

OFFICIAL PROCEEDINGS OF THE COUNTY BOARD
WASHINGTON COUNTY, MINNESOTA
APRIL 4, 2006

The Washington County Board of Commissioners met in regular session at 6:30 p.m. in the Washington County Government Center, County Board Room. Present were Commissioners Peterson, Kriesel, Pulkrabek, Stafford, and Hegberg. Absent none. Board Chair Pulkrabek presided. Also present were James Schug, County Administrator; Molly O'Rourke, Deputy Administrator; George Kuprian, Assistant County Attorney; Linda Krafthefer, Assistant County Attorney; Dan Papin, Community Services Director; Steve Pott, County Sheriff; Cindy Koosmann, Recorder; Jennifer Wagenius, Deputy Recorder; Don Theisen, Director of Transportation and Physical Development; Ted Schoenecker, Transportation Engineer; Mike Welling, Surveyor; Dennis O'Donnell, Sr. Planner; Ann Pung-Terwedo, Sr. Planner; and Steve Nelson, Public Information Coordinator II.

The Board recited the Pledge of Allegiance.

COMMENTS FROM THE PUBLIC

The Board Chair asked for comments from the public; none were heard.

CONSENT CALENDAR

Commissioner Peterson moved, seconded by Commission Hegberg to adopt the following Consent Calendar:

1. Adoption of **Resolution No. 2006-047** as follows:

Resolution of Appreciation for Jim Fitzpatrick
Denmark Township Board Member
in Recognition of His Service to the Citizens
of Denmark Township and Washington County

WHEREAS, Jim Fitzpatrick retired effective March 14, 2006, after five consecutive terms as a Board Member of Denmark Township that began with his first election in March 1991 and he served as Board Chair in 1994, 2001, and 2005; and

WHEREAS, Jim Fitzpatrick has provided exceptional public service for the citizens of Denmark Township through his active participation on the Red Rock Corridor Commission as Denmark Township's representative, Lower St. Croix Water Management Organization, Lower St. Croix Partnership Team, Stop Our Airport Relocation, Prescott bridge reconstruction, Minnesota-Wisconsin Boundary Area Commission, and animal control; and

WHEREAS, Jim Fitzpatrick devoted his time and expertise during the development of the Denmark Township Comprehensive Plan and Tier II Minnesota Regional Rail Authority standards, and he has been an avid St. Croix River enthusiast, advocate, and bird watcher; and

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NOW, THEREFORE BE IT RESOLVED THAT, the Washington County Board of Commissioners acknowledges with grateful appreciation Jim Fitzpatrick's public service to the citizens of Denmark Township and Washington County; and

BE IT FURTHER RESOLVED THAT, the Washington County Board of Commissioners heartily commends Jim Fitzpatrick for his dedication during 15 years of public service.

2. Approval to reappoint Donald L. Pereira, Cottage Grove, to the South Washington Watershed District Board of Managers to a term expiring May 1, 2009.
3. Approval to appoint Brenda Carlson to the Workforce Investment Board as a Small Business Representative to a first term expiring June 30, 2008.
4. Approval of a new owner application for on sale and Sunday liquor license for The Scandia Creamery for the period of April 1, 2006 through March 31, 2007.
5. Approval to renew application for off sale, on sale and Sunday liquor license for Meister's Bar/Grill/Scandia, Inc., for the period of April 1, 2006 through March 31, 2007.
6. Approval to renew application for consumption and display permit for New Scandia Township, New Scandia Community Senior Center, for the period of April 1, 2006 through March 31, 2007.
7. Approval to accept a donation from Timm's Harbor Marina, Forest Lake, for a slip at their marina for the Sheriff's Office patrol boat for the 2006 boating season.
8. Approval to accept a donation from the Port of Sunnyside Marina in Oak Park Heights for a slip at their marina for the Sheriff's Office patrol boat for the 2006 boating season.
9. Approval to accept a donation from Willie's Hidden Harbor Marina, West St. Paul, for a slip at their marina for the Sheriff's Office patrol boat for the 2006 boating season.
10. Adoption of **Resolution No. 2006-048** as follows:

Resolution Recognizing the Public Safety Dispatchers in
Washington County in Honor of
National Public Safety Telecommunication Week

WHEREAS, the dedicated public safety telecommunications personnel daily serve the citizens of Washington County by answering their telephone calls for police, fire and emergency medical services and dispatching the appropriate assistance as quickly as possible; and

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WHEREAS, the critical functions performed by professional public safety telecommunications personnel impact all aspects of public safety and many other operations performed by state, county, and local government agencies; and

WHEREAS, professional public safety telecommunications personnel work to improve the emergency response capabilities in the county through their participation in training programs and other activities to make them more efficient and responsive to the needs of the public safety organizations in the county; and

WHEREAS, the Washington County Sheriff's Office and the Cottage Grove Department of Public Safety provide 24-hour dispatching, and the Forest Lake, Oak Park Heights, Oakdale, Stillwater and Woodbury Police Departments provide day time dispatching for their communities.

NOW, THEREFORE, BE IT RESOLVED that the Washington County Board of Commissioners hereby proclaims the week beginning April 9, 2006 – April 15, 2006 as Public Safety Telecommunications Week in Washington County and extends its appreciation and thanks to the dedicated Public Safety Telecommunications Personnel for the vital contribution they make to the safety and well being of our citizens and public safety providers.

11. Approval to waive the rental fee for use of the Historic Courthouse by the Washington County Historical Society on Thursday, September 28, 2006.

The foregoing Consent Calendar was adopted unanimously.

GENERAL ADMINISTRATION

Appointment of County Engineer

Commissioner Peterson moved to adopt **Resolution No. 2006-049** as follows:

Appointment of County Highway Engineer

WHEREAS, Minnesota Statute 163.07 requires each county to appoint and employ a County Highway Engineer; and

WHEREAS, the Washington County Board first appointed Donald J. Theisen as the County Engineer effective May 1, 2002 ; and

WHEREAS, Mr. Theisen's current four-year appointment as County Engineer expires on April 30, 2006; and

WHEREAS, it is the recommendation of the County Administrator to reappoint Donald J. Theisen to another four-year term.

NOW, THEREFORE, BE IT RESOLVED, that the Washington County Board of Commissioners does hereby reappoint Donald J. Theisen as the Washington County Highway Engineer for a four-year term effective May 1, 2006 through April 30, 2010.

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Commissioner Stafford seconded the motion and it was adopted unanimously.

Legislative Update

Jim Schug, County Administrator, presented a legislative update as follows: Eminent domain; and Constitutional amendment designating 3/8 of 1% in sales tax increase with 88% of that increase going to environmental projects and 22% to arts. It may be on the ballot this fall which could impact whether the county's referendum will go or not.

Commissioner Hegberg asked that the County Attorney review a proposed bill that would abandon judicial ditches in the metropolitan area. He would like to know if that includes losing the easements that go along with those to clean and repair the ditches.

Mr. Schug noted that John Kaul, Legislative Liaison, will present the legislative update next week.

COMMISSIONER REPORTS – COMMENTS – QUESTIONS

Commissioner Peterson requested that James Keller, Denmark Township, be appointed to the Public Health Emergency Preparedness Committee on next week's Board agenda.

BOARD CORRESPONDENCE

Board correspondence was received and placed on file.

RECESS

Commissioner Peterson moved to recess until 7:00 p.m. Commissioner Stafford seconded the motion and it was adopted unanimously. The Board recessed at 6:45 p.m.

The Board reconvened at 7:00 p.m.

PUBLIC HEARING - TRANSPORTATION AND PHYSICAL DEVELOPMENT

Application from Holiday Stationstores, Inc. for a Comprehensive Plan Amendment and Rezoning of Property Located in West Lakeland Township

The Board Chair presented a brief overview of today's public hearing to consider an application from Holiday Stationstores, Inc. for a Comprehensive Plan Amendment and Rezoning of property located in West

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Lakeland Township. The Board Secretary confirmed that the notice of public hearing was published in the legal newspaper.

Dennis O'Donnell, Senior Planner, reviewed his memo to the Washington County Board of Commissioners dated March 27, 2006. The request by Holiday Stationstores, Inc. is to amend the Comprehensive Plan and rezone 7.3 acres, of the 60 acres they own in West Lakeland Township, from Single Family Estate to Commercial/Industrial-Rural. The proposed use of the 7.3 acres would be a convenience store with gas dispensing facilities. However, a separate application for a conditional use permit would be required for the actual use of the property. The policy of whether the zoning and land use designation should be changed is the issue before the County Board. The current use of the property has been for the production of sod or other agricultural activities. Highway 94 and CSAH 15 are boundary lines for four different municipalities. West Lakeland Township is north I-94 and east of CSAH 15; Lake Elmo is located north of I-94 and west of CSAH 15; Afton is south of I-94 and east of CSAH 15; and, Woodbury is south of I-94 and west of CSAH 15. Current land use in the immediate area of CSAH 15/I-94 area quadrant is as follows: Lake Elmo, sod farming; Woodbury, agriculture/undeveloped; Afton, light industrial between the frontage road and I-94 with a truck trailer storage facility and trucking operations in existence; and West Lakeland, sod farming/agriculture. North and east of the site approximately 4/10 of a mile are residential homesites with lots primarily 2 ½ acres in size. Oak-Land Junior High School is located 4/10 of a mile north of the subject property.

Mr. O'Donnell indicated that access to any proposed use on the property will be from Manning Avenue (CSAH 15). A frontage road exists on the Lake Elmo side of the highway, but there is not a frontage road on the West Lakeland side. Any type of highway commercial use designed to draw traffic off of I-94 will have an impact on current traffic conditions. The Department of Transportation and Physical Development supplied written comments and those were provided for the record. They did have concern with location of the new frontage road or access into the station and also other traffic related issues. The County Geologic Atlas categorizes the soils in this area as sand, granular sand and gravel. It also states that the soils are such that there is a high susceptibility of contaminating the water table and a high to moderate susceptibility to contaminate the Prairie Du Chien-Jordan Aquifer. Soil testing was done for the installation of an on-site septic system for this parcel. It was difficult to find a suitable location for a system due to a high water table, however an area for a mound system was found close to the CSAH 15 right-of-way.

Mr. O'Donnell noted that the current Washington County Comprehensive Plan was adopted in 1997. Prior to its adoption there was a great deal of discussion regarding the development along I-94 in West Lakeland Township. The public response was overwhelmingly against Commercial/Industrial development along I-94. Some were opposed until sewer and water was available and others were opposed due to environmental, aesthetics, lighting, and traffic concerns. The Comprehensive Plan adopted in 1997 designated the subject property as Rural Residential and specifically states the following objective: "Locate commercial and industrial growth where urban services are available."

Mr. O'Donnell presented several questions the Board should consider:

- 1) Is the request in conformance with the Comprehensive Plan? If not, have conditions changed to warrant a change in the Comprehensive Plan? Both the Comprehensive Plan and Zoning show this area planned and zoned for Rural Residential use. Since sewer and water is not available to the site, it does not appear that the request is in conformance with the Comprehensive Plan. It does not appear that conditions have substantially changed in that area in the last eight years. The County Board and Planning Advisory Commission discussed, during the Comprehensive Plan process, that the commercial development in this area should take place when sewer and water become available. Comprehensive plans need to be updated by January 1, 2008, and instead of dealing with individual amendments at this time they feel it would be best to consider possible amendments during the comprehensive planning process. This would allow an opportunity to review updated plans by West Lakeland, adjacent communities as well as impacts to the county transportation system.
- 2) Is the proposed zoning and land use compatible with adjacent land uses? The property immediately to the north, west, and east is used for the production of sod. Further to the east and north are the 2 ½ acre residential developments. Given that the land elevation rises both to the north and east from the subject property, some parcels will be able to see the business and signage from their property. If there is further commercial development in that area that would be moving closer to the residential properties.
- 3) Is the timing proper for amendment and rezoning or is the request premature? Are all utilities and other infrastructure in place to accommodate the proposed use of the property? Sewer and water is not available at this time. The purpose of that policy was for the protection of the groundwater resource. Commercial and industrial uses can pose a threat to groundwater due to the potential for solvents, chemicals, oils, etc. being washed down the drain and into the septic system and ultimately into the groundwater. Businesses change rapidly over time and it is hard to keep track of what business is coming and going. The cities of Woodbury, Oakdale, Stillwater, and Lake Elmo are in close proximity to the subject property, there currently is property planned and zoned for commercial development, much of it with urban services available or soon to be available. From a planning standpoint, it is more appropriate to stage this type of development and encourage development in areas where the infrastructure is in place instead of extending it out further into rural areas where utilities and other services are not yet available.
- 4) Will the proposed development place an undue financial burden on the town or county or have any other negative off-site impacts? The development of the 7 acre parcel most likely would not require any major road improvements. The Transportation Department does have a concern about the access going into the parcel. If the parcel were rezoned, there may be pressure to rezone adjacent property to the east and north. At that point there may need to be a traffic study and the potential for a traffic signal there. They contacted the Sheriff's Department to determine if they had any security concerns. He indicated

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that in the past they discussed the need to add a contract deputy. The Township felt the coverage was adequate, but it may be a good idea to talk to the Township again.

- 5) Does the request represent spot zoning? Spot zoning is defined as reclassification of a small parcel of land in a manner inconsistent with the existing zoning patterns of the area for the benefit of the owner and to the detriment of the community without any substantial public purpose. In this case, the parcel is relatively small, not contiguous to other commercial property and inconsistent with the surrounding properties' current zoning classifications. As a result, this could be considered spot zoning.
- 6) Does the property owner have a reasonable economic use of the property in its existing zoning classification? Since this property is allowed to be developed into 2 ½ acre residential sites as well as other land uses allowed with a conditional use permit they would have economic use of the land. If there was absolutely no use other than agricultural, for instance, there maybe a basis for a change there.
- 7) Is the request in the public interest or only in the interest of the property owner? In order to approve the request, the Board should find that the request is in the public interest and not only in the interest of the property owner.

Mr. O'Donnell stated that West Lakeland Township designates this particular area as Highway/Commercial. They recently did approve a conditional use permit for the Holiday Store. The County Planning Commission did review the request on January 24, 2006 and held a public hearing. The Planning Commission unanimously recommended denial of the request with one abstention. The minutes of that meeting were submitted for the record. The County Board should consider this request in accordance with the review criteria. With the Comprehensive Plan required to be updated by January 2008, staff feels it may be more appropriate to consider a request like this during the Comprehensive Plan updating process. Given the concerns addressed above and issues raised by the Transportation Division, they feel this request may be premature.

Mr. O'Donnell indicated that as part of the Board's packet, staff provided a copy of the county zoning map for West Lakeland and the generalized land use map from the Comprehensive Plan and asked that they be made part of the record. They also prepared an aerial photograph of the corridor from the river to Radio Drive in Woodbury.

Commissioner Peterson stated she has learned that Afton is asking for an amendment to their Comprehensive Plan to modify seven acres previously classified as unsewered, residential property and places it in a new land use classification of industrial. She asked that the area be pointed out on the map. Mr. O'Donnell displayed that area. He believes the area is south of the frontage road and has access to Manning Avenue.

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Commissioner Peterson asked where sewer currently stops? Mr. O'Donnell pointed on the map and indicated close to Cottage Grove Drive.

Commissioner Kriesel stated he found on the internet where the City Administrator of Woodbury had mentioned that the City of Afton is asking Woodbury to consider extending sanitary service out to the intersection of Manning Avenue and Hudson Road which would bring sewer out there. He asked about the current zoning of Afton, Woodbury, and Lake Elmo, what is on the radar for the future of that intersection. He noticed that one map didn't show Afton being zoned industrial. Is there a guess, whether it's the city or Met Council, what they are looking for in the future for that intersection? Mr. O'Donnell indicated he knows Woodbury and Lake Elmo are both in the process of updating their Comprehensive Plans. He believes from the draft that he saw that Lake Elmo is looking at potential office or commercial on that corner but only when sewer and water gets out there.

Commissioner Kriesel asked if it is a stretch of the imagination if they bring sewer out to that intersection to say it would be available. Mr. O'Donnell stated he would have to look at the sewer plan. He thought it would be coming more from the north side of the highway down and eventually getting there rather than coming from the south. He would imagine that once sewer gets out in Woodbury, they would be looking at some sort of commercial or office rather than residential.

Commissioner Kriesel asked when that occurs, it wouldn't necessarily be spot zoning if that was all commercial in that area? Mr. O'Donnell stated that is certainly arguable since it is separated by a major highway and Manning Avenue. In this case it would be commercial across the highway in Lake Elmo at some point in the future.

Commissioner Kriesel stated he read the packet and agrees with the statement that a lot of the commercial, generally it's best to have it where infrastructure is in place. Would it be accurate to say that in many cases when commercial development occurs near cities that some form of annexation probably occurs to accommodate that? Mr. O'Donnell stated this is certainly a possibility.

Commissioner Kriesel asked how far away is the nearest home to this proposed site? Mr. O'Donnell estimated it is about 4/10 of a mile.

Commissioner Kriesel asked how long has West Lakeland had this zoned commercial? Mr. O'Donnell stated that has always been debatable. He has never understood that whole process himself. But, he knows they've been under the understanding that it's been zoned commercial for quite some time along the highway. Commissioner Kriesel was told it has been since 1954.

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Commissioner Peterson referred to the City of Lake Elmo's Comprehensive Plan map that was in the packet, and asked if that is the current one that Met Council has approved or is this the one that preceded that? Mr. O'Donnell stated he believes that was submitted by the applicant and is not sure.

Commissioner Peterson stated she knows sewer and water is located at Cimarron, does the school have an on-site septic? Mr. O'Donnell stated that Cimarron has some kind of a packaged treatment plant, not the same as regular city sewer and water. He is not sure where the Junior High is getting their water from.

Gary Gandrud, Faegre & Benson, 90 South 7th Street, Minneapolis, representing applicants – Mr. Gandrud stated that Mr. O'Donnell is a good defender of the County Comprehensive Plan, but the County Board is the policy makers of the county and things that the Board does are not written in stone and are subject to change. The Board does consider land use changes for the townships. He stated that Holiday Companies is a good corporate citizen, family owned. They have 100 stores in the metro area. They've owned this property for 10 years. When they bought this property both the township and the county were undergoing a Comprehensive Plan review. After the review, the township decided to adopt a Comprehensive Zoning ordinance. They bought this land with McDonald's Corporation and planned to have a side-by-side development. After the township adopted their zoning there wasn't room for both, so Holiday Companies bought out McDonald's. The proposal they made to West Lakeland talks about water storage, field tanks, and septic. The applicant has their livelihood on the line, they cannot afford any contamination. They have septic, water, and fuel storage with proven state-of-the-art facilities, they have protections in place. Mr. Gandrud displayed the site plan as approved by West Lakeland. He indicated that Holiday develops on 1.5 acre sites, this site is 7.8 acres. They have a permanent easement to the pond. When the development is approved, this property goes back to the seller and Holiday will no longer own the rest of the parcel. They found records of this land being zoned commercial dating back to 1954.

Mr. Gandrud believes that a majority of the township residents are supportive of this proposal because it will provide them an important service and convenience that is currently lacking in their community. There is no benefit in postponing or delaying development of this corner because all the relevant issues of compatibility, protection of groundwater, traffic impacts, and security have been thoroughly studied and satisfactorily addressed. Denial of these applications will unnecessarily deprive the community of having these services readily available and deprive the township of an increase in its tax base.

Mr. Gandrud read and distributed copies of responses to staff's Comp Plan review standards.

- 1) Is the request in conformance with the Comprehensive Plan? If not, have conditions changed to warrant a change in the Comprehensive Plan? This application is a request to amend the Comprehensive Plan. West Lakeland adopted their comprehensive zoning ordinance and they are now asking the county to do that.

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- 2) Is the proposed zoning and land use compatible with adjacent land uses? They believe that a Holiday Stationstore is compatible with an interstate highway system, with the county highway. The four corners of I-94 and Manning are either industrial or commercial now, or will be.

Mr. Gandrud responded in answer to Commissioner Peterson's question earlier, that is an old Comp Plan of Lake Elmo, if you click on the one that is on their web page this corner is designated commercial in Lake Elmo's plan.

- 3) Is the timing proper for amendment and rezoning or is the request premature? Are all utilities and other infrastructure in place to accommodate the proposed use of the property? They do not feel it is premature. Nine years have passed since the adoption of the Comprehensive Plan. Public sewer and water are no nearer today than it was nine years ago. The township has not changed their plan. The applicant plans to provide a suitable on-site service for the proposed use. No additional infrastructure is needed.
- 4) Will the proposed development place an undue financial burden on the town or county or have any other negative off-site impacts? They feel that the proposed use requires neither major road improvements nor additional security measures. The application will implement all safety measures required by applicable laws and regulations to protect the groundwater.
- 5) Does the request represent spot zoning? He feels this does not meet the legal definition of spot zoning. The Comp Plan of the township has had this commercial for a long time. The four corners of this intersection will all be commercial or industrial.
- 6) Does the property owner have a reasonable economic use of the property in its existing zoning classification? The current zoning designation is limited to single-family residential use which is not reasonable for a major inter-state intersection. He believes the decibel level of that corner is not suitable for residential development.
- 7) Is the request in the public interest or only in the interest of the property owner? He feels that the request is in the interest of the public as a whole. Not only will the applicant provide essential services to the surrounding community, but a commercial use of this property is guided by the township, the policy makers have recommended it.

Mr. Gandrud understands there are some who say they could not or did not participate in this. They sat in Oak-Land Junior High School when the zoning amendments were being proposed. They gave input. The township didn't listen, so McDonald's is out of the picture and the land cost them twice as much. People did not participate at the Planning Commission and at the Township Board. He was at the meeting with the

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County Planning Commission. The Town Board annual meeting was after that and nobody came to that to address the Town Board. He feels the time to act is now, the application before the Board is complete. This land use is not revolutionary. The only thing out of the ordinary in it is that it is on 7.8 acres. He addressed the protection of the groundwater. The county has approved an on-site septic system. They have oversized it by 130%. That system is far safer than any single-family homes. This site does not have a restaurant, doesn't have dishwashing, doesn't have clothes washing. It has two restrooms. What that produces is less than three single-family homes. They will contract with professional licensed management companies that will monitor monthly. He feels that Holiday Stationstores will have less impact on the groundwater than other uses currently allowed. The sod farm probably uses some fertilizers and chemicals to keep the weeds out. He knows the golf course does. The Minnesota Department of Transportation salt storage and fuel storage, the rest stop all have septic system and there hasn't been that kind of a motion against those things. Traffic impact will be minimal. Holiday Stationstores will comply with all of the recommendations of Washington County's Director of Transportation. The aim of this store is to serve the traffic on Manning, north and south, the people going to and from work. The freeway will have some come off, but the main market is the community going north and south on Manning. Traffic control lights had already been considered at I-94 and Manning prior to their coming on the scene. Security issues have been raised. Oakland Junior High students are to stay on the school premises during the daytime hours. Holiday has 100 Stationstores in the metro area. Not one of them is a hangout for children or teenagers. Mr. O'Donnell mentioned the property to the east. They submitted an application for the 7.8 acres. He stated that Mr. O'Donnell told them they have to show what the plan is for the remainder of the property. Mr. Gandrud indicated that they are giving it back to the person that sold it to them as part of the contract once this is approved. Mr. Gandrud pointed out that an important part of the township's approval, which gives the county and township a key to that remaining 50 acres, the township said that Holiday Stationstores had to enter into a contract with the township and maybe Washington County, that would keep the access road as a private drive. If the county wants this as a public street they would have to dedicate it, but Holiday Stationstores cannot dedicate it unless the county asks for it. The county has control to that 50 acres.

Mr. Gandrud stated they are asking to use this property for its obviously intended purpose. To wait is only to delay. This corner is a commercial corner. There is no reason to wait. The Township Board carefully considered and approved it. They are the official voice of the township. This is a use that usually sits on 1½ acres. The Township demands 5, they've proposed it on 7.5. It will have landscaping with state-of-the art protections in place. He asked the County Board to honor the township's careful consideration of this, honor the township's approval and their application for this amendment.

Commissioner Hegberg asked if this property were serviced by city water and sewer, would the runoffs have been designed any different. Mr. Gandrud stated they wouldn't have gone into the sanitary sewer, it would have gone into the system that they have right here. The runoffs would have been the same. They would not be allowed to put any of the surface water into the sewer system. He mentioned that there is an oil/water separator built into the catch basins.

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Commissioner Stafford asked how long the township has had that corner zoned as commercial. John McPherson, West Lakeland Town Board, stated it was 1954.

Commissioner Stafford stated from the applicants comments that they plan on providing suitable on-site services. Are they saying that it would be as good as if it were on municipal sewer and water? Mr. Gandrud stated yes. Pipes break and maple trees like to grow in septic systems. They will not have any of those problems, they will have monthly monitoring. He feels it is safer.

Commissioner Peterson asked how far is it from I-94 to the driveway? Mr. Gandrud believes it is 1,500 feet. It's where the curb cut is today.

Commissioner Stafford stated that Mr. Gandrud raised the fact that they are obligated to give the county that road if the county requests it, so that development could occur to the east. There is current legislation being battered around about eminent domain and what that will even do to the county's ability to acquire that without paying the owner huge sums of money. How will that be reconciled tonight? Mr. Gandrud stated the county will have the deed in escrow as a condition of approval by the township. That will be set aside for the county, when and if the county wants it. That will be in a contract and deeds will have to be prepared.

Commissioner Peterson asked if the Township has a candle ordinance as to how much light is allowed? Mr. McPherson indicated it did.

The Board Chair asked for comments from the public.

Loren Kalal, 16021 22nd Street North, West Lakeland Township – Mr. Kalal stated he is in favor of the rezoning. He feels that pressure from annexation appears to be real and growing. This property is adversely affected by noise from the freeway. The adjoining property is zoned commercial now and he understands that 70 more acres in Afton will be turned into industrial from ag/residential regardless of whether they have sewer, water or not. He thinks it is up to the investors to make decisions on where they prefer to have their businesses. He feels that the residents of West Lakeland Township should be afforded the opportunity to decide the future of this modest commercial development being proposed for this area.

Rick Dettling, 13232 20th Street Court, West Lakeland Township – Mr. Dettling stated he has lived in Afton and the St. Croix Beach area for the past twenty years. Everyone wants to keep things rural but he can see what's going on, annexation is coming their way. He just built a fairly decent house in the area and he does not want to see a gas station on that corner, but in all reality Afton, Woodbury, and Lake Elmo are all commercial and he feels that they cannot stick their heads in the sand. He feels the township has done a lot of homework and they have run West Lakeland very conservatively and they seem to be on top of the issue.

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Leo Richert, 777 Neal Avenue, West Lakeland Township – Mr. Richert stated he has lived in West Lakeland for over 50 years and Washington County for over 75 years. He has been in the construction business and he's been a realtor. He lives less than a mile from where the site is. He is favor of passing the zone changes and sees no harm in improving it. As for the danger of water and sewer he feels Oak-Land Junior High uses 100 times more sewer and water than will ever be used at this project. There are at least four trucking outfits within a mile and two bus storage places which probably have fuel storage on site. It is already there. There are hundred's of trucks running between Manning and I-94 as far as noise pollution is concerned. He is afraid if the County Board does not approve this that the owners would go to a neighboring city and ask them to annex this property.

David L. Dupay, 2315 Periwinkle Avenue North, West Lakeland – Mr. Dupay stated that Mr. O'Donnell mentioned that the soils in this area are considered severe. If that is true than 80% of Washington County would fall within that category. If the concern is for septic and water, that is being addressed by the Health Department of Washington County when they issue the septic permit. The well itself is controlled by the Minnesota Department of Health and the amount of usage out of there is controlled by the Department of Natural Resources and they have to follow certain guidelines. The other contaminants are not going to be handled by city sewer and water they will be handled by other precautions required by the Minnesota Pollution Control Agency. Municipal sewer and water would not alter any of those concerns because you cannot dump any of the pollutants into the sanitary sewer either. He feels that houses along a freeway would be too noisy to live in. Businesses along freeways have more insulation. He does not believe that the kids from Oak-Land Junior High will be going to that station. If this property were used for residential, it would probably be low income housing and kids in those houses would find ways to get out of yards and on to the freeway. He is in favor of the rezoning, believes it is needed and it will be an asset to the community.

Rita Moosbrugger, 13956 10th Street North, West Lakeland Township – Ms. Moosbrugger stated that she and her husband have lived there since 1958. She first learned of Holiday Stationstore's rezoning request shortly before the public hearing held by the County Planning Commission on January 24. She was surprised to hear the Holiday spokesman state that there had been public hearings in the township regarding this issue and there was input from the residents of the township and little or no opposition to the plans of Holiday and the town board. The County Planning Commission voted unanimously, with one abstention, to deny Holiday's request for a zoning change. A resident who lives on Northwest Avenue which is the street facing the Holiday property, told her he received notice of and attended one public hearing on this issue last fall. Six to eight people were in attendance. This shows that very few people were notified or the wording wasn't explicit enough to explain what the real issue was. No vote was taken, just information given as to the conditions under which Holiday would operate. She feels this issue had such an immense impact on the whole township, all of the residents should have been notified and real input sought. The Town Board states that if Holiday does not get its way, it will seek to be annexed to one of the three cities technically adjacent to West Lakeland and if that happens the township will lose control of imposing restrictions on the commercial development in West Lakeland. She believes that annexation by any of the three cities

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surrounding West Lakeland will not happen. She stated that it has been pointed out that the Geologic Atlas shows surface contaminants will reach the groundwater in a matter of weeks. The wells in the northern part of the township are polluted from the Lake Elmo Airport, and this is an ongoing problem. The MPCA well testing continues to this day in that area of the township to follow the migration of pollutants in the well water aquifers. Holiday and the Town Board assure us that the latest tanks cannot leak, that this is overflow protection. However, the MPCA states flatly that there is no such thing as a guarantee that an underground tank will not leak because of improper installation, uneven settling, human error in tank management, and the threat to the groundwater due to the potential for solvents, chemicals, oils being washed down the drain in the septic system or accidentally spilled on to the ground. This is why government discourages commercial development without public water and sewer and warns the entire cost of bringing these systems in will be borne by the local government. She stated that Woodbury and Lake Elmo are planning business campuses on their property, not commercial in the sense of retail development. Afton has that area zoned in their code as light manufacturing. All three of those cities will not have any development whatsoever on their corners without public water and sewer. The Metropolitan Urban Services Area will not reach that corner until 2020 to 2030. The freeway and CR 15 provide natural barriers between West Lakeland and whatever is done with the other three corners. The Town Board says that their controls and conditions of use will be strictly enforced so that except for Holiday's use the types of commercial permits envisioned are non-threatening to the groundwater. If the uses planned by the township do not materialize, or if they come here, do not thrive and leave, the market will determine what will occupy that space in the commercial zone. A governmental unit will not let the space remain idle, producing no tax income, so anything may be admitted and the people who live there will have no say in that matter. She believes there will have to be increased security. Interstate traffic will be coming off the freeway and will add to the congestion already at that corner, especially during rush hours. Road maintenance will increase as commercial uses multiply. There will be problems with noise, lighting, and risks associated with the fact the junior high school is just down the road from the Holiday site. She asked the Board to look at the corners of the three cities surrounding West Lakeland Township. Not one of them has developed their corners, and the reason is the lack of public water and sewer. She asked why is the Town Board willing to jeopardize its groundwater and open the door for an influx of commercial enterprise in Holiday's remaining 60 acres, and invite more of them into the nearly 160 acres north of Holiday. There will be no residential development nor a business park. She believes that Holiday's request must be denied. If developed for residences, that land would sell quickly because of the tremendous demand in the township. Much has been said about the noise. There are homes about ½ mile down I-94 on I-94 facing it with no berms, no fences, just homes facing the freeway. Many people have told her they moved here because the zoning was residential. If they had wanted commercial developed nearby, they would have bought their homes where it is already there. They do not want it here, they want to live in the peace, security and beauty of a residential township. Ms. Moosbrugger presented the Board with a petition of 81 signatures to be placed on the record. She also submitted original letters from township residents who could not attend tonight's meeting.

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John McPherson, 2398 Stagecoach Trail, West Lakeland – Mr. McPherson presented a brief history of what West Lakeland has done on the I-94 corridor. It has been zoned commercial since 1954 when the residents were mostly farmers. In 1998 residents were questioning exactly where the commercial zone was located and what can be done there. The Town Board appointed a study commission which studied the area and made recommendations that part of the commercial zone be residential. On August of 2001, McDonalds/Holiday came to the Town Board. They were told no. On November of 2001 the Town Board passed an 18 month moratorium to work on its ordinance to control commercial zoning. On June, 2002 a public hearing was held to change part of the commercial to residential and to protect the residents on the east side of the commercial. When people state they did not know what was going on it was not the Town Board's fault. On January, 2003 a public hearing was held on the commercial ordinance. They hired a planner. On April 2003 the Board passed the ordinances. There were people there, they were notified. The Board passed the ordinances which covered lighting, noise, setbacks, drainage and everything. On February, 2005 Holiday came before the Town Board with their plans. It was sent to the West Lakeland Planning Commission where it was passed unanimously. May, 2005, a public hearing was held on the Holiday request and passed by the Town Board unanimously. Holiday has been working with the county for septic tank and it was approved by the county. West Lakeland has spent many hours trying to do what is right for its citizens. When people say they weren't notified, that is their job and responsibility themselves to find out when the meetings are. The township is asking for the county to rezone that area. He asked the County Board to remember what Oak Park Heights did to Baytown Township, they took part of Lake Elmo too. That is what they are concerned about. If West Lakeland loses control you don't know what you will have in there.

Ron Goette, 1620 Olene Court, West Lakeland – Mr. Goette stated he has lived in the township since 1978. He got involved when he started seeing the opposition's literature and he became interested. He supports rezoning and building the Holiday Stationstore at this site. He went to the opposition's meeting and asked them hard questions. He talked to the Town Board. He has always found the Town Board members easy to talk to and it is one of the best run municipalities in the seven county metro area. The zoning of that property along the freeway has always been zoned commercial by the Town Board, they never varied from that. He is disturbed by the annexation laws and what cities can do to townships. He feels that underground water pollution is a non-issue. If people took the time to research current EPA requirements, petrochemical storage capabilities and the requirements for testing today, they would find that it is not an issue. There is a high school down the street and other gas stations in the area that don't have city sewer and water and they operate fine. He feels that the best shepherd's for this land would be Holiday. They are good neighbors and have a reputation for building gas outlets and convenient stores that set the standards for competitors. They are locally owned and care about their reputation. He feels the Town Board is best equipped to be the shepherds of that land along with Holiday. They have been there for a long time. He has a concern about losing control of what happens to that property.

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Roy Baker, 985 Nordic Avenue North, West Lakeland Township – Mr. Baker addressed the issue of city water and sewer at the site versus groundwater contamination. He is in favor of the application. Until 1997 he was the owner of a company in St. Paul called Autocon Industries which manufactured and supplied control systems, controlled city wide potable water and waste water systems. His point is that the very last thing that anyone wants to have happen, who is dealing with any form of hazardous waste, is for it to become intermingled with a public water or waste water system. He can assure the Board that anybody in the business that Holiday Stationstores is in is more than just a little bit concerned about that.

Daniel Kylo, 1891 Oldridge Avenue North, West Lakeland Township – Mr. Kylo stated he is for rezoning this area. Many of the issues have already been brought before him as far as water contamination, traffic, noise, and they have been well addressed. Holiday Stationstores has done a very good job of studying these issues and have gone over and above what has been asked of them. They have been a good neighbor and have worked with the township and the Town Board for a couple of years. They waited for 10 years to get to this point, it hasn't been something that they have jumped into. The Town Board has put rigorous standards on them far and above what they were required to, and they have fulfilled all of them.

Mike Olson, 740 Midwest Trail North, West Lakeland – Mr. Olson stated he is opposed to the rezoning. He is concerned about the groundwater contamination and he is concerned about the traffic flow. He brought pictures of the corner and stated it was a dangerous intersection. He is also concerned if tractor-trailers go into the gas station there will not be enough room for them and they will clog up the intersection even more. He apologizes if some of the people on the West Lakeland Board think that citizens feel they haven't done a good job. He has had a few issues with them in the past and they have been resolved. He first learned about some of the meetings on January 24 and at that meeting it was overwhelmingly against having any changes in the zoning. He was surprised that West Lakeland Township had meetings that discussed variances on ordinances and how significant the variances were in terms of signage and number of stations. He took pictures on Sunday, it was raining, but it shows there is standing water on that property. He learned at the meeting in January that it is one of the worst locations in all of Washington County for potential contamination problems. He feels the property values would be significantly impacted if something happened and they had water contamination in that area. He is concerned about the school down the street and you can go on the internet and find out that there is a lot of drug and prostitution that occur at places where teenagers can leave school and have proximity to interstate traffic. He believes considering this is premature and the County Board should wait until the 2008 comprehensive plan review.

Jim Stewart, 710 Nordic Avenue North, West Lakeland Township – Mr. Stewart stated he would like to have Holiday Stationstores wait until there is city water and sewer available. He doesn't want to see that accelerated because he does not want to see a \$10,000 or \$20,000 assessment. He agrees that is a horrible intersection and there have been major accidents with injuries. He is concerned about the groundwater pollution. First there was the whole thing on the north side the township. He does not want to have to go through that. Also, he is concerned about the coal ash deposit that Xcel Energy wants to put in there. Now,

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the Holiday Stationstores may potentially pollute the groundwater if the holding ponds would overflow. He is also concerned from a security perspective. It is another reason for somebody to get off and access the county, which is now a nice private area. He feels it would open up the housing developments for crime, burglars and safety to children. He stated that within 2 ½ to 3 miles of the Oak-Land area there is not less than a half a dozen gas stations.

Tom Voigt, 2875 Manning Avenue North, West Lakeland Township – Mr. Voigt stated he lives in the special well construction area. He feels it is important to note that an incident they believe occurred in the 50's, which is associated incorrectly to the Lake Elmo Airport instead of the Hagberg Meat facility. He has all the confidence in the Minnesota Department of Health that now that it has been discovered they will address it. He attended the annual meeting in 2005. He learned that the Planning Commission was showing the plans for the Holiday Stationstore. Anybody that discovered this on January 24 of this year is perhaps not as interested in West Lakeland as perhaps he and his wife were who just moved into this community. As they demonstrated the plan to them, they communicated how they had worked with the Holiday group to assure that the landscaping, lighting and everything was appropriate, then they asked the audience for their feedback. He trusts commercially managed septic systems and would argue that there is more risk from homeowner septic systems than from the commercially managed ones. He asked the County Board defend the needs of the people and ask for its approval tonight.

Barbara Graff, 11200 Ryan Trail, West Lakeland – Ms. Graff stated she is against developing this as a gas station. She thinks West Lakeland Township Board does a fantastic job. West Lakeland has the lowest taxes of anyplace within the entire metro Twin Cities. One of reasons that they have the lowest taxes is they do have a good Board and they have very few services. She believes it is a myth that development brings down your taxes. She does not believe there should be infrastructure there right now or commercial development because there is not a fire department or a police department. She asked about the hours of operation. It is right off the interstate so it seems conceivable that it would be 24 hours. Sometime neighborhood gas stations close at 7:00 p.m. which would be much more acceptable. She believes that gas stations do bring crime particularly when they are on interstates or when they are opened 24 hours. She is not concerned about the junior high because she does believe that Holiday would police the gas station and keep the students from hanging out there. She is concerned about the contamination of the groundwater and believes there needs to be city water and sewer. The mound system will take care of the treatment of things like toilets, but it will not help with the gasoline spills. If gasoline spills that could get into their water and sewer that is not city water and sewer and contaminate that. If there was city water and sewer she believes that would make this a lot better of an idea although she is concerned about the crime issues. She also believes that this corner should not be developed residentially, it will inevitably be a commercial corner. The question is do they want a gas station there right now, or would they be better served to have a city hall, church or a medical office that would have a more benign use and not bring people into the community off of the interstate at night and would have less possibilities for leaking into the wastewater treatment system.

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Dave Schultz, 1440 Norcrest Avenue North, West Lakeland Township – Mr. Schultz stated he is a member of the Township Planning Commission. He would like to see this parcel remain like it is, but he thinks they need to be realistic. How long can they ask the Holiday people to be patient? They have owned this parcel for a considerable amount of time and he believes that they need to move forward. He fears that if Holiday is denied rezoning, they would approach Afton, Lake Elmo or Woodbury for annexation. So whether the County Board approves the rezoning or not they will get their gas station and there will be no control over it. He asked why the County Planning Commission has it zoned residential, just because it doesn't have sewer or water, when there's a gas station with a car wash on a septic system in Baytown Township on Highway 5 and County 15. He asked the County Board to let the Township control its own direction.

Karen Bohnert, 1254 Omaha Avenue North, West Lakeland Township – Ms. Bohnert reviewed her history with West Lakeland Township since moving there in 1985. She stated that residents were opposed to commercial development, they didn't even want residential development. In July 11, 1995 the meeting was packed with people to discuss commercial development. The Board had a letter ready to sign and send to the county stating that they intended to retain commercial zoning along the freeway. There was so much opposition to this that the discussion was tabled and the meeting moved on to the next agenda item. She stayed until a motion was made to pay the bills. She has a copy of that letter and a copy of a letter that showed up at the county a week later also dated July 11, 1995 a letter signed by all three Board members. Yet there was no posting of any meeting during this time. So clearly the Town Board violated open meeting laws to revise and sign this letter. She believes this is one example of several that she witnessed that there was obvious scheming behind the scenes without property notification given to the public. She stated that at the county Comprehensive Plan hearing on this issue the voice of the people overwhelmingly spoke in opposition to commercial zoning in West Lakeland. Three quarters of the registered voters at that time signed a petition stating they opposed commercial zoning. She believes the numbers would be similar today.

The Board Chair asked the speaker to limit her remarks to the question at hand.

Ms. Bohnert stated that there is another side to this issue and that this isn't necessarily upfront. There are plenty of opportunities for people who work outside the town to get gas on the way home, they don't need another gas station. She feels a gas station on that corner would be a gold mine for the owners with all the Wisconsin residents who can avoid their state taxes by filling up just across the boarder. She is opposed to commercial development for all the reasons that the County Board has heard—the possibility of groundwater contamination, compounding of the traffic problem is certain, in addition to the gas station the owner of Stone Ridge Golf Course has said he would like to get the north frontage road to go all the way through once it is started off of Manning. She has also heard the owner of the sod farmer that adjoins the Holiday properties say in a public meeting that he would request commercial zoning if Holiday is granted a rezoning. She asks where does it stop. If the land is to be commercial, wait for city sewer and water to

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make the most optimal use of the land. She asked that the Board listen to the people and retain the current zoning.

The Board Chair stated it was getting late. There are at least ten more people who wish to speak. He feels that most of the issues have been covered. He asked future speakers to not repeat items already covered.

Thomas Dunkel, 565 Midwest Trail North, West Lakeland – Mr. Dunkel believes that the Holiday gas station is to serve Holiday gas station, it doesn't serve him. He can go within three miles to four gas stations and convenient stores. It is a dangerous intersection and the traffic will get worse. There needs to be a stop sign or stop light and who will pay for that. He is concerned they are proceeding without a plan. He agrees with Mr. O'Donnell's presentation and believes that is the way to proceed.

Phillip Moosbrugger, 1270 Oakgreen Avenue North, West Lakeland – Mr. Moosbrugger feels this is not about the most green Holiday Station on earth, it is about having highway commercial zoning in this entire tract. It is not only about the 7.5 acres, it is about at least the entire 60 acres along the highway and it is probably about the 150 acres or so that now comprises the sod farm. What is done here is going to be a blueprint for the future and is going to set the mold for the future. Another point has been made that the township has had this zoned commercially since 1954. He feels that is a red herring because the county's zoning prevails. He does not believe that Holiday was innocently misled. He feels the decision of whether or not to zone that commercial should be left to the county. The West Lakeland Township newsletter mostly is concerned with promoting Holiday's bid for rezoning. It claims unanimous support in the township for Holiday's plan. He does not believe that is the case. The newsletter minimizes concerns about traffic and groundwater and extols the benefits of this rezoning and exhorts everyone to telephone, e-mail and write the County Board members. He feels this advocacy for Holiday in the township newsletter wasn't evident when the township was going to consider and hold their public hearing, that was done on a more stealth basis. He is concerned about traffic and interstate traffic which will bring in crime and the need for police protection. He stated that the last truck stop they had in the area polluted the groundwater in Lakeland. He requests that the County Board wait until it has had a chance to consider the revision of the Comprehensive Plan. Mr. Moosbrugger asked that the newsletter be made an exhibit.

John Gozum, Ph.D., 831 Oakgreen Avenue Place North, West Lakeland Township – Dr. Gozum stated he is a practicing chemist and generates hazardous waste on a regular basis. He feels the issue is: Do the benefits for the community outweigh the risks concerning groundwater contamination, traffic safety, and potential crime issues? He addressed the hazardous waste issue, which is the gasoline. They have good plans in place for well monitoring. The problem with well monitoring is that if it is detected after the leak occurs, there is no way to know how much leakage has occurred until it is detected. It could leak for quite sometime and do significant damage before it is known. He cannot see a good reason at this point to go forward with amending the Comprehensive Plan to allow Holiday Stations to move forward without an environmental impact statement.

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Toni Howell, Metropolitan Airports Commission – Ms. Howell stated she is the Environmental Manager for the Metropolitan Airports Commission. She was asked to come here this evening to make a point of clarification for the record. She received a March 2006 resident letter sent to the citizens of West Lakeland that incorrectly identified the Lake Elmo Airport as polluting wells in the north part of West Lakeland Township. She reminded the Board and citizens of West Lakeland Township that the Minnesota Pollution Control Agency discovered a large source of TCE at the Hagberg County Market which is on the eastern edge of Lake Elmo, three quarters of a mile west, essentially up gradient of the Lake Elmo Airport. The water flows across the Lake Elmo Airport property from the west to the east as it goes to the river. The site at Hagberg was 1,000 times more than the amount that what was found at the airport at the same time of sampling. The PCA has stated that it wasn't the Hagberg site, it was apparently a metal fabrication shop that was on that site many years ago that contaminated the water. It is her understanding that the PCA is keeping an eye on it and hopefully they will be working with West Lakeland Township. She asked that this letter be made a part of the record. (Letter from Rita Moosbrugger to West Lakeland residents dated March, 2006 placed on the record).

John Grose, 13220 22nd Street North, West Lakeland Township – Mr. Grose stated he has concerns about granting the Holiday request. His concern is spot zoning. He would like this moved over to the 2008 planning. He is also concerned about groundwater contamination because he is right on the edge of the current groundwater contamination area and he is running out of places to put a well. He drives through the intersection of I-94 and Manning at least four times a day and feels you take your life into your own hands around rush hour. He feels if Holiday does go there he would like to see them pay for stop lights.

David Potter, 233 Midwest Avenue North, Lake Elmo – Mr. Potter stated that most of the comments he was going to make have already been said. One thing that bothers him is the traffic on 15 and I-94 exiting 94 onto 15 and the enhancement this will bring to that traffic in that area leaving the station. He is not for the station.

Thomas Haugrud, 810 Nordic Avenue North, West Lakeland Township – Mr. Haugrud stated he opposes the request for rezoning. He did send each of the Commissioners a letter last week dated March 30. He believed that Washington County staff did an excellent job of making the points of why this is not a good idea. He thought Mr. Gandrud advocated well on behalf of his client and made some counterpoints. He feels that none of his counterpoints would override the points made by the county. Two points the applicant made that didn't correspond with his own beliefs. One is that having the gas station is a big benefit to the residents because there is a scarcity of gasoline stations. He drives in West Lakeland every day and can get to a gas station within one to two miles in any direction. The other point made is that this will be a state of the art facility and don't worry about contamination. He feels the reality is that tanks leak, when tankers come they overfill the spill, distracted drivers drive off with the nozzle still in their gas tank, and people run into gas tanks. He asked the County Board to reject the request.

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David Bogenschultz, 595 Midwest Trail North, West Lakeland Township – Mr. Bogenschultz stated when he moved to West Lakeland he understood that the area was zoned by the county as rural residential so the County Board's authority in this matter is what drew them here. He believes the work of the Planning Department and the Planning Commission is very open and inclusive. He hopes that when this property is ever developed it would be developed with lots of thought. He looks forward to addressing this property in the comprehensive planning. With the other communities they have one chance to develop this property and to do it correctly. If it is moved forward with such speed as now it will dictate a lot of what the future development looks like. He feels that all the issues listed by Mr. O'Donnell need to be considered. He researched the county's amendments to the Comprehensive Plan. He found that in most cases there were three points that the County Board drew upon. It was consistent with the Comprehensive Plan. It was consistent with the surrounding uses. It was not spot zoning. He asked the County Board to consider that today. He attended the 2002 West Lakeland Town Board meetings where the ordinances were developed for this new area. It was said to him by the Town Board that they were doing this as a defensive mechanism, it was also stated by the West Lakeland Planning Commission at the Washington County meeting on January 24 that this was intended as a mechanism to control the development in West Lakeland Township. With the Holiday proposal they have seen conditional use permits granted contrary to the ordinance they developed and now variances that depart greatly from what they ever wanted. The West Lakeland variances are contained in the minutes of April and May of 2005. This is not the doctor's offices and the coffee shops that were talked about in a commercial district. He does not believe there is any foundation for annexation nor does he believe that they should be interested in the property because of a road being built. He asked the County Board to vote no.

Alan Kretman, 149 Midwest, West Lakeland, Mr. Kretman stated he owns a business in Oakdale, a planning and engineering firm, and he has done work in this area for the last 30 years. His brother is a resident of West Lakeland and he is here on his behalf. When Holiday bought this land they were not held hostage in terms of the issue that land was zoned R1/A1. That will eventually happen, but there are reasons why it should not happen at this time. He feels traffic will increase no matter what happens here. Development in a commercial nature will bring more commercial development. He asked the County Board to exercise its powers as a broader agency to make sure that what happens with West Lakeland is consistent with that location and that adequate study occurs to make sure that there are appropriate transitional land uses between the commercial and single-family residential.

Timothy Drahnak, 765 Midwest Trail North, West Lakeland Township – Mr. Drahnak stated he was on the I-94 study group back in 1993 and 1994. That committee did an extensive amount of work. They had a joint meeting with Metropolitan Council and Afton to figure out the uses of that entire corridor. The groundwater issue has been beat to death today. When they got copies of the maps showing the sensitivity of groundwater they were alarmed. There was a bull's-eye right on the Holiday site. The reason for the 7 acres isn't because they want to make it 7, the reason they will monitor the wells every month isn't because they want to monitor them. He does not believe the monitoring will last long. What the group wanted to do

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was control the hours of operation, day time only. It was not going to be a gas station due to the water issues. No draw off the interstate. They wanted office parks such as in Woodbury and Afton. He is surprised the township has taken a different path and departed greatly from the elements the group thought were essential in their study. He is opposed to this rezoning and appreciates the notice they were given.

Gregory Zinn, 1495 Neal Avenue Court North, West Lakeland Township – Mr. Zinn stated he is in favor of the zoning change. That wasn't his original view of it. He was opposed to it for some of the same reasons a lot of people have expressed tonight. He attended some of the Town Board meetings over the last two to three years. He's been at meetings where attorneys for the gas station, and at the time McDonald's, came in and made proposals. He wasn't in favor of it. He asked questions, talked to the Board members, and had information provided to him. He has come to the conclusion that the biggest issue they have to deal with is the annexation issue. He's an attorney, he's read the statute and it is not something that is in control of the township or of the county. It's a state administrative process. In making phone calls to the neighboring municipalities and being told they do not have any plan for that is equally unreliable. He does not want to rely on some sort of a prospective representation by a municipality where he does not have a voice.

Sur Lee, 12850 Hudson Boulevard – Mr. Lee stated he came to America 26 years ago. He lived for 15 years in Minneapolis up until 1997 when they were robbed. He and his wife went on the internet searching for the best place to live. They found that Washington County is the best place to live, so they moved here. He stated that Washington County is the best place for people to live and the Board has done a good job and made the right decisions. He opposes this plan. The place there is peaceful. People need a peaceful place to live.

Gordon Moosbrugger, 13956 North 10th Street, West Lakeland Township – Mr. Moosbrugger stated the statute relating to this annexation by ordinance provides that a municipality that has water and sewer can at the request of the owners of up to 60 acres of land located in a township which does not have water and sewer may by ordinance annex up to the 60 acres. The cannon of statutory construction applied by the courts is that all the words in a statute must be given effect. The court will not assume that the legislature had no purpose or used unnecessary or surplus verbiage in drafting a statute. The words in the statute are a municipality that has water and sewer may at the request of the owners of property in an adjacent township that does not have water and sewer annex that 60 acres. The problem is none of the three adjacent municipalities have water and sewer and based on inquiries do not expect to have any water and sewer for many years, 20 maybe 30 years. He feels that this annexation by ordinance is a boogeyman.

The Board Chair asked for further comments from the audience; none were heard. The Board Secretary indicated that she has received all documentary evidence.

The Board Chair asked for questions from the County Board Members.

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Commissioner Pulkrabek asked about annexation. If the applicant applied for annexation is that a possibility? George Kuprian, Assistant County Attorney, indicated that it is definitely a possibility. The chances of it can only be speculated, but it is a possibility.

Commissioner Pulkrabek asked about stubbed road, he was unclear. If the road is a private road, for future development, would the county have control over that so if something comes in the future, behind the Holiday Station for instance, would the county or township be able to stop that? Mr. Kuprian stated it would depend on the actual language, but it is possible to draft it that way. Mr. Gandrud indicated that was a condition of approval on the Conditional Use Permit. The county will get the Conditional Use Permit before the Board. That is a detail they are offering and will get it in a form that the city attorney and county attorney will agree to.

Commissioner Pulkrabek asked about the monitoring. Is the monitoring going to be in perpetuity or could this be ended by Holiday in one or two years? Mr. Gandrud stated no, they will keep it as long as they operate there and Holiday Stationstores last. That will be something that is programmed into it. It is something they do when they have a septic system and the cost benefit is so great it is silly not to.

Commissioner Pulkrabek asked about the hours of operation, they never were stated. Mr. Gandrud stated the township approval was 24 hours. He believes that is a question that will be before the Board on the Conditional Use Permit.

Commissioner Pulkrabek stated a few people asked about the process and notification as far as public hearings, meetings, was that followed at least on the county end of it? Mr. Kuprian stated that the county notice is in the record, he does not know about the township.

Commissioner Pulkrabek stated there were questions about the traffic. Are there any plans as far as traffic control, stop signs or traffic signal, in that area. Is that on the radar screen. Jim Schug, County Administrator, stated there has been a review of the traffic and potential alignment of the proposed service road. Again, as Mr. Gandrud said, that would be part of a Conditional Use Permit process. He indicated that Ted Schoenecker, Transportation Department, could answer any questions the Board may have about that. Mr. Gandrud stated he believes that is in the plan already. It is scheduled for signalization.

Commissioner Stafford stated that the annexation issue is not his number one concern. He does not believe it will happen in his lifetime, but townships in this county will cease to exist in the near future. He is confused by Mr. Moosbrugger's comment and one earlier about the premise for annexation doesn't rely exclusively on the issues of sewer or water, aren't there other reasons why annexations can take place?

Mr. Moosbrugger stated the statute on municipal boundaries as it is now called has many subdivisions and many provisions and ways that annexation can occur. It can occur by agreement. However, the specific

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statute that gives the arbitrary power to the annexing municipality is one of many of these ways. That's the one that's being alluded to. There is no appeal, there's no hearing it merely needs to be approved by the administrator of the boundary commission. But, the water and sewer has to be available. That's the only way the statute makes any sense.

Commissioner Stafford stated the Board was told at the beginning that this is just a question of changing zoning and that all of this has to come back here when the actual plans are developed. He just wants to make sure that the Holiday folks are aware that Manning Avenue is under county control. There have been many fierce battles in this room about ingress, egress, right turn, left turn, no turn, medians and other issues. He stated there are traffic problems with that area. He is surprised more citizens haven't been lost there. The county will probably take a long hard look at it. He asked Mr. Gandrud if he saw a possibility where they went through all of this agony and got to the point where they still couldn't meet the county requirements for traffic control. He feels that is a risk in his mind. Mr. Gandrud stated welcome to the world he lives in. He thanked the Commissioner for pointing that out. They have confidence in their plans and with the county engineers and they will make it work.

Commissioner Hegberg asked about traffic counts on that intersection. Mr. Schoenecker, Transportation Engineer, stated there are volumes out there. The average daily traffic (ADT) on Manning is about 11,000 vehicles a day. He believes that the estimation of the specific site is roughly 2,600 vehicles a day.

Commissioner Peterson asked about access management. Looking at I-94 to the first turn in, does it meet the county criteria or is it insufficient. Mr. Schoenecker stated that right now there is from the north ramp to the driveway, or frontage road, it is about 650 feet which is 1/8 mile spacing. In the letter the department sent to Planning regarding traffic issues that was one of them that they brought up. If they were looking at this site, they would be somewhat okay with allowing full access here; however, in that letter they also stated that long term they need to set up their site such that they are able to accommodate quarter mile spacing which is more in line with what the access spacing guidelines are.

Commissioner Peterson asked about a right in, right out? Mr. Schoenecker stated as it sits today, they would be willing to work with the developer. What they would need to do is plan for that long-term access on the north side of their property. That would also involve construction of turn lanes on Manning Avenue.

Commissioner Peterson stated she has traffic questions. She will have comments under Board discussion.

Commissioner Kriesel stated that most of the questions he was interested in have been asked and answered. He asked Mr. Gandrud, regarding the recommendations of Joe Lux in his traffic management analysis, are there any issues with him accommodating that request? Mr. Gandrud stated no, there are not. That will be one of the key elements of the Use Permit that they apply for. The Board has to be satisfied with that. He

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will be talking about berming, lighting, signage, onsite drainage, and all those things. They feel they've addressed them and they will address them again. They have flexibility, they have a 7.5 acre site.

Commissioner Kriesel asked about the school. Has there been any opinion offered by either a school board member or the school itself regarding this gas station. Mr. Gandrud indicated none that he knew of.

Commissioner Peterson stated that gas stations come and go, companies come and go, when you say perpetuity, what do you really mean, as long as you hold fee title to it or as long as a similar business serves on that site. Mr. Gandrud stated he was referring to the solidity and the track record of the owner. That's number one. He does not think there is a more stellar track record in Minnesota, Wisconsin or the United States. They will put restrictions on the open space. They didn't reserve that so they could come in ten years from now with McDonald's. They will put restrictions on that. So that is perpetuity. That control of that driveway will be a deed. That will be in perpetuity. He cannot guarantee you that Holiday will be pumping gas, but he does not think there can be a finer confidence.

Commissioner Peterson asked if a covenant could be placed on this property to ensure the conduct of it, that the monitoring of it would last as long as it were a gas station. Mr. Kuprian stated the covenant would actually be part of the Conditional Use Permit, that in itself is a covenant.

Commissioner Peterson asked if it were sold to another gas station another company that would go through. Mr. Kuprian stated they would have to get their own Conditional Use Permit.

Commissioner Peterson asked in the houses that have water systems that are marginal, the county attached something to the deed. Mr. Kuprian believes that was a recordation. Commissioner Peterson asked if there were any way they could do something like that to attach to the property. Mr. Kuprian stated it would be attached in the Conditional Use Permit. If it's sold to another business, they would probably have to come in and get a Conditional Use Permit, be it a gas station or some other business.

Commissioner Peterson stated that the Board will have an opportunity to discuss this after the public hearing is closed? The Board Chair indicated it would.

Commissioner Stafford stated he would say no at this time, but that doesn't mean he doesn't have questions, they will come later. He has a concern about a number of items.

The Board Chair asked for further questions from the Board; none were heard.

Commissioner Peterson moved to close the public hearing. Commissioner Hegberg seconded the motion and it was adopted unanimously. The public hearing was closed at 10:30 p.m.

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The Board Chair opened the matter for discussion and comments by the County Board.

Commissioner Peterson stated that transportation is an issue with her. She has been talking about this corridor for probably close to 12 years. She is still concerned that there is not an overall agreement or plan with the communities along I-94 all the way into Wisconsin. If she looks at the capacity of that road, and she looks at the capacity of what the future will bring to Washington County and to western Wisconsin, she is still concerned about an overall plan. That would be her first choice that they would enter into a year discussion where they would address the I-94 corridor and that there would be concurrence with the communities along that corridor for economic development. She does not like the idea of having to rezone for a gas station because she had hoped in her vision at one point that there would be a corridor coming into Minnesota from the east that would be Minnesota's pride, where there would be office parks and technology, with a dream that there would be open space between the office parks. That seems to be slipping by rather fast. Communities are making their own choices with, she believes, little forethought. She believes at some point there will be light rail along the I-94 corridor and she believes they should be addressing those kinds of businesses and activities that will encourage that kind of development. She came here feeling very strong about her visions. She has not been pleased by the conduct of some of the testifiers. It has made her ashamed. She does not like public hearings where attacks are made on one another. This is open discussion and it should be based on respect for one another.

Commissioner Hegberg asked does the Board want a Conditional Use Permit or does it want to look at a future that would be different in this corridor. He noted that in prior discussions about the Comp Plan they had visions. He does believe the township has done a good job and they're elected officials. They take on the responsibility and take a look at what they feel is the best for their community. The county oversees townships, in cities it does not. He stated that the same battle is taking place on the corner of 15 and 97. On the west side of Forest Lake, annexation is being discussed, it's between Columbus and Forest Lake. There are gas stations in Columbus that are not on city water and sewer. Forest Lake gave them permission on a contract so that water and sewer could go over there. To the north in the City of Wyoming and Wyoming Township, there are three gas stations right on the corner without city water and sewer. They are all very well run. One's a Holiday, a Super America and another one. There have been no problems. City water and sewer was offered to that section now so that commercial development could be the way it should be. But there is a question on who would bear the expense so it hasn't occurred.

Commissioner Stafford stated that he has received approximately 65 e-mails, 15 or 20 letters, five or six phone calls. He has answered every e-mail where they asked him to answer. If somebody held a gun to his head right now he would probably lean towards granting a variance, but then he wouldn't be able to look at himself in the mirror or sleep very well at night because he has a host of questions that he does not believe could be answered tonight. Some of them concern sewer and water. In spite of the good answers they've had tonight he has more questions. He feels traffic is very serious, the type of commercial development is another question. If this group does not want to wait to do all this with the 2008 Comp Plan review, he

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thinks they need at least a couple weeks so that those on the Board that have technical questions can frame them, put them in writing and get expert responses to them. He is concerned about doing the right thing because all of us in this room are going to spend the rest of our lives paying to clean up Lake Jane Landfill because the county did the wrong things, and things were done in haste. There are 105 landfills that are closed and contaminated and there is a \$500 million bill facing us to clean those up. We don't want to make those kinds of mistakes at a local level if they can be avoided. He would like to get some honest answers to what he believes are honest questions. He suggested that the Board vote on this at another time.

Commissioner Kriesel thanked everybody that came to the meeting tonight whether they were for or against the zoning change. He thanked the 90 plus people that took the time to e-mail him. As far as delaying this, this is the third public hearing that has recently been held to discuss this issue. At the Washington County Planning Commission public hearing most of the people there were in opposition to the zoning change. Then there was a second public hearing at the township level on March 14 and there was unanimous support for it including the entire elected body of West Lakeland and the seven member planning commission. Three citizens have contacted him that were originally opposed to the zoning change, called to inform him that once they had seen West Lakeland Township's newsletter, or discussed it further they now support the zoning change. One of the County Planning Advisory Commission members called him and said that given further information he now supports the change. He is not sure what further questions could be sought. There is concern about water quality, there's no question about that. There are very rigorous rules and regulations that govern protecting water quality. There has been a recommendation by the Transportation Department that proper management where that turn lane is would minimize any adverse affects given the fact that traffic signals are also scheduled to be installed there. What concerns him, and the West Lakeland Town Board, is if this zoning change doesn't take place, the Holiday Station need only petition one of the adjoining cities to be brought into their community. Whether that's likely or not is not the issue. The issue is it can happen and has happened with other communities. Having commercial development occur where infrastructure is currently in place is a great goal. But when you look at cities like Stillwater the commercial development that is occurring in Stillwater they have to annex to have it occur because Stillwater is basically built out. That is the reason the Township of Grant became a city, fear of annexation. Forest Lake, as Commissioner Hegberg mentioned, is looking to annex into Columbia Township for their commercial growth. Oak Park Heights has in the past annexed into Baytown for their commercial land. So it is not a stretch of the imagination that when these communities get built out they are looking to where they can annex land to accommodate commercial growth. He stated that on a weekly basis he is in contact with a member of the West Lakeland Town Board to discuss issues and their concerns. They work tirelessly protecting their citizens on environmental issues such as fly ash. He is encouraged to hear the Holiday management, through Mr. Gandrud, that they are willing to work with the citizens. He would encourage all citizens to take a look at the village commercial center that was built on Liberty on the Lake. You would be hard pressed to say that wasn't a beautiful station. You cannot always, nor should you, try to stop growth. What you can do is get what you want. He respects all the testimony of those that oppose it, they spoke about valid issues that each and everyone is concerned with. However, who in the past have been the best

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stewards of the township. He would say the township officials. He is in support of West Lakeland's elected officials and he hopes everyone understands what motivates him to do that. He feels it is the best way he can represent those citizens is through their elected body. He encouraged everybody to work closely with their elected officials. That enables him to support the folks when they have more serious issues coming down the road.

Commissioner Pulkrabek stated he has read all the letters, he has talked on the phone with people who spoke for and against it, he read all of this e-mails, he met with representatives from the West Lakeland Board, he met with representatives from Holiday Stationstores, and he has listened to all the comments this evening. He has gotten his questions answered. This is not a decision that he takes lightly. He is just trying to do the right thing. He will be voting in favor of this request this evening.

Commissioner Kriesel moved to approve the application from Holiday Stationstores, Inc. to amend the Washington County Comprehensive Plan and rezone 7.3 acres of their 60 acre parcel in West Lakeland Township from Single Family Estate to Commercial/Industrial-Rural. Commissioner Hegberg seconded the motion.

Commissioner Stafford stated it sounds like there are three votes, so he is put in a position knowing that there are questions to be answered to go ahead and approve it without getting answers to those questions. Even though he leans towards supporting Holiday, in good conscious he cannot vote for it until he gets these other questions answered. There is no other opportunity to talk about the sewer, water, traffic, and comp plan with Lake Elmo, the traffic corridor, zoning, and what type of commercial. What is so important about approving this tonight? If they don't want to wait until 2008, he can understand that, he asked if they couldn't wait two to three weeks or months until some of these questions are answered. Is there something in the law that says they have to vote on this now?

Mr. Kuprian stated this can be held over, but the public hearing would have to be reopened. The hearing was closed for testimony so it would have to be reopened, table the motion and hold it over.

Commissioner Kriesel stated he does not know what the questions are. He made a motion, he supports it. The information he has is sufficient to make a decision. He feels he has a grasp of what the traffic management problem is. He thinks he understands that the water quality issue can be mitigated through stringent controls. He thinks he understands the consequences of the property to the east of the 7 acres is going to be under the control of the township.

Commissioner Stafford stated if they want to get started on this right now, the intersection is already a mess. If the Board lets them go ahead and build this project now, there is no intention of building traffic control systems in there until 2010.

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Mr. Gandrud told the Board that they will be going from the frying pan into the fire when they get into the use permit. They will answer those questions or they will be dead in the water.

Mr. Kuprian advised the Board that those questions appear to be part of the Conditional Use Permit process not the rezoning. The questions that Commissioner Stafford has should be addressed at a CUP hearing.

Commissioner Hegberg noted that the process would be the Conditional Use Permit would be applied for by the Holiday Station and they will again have to appear before the County Planning Commission and they will review the Conditional Use Permit and will put certain requirements on it including the transportation issues and monitoring the water quality will have to be discussed more thoroughly. If they don't get approval from the Planning Commission they will have to appeal it to the County Board.

Commissioner Peterson stated the one issue that she does not feel comfortable on voting tonight is that she really does not know and she has not reviewed Lake Elmo's Comprehensive Plan as they address the corridor. That has just recently been approved. That is her concern. At some point she would like to have a discussion with Lake Elmo about that corridor. She has a feeling, after the communication they received from Afton, she thinks she knows where they are going, but she does not know that for sure. That is the issue she hopes would be delayed and have that conversation.

Commissioner Stafford stated he would like to table this for two weeks.

Mr. Kuprian stated that Planning just informed him that under the 60 day rule there are only three weeks left to make this decision. They've had the 60 days, it was extended for 120 days and apparently there are only three weeks left until that 120 days are up.

Commissioner Stafford moved to table the motion to approve the application from Holiday Stationstores, Inc. to amend the Washington County Comprehensive Plan and rezone 7.3 acres of their 60 acre parcel in West Lakeland Township from Single Family Estate to Commercial/Industrial-Rural for one week. Commissioner Hegberg seconded the motion and it was adopted 3-2 with the vote as follows: Yes, Commissioners Peterson, Stafford, and Hegberg; No, Commissioners Kriesel and Pulkrabek.

Mr. Kuprian stated that the issue is tabled until next week, then the public hearing will need to be reopened for questions next week.

Commissioner Stafford listed the questions he would like answered: When is the traffic signal scheduled for Manning Avenue for the frontage road, both sides; He heard 2010 he does not believe Holiday wants to wait until 2010. He believes his water answers can be answered.

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ADJOURNMENT

There being no further business to come before the Board the Chair adjourned the meeting at 11:00 p.m.

Bill Pulkrabek, Chair
County Board

Attest:

James R. Schug
County Administrator