CITY OF FAIRBORN
COUNCIL MEETING
May 5, 2025, at 6:00 p.m.
Council Chambers

COUNCIL MEMBERS	Present	Absent
Dan Kirkpatrick, Mayor	☒	☐
Clint Allen, Councilman	☒	☐
Sylvia Chess, Councilwoman	☒	☐
Adam Fritzsche, Councilman	☒	☐
Rodney McCubbins, Councilman	☒	☐
Mary Reaster, Deputy Mayor	☒	☐
Tana Stanton, Councilwoman	☒	☐

STAFF MEMBERS PRESENT

Browning, Gay, Gebhart, Jacobs, Myers, Riggs, Schell, Taylor, and Yates

Everyone stood for the Pledge of Allegiance and a moment of silence.

APPROVAL OF MINUTES

Councilman Allen moved to approve the April 21, 2025, Work Session Meeting Minutes. Deputy Mayor Reaster seconded. Voice Vote. Motion carried. Mayor Kirkpatrick declared the minutes approved as written.

Councilman McCubbins moved to approve the April 21, 2025, Regular Council Meeting minutes. Deputy Mayor Reaster seconded. Voice Vote. Motion carried. Mayor Kirkpatrick declared the minutes approved as written.

PRESCHEDULED BUSINESS

Mayor Kirkpatrick read a proclamation declaring May 2025 as Building Safety Month. David Yates, Chief Building Official, accepted the proclamation and asked everyone to practice safety throughout the summer with ladder accidents being most prevalent during that time frame.

OLD BUSINESS

ORDINANCE 31-24 AUTHORIZNG A ZONING MAP AMENDMENT FROM LIGHT INDUSTRIAL TO PLANNED UNIT DEVELOPMENT, AND APPROVAL OF A PRELIMINARY PLANNED UNIT DEVELOPMENT PLAN, AND FINAL PLAT FOR PARCEL NOS. A020000100440000100 & A01000100180001900.

Deputy Mayor Reaster moved to read Ordinance 31-24 for the second time by title only. Councilwoman Stanton seconded. Voice Vote. Motion carried. Mike McNamee, City Solicitor, read Ordinance 31-24 by title only.

Mike McNamee, City Solicitor, swore in all parties wishing to provide testimony in regard to this Ordinance.

Please see the attached transcript from Tina Shell, Court Reporter, for staff and applicant's presentations, public hearing testimony and Council's questions and comments regarding Ordinance 31-24.

Councilwoman Chess moved to waive the rule requiring that Ordinances be read on three separate occasions and Ordinance 31-24 be read for the third time by title only. Councilman Allen seconded. Yeas, seven: Chess, Allen, Fritzsche, McCubbins, Reaster, Stanton, and Kirkpatrick. Nays, none. Motion carried. Mike McNamee, City Solicitor read Ordinance 31-24 by title only.

Councilman Fritzsche moved to adopt Ordinance 31-24. Deputy Mayor Reaster seconded. Yeas, six: Fritzsche, Reaster, Allen, Chess, McCubbins, and Stanton. Nays, one: Kirkpatrick. Motion carried. Mayor Kirkpatrick declared Ordinance 31-24 duly adopted.

ORDINANCE 8-25. AN ORDINANCE EXPRESSING THE CITY OF FAIRBORN'S INTENT TO NEGOTIATE JOINTLY WITH OTHER CITIES IN THE REGION THROUGH THE MIAMI VALLEY COMMUNICATIONS COUNCIL ("MVCC") ON ONE PRICE SCHEDULE FOR ELECTRIC LIGHT SERVICES THAT BE FURNISHED TO RESIDENTS OF THE CITY OF FAIRBORN FOR PURPOSES OF STREET LIGHT.

Deputy Mayor Reaster motioned to read Ordinance 8-25 for the second time by title only. Councilman Allen seconded. Voice Vote. Motion carried. Mike McNamee, City Solicitor, read Ordinance 8-25 by title only.

Manuel Jacobs, City Engineer, stated the City previously entered into a 10-year lighting contract with Miami Valley Lighting and DP&L Energy now known as AES in 2016. This contract ends December 31, 2025. As such, the City is now in a position where we need to get ready to evaluate and establish rates and get through the whole process of agreement to find a contract for the next 10 years. Back in April, the Miami Valley Communications Council "MVCC," had a meeting that Mike Gebhart and many other City Managers attended in which this topic came to conversation. Similar to the last agreement, MVCC has taken the lead in putting together a coalition in order to get the best rates and contract the City can have for the next 10 years. It is not a matter of just trying to negotiate as one community but negotiating as multiple communities. MVCC has retained both an Engineering company and a law firm, not just to determine a rate analysis and review of the maintenance practices for the current street light systems that we have, but to help coordinate all the legal understandings as far as utilizing Ohio Revised Code and any other matters in order to give us the best rate possible. The overall cost of this study is about $60,000, of which MVCC will cover one-third of it and the rest

of it is being divided by the rest of the municipalities based on population. Given Fairborn's population, that total comes to about $2,778. The Ohio Revised Code allows our municipal corporations to negotiate jointly for street lighting services provided that they pass an Ordinance expressing their intent to participate, thus Ordinance 8-25. He believes this is a good process for the City to take part in this coalition. Staff recommends approval of Ordinance 8-25.

Mayor Kirkpatrick opened the public hearing.

Brad Heinrich, 32 Lawndale, asked with the 10-year contract will it include new traffic lights or current traffic lights such as those that were removed going down Maple with the stop signs. Mr. Jacobs stated this is for street lighting.

Mike McNamee, City Solicitor, provided a full disclosure that the law firm that has been retained to do this project is his law firm. He has been general counsel for MVCC since 2006. He has 20 years of experience in street lighting. He knows these contracts and these processes like the back of his hand. The short answer to Mr. Heinrich's question is if there is a need for additional street lighting, that is included in terms of the physical plant, the pole, the mast arm and the housing for the light. That is all included, but the City would have to request that and that is part of negotiating the rate for the infrastructure, the maintenance of the infrastructure and the electricity to supply the streetlight. This is a critical juncture for the street lighting process as we have made the leap from mercury vapor lights and sodium vapor lights to LED. These are low maintenance and very low electric utilization. So, there will be a big arm-wrestling match in getting these rates down to where they belong.

Mr. Henrich asked with this contract whether we are going to be able to upgrade the technologies that are in the lights. Like if they can sense the traffic there, they will go faster. Or if there is no traffic, they will go red for no reason. Currently there are a lot of traffic lights in Fairborn. Mayor Kirkpatrick stated it is not traffic lights. Mr. Jacobs stated none of those would be traffic lights and those are handled through a separate system and engineering manages though. They have been upgrading and implementing new technologies to address that, but that would not be a part of this process. This is just for streetlights. Mr. Heinrich apologized.

Mayor Kirkpatrick closed the public hearing.

Mayor Kirkpatrick stated one of the efforts they have been talking about is reducing ambient lights in the atmosphere. Will these lights have any capacity to dim if there is no reason for them to be at full brightness or is that technology down the road? Mr. Jacobs stated that it might have been implemented or explored in other areas, but he does not believe we have that option available or if we have explored anything like that here. It might be something worth discussing as part of the negotiations or something that could potentially be implemented or at the very least have the option for it. That would be something they would propose to MVCC and then as lead negotiators they would implement those proposals.

Deputy Mayor Reaster moved to waive the rule requiring that Ordinances be read on three separate occasions and Ordinance 8-25 be read for the third time by title only. Councilman Allen seconded. Yeas, seven: Reaster, Allen, Chess, Fritzsche, McCubbins, Stanton and Kirkpatrick. Nays, none. Motion carried. Mike McNamee, City Solicitor read Ordinance 8-25 by title only.

Councilman McCubbins moved to adopt Ordinance 8-25. Councilman Allen seconded. Yeas, seven: McCubbins, Allen, Chess, Fritzsche, Reaster, Stanton, and Kirkpatrick, Nays, none. Motion carried. Mayor Kirkpatrick declared Ordinance 8-25 duly adopted.

NEW BUSINESS

ORDINANCE 9-25 TO APPROVE CURRENT REPLACEMENT PAGES TO THE FAIRBORN CODIFIED ORDINANCES.

Councilwoman Chess motioned to read Ordinance 9-25 for the first time by title only. Councilman Fritzsche seconded. Voice Vote. Motion carried. Mike McNamee, City Solicitor, read Ordinance 9-25 by title only.

Mayor Kirkpatrick set the public hearing of Ordinance 9-25 for May 19, 2025.

CITIZENS COMMENTS

Mayor Kirkpatrick opened Citizens Comments.

Mayor Kirkpatrick closed Citizens Comments.

CITY MANAGER COMMENTS

Mike Gebhart, City Manager, stated this is the first meeting of the month so normally they would give milestone presentations for employees who are celebrating milestones, Unfortunately this month they could not join us. He reviewed the milestones to include Jon Petty with 15 years of service, Christina Fries with 10 years with the Police Department. There were several first-year milestone recipients Dara Tith in Water and Sewer, Garrison Bellman in the Equipment Division and Luke Grilliot in Water and Sewer. He thanked all of them and all of the City employees for their continued service to the City of Fairborn and its residents.

Congratulations to our Assistant City Engineer, Haley Myers. Recently, she qualified and sat for her P.E. Professional Engineering certification, and she learned last week that she passed. Both our Engineer and Assistant Engineer are both P.E.s. He is very proud that our department runs that way.

He thanked the garage staff who hosted an Adopt a Family event last Friday. They used a baseball themed fundraiser with hot dogs, potato chips, soda, and cracker jacks for the Adopt a Family program. They were able to raise $900 toward the adopt a family. This

program is what we do every year during the holidays where we provide meals, household needs and gifts to needy families in the City. We do events throughout the year, and he will keep Council informed when the next one is coming up. Each department or division tries to do something throughout the year to fundraise through donations from employees. For $8.00 they received two hot dogs, potato chips, soda, cookies, and cracker jacks. It was all baseball themed and even Mr. Adkins wore his Cincinnati Reds jersey for that as well. He was pleased with that fundraiser.

He sends condolences to the Parks and Recreation Department Director, Chris Barker, who lost his mother last Friday. Chris is a huge part of our team and his wife, Candy, works in our Development Services division. Our condolences at the loss of his mother.

He wanted to allow the City Solicitor to cover one topic that he knows people have questions about because all seven of Council are involved in the community and may come across each other outside of official meetings. He asked Mr. McNamee to give us a brief update on what constitutes a meeting for Council and there is no confusion in the public. He turned it over to the City Solicitor.

Mike McNamee, City Solicitor, stated recently on social media page it was suggested that Council members were violating the Open Meetings Act. For example, he believes four of the Council members are members of the Lions Club and by that being a fact, it was suggested they were violating the Open Meeting Act. The statement itself could not be more accurate. He went through a brief primmer. To violate the Open Meetings Act there is a four-element test: Is it a meeting? For it to be a meeting it must be a prearranged gathering, meaning planned in advance. A majority of the members of the Council present a quorum is four members for the purpose of discussing public business. So those are the elements used in defining what a meeting is to see if there has been a violation of the Open Meetings Act. The fourth element is for there to be a violation, a resolution, rule, or formal procedure has to be passed and approved during that meeting for it to be a violation. So first, is it a meeting, was formal action taken and was that not done in a public meeting? So those are the four prongs.

Let's just illustrate the point, it is not uncommon for the Mayor and members of Council to say hey, do you want to go over to tickets after the meeting. Well, is it a meeting? Is it a prearranged gathering, no. Not a meeting, not violation. You are certainly free to socialize with each other, no matter whether there are two or all seven of them in the same place, so long as you don't discuss public business at a prearranged meeting and make a decision. Let's take a look at the Fourth of July Parade. They are all there, all seven every year. Again, that is prearranged, the majority of councils are present, but it is not for the purpose of discussing public business. It is for celebrating our nation's Fourth of July. Let's take a look at the Mayor's favorite meeting, the Citizens' Forum. Is it a meeting? Prearranged, yes. Is a majority of the members present? At times, yes. For the purpose of discussing public business, yes, but there is no decision that is made at that meeting. So again, there is no violation. So, just think of those elements when you are asking yourself that question and they will be in good stead. If you are uncertain, they certainly know how to reach Mr. McNamee. Mayor Kirkpatrick asked if there were any questions for Mr. McNamee.

COUNCIL COMMENTS

Councilwoman Chess congratulated the milestone recipients for trusting the City of Fairborn with their career. She thinks it is a wonderful thing that they come to work here every day, and they know everything is not always roses; however, they get the job done. They appreciate those milestone recipients. She said there are a lot of people who have taken the initiative to go out and clean up their community. Cleanliness in Fairborn is really big for the Councilmembers. They take pride in keeping their community clean. There are a lot of organizations and people who have formed groups to go out and clean up the community. She congratulated those people for taking the initiative to keep Fairborn clean. She thanked those for their attendance and their comments.

Councilman McCubbins said Happy Cinco De Mayo to our Hispanic counterparts who don't officially celebrate it as one of their national holidays, but it does recognize their independence from France. He sent congratulations to the milestone recipients, especially Jon Petty. It is 2025 and we live in a digital world now and one that is so very complicated and changes sometimes by the hour. Jon and his team have been very successful at least during his three years on Council at making sure that our systems and your data is secure to the point where we have not had a breech that has cost us in excess of a quarter of a million dollars like some of our sister cities. We wanted to thank Jon for his continued commitment to the City and the citizens of Fairborn.

As he reflects on the meeting and the flow of the meeting and those that are supportive of our efforts and those that are opposed to the efforts it reminds him of what makes this country great and that is democracy. He has spent his entire adult life as a public servant. Twenty-six of those years he spent in the United States Air Force. Just as we have an education system in the civilian world Kindergarten through High School and some for college the military also provides the same education as they progress throughout their career. Although every branch calls their schooling something different, it is all the same. They teach them leadership, management, and military studies which one would expect because they are in the profession of arms. One central character in those studies is involving leadership. It is an extremely valuable principle when it comes to the military and Abraham Lincoln at least for the Air Force was a central character behind leadership in his efforts during the Civil War. Most have considered him to be the best wartime leader in history. Some believe his greatest accomplishment came during the Civil War in his preservation for the union, vindication for democracy and the end to slavery. You see throughout his life and career he has often agreed to disagree believing democracy demanded it. Democracy is a style of leadership that at its basic level means run by the people, having multiple people participate in this decision-making process. What Democracy does not mean is that we all must agree. In his house divided speech in 1858 he stated a house divided against itself cannot stand. The basis of this thought was surrounding slavery as he did not believe the house could continue to keeping slavery or abolishing slavery in order to progress forward. A decision had to be made to prevent the house from falling, likewise the seven members of this City Council do not always agree. As an example, when an Ordinance is placed on the agenda, they receive a staff report that is very thorough and oftentimes quite lengthy and often they refer to these as read aheads. As an example, for tonight's read aheads for Wawa the attached staff memo

report was eighty-three pages long and the attached traffic study was 155 pages long. Having these documents gives them as a Council the opportunity to read it, study it and ask clarifying questions, have discussions during work sessions, email staff and the City Manager for clarification on anything on which they are confused. If the Ordinance has something that was presented at Planning Board, they are afforded the luxury two weeks ahead of time if not four because it demands a public hearing to watch that Planning Board and to read their read aheads and all the documents that were submitted there. So, just because you often see at times that we are voting seven to nothing on an issue, doesn't mean that we agree 100%. It means they as individuals have made an informed decision and sometimes that decision means making a concession and supporting the others on their position even if it is not ours. All factors considered the decisions they make because they believe it is in the best interest of the City of Fairborn and all 34,000 plus residents that are in it. No, they are not going to please every citizen on every issue on every vote every time. At times they are going to have to agree to disagree. In 1855 President Lincoln wrote a letter to his best friend, the son of a Kentucky slave owner, whereas he chastised his friend for not opposing slavery. He goes on to say and he quotes "If for this you and I must differ, then differ we must." Coincidentally, Abraham Lincoln and he remained lifelong friends despite their different views.

Councilwoman Stanton thanked the milestone recipients.

Councilman Fritzsche thanked Mike McNamee for the clarification on the Open Meetings Act. It was good information and a good metric to know. He thanked the milestone recipients for their dedication to Fairborn.

Councilman Allen thanked everyone for attending and paying attention to how the City works. It is just amazing we work through the issues. It takes time. He will admit he has been on this Council for a minute and there have been some times where he did not get enough sleep. He did not get the sleep he wanted because he was really concerned about the measures and things that they had to pass. It does take a toll, and it does take some time and knows that the City Manager in his role some of the same pressures mount up. The Mayor in his role, some of the same pressures mount up. They are just like the citizens. Rodney said it as eloquently as it can possibly be said. He thanked Mr. McCubbins for that message. He thanked the staff for choosing to Adopt a Family. That says a lot about the values of the employees that work here and the leadership and the directors that run those different departments. For them to think about others and they don't have to, but this is what you choose to do, and you want to raise money and your own money. There are no outside dollars coming in and that is money that you have earned, and you want to give back and take care of some folks who need the help during that time. That speaks volumes of your values and your character. This is Asian American and Pacific Islander month. It is a great opportunity to recognize some of the contributions that their culture brought to America or in developing and creating the space that we live in right now that we call home. He congratulated Haley Myers on her accomplishment of becoming a P.E. They are glad to have her as part of the team. They received notice today from a School Board member that the Fairborn City Schools are getting ready to start up a Strategic Plan. They will be asking for input from the citizens, and they will be asking for input from the City and Bath Township. Everyone who affects the schools. Even folks who no longer have children in school. Your input is important.

Just look out for that. It will be coming in the next few weeks. It is another good opportunity to add input and add some value to what is being done. Congratulations to the milestone winners.

Deputy Mayor Reaster thanked the milestone recipients. She thanked Jon Petty for saving them on their connection issues and their email access because he is a life saver, at least for her, on numerous occasions. If you have signed up for the city newsletter Ms. Emily has done a fantastic job. You will see there are a number of things going on. Just to highlight a few because she knows it has been said a lot that there is nothing to do in the City for kids. She begs to differ, there is a lot of stuff going on. Safety City registration is open through May 15, 2025. This is for prospective first graders so please go and check that out. Summer camp registrations are open. They have full day and half day. There is all kinds of stuff going on and that runs June 3 through August 7, 2025. If you have not signed up for the newsletter, she highly recommends that you do. You can just go to the City website, and it actually pops right up on your phone. Take a look at that. If you were planning to attend the groundbreaking for the new Middle School you saw that there was a rain delay last week so that has been moved to Monday, May 12th at 5:30 p.m. They hope to see you out there to help celebrate finishing the dream for the City. She thanked Fairborn City Schools for that event. Last call for Detective Whittaker was a great send off. He spent 33 years in law enforcement and 29 years with the City of Fairborn. He is retiring with us and then going to the courts. She wished him well on his 30 seconds of retirement. She is proud of the attendance at the Lions banquet. They showed up and showed out. She was able to celebrate 10 years of serving her community through the Lions Club. If you are not a part of a service organization, it really is an extended family. She loves those folks. The list was long as to what they do for the community. So please consider joining. If you have questions, reach out to one of the Council members or any member of the Lions Club or any service organization for that matter. Tomorrow at 5:30 p.m. at home at Community Park MVL tournament 8th grade girls are number one seed. Show up and support the 8th grade girls. They have had a wonderful season. Tomorrow is election day for Issue 2. No matter which way you plan on voting, make sure you show up and vote. Everyone's vote counts. Last but not least, she had the honor and privilege on Saturday to continue the tradition for A World Affair for naturalization ceremony. She had the privilege to work with the Honorable Judge Rice and his staff, the immigration team, the U.S. Marshall's office, and the Dayton Police Department as they welcomed 100 people from 45 different countries become naturalized citizens. It is a great place to live, to work and play, whether it is Fairborn, or it is the Miami Valley. God Bless America!

Mayor Kirkpatrick congratulated the milestone recipients. He congratulated Haley Myers on her accomplishment. Manuel Jacobs is sitting next to her, clapping. It was well deserved. He also thanked the staff for their Adopt A Family program. That is a huge part of the Fairborn community. Every year during the holidays a lot of organizations across the City of Fairborn participate in that to help those that are less fortunate. That is a huge thing for the entire community. Whether you are a part of the City of Fairborn staff or other organizations many participate in the Adopt A Family Program. If you would like to be a part of that find one of those organizations. He knows the Rotary Club and the Lions Club and many other service organizations are a part of that. He sent condolences to Chris Barker and his family. He wanted to touch on those Lion's Club awards. He is a member

of the Lions Club. It was great to see the large crowd that they have and three of the Council members received awards. Clint Allen received the Vanguard of Ethical Leadership Award. Mary Reaster, as she mentioned, was recognized for 10 years of service to the Fairborn Lions Club. A lot of people who join those organizations put in a year or two and she is stuck with it, and she has been for 10 years. Sylvia Chess received the Beacon of Corporate Service Excellence Award. Those are three of our council members who are receiving recognition for their special service to a service organization. He thinks that is a big deal. He is happy that they had their membership there.

This Saturday the 10th of May at 10:00 a.m. at the Community Park pond is the annual Fishing Derby. This goes back to what Mary mentioned about things for kids to do. That is a big deal at the pond. Every year there are probably 100 people that show up at that pond. The pond has been stocked. It is a catch and release type event. The kids have a great time, and they receive awards for different things that they do. He knows the Horton Family was very big in starting that program. Last year, Marcia Horton was there to present the prizes. Unfortunately, she passed during this past year, but the Parks and Recreation Department have picked up the mantle for that event. That is a great opportunity for our Fairborn kids to do something that is a lot of fun. This Saturday is also the Second Saturday event in downtown Fairborn where there will be people at the Fifth Third Commons with different kinds of booths, etc. Someone mentioned trash pickup. Everyone up here knows this is one of his personal pet issues. He hates trash and it really bothers him to be driving around Fairborn and see soda bottles and fast-food wrappers tossed out of cars. We don't need to be doing that in Fairborn. His goal for Fairborn is to make Fairborn the greenest City in Greene County. You don't do that by throwing trash alongside the road. He encourages everyone to stop throwing trash out of their cars and there are a lot of Adopt a Highway programs in Fairborn that you can be a part of. If you are not a part of one and your neighborhood needs to be a part of one, start one. Go to the City website look up Adopt a Highway there are segments all over Fairborn that people can adopt and start an Adopt a Highway program. He personally works with four different groups to pick up trash along our highways. Let's keep Fairborn clean. Let's all be a part of making Fairborn greener.

A lot of people on Facebook are asking the question of what is going on behind the Sheetz. It is part of the construction of the cold storage facility. You will notice there is a lot of dirt out there and that is to elevate the site so that rain runoff in the future does not go toward Hebble Creek; it goes the opposite direction. That is an effort to make sure that parts of Fairborn do not flood. We have had some very heavy rain recently. Today was another good example of that and to his knowledge Hebble Creek has not overflowed once. It has already been mentioned that today is Cinco De Mayo. He has an adopted relative that is half Hispanic, so they make sure that person gets congratulations for being a part of that. For those who are part of the Hispanic background congratulations. This is one of your days. He announced the next City Council work session is Monday, May 19th 5:00 p.m. in the Fire Training Room and the next City Council meeting is Monday, May 19th at 6:00 p.m. in the Council Chambers. He thanked everyone for their attendance.

ADJOURNMENT

Deputy Mayor Reaster made a motion to adjourn the meeting. Councilman McCubbins seconded the motion. Yeas, seven: Reaster, McCubbins, Allen, Chess, Fritzsche, Stanton and Kirkpatrick. Nays, none. Motion carried. The meeting was adjourned at 7:59 p.m.

MAYOR

CLERK, CITY OF FAIRBORN

CITY OF FAIRBORN

CITY COUNCIL MEETING

IN THE MATTER OF:

ORDINANCE NO. 31-24

Meeting before the City of Fairborn City Council held on Monday, May 5, 2025, at the City of Fairborn, 44 W. Hebble Avenue, Fairborn, Ohio, at 6:10 p.m.

* * * * *

CITY COUNCIL:

Dan Kirkpatrick, Mayor
Sylvia Chess
Rodney McCubbins
Tana Stanton
Mary Reaster, Deputy Mayor
Clint Allen
Adam Fritzsche

CITY PLANNER: Kathleen Riggs

CITY MANAGER: Michael Gebhart

CLERK OF COUNCIL: Julie Taylor

CITY LAW DIRECTOR: Michael P. McNamee

ON BEHALF OF APPLICANT WAWA, INC.

David Montgomery, Esq.
Patrick Warnement, Engineer
Mitchell Harvey, Site Plan Pro

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MAYOR KIRKPATRICK: Okay. Our next order of business is Ordinance 31-24, which requires a public hearing. Is there a read -- excuse me -- a motion to read Ordinance 31-24 for the second time by title only?

DEPUTY MAYOR REASTER: So moved.

MS. STANTON: Second.

MAYOR KIRKPATRICK: All in favor say aye?

(WHEREUPON, all voting members said aye.)

Opposed?

(No opposed.)

MR. MCNAMEE: Ordinance 31-24. Public hearing. Authorizing a Zoning Map Amendment from Light Industrial to Planned Unit Development, and approval of a Preliminary Planned Unit Development Plan, and Final Plat on Parcel Nos. A02000100440000100 and A01000100180001900. Kathleen Riggs, city planner, presenting.

MS. RIGGS: Yes.

MR. MCNAMEE: Mayor, if I may, it's probably appropriate at this time

because, since we're opening the public hearing, is, anybody that's going to testify tonight, provide testimony, you'll need to take an oath. So if you plan to present testimony, stand up and repeat after me.

And I'll mention, too, if you, if you're not sworn in but you still want to testify, you're not precluded from coming up, just remind me that you've not been sworn in and I'll go ahead and swear you in.

(Everyone planning to testify were sworn in.)

All right, Mayor.

MAYOR KIRKPATRICK: Thank you.

MS. RIGGS: Yes. So the applicant is Wawa; they are represented here this evening by Patrick Warnement. The owners of the property are David Kegley and Kimberly Sue Klohe. Site professional is Mitchell Harvey of Stonefield Engineering.

So this is regarding Ordinance, as was stated, 31-24, located at 18 North Broad Street for a zoning change, a preliminary PUD, and a final plat.

Some of the history regarding

this site. So we have been working with this applicant for a year and a half, since 2023. And initially -- I guess there is a portion of this site that is actually located in Bath Township. If this site does receive approval, that portion that is located in Bath Township, the applicant will annex that portion into the City of Fairborn in accordance with the annexation process, but we wanted to go through the zoning process first.

The applicant originally submitted the plans to the city last fall. They were initially reviewed by Planning Board in November. And there was actually, a recommendation by Planning Board was a denial based on that submittal.

The applicant then resubmitted, made some changes to the site based on feedback from that Planning Board meeting, and made some changes, resubmitted that to Planning Board, where they made another recommendation on April 8th to support the application.

So just to talk a little bit

specifically about this site. The existing parcel is actually about -- you can kind of tell more on this map -- 30 acres. So the proposed site is a little over nine acres. As I said, a portion is located in Bath Township, and they'll apply for that annexation if the approval is granted.

The site is located south of Broad Street and west of Spangler Road. This is west of the interchange with I-675. Surrounded -- it's located in Light Industrial Zoning District, and surrounded by additional light industrial zoning as well as suburban residential, and then you can see Bath Township to the north and then also to the east.

I'll go over the site. I do want to I guess just provide an overview of some of the changes that were made at least over the past six months to their newest submittal that went before Planning Board in April.

There was a lessening of the overall site parking. They actually shifted the building eastward, closer to the

intersection of Spangler and Broad. Moving the diesel fuel pumps to the southwest side of the site. So this is where the diesel fuel pumps are currently located. And then a few -- relocating the semi-truck parking to the southern side of the site as well.

And then also changing the access drives on the site and adding a retention wall along the south and west property lines.

So what's being proposed is a Wawa Travel Center open 24/7. This is approximately an 8,397-square foot convenience store, I've kind of tried to highlight this in red, with fueling and parking for vehicles as well as semi-trucks.

There are two fueling canopies to accommodate the semi-trucks as well as the vehicles. The vehicular fueling canopy is located -- this is Broad Street and this is Spangler, so this is for vehicular use. And as I said earlier, this is for the semi-truck use. They're in two separate locations and should not be -- those -- should not be intermingling together accessing either of

those sites.

As I said, the convenience store faces Broad Street. The building is set back approximately 200 feet from Broad Street, 155 feet from Spangler Road, less than 300 feet from the southwest side of the site, and then a little over 300 feet from this property line along the south as well.

Additional other features. There's a total of 83 just vehicular parking spaces that are around the convenience store and then around the vehicle fueling canopy. Ten spaces for semi-trucks, which are located here. And then there are also three RV parking spaces.

The access drives. So we have, the western most access drive on Broad Street is an entrance only. This is the only entrance for semi-trucks to access their fueling and parking and then exit.

This second access point on Spangler -- I'm sorry, on Broad, is for exit only, and it's a right turn exit, and that will be for vehicles only. This is a full access for vehicles. There will be no --

there should be no trucks entering this site. There's additional signage that will be added, an additional deterrence at that intersection to deter trucks from entering there. So they will be entering only at this western most access drive along Broad, and then, as I said, exiting at this southern most access point on Spangler Road.

Other traffic improvements also include a right turn only lane on Broad Street for the eastbound traffic. And then westbound traffic will have a middle turn lane to turn left into the site. So that lane current -- well, like I said, there will be a left turn lane that will be for vehicles and trucks to enter, and it will be long enough to accommodate the vehicular and truck traffic.

Okay. Taking just I guess a look at some of the landscape. I just wanted to highlight how much I guess green space that actually this site does have considering it is in an industrial district where lot coverage is 90 percent, actually can be accommodated in this zoning district.

So knowing that their landscaping plans -- it's not only grass, and I highlighted it in green, but also some of the plantings that they have provided in their landscaping plan.

They will have extra plantings along this intersection as this is kind of one of the -- this is the first parcel into the city along Broad, so they are adding extra plantings. And also plantings along Spangler, as well as around the parking along these fueling canopies. And then along the buffering for adjacent parcels.

So the total planting plan for the site includes 31 deciduous trees, 150 evergreen trees, 95 deciduous shrubs, 121 evergreen shrubs, and then 80 low growing grasses.

This slide takes a look at the truck circulation, so it's a little difficult to see I guess, but this red marker, it shows truck circulation around the site.

Now, trucks will not be circulating -- maybe delivering for the convenience store, but this also shows that

our emergency vehicles can get to the convenience store and get around the truck fueling pumps as well as truck parking and safely access this site.

So taking a look at the building facade, it is brick with stone accents. This is four-sided architecture, as I said, with brick and stone, wood composite stucco and tile. The metal roof and canopies covering windows and doors.

And then I'll show you shortly, but there are brick pillars for canopies covering the dispensers to match this brick facade.

So this is a view from Broad Street. This is a view facing the southwest. So this is from the fueling canopies. This is kind of from I'd say the south side of the site. So if you're coming up Spangler Road and you're going to see the back of the building, this is kind of the back.

And then this is a view from Spangler along the side. So this pillar here is kind of the front. Just to give you some reference.

And these are their diesel canopies as well. And then a look at the vehicle fueling canopy.

So at the Planning Board meeting there were several public comments that were opposed to the gas station use in general. The comments included that this will lead to an increase in crime and traffic to the area, the roads will fall in disrepair, emergency services won't be able to respond.

There were also positive comments from proponents at the Planning Board meeting who were supportive of this project overall. They want to see development on the north side of town. The project complements the area.

Comments that were also supportive of the Wawa organization itself and the numerous organizations that Wawa supports such as Special Olympics, food banks, and the American Red Cross.

From these comments, some of the comments that were based at the Planning Board meeting, we did have feedback from our engineering staff and the police department

who reinforced that the roadway is meant for that additional traffic at that intersection, it was built to handle that traffic.

And the police and fire departments also are able to handle any additional calls. Based on the gas station -- the existing gas stations that we have now and the calls that they currently address, they definitely have the capacity to handle, like I said, any additional calls from this use at this location.

So I just want to point out that a Planned Unit Development can accommodate a variety of uses which are permitted in the light industrial and suburban residential zoning districts.

The proposed gas station with accompanying convenience store is a permitted use in the Light Industrial Zoning District and can be harmonious with the prevailing and intended character of the general vicinity.

The immediate vicinity is largely industrial in nature, and the subject property abutting a major corridor near an interstate highway.

The design of the gas canopies and buildings will be upscale with a significant landscaping package which should significantly soften the site.

The City of Fairborn Comprehensive Land Use Plan has been designed as a guide for future growth and land use development.

According to the Land Use Plan, the exiting site is in the east district located on a major road near I-675 interchange in an industrial corridor.

Also based on the following criteria in our standards for Planned Unit Developments, a couple of the standards, the proposed development is in conformity with the goals, policies, and any applicable recommendations of the Fairborn Comprehensive Land Use Plan. Yes, this project is in conformity with the Land Use Plan.

Also, another standard in that review criteria talks about that the development provides an environment of stable character that promotes a harmonious relationship between land uses within the

site and a harmonious relationship with surrounding development utilizing adequate buffers where necessary. And I think that this project and this applicant also appeases that review standard.

As I stated, Planning Board does recommend approval of Ordinance 31-24 with a couple of conditions regarding that annexation of the Bath Township land if this is approved, as well as just recording this lot with Greene County once this is done.

Are there any questions?

MAYOR KIRKPATRICK: Well, thank you, Kathleen. We'll now open the public hearing for Ordinance 31-24. Anyone wishing to speak to Ordinance 31-24, please come forward at this time.

MR. MONTGOMERY: Thank you, Mr. Mayor, and members of council. My name's David Montgomery with Pickrel, Schaeffer & Ebeling, 2700 Stratacache Tower, Dayton, Ohio 45423.

Thank you, Kathleen, for the detailed presentation. We'll try not to be redundant in our presentation although there

is some detail obviously that we want to go through with council and for the benefit of the audience as well.

Kathy has already -- or Kathleen has already introduced the team so I won't go through that, but I do want to thank staff.

As was indicated, this has been a long process that we've gone through with the city and I should say with the township. We actually went through and rezoned a portion of the township property that was a remnant piece from when Broad Street and that whole area sort of developed, so we've been in close contact with the township through this process as well.

And as Kathleen said, you know, because this site is more than the five acres, it triggers the PUD process under your zoning regulations.

I would say that this is one of those instances where the PUD process I think has served the purpose that it was designed to, designed to create and that is this is a well designed site, right?

We've had input from ODOT, we've

had input from Greene County, input from the township, input from the city, and we've gone through various site renditions.

And as was indicated, we recently modified the original application based upon comments that came from the Planning Board, which resulted in then a unanimous recommendation from Planning Board for the application that's before you.

This, as Kathleen indicated, I don't want to overstate it, but, I mean, Wawa has gone above and beyond as it relates to softening the site with the landscaping, the green space. There's over 300-plus, probably even closer to over 400 plantings that are on this site.

It is a well designed site in the sense that all concerns of the fire department have been met. Again, we worked with the city engineer on a bunch of the amenities and site circulation issues and roadway improvements as well.

The one thing that I did want to mention, too, is we are including, I should say Wawa is including a -- your term is not a

sidewalk but a multi-purpose path that will then extend from the Spangler corridor along the front of our property. It terminates there simply because the next project hasn't come through yet to be developed, but it will provide that connection point, and it matches what's on the north side of Broad Street.

One of the questions that came up in Planning Board was whether there would be a direct connection from our property across Broad Street. We did, and I believe that information was submitted to planning -- or, I'm sorry, submitted with the planning packet to you.

Because ODOT has jurisdiction over Board Street, we had coordinated with ODOT as to creating that connection point. And ODOT said that it was not appropriate for the width and the speed of Broad Street.

But I just wanted council to know at least that we did go through that process and we did try to at least figure out if it was safe and if it was a prudent thing to do.

As Kathleen had indicated, this

does comply with the Comprehensive Land Use Plan. The entire surrounding area with the exception of one parcel is all zoned light industrial. And actually, per your Land Use Plan, the one parcel that isn't zoned light industrial is intended to be developed as light industrial.

The use itself is a permitted use, as Kathleen also noted, within the zoning code, so we're not asking for anything greater than, than what would otherwise be allowed per the underlying regulations.

So what I'd like to do at this point is, I would like to turn this over to Mitch Harvey, he's going to talk about some of the site design and the engineering aspects, then we're going to have Patrick come up and talk, and I'll have a few concluding remarks.

I promise we'll keep the stuff short, but we do want to get some of the information before you and the public.

So with that, I'll turn it over to Mitch.

MAYOR KIRKPATRICK: Thank you.

MR. HARVEY: Thank you. Mitch Harvey, Stonefield Engineering. For the record, my address is 555 South Old Woodward, Birmingham, Michigan.

Kathleen always did a great job of going through the site, so I'll try to keep my presentation brief, but there's a few items that I did want to highlight on.

Just so, a little bit of place making, we're located at the southwest corner of Broad Street and Spangler, kind of shown in red here.

To the, the southwest of us you have the, the Waste Management facility. And then across Spangler you have the Pepsi beverage facility there.

So on to the site plan. Really, this site plan has been a result of working closely with city staff, city emergency services, fire department, police department, as well as a lot of the comments that we heard at the Planning Board.

So really big picture, we focused on a few things. One of them is pushing the building up into kind of the, the

northeast corner of the site and tucking that truck traffic to the south and the west of the site.

And then kind of piggybacking off of that, it's also separating just your regular vehicle traffic from that truck, truck traffic.

So jumping into the parking of the site. You have 83 regular parking spaces around the building here, and including these pumps here. And then you have three RV spaces back there.

And then you have the -- to the southwest you have the diesel pumps here, and then the ten temporary truck parking spaces over here.

So one of the major changes that we made is kind of in regard to traffic in the site flow. So touching on access to the site, and I'm going to kind of work in a clockwise fashion. Starting at the west here, this is an ingress only driveway. And this is going to be the primary, if not the only access point for trucks to the site.

So the general flow of truck

traffic is they come, they turn in, they get fuel if need be, and then they have the opportunity to park here.

Kind of continuing to the, to the east here, we have the egress only drive, this is a right out only driveway, this will primarily be for just your regular pedestrian vehicles.

We have a full movement driveway onto Spangler again for your pedestrian vehicles. This is aligned directly with the curb cut for the Pepsi facility.

And then kind of the final point that -- or the final exit point of our site is an egress only drive kind of on the southern portion of our site, so, again, just kind of completing that, that truck traffic that I talked about is generally in this L-shaped, staying over on the west side of our building.

And really, Wawa doesn't want any truck traffic circulating around its building, it's more for customers to get their gas here, walk in, park here, go in. So this was really a design benefit that not

only, you know, we arrived at working closely with Kathleen, city staff, and the Planning Commission, but also it turned out to be a benefit for, for us as designers for the site. So I think it was a good marriage of, of comments and kind of coming together to ultimately design the best site.

Quickly, just, this is showing that ten-foot wide multi-use path that we're extending across the entire frontage there. We'll also be extending a sidewalk into our site to bring anybody from that path into the, the travel center.

From a landscaping standpoint, we're proposing a significant amount of landscaping throughout the site.

We've heavily planted the areas along the right-of-way to kind of screen as much as possible vehicles fueling, headlights, that type of thing, as well as we're planting a pretty significant buffer here along the west and the south side to kind of transition into that forested area that's to the south and the west of us, as well as, as those properties get developed in

the future, to provide a bit of a buffer.

Ultimately, this results in approximately 180 trees and just under three acres of green space proposed across the site which we thought was pretty exceptional for a site within the zoning district.

I'll briefly go through the engineering. We're proposing a largely underground detention basin with a small aboveground basin where we can kind of fit it in. So that area's going to be up here. But majority of our basin is going to be underground so you won't be seeing it. If anybody's seen these type of chambers before, this will be the type of system that we're proposing. And just the methods of cleaning if there's any questions on that.

From a utility standpoint, the site does have utilities readily available with the exception of sanitary. Part of our proposal is to extend the city's sanitary main about 700 feet into the intersection. This is, this is through an existing easement that's on the northern piece of this property so we'll be extending this sanitary main

into, into the intersection here.

I have some more slides about the building facade, kind of highlighting the, the glazing across the front here, you know, the, and the significant masonry.

As a civil engineer, I don't want to get too far over my skis talking about architecture, so I'll, I'll defer those comments to Kathleen, but -- and, again, just some of the, the elevations or prospective use at the various canopies, and the, the signage here.

With that being said, I'm going to hand it over to Patrick to kind of introduce Wawa as a company and then we'll be happy to answer questions. Thank you.

MR. WARNEMENT: Good evening, everybody. I'm Patrick Warnement, I work for Wawa. Our corporate address is 260 West Baltimore Pike, Wawa, Pennsylvania 19063.

Some of you may recall that we applied for a site on East Dayton Yellow Springs Road in the past, so if any of this is repeat I apologize, but there may be some new folks here so I thought it might be

worthwhile to go through some of this.

We recently, on April the 16th, opened our first store in Ohio in Liberty Township to a very good review, lots of good publicity, lots of people, fun time.

So the fun atmosphere I think is something you don't typically think of with convenience stores but I think that comes a lot from the fact that we have more employees in our store at a given time with our big food component so we got, you know, far more people in there.

And our company is employee owned so, you know, the people that work there have stock in the company and tend to work there longer, so they really treat the store like their own, like their own business really, so it's -- I think that is probably some of the secret sauce there.

The build-to-order food is really great. We'll talk more about the community devotion here in a little while.

The history of the company is really interesting. It started off in the early 1800s as an iron foundry. You can see,

you know, an old fire hydrant there and such. As the Wood family kind of expanded their business, they got into the dairy business, and it was basically a milk delivery company for a long time.

And in 1960s, you know, home deliveries kind of went away, and they tried to figure out how to keep their dairy business alive. And down there in the right corner you can see they basically became small grocery stores. So from 1960s until mid-1990s that's what we were was a small grocery store.

And then in the mid-1990s we started selling fuel. So the food part of our business is very real.

In the early part of 1800s, interesting note, Abraham Lincoln was a debt collector for Wawa before he moved on to better things. We still have a couple handwritten letters from at our headquarters outside of Philadelphia, so that's pretty neat.

You can see where our locations are, I mean, largely mid-Atlantic states;

Pennsylvania, New Jersey, Delaware, Maryland, Virginia. And then we've got three -- over 300 stores in Florida now, and we're kind of working our way back up in Alabama, Georgia, North Carolina.

And then in the midwest; Ohio, Kentucky, and Indiana are the three big growth states. So exciting times certainly.

In Ohio, Kentucky, and Indiana we'll be building 30 stores a year as far out as we can see I think, so.

The core values of the company are important to us. Like I say, as people who all own part of the company, this isn't just stuff on a website, it actually matters.

Fulfilling lives every day. You see it, Children's Hospital in Philadelphia has been one of our big philanthropic partners over the years where we've got a care cart that we have a 24-hour a day volunteer, a different -- not the same person obviously, but, you know, pushes a cart around and gives food and coffee and such to parents of sick children. And obviously we've donated money to them also, but lots of

neat things there.

And a lot of stores in Florida you see hurricanes and such, and we try to be the last store to close and the first one to open back up to help people get things that they need, you know, basics, water, batteries, whatever they might need to buy to get their lives back in order after one of those disasters.

Day brighteners. This is just a quick slide about, you know, average time in the store for a person might be four minutes, and we want that to be the best four minutes of their day, so, I mean, employees are always very friendly, the store is clean, the restrooms are clean. That's just something that's very important us to and, again, I think part of the secret sauce of what makes Wawa what it is.

Core values are pretty self explanatory I think, but, like I say, these are things that are talked about every day, this isn't just something we put on our website. Delighting customers especially is something that we talk about non-stop.

Gloss over here. This is, this is something that also isn't probably intuitive with a convenience store is, I mean, the customer loyalty is on par with like Chick-Fil-A, I mean, it's, it's very serious.

And if you go to the mid-Atlantic states you see some of these things like tattoos, people who have had weddings at Wawa parking lots, not something I personally would do but some people are that crazy about it, so it's, it's really interesting. So there's, you know, I mean, like I say, we just had our first store in Ohio open in Liberty Township and there's hundreds and hundreds of people there, I mean, you would think Target or something is opening, it's, it's really neat.

This is just, kind of gives an idea of the volume of what we're doing every day; number of customers, sandwiches, cups of coffee, so on and so forth, so it's pretty incredible.

This goes back to some of the community-oriented things that we talked

about on a previous slide. You know, an average store -- now this is for a regular store, not a convenience store, is about seven and a half million dollars. This store is in the neighborhood of 20 million. Again, 40 jobs, you know, good benefits.

And on the right-hand side there you see in the last I think since 2014 we've donated about $160 million to various charities, some of them are the big national ones, USO, Red Cross and such, but, I mean, this can get down to like the high school marching band, so, so it's really neat. So we got -- the foundation operates on its own, but, you know, people can submit applications, you know, whatever it might be. And, you know, I think last year the number might have been 15 million, give or take, so, so that's obviously very important and something we're very comitted to.

On this slide I really want to focus on the middle part. The hunger. At the end of every shift we do donate food to local food pantries and such. Food that we wouldn't serve anymore necessarily because

our standards are crazy, but certainly perfectly edible, it's been there for less than a day, but we -- our internal standards are pretty crazy. So we've already got partnerships established, you know, Freestore Foodbank in Cincinnati. I can't remember the name of the one in Dayton, I think it's just called Dayton Food Bank. But, yeah, we've already got all that established, so, so that's really important.

Convenience and innovation. This is all, you know, largely focused on food. You see it's all made to order, you know, breakfast, lunch, and dinner. I mean, breakfast and lunch are certainly our busier times. Dinner has been getting better, so that's good, but our big rush really is probably the morning.

You know, we have all kinds of little, you know, advertisements and things like that. Especially now with the economy being what it is, some of those value type things are getting increasingly important.

The beverage side of it's very important, too; coffee, smoothies, energy

drinks, all that kind of stuff, so, I mean, we got certainly standard coffee -- and I don't drink coffee, so if I don't use the right terminology here, I apologize, but the, all the fancy frozen drinks that I don't know much about personally, so, but all made to order and, you know, very neat component to the business.

You know, there's some of the things about customer loyalty and, you know, where we stand nationally with hoagies, coffee, and such, so -- this gives an idea, you know, we've got salads. We do have, you know, a small selection of pre-made things, but largely built to order and all very good.

Pizza is new to us. That really started last year and is pretty successful so far, so we're hoping that that is -- it helps branch out some of the dinnertime offerings.

We don't charge for our air machines, we don't charge for our ATMs, so there's two things that kind of differentiate us a little bit more from, you know, a normal convenience store.

I want to spend just one minute

on the underground storage tanks. We do get this question sometimes about safety and such about underground storage tanks. So right about the time in the mid-'90s that we started selling fuel is when federal regulations really went into effect for this particular thing, so we've been in excess of the federal standard since the day we started selling gas.

The three big things for safety here are -- and you might not be able to see it real clearly on here, but there's an electronic sensor in there that defects leaks. The walls are double walled fiberglass compared to the old metal tanks from a long time ago. And all the material's corrosion-proof. So those are all your three big safety points on these underground tank systems, so we do all three. Just, I mean, we've got a big financial incentive to not have any leaks, so, and we want to do the right thing, so.

I think that's probably it for me. I'm certainly glad to answer any questions. Certainly if you do a quick

Google search you'll see news about us all throughout the region, and lots of positive stuff happening, so hopefully you guys will be able to support us. Thank you.

MAYOR KIRKPATRICK: Thank you.

MR. MONTGOMERY: And just a few concluding remarks. So Kathleen, within the staff report, and with our narrative to the application, we did go through the various criteria that the PUD and the final development plan and preliminary development plan are measured against, so I don't want to be redundant and go through each of those on an itemized basis, but I do want to just reference that each of those have been touched upon.

There was actually a fair amount of testimony upfront from certain aspects of those that went through Planning Board when they issued their unanimous recommendation. We're happy to answer any of those questions specifically, but we just figured we'd invite those questions from you as opposed to sit and go through all the criteria. But we did just want to get on the record that all of

those have been addressed within the narrative and then within Kathleen's report.

With that, we're happy to answer any questions that council may have or respond to any questions that the public may have. And we ask for your recommendation of approval -- or, actually, your -- not recommendation, but your approval tonight. Thank you.

MAYOR KIRKPATRICK: Thank you. Okay, before we come to council for questions will -- is there anyone else in the audience who wishes to speak to Ordinance 31-24, please come forward at this time.

MR. HENDRICKS: How you doin'? Brad Hendricks, 32 Lawndale --

MR. MCNAMEE: Pardon me. Were you sworn in at the beginning of the meeting? I don't recall.

MAYOR KIRKPATRICK: No, he was not.

MR. MCNAMEE: Okay. So you have to be sworn in before you testify.

(Mr. Hendricks was sworn in.)

MR. MCNAMEE: Thank you.

MAYOR KIRKPATRICK: We swore everybody else in earlier before you got here.

MR. HENDRICKS: I understand. The only concerns I have is that's right down on Broad Street, which I think that corner does need a truckstop, we could use the traffic, but my biggest thing is parking. Is there going to be a lot of parking? How big do Wawa's get? I've never seen one. I guess there's one in Columbus.

And then with all this money we're putting into these new buildings, new, the big box stores coming into Fairborn, are we going to help old Fairborn start rejuvenizing or bringing old Fairborn back? Instead of bringing in all this new business, are we going to start raising, I don't know the proper words for it, but, you know, bringing back old Fairborn, cleaning it up, looking, looking good, fixing Maple Road? That's all I've got.

MAYOR KIRKPATRICK: Okay. Thank you for your comments.

MR. DEER: Good evening. My

name is Charlie Deer, I live at 1819 North Broad Street. And I want to mention something first, what Kathleen said, because I'll forget it.

MAYOR KIRKPATRICK: Charlie, can I ask you to speak into the microphone so people at home can hear you?

MR. DEER: Do what?

MAYOR KIRKPATRICK: Speak into the microphone. Thank you.

MR. DEER: Okay. Well, Kathleen said that the police department, Ben Roman, said that on this latest proposal -- I don't know how many proposals they've had, three or four -- that the one proposal, it was going to stretch the resources of the Fairborn Police Department.

But on the second proposal he said, yeah, we can, we can handle all the spillover onto Broad Street.

But about two months ago there were four tractor and trailers parked in front of my house for a bit, blocking my driveway, because I guess they couldn't get into that one open spot, it was full.

So I called, I called the police chief and I told him. He said, let me get right back with you, Charlie. I said, okay. He called me back in about ten minutes. And you've heard the old commercial: Sorry, Charlie. That's what he said. He said, sorry, Charlie, we can't do nothing about it because you're on the wrong side of Broad Street.

The side of Broad Street that they want to put this on is Fairborn. The other side of Broad Street is Bath Township. So he told me, he said, you'll have to call the Greene County Sheriff, which I did. And they more or less acted like I was just some kind of nuisance even though I had never called them before.

So I just wanted to, wanted to bring that up, that, I mean, if I'm walking on that bike path in front of my house, I'm in no man's zone. I can call the Greene County sheriff if I get mugged or whatever, and it's going to take them probably 30 minutes, you know, to get there or longer, so, I mean, that's, that's, that's just plumb

crazy when they say that they can handle all the spillover when they can't. They, they can't.

So -- but this Planning Board and the mayor would have us to believe that this truckstop is about truck drivers and a place for them to pull over. That don't hold water. That does not hold water because there is six overnight truckstops with hundreds of parking spaces within 12 to 15 minutes of where they want to build this. So you do not need a truckstop there. And when you've got that many around -- as a matter of fact, you got a diesel, where they can fill up with diesel the next exit down. So, I mean, that, that just does not hold water at all.

And when and if this passes, for the next hundred years this is going to cause problems, I mean, of all different kinds. I mean, listen, each one of you, everybody, just say one word to yourself; truckstop. What does that bring to mind? Well, it does not bring to mind world class food, I'll tell you that. The number one answer that I got

from people I asked was crime, prostitution, lot lizards, and on down the line. Because that's what truckstops bring.

But that, that stretch of road that comes from Sandhill Road down to the first red light there at 675, people absolutely fly. It's just like Kil-Kare Raceway through there, I mean, 50, 60, 70 miles an hour. And you've got people turning in and turning out and turning in. It is not going to be no time at all until there's going to be some deaths and some serious injuries there.

Two months ago up at Fullmer's parking lot there at Speedway, a lady and her children was pulling out there at the Speedway, turning right. Here come a big Waste Management truck. I don't know whether he was texting, I don't know what he was doing, run that light, sent them all to the hospital. And there was a light there.

And their traffic study says that we need to do nothing to that end of town for it to work as smooth as butter. I mean, come on.

I mean, you got trucks and cars and stuff coming down through there at 60 or 70 miles an hour and people turning in and out, no red lights, no rumble things, no, no stop sign, no nothing. Just a straight drag strip going down through there. It's going to be a disaster.

And it's people that live over in Rona Hills and Waterford Landing and over in that area, they might as well try to find them a different way to work because Spangler Road is going to be completely destroyed because they, they have all of the trucks coming out on Spangler Road now.

I seen something funny the other day, I mean, I mean, it was funny. There was a guy coming out Spangler Road there from like Pepsi. And there was a guy coming down Broad Street from Fairborn. Well, he wanted to turn on, onto Spangler. And so, you know, the guy that was sitting on Spangler, luckily there wasn't anybody behind him, no more trucks, no more cars. And you should have seen how far this man had to back back so this one guy could, could turn onto Spangler

Road. It's just not, it's just not -- I had people on the Planning Board tell me that the way that this is proposed, it will not work. And I don't know what's changed. What has changed that now everything will work except for Kathleen's opinion that, so -- I mean, I mean, so now it passes by the Planning Board unanimously when, when I don't -- I talked to a few of them and they said, look, it's not going to work. And what's changed? Except for one thing, they jockeyed some stuff around on the inside there. That didn't do anything for the safety of the residents of Fairborn. They reduced the, the, the convenient mart by 56 feet. That's about two cars. And so did that change everybody's mind?

I want to know what changed. What changed when everybody was for it -- or against it until they were for it? I talked to people in this room just a couple months ago that they are not for it. But now they are. What's changed?

This is, this is not about -- this is not about truck drivers. And listen,

I have nothing against truck drivers or truckstops or these people, nothing whatsoever, but it is just not needed at this, at this particular spot.

Let me give you one example. When they pull out of there and they're going to 675 to get to 70 or 75, whichever, that turning lane there under the bridge is 120 feet long. Well, a tractor and trailer, a lot of them are 80 feet long. So you get two of them there, you've got one of them that's out on Broad Street, and what if you got two or three more coming down through there, and four or five cars, can you see the congestion that is going to be there? I mean, you don't have to be a rocket scientist to see a big picture there.

And if you would -- if Fairborn had done their own traffic study, they would see what I see, but they relied on their traffic study that they bought and they paid for. And when you buy and pay for something, you get the results that you want.

Now, anybody that can say that there needs to be nothing done at that

intersection, well, I have a hard time believing anything they say.

So, okay, my five minutes is up. But I do want to do -- say one, one more thing. I want, I want, I want, council, I want you to look at that wall right there. And then I want you to look at that wall right there. That's 40 feet. How do I know? I measured it. 40 feet is how far they are away from our bike path, their property. Now, you add ten more feet to that and they're in my front yard.

I mean, I have been a resident of this town for 57 years. I've owned a business for 30 years, a successful business. I've contributed to countless different organizations that none of you guys know about because I don't do it for recognition, I do it for my Lord. So -- and paid hundreds and hundreds and hundreds of dollars in taxes of every sort. Been a good citizen. And you, you let these people come and build a truckstop right on top of me. Is that the way you treat your citizens? I hope not.

And one of these, one of these

guys, I can't remember which one it was, actually compared their truckstop to a Taj Mahal. I don't -- I forget which one. I couldn't get the video, I just had to listen to it. But then the final slap to my face was, they said that their truckstop or Taj Mahal, whatever you want to call it, would be complementary to my property. And I'm just wondering, any of you guys think it's complementary to have a truckstop 50 feet from your front yard? And if that man back there was worth his salt, that land would have been sold 20 years ago.

So, thank you for your time.

MAYOR KIRKPATRICK: Charlie, your glasses. Charlie, your glasses.

MR. DEER: Thanks.

MAYOR KIRKPATRICK: Okay, anyone else wishing to speak to Ordinance 31-24, please come forward at this time.

MS. DEER: Hello. Good evening. My name is Pam Deer and I live at 1819 North Broad Street in Fairborn, and I'm here tonight to voice my opposition to the building of a 24-hour truckstop at Spangler

and Broad Street.

First of all, let me say that I have nothing against truck drivers as I know how important their jobs are to keeping this country supplied.

I just do not believe that a 24-hour truckstop is needed in our small town when there are six 24-hour overnight parking truckstops within a 12 to 15 minute radius of that location whether you're going north, south, east, or west.

The Wawa reps here today are doing their job, and that is being a salesperson. They're here to gloss over any issues and they'll do whatever it takes to get this passed. Then they'll go back to their homes in another state or city. And whatever issues this truckstop brings to our town, the repercussions will be ours to deal with for many years to come.

I have some questions for you to consider before casting your vote this evening. Will there be overnight parking or not? A Planning Board report stated that is what Wawa had proposed it to be even though

they stated in a Planning Board meeting that they would not encourage overnight parking because they did not have the showers or etc. to accommodate. But then they also said that they will not police the parking either. So what is their intention? And if so, how will overnight parking be addressed? Isn't overnight parking a code, city violation code on commercial property?

In a Planning Board report it was stated that per the parking and loading regulations in the Fairborn code ordinances, parking for a commercial business is not intended to be used for resting.

I live across the street from the proposed site and I see four to six trucks parked overnight in an empty lot every night, and an empty lot does not have showers, gas, or food, so if that's Wawa's claim, it's just simply not true.

If trucks come there at night, they're going to find a place to pull over and park somewhere if they need to.

In your homes you have the same neighbors, good or bad, every day, and you

know who your neighbors are. If this truckstop is built, we have no idea who our neighbors will be every night, and whether they're good or whether they're bad. Would you like to have that uncertainty in a neighborhood with your children?

If this is built, how will that and other code violations such as the excessive parking spaces of 80-plus proposed spaces, when it's supposed to be 20-plus spaces per the Fairborn codes for that size of a building, be enforced? And who will enforce it? When a city resident breaks a city ordinance, they certainly have to correct it or face repercussions.

Laws and ordinances are in place for the betterment of the entire community. So are the ordinances going to be changed or altered to accommodate just one business? And why can't the city have an independent traffic study done and compare it to Wawa's study before casting this important vote?

My next question is, will Wawa have a security guard on duty since it is a 24-hour operation? And who will be called

when the problems arise in that area? That area is so split up between the city of Fairborn and Bath Township, so which agency will cover the problems? If it is another agency other than the City of Fairborn, the response time will be extremely longer.

In addition to the traffic congestion and overnight parking issues, this truckstop will most likely bring the elements of crime, sex trafficking, drug trafficking, noise pollution, light pollution, air pollution to our community.

We basically have four exits off 675 with three of them having gas stations at the exits, so why is this truckstop necessary? I'm certain truck drivers use apps on their phones to locate truckstops in their travels, so if they looked up the nearest truckstops, their app would show them various locations all within a few minutes from this location.

We already have 25 gas stations in our city limits and you know that when you see one going up, there will most likely be another one being built across the street or

next to it. So if this truckstop is approved, who is to stop someone from building another one across the street or next to it? So if this truckstop is approved, who is to stop someone from building another one across the street or next door which would add more traffic congestion to that area?

That entire area could be put to a better use if they would let not -- decide not to build more gas stations and truckstops and have some other business there instead.

My last question is regarding the environment. I'm sure you are aware of the 70-plus acre wetlands reserve less than one mile from the proposed truckstop site there on Spangler. Has EPA been contacted?

We also have Indiana brown bats that are on the endangered species list that are in that area each year. Has the US wildlife been contacted? I know when the bike path was being built there, they had to hold off construction from March through October because that is, in that area is where they habitat each year during that

timeframe.

In closing, I would like to say to the city manager, the city council, the city manager, and the Planning Board, that you are either elected or appointed to do what is in the best interests and safety of our city and its residents, and I do not believe that this truckstop and the changes and bad elements it will bring is in the best interests of our town.

I hope that you will take all these questions into consideration before making your decision on this very important matter. Thank you for your time.

MAYOR KIRKPATRICK: Thank you. Anyone else wishing to speak to Ordinance 31-24, please come forward at this time.

MR. CHESS: I need to be sworn in. I need to be sworn in.

MR. MCNAMEE: Thank you for reminding me.

MR. CHESS: Uh-huh.

(James Chess was sworn in.)

MR. CHESS: James Chess, 455 Coronado Drive, Fairborn, Ohio. Just a

question for Wawa. They kind of glanced over it. What would be the proposed economic impact to Fairborn? Basically what would be the average salary for the employees in this area?

MAYOR KIRKPATRICK: Please come to the microphone to answer that question.

MR. WARNEMENT: The construction is in the neighborhood of 20 million dollars, and then we'd have 40 permanent jobs that start with the general manager that is a six figure job and, you know, will scale down from there.

MR. CHESS: But can you give me an exact figure, exact figure about --

MAYOR KIRKPATRICK: Please ask any questions at the microphone so folks at home can hear.

MR. CHESS: Can you give me about a range for a store worker, what's the average annual salary?

MR. WARNEMENT: I think internally our lowest wage we pay anybody is 15 or $15.50. And then that, like I say, the general -- each store has a general manager

that's six figures-plus.

MR. CHESS: Thank you.

MR. WARNEMENT: Sure.

MAYOR KIRKPATRICK: Anyone else wishing to come forward to speak to Ordinance 31-24? Okay, seeing no one else come forward, we will close the public hearing for Ordinance 31-24 and we'll come back to council for questions starting with Councilman Fritzsche.

MR. FRITZSCHE: I do not have any questions. I believe all mine were answered through all the presentations. Thank you.

MR. ALLEN: I appreciate the read aheads, I appreciate the, the public comments, I appreciate the presentation from the applicant. And I have no further questions. Thank you.

DEPUTY MAYOR REASTER: I have no questions or comments. Thank you.

MS. CHESS: I don't have any questions or comments. Thank you.

MR. MCCUBBINS: I'll break the cycle. I have a com -- or a question if I

could. Kathleen, I don't know if you can answer it or if the developer will, but I have a question about security. Is there closed caption security, does it capture the entire building, the entire lot? Particularly with the back. I'm looking to see if there's something that if law enforcement needed to access to assist in an investigation, would it be available?

MS. RIGGS: I'm going to let the applicant answer that question.

MR. WARNEMENT: Yes, we do have security cameras. And one other good security feature is, we have no fewer than three employees at the store at a time where, you know, a lot of times that nightshift, a lot of convenience stores may only have one, where we have a minimum of three no matter what, so we think that helps a lot.

MR. MCCUBBINS: Thank you.

MR. WARNEMENT: Sure.

MR. MCCUBBINS: I have no further questions, Councilman.

MS. STANTON: I know you already said it, but just because Charlie asked this

question, can you go over one more time the difference between, like the changes that were made that took this from -- the changes that they made to address the issues that were brought up from the rejected version --

MS. RIGGS: Right.

MS. STANTON: -- that corrected those issues, that made it an improved plan.

MS. RIGGS: So the changes that they made include addressing the access drives. There were some conflict in truck and vehicular traffic with their previous submittal, so they made some adjustments with their overall site regarding those access points. And by shifting the semi fueling dispensers from the southern part of the site to really kind of the western part of the site, if you will. And then putting the semi-truck traffic, really that there's only one entrance, ingress, and one egress for that truck traffic, really separating, I think that was the biggest change, probably just really separating the vehicular and the truck traffic and making the overall site safer. I think that's the kind of overall

impression.

And then because of some of those shifts in location for fueling dispensers and truck parking, and building shifted the opposite direction closer to the intersection, which is actually more in line with our land use plan and where we want to see those structures closer to our streets.

MS. STANTON: Thank you. Thank you. That was my only question. Thanks.

MS. RIGGS: Okay.

MAYOR KIRKPATRICK: Okay, a couple questions here. I think we've addressed this but I want to make sure this is well known. The truck parking, how many spaces again?

MS. RIGGS: There are ten.

MAYOR KIRKPATRICK: Ten. And how long will they be allowed to park there?

MS. RIGGS: I mean, they will be allowed to park there, that's at the control of the management of the company, so --

MAYOR KIRKPATRICK: Is there a typical -- I would like a response from one of the -- how long are they normally allowed

to stay there?

MR. WARNEMENT: So the nature -- this is going to take a minute.

MAYOR KIRKPATRICK: Sure.

MR. WARNEMENT: So a normal truckstop is about 25 acres. You go to Love's, Pilot, any of those, and they have a hundred truck parking spaces, they have showers, they have a FedEx box in there for drivers, all these different amenities that we don't have any of that. So it's just kind of the nature of the business lends itself to being there short-term, getting a sandwich, a coffee, going to the bathroom, fueling up, and getting back on the road.

You know, like Love's and a lot of the other truck drivers have national accounts where they have to go there and nowhere else, we don't have any of that. So it's really just the nature of the business that it would be senseless for them to come spend the night there because we don't have anything they need other than coffee, so, you know, but the other places are set up much better for that.

This is much more like you and me going, taking our car there, getting gas, getting whatever we want inside the store, and getting back on the road. So, you know, I think at the Planning Board meeting we'd said we'd happily put up signs that say two-hour maximum, if everybody would like us to do that, no problem.

Obviously, we own and operate all of our stores, we don't do any franchising, we don't want any negative stuff happening there so, you know, it's in all of our interests as people who own part of the company to not have that, so --

MAYOR KIRKPATRICK: So there's no real standard for how long a truck --

MR. WARNEMENT: No, we don't have anybody walking around knocking on windows of trucks and telling them to leave, but --

MAYOR KIRKPATRICK: Okay.

MR. WARNEMENT: I think it's probably better handled by law enforcement if it became that big of a problem, but --

MAYOR KIRKPATRICK: Well, I

think one of the concerns is trucks fueling, then pulling over into one of those ten spaces.

MR. WARNEMENT: Sure.

MAYOR KIRKPATRICK: And then sitting there all night long because many of them have cabs, they sleep. Are they going to be sleeping there all night? And who determines if it's a two-hour stay or four-hour, is that something that the city would have to do and then who would reinfor -- or inforce that?

MR. WARNEMENT: Like I say, I mean, I think what we can do is do small things to encourage, but the nature of the business really solves the problem for the most part. I mean, if anybody who's staying overnight wants a shower, they want --

MAYOR KIRKPATRICK: Not there.

MR. WARNEMENT: Which we don't have. So I think that really solves the bulk of the problem.

MAYOR KIRKPATRICK: Okay.

MS. CHESS: Can I ask another question?

MAYOR KIRKPATRICK: Yeah.

MS. CHESS: Hi.

MR. WARNEMENT: Yes, ma'am.

MS. CHESS: My only concern is that when you're dealing with the Federal Motor Carrier Safety Administration, these truck drivers have rules and regulations they have to abide by.

MR. WARNEMENT: Yes. Right.

MS. CHESS: And they have rules. So some of them have where they have a, they have to stop before eight hours and take 30-minute breaks. They have to take breaks, it's mandated by the Federal Motor Carrier Safety Administration.

MR. WARNEMENT: Uh-huh.

MS. CHESS: So then they also have a ten-hour break that they must take in order to reset their clock for the next day; they cannot work no more than 14 hours and driving no more than 11. If they are waiting there, say they're waiting to unload at ISupply down the street and they run out of hours. Per the Federal Motor Carry Safety Administration rules and regulations, they

have -- they cannot move that truck. And so even at a 36-hour break, if they have exceeded their 70 hours they have to stop and reset after 36 hours. So what if -- this is just a hypothesis, I'm just --

MR. WARNEMENT: Sure.

MS. CHESS: What if that happens and, do they go into the store and say, hey, I'm on my ten-hour break and I don't mean to be out here so long, would you all accommodate me, let me finish my ten-hour break and go on? Or would they be forced to move and go into violation, which would cause them to suffer tickets and things like that that would go against their driving record? So there is rules and regulations that the government require for drivers, professional drivers to be able to, to drive safely and be out safely and everything. So how would you accommodate that? That is very important.

MR. WARNEMENT: Sure. I think if you're a driver in that circumstance, one of the other places that's in the 12 to 15-mile radius that has the amenities, they would probably plan ahead and go to Love's or

one of the places that has the shower that they can go to in the morning and still be close to where they're dropping off.

MS. CHESS: Right. I would agree with that, however, they're not supposed to move that vehicle because those -- they have electronic logging devices.

MR. WARNEMENT: Uh-huh.

MS. CHESS: And so if they decide to move that truck and the Department of Transportation pulled them over --

MR. WARNEMENT: They get in trouble.

MS. CHESS: -- and they get a ticket and they get shut down for 24 hours, you know, that's the only concern that I really have when it comes down to that.

My suggestion would be to offer the driver to come in and say, hey, I'm on my ten-hour break, is it possible that I can stay for ten hours and reset my clock? Nobody else other than that. If they're just there for a quick, whatever, that's fine. But I really do believe that we need to

adhere to those rules and regulations. And I'm not saying that it's okay. I've been in this business for over 30 years and I do understand what goes on. In my career I've never had a lot of problems with all this other things like --

MR. WARNEMENT: Sure.

MS. CHESS: -- and things like that.

MR. WARNEMENT: Yeah.

MS. CHESS: But I just feel as though that we do have to adhere what the federal government says when it comes down to those drivers.

And these are everyday people. We have citizens here in Fairborn who are truck drivers, we have people who are making a living for their families through driving trucks, and so I'm excited, but I do want to make sure that those drivers are accommodated as well because it could happen if they're waiting to be unloaded at a location in that area --

MR. WARNEMENT: Sure.

MS. CHESS: -- where they

cannot, literally cannot move that truck because all companies do not give personal conveyance for drivers to move a vehicle to go to another location even if it's six miles down the road.

MR. WARNEMENT: Sure. And I, I would think that just kind of the nature of our company and the caring nature of how we do things, if there was somebody in that circumstance I'm sure they would let them stay --

MS. CHESS: Okay.

MR. WARNEMENT: -- that one particular night. I don't think they would say get out, your CDL, go to some bad place, I'm not going to say, you know, I mean, I don't think that would happen. But, you know, if -- it's hard, I mean, we could come up with a thousand scenarios, but that one's serious, I mean, it -- you know, I hear what you're saying and I, I'm very confident that our general manager would not say get back on the road after you've been driving for ten hours or something, so --

MS. CHESS: Absolutely. I

understand. I just wanted to address that because that is very serious.

MR. WARNEMENT: Uh-huh. Certainly.

MS. CHESS: And sometimes, yeah, they do have the time to go to the truckstops for the amenities that they offer, however, a lot of times things can happen where they can't move.

MR. WARNEMENT: Uh-huh. Traffic, whatever, slows them down, anything.

MS. CHESS: Anything can happen where they cannot move, and it does an injustice to them as people who are trying to make a living --

MR. WARNEMENT: Certainly.

MS. CHESS: -- to have to incur these financial burdens that, that could have been accommodated for them.

MR. WARNEMENT: Sure.

MS. CHESS: So I appreciate that. Thank you.

MR. WARNEMENT: Sure. Yeah. Absolutely.

MAYOR KIRKPATRICK: Any

additional questions or comments from council?

MR. WARNEMENT: If it's okay, I'd like to make one comment. On the traffic study that was commented on several times, on the original plan that Planning Board was not supportive of, and the new plan, ODOT has fully reviewed, approved both of those. We included an interchange operating study for the ramps at 675, so that has been thoroughly reviewed, beaten to death, and approved. So we don't really have any influence to make ODOT say yes or no to much of anything, and my life would be easier if we did. So that -- if there's any hesitation about that, that has been very thoroughly reviewed.

MAYOR KIRKPATRICK: Thank you. Okay. Is there a motion now to waive the rule requiring that ordinances be read on three separate occasions and Ordinance 31-24 be read for the third time by title only?

MS. CHESS: So moved.

MR. FRITZSCHE: Second.

MAYOR KIRKPATRICK: Shall we please call the roll.

MS. TAYLOR: Ms. Chess?
MS. CHESS: Yes.
MS. TAYLOR: Mr. Allen?
MR. ALLEN: Yes.
MS. TAYLOR: Mr. Fritzsche?
MR. FRITZSCHE: Yea.
MS. TAYLOR: Mr. McCubbins?
MR. MCCUBBINS: Yes.
MS. TAYLOR: Ms. Reaster?
DEPUTY MAYOR REASTER: Yes.
MS. TAYLOR: Ms. Stanton?
MS. STANTON: Yes.
MS. TAYLOR: Mr. Kirkpatrick?
MAYOR KIRKPATRICK: Yes.
MR. MCNAMEE: Ordinance 31-24. Authorizing a Zoning Map Amendment from Light Industrial to Planned Unit Development, and approval of a Preliminary PUD Plan, and Final Plat on Parcel Nos. A02000100440000100 and A01000100180001900.
MAYOR KIRKPATRICK: Thank you, Mike. Is there a motion now to adopt Ordinance 31-24?
MR. FRITZSCHE: So moved.
DEPUTY MAYOR REASTER: Second.

MAYOR KIRKPATRICK: Shall we please call the roll.

MS. TAYLOR: Mr. Fritzsche?

MR. FRITZSCHE: Yes.

MS. TAYLOR: Ms. Reaster?

DEPUTY MAYOR REASTER: Yes.

MS. TAYLOR: Mr. Allen?

MR. ALLEN: Yes.

MS. TAYLOR: Ms. Chess?

MS. CHESS: Yes.

MS. TAYLOR: Mr. McCubbins?

MR. MCCUBBINS: Yea.

MS. TAYLOR: Ms. Stanton?

MS. STANTON: Yes.

MS. TAYLOR: Mr. Kirkpatrick?

MAYOR KIRKPATRICK: No. Ordinance 31-24 is duly adopted.

(WHEREUPON, meeting concluded at 7:19 p.m.)

C E R T I F I C A T E

I, Tina M. Shell, a Registered Professional Reporter, do hereby certify that the foregoing is a full, true and correct transcript of my notes taken in the above-styled case and thereafter transcribed by me.

/s/ Tina M. Shell
Tina M. Shell
Registered Professional Reporter