city of Lancaster?

14          A. No.

15          Q. Is there anything that you've heard  
16 based on your experience in developing multiple  
17 multi-use developments and multiple higher-end  
18 senior living facilities, anything in your  
19 experience that would lead you to the opinion  
20 that your proposed development is going to have  
21 a detrimental effect on the adjacent properties?

22          A. No.

23               MR. WINKHART: Thank you. I have  
24 nothing further for this witness.

1 COMMISSIONER DAVIS: All right, sir.

2 I'm going to ask the City first if you have any  
3 questions of this witness?

4 MR. ULLOM: I do. Just a couple if I  
5 may.

6 COMMISSIONER DAVIS: Please proceed.

7 SURREBUTTAL EXAMINATION

8 BY MR. ULLOM:

9 Q. Mr. Perez --

10 MR. ULLOM: Thank you, Commissioner  
11 Davis.

12 Q. Mr. Perez, I just wanted to -- and I  
13 apologize, but we've heard folks come up here  
14 and talk about traffic and their concern over  
15 traffic. I'm sure that's something you've heard  
16 in past developments, right?

17 A. Past developments, yes.

18 Q. Okay. I guess could you answer for them  
19 why hasn't a traffic study already been done?

20 A. We're in the process of it. The city  
21 engineer has just finished his scope I believe  
22 last week, two weeks ago, and we're following  
23 that scope and that guidance to move forward  
24 with our traffic study.



1           Q. Do you know how much does a traffic  
2 study with the scope that this is -- a range of  
3 cost of a traffic study?

4           A. 15 to \$20,000.

5           Q. And you say that is underway at this  
6 time?

7           A. It is underway.

8           Q. So the purpose of it -- is there a  
9 reason why it's being done now while we're still  
10 sitting here in the annexation process?

11          A. I think a lot of it has to do with  
12 identifying what the uses were, what we're  
13 anticipating. We might have a little bit better  
14 of an idea now on what some of the uses are in  
15 this mixed-use development.

16          Q. So not putting words in your mouth, but  
17 as this process goes through and you're  
18 formulating your development -- your proposed  
19 development of this property and you're seeing  
20 what zoning is necessary to do that, what you're  
21 saying is that all plays into the traffic study.  
22 Is that correct?

23          A. Yes. Zoning, potential users, you know,  
24 who's interested, who else is going to come

1 along with this, what -- even identifying our  
2 senior piece and how many units are there, how  
3 many villas we're going -- all still -- I'm  
4 getting more defined as we go and we move  
5 through this process and we move through the  
6 zoning, we move through the annexation. This is  
7 something that is obviously evolving as we  
8 speak.

9 Q. Just lastly I think -- I don't know if  
10 you testified here today or I heard it at  
11 planning commission last week, but I thought I  
12 heard you at some point testify or say that the  
13 Lemmon group intends to not only build and  
14 develop the senior living facility, the Danbury  
15 as you call it, but they intend to stay on and  
16 manage that and be the property owner of that  
17 development?

18 A. That's correct, yes.

19 Q. So continue to be a property owner as  
20 traffic is -- and the control of traffic is  
21 important to all these folks that have come up  
22 here tonight and expressed that. How about you  
23 as the owner?

24 A. It's very important. Obviously we want

1 safety for our residents' family who come to  
2 visit and for the people that we employ coming  
3 out in that community, yes.

4 MR. ULLOM: Thank you. I have no  
5 further questions.

6 COMMISSIONER DAVIS: Questions from  
7 Commissioner Fix?

8 EXAMINATION

9 BY COMMISSIONER FIX:

10 Q. So this may be the appropriate time to  
11 ask. My experience in the City of Pickerington  
12 is that when we did a traffic study and the  
13 study showed that either turn lanes needed to be  
14 created or stoplights needed to be built, that  
15 it was then incumbent upon the developer to make  
16 those changes necessary before or as they were  
17 building their property, right? So a lot of  
18 folks have expressed concerns about traffic,  
19 legitimate questions and concerns about traffic.  
20 The end result of your traffic study will come  
21 up with some conclusions of things that need to  
22 be done in order to maintain a reasonable  
23 traffic flow through that community, and between  
24 you and the City, the City will hold you

1     accountable, and it will be your responsibility  
2     to make those improvements as needed to maintain  
3     traffic flow?

4           A.   The site improvement costs will be  
5     evaluated, and we will talk with the City and  
6     then basically be a direction -- pushed back to  
7     the developer, yes, that we'll need to take care  
8     of.

9           Q.   And you've built that into your budget I  
10    assume?

11          A.   Yeah.

12               COMMISSIONER FIX:   Okay.   Thank you.

13               COMMISSIONER DAVIS:   Questions from  
14    Commissioner Levacy?

15               COMMISSIONER LEVACY:   No.

16               COMMISSIONER DAVIS:   No questions at  
17    this time.

18               Any redirect as a result of the  
19    questions that were asked?

20               MR. WINKHART:   I just have a few  
21    concluding remarks.

22               COMMISSIONER DAVIS:   I'm going to stop  
23    you before you go to your concluding remarks.  
24    One of my goals -- the Commission's goals in

1 conducting this hearing tonight is to try to  
2 make certain that everybody who wishes to  
3 participate and who wishes to share information  
4 with the Commission has been given an  
5 opportunity to do so.

6 I'm advised that one of our prior  
7 commenters would like to make an additional  
8 comment. I'm going to permit that, but also  
9 encourage you to be brief. I'm trying to be as  
10 respectful as I can. So if you would return  
11 that courtesy in your brevity, I would  
12 appreciate it. Your name again?

13 MS. HUFFMAN: Lisa Huffman, 1580  
14 Woodland Heights Lane. I understand I can't ask  
15 questions.

16 COMMISSIONER DAVIS: That's right. You  
17 can ask rhetorical questions and the choice to  
18 answer those or not will be on them.

19 MS. HUFFMAN: Well, I'm just wondering  
20 how it is possible to comply with the traffic  
21 study -- well, first of all, I don't know when  
22 the traffic study is going to be completed, and  
23 I'm concerned it will be completed -- will not  
24 be completed before the panel needs to make its

1 decision.

2           Number two, I'm concerned that there is  
3 no control on the part of the developer over  
4 putting -- reducing the speed limit or putting a  
5 stop sign at Woodland Heights Lane or  
6 something -- additional traffic device further  
7 down the road from property that he does not  
8 own, how can he comply with the requirements if  
9 he doesn't even own the property that is subject  
10 to those requirements.

11           And number three, it was my  
12 understanding from my -- being present at the  
13 hearing -- zoning hearing, which I know was  
14 something that we are not supposed to further  
15 discuss, but the door was opened by Mr. -- the  
16 attorney representing the developer that -- you  
17 know, about the commercial -- so called  
18 commercial zoning that are all houses there  
19 across the street. Was -- it was my  
20 understanding that commercial general was not  
21 the desire of the developer, and he could  
22 correct me if I'm wrong, that he was basically  
23 advised to seek a commercial general designation  
24 by the City in order to receive this approval,

1     that commercial neighborhood would perfectly  
2     well suit his purposes for a skilled nursing  
3     facility. That's all I have to say.

4             COMMISSIONER DAVIS: I appreciate it,  
5     ma'am. You are subject to cross-examination if  
6     anyone wishes. Sir?

7             Mr. Ullom?

8             MR. ULLOM: No.

9             COMMISSIONER DAVIS: Commissioner Fix?

10            COMMISSIONER FIX: No.

11            COMMISSIONER DAVIS: Commissioner  
12     Levacy?

13            COMMISSIONER LEVACY: No.

14            COMMISSIONER DAVIS: Ma'am, thank you  
15     for your time and your courtesy.

16            And I apologize to all those who heard  
17     the rules when I announced them to begin with  
18     and for my violation of them. I assure you my  
19     doing that was to facilitate an environment in  
20     which the folks that are in attendance here  
21     tonight feel like they had an adequate  
22     opportunity to express their questions, comments  
23     or concerns during the process of this hearing.

24            Now, sir, if you would like to continue

1 your rebuttal evidence you're welcome to do so.  
2 Otherwise, I would ask you to proceed to  
3 concluding remarks.

4 MR. WINKHART: Thank you very much. I  
5 have nothing further on rebuttal. I just have a  
6 few remarks to make. And in addressing  
7 Mrs. Huffman's comments, as we were laying out  
8 our proposed zoning it was not something that  
9 the City somehow foisted upon us. Based on good  
10 development precepts, it was the developer's  
11 desire to match zoning across the street, and  
12 that's, in fact, what we did, was to match the  
13 existing zoning across the street.

14 There's been good testimony on behalf of  
15 the developer tonight that the current intent of  
16 the development is to include a skilled nursing  
17 facility or some residential-type use across the  
18 street on the Timber Top property that would  
19 certainly be permitted in the commercial general  
20 zoning district.

21 So if I could in concluding maybe bob  
22 and weave a little bit between concluding  
23 remarks and a little bit of personal testimony.  
24 I did -- I was sworn in at the outset of this so



1 I understand that anything I would say would be  
2 under that affirmation.

3 COMMISSIONER DAVIS: Just for purposes  
4 of the record, I want to be clear everything  
5 you've said tonight has been under oath.

6 MR. WINKHART: Yeah.

7 COMMISSIONER DAVIS: I'm not kidding.

8 MR. WINKHART: No. I swore with my hand  
9 up. So first of all, I want to say to the  
10 Commissioners that I've had a privilege of  
11 representing the developer, in this instance  
12 Lemmon Development, and his varied partners for  
13 over 30 years now, and I can say under that oath  
14 that I've been very proud to represent literally  
15 hundreds of millions of dollars of development  
16 throughout the state of Ohio, one of which I  
17 personally live in that I would be proud to have  
18 myself or a relative of mine live, including one  
19 of 22 senior living facilities across the state  
20 that I characterize as A-plus facilities. And I  
21 know that that is what is planned for the use on  
22 this very special piece of property.

23 I get the way the adjacent neighbors  
24 feel, because I live at the end of a cul-de-sac

1     that is surrounded on two sides by a 400-acre  
2     farm, and I've had the benefit of viewing that  
3     farm for the 16 years that my family has lived  
4     there. I also understand that I don't own that  
5     400-acre farm nor am I entitled to dictate how  
6     that owner uses his property. I can't tell him  
7     what crops to grow, I can't tell him whether or  
8     not he can have sheep there, which he does, and  
9     I understand that if he desires to develop that  
10    property in the future other than the  
11    restrictions of the township within which we  
12    live, I have to understand that that's his  
13    property, not mine, to be developed, and so --  
14    but that doesn't take away the sentiment or the  
15    emotion that you've heard expressed tonight.

16           I think as this Board is aware Ohio law  
17    favors annexation, and I think that a common  
18    reading of Ohio law relative to annexation is  
19    very much in favor of appropriately sized pieces  
20    of property being annexed into the adjacent  
21    municipalities, and that is what, in fact, we're  
22    asking for here tonight.

23           I believe that the Petitioner has fully  
24    complied with Chapter 709 of the Ohio Revised

1 Code with respect to each of the elements  
2 required in substance and in form, and I pray  
3 that this Commission favorably finds the  
4 Petitioner's annexation and approves the same.

5 I want to thank you -- thank the  
6 Commission members, the Commissioners, for this  
7 hearing tonight, and I certainly want to thank  
8 the county staff that has been very supportive  
9 in assisting our efforts to facilitate our  
10 annexation petition. Thank you very much.

11 COMMISSIONER DAVIS: Thank you, sir.

12 Any concluding remarks from necessary  
13 party Lancaster?

14 MR. ULLOM: No remarks. Thank you.

15 COMMISSIONER DAVIS: The process that  
16 the public and those in attendance can expect  
17 moving forward on behalf of the Commission,  
18 there's a couple of technical things we have to  
19 deal with before we'll move on to our  
20 substantive deliberations.

21 Once issue is I was advised in a sidebar  
22 earlier this evening that it may be something on  
23 the order of two weeks before the transcript of  
24 the hearing is available to the Commission. At

1     which time we ask for the findings of fact to be  
2     prepared, which I mentioned in my opening  
3     remarks as being a necessary predicate to our  
4     decision-making, the staff that we will direct  
5     in the preparation of those findings may want to  
6     draw cites to the record which comes from the  
7     transcript. So we will await the completion of  
8     that transcript.

9             In the meantime the Commission has its  
10    meetings on Tuesdays -- Tuesday mornings, some  
11    Tuesday are longer than others, but at some  
12    point in the near term we may begin to  
13    deliberate on the substance. That will not be  
14    this evening.

15            We are targeting December 17th for our  
16    decision regarding the proposed annexation, and  
17    we hope to have the transcript and the  
18    preparation of potential findings of fact in  
19    advance of December 17th when we would  
20    anticipate deciding this issue.

21            With that, the case is deemed submitted.  
22    It is under advisement by the Commission. I  
23    want to say to the folks in the audience and  
24    everybody, really, being a public servant for 25

1 years and conducted at least hundreds, I don't  
2 know, maybe thousands of meetings, but your time  
3 and courtesy here this evening has been  
4 exceptional and appreciated on behalf of the  
5 Commission. We thank you all for coming. This  
6 hearing is closed.

7 I'll accept a motion.

8 COMMISSIONER FIX: Move to adjourn.

9 COMMISSIONER DAVIS: I've got a motion  
10 to adjourn and a second. All those in favor say  
11 aye.

12 (All say aye.)

13 COMMISSIONER DAVIS: Opposed, same sign?

14 Motion carries. The Commission is  
15 adjourned.

16 --O--

17 Thereupon, the proceedings of November  
18 19, 2019, were concluded at 8:15 p.m.

19 --O--

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21

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24

1 CERTIFICATE

2 I, Julia Lamb, RPR, CRR, a Notary  
3 Public in and for the State of Ohio, do hereby  
4 certify that I reported the foregoing  
5 proceedings and that the foregoing transcript of  
6 such proceedings is a full, true and correct  
7 transcript of my stenotypy notes as so taken.

8 I do further certify that I was called  
9 there in the capacity of a court reporter, and  
10 am not otherwise interested in this proceeding.

11 In witness whereof, I have hereunto  
12 set my hand and affixed my seal of office at  
13 Columbus, Ohio, on this 3rd day of December,  
14 2019.

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24

Julia  
Lamb

Digitally signed by Julia  
Lamb  
DN: cn=Julia Lamb, o=PRI  
Court Reporting, ou,  
email=julia@prioio.com,  
c=US  
Date: 2019.12.03 12:56:27  
-05'00'

Julia Lamb, RPR, CRR  
Notary Public, State of Ohio.

My commission expires: 10-10-22